

Short Term Rental Fees and Regulations Report: The following is a second report to the Town Board regarding fees and regulations. This report provides information gathered from further review of data, STR property owner input, input from Forestburgh residents who are not STR property owners, and status reports of current STR operational issues of concern in Forestburgh.

### **Follow up report to the Town Board**

It has been determined after a second and thorough review of the STR permit fee and regulations that a \$1,000 initial application fee (per rental unit) and a \$500 annual renewal fee (per rental unit) are both reasonable and justified. These fees will offset the substantial increase in workload and significant costs associated with STR monitoring. It is also tax deductible for all STR property owners along with a host of other tax deductions so the financial impacts are minimized.

The concerns surrounding STR operation and regulatory issues are infinitely more complex than realized. Considering the various impacts on cost and town resources, it is important to take a broad view of the topic. We are all in this together and the board is responsible for representing all residents in establishing regulations which support goals set forth in the Comprehensive Plan as well as provide for effective enforcement.

Forestburgh is currently 5 times above the upper range of the target of 2%-3% ratio of STR's to primary residential dwellings with 45 currently identified. This represents an overwhelming percentage approaching 15%. While towns in the Hudson Valley have already implemented regulations and fees pertaining to STR operation, short term rental property owners in Forestburgh have been operating and receiving substantial annual rental income for years with no fees, fines or regulations. Some have been operating illegally and code violations have been recently identified. This puts the town at risk financially, diminishes the primary residential housing market in Forestburgh, drives home prices higher and places an undue burden on service delivery and town personnel.

Regulations must be established which are designed to meet Forestburgh's specific needs and goals. There are no documented instances where lack of regulation and insufficient permit fees have contributed to the financial well being of Sullivan County residents. In fact the opposite is true. It is both reported and evidenced that low levels of regulation and low fees and fines have contributed greatly to negative impacts on the housing market throughout Sullivan County.

Our research shows that higher front end fees, significant fines and stricter regulations are recommended in order to reduce the potential negative impacts of STR operation on neighborhood character, on workload increases placed on various town departments (particularly building and code enforcement but other departments as well), defray costs of inspections, administrative responsibilities, insurance liability, staffing and follow up with complaints, violations and fines. Without the ability to effectively enforce the code and permit regulations it weakens the town's administrative structure and allows for outlaw STR property owners to continue to operate under the radar.

Among those measures taken by towns across New York State to combat the negative effects of poorly regulated STR's are: 1. Permit fees of \$1,000, \$1,500 and \$2,500 and higher 2. limiting the number of STR permits to 1%-3% of total primary residential housing 3. Limiting allowable days of rental to 60 days annually 4. Requiring all STR's in residential districts to be owner occupied and that the owner be on the premises during the rental period 5. Substantial fines of up to \$10,000 for violations and up to \$5,000 per week for operating without a permit 6. Immediate revocation of permits for violations 7. Requiring

septic system inspection within 90 days of permit application 8. Homeowners insurance of \$1,000,000 for each rental property (Airbnb and other platform insurance is not acceptable).

Small towns in particular are vulnerable to the negative impacts of STR saturation and outlaw operation. Many towns have found themselves grappling with these issues and are realizing that current regulations and fees are inadequate in managing the influx of STR investment properties. Towns which have been playing catchup and which have now instituted stricter regulations and higher fees/fines (for example) are located in the Finger Lakes region, Catskills and the Hudson Valley among other areas throughout New York State. Towns identified in Greene County, Dutchess County and Orange County have been among those adopting such regulations to better serve their communities but others, such as towns in Sullivan County, are typically found to have low levels of regulation, low fees and inadequate fines to effectively manage the substantial increase in STR investment properties. With the hot topic of STR properties on many town's agendas and the anticipated rise in STR investment property development, it remains to be seen how towns find solutions. We are recommending that Forestburgh enact regulations, fees and fines to stay ahead of the curve and protect the town's primary residential property owners.

There are multiple reports of how the rise in STR's throughout Sullivan County have had negative impacts. A recent study revealed that towns in the Southeast area of Sullivan County (consisting of the towns of Highland, Lumberland, Forestburgh and Mamakating) have the highest average home prices in all of Sullivan County representing a 32% increase in average home prices from 2020-2022. Also included in the report was the fact that only 56% of housing units in Sullivan County were owner occupied in 2020, down from 62% in 2000. With the emergence of Airbnb, VRBO and other short term rental platforms, the impacts on the housing market are unlikely to diminish. Quote "The short term rental influx in recent years is literally destroying the housing market in Sullivan County." Numerous concerns regarding STR operation in Sullivan County were recently expressed at a legislative meeting. Local towns have indicated that monitoring and regulating STR's is a difficult and time consuming issue. One town official called it a "nightmare" and can require a full time position just to address those issues associated with STR's.

In reasearching the status of those STR's currently operating in Forestburgh it has been revealed (by both the Assessors Office and the Building Department) that multiple open violations on various properties currently exist. Those violations are well documented and are currently being addressed. It is unclear how many STR's will meet code requirements pending the overwhelming number of inspections which are due to be performed. It was also expressed by some STR property owners in Forestburgh that whatever the regulations and fees are, making a profit is of no concern. Others stated that although income is of some concern, they are not operating primarily for profit and understand that substantial fees and fines may be necessary to insure the ability to continue to operate their rentals.

Mamakating, in an attempt to mitigate the negative impacts of STR saturation and illegal operation has enacted regulations that limit type 2 STR's which are non-hosted rental units to only 2 units per owner, limits the number of months an STR can operate to only 4 annually, limits STR property ownership by an LLC, requires that all units have a Certificate of Occupancy, requires that an agent arrive at a rental property within 30 minutes of notification or it is considered a failure of the owner, all neighbors within 500 feet of the rental property must be provided with 24 hour contact information to address complaints, a septic system inspection dated within 90 days of a permit application is required stating adequate functioning and that it does not impact neighbors or surrounding areas and STR occupancy has limits based on the number of bedrooms. Also proposed are permit fees in the multiple thousands of dollars per unit, that a limit be set on the number of permits issued to achieve a reasonable target percentage of 3% and limits of STR's within districts to prevent oversaturation in neighborhoods. Town residents during a public hearing expressed concerns regarding STR's as they are already a "quality of life" issue for many year round residents. Residents complained of incidents of trespassing, noise, disorderly conduct, theft

and a lack of neighborhood stability. A lake association member pointed out that because of Airbnb rentals the risk of being sued increases as liability costs soar and that regulations don't provide a guarantee of compliance. The town supervisor stated that it's the town's responsibility to ensure safety while keeping issues in mind such as traffic, noise complaints, sewage, water, parking and property values.

Another local town's building department official stated that monitoring STR's has become a tremendous burden and that they adopted regulations but enforcing them is a real problem because people do whatever they want anyway. They adopted a permit fee of \$1,000, proof of \$1,000,000 of insurance (other than Airbnb), immediate revocation of a permit for any violation and additional regulations and fines. They have found that a significant number of STR owners provide false information and violations are a real problem. Quote "Being a small town we also have to deal with STR saturation which primary residential property owners often complain about."

Compliance and enforcement are serious issues of concern across the state and NYC Mayor's Office of Special Enforcement indicates that only about 40% of Airbnb rental units are operating legally. Additionally, of those rental units eligible for a permit, only about 34% have applied for one. Clearly, lack of compliance of STR property owners and the efforts to effectively enforce regulations present significant increases in cost and a strain on available resources.

The fact is that Forestburgh is already overburdened with enforcement issues and receives minimal, if any, benefit from STR operation. Taxpayers are footing the bill for additional responsibilities placed on the Building Department and Code Enforcement Officer as well as other departments. Town services which will be needed to be provided to STR property owners are grossly disproportionate to primary residential property owners and the costs are passed on to taxpayers who do not operate STR's. This results in an inequitable provision of services. Also of concern is the negative impact STR saturation currently has on Forestburgh's housing market and the increased transient population.

Regarding our sector identified in the housing study, correlating data supports the downward trend in growth. Census reports indicate the following declines: Population growth in Mamakating slowed 7.7% since 2000. Highland showed a decline in growth of -13.2% since 2010. Lumberland fell -9.1% in population growth since 2010 and Forestburgh's growth declined -2.7% since 2000 with consecutive census reports in 2010 and 2020 showing negative growth. Of course we all support tourism and STR operation but it's imperative that we join with other towns in the Hudson Valley and Catskills in adopting regulations which promote tourism but which also encourage primary residential growth and protect neighborhood and town character.

In order to address concerns and more effectively manage STR operation, both logistically and financially, the following is strongly recommended for adoption and implementation by the Town Board. These recommendations do not represent the aforementioned extremes of regulation, but rather a middle ground and fair approach to address the issues of concern specific to Forestburgh. The goal is to protect the residential community, as is the board's obligation, by striving for adherence to our Comprehensive Plan objectives while at the same time providing the opportunity for compliant STR property owners to continue to operate as they have for years. Each recommendation is based on permit regulations, fees and fines which have already been adopted by towns in the State of New York.

#### Recommendations to the Town Board:

1. Lift the suspension of the annual per rental unit permit fee and immediately reinstate it. Recommended is a \$1,000 initial permit fee and an annual renewal fee of \$500.

This represents a \$1,000 reduction of the originally adopted permit fee of \$2,000 and a \$1,500 reduction for annual renewals. This is based on an estimated 40-45% increase in Building Department/Code Enforcement workload and departmental assessments of additional responsibilities, staffing, monitoring, dispersion of resources and estimated increases in associated costs. Cost factors considered also include additional workload increases in the departments of the assessor and town clerk as well as other town departments including the fire department and highway department.

2. Limit the total number of STR permits issued, keeping in mind that the number to achieve the target of 3% is approximately 10 and double the target percentage is approximately 20. Establishing a limit of permits issued between 10 and 20 is also an option (exceeding 20 permits would represent too high a ratio of STR units to primary residential dwellings and would diminish available residential housing and increase the number of the transient population in the town). A waiting list may be established if and when approved permit applications reach the limit.
3. NO STR permit shall be issued to any property owner with violations of any kind including, but not limited to: false information provided on the permit application, structural, environmental or operational violations whether they be a violation of state, county or town codes.
4. Only one (1) STR shall be permitted to operate adjacent to another lot in any direction (including across a road) and only one (1) STR shall be permitted on any lot (in order to maintain neighborhood character, protect primary residential property owners and prevent STR saturation).
5. STR permits shall not be permitted to be transferred to another property owner.
6. Any STR operating with a permit found to be in violation of STR regulations shall result in an immediate \$2,500 fine. Any second violation within one year shall result in immediate revocation of the STR permit.
7. Any STR operating without a permit shall result in an immediate \$5,000 fine and an additional \$1,500 fine for each week thereafter for operating illegally from the date of notice of violation.
8. Each permit application shall include the following information and required documentation: The names of each owner of each rental unit, primary residential address, phone number and e-mail address. If owned by an LLC, corporation or other entity all of the above information shall be provided for all members, shareholders, officers and principles of such entities. A Certificate of Occupancy is required. Proof of a minimum of \$1,000,000 homeowners insurance is also required (insurance from the advertising platforms such as Airbnb does not qualify). A copy of of current Sullivan County Hotel Occupancy Tax Certificate. A septic inspection report dated within 90 days of permit application stating that the septic system was adequately functioning for the intended use as a short term rental at the time of inspection and does not impact the neighbors or surrounding area.
9. All permit applications and fees for 2024 shall be submitted by May 15<sup>th</sup>. Any STR operating past that date without having filed for a permit and having paid the permit fee will be deemed to be in violation and subject to any fines and/or penalties.

Respectfully submitted,

Councilpersons/STR committee members,

Karen Ellsweig and Steve Budofsky

March 7th, 2024