

Township of West Milford

Passaic County, New Jersey

~ Ordinance 2019 – 020 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 285, ENTITLED “PROPERTY MAINTENANCE,” OF THE “CODE OF THE TOWNSHIP OF WEST MILFORD, NEW JERSEY,” REGULATING AND ESTABLISHING REGISTRATION REQUIREMENTS FOR SHORT TERM RENTALS IN THE TOWNSHIP OF WEST MILFORD, NEW JERSEY

WHEREAS, the West Milford Township Council seeks to permit the short-term rental use of certain legally permitted dwelling units throughout the Township of West Milford (also referenced as the “Township” or “West Milford”) in order to facilitate the booking of reservations for such uses through internet-based booking platforms, and promote tourism and economic vitality in the Township; and

WHEREAS, the short-term rental of homes can provide a flexible housing stock that allows travelers a safe accommodation while contributing to the local economy, promoting travel and tourism and supporting the local tourism industry and business community; and

WHEREAS, the short-term rental of homes can provide homeowner’s an opportunity to maintain ownership of property in difficult economic circumstances; and

WHEREAS, the West Milford Township Council finds that there is a substantial interest in furthering the public health, safety and welfare, by establishing and enforcing minimum life safety standards for short-term rental of houses.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of West Milford, County of Passaic, State of New Jersey, as follows:

SECTION 1. Chapter 285, entitled “Property Maintenance,” of the Code of the Township of West Milford, New Jersey,” is hereby amended and supplemented in order to establish a new Section thereof (Section 285-13) to be known as “Short-Term Rentals,” as follows:

Chapter 285-13 Short Term Rentals.

285-13.A Purpose.

The Township Council finds and declares that certain transitory uses of residential property tend to affect the residential character of the community and, if unregulated, can be injurious to the health, safety and welfare of the community.

The intended purposes of this Section (285-13) are to:

- a. balance the rights of the Owners of residential dwelling units proposed for short-term rental use and the Township’s business community affected by the allowance and existence of short-term rentals;
- b. protect the public health, safety and general welfare of individuals and the community at large;
- c. provide for an organized and reasonable process for the short-term rental of certain defined classifications of residential dwelling units in the Township;
- d. monitor and provide a reasonable means for the mitigation of impacts created by such transitory uses of residential properties within the Township of West Milford;
- e. preserve and protect the long-term housing market stock in the Township; and
- f. ensure that the short-term rental property inventory in the Township satisfies basic fire safety standards, in order to protect the safety of occupants and the citizens of the Township.

The West Milford Township Council has therefore determined that it shall be unlawful for any Owner of any property within the geographic bounds of the Township of West Milford, Passaic County, New Jersey, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section (285-13), or applicable State statute.

285-13.B Authority.

In accordance with New Jersey law, a municipality may make and enforce within its limits all ordinances and regulations not in conflict with general laws, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants. The Township of West Milford hereby adopts the within Ordinance in accordance with said authority.

285-13.C Definitions.

As used in this Section (285-13), the following terms shall have the meanings indicated below:

Owner shall mean an individual or entity holding title to a property proposed for short-term rental, by way of a legally recorded Deed.

Owner-Occupied shall mean the Owner of the property resides in the short-term rental property (also referenced as “STRP”), or in the principal residential unit with which the STRP is associated on the same lot.

Property shall mean a parcel of real property located within the boundaries of the Township of West Milford, Passaic County, New Jersey.

Responsible Party shall mean both the short-term rental property Owner and a person (property manager) designated by the Owner to be called upon and be responsible at all times during the period of a short-term rental and to answer for the maintenance of the property, or the conduct and acts of occupants of the short-term rental property, and, in the case of the property manager, to accept service of legal process on behalf of the Owner of the short-term rental property. The Responsible Party must be a New Jersey resident for the acceptance of legal process and to provide the periodic site inspection required under this ordinance.

Short-Term Rental (also referenced as “STR”) shall mean the accessory use of a dwelling unit for occupancy by someone other than the unit’s Owner or permanent resident for a period of thirty (30) or less consecutive days, up to a cumulative total period of not to exceed one hundred eighty (180) days in a calendar year, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to Transient Occupants, as that term is defined in this Section (285-13).

Short-Term Rental Property (also referenced as “STRP”) shall mean a residential dwelling unit that is used and/or advertised for rent as a short-term rental by Transient Occupants as guests, as those terms are defined in this Section (285-13). Dwelling units rented to the same occupant for more than thirty (30) continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels and motels shall not be considered Short-Term Rental Property.

Short-Term Rental Property Agent shall mean any New Jersey licensed real estate agent or other person designated and charged by the Owner of a short-term rental property, with the responsibility for making the STR application to the Township on behalf of the Owner, and fulfilling all of the obligations in connection with completion of the short-term rental property permit application process on behalf of the Owner. Such person shall be available for, and responsive to contact on behalf of, the Owner, at all times.

Transient Occupant shall mean any person or a guest or invitee of such person, who, in exchange for compensation, occupies or is in actual or apparent control or possession of residential property, which is either: (1) registered as a short-term rental property, or (2) satisfies the definition of a short-term rental property, as such term is defined in this Section (285-13). It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the short-term rental is a transient occupant.

285-13.D Regulations Pertaining to Short-Term Rentals.

- a. It shall be unlawful for any Owner of any property within the geographic bounds of the Township of West Milford, New Jersey, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section (285-13) or applicable State statute.
- b. Short-term rentals shall be permitted to be conducted in the following classifications of property in the Township of West Milford:
 - 1. Condominium units and units in Lake Association, where the Condominium Association and Lake Association By-Laws or Master Deed permit a short-term rental;
 - 2. Individually or collectively owned single-family residences;
- c.
 - 1. Not more than one STR unit can be in any multi-family residential dwelling;
 - 2. Not more than one STR unit can be within a single-family residential dwelling unit,

where the STR shares common kitchen and bathroom facilities with the occupant of the dwelling unit, and the remainder of the single-family dwelling unit is occupied by the Owner.

3. In an STR which is not Owner-Occupied or does not have a Responsible Party in residence, there shall be no more than one family or two unrelated individuals
- d. For an STR that does not have an Owner or Responsible Agent on site, the Owner / Responsible Party or STRP Agent shall visit the site at the initiation of the rental and within 24 hours after the completion of the rental and/or weekly for a multi-week rental to insure that all Township regulations are being properly observed.
- e. The provisions of this Section (285-13) shall apply to short-term rentals as defined in Subsection 285-13.C above. The following do not qualify as a privately-owned residential dwelling unit, as that term is used herein, and therefore, do not need to obtain a short-term rental permit pursuant to this Section (285-13): any hotel, motel, studio hotel, rooming house, dormitory, public or private club, bed and breakfast inn, convalescent home, rest home, home for aged people, foster home, halfway house, transitional housing facility, or other similar facility operated for the care, treatment, or reintegration into society of human beings; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without their families; any housing operated or used exclusively for religious, charitable or educational purposes; or any housing owned by a governmental agency and used to house its employees or for governmental purposes.

285-13.E Short-Term Rental Permit, Permit Registration Fee/Application, and Certificate of Occupancy.

- a. In addition to any land use requirement(s) set forth by the Township of West Milford Land Use Regulations, the Owner / STRP Agent of a short-term rental property shall obtain a short-term rental permit from the Township of West Milford Township Clerk's Office, before renting or advertising for rent any short-term rental.
- b. The failure to obtain a valid short-term rental permit prior to advertising the short-term rental property in any print, digital or internet advertisement or web-based platform, and/or in the MLS or any realtor's property listing shall be a violation of this Ordinance. No short-term rental permit issued under this Section (285-13) may be transferred or assigned or used by any person or entity, other than the Owner to whom it is issued, or at any property location or dwelling unit other than the property for which it is issued.
An Owner of a property intended to serve as a short-term rental property, as defined herein, or any STR Agent acting on behalf of the Owner, shall submit to the Township of West Milford Township Clerk's Office, a short-term rental permit application provided by the Township, along with an annual application/registration fee of five hundred dollars (\$500.00) plus relevant certification and inspection fees. Said fees shall be non-refundable in the event that the application is denied.
- c. The short-term rental permit, if granted, shall be valid for a period of one year from the date of issuance.
- d. A short-term rental permit shall be renewed on an annual basis, based upon the anniversary of the original permit issuance, by submitting to the Township Clerk's Office, a short-term rental permit application and a renewal registration fee of five hundred dollars (\$500.00).
- e. The short-term rental permit shall expire automatically when the short-term rental property changes Ownership, and a new initial application and registration fee will be required in the event that the new Owner intends to use the property as a short-term rental property. A new application and registration fee shall also be required for any short-term rental that had its short-term rental permit revoked or suspended. Permits are not transferable to other parties.

285-13.F Application Process for Short-Term Rental Permit and Inspections.

- a. Application Process
Application for a short-term rental permit shall be submitted under oath on a form specified by the Township Clerk, to the Township of West Milford Township Clerk's Office accompanied by the non-refundable application fee as set forth in Subsection 285-13.E above. Such application shall include:
 1. The name, address, telephone number and email address of the Owner(s) of record of the dwelling unit for which a permit is sought. To verify this information, the applicant shall provide their driver's license. If such Owner is not a natural person, the application

must include and identify the names of all partners, officers and/or directors of any such entity, and the personal contact information, including address and telephone numbers for each of them.

2. The address of the unit to be used as a short-term rental.
 3. If the property Owner is not going to be present or assume liability for the activities in and maintenance of the STR on a 7 day a week basis, 24 hours a day, then the name, address, telephone number and email address of the Short-Term Rental Property Agent, or Short Term Rental Property Responsible Party who will assume this responsibility.
 4. For a condominium short-term rental permit application, a letter of approval by the condominium association must be submitted with the application. For units in a Lake Association community, certification that notice of the application has been provided to the Association.
 5. A sworn statement that there have been no prior revocations or suspensions of this or a similar license, in which event a license shall not be issued, which denial may be appealed as provided hereinafter.
 6. The Owner's or the Short-Term Rental Property Agent's sworn acknowledgement that he or she has received a copy of this Ordinance, has reviewed it, understands its requirements and certifies, under oath, as to the accuracy of all information provided in the permit application.
 7. The number and location of all parking spaces available to the premises, which shall include the number of legal off-street parking spaces on the premises. The Owner shall certify that renters will not use on-street parking, unless no off-street parking is available. Where no off-street parking is available, on-street parking regulations apply.
 8. A Certification from the Township Fire Prevention Office that the premises have the required smoke and Co2 alarms and fire extinguishers and that all are in working order.
 9. A Zoning Compliance Certificate, which states that the premises are not being occupied or used in violation of the Township's Land Use Regulations and Zoning Ordinance.
 10. The Owner's agreement to use his or her best efforts to assure that use of the premises by all Transient Occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property Owners to the quiet enjoyment of their properties.
 11. Attached to and concurrent with submission of the permit application the Owner shall provide proof of general liability insurance at a minimum amount of \$1,000,000.00, with the Township named as an additional insured.
 12. Written certifications from the short-term rental property agent and responsible party that they agree to perform all of the respective duties specified in this Section (285-13).
 13. A Certification that the STRP Owner is current with all taxes assessed to the property prior to the issuance of a short-term rental permit; that any code violations that have been issued by the Township relating to the STRP have been properly abated; that any open construction permits for the property prior to the issuance of a short-term rental permit have been closed; and that all fines or penalties issued by the Municipal Court for the Township of West Milford for any past code violations relating to the STRP, including penalties for failure to appear in Court, are satisfied in full.
- b. Required Inspections:
1. Every application for a Short-Term Rental Permit shall require annual inspections for the STRP's compliance with the Township's fire safety regulations.
- c. Other Requirements:
1. The STRP Owner/permit holder shall include the short-term rental permit number issued by the Township in every print, digital, or internet advertisement, and/or in the Multiple Listing Service (hereinafter "MLS") or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, in which the short-term rental property is advertised for rent on a short-term basis.
 2. The primary occupant of all short-term rentals executing the agreement between the Owner / Short-Term Rental Property Agent and the occupant must be over the age of twenty-one (21), and must be the party who will actually occupy the property during the term of the short-term rental. The primary occupant may have guests under the age of twenty-one (21) who will share and occupy the property with them.

285-13.G Issuance of Permit and Appeal Procedure.

- a. Once an application is submitted, complete with all required information and documentation and fees, the Township Clerk's Office, following any necessary investigation for compliance with this Section (285-13), shall either issue the short-term rental permit or issue a written denial of the permit application (with the reasons for such denial being stated therein), within ten (10) business days.
- b. If denied, the applicant shall have ten (10) business days to appeal in writing to the Zoning Board of Adjustment, by filing the appeal with the Township Planning Department.
- c. Within forty-five days (45) days thereafter, the Zoning Board of Adjustment shall hear and decide the appeal.

285-13.H Short-Term Rental Operational Requirements.

- a. The Owner / STRP Agent / Responsible Party shall ensure that the short-term rental is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a short-term rental.
- b. A dwelling unit shall be limited to one (1) single short-term rental contract at a time.
- c. The Owner / STRP Agent shall not install any advertising or identifying mechanisms, such as signage, including lawn signage, identifying the property for rent as a short-term rental property.
- d. Transient Occupants of the STRP shall comply with all ordinances of the Township of West Milford including, but not limited to, those ordinances regulating noise and nuisance conduct. Failure of Transient Occupants to comply shall subject the Transient Occupants, the Owner of the STRP, the Responsible Party and/or the Short-Term Rental Agent listed in the short-term rental permit application, to the issuance of fines and/or penalties, and the possibility of the revocation or suspension of the STRP permit.
- e. The Owner / STRP Agent / Responsible Party of a STRP shall post the following information in a prominent location within the short-term rental and prospective tenants should provide written acknowledgement of receipt of said materials:
 - 1. Owner name; if Owner is an entity, the name of a principal in the entity, and phone number for the Owner (individual);
 - 2. The names and phone numbers for the Responsible Party and the Short-term Rental Agent (as those terms are defined in this Section (285-13) (Use of a rental agent is not required);
 - 3. The phone numbers for the West Milford Police Department, the West Milford Fire Department, the Township of West Milford Department of Code Enforcement and the Township of West Milford Department of Planning/Building;
 - 4. The maximum number of parking spaces available onsite;
 - 5. On-street parking regulations applicable to the adjacent streets;
 - 6. Survey or boundary map showing property lines of property rented; and
 - 7. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling.
- f. In the event any complaints are received by the West Milford Police Department and/or other Township Departments regarding the STRP and/or the Transient Occupants in the STRP, and the Owner of the STRP is unreachable or unresponsive, both the Responsible Party and the Short-Term Rental Agent listed in the short-term rental permit application shall have the responsibility to take any action required to properly resolve such complaints, and shall be authorized by the STRP Owner to do so.
- g. While a STRP is rented, the Owner, the Short-Term Rental Agent, or the Responsible Party shall be available twenty-four (24) hours a day, seven (7) days a week for the purpose of responding within two (2) hours to complaints regarding the condition of the STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the guests at the STRP, or nuisance complaints from the West Milford Police Department or neighbors, arising by virtue of the short-term rental of the property.
- h. If the STRP is the subject of two (2) or more substantiated civil and/or criminal complaints in a one (1) year period, the Township Clerk or his or her designee may revoke the short-term rental permit issued for the property, in which case, the STRP may not be the subject of a new STRP permit application for one (1) year following the date of revocation of the permit.
- i. In the event that the Township receives three (3) substantiated complaints in a one (1) year period concerning excessive vehicles belonging to the Transient Occupants of a STRP, the short-term rental permit for the property is subject to revocation by the Township Clerk or his or her designee.

j The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit or the Short-Term Rental Property Agent. A Tenant of a property may not apply for a short-term rental permit, nor shall the property or any portion thereof be sub-leased by the Tenant on a short-term basis, or operated as a STRP by the Tenant. This STRP regulation shall supersede any conflicting provision in a private lease agreement permitting sub-leasing of the property, or any portion of the property. Violation of this Section (285-13) will result in enforcement action against the Tenant, the STRP Owner, the Short-Term Rental Agent, and the Responsible Party, and will subject all such parties to the issuance of a Summons and levying of fines and/or penalties.

285-13.1 Short-Term Rental Enforcement Authority

The Zoning / Property Maintenance Official of the Township shall have the authority to enforce the provisions of this ordinance and shall be granted access by the Owner / STR Agent or Responsible Party to the permitted premise at all reasonable hours to insure that the above requirements are met.

SECTION 2. Any and all ordinances inconsistent with or in conflict with the provisions of this ordinance are hereby repealed to the extent of any such inconsistency

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance. This Ordinance shall take effect upon passage and publication in accordance with applicable law

SECTION 4. This Ordinance shall take effect 20 days after publication of the notice of approval on final reading as required by law.

Introduced: October 16, 2019
Adopted: December 4, 2019
Effective Date: December 24, 2019

TOWNSHIP OF WEST MILFORD
COUNTY OF PASSAIC
ATTEST

STATE OF NEW JERSEY

Diane Curcio, Acting Township Clerk

By: _____
Michele Dale, Mayor