

**TOWN OF IRVINGTON
ORDINANCE AMENDMENT # 2023- 04**

An Ordinance Amendment to the Town Short Term Rental Ordinances

WHEREAS, Town Council re-authorized the Short Term Rental (“STR”) Committee to consider how better to regulate short term rentals in the Town of Irvington, a sufficient time having passed since the original adoption of the STR ordinance; and

WHEREAS, the STR Committee met many times over many weeks, debated widely and considered the matter, and produced a report and recommendation dated August 1, 2023; 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:

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. 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. 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. An STR which the STR operator owns and occupies as his or her primary dwelling for a minimum of 285 days per year, with a maximum of four STR stays, and an aggregate maximum of 20 nights of STR stays per year.

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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 ten percent 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.

(Ord. No. 2022-10 , § 1, 9-13-2022)

§ 154.181 - Short term rental special regulations.

Unless exempted, the regulations of §§ 154.180 through 154.185 shall apply to every short term rental in the town.

(Ord. No. 2022-10 , § 1, 9-13-2022)

§ 154.182 - Cap on short term rentals.

(A) The number of short term rentals in the town shall not exceed 35.

(B) If an application is completed and filed which, if approved, would exceed this cap, together with any pending referred applications for STRs, the application shall not be referred to the planning commission or considered for approval until it would no longer exceed the cap if approved.

~~(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 four stays per year maximum are exempt from this cap but shall comply with the other provisions of the Zoning Ordinance. Each stay under this exemption shall be a minimum of two nights each.

(Ord. No. 2022-10 , § 1, 9-13-2022)

§ 154.183 - Occupancy limits in short term rentals.

(A) Short term rental occupancy for overnight guests shall be limited to a maximum of two persons and one 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 persons.

(C) Maximum overall short term rental occupancy, whether or not guests staying overnight, shall not exceed 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.

(Ord. No. 2022-10 , § 1, 9-13-2022)

§ 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 (Code of Virginia, § 27-94 et seq.) and Code of Virginia, § 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 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 \$500,000.00, 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 60 minutes.

(F)The STR operator shall post or display in a prominent place in the STR the foregoing regulations of this § 154.184 in a minimum of 12 point font and certify thereon that all regulations therein have been met.

(Ord. No. 2022-10 , § 1, 9-13-2022)

§ 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 § 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 11:00 p.m. to 7:00 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)[Regulations on display.] The STR operator shall post or display in a prominent place in the STR the foregoing regulations of this § 154.185 in a minimum of 12-point font, to fully inform the STR's guests and visitors of this prohibited activity.

(Ord. No. 2022-10 , § 1, 9-13-2022)

§ 154.186 – Transient Occupancy Fee, STR Registry and Business Professional Occupational License Compliance

(A) All STRs and their owners and managers shall be compliant with all applicable transient occupancy tax, STR registry and business professional occupational license requirements.

(B) Any advertisement or public written statement about an STR shall include the town-issued transient occupancy tax account number.

(C) Penalties for non-compliance with this section, in addition to any penalties otherwise provided by law or ordinance, shall be (i) seven-day oral warning (written warning may be substituted for oral in the discretion of the zoning administrator), then (ii) seven-day written warning, and then (iii) \$500/day civil penalty until compliance is achieved.

§ 154.187 – STR Density

(A) Without limiting any other authority to regulate STRs in the Town, appropriate STR density may be regulated by denial or conditioning approval of a conditional use permit for an STR.

(B) In the R-1 and R-2 zoning districts only, no STR shall be operated nor shall a conditional use permit for an STR be granted on a parcel on both sides of a parcel which has an occupiable structure. Adjacency and “sides” shall be judged at the point at which the parcel boundary adjoins the public street or private street or right of way.

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

ADOPTED: This _____ day of _____ 2023.

AYES: NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

Julie Harris, Mayor
Irvington, Virginia