

New York State Department of State
 Division of Corporations, State Records and Uniform Commercial Code
 One Commerce Plaza, 99 Washington Avenue
 Albany, NY 12231-0001
 www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
 (Select one:)

of _____

Local Law No. 3 of the year 2023

A local law Amending Ch. 40 of the Town Code, Renaming Such Chapter to "Registration and
 (Insert Title)
 Permitting of Property"; Placing Previously Enacted Legislation on Short-Term Rentals

Under Article I of Ch. 40 and Adding a New Article II "Residential Rental Permits."

Be it enacted by the Town Board of the
 (Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
 (Select one:)

of Monroe as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2023 of the ~~(County)(City)(Town)(Village)~~ of Monroe was duly passed by the Town Board on February 6, 2023, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted _____ (Elective Chief Executive Officer*) on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

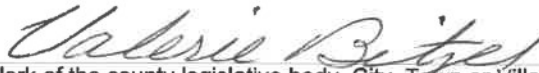
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.


Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date:



(Seal)



TOWN OF MONROE

LOCAL LAW NO. 3 OF THE YEAR 2023

A LOCAL LAW AMENDING CHAPTER 40 OF THE TOWN CODE, RENAMING SUCH CHAPTER TO “REGISTRATION AND PERMITTING OF PROPERTY”; PLACING PREVIOUSLY ENACTED LEGISLATION ON SHORT-TERM RENTALS UNDER ARTICLE I OF CHAPTER 40 AND ADDING A NEW ARTICLE II “RESIDENTIAL RENTAL PERMITS.”

BE IT ENACTED by the Town Board of the Town of Monroe pursuant to § 10 of the New York State Municipal Home Rule Law, as follows:

Section 1: Legislative Intent.

The Town Board intends to preserve the health, safety and welfare of residents within the jurisdictional limits of the Town of Monroe exclusive of its Incorporated Villages by establishing a permitting system which will enhance the delivery of municipal services, such as sanitation and code enforcement services, and emergency services such as fire, water and police services when such services are needed, and effectively aid in the maintenance of the peace and good order and a tool for the establishment of efficient planning. In addition, to ensure the welfare and safety of Town residents, the Town desires to ensure that the residents are not threatened by rental properties infested with rodents and other creatures, that lack sufficient heat, ventilation, light or other necessities, or that are otherwise uninhabitable or blighted or threaten the quality of life in the community by creating nuisances or disrupting the peace and good order. The intent of this legislation is not to legalize the occupancy of any structure that predates the effective date of the current Town Code or possesses a letter-in-lieu, nor is it an admission by the Town of Monroe that said structures are legally occupied or habitable. Nothing in this Chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, county or state, or extinguish the requirements of any local law, rule or statute of any agency having jurisdiction. In the case of a conflict between this Chapter and other regulations, the more stringent requirement shall prevail.

Section 2: Insert title “Article I Short-Term Rentals” prior to existing Section 40-1.

Section 3: After Section 40-16, add: “§40-17 through 40-20 (Reserved)”

Section 4: Add new “Article II Residential Rental Permits” as follows:

Article II Residential Rental Permits

§ 40-21 Definitions

As used in this Article, the following words shall have the meanings indicated:

DORMITORY

A building primarily providing sleeping and/or residential quarters for large numbers of people including but not limited to boarding schools, college or university students.

DWELLING UNIT

Any residential area, space, or housing unit in any zoning district which is occupied for habitation as a residence by persons other than the owner or the owner's immediate family.

IMMEDIATE FAMILY

For the purpose of this article immediate family shall mean as set forth in § 57-3 (Family).

INDEPENDENT STATE CERTIFIED CODE ENFORCEMENT OFFICIAL

An independent New York State trained and certified code enforcement inspector, who is not employed by the Town of Monroe or is an employee of the owner of the property being certified

MANAGING AGENT

Any individual, business entity, enterprise, trust, association, public utility or other legal entity responsible for the maintenance or operation of any residential rental property.

MIXED USE OCCUPANCY

A building or portion thereof that is utilized or occupied for more than one use or purpose. This article shall apply only to the dwelling units contained within mixed-use occupancy buildings.

MULTIPLE RESIDENCE

A building or portion thereof designed for or occupied by three or more family units living independently of each other.

OWNER

Any person, business entity, or association who, alone or jointly with others, holds a fee interest in real property with or without accompanying actual possession thereof; or a managing agent who is responsible for the maintenance and/or operation of real property; or an executor, administrator, trustee, receiver or guardian of an estate; or a mortgagee who has secured a judgment of foreclosure and sale, or who is in possession, title or control of real property, including but not limited to a bank or lending institution, regardless of how such judgment, possession, title or control was obtained.

RENTAL PROPERTY

Dwelling unit(s) in one and two family homes, multiple residences, dormitories, and mixed-use occupancy buildings in any zoning district which are occupied for habitation as a residence by

persons other than the owner or the owner's immediate family and for which a fee or other compensation is received by the owner or managing agent, directly or indirectly, in exchange for such residential occupation. The term "rental property" shall exclude properties used solely for nonresidential purposes; one family homes which continue to be the primary and permanent residence of the owner but are leased or occupied by one other than the owner or owner's immediate family for six (6) months or less in any calendar year; two-family homes where the owner or a member of the owner's immediate family resides in one of the two dwelling units; short-term rentals; legal habitable dwellings detached from the main residence of the owner or owner's immediate family on the lot; multiple dwellings where the owner or owner's immediate family reside on site; large multiple residence developments or communities having approved bylaws and a homeowner's association, board or similar management organization on-site with jurisdiction over rental property, and the on-site office is manned during regular business hours and has an emergency hotline available for use during non-business hours; those having valid accessory dwelling unit permits; any property owned and/or operated by the United States, the State of New York, the County of Orange, Town of Monroe and their respective agencies and political subdivisions; any property managed or operated by a not-for-profit organization to provide community-based housing in compliance with guidelines established by New York State, Orange County, or the federal government, and the property is certified and inspected by the requisite governmental agency pursuant to said guidelines.

§ 40-22 Prohibited acts.

(A) By owner or managing agent.

- (1) It shall be unlawful for the owner or managing agent to lease or rent, or offer to lease or rent, any rental property or dwelling unit for which a valid rental permit has not been issued pursuant to this article. It shall be immaterial whether or not rent or any other consideration is paid or tendered to the owner or managing agent by the occupant of such dwelling unit or rental property; and
- (2) It shall be unlawful for the owner or managing agent to submit for filing pursuant to this chapter false or misleading statements or information, or to submit for filing a certification or other document generated by one who did not inspect all portions of the rental property; and
- (3) It shall be unlawful for the owner or managing agent to allow for the parking of more vehicles on the property than there are bedrooms in the rental property.
- (4) It shall be unlawful for the owner or managing agent to allow for the parking of more than one commercial vehicle on the property, which for the purposes of this section shall be defined to include any for-hire vehicle, recreational vehicle, travel trailer or boat.
- (5) It shall be unlawful for the occupancy of any one bedroom to exceed two

(2) persons.

- (6) It shall be unlawful to rent only one room in the rental property to a tenant.
- (7) It shall be unlawful for the owner or any renter to sublet the rented area to another person.
- (8) It shall be unlawful for any business to operate from a residential rental property.
- (9) It shall be unlawful for any one person or entity to own more than three (3) residential rental properties within the Town of Monroe. Principals with common ownership in more than one entity owning or operating a residential rental property in the Town shall be considered to be one entity.

(B) By Engineer, Architect and other consultant.

- (1) It shall be unlawful for any engineer, architect or other consultant including an independent state certified code enforcement official to generate or produce a certification or other document for filing pursuant to this chapter containing false or misleading statements or information; or
- (2) To generate a certification without entering into and/or inspecting all portions of the rental property.
- (3) Nothing herein shall be deemed to prevent or limit prosecution of any individual under the New York State Penal Law or other statutes concerning false documents or filings.

§ 40-23 Presumptive evidence.

(A) The presence or existence of any of the following shall create a rebuttable presumption that rental property or a dwelling unit is being rented. Nothing herein shall be construed so as to prevent persons from living together as a family unit with the owner.

- (1) The property is occupied by someone other than the owner, and the owner or managing agent of the property represents in writing or otherwise, to any person or establishment, business, institution or government agency, that he resides at an address other than the rental property.
- (2) Persons living in the rental property or dwelling unit represent that they pay rent to the owner of the premises.
- (3) Utilities, cable, phone or other services are in place or requested to be installed or used at the premises in the name of someone other than the record owner.

- (4) Testimony by a witness with personal knowledge of the facts that a person other than the record owner resides at the premises.
- (5) There is more than one mailbox at the premises.
- (6) There is more than one gas meter at the premises.
- (7) There is more than one electric meter at the premises.
- (8) There are separate entrances for segregated parts of the building.
- (9) There are partitions or internal doors which may serve to bar access between segregated portions of the building including but not limited to bedrooms.
- (10) There exists a separate written or oral lease, or rental or occupancy agreement, or payment arrangement for portions of the rental property between the owner or managing agent and the different occupants and/or tenants of the property.
- (11) There exists an inability of any occupant or person in possession thereof to have unimpeded and/or lawful access to all parts of the rental property or rental unit.
- (12) Two or more kitchens each containing one or more of the following: a range, oven, hotplate, microwave or other similar device customarily used for cooking or preparation of food and/or a refrigerator. This factor alone shall not be deemed presumptive where a second kitchen exists for a religious reason.

§ 40-24 Term of rental permits and renewals; Compliance.

(A) A rental permit and renewal thereof shall be valid for a period of two (2) years from the date of issuance unless sooner terminated. No permit or renewal thereof shall be issued unless the property is in compliance with all the provisions of the Code of the Town of Monroe, and meets the requirements of all applicable county, state and federal laws, codes, rules and regulations

(B) Nothing in this Article, except in the case of an emergency pursuant to § 23-23(I) or upon a warrant duly issued by a court of law, shall be deemed to authorize or require that the Town conduct an inspection of any property without the consent of the owner or managing agent, if the dwelling unit or units are unoccupied, and if occupied, with the consent of the occupant, owner or managing agent of the property.

§ 40-25 Application for rental permits.

(A) The owner or managing agent of rental property or a dwelling unit shall apply for a rental permit before the property or dwelling unit is advertised for rent or if the vacancy is not advertised then such permit shall be obtained before the premises are leased or occupied by one other than a member of the owner's immediate family. The rental permit number shall be noted on the advertisement. Failure to file an application or to apply within the specified period shall be deemed a violation of this article.

(B) Transfer of property. In the event ownership of rental property is transferred to a new owner, the new owner or managing agent shall apply for a rental permit within thirty (30) days of the closing of title if any portion of the property is rented or leased at the time of closing. If an application is not filed by the new owner, there shall be a presumption that any rentals on the property have terminated. Any rentals by the new owner without application for and receipt of a permit shall be a violation of this Article.

(C) Application. Applications for rental permits shall be on forms provided by the Town Building Department and signed by each owner or managing agent of the property and must be submitted with an application fee as set forth in the Town Fee Schedule. In no instance shall the filing of an application and payment of fees be construed as to exonerate the owner or managing agent of responsibility for compliance with the building, housing and maintenance requirements of any local, county, state or federal agency having jurisdiction. Each application shall include the following information as is determined applicable in the discretion of the Building Inspector:

- (1) A copy of the latest deed to the property; and
- (2) Latest survey of the property, if available or a plot or schematic showing the size and location of the lot and all buildings and structures thereon; and
- (3) Government issued proof of residency of each owner with picture ID (driver's license, passport, etc.), and the address and contact number thereof; and
- (4) The name, address and contact number of the managing agent, if applicable; and
- (5) A signed and notarized certification in a form acceptable to the Building Inspector by each property owner or managing agent attesting to the total number of persons occupying each rental property or rental unit owned or managed by the registrant as of the date of registration; and
- (6) Location of the premises, the number of dwellings units located therein, and number of persons to be accommodated; and
- (7) A floor plan of each dwelling unit and the accommodations; and
- (8) The maximum number of vehicles expected to be parked on the property, including the occupants of the rental unit, and the number of vehicle spaces available on the property.

- (9) Where the applicant is an corporate entity or partnership, an entity disclosure form as required by Town Code § 23-11.1 as well as proof of authorization to do business in the State of New York.
- (10) A certification from an independent professional engineer or registered architect, other than the property owner, licensed in the State of New York and containing their seal, or the certification of the Town Building Inspector/ code enforcement officer, or of an independent state certified code enforcement official, attesting that the property at issue is in compliance with the Monroe Town Code, and meets the requirements of all applicable county, state and federal laws, codes, rules and regulations.
- (11) Such other information and/or documentation deemed necessary by the Building Inspector, which may include:
 - a. If the owner is an estate, the names, business and residence addresses of the executor or administrator of the estate shall be provided;
 - b. If the owner is a trust, the names, business and residence addresses of all trustees and/or grantors shall be provided;
 - c. If the owner is any other form of unincorporated association, the names, business and residence addresses of all principals/officers;
 - d. If the owner is an individual person, the names, business and residence addresses of that individual person shall be provided.
 - e. If none of the persons listed in subsections (11)(a) through (11)(d) above are within the State of New York, the registration statement shall provide the names, business and residence addresses of a person who resides within the State of New York and who is authorized to accept service of process on behalf of the owner(s). Registration statement shall designate a responsible local party or agent for purposes of notification in the event of an emergency involving the property which affects the public health, safety or welfare.
- (D) Duty to amend. If the status of the information changes during the course of any calendar year, it is the responsibility of the owner or managing agent to submit such changes to the Building Inspector in writing within thirty (30) days of the occurrence of such change.
- (E) Non-compliance. Failure of an owner or managing agent to secure a rental permit or to timely amend information shall constitute a violation of this Article.

§ 40-26 Fees, Late Charges and Inspections.

- (A) Application Fee. A non-refundable application fee as set forth in the Town Fee Schedule shall be payable upon application.
- (B) Initial Approved Permit fee. A non-refundable approved permit fee as set forth in the Town Fee Schedule shall be payable before an initial rental permit or renewal permit is issued.
- (C) Renewal Fee. A non-refundable application fee as set forth in the Town Fee Schedule shall be submitted by the original applicant.
- (D) Late charges. A late charge equal to two times the amount of the permit fee, prorated for the period of delay, shall be charged to owners and/or managing agents who fail to apply for a rental permit or renew their permits on a timely basis.
- (E) Inspections. If the owner requests that an inspection or re-inspection be performed by the Town Building Department instead of a licensed professional engineer or registered architect, a non-refundable fee, as set forth in the Town Fee Schedule shall be charged. If the property owner or his agent fails to appear for a scheduled inspection, any rescheduled inspection shall be subject to payment of another inspection fee.
- (F) Compliance required.
 - (1) Nothing in this article, except in the case of an emergency pursuant to § 23-23(I) or upon a warrant duly issued by a court of law, shall be deemed to authorize or require that the Town conduct an inspection of any property without the consent of the owner or managing agent, if the dwelling unit or units are unoccupied, and if occupied, with the consent of the occupant, owner or managing agent of the property.

§ 40-27 Renewal of permit.

- (A) A rental permit may be renewed by application to the Building Inspector as in the case of an original permit application, along with submission of the required fee set forth in the Town Fee Schedule and submission of any documents required by the Town Building Inspector.
- (B) All applications for a renewal of a permit shall be filed before the expiration of the original permit and are subject to the late charges set forth in the Town Fee Schedule. A permit may only be renewed by the same owner for the same property upon the payment of the permit renewal fee set forth in the Town Fee Schedule. In the event of a change of ownership where the new owner seeks a rental permit, the initial application fee and initial approved permit fees set forth in the Town Fee Schedule shall apply to the new owner.

(C) All applications for renewal of a permit shall require a certification from an independent professional engineer or registered architect, other than the property owner, licensed in the State of New York and containing their seal, or the certification of the Town Building Inspector attesting that the property at issue is in compliance with the Monroe Town Code, and meets the requirements of all applicable county, state and federal laws, codes, rules and regulations.

§ 40-28 Denial of Permit Application.

(A) Basis for denial. Any application for a rental permit, including the renewal or transfer of a permit, can be denied for the reasons set forth in § 40-36. In the event an application is denied, notice of denial shall be given in writing and served by registered or certified mail, return receipt requested, and by regular mail, to the applicant at the address shown on the application. If the notice is returned by the Post Office as undeliverable for any reason, as long as it was properly addressed, service of the notice shall be deemed valid.

(B) Notice of denial. The notice of denial shall set forth the grounds therefor and contain a statement that the applicant may appeal such denial by filing a written request for an appeal thereof with the Monroe Town Clerk within twenty (20) days of receipt of the notice of denial and notice that payment of the fee set forth in the Town Fee Schedule shall be required to cover the costs of processing the appeal. The notice shall also contain a statement that the applicant may submit written objections to the denial, and any other information the applicant deems advisable or necessary. The Town Clerk shall forward a copy of the appeal to the Town Attorney and the Building Inspector for further review and processing.

(C) Notice of Hearing. Notice of the date, time and place of the hearing shall be given in writing and served by registered or certified mail, return receipt requested to the applicant at the address shown on the application. The notice shall contain a statement that (1) the applicant is entitled to be represented by legal counsel at the hearing and may present the testimony of witnesses and such other evidence in his or her own behalf as may be deemed relevant or necessary, and (2) in the event the applicant fails to appear for the hearing, the denial shall remain in full force and effect and be final.

(D) Conduct of hearing. The hearing shall occur before the Town Board and may be adjourned by the Town Board only upon good cause shown, unless otherwise agreed to between the Town and the applicant. At the hearing the applicant shall be entitled to be represented by legal counsel and provided with an opportunity to be heard. The applicant may present the testimony of witnesses, experts and other evidence in his or her own behalf as he or she deems advisable. The Building Inspector, Code Enforcement Officer or other witness may appear and give testimony or submit evidence in support of the determination to deny a permit, or to deny the transfer or renewal of same, as deemed necessary by the Town. All hearings shall be recorded either by a stenographer or by an audio recording.

(E) Town Board Review. The Town Board shall consider the evidence presented and

shall submit its findings in writing within thirty (30) days of the close of the hearing. A copy of the Town Board's written determination shall be filed with the Building Inspector and the Monroe Town Clerk and served on the applicant or applicant's attorney in the same manner as the original notice.

(F) Final order. The failure of the applicant or his attorney to appear and participate at the scheduled hearing shall result in the automatic affirmance of the denial. The final order of denial shall be served upon the applicant or applicant's attorney in the same manner as the original notice of denial.

(G) Reapplication for a permit. Once an application has been denied, no reapplication for a permit, or a renewal or transfer of a permit, shall be accepted for filing until the applicant has satisfactorily remedied the conditions that formed the basis for denial to the satisfaction of the Town.

§ 40-29 through § 40-35. (Reserved)

§ 40-36 Grounds for Denial of Rental Permit.

(A) An application for the issuance of a rental permit may be denied, including an application for the renewal or transfer of a permit, under the following circumstances.

- (1) The rental property, or parts thereof, is determined to be unfit for human habitation or occupancy or a hazard to the public because of the failure of the owner or occupant to comply with notice(s) or order(s) issued by the town, or due to a prolonged lack of maintenance or owner failure; or
- (2) The rental property, or parts thereof, contains unsafe equipment, wiring, pipes or other conduit or installation, or lacks illumination, ventilation, sanitation, heat or other facilities adequate to protect the health and safety of the occupants or the public; or
- (3) The rental property, or parts thereof, is damaged, decayed, dilapidated, unsanitary, unsafe or infested in such a manner as to create a hazard to the health and safety of the occupants or the public; or
- (4) The rental property, because of its location, general condition, state of the premises, number of occupants or other reason, is unsanitary, unsafe, hazardous, overcrowded or for other reasons is detrimental to the health and safety of the occupants or the general public in whole or part, including but not limited to the parking of a number of vehicles that routinely exceeds the available parking on the site; or
- (5) Occupancy of the rental property by the persons using the premises creates a hazard or public nuisance or other condition which negatively impacts the use and/or enjoyment of surrounding properties, or threatens the peace and good order or quality of life in the surrounding community; or

- (6) The certificate of occupancy or letter in lieu for the rental structure is in the process of being suspended or revoked. In such cases, any pending application for a rental permit, or for the renewal or transfer of a permit, shall be held in abeyance pending the outcome of such suspension or revocation proceeding, and the application shall be denied if the certificate of occupancy or letter in lieu is ultimately suspended or revoked. Any decision to deny an application for a permit, or a renewal or transfer of same because of the suspension or revocation of a certificate of occupancy or letter in lieu shall be final.
 - (7) The existence of any other condition or circumstance which, in the opinion of the Town is dangerous, illegal, unsafe or jeopardizes the health, welfare and safety of the general public or occupants.
 - (8) More than ten (10) existing residential rental permits within one (1) square mile of the applicant's proposed residential rental property.
- (B) Notwithstanding anything contained herein to the contrary, the Building Inspector, or his designee, as the circumstances warrant and on a case by case basis, may authorize a short extension of time to allow the property owner to rectify a minor condition or irregularity on the property prior to denying the application outright, including, for example, the installation of working smoke detectors and carbon monoxide detectors. Nothing contained herein shall authorize the Building Inspector to permit a property owner or person in charge of the property time to rectify an illegal extension, alteration, conversion, use or other change made in violation of the Town Code or other applicable law or rule. In such event, the application shall be denied and a notice of violation, notice to comply, notice to remedy, and/or summonses issued.

§ 40-37 Revocation of Rental Permits.

- (A) Any permit issued pursuant to this chapter may be revoked by the Town, under the following circumstances:
- (1) The permit was issued in error, or issued in whole or in part as a result of a false, untrue, or misleading statement on the permit application or other document submitted for filing, including but not limited to the schematic, or certification by the licensed professional engineer or registered architect; or
 - (2) The Town has suspended or revoked the certificate of occupancy or letter in lieu for the rental property.
 - (3) The property is the subject of enforcement proceedings for violations of either the Town Code or State Building and Fire Code that have not been timely remedied by the property owner and such violations concern matters of health, safety and/or welfare of occupants of the structure for which the rental permit was issued.

(4) A Certificate of Occupancy for the property with the rental permit is the subject of a pending proceeding by the Town to suspend or revoke the certificate of occupancy or letter in lieu for such structure.

- a. In cases where a rental permit has already been issued for such property, a notice of the Town's intention to suspend or revoke the certificate of occupancy or letter in lieu may be served simultaneously with a notice of the Town's intention to revoke a rental permit, either in one notice document or two.
- b. When a rental permit is proposed for revocation due to the anticipated revocation or suspension of a certificate of occupancy or letter in lieu, the procedure set forth in Chapter 23 of the Town Code to suspend or revoke the certificate of occupancy or letter in lieu shall control and apply equally to the proposed revocation of the rental permit, except that any notice of the Town's proposal to revoke the rental permit shall cite this section as a basis for such action.

(B) Written notice. Written notice of the Town's intention to revoke a rental permit shall be served by the Town Building Department by registered or certified mail, return receipt requested, and by regular mail, to the applicant at the address shown on the application. If the notice is returned by the Post Office as undeliverable for any reason, as long as it was properly addressed, service of the notice shall be valid. Said notice shall state that the applicant is entitled to be represented by legal counsel at the hearing and may present the testimony of witnesses and such other evidence in his or her own behalf as may be deemed relevant or necessary. In the event the permit was issued in error or as a result of a false or misleading statement, submission or certification, the notice shall identify the error, omission, false or misleading statement or submission at issue; the date, time and place of the hearing to be held before the Town Board to revoke the rental permit; and a statement that upon the applicant's failure to appear for the hearing, then in such event the rental permit shall be automatically revoked.

(C) Amendment, modification or withdrawal. The Building Inspector or Code Enforcement Officer may amend, modify or withdraw any notice issued if, in his or her judgment, the circumstances warrant such action provided the amended or modified notice is served in the same manner as the original notice within five (5) days of mailing the original notice, and a hearing has not occurred, except that a notice may be withdrawn in its entirety and not reissued at any time.

(D) Conduct of revocation hearings. Any hearing concerning a revocation of a permit shall be conducted in accordance with § 40-28(D) and (E) of this Article.

(E) Final order of Revocation. The failure of the applicant or his attorney to appear at the scheduled hearing shall result in the automatic revocation of the rental permit. The order of revocation shall be mailed to the applicant or his attorney in the same manner as the original notice.

(F) Effect of Revocation. If a permit is revoked, no application for a new permit will be accepted for filing until the applicant has remedied the conditions that formed the basis of the revocation to the satisfaction of the Town, if applicable. Once remedied, the applicant will have to apply for a new permit and pay the fee as in the case of an original application.

Section 5. Severability

If a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 6. Code Preparation

The Town's Code preparation contractor is authorized, without further action of the Town Board, to correct typographical errors, numbering and other related technical changes that do not affect or alter the substantive provisions of this local law.

Section 7. SEQRA

Pursuant to 6 NYCRR 617.5(26) and (33), this Local Law is classified as a Type II action which requires no further review under the State Environmental Quality Review.

Section 8. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.