

**DRAFT - AN ORDINANCE CONFIRMING THE PROHIBITION OF SHORT-TERM RENTALS IN
RESIDENTIAL ZONING DISTRICTS AND REQUIRING THE TEMPORARY LICENSURE OF
UNAUTHORIZED SHORT-TERM RENTALS DURING PENDING LITIGATION**

WHEREAS, the Town of West Hartford Zoning Regulations, codified in Chapter 177 of the Code of the Town of West Hartford (the "Town Code"), are permissive, meaning that any use of land or buildings not expressly permitted is prohibited; and

WHEREAS, Chapter 177 does not permit the transient occupancy of dwellings in any residential zoning district, and in fact expressly prohibits such uses, including by defining "dwelling" to exclude hotels, motels, boarding or rooming houses, tourist homes, and other transient lodging; and

WHEREAS, the Town has consistently held that renting a dwelling, or any portion of one, for transient occupancy, commonly called a short-term rental and often advertised through online platforms such as Airbnb and VRBO, is not a permitted use in any residential zoning district; and

WHEREAS, in *Instant Property Solutions, LLC v. Town of West Hartford Zoning Board of Appeals*, the Superior Court sustained an appeal from the Zoning Board of Appeals' decision upholding cease and desist orders issued against short-term rentals in the RM-3 district, and the Town's appeal of that judgment is pending in the Connecticut Appellate Court as Docket No. AC 49672; and

WHEREAS, on or about September 16, 2026, the Zoning Board of Appeals upheld a determination that the short-term rental of 39 Pheasant Hill Road is not permitted under Chapter 177, and the operator's appeal of that decision is pending in the Superior Court as *Rolak, LLC, et al. v. Town of West Hartford Zoning Board of Appeals*, Docket No. HHD-CV26-6232431-S; and

WHEREAS, the pending litigation has created uncertainty for residents, property owners, and enforcement officials, and the intent of this Ordinance is to clarify that Chapter 177 prohibits the transient occupancy of dwellings, including the renting of any dwelling, or any portion of one, in any residential zoning district for transient occupancy, commonly called a short-term rental; and

WHEREAS, the Town Council, as the land use authority for the Town of West Hartford, is concerned about the risk that existing short-term rentals might attempt to continue to operate contrary to Chapter 177, and the risk that new short-term rentals might attempt to begin operating in residential zoning districts while that litigation is pending and later claim to be lawful nonconforming uses; and

WHEREAS, nothing in this Ordinance concedes that short-term rentals have ever been permitted in any residential zoning district, the Town Council expressly rejects any such contention, and the Town will continue to defend its interpretation of Chapter 177 in all pending and future proceedings; and

WHEREAS, Section 7 of Public Act 24-143, codified at § 7-148qq of the General Statutes, authorizes a municipality, by vote of its legislative body, to adopt an ordinance requiring the licensure of short-term rental properties and regulating their operation and use; and

WHEREAS, to protect the health, safety, and quality of life of the Town's neighborhoods, any short-term rental that purports to continue to operate in a residential zoning district while the pending litigation is resolved, or afterward if a final judgment by a court of last resort holds that short-term rentals are permitted, should be identified, temporarily licensed, and held to minimum operating standards, without that temporary license conferring any zoning right or approval.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEST HARTFORD:

Section 1. (NEW) *Chapter 177, Zoning, Article III, District Use Regulations, of the Town Code is hereby amended by adding a new § 177-16.13, entitled "Short-term rentals," to read as follows:*

§ 177-16.13. Short-term rentals.

- A. Notwithstanding any other provision of this Code, the transfer for a consideration of the occupancy in a furnished residence or similar accommodation, or any portion thereof, for a period of 30 consecutive calendar days or less in a One-Family Residence District or Multifamily Residence District (a "short-term rental") has been and remains prohibited.
- B. Without limiting Subsection A, this prohibition precludes any person from renting, leasing, licensing, or otherwise transferring for consideration the right to occupy any residential dwelling unit, or any room, bed, or other portion thereof, in a One-Family Residence District or Multifamily Residence District for a period of 30 consecutive calendar days or less, whether or not the owner or any other person resides on the premises and regardless of how the occupancy is advertised, arranged, or paid for.
- C. Because litigation pending at the time of adoption of this section challenges this prohibition, any short-term rental that continues to operate in violation of this section and the Town's existing prohibition on short-term rentals must, in order to protect the health, safety, and quality of life of the Town's neighborhoods, comply with the temporary licensing requirements for unauthorized short-term rental properties set forth in Chapter 136 of this Code, and those temporary licensing requirements shall survive the outcome of any such litigation.
- D. Neither temporary licensure under Chapter 136 nor the Town's forbearance from enforcement while litigation is pending shall make any short-term rental a permitted use or a lawful nonconforming use.

Section 2. *Item 1 of the Schedule of Permitted Accessory Uses, adopted pursuant to § 177-6C and included as Attachment 2 to Chapter 177 of the Town Code, is hereby amended as follows:*

1. Keeping of not more than 3 nontransient roomers or boarders in any dwelling unit. A "nontransient" roomer or boarder is one who rents or occupies a room or rooms in the dwelling unit for consideration for a period of 30 or more consecutive days.

Section 3. *The Schedule of Permitted Main Uses, adopted pursuant to § 177-6B and included as Attachment 1 to Chapter 177 of the Town Code, is hereby amended by adding a new Item 62, and the Schedule of Permitted Accessory Uses, adopted pursuant to § 177-6C and included as Attachment 2 to Chapter 177, is hereby amended by adding a new Item 30, each to read as follows, with no district designated as permitting such use:*

Short-term rentals. "Short-term rental" means the transfer for a consideration of the occupancy in a furnished residence or similar accommodation, or any portion thereof, for a period of 30 consecutive calendar days or less. This includes, but is not limited to, renting, leasing, licensing, or otherwise transferring for consideration the right to occupy any residential dwelling unit, or any room, bed, or other portion thereof, for a period of 30 consecutive calendar days or less, whether or not the owner or any other person resides on the premises and regardless of how the occupancy is advertised, arranged, or paid for.

Section 4. (NEW) *The Town Code is hereby amended by adding a new Chapter 136, entitled "Rentals, Short-Term," to read as follows:*

Chapter 136

RENTALS, SHORT-TERM

Temporary Licensure of Unauthorized Short-Term Rental Properties

§ 136-1. Authority.

This chapter is adopted pursuant to § 7-148qq of the General Statutes, as amended from time to time.

§ 136-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

LICENSING OFFICIAL

The Town Planner or the Town Planner's designee.

PENDING LITIGATION

Any action, appeal, or administrative proceeding challenging the Town's prohibition of short-term rentals in a One-Family Residence District or Multifamily Residence District, including any further appeal or remand.

SHORT-TERM RENTAL

The transfer for a consideration of the occupancy in a furnished residence or similar accommodation, or any portion thereof, for a period of 30 consecutive calendar days or less. Without limiting the foregoing, this includes any person renting, leasing, licensing, or otherwise transferring for consideration the right to occupy any residential dwelling unit, or any room, bed, or other portion thereof, in a One-Family Residence District or Multifamily Residence District for a period of 30 consecutive calendar days or less, whether or not the owner or any other person resides on the premises and regardless of how the occupancy is advertised, arranged, or paid for.

UNAUTHORIZED SHORT-TERM RENTAL PROPERTY

A property that was offered for, or used as, a short-term rental at any time prior to the effective date of this chapter.

§ 136-3. Temporary license required.

Effective March 1, 2027, no person shall offer, advertise, or permit the use of an Unauthorized Short-Term Rental Property as a short-term rental without a temporary license issued under this chapter. The owner of any Unauthorized Short-Term Rental Property who intends to continue operating it as a short-term rental shall apply for a temporary license no later than February 1, 2027. This temporary licensing requirement is an interim measure intended to ensure that short-term rentals are appropriately licensed in order to protect health, safety and quality of life in the Town's neighborhoods during the pendency of the Pending Litigation. The issuance of a temporary license is not an acknowledgment or agreement by the Town that short-term rentals are a permitted use under this Code, and short-term rentals have been, and remain, prohibited by Chapter 177.

§ 136-4. No temporary license for new operations.

No temporary license shall be issued for any property that is not an Unauthorized Short-Term Rental Property. The short-term rental of any residential property is prohibited by Chapter 177.

§ 136-5. Effect of temporary license.

A temporary license under this chapter is a regulatory license only, required to protect the health, safety, and quality of life of the Town's neighborhoods. A temporary license:

- A. Is not a zoning permit, certificate of zoning compliance, or other approval under Chapter 177, and does not authorize any use that Chapter 177 prohibits;
- B. Is not evidence that any short-term rental is or was a permitted use or a lawful nonconforming use, and does not create or extend any such use; and
- C. Does not waive, or estop the Town or its Zoning Enforcement Officer from pursuing, any zoning enforcement action, cease and desist order, citation, or penalty.

§ 136-6. Application; fee; renewal; required information.

- A. Application. The owner of the Unauthorized Short-Term Rental Property shall apply on a form provided by the Licensing Official. The application shall identify the owner(s), contact information for an authorized representative of the owner(s), the property address, and a local contact person, including an email address and telephone number, who resides within a 25-mile radius of the property and is available at all times while guests occupy the property, and shall include evidence that the property was offered for or used as a short-term rental before the effective date of this chapter, together with the information required by Subsection C of this section. The Licensing Official shall approve or disapprove each application within 30 days of receipt, provided that the Licensing Official may extend the approval period by no more than 30 days if an application is incomplete or further information is required.
- B. Fee; renewal; nontransferability. Each licensee shall apply for renewal annually no later than January 1 of each year. The fee for a temporary license and for each renewal is \$250, payable with the application. The fee is nonrefundable. Temporary licenses are not transferable.
- C. Required information. No inspection of the property shall be required for the issuance or renewal of a temporary license. Instead, with each application for a temporary license or renewal, the owner shall file with the Licensing Official a sworn affidavit, made under penalty of false statement, attesting that the property complies with § 136-7A and attaching a diagram of each floor and area of the dwelling that shows the layout of the dwelling and the location of every sleeping room, bathroom, cooking area, fire extinguisher, smoke detector, and means of egress. The application shall include photographs of all required safety devices, means of egress, sleeping rooms, and cooking areas. The application shall also include proof that the applicant is the owner of the property. The licensee shall file an amended affidavit, diagram, and

photographs within 10 days after any change in the layout of the dwelling or in the location of any such safety device or means of egress.

§ 136-7. Operating requirements.

A. Safety requirements. While the temporary license is in effect, the licensee shall ensure that the property:

- (1) Has at least one operable fire extinguisher on every floor and one in every cooking area;
- (2) Has an operable smoke detector installed in each sleeping room, outside each separate sleeping room in the immediate vicinity of the sleeping rooms, and on each additional story of the dwelling unit, including basements and habitable attics, but excluding crawl spaces and uninhabitable attics;
- (3) For dwellings with a fuel-fired appliance, has an operable carbon monoxide detector outside each sleeping area in the immediate vicinity of the sleeping area;
- (4) Has adequate means of egress from every habitable area, as required by the Connecticut State Building Code and the Connecticut State Fire Safety Code; and
- (5) Complies with all federal, state, and local laws and requirements.

B. Guest registry. The licensee shall keep a registry of every person who rents the Unauthorized Short-Term Rental Property, including each renter's name, address, and telephone number, and the dates and times during which each renter rented the property. The licensee shall keep each such record for at least six months and make it available to the Licensing Official on request.

C. Advertising. Once a temporary license is issued, the licensee shall display the temporary license, by its temporary license number, conspicuously in every advertisement, listing, or other offering of the short-term rental property in any medium, including any listing on an online hosting platform. Such disclosure shall read: "Unauthorized Short-Term Rental Temporary License Number [INSERT NUMBER]."

D. Parking.

- (1) While a property is in use as a short-term rental, every vehicle of the licensee, or of any user, occupant, or guest of the short-term rental, shall be parked in a lawfully established off-street parking area, such as a driveway, garage, or parking lot. No such vehicle shall be parked on any public or private street during the rental period, except in a metered Town parking space in compliance with all applicable parking regulations.

- (2) The licensee shall inform all users, occupants, and guests of the requirements of this subsection and is responsible for ensuring compliance. Any violation of this subsection shall constitute a violation of the temporary license.
- (3) In addition to any action against the licensee, the owner or operator of any vehicle parked in violation of this subsection shall be individually liable for such violation. A notice of violation may be issued in the manner provided in § 168-15. Each such violation shall be subject to the penalty set forth in § 168-13B(2) and to the payment, notice, and hearing procedures of Chapter 168, Article IV. As provided in § 168-23, the registered owner of the vehicle shall be presumed to be its operator.

§ 136-8. Enforcement; procedure.

A. Grounds for enforcement. The Licensing Official may take any action listed in Subsection B of this section if:

- (1) Renters or guests violate any federal, state, or local law or regulation while the property is being rented, including but not limited to creating excessive noise, trespassing on other properties, or littering;
- (2) The licensee fails to comply with any federal, state, or local law or regulation with regard to the ownership and maintenance of such property;
- (3) The licensee fails to comply with this chapter or any condition of the temporary license; or
- (4) The application contained a material misstatement.

B. Enforcement actions. Based on the seriousness and frequency of the violation, the Licensing Official may take one or more of the following actions, in any order:

- (1) Issue a written warning;
- (2) Order the licensee to correct the violation within a stated time;
- (3) Impose reasonable conditions on the temporary license, such as limits on occupancy, quiet hours, parking restrictions, a minimum length of stay, or a requirement that the local contact person respond to complaints within one hour;
- (4) Issue a citation under § 136-12;
- (5) Suspend the temporary license for up to 90 days; or
- (6) Revoke the temporary license.

C. Procedure. Before conditioning, suspending, or revoking a temporary license, the Licensing Official shall give the licensee written notice of the grounds and an

opportunity to be heard within 10 days after the notice. The Licensing Official may suspend a temporary license immediately when necessary to address an imminent threat to public health or safety, but shall then hold a hearing within 10 days. A licensee may appeal a decision under this section to the Director of Community Development within 15 days after the decision. The property shall not be used as a short-term rental while a temporary license is suspended or after it is revoked, and no new temporary license shall be issued for the property for one year after revocation.

§ 136-9. No vested rights; effect of final judgment.

- A. No vested rights. A temporary license issued under this chapter is a revocable privilege. It does not create any property right, vested right, or entitlement. It does not establish any lawful, prior, or nonconforming use of the premises under the zoning regulations or otherwise. No licensee shall be entitled to compensation, damages, or a refund of fees by reason of the revocation, limitation, or nonrenewal of a temporary license.
- B. Automatic revocation. If a final judgment in the Pending Litigation determines that short-term rentals were prohibited before the effective date of this chapter, every temporary license issued under this chapter shall be revoked automatically, by operation of law, as of the date the judgment becomes final. No further action by the Town is required. The Licensing Official shall give notice of the revocation to each licensee, but failure to give notice shall not affect the revocation.
- C. Automatic suspension. The Licensing Official shall suspend the license for any property in which the owner is delinquent in any tax, assessment, or financial obligation owed to the Town. Such suspension shall remain in effect until such tax, assessment, or financial obligation is fully satisfied.
- D. Most restrictive construction governs. If a final judgment in the Pending Litigation determines that short-term rentals were permitted before the effective date of this chapter only subject to limitations, every temporary license shall be deemed amended, as of the date the judgment becomes final, to impose those limitations. Where the limitations in the judgment and the requirements of this chapter differ, the licensee shall comply with whichever is more restrictive.
- E. Final judgment. For purposes of this section, a judgment is "final" when no further appeal or petition for review may be taken, whether because the court of last resort has ruled or because the time to appeal or seek review has expired.

§ 136-10. Term; renewal; survival.

A temporary license is valid for one year from the date of issuance and may be renewed under § 136-6. This chapter shall remain in full force and effect regardless of the outcome of the Pending Litigation.

§ 136-11. Published list of temporary licenses; no processing of transactions for unlicensed short-term rentals.

- A. The Licensing Official shall publish on the Town's website, and keep current, a list of every temporary license issued under this chapter that is in effect. The list shall state, for each temporary license, the temporary license number, the street address of the licensed property, and the temporary license's expiration date. Nothing on the list shall be construed as a determination that any short-term rental is a permitted use or a lawful nonconforming use.
- B. Any person or entity that, directly or indirectly, provides a reservation or payment service that facilitates a short-term rental transaction between a host and a guest, and that charges, collects, or receives a fee for that service, shall, before processing any reservation or payment for a short-term rental of property located in the Town, confirm that:
- (1) The temporary license number displayed in the listing appears on the most recent version of the list;
 - (2) The temporary license number is associated with the address of the property being rented; and
 - (3) The temporary license will be in effect on each night of the rental period.
- Such person or entity shall not complete a booking for, or charge, collect, or receive any fee in connection with, a short-term rental that fails this verification, and shall retain a record of each verification for not less than six months.
- C. A person or entity that only publishes or displays a listing, and neither processes the booking nor charges, collects, or receives a fee for the transaction, is not subject to Subsection B of this section. A person or entity shall not be in violation of Subsection B of this section for any transaction it processed in good-faith reliance on the most recent version of the list published before the transaction was processed.

§ 136-12. Penalties for offenses.

- A. Hosts. Operating, offering, or advertising an Unauthorized Short-Term Rental Property without a valid temporary license, including while a temporary license is suspended, or violating any requirement of this chapter or condition of a temporary license, is a violation of this chapter, separate from and in addition to any violation of Chapter 177. Each day of violation is a separate offense, subject to a civil penalty of \$250. This penalty shall be in addition to, not in lieu of, any penalty for operating short-term rental in violation of the zoning ordinances.

- B. Booking services. Any person or entity subject to § 136-11B that processes a reservation or payment, completes a booking, or charges, collects, or receives a fee in violation of § 136-11B, or fails to retain a record of verification as required by § 136-11B, commits a violation of this chapter. Each transaction processed in violation of § 136-11B is a separate offense, subject to a civil penalty of \$250.
- C. Enforcement. Civil penalties under this section are enforceable by citation in accordance with the hearing procedure for citations set forth in § 1-10 of this Code, adopted pursuant to § 7-152c of the General Statutes. The Town may also seek injunctive relief to remedy any violation of this chapter.