

**RESOLUTION 2018-1045**

Item # 5.4

ADOPTED

DOC ID: 14608

THIS IS TO CERTIFY THAT THE FOLLOWING RESOLUTION NO. 2018-1045 WAS ADOPTED AT THE REGULAR MEETING OF THE SOUTHOLD TOWN BOARD ON DECEMBER 18, 2018:

WHEREAS, there has been presented to the Town Board of the Town of Southold, Suffolk County, New York, on the 25th day of September, 2018, a Local Law entitled “A Local Law in relation to Rental Permits” and

WHEREAS the Town Board of the Town of Southold held a public hearing on the aforesaid Local Law at which time all interested persons were given an opportunity to be heard, now therefor be it

RESOLVED that the Town Board of the Town of Southold hereby ENACTS the proposed Local Law entitled, “A Local Law in relation to Rental Permits” reads as follows:

LOCAL LAW NO. 2018

BE IT ENACTED by the Town Board of the Town of Southold as follows:

I. A new Chapter 207 of the Code of the Town of Southold, A Local Law entitled, “A Local Law in relation to Rental Permits”

§ 207-1 Legislative intent.

A. The Town Board of the Town of Southold has determined that there exists in the Town of Southold serious conditions arising from non-owner occupied rental of dwelling units in one, two and three family and multiple dwellings that are substandard or in violation of the New York State Uniform Fire Prevention and Building Code, Building Rehabilitation Code, Electrical Code, Fire Prevention Code, Plumbing Code, and other codes and ordinances of the Town. Many of these dwellings are inadequate in size, overcrowded and dangerous, and such dwelling units pose hazards to life, limb and property of residents of the Town and others, tend to promote and encourage deterioration of the housing stock of the Town, create blight and excessive vehicle traffic and parking problems and to overburden municipal services. The Board finds that current Code provisions are inadequate to halt the proliferation of such conditions and that the public health, safety, welfare and good order and governance of the Town will be enhanced by enactment of the regulations set forth in this chapter.

B. Nothing herein shall be interpreted to supersede any requirements contained in Chapter 280, Chapter 100 or any other chapter of the Town Code of the Town of Southold.

§ 207-2 Definitions.

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

CODE ENFORCEMENT OFFICIAL - The official who is charged by the Town Board with the administration and enforcement of this chapter, or any duly authorized representative of such person, including but not limited to the Building Inspector, Chief Building Inspector, Principal Building Inspector, Senior Building Inspector, Building Permits Examiner, Zoning Inspector, Electrical Inspector, Plumbing Inspector, Fire Marshal, Fire Marshal I, Fire Marshal II, Chief Fire Marshal, Town Investigator, Senior Town Investigator, Ordinance Enforcement Officer or Ordinance Inspector of the Town of Southold, Stormwater Manager, Town Engineer and such person(s) shall be certified as a New York State Code Enforcement Official; Code Enforcement Officer.

DWELLING - A building designed exclusively for residential purposes.

DWELLING, MULTIPLE-FAMILY - A building, other than an apartment house, designed for and occupied as a residence by three or more families living independently of each other.

DWELLING, ONE-FAMILY - A detached building designed for and occupied exclusively as a home or residence by not more than one family.

DWELLING, TWO-FAMILY - A building arranged, designed for or occupied exclusively as a home or residence for not more than two families living independently of each other.

DWELLING UNIT - A single unit within a building or structure providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

IMMEDIATE FAMILY - The immediate family of the owner of a housing unit consists of the owner's spouse, domestic partner, children, parents, grandparents or grandchildren, siblings, uncles, aunts, nieces, nephews, cousins and in-laws.

OWNER - Any person, partnership, corporation or other entity who, alone or jointly with others, shall have legal title to any premises, with or without accompanying actual possession thereof; or who shall have charge, care or control of any dwelling unit as a cooperative shareholder or as executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, title or control; including but not limited to a bank or lending institution, regardless of how such possession, title or control was obtained.

RENT - A return, in money, property or other valuable consideration (including payment in kind or for services or other thing of value), for use and occupancy or the right to use and occupancy of a dwelling unit, whether or not a legal relationship of landlord and tenant exists between the owner and the occupant or occupants thereof.

RENTAL DWELLING UNIT - A dwelling unit established, occupied, used or maintained for rental occupancy

RENTAL OCCUPANCY - The occupancy or use of a dwelling unit by one or more persons as a home or residence under an arrangement whereby the occupant or occupants thereof pay rent for such occupancy and use.

RENTAL OCCUPANCY PERMIT - A permit which is issued upon application to the Code Enforcement Officer designated by the Town Board with the administration of this Chapter and shall be valid for 24 months from the date of issuance.

§ 207-3 Fees.

Rental Permit fees shall be set by the Town Board by resolution.

§207-4 Smoke detectors and carbon monoxide detectors.

Each rental dwelling shall be equipped with functioning smoke detectors and carbon monoxide detectors, in compliance with New York State Uniform Fire Prevention and Building Code.

§207-5 Inspections.

- A. No permit shall be issued under any application unless the rental dwelling unit has a valid Certificate of Occupancy or Pre-Certificate of Occupancy.**
- B. The Code Enforcement Official is authorized to make or cause to be made inspections, to determine the condition of dwellings and to safeguard the health, safety, and welfare of the public. The Code Enforcement Official or his designated representative is authorized to enter the subject premises upon the consent of the owner.**
- C. Search without warrant restricted. Nothing in this chapter, except for provisions concerning emergency inspections, shall be deemed to authorize the Code Enforcement Official or his authorized representative to conduct an inspection of any premises subject to this chapter without the consent of the owner of the premises or without a warrant duly issued by an appropriate court.**
- D. Conflict with other chapters or law. Nothing in this chapter shall be construed to negate the authority for inspections pursuant to any other section of law or court-ordered inspection.**
- E. Presumption of rent. Any dwelling, dwelling unit, rooming house, rooming unit or any**

other premises subject to this chapter shall be presumed to be rented for a fee and a charge made if said premises are not occupied by the legal owner thereof. This presumption shall be rebuttable.

§207-6 Application for search warrant.

The Code Enforcement Official or his designated representative is authorized to make application to the Town of Southold Justice Court or Supreme Court of Suffolk County, or any court of competent jurisdiction, for the issuance of a search warrant in order to conduct an inspection of any premises covered by this chapter where the owner refuses or fails to allow an inspection of its rental premises and where there is reasonable cause to believe that a violation of this chapter has occurred. The application for a search warrant shall in all respects comply with the applicable laws of the State of New York.

§207-7 Rental permit required.

A. It shall be unlawful for any rental occupancy to exist in any dwelling without the owner's first having obtained a rental permit from the Code Enforcement Official.
(1) It shall be an affirmative defense to a violation of Subsection A of this section that the rental occupant or occupants is/are immediate family members of the owner of the subject premises, as defined in this chapter.

B. Rental permit application requirements.

- (1) Rental permit applications shall be in writing on a form provided by the Town and shall include the owner's name, address and telephone number.**
- (2) Rental permits applications shall contain a description of the unit, including the number of rooms in the rental dwelling unit, and the dimensions and use of each such room shall be included. The name, address and telephone number, if any, of the managing agent or operator of each such intended rental dwelling unit shall be included**
- (3) Rental permits applications shall include the maximum number of persons that are being requested to occupy the rental dwelling unit.**
- (4) All applicants for a rental permit shall sign an affidavit stating that they have received a copy of and fully understand this Chapter of the Southold Town Code.**
- (5) All applicants must submit the following documents:**
 - (a) Copies of all certificates of occupancy and/or pre-certificates of occupancy for the rental dwelling unit;**
 - (b) An affidavit setting forth the address to be used as the last known address of the owner for service pursuant to all applicable laws and rules. The owner shall notify the Code Enforcement Official of any change of address submitted pursuant to this section within five business days of any change thereto, and ;**
 - (c) Inspection report. The owner of the rental dwelling unit shall (1) arrange for an inspection of the unit or units and the premises on which the same are located by the Code Enforcement Official or his designee employed by the Town of Southold, or (2) provide to the**

Code Enforcement Official an inspection report, on a form provided by the Town, signed by either a New York State licensed professional engineer, New York State licensed architect or home inspector who has a valid New York State Uniform Fire Prevention Building Code certification that the structure and the dwelling units contained therein meet all applicable housing, sanitary, building, electrical and fire codes, rules and regulations.

(6) Each application shall be executed and sworn to by the owner of the premises.

(7) All rental properties containing eight or more rental units shall provide for a designated site manager, who shall be available to address and resolve any issues with the property 24 hours a day. The owner of the property must file the manager's address, telephone number and other contact information with the Code Enforcement Official within five days of the designation of the manager or any changes thereto.

C. Notwithstanding the above, no rental occupancy permit shall be required for a residential care facility licensed under federal, New York State or Suffolk County guidelines.

D. Renewal of rental permits.

(1) A renewal rental permit application signed by the owner shall be completed and filed with the Code Enforcement Official at least 90 days prior to the expiration date of any valid rental permit. A renewal rental permit application shall contain a copy of the prior rental permit.

(2) Prior to the issuance of a renewal rental permit, the owner shall cause an inspection of the unit or units and the premises pursuant to 207-7 B(5c) above.

(3) The Town of Southold shall not accept, review or approve any renewal rental application for a rental dwelling unit dwellings wherein the prior rental permit expiration date has passed. If the expiration date has passed, the owner must file a new application.

§207-9 Revocation of permit.

A. The Code Enforcement Official may revoke a rental occupancy permit where he or she finds that the permit holder has caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit has been issued, for a period of 14 business days or more after written, return receipt requested notice and opportunity to be heard has been given to the permit holder, or the managing agent of such rental dwelling unit, a violation of the Multiple Residence Law and/or New York State Uniform Fire Prevention and Building Code or a violation of this chapter or other chapter of the Town Code. Revocation of a permit under this subsection cannot be done by a devisee or assistant of the Code Enforcement Official.

B. An appeal from such revocation may be taken by the permit holder to the Town Board, by written request, made within 30 days from the date of such revocation. The Town Board shall hold a public hearing on such appeal after receipt of written request

of such appeal, and after such hearing shall make written findings and conclusions and a decision either sustaining such permit revocation or reinstating such permit within 30 days after close of such public hearing. Unless the Town Board directs otherwise in circumstances constituting serious threats to health and safety, the filing of an appeal shall stay the effectiveness of a permit revocation until the Town Board has considered and ruled upon the issue.

- C. Any permit holder that takes an appeal to the Town Board from the revocation of a rental permit shall be required to pay an administrative fee \$200.00 to the Town Clerk with the written request for the appeal.

§207-10 Broker's/Agent's responsibility.

- A. Broker's/Agent's responsibility prior to listing. No Real Estate Broker or agent shall list or otherwise advertise, or offer for lease any rental dwelling unit for which a current rental permit has not been issued by the Code Enforcement Official.

§207-11 Enforcement.

This chapter shall be enforced by the Code Enforcement Officer as defined by this chapter.

§207-12 Penalties for offenses.

- A. Any person, association, firm or corporation that violates any provision of this chapter or assists in the violation of any provision of this chapter shall be guilty of a violation, punishable:

- (1) By a fine not less than \$500 and not exceeding \$5,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense.
- (2) By a fine not less than \$1,000 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second of the two offenses, both of which were committed within a period of five years.

- B. Each week's continued violation shall constitute a separate additional violation.

- C. This section is enacted pursuant to Municipal Home Rule Law § 10(1)(ii) a(9-a) and § 10(1)(ii)d(3) and pursuant to § 10(5) of the Statute of Local Governments, and is intended to supersede Town Law § 268 and any other statute or local law to the extent necessary to increase the minimum and maximum penalties contained therein.

§207-13 Implementation.

II. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in said judgment.

III. Effective Date.

This chapter shall be effective upon filing with the Secretary of State. However, in order to afford property owners a sufficient amount of time to apply for and obtain a rental permit as set forth herein, no violation of this chapter will be charged prior to August 1, 2019 and no violation for failure to obtain a permit shall be issued to a person or entity that:

- A. Has filed the necessary application in proper form with all required information and attachments on or before August 1, 2019, and;**
- B. Has not received a final determination on the application on the application for reasons over which the applicant has no control.**



**Elizabeth A. Neville
Southold Town Clerk**

RESULT: ADOPTED [UNANIMOUS]

MOVER: James Dinizio Jr, Councilman

SECONDER: William P. Ruland, Councilman

AYES: Dinizio Jr, Ruland, Doherty, Ghosio, Evans, Russell