

**TOWN OF IRVINGTON
ORDINANCE AMENDMENT # 2022-10**

An Ordinance Amendment to Regulate Short Term Rentals

WHEREAS, Town Council appointed a Short Term Rental (“STR”) Committee to consider how better to regulate short term rentals in the Town of Irvington; and

WHEREAS, the STR Committee met many times over many weeks, debated widely and considered the matter, and produced a report and recommendation dated April 11, 2022; and

WHEREAS, Town Council seeks to better regulate STRs in the Town of Irvington;

WHEREAS, the legal authority for the proposed amendment is the Town Charter and §§ 15.2-2201, 15.2-2280, 15.2-2285 and 15.2-2286 of the Code of Virginia (1950), as amended.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, that the Town Council of the Town of Irvington, Virginia does hereby amend the Town Code and zoning ordinances as follows:

1. The following amendments are hereby adopted:

TITLE XV: LAND USAGE

Chapter 154. ZONING

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§ 154.004 DEFINITIONS.

- (A) For the purpose of this chapter, certain words and terms used herein shall be interpreted or defined as follows. Words used in the present tense include the future, words in the singular number include the plural, and the plural, the singular, unless the natural construction of the word indicates otherwise; the word “lot” includes the “parcel;” the word “shall” is mandatory and not directory; the word “approve” shall be considered to be followed by the words “or disapproved;” any reference to this chapter includes all ordinances

amending or supplementing the same; all distance and areas refer to measurement in a vertical or horizontal plane.

- (B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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STR, or SHORT TERM RENTAL means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

STR OPERATOR means the owner or proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity. An STR operator may or may not be the landowner of the STR property.

STR, OWNER-OCCUPIED means an STR which the STR operator owns and occupies as his or her primary dwelling for a minimum of 285 days per year.

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§ 154.018 USES NOT PROVIDED.

- (A) Permitted uses and conditional uses listed in the district regulations shall be lawful in the respective districts, provided they comply with all applicable provisions of this ordinance. All other uses shall be prohibited.
- (B) If in any district established under this chapter a use is not specifically permitted and an application is made by a property owner to the Planning Commission for such use, the Planning Commission, in consultation with, and study by, the Zoning Administrator, shall make its recommendations to the governing body within 100 days.
- (C) If the recommendation of the Planning Commission is approved by the governing body, the chapter shall be amended to list the use as a permitted use in that district in accordance with the provisions contained herein.

(D) Without limiting the generality of § 154.018(A) and any other reference in this ordinance to a prohibited or unpermitted use, the following uses shall be specifically and expressly prohibited in the Town of Irvington:

1. Use of Motorized Skateboards and Scooters for Hire in a One-Way Rental

2. Utility-scale solar generation facilities

3. Short Term Rentals which:

(a) lack a valid Town STR registration or, if exempted from registration, a valid business license permit for the STR Operator; or

(b) lack a certificate of occupancy or eligibility for a certificate of occupancy; or

(c) are located in a boat, tent, or accessory structure.

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RESIDENTIAL DISTRICTS R-1 AND R-2

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§ 154.051 USE REGULATIONS

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(E) Permitted Uses:

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(13) Short Term Rentals with a conditional use permit, and for which the Town has a valid registration or, if exempted from registration, a valid business license permit for the STR Operator. Provided, however, that owner-occupied STRs may be operated for up to two stays of up to ten days each per year maximum without a conditional use permit.

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SHORT TERM RENTALS

§ 154.180 Purpose and Intent

(A) Short Term Rentals are common in America today, including in the Town. However, given that they are commercial uses which must co-exist with residential uses and often in neighborhoods, limits and regulations are needed. This ordinance is intended to be the “specific enabling action” envisioned in § 154.050 (Statement of Intent for R-1 and R-2 zones) to allow these certain limited commercial uses in Town residential zoning districts.

- (B) The regulations for Short Term Rentals are designed to accommodate an STR operator's limited commercial use in a way that is safe for the guests, meets town requirements, does not change the character of the Town, and fits in with the neighborhoods in which the STRs operate.
- (C) To this end, a cap is placed on the number of Short Term Rentals that more or less equals 10% of the parcels in the Town, health and safety regulations are imposed, and nuisances and disturbances are prohibited.
- (D) This ordinance is intended to work in tandem with the Town's Short Term Rental registration requirements and the Town's business license permit requirement as a measure for the Town to keep track of the number of STRs and enforce the cap and other regulations.

§ 154.181 Short Term Rental Special Regulations

Unless exempted, the regulations of Sections 154.180 through 154.185 shall apply to every Short Term Rental in the Town.

§ 154.182 Cap on Short Term Rentals

- (A) The number of Short Term Rentals in the Town shall not exceed thirty-five (35).
- (B) Short Term Rentals with a conditional use permit to operate as an Inn, Hotel, Motel, or Tourist Home are exempted from this cap, but shall be subject to its conditional use permit and the other provisions of the Zoning Ordinance.
- (C) Owner-occupied STRs operated for up to two stays of up to ten days each per year maximum are exempt from this cap, but shall comply with the other provisions of the Zoning Ordinance.

§ 154.183 Occupancy Limits in Short Term Rentals

- (A) Short Term Rental occupancy for overnight guests shall be limited to a maximum of two (2) persons and one (1) child per bedroom or other place equipped for guests to sleep. The number of bedrooms or other place equipped for guests to sleep under this subsection shall either be permitted by the Virginia Department of Health or approved by the zoning administrator.

- (B) Maximum Short Term Rental occupancy for overnight guests shall be no more than ten (10) persons.
- (C) Maximum overall Short Term Rental occupancy, whether or not guests staying overnight, shall not exceed twenty (20) persons without a specific condition adopting a different limit in a conditional use permit.
- (D) Occupancy of a Short Term Rental shall not exceed the limit, if any, set by the Uniform Statewide Building Code or local Building Official.
- (E) An Inn, Hotel, Motel or Tourist House with a valid conditional use permit is exempted from the occupancy limits contained in subsections (A) – (C), above. In such cases, occupancy limits shall solely be determined by the Uniform Statewide Building Code or local Building Official.

§ 154.184 Safety and Insurance Requirements for Short Term Rentals

- (A) One working smoke detector shall be installed for each bedroom as provided in conformance with the provisions of the Uniform Statewide Building Code. Such smoke detectors shall be maintained in accordance with the Statewide Fire Prevention Code (Va. Code § 27-94 et seq.) and Va. Code § 36-105(C)(6), Part III of the Uniform Statewide Building Code. Smoke detectors shall be inspected and tested at least quarterly to ensure they are in good working order.
- (B) In Short Term Rentals with propane, a working carbon monoxide (CO) detector shall be installed and maintained per the manufacturer's recommendations on each floor or level equipped for guests to sleep overnight.
- (C) At least one (1) working fire extinguisher shall be provided and maintained per the manufacturer recommendations in the Short Term Rental. A fire extinguisher shall be located in or near the kitchen or any other area equipped for heating of food, and any other area which has any flame (including any wood-burning fireplace). At least quarterly, the STR Operator, his or her employee, or an authorized independent contractor shall inspect all fire extinguishers to ensure their charge or pressure gauge needle points to the green "charged" zone and the extinguisher is otherwise in good working order.

- (D) STR Operators shall maintain a Commercial General Liability Insurance policy, specifically endorsed for Short Term Rentals, for a minimum limit of \$500,000, from a firm licensed to provide insurance in Virginia. A certificate of insurance shall be provided with the STR registration, or if exempt, with the business license permit application.
- (E) The STR Operator, his or her employee, or an authorized independent contractor shall be able to respond to a guest, law enforcement or local official in order to address any issues within sixty (60) minutes.
- (F) The STR operator shall post or display in a prominent place in the STR the foregoing regulations of this section 154.184 in a minimum of 12 point font, and certify thereon that all regulations therein have been met.

§ 154.185 Prohibited Activity at Short Term Rentals

- (A) No commercial uses. Commercial uses, other than expressly permitted in this Zoning Ordinance, are prohibited. Inns, Hotels, Motels and Tourist Homes with a conditional use permit issued by the Town are not subject to this prohibition in Section 154.185(A).
- (B) No nuisances. No nuisances are permitted at an STR. No STR operator or other person shall cause or allow a disturbance or nuisance that significantly affects the surrounding neighborhood.
- (C) No disruptive parties. No STR Operator or other person shall allow, cause or participate in a disruptive party or other disruptive event at any Short Term Rental.
- (D) No “open invite” parties or events. No parties or events without a set list of guests are permitted. No parties or events advertised, on social media or otherwise, to the public or large groups of people are permitted.
- (E) No inconsistent noise or activity. The noise and activity at a Short Term Rental shall not be inconsistent with the typical level of noise and activity of the neighborhood in its vicinity.
- (F) Quiet hours. Quiet hours at an STR shall be from 11 p.m. to 7 a.m. During those hours, there shall be no noise audible at the property line of the STR. A violation of this subsection is declared to be a misdemeanor.

- (G) No Trespass. It is expressly forbidden for guests or visitors at an STR to trespass on the lands or property of another. A violation of this subsection is declared to be a misdemeanor.
- (H) Wood Burning Fire Pits. Guests and visitors at an STR may not use a wood burning fire pit.
- (I) The STR Operator shall post or display in a prominent place in the STR the foregoing regulations of this section 154.185 in a minimum of 12-point font, to fully inform the STR's guests and visitors of this prohibited activity.

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§ 154.999 PENALTY.

(A) Any person found guilty of violating any of the provisions of §§ 154.190 through 154.202 shall be guilty of a misdemeanor subject to a fine not to exceed \$100. Each day during which such violation shall continue shall constitute a separate violation and shall be subject to a separate \$100 fine for each and every day that the violation shall continue and may be sued by the town to force compliance.

(B) Any person found to have violated any of the provisions of §§ 154.180 through 154.185 hereof shall be assessed for a civil penalty payable to the Town of \$500, and any person having found to have violated § 154.185(F) and (G) shall, in the alternative, be guilty of a misdemeanor subject to a fine not to exceed \$500. Each day during which any violation shall continue shall constitute a separate violation and shall be subject to a separate \$500 fine or penalty for each and every day that the violation shall continue and may be sued by the town to force compliance and/or collect the fines and penalties.

~~(B)~~ (1) All departments, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, structures or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.

(2) Any person, firm or corporation, whether as principal, agent employed or otherwise, violating, causing, or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof may be fined in an amount set by Council from time to time.

Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this chapter is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided.

2. Grandfathering of certain Short Term Rentals from the requirement for a conditional use permit.

Notwithstanding the foregoing general requirement for a conditional use permit to operate a Short Term Rental in the Town of Irvington, the following STRs are hereby grandfathered and do not require a conditional use permit, provided that all other provisions of this ordinance and other applicable state and local laws are followed:

- a. STRs that already have a conditional use permit, but remain subject to its CUP and other applicable zoning regulations;**
- b. STRs that are, as of the date of this ordinance, actively operating for a minimum of three months in 2022, to include payment of STR transient occupancy taxes, and registered with the Town of Irvington. "Active operation" during that period shall include a minimum of two rentals to unrelated guests, and payment of STR transient occupancy taxes.**

No STR shall be grandfathered that either lacks a certificate of occupancy or eligibility for a certificate of occupancy, or is located in a boat, tent, or accessory structure.

This grandfathering shall expire upon the earlier to occur of the following:

- a. The STR ceases active operation for more than ten months. "Active operation" during that period shall include a minimum of two rentals to unrelated guests, payment of STR transient occupancy taxes, and compliance with the safety and insurance regulations of Section 154.184 above.**
- b. The property on which the STR operates changes title ownership, beneficial interest, or effective control;**
- c. The STR ceases to be validly registered with the Town, or if exempted, the STR Operator fails to have a valid business license permit with the Town.**

d. Town Council adopts an ordinance to revoke grandfathering of any Short Term Rental due to a change in circumstances, including but not limited to violations of this ordinance or other applicable state or local laws.

No CUP is granted by this grandfathering.

BE IT FURTHER ORDAINED AND ENACTED, that this ordinance shall take effect immediately.

ADOPTED: September 8, 2022.

READOPTED: September 13, 2022.

The vote was: 4-1-1

AYES: In favor – 4

D. Patteson

J. Penniman

G. del Rio

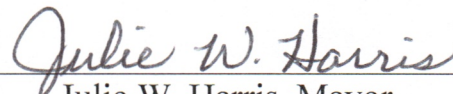
J. Brown

NAYS: Opposed - 1

B. Schaschek


ABSTENTIONS: - 0

ABSENT: Absent – W. Nunnally



Julie W. Harris, Mayor

ATTEST:



Laurel S. Taylor, Town Clerk

