**RENTAL PERMITS DRAFT for Chapter 280**
**Replaces Chapter 207 and §280-13 D.**

**Definitions for Discussion §280-4 Definitions:**

**YEAR-ROUND RENTAL:** The rental of a dwelling unit, or a portion thereof, for residential occupancy pursuant to a written lease with a term of at least twelve (12) consecutive months.

**SEASONAL RENTAL:** The rental of a dwelling unit, or a portion thereof, for residential occupancy for a period of at least thirty (30) consecutive days but less than twelve (12) consecutive months. A seasonal rental shall be documented by a written rental agreement identifying the term of occupancy. Seasonal rental shall not include any rental activity that constitutes a short-term rental as defined in this Chapter.

**ARTICLE XXXVII Rental Permits:**

**Policy Decision: Scope of the Rental Permit Program**

Should the Town Board expressly state that this article applies to any and all rentals of dwelling units in the Town of Southold?

Former Chapter 207 was directed primarily at illegal rentals in single-family dwellings (and at the resale of such properties).

This article is intended to be broader and to cover every rental dwelling unit in the Town, including single-family dwellings, multi-family and apartment buildings, accessory dwelling units, apartments, and community housing units.

Additionally, should it include requiring a rental permit if only a portion of a home is rented out? Example: Two rooms and a bathroom – not a dwelling unit.

Currently drafted to include even renting out a room in a house (see definitions)

**§ 280-220 Legislative intent.**

A. The Town Board of the Town of Southold has determined that there exists in the Town of Southold a need for a rental permit program to protect public health, safety, and welfare by ensuring rental units meet basic housing, building, and fire code standards through regular inspections; holding property owners accountable via up-to-date registration; preventing overcrowding and illegal occupancy; supporting fire and emergency preparedness; preserving neighborhood stability and property values; shifting code enforcement from reactive to proactive; and giving tenants a baseline assurance of safety. The Town Board further recognizes the importance of maintaining a supply of safe, year-round rental housing to support the community's housing needs, while acknowledging the role that seasonal rentals play in supporting the Town's tourism-based economy. The rental permit program is intended to help balance these interests while protecting the availability and quality of housing for year-round residents.

B. Nothing herein shall be interpreted to supersede any requirements contained in any chapter of the Town Code of the Town of Southold.

**§280-221 General requirements**

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. 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.

C. Short-term rentals, as defined in § 280-4, where authorized pursuant to the Town Code Article XXXVIII, shall be subject to separate permitting requirements in addition to the rental permit required under this article. A rental permit issued pursuant to this article does not, by itself, authorize a short-term rental.

**§ 280-222. 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 a Code Enforcement Official, as defined in § 280-4. The rental of any parcel amenity, accessory use or yard area, including pools, barns (except for storage-only purposes), sports courts or waterway access, not in conjunction with a permitted rental unit occupancy, is at all times prohibited.

B. **Rental restrictions.**

(1) All rental properties subsidized by the Southold Town Community Housing Fund may have additional restrictions on tenant occupancy and rental rates pursuant to Chapter 112, Community Housing. These additional restrictions continue to apply independently of the rental permit.

(2) All rental properties receiving sanitary flow credits from the Southold Town Sanitary Flow Credit Bank may be subject to additional requirements pursuant to Chapter 117, Sanitary Flow Credits. These additional restrictions continue to apply independently of the rental permit.

C. **Rental permit application requirements.**

(1) Rental permit applications shall be in writing on a form provided by the Town and shall include (but not be limited to) the following:

(a) The owner's name, address and telephone number.

[1] In the event the owner is a corporation, partnership, limited liability company or other business entity, the name, address and telephone number of each owner, principal, officer, shareholder, partner or member of such business.

(b) Notarized signature of the owner.

(c) The address of the subject property including street address and Suffolk County Tax Map number.

(d) A description of the rental unit, including the number of rooms, dimensions and use of each room.

(e) A copy of the proposed lease agreement, specific to the dwelling unit and property

being rented, documenting the applicable rental term as follows:

i. Year-Round Rental: A written lease with a term of at least twelve (12) consecutive months.

ii. Seasonal Rental: A written rental agreement for a term of at least thirty (30) consecutive days but less than twelve (12) consecutive months.

(f) Name address and telephone number of the managing agent or operator of each rental unit.

(g) Every application for a rental permit shall identify the proposed use of the dwelling unit by specifying:

i. Rental occupancy type: Year-round rental or seasonal rental;

ii. Housing classification: Whether the dwelling unit qualifies as community housing, as defined in Chapter 112 of this Code; and

iii. Dwelling unit type: Whether the dwelling unit is an accessory dwelling unit (ADU), as defined in this Chapter.

(2) Rental permit applications shall include the maximum number of persons that are being requested to occupy the rental dwelling unit. Final occupancy numbers will be reviewed and authorized by the Code Enforcement Official.

(3) Each applicant shall sign an affidavit confirming receipt of, and familiarity with, this article and other applicable provisions of the Southold Town Code, including but not limited to Chapters 100 Property Maintenance, 112 Community Housing Administration, 117 Sanitary Flow Credits, 180 Prevention of Noise, where applicable.

(4) 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 owner's mailing address for service of notices and other official communications, along with the telephone number, and email address for Town communications. The owner shall notify the Code Enforcement Official in writing of any change to this information within five business days of the change;

**Policy Decision: Inspection Fees**

Should the Town charge a fee for providing an inspection report? If so, should this be reduced for community housing units? The draft code below assumes inclusion of an inspection fee to be established by the Town Board.

(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 they are located by the Code Enforcement Official or the Official's designee employed by the Town of Southold. An inspection fee, established by the Town Board by resolution, shall be paid for inspections conducted by the Town; 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.

(d) All rental properties containing six or more rental units shall designate a site manager who is available 24 hours a day to address and resolve any issues concerning the property. The owner may serve as the site manager, provided they can meet this requirement. The owner shall provide the site manager's name and contact information, including a telephone number and email address, to the Code Enforcement Official within five business days of the designation and notify the Official of any changes to this information within five business days of the change.

D. 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.

**Policy Decision: Rental Permit Fees**

Should units in the Community Housing program have their permit fee reduced? The draft code includes this possibility.

E. **Fee for rental permit.**

(1) Rental permit fees shall be established by the Town Board by resolution. The Town Board may establish reduced fees for dwelling units participating in the Town's Community Housing program.

F. **Duration of rental permits.**

(1) A rental permit shall expire two years after being issued, and shall be renewed in accordance with Subsection H.

G. **Obligations of rental permit holders.**

(1) Within thirty (30) days after execution of a lease agreement for the rental dwelling unit, the permit holder shall submit a copy of the fully executed lease agreement to the Town for review and verification of compliance with the requirements of this chapter. Failure to submit the lease agreement within the time prescribed herein shall constitute a violation of this chapter.

(2) Compliance with Subsection G(1) is a requirement for renewal of a rental permit. A renewal rental permit shall not be issued unless the permit holder has submitted a copy of each fully executed lease agreement entered into during the term of the expiring rental permit.

H. **Renewal of rental permits.**

(1) Not less than 90 days prior to the expiration of a rental permit, the Building Department shall issue a renewal letter to the permit holder at the mailing address and, where provided, the email address on file. The renewal letter shall require the permit holder to:

(a) Certify in writing that all information contained in the original rental permit application, and in any prior renewal, remains true, accurate and complete;

(b) If any such information is no longer valid, submit updated information identifying each change, including any change to the owner, managing agent or operator, rental occupancy type, housing classification, dwelling unit type, maximum occupancy, certificates of occupancy, configuration, number of bedrooms, or use of the rental dwelling unit or premises;

(c) Demonstrate compliance with Subsection G, including submission of all executed lease agreements required thereunder; and

(d) Pay a renewal fee in an amount established by the Town Board by resolution.

(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 § 280-222D(4)(c).

(3) A renewal rental permit shall not be issued until the Code Enforcement Official has determined that the owner's certification and any updated information required by Subsection H(1) have been submitted, the renewal fee has been paid, the permit holder has complied with Subsection G, any required inspection has been completed, and the rental dwelling unit or units and premises comply with this chapter and all other applicable provisions of the Southold Town Code.

(4) The Town of Southold shall not accept, review or approve any renewal certification, updated information or renewal fee for a dwelling or rental dwelling unit wherein the prior rental permit expiration date has passed. If the expiration date has passed, the owner must file a new application in accordance with this article.

**§280-223 Review of application.**

A. **General review.** Upon receipt of a rental permit application, the Code Enforcement Official shall review the application for completeness and accuracy against the requirements of § 280-222D. No rental permit shall be issued unless the application includes all information required. The Code Enforcement Official shall have the right to inspect the rental dwelling unit and the premises on which it is located to confirm compliance with the New York State Uniform Fire Prevention and Building Code and this Code prior to issuance of a permit subject to § 280-226.

B. **Additional review.** Any application for a rental permit involving a dwelling unit designated or identified as community housing shall additionally be reviewed by the Housing Department to determine compliance with applicable tenant income, rental rate and occupancy restrictions under Chapter 112 Community Housing Administration. No rental permit shall be issued for such dwelling unit until the Housing Department has completed its review and provided written confirmation of compliance to the Code Enforcement Official.

**§ 280-224. Registry of permits.**

A. The Code Enforcement Official shall maintain a registry of all rental permits issued, renewed, revoked, or expired under this article. The registry shall identify each rental dwelling unit by owner name, street address, and Suffolk County Tax Map number, and shall include, at minimum, the rental occupancy type, housing classification, whether the unit is an accessory dwelling unit (ADU), and the date of issuance and expiration of each rental permit.

B. The registry shall identify each rental dwelling unit according to the following classifications, as applicable:

(1) Year-round rental;

(2) Seasonal rental;

(3) Community Housing, as defined in Chapter 112 of this Code; and

(4) Accessory dwelling unit (ADU).

C. The Code Enforcement Official shall prepare an annual report for submission to the Town Board summarizing the number of rental permit applications pending and the number of rental permits issued, renewed, revoked, and expired during the reporting period, broken out by the classifications in Subsection Bas applicable.

**§280-225 Advertising of rentals; responsibility of owners, brokers and agents.**

A. The advertising of any rental unit shall include the rental permit number as part of the written and posted ad and on all social media and rental websites. The rental permit must be posted at the primary front entrance of the rental unit at all times.

a. **Exception for community housing.** Notwithstanding Subsections A, B and C of this section, where a dwelling unit is community housing subject to Chapter 112, Community Housing Administration, and the tenant must be selected before issuance of the certificate of occupancy, the unit may be advertised prior to issuance of the certificate of occupancy and the rental permit, provided that the advertising is conducted in accordance with Chapter 112 and in coordination with the Housing Department. The rental permit number shall be displayed as required by this section upon issuance of the rental permit, and no tenant shall occupy the unit until the certificate of occupancy and the rental permit have been issued.

B. It shall be unlawful and a violation of this article for any person, entity, broker or agent to list, advertise, show or otherwise offer for lease, rent or sale any rental dwelling on behalf of the owner or authorized agent unless a current rental occupancy permit has been issued by the Code Enforcement Official. Any such listing or advertisement must include the current rental permit number for the rental unit. This provision is intended to establish a duty to verify the existence of a valid rental occupancy permit before listing, showing or otherwise offering for lease, rent or sale any such dwelling or dwelling unit in the Town of Southold.

C. It shall be unlawful and a violation of this article for any person, entity, corporation, broker, or agent to cause an advertisement or solicitation for a rental dwelling or dwelling unit to be listed, placed, posted or submitted for inclusion on any website, in the mass media, or in printed materials, including flyers, handbills, mailed circulars, social media, bulletin boards, signs or electronic media, without such person, entity, corporation, broker or agent first verifying the existence of a valid rental occupancy permit. All such advertisements, solicitations, listings, and postings on any website, in the mass media, or in printed materials, including flyers, handbills, mailed circulars, social media, bulletin boards, signs or electronic media, shall include the valid rental permit number. Violation of this section shall be unlawful and an offense within the meaning of the Penal Law of the State of New York.

D. In addition to the requirements set forth in this section, any advertisement for a rental dwelling or dwelling unit subject to Chapter 112, Community Housing Administration, shall comply with all additional advertising requirements applicable under that chapter.

**§ 280-226. Inspections.**

A. 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.

B. Search without warrant restricted. Nothing in this article, 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 article without the consent of the owner of the premises or without a warrant duly issued by an appropriate court.

C. Conflict with other chapters or law. Nothing in this article shall be construed to negate the authority for inspections pursuant to any other section of law or court-ordered inspection.

D. Presumption of rent. Any dwelling, dwelling unit, rooming house, rooming unit or any other premises subject to this article 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.

**§ 280-227. 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 article 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 article has occurred. The application for a search warrant shall in all respects comply with the applicable laws of the State of New York.

**§ 280-228. 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 article or other chapter of the Town Code. Revocation of a permit under this subsection cannot be done by a designee or assistant of the Code Enforcement Official.

B. An appeal from such a revocation under this section 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 of $200 to the Town Clerk with the written request for the appeal.

**§ 280-229. Enforcement.**

This article shall be enforced by the Code Enforcement Official as defined in § 280-4.

**§ 280-230. Penalties for offenses.**

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

(1) By a fine not less than $3,000 and not exceeding $10,000 or the 30-day published rental rate, whichever is higher, 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 $5,000 nor more than $20,000 or the 30-day published rental rate, whichever is higher, and revocation of the rental permit 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.

**§ 280-231. Implementation.**

A. Severability. If any clause, sentence, paragraph, section or part of this article 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.

B. Effective date. This article shall be effective upon filing with the Secretary of State.

C. Any rental permit application for which a permit has not been granted as of the effective date of this article shall be deemed void, and the applicant shall be required to submit a new application in accordance with the requirements of this article.

D. Rentals, both year-round and seasonal as defined in §280-4, that exist at the time of the effective date of this article without a rental permit shall be made compliant with this article within two years of the effective date. This does not apply to short-term rentals, which are governed separately in Article XXXVIII Short-Term Rentals.

**Policy issue:**
There are many apartments (e.g. Vineyard View) that have not been required to have rental permits. The rental permit code (207) was originally aimed at single-family homes only, and the rental permits in 280-13 were for accessory apartments. How should we handle existing apartments that are legal now, but haven't had to have rental permits in the past? See §280-231 D.