

# DRAFT

Under Review by the  
WM Planning Board

Township of  
West Milford  
New Jersey  
ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE 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 homeowners an opportunity to maintain ownership of property in difficult economic circumstances; and

**WHEREAS**, the needs of long-term residents should be balanced with the allowance of short-term rentals; and

**WHEREAS**, the West Milford Township Council recognizes that unregulated short-term rentals can create negative impacts on surrounding properties; and

**WHEREAS**, the West Milford Township Council finds that there is a substantial interest in furthering the public health, safety and welfare by protecting the residential character of areas designated for residential use, by implementing its Master Plan in providing for appropriate housing stock to meet the needs of the Township, by establishing and enforcing minimum life safety standards, and by preserving the housing stock located within the Township.

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

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**Section 1.** CHAPTER 285, ENTITLED “PROPERTY MAINTENANCE,” OF THE “CODE OF THE TOWNSHIP OF WEST MILFORD, NEW JERSEY,” which was previously amended by Ordinance \_\_\_\_\_ (adopted on \_\_\_\_\_), is hereby further amended and supplemented in order to establish a new Section thereof (Section 285-13) to be known as “Short-Term Rentals,” as follows:

## **SECTION 285-13 SHORT-TERM RENTALS.**

### **285-13.A Purpose.**

Notwithstanding the benefits referenced above, the Township Council also 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;
- f. implement rationally based and reasonably tailored regulations to protect the integrity of the Township 's residential neighborhoods, and
- g. ensure that the short-term rental property inventory in the Township satisfies basic property maintenance 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:

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**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.

**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.

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- 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, where the Condominium Association By-Laws or Master Deed permit a short-term rental;
  - 2. Individually or collectively owned single-family residences;
  - 3. Not more than one unit in any multi-family residential dwelling; and
  - 4. Not more than one room within a single-family residential dwelling unit, where the room 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.
- c. 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/operator of a short-term rental property shall obtain a short-term rental permit from the Township of West Milford Department of Planning/Building, before renting or advertising for rent any short-term rental.
- b. No person or entity shall operate a STRP, or advertise a residential property for use as a STRP, without the owner/operator of the property first having obtained a STRP permit issued by the Township of West Milford Department of Planning/Building. The failure to obtain a valid STRP 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 STRP 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.
- c. An owner of a property intended to serve as a short-term rental property, as defined herein, or any agent acting on behalf of the owner, shall submit to the Township of West Milford Department of Planning/Building, a short-term rental permit application

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provided by the Township, along with an annual application/registration fee of **three hundred dollars (300.00?)**. Said fee shall be non-refundable, including in the event that the application is denied. The fee shall also constitute the required fee for the rental Certificate of Occupancy application, referenced below.

- d. The short-term rental permit, if granted, shall be valid for a period of one year from the date of issuance.
- e. The owner of a short-term rental property, as defined herein, or any agent acting on behalf of the owner, who intends to rent all of the property, or any permitted part thereof as a short-term rental, shall also make application to the Department of Planning/Building, in conjunction with the short-term rental permit application, for the issuance of a rental Certificate of Occupancy for the short-term rental property, on such forms as required by that Department.
- f. A short-term rental permit and rental Certificate of Occupancy shall be renewed on an annual basis, based upon the anniversary of the original permit issuance, by submitting to the Department of Planning/Building, a short-term rental permit application and rental Certificate of Occupancy application and a renewal registration fee of **three hundred dollars (300.00?)**.
- g. The short-term rental permit shall expire automatically when the short-term rental property changes ownership, and a new initial application and first-time 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 first-time registration fee shall also be required for any short-term rental that had its short-term rental permit revoked or suspended.

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

- a. Applicants for a short-term rental permit shall submit, on an annual basis, an application for a short-term rental permit to the Township of West Milford Department of Planning/Building. The application shall be furnished, under oath on a form specified by the Township Manager, accompanied by the non-refundable application fee as set forth in 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. 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. A copy of the driver's license or State Identification Card of the owner of the short-term rental property making application for the STRP permit;
  - 4. The name, address, telephone number and email address of the short-term rental property agent, which shall constitute his or her 7 day a week, 24- hour a

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- day contact information;
  5. The name, address, telephone number and email address of the short-term rental property responsible party, which shall constitute his or her 7 day a week, 24-hour a day contact information;
  6. The owner'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;
  8. The owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per two occupants in the short-term rental property;
  9. 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; and
  10. Any other information that this Chapter requires a property owner to provide to the Township in connection with an application for a rental certificate of occupancy. The Township Manager or his or her designee shall have the authority to obtain additional information from the STRP owner/applicant or amend the permit application to require additional information, as necessary, to achieve the objectives of this Chapter.
- b. Every application for a short-term rental permit shall require annual inspections for the STRP's compliance with the Township's fire safety regulations and property maintenance code. In addition, each application is subject to review to verify the STRP's eligibility for use as a short-term rental and compliance with the regulations in this Section (285-13).
- c. For a condominium short-term rental permit application, a letter of approval by the condominium association must be submitted with the application.
- d. 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, shall be required.
- e. A sworn statement shall be required 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.
- f. Attached to and concurrent with submission of the permit application described in this Section (285-13), the owner shall provide:
1. Proof of the owner's current ownership of the short-term rental unit;
  2. Proof of general liability insurance at a minimum amount of \$500,000.00; and
  3. 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

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## Section (285-13).

- g The STRP owner/permit holder shall publish 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.
- h In no event shall a short-term rental property be rented to anyone younger than twenty-one (21) years of age. The primary occupant of all short-term rentals executing the agreement between the owner 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 Department of Planning/Building, following any necessary investigation for compliance with this Section (285-13), shall either issue the short-term rental permit and Certificate of Occupancy, 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 Township Manager, by filing the appeal with the Township Manager’s Office.
- c Within thirty (30) days thereafter, the Township Manager or his designee shall hear and decide the appeal.
- d If requested by either party, a mediator shall decide the appeal.

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

- a All short-term rentals must comply with all applicable rules, regulations and ordinances of the Township of West Milford and all applicable rules, regulations and statutes of the State of New Jersey, including regulations governing such lodging uses, as applicable. The STRP owner 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 a single short-term rental contract at a time.
- c The owner of a STRP 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.

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- 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 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 of a STRP shall post the following information in a prominent location within the short-term rental:
  - 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));
  - 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; and
  - 5. 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 the Department of Planning/Building regarding the short- term rental 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 hours per day, seven days per 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, the Township Manager 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. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit. 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

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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.

- j. In the event that the Township receives three (3) substantiated complaints 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 Manager or his or her designee.
- k. The STRP owner must be current with all taxes assessed to the property prior to the issuance of a short-term rental permit. In the event that any code violations have been issued by the Township relating to the STRP, a short-term rental permit shall not be issued until such time as such violations have been properly abated. The STRP owner must also close any open construction permits for the property prior to the issuance of a short-term rental permit.
- l. 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, must be satisfied in full prior to the issuance of a short-term rental permit.