

August 7, 2023

TO: Town Council of Irvington, VA
Mayor Julie Harris, Irvington VA

From: Irvington Short Term Rental (STR) Committee

Members: Phil Robinson (Chair)
Mary Burgess
Dawn Fowle
Tara Thurston

Subject: Follow – Up Recommendations for Short Term Rentals (STR) in Irvington

Summary of Recommendations

- 1. The Town should establish an ordinance where no home in R-1 and R-2 should be subjected to a STR on both sides of it. This rule will apply to R-1 and R-2 zoning districts only, and not “cascaded” to B-1, B-2 or M-1, where there should be no proximity limits.**
- 2. The Town should establish an ordinance, prohibiting the Zoning Administrator from referring a submitted STR CUP application to the Planning Commission and Town Council for approval, when they believe that the approval of such an application would cause the number of CUP-approved STR’s to exceed 35 for all Town zoning districts, combined. The Zoning Administrator should develop and publicize a waiting list process for STR applicants, once the limit of 35 is reached.**
- 3. The Town should establish an ordinance requiring all STR advertisers (including owner-occupied STR’s) to include their Town-issued Transient Occupancy Account number as a part of their advertisement. Penalties for non-compliance should be a 7 day verbal warning, then a 7 day written warning, then a \$500 fine, if the violation is not resolved.**
- 4. The Town should establish an ordinance where the Town adopts the State rules for requiring the STR intermediary to collect and remit all taxes. The Town should also adopt the statewide STR Transient Occupancy Tax form recommended by the Town Attorney.**
- 5. The Town should modify the ordinance so the annual number of allowed rentals for the owner-occupied STR’s (that are not subject to the 35 STR cap) should be doubled to 4 rentals**

per year. The minimum stay of 3 days per rental should be reduced to 2 days a rental. All other rules for this category of STR's should remain.

Discussion of Recommendations

1. Density

- a. The committee evaluated several proposed methods of managing STR density.
 - i. The committee evaluated neighborhood-specific STR density limits and STR radius limits, both ideas which had been suggested by citizens. Neighborhood-specific limits could create a situation where different areas of town were treated differently. Radius limitations could inadvertently impact adjacent neighborhoods that are outside the scope of influence of the STR.
 - ii. The committee did consider two rules which could be individually or collectively applied to the R-1 and R-2 zoning districts of the town. These are:
 1. No occupied tax map number (residence) will be subjected to a STR on both sides, at the location where the occupied property meets the right of way (as determined by the Zoning Administrator).
Translation: No residence in R-1 and R-2 will be subjected to a STR on both sides of it
 2. No occupied tax map number will be approved for an STR if it adjoins, at a property at its right of way (as determined by the Zoning Administrator), which contains an approved STR.
Translation: STR's next door to each other in R-1 and R-2 will be not be allowed
 - iii. Implementing one of these two rules will reduce the density of any particular area to 50% or less. Implementing both rules would reduce the STR density to 33% or less.
 - iv. The committee recommends that an occupied residence in R-1 and R-2 not be subjected to an STR on both sides of it. This will reduce localized density to 50%. If this is unsatisfactory, then the Town can add the second rule, at a later time, not allowing two STR's to be next door to each other, to reduce the density further.
 1. Current legal STR's should be grandfathered in, and will not be subject to the above rule, until the permit ceases.

2. This proximity limit will only be applied to STR's that fall within the 35 STR cap, and not those operated under the 285 day owner-occupied / 20 day rental rule.
3. The rule will be applied only to tax map numbers in R-1 and R-2 zoning districts. The rule will not "cascade" to M-1, B-1, and B-2 zoning districts.
4. The determination of what is "next door" should be assigned to the Zoning Administrator, whose ruling can be appealed to the Board of Zoning Appeals.

2. Parking

- a. The committee discussed whether specific parking regulations should be applied to STR's.
- b. It was hard for the committee to reconcile why a renter who was staying for 30 days, or less, would be subjected to specific off-street parking rules, when a renter staying for 31 days would not have any parking restrictions.
- c. It was also noted that while off-street parking may be required, it does not have to be used by the tenants.
- d. The committee felt that any parking issues should be addressed as an R-1 or R-2 zoning issue, not a STR issue.

3. Numbers of STR's

- a. The committee confirmed that the current number of non-occupied or CUP-authorized STR's of 35 is appropriate.

4. Waiting List

- a. At the recommendation of the Town Attorney, the committee suggests that an ordinance be passed to prohibit the Zoning Administrator from referring a CUP application for approval, if the approval would put the number of approved STR's over the limit.
- b. The committee feels that the Zoning Administrator should develop and publicize a transparent process by which applicants apply to join a waiting list for future STR CUP approval.

5. Illegal STR's

- a. The committee feels that as a governmental body, the Town has an obligation to ensure customers can verify that the STR that they are renting conforms to the Town occupancy, zoning, and safety requirements.
- b. Therefore, we recommend that any apartment, house, bedroom, or dwelling intended for overnight occupation, advertised for rent in Irvington for a period of less than 30 days, including any advertisement which includes "daily", "nightly", or "weekly" rates, must list their Irvington-assigned Transient Occupancy Tax (TOT) account number as prominent part of any online, print, television, or audio advertisement.
- c. The committee did discuss the idea of allowing STR applicants to advertise ahead of CUP approval, within certain parameters and limits. The Town Attorney indicated that this could create an enforcement issue, and would be a challenge to implement.
- d. In terms of enforcement, the committee suggests that the Town implement the following enforcement standards:
 - i. If a STR or STR applicant is found to be advertising in violation of the publication requirements in this section, then the Town should issue a verbal warning to the owner to remedy the violation. The violation should be documented in the Town file for that property. The owner should be given 7 calendar days to correct the violation.
 - ii. If the error or violation is not corrected, the Town should follow up with a written warning to the owner, giving a 7 calendar day time period to correct the error.
 - iii. If the error or violation is not corrected, the Town should impose a \$500 fine on the owner, for every day the property is not in compliance. The town should use all means at its disposal, including attachments and liens to ensure payment of the fines.
 - iv. Repeated violations should result in a permanent ban on STR use of the property.

- v. Hotels, Inns, and lodges approved as such by the Town, are not required to list this number in their advertisements.

6. State Standards for STR's

- a. We recommend that the Town utilize the statewide STR tax form, that has been proposed by the Town Attorney.
- b. We recommend that the Town update its ordinances to require the STR intermediary, when used, to collect and remit the appropriate Transient Occupancy Taxes. STR owners who do not use intermediaries, are required to submit the taxes, using the required form.

7. Owner-Occupied STR's

- a. There appears to be little current use of the owner-occupied STR exemption. To review, any owner who occupies their home for at least 285 days a year, may rent it out up to twice a year, for a minimum of 3 days per rental to a maximum of 10 days per rental. These properties are exempt from the 35 STR cap, but must follow all other STR regulations including liability insurance, taxation and safety requirements.
- b. The committee suggests that the rental limits for this category be loosened slightly, to allow the option to be attractive enough for occasional use. Therefore, we suggest maintaining the current regulations, but allowing up to 4 rentals (as opposed to the current 2), and reducing the minimum rental time to 2 days from 3. The 20 day annual aggregate rental limit and 285 day occupancy rule should be maintained.
- c. Should the above rules not create any additional interest in utilizing owner-occupied option, then consideration should be made to further relaxing some of the limitations.