

**TOWN OF IRVINGTON, VIRGINIA
ORDINANCE AMENDMENT #2022-05.**

**An Ordinance Amendment Adopting a Business, Professional, and
Occupational License Requirement on Certain Businesses and Creating a
Registry for Short-Term Rentals in Irvington Beginning January 1, 2023**

WHEREAS, the Town Council of Irvington, Virginia, believes it is appropriate to adopt a requirement that a business, professional, occupational license (BPOL) and accompanying licensure fee be imposed on certain businesses, professions and occupations (hereafter "businesses") which are not exempted by state law, and amend the Irvington Town Code accordingly; and

WHEREAS, the legal authority for the proposed business license permit and licensure fee is §§ 58.1-3700 and 58.1-3703 of the Code of Virginia (1950), as amended, Article IV, § 1 and Article XI, §§ 2 and 3 and of the Town Charter; and

WHEREAS, the Town Council also believes it is appropriate to establish a registry of short-term rentals operating within the Town of Irvington, as authorized by § 15.2-983 of the Code of Virginia (1950), as amended; and

WHEREAS, recognizing the similarity of the business license permit and the short-term rental registry processes, the Town Council intends to adopt this combined registry/license permit ordinance for the businesses and short-term rentals operating in the Town of Irvington as allowed by law.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, that the Town Council of the Town of Irvington, Virginia does hereby amend Chapter 110 of the Irvington Town Code as follows to require a business license permit and adopt a business licensure fee of thirty dollars (\$30) annually, applicable to all non-exempt businesses in the Town of Irvington, and also to require short-term rental operators to tender an annual registration form and thirty dollars (\$30) fee, both effective for the calendar year beginning January 1, 2023.

TITLE XI – BUSINESS REGULATIONS

CHAPTER 110: ~~PEDDLERS~~ Reserved.

§ 110.01 DEFINITION.

~~For the purpose of this chapter, the following definition shall apply unless the context clearly~~

~~indicates or requires a different meaning.~~

~~PEDDLER. An itinerant trader; a person who sells small wares, which he or she carries with him~~

~~or her in traveling about from place to place. Persons who sell or offers to sell at retail: goods, wares~~

~~or other commodities, traveling from place to place in the street.~~

§ 110.02 PROHIBITION.

~~It shall be unlawful for a peddler to engage in activities defined in § 110.01 without obtaining a~~

~~license from the town.~~

CHAPTER 120. – BUSINESS LICENSE AND SHORT-TERM RENTAL REGISTRY

Sec. 120.00 – Business License Required.

- a. Unless exempted below, it shall be unlawful to engage in a business, occupation or profession (hereafter “business”) within the Town without first obtaining a required business license.
- b. Every person shall apply for a license for each business when engaging in such a business in the Town if (i) the person has a definite place of business in the Town; (ii) there is no definite place of business anywhere and the person resides in this Town; or (iii) there is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to Virginia Code § 58.1-3715 as it may be amended from time to time, or public service corporation.

Sec. 120.01 – Exemptions from Business License.

- a. The license requirements of this section shall not apply to those businesses exempted from a licensure fee by Virginia Code § 58.1-3703, as it may be amended from time to time.
- b. Short-term rentals, to the extent that they may be exempt from the business license permit requirements of this Chapter, are expressly subject to the short-term rental registry requirements set forth below.

Sec. 120.02 – Short-Term Rental Registry.

- a. The Town hereby establishes a short-term rental registry (hereinafter “Town STR Registry”) and requires operators of short-term rentals within the town to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator, the address of each property in the Town offered for short-term rental by the operator, and other information that is required for the Town’s efficient administration of the Town STR Registry. The information required for the Town STR Registry is to be provided by the operator in a form to be established by the town treasurer, who is hereby authorized to establish such registration form.
- b. There shall be a fee of \$30.00 for each such registration.
- c. Submitting a registration form for consideration of acceptance by the Town is not the same as registration or being registered. The town treasurer shall have 30 days from application to approve or deny registration, and to consult the zoning administrator on zoning compliance as needed. Only once the registration form has been submitted and considered and accepted by the town treasurer and the short-term rental added to the Town STR Registry is the short-term rental considered “registered.”
- d. This section shall not apply if the person is (i) licensed by the real estate board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (Code of Virginia, § 55-360 et seq.); (iii) licensed or registered with the department of health, related to the provision of room or space for

lodging; or (iv) licensed or registered with the town, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments. Provided, however, that the requirement to obtain a business license permit as provided above shall apply to such a person if exempted from the Town STR Registry.

Sec. 120.03. - Regulation of Short-term Rental of Property.

Except as provided in this Chapter, nothing herein related to the Town STR Registry shall be construed to prohibit, limit, or otherwise supersede existing town authority to regulate the short-term rental of property through general land use and zoning or other authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (Code of Virginia, § 55-79.39 et seq.), the declaration of a common interest community as defined in Code of Virginia, § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (Code of Virginia, § 55-424 et seq.), or any declaration of a property owners association created pursuant to the Property Owners Association Act (Code of Virginia, § 55-508 et seq.).

Sec. 120.04 – Application and Due Dates.

- a. Each person required to have a business license permit shall receive one before beginning operation in the Town.
- b. Each person required to submit a registration form for a short-term rental shall submit a completed registration form to the town treasurer and be registered on the Town STR Registry prior to beginning operation.
- c. Renewal of annual business license permit or short-term rental registration:

1. Persons holding a business license permit who wish to renew the business license permit must file an application form with the town treasurer on or before March 1 of each subsequent year.
 2. Registered operators of short-term rentals who wish to remain on the Town STR Registry must submit a registration form to the town treasurer on or before March 1 of each subsequent year.
- d. The licensure or registration fee shall be paid with the license application or registration form.
 - e. The tendered registration fee for short-term rental operators shall be returned if, for any reason, the operator is not registered and included on the Town STR Registry.
 - f. For reasonable cause, the town treasurer may grant an extension of up to 30 days in which to file a license application or to submit a short-term rental registration form.
 - g. No business license permit shall be issued or short-term rental included in the Town STR Registry by the town treasurer until the town treasurer is satisfied that the applicant/operator has paid all Town business licensure fees and Town real estate, personal property, meals, transient occupancy, and other Town taxes which have been properly assessed against the business, short-term rental or operator.
 - h. No business license permit application or registration form shall be accepted by the town treasurer if the zoning administrator determines that the applicant/registrant is in violation of the town zoning ordinance.

Sec. 120.05 – Penalties.

a. Businesses.

1. A business who fails to obtain a business license permit as provided by this Chapter or in any other way fails to comply with the requirements of this Chapter shall be penalized by the

imposition of a \$500.00 civil fine. There shall be a 30-day written notice given prior to the assessment of the initial penalty.

2. Unless and until a business pays the penalty and complies with the requirements of this Chapter, it shall be unlawful for the business to operate in the Town.
3. Each day of operation after notice of the initial violation shall be a separate offense. Each subsequent offense shall be punishable by a \$500.00 civil fine. Non-exempt businesses operating without a business license permit shall also be required to apply for and obtain a business license permit for each calendar year in which the business was doing business.

b. Short-term rentals.

1. An operator who fails to comply with the requirements of this Chapter (e.g., by offering for rent a short-term rental when the operator is not listed on the Town STR Registry) or otherwise violates this Chapter or other applicable state and local laws, ordinances, and regulations as they relate to the short-term rental (i.e., zoning, health, parking, noise, building code, etc.) shall initially be given ten (10) days notice that the operator is being penalized by the imposition of a \$500.00 civil fine. If the operator comes into full compliance within the ten (10) days, the initial fine will be waived but the violation will remain on the town record.
2. Each additional instance of an operator offering a short-term rental for rent without being registered on the Town STR Registry, or otherwise violating this Chapter or other applicable state and local laws, ordinances, and regulations as they relate to the short-term rental shall be a separate offense and subject to a separate \$500.00 civil fine immediately upon issuance of a subsequent written notice.
3. Upon the third instance of violation of this Chapter or other applicable state and local laws, ordinances, and regulations, as

they relate to a specific short-term rental, the operator short-term rental shall be barred from the Town STR Registry and the operator prohibited offering that specific property for short-term rental for a one-year period from written notice of that third violation.

4. Upon an operator's fourth instance of violation of this Chapter or other applicable state and local laws, ordinances, and regulations as they relate to short-term rentals, the operator and any of the operator's short-term rentals shall be excluded from the Town STR Registry and prohibited from offering any property for short-term rental in the Town for a five-year period.

- c. The penalties in this section shall be in addition to all other penalties otherwise provided by law.

Sec. 120.06 – Definitions.

All terms used in this Chapter 120 have the same definitions as set forth in Virginia Code § 58.1-3700.1 and in Virginia Code § 15.2-983, as they may be amended from time to time.

BE IT FURTHER ORDAINED AND ENACTED, that this ordinance shall take effect on January 1, 2023, after a second reading of Council, with the 2023 calendar year as the first year a business license permit or short-term rental registry is required, with the deadline for application for business license permit and/or submission of a short-term rental registration form for calendar year 2023 set at March 1, 2023;

AND, BE IT FURTHER ORDAINED AND ENACTED, that the Town Council of Irvington, Virginia, does establish the initial annual BPOL license permit fee at thirty (\$30) dollars for each business (This fee may be adjusted from time to time by the Town Council as fees are normally set and adjusted.);

AND, BE IT FURTHER ORDAINED AND ENACTED, that the Town Council of Irvington, Virginia, does establish the initial annual short-term rental registration fee for the 2023 calendar year and beyond at thirty (\$30) dollars for each short-term

rental (This fee may be adjusted from time to time by the Town Council as fees are normally set and adjusted.).

ADOPTED: This 9th day of JUNE 2022.

AYES: - 5

J. Brown
B. Schaschek
J. Pennimen

D. Patterson
G. del Rio

NAYS: - 0

ABSTENTIONS: - 0

ABSENT: - 1

W. Nunnally

ATTEST:

Laurel S. Taylor
Clerk of the Town Council of Irvington,
Virginia

