An Ordinance Establishing Procedures
For Licensing and Public Safety Police Details at Entertainment Establishments

WHEREAS the zoning ordinances of the Town of West Hartford do not permit nightclubs or other similar establishments, but certain places of business located in the Town may hold themselves out to the public as restaurants, nonprofit membership clubs, or other permitted uses while operating more like a nightclub than any use which is permitted within the Town; and

WHEREAS such establishments, which provide amplified music, sound or other noise for musical performances or dancing may have a detrimental effect on adjacent public or private property because of excessive noise, accumulation of outdoor trash, and alcohol abuse; and

WHEREAS such establishments have been known to draw a large number of patrons, resulting in a detrimental effect on public safety including, but not limited to, problems with loitering, fighting and other physical altercations which are injurious to the public health, and other serious criminal activities; and

WHEREAS the requirement of an entertainment license will provide standards for the appropriate operation of such places of business and penalties for violations thereto; and

WHEREAS the requirement of police details will aid in preventing crimes and nuisance, provide for public order, safety, and peace for residents and the general public, and protect employees and guests of establishments such as those described herein.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF WEST HARTFORD THAT the West Hartford Code of Ordinances is hereby amended by the addition of the following new chapter thereto.

CHAPTER 75. ENTERTAINMENT LICENSES AND PUBLIC SAFETY POLICE DETAILS.

ARTICLE I. Entertainment Licenses.

Section 75-1. Definitions.

The following words shall have the meaning given in this section unless the context clearly suggests otherwise. All words and terms not defined herein shall be interpreted in accord with standard usage.

Abatement Plan. A written plan developed by the Chief of Police and the licensee which describes the measures that shall be taken by the licensee to abate any violations of the Operational Restrictions as detailed in Section 75-3.

Amplified or Amplification. Any music, sound or other noise which utilizes electronic equipment such as electronically powered microphones, speakers, or bullhorns to increase the decibel level thereof.

Application. An entertainment license application the form of which shall be provided by the Chief of Police to all persons required to obtain a license pursuant to this chapter.

Entertainment. Live or pre-recorded amplified musical performances, and or dancing to live or pre-recorded amplified music or song, either by patrons or by performers for the benefit of an audience of two or more persons.

Establishment. Any existing or proposed place of business located in the Town, regardless of its classification for purposes of the Town's zoning ordinances, regardless of whether it is open to the public or is maintained as a private club and regardless of whether an admission, membership or other fee is charged in order to attend, which provides amplified entertainment.

Incident Report. Documentation generated by the police or fire department when public safety personnel report or are summoned or a complaint is filed regarding any loud, disturbing, illegal or violent conduct on the premises of an establishment.

Licensee. The operator of the establishment, and the liquor permittee for the establishment designated by the State of Connecticut shall all be required to be co-applicants for, and shall execute the application for an entertainment license. All licensees shall be bound equally to comply with the requirements of this chapter and each licensee shall be subject to the penalties established herein for each violation thereof. In addition, the owner of the structure in which the establishment is located shall be required to sign the application, acknowledging that: (a) it is aware of the operations proposed by the applicant; and (b) those operations are permitted pursuant to the terms of the operator's lease or any other agreement permitting the operator to use the establishment.

Low Volume. Sound played at a level such that a person speaking in a normal tone of voice can be heard clearly over this sound by another person standing thirty-six (36) inches away.

Police Detail. One or more police officers assigned to an establishment to maintain order, prevent crime, and enforce State statutes and regulations and Town ordinances.

Section 75-2. Entertainment Licenses.

A. Applicability; Exemptions. This chapter shall apply to any place of business located within the Town of West Hartford offering, on a regular or occasional basis, entertainment which includes (1) live or pre-recorded amplified musical performances, or (2) dancing to live or pre-recorded amplified music or song, except for the following exempt activities:

(1) Religious services or performances at any church or other place of worship;

(2) Any place of business providing music systems operated at a low volume which does not disrupt normal conversation and is not intended for entertainment;

(3) Any activity approved by the Town or otherwise permitted by law to take place on public land;

(4) Public and private school programs; studios for instruction in music or dance; and

(5) Activities of organizations that are tax-exempt under section 501(c)(3) of the Internal Revenue Code.

B. Application Requirements. An Application shall be submitted to the Chief of Police to provide entertainment in all establishments as herein defined. Each Licensee of an Establishment shall be held responsible for all violations of the requirements and restrictions specified herein. Approval of the Application shall be required prior to the commencement of operation as an establishment providing entertainment, as defined herein. An Application shall include a completed Application Form as provided by the Town. An Application shall not be submitted prior to receipt of all required land use approvals for the proposed use.

C. Application Review. The Application shall be submitted to the Chief of Police, who shall approve or deny the Application within thirty (30) days after submission. An Application shall be approved if: (1) it complies with all requirements set forth in this chapter and in the application itself; (2) the applicant establishes compliance with the zoning ordinances of the Town of West Hartford; (3) the applicant establishes compliance with any other applicable statutes and/or ordinances such as, but not limited to, food service licensing and/or liquor licensing laws. If the Chief of Police denies the Application, he shall state, in writing, why the Application does not comply with the requirements of this chapter.

D. Duration. A license shall be valid until (1) there is a change in the licensee, as herein defined, in which case a new Application shall be submitted and approved prior to the commencement of any applicable activity after the change or, (2) the license is revoked pursuant to the provisions of this chapter. A license is not transferable.

E. Existing Establishments. Any establishment which is lawfully in existence as of the effective date of this Ordinance shall be allowed to continue providing entertainment provided that it files an Application no later than thirty (30) days after the effective date of this Ordinance.

Section 75-3. Operational Restrictions.

Any establishment which receives a license under this Ordinance shall comply, as a condition of

the license, with the requirements of this chapter as well as all other federal, state and/or local laws. The following requirements, which are intended to provide reasonable assurances that the quiet, safety and cleanliness of the premises and vicinity are maintained, shall be met at all times:

A. Noise.

(i) A licensee shall not make, cause to be made or otherwise allow any unreasonable noise to emanate from the establishment. Noise shall be deemed to be unreasonable when it disturbs, injures or endangers the peace or health of neighboring persons of ordinary sensibilities or when it endangers the health, safety or welfare of the community. Any such noise shall be considered to be a noise disturbance and public nuisance. The prohibitions of this section shall apply whether or not the noise exceeds the decibel levels set forth in Chapter 123 of the West Hartford Code of Ordinances.

(ii) Amplified music permitted with outdoor dining pursuant to an approved special use permit shall not be considered unreasonable noise.

B. Hours of Operation.

(i) Entertainment shall cease one half hour prior to the closing of the establishment.

(ii) The licensee and employees of the premises may remain on the premises after closing for the purpose of cleaning, maintenance, security, food preparation, and closing the business but no amplified sound shall be permitted during any such operations.

C. Maintenance, Design and Security.

(i) All licensees shall maintain efficient and affirmative supervision over the conduct of their patrons within the licensed premises and/or on those portions of any sidewalks immediately adjoining the licensed premises. This obligation shall include maintaining free and clear passage on public rights-of-way, on real property owned or leased by the licensee within which the licensed premises are located and in parking areas owned or leased by the licensee for use by patrons of the licensed premises.

(ii) All licensees shall be responsible to keep all outdoor space on the property within which the establishment is located, including parking areas, decks, seating areas and all other lands owned or leased by the licensee, and all public sidewalks abutting the property within which the establishment is located clear of litter and cleaned daily within eight hours after each closing.

(iii) Entertainment inside the building shall only be provided in location(s) designated in the Application and shall be located so as to minimize noise or other nuisances

affecting adjacent property.

(iv) All fights, disturbances, violence or any other violation of law shall be reported to the police immediately by the licensee or employees of the establishment.

(v) All establishments which serve alcoholic beverages shall comply with and be operated in accordance with all applicable federal, state and Town statutes, regulations, and ordinances.

(vi) The establishment shall implement other conditions and/or management practices necessary to ensure that management and/or patrons of the establishment maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use.

(vii) The licensee shall take all reasonable measures to ensure that public sidewalks and private ways adjacent to the premises are not blocked by patrons or employees.

(viii) The licensee shall provide security whenever patrons gather outdoors. This shall not be applicable where outdoor dining is occurring pursuant to an approved special use permit.

(ix) Employees of the establishment shall be posted at all entrances and exits to the establishment during the period from 10:00 p.m. until all patrons have left the premises following closing. These employees shall take reasonable steps to prevent patrons waiting to enter the establishment and those exiting the establishment from disrupting the quiet and cleanliness of the neighborhood as they leave the establishment.

D. Abatement Plan. Any establishment operating under an abatement plan shall comply with the conditions of said plan at all times.

ARTICLE II. Public Safety Police Details.

Section 75-4. Incident Report Review.

Upon reviewing incident reports relating to any place of business located within the Town of West Hartford which is required to have an entertainment license, together with any other reliable information available to him/her concerning the premises, the Chief of Police shall determine whether the public safety of the patrons, invitees, employees or the general public requires the deployment of a police detail to the premises. The Chief of Police shall determine the appropriate number of officers to be included in said detail.

Section 75-5. Determining Factors.

For purposes of determining whether to deploy a police detail, the Chief of Police shall consider,

but not be limited to the following factors in making a determination:

(1) The nature, scope, and seriousness of the incident(s);
(2) The occurrence of violence and whether physical injuries resulted;
(3) Historical information regarding the premises and the owner(s) or permittee(s) with respect to similar incidents;
(4) The level of cooperation or lack of cooperation from the owner(s) or permittee(s) of the premises in addressing or correcting incident(s); and
(5) The benefit to the public's safety of deploying a police detail to the premises.

Section 75-6. Public Safety Police Details.

In the event it is determined that a police detail is necessary for public safety purposes, the permittee(s) or owner(s) in charge of the premises will, upon notice, be required to pay the cost to the Town of said police detail, in an amount to determined by the Chief of Police which includes any necessary expenses incurred by the police department for providing such services. Said police detail shall initially be required for no more than four (4) weeks. After said period, the Chief of Police shall review the situation and any new information available to him/her. The Chief of Police may revise the number of detail police officers required or may terminate the requirement for police detail. The Chief of Police shall continue this four-week review cycle until such time as he/she determines that a police detail is not necessary.

Section 75-7. Notice requirements.

Prior to any determination by the Chief of Police of the necessity for a police detail, he or she shall notify the permittee(s) or owner(s) in charge of the premises, in writing, via in hand delivery or via certified mail delivered to the premises, and shall offer the permittee(s) or owner(s) an opportunity to present any evidence within five (5) business days which he or she believes is relevant to the decision of whether to order a police detail.

ARTICLE III. Administration and Enforcement.

Section 75-8. Enforcement.

Unless otherwise provided herein, the provisions of this chapter may be enforced by the West Hartford Police Department, by any official charged with the enforcement of the Town's zoning ordinances, or by any member of the West Hartford-Bloomfield Health District. At all times while the premises are occupied, police and other enforcement officials, while on duty, must be admitted and granted access to the entire licensed premises, including the parking lot and other areas surrounding the building within which the establishment is located. No licensee or any employee thereof shall interfere with the official duties or activities of any such police or enforcement official in any way. No licensee or employee thereof shall harass, either verbally or physically, any police or other enforcement official while such police or other enforcement official is performing his or her official duties on or within the establishment or other areas surrounding the establishment.

Section 75-9. Penalties.

A. Each person who operates an establishment that provides entertainment without first having obtained a license as required by this chapter shall be fined $250 per day for each such violation. Each person or entity which would be required to be an applicant for a license shall be subject to the penalties described herein.

B. Each Licensee of any establishment found in violation of any of the restrictions specified in Article I of this Chapter by any official authorized to enforce this Ordinance shall be subject to the following penalties in addition to the requirement that a police detail be implemented where applicable:

(i) First Offense: Letter of warning.

(ii) Second offense within six calendar months of first offense: Licensee shall be required to meet with the Chief of Police or his/her designee within five (5) days of receipt of the notice of violation to establish an abatement plan, and fine of $100.

(iii) Third Offense within six calendar months of second offense: License suspension of 15 days and fine of $150.

(iv) Fourth Offense within six calendar months of third offense: License suspension of 30 days and fine of $150.

(v) Fifth Offense within six calendar months of fourth offense: Revocation of license and fine of $150. Licensee may reapply for a license no sooner than six months after the date of the violation.

Each letter of warning, notice of license suspension and associated citation shall be hand delivered or sent by registered mail within ten (10) days of the violation. The penalties specified above shall only pertain to the provision of entertainment on the premises and shall be in addition to any assessments or penalties imposed pursuant to any other applicable provision of law. Any suspension or revocation under subsections (iii), (iv) or (v) above shall be imposed commencing upon the sixteenth (16th) day following delivery of written notice of the proposed suspension or revocation to such licensee. The notice shall set forth the proposed grounds for the letter of warning, notice of violation, suspension or revocation and provide the licensee with an opportunity to request a hearing before the Chief of Police to show why the license should not be suspended or revoked. Any such request by the licensee shall be in writing and addressed to the Chief of Police and to the Town's Office of the Corporation Counsel and shall be delivered by hand or sent by mail no later than ten (10) days after the date of receipt of the notice. Any person who does not deliver or mail written demand for a hearing within such ten (10) day period shall be deemed to have admitted liability. A request for a hearing shall

stay commencement of the suspension until the hearing process is completed and a decision is rendered, provided however, that such stay shall not extend beyond the 30th day following delivery of the notice of the proposed suspension unless the Chief of Police determines that extraordinary circumstances warrant such an extended stay. If the Chief of Police determines, following said hearing, that the license shall be suspended or revoked, he or she shall enter an order which shall set forth the date on which the suspension or revocation shall take effect, which date shall be no later than fifteen (15) days from the date of entry of the order.

C. Upon determination that a police detail is ordered pursuant to Article II of this Chapter, failure of any permittee(s) or owner(s) to abide by the decision of the Chief of Police shall be punishable by way of a fine of $250 per day until a police detail is implemented or the Chief of Police determines that a police detail is not necessary, whichever occurs first.

D. Additional Penalties for Court Enforcement. If any person violates any provision of this Chapter such person shall be liable to the Town for its costs and reasonable attorney's fees in any action in the courts of this state to enforcement the requirements of this chapter.

ADOPTED BY THE WEST HARTFORD TOWN COUNCIL AT ITS MEETING ON OCTOBER 25, 2016