

TOWN OF CLARKSTOWN

LOCAL LAW NO. 1 - 2010

Be it enacted by the Town Board of the Town of Clarkstown as follows:

Section 1. Title

A Local Law Amending Chapter 18-Code of Ethics, Chapter 91-Burglar Alarm Device Control, Chapter 110-Numbering of Buildings, Chapter 111-Unsafe Buildings, Chapter 117-Circuses & Carnivals, Chapter 126-Massage Establishments, Chapter 133-Electrical Installations, Chapter 136-Explosives, Chapter 143-Fire Prevention, Chapter 157-Housing Standards, Chapter 188-Notification of Defects, Chapter 202-Parks & Recreation Facilities, Chapter 240-Shopping Center Parking Areas, Chapter 256-Sunday Activities, and Chapter 258-Swimming Pools, of the Code of the Town of Clarkstown.

Section 2. Legislative intent.

The purpose of this Local Law is to delete a certain section of the Town Code which is no longer applicable, to clarify certain sections, and to bring other sections up to date.

Section 3.

Delete the following Chapter in its entirety:

"Chapter 256 - Sunday Activities"

Section 4.

Amend Chapter 18 - Code of Ethics as follows:

Change § 18-9. Duties of Town Clerk. To read:

A. The Town Clerk shall maintain as a record subject to public inspection:

Change § 18 Attachment 1, Appendix I, A. (16) to read:

Authorized Purchasing Agent

Change § 18-8. Penalties for offenses; enforcement. To read:

A. Any person who shall violate any of the provisions of § 18-5 of this chapter shall be subject to a civil fine in an amount not to exceed \$10,000 for each violation. Assessment of a civil penalty hereunder shall be made by the Board.

Section 5.

Amend Chapter 91 - Burglar Alarm Device Control as follows:

Add to § 91-12. Other requirements for alarm use permit.

C. Every alarm business or alarm agent selling or leasing to any person in the alarm system which is installed on such person's premises in the Town shall furnish that person with actions which provide adequate information to enable persons using the system to operate it properly. Additionally, the alarm business or alarm agent shall inform the purchaser or lessee of his or her obligation to obtain an alarm user's permit. The name, address and telephone number of the installing alarm business shall be conspicuously displayed on the alarm system equipment.

Change § 91-13 to read as follows:

B. The Chief of Police or his designee shall maintain records of all false alarms reported pursuant to this chapter. A warning letter may be sent at the discretion of

the Chief of Police to any alarm user who shall have permitted up to three false alarms in any twelve-month period. When a fourth or subsequent false alarm is transmitted during a twelve-month period, the Chief of Police shall assess the civil penalty as provided herein and give notice of the same to the alarm user by certified mail, return receipt addressed to the address provided on the permit application or any amendment thereto. Such notice shall contain information as to the right of review of such determination. The civil penalty must be paid within 15 days from the date assessed or, in the alternative, the alarm user must file a written request with the Police Chief for review of the civil penalty before the Alarm Users Civilian Review Board. Payment of the amount assessed shall be stayed pending such hearing. If no hearing is requested, such civil penalty shall be final and shall become a lien against the property if not paid within 45 days from the date when assessed. All civil penalties which become liens against the property shall be collected by special assessment levy against the affected tax parcel on the next town tax bill.

§ 91-17. Alarm Users Civilian Review Board. [Amended 1-25-2005 by L.L. No. 3-2005; 3-21-2006 by L.L. No. 2-2006]

There is hereby an Alarm Users Civilian Review Board, which shall hear and determine all requests for review of any civil penalty assessed pursuant to this chapter or the revocation of any alarm user permit by the Chief of Police. The Alarm Users Civilian Review Board shall be comprised of three members appointed by the Town Board for terms of two years. The Town Board shall designate the members of the Alarm Users Civilian Review Board, who shall be compensated to serve on such Board. The Alarm Users Civilian Review Board shall meet to hear all matters brought before it at least once each quarter. The Chief of Police, or his designee, shall cause the Alarm Users Civilian Review Board to be convened in the months of March, June, September and December to handle all pending matters. Public notification of each quarterly meeting shall be provided in accordance with the Open Meetings Law. The Board shall have the authority, for good cause, to set aside or reduce any civil penalty assessed against an alarm user or to issue or reissue an alarm user's permit that has been denied or revoked. A copy of the Board's determination shall be mailed to the last known address of the alarm user and shall be subject to review in the Supreme Court by a proceeding under Article 78 of the Civil Practice

Law and Rules. Such proceeding shall be commenced within 30 days after the date that the determination shall have been filed with the Town Clerk.

Section 6.

Amend Chapter 110 - Numbering of Buildings

Change § 110-5. Notification to phone company. To read:

All residents and/or property owners shall be required to notify their phone service carrier of their current and accurate address.

Add: § 110-6. Certificate of Occupancy.

The Building Inspector shall not release the Certificate of Occupancy for any issued permit until the requirements of this chapter have been satisfied.

Change the existing § 110-6 to § 110-7 and the existing § 110-7 to § 110-8

Amend § 110-7 to read:

§ 110-7. Penalties for offenses.

Any owner of real property or the agent of such owner who violates any of the provisions of this chapter shall be guilty of a violation and shall be subject to a fine not to exceed five hundred dollars (\$500) and/or imprisonment not to exceed fifteen (15) days for each such violation. Each day on which such violation exists shall constitute a separate violation.

Section 7.

Amend Chapter 111 - Unsafe Buildings as follows:

Add the following to § 111-1 Purpose:

The provisions of this chapter shall be in addition to and in furtherance of, the New York State Uniform Fire Prevention and Building Code, including but not limited to, sections 108 and 109 of the Property Maintenance Code of New York State.

Change § 111-2. Definitions. As follows:

BUILDING INSPECTOR - The Chief Code Enforcement Officer of the Town of Clarkstown.

Change § 111-6. Service of notice.

Change 'registered' to 'certified'.

Change § 111-7. Refusal to comply with order. to read as follows:

§ 111-7. Refusal to comply with order.

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board and after the hearing, the Town Board shall provide for the demolition and removal of such building or structure either by town employees or by contract. Except in emergency as provided in § 111-9 hereof, any contract for demolition and removal of a building shall be awarded pursuant to the Town of Clarkstown Department of Purchasing procedures.

Delete '§ 111-10. Compensation of surveyor.' in its entirety.

Section 8.

Amend Chapter 117 - Circuses and Carnivals - as follows:

Change § 117-4. Fees A. (1) to read:

- (1) Circuses and Carnivals: A fee, as established from time to time by Town Board resolution, shall be paid for each week or any fraction thereof.

Change § 117-12. Penalties for offenses. To read:

Any person committing an offense against any provision of this chapter shall be guilty of a Class B misdemeanor punishable by a fine not exceeding one thousand (\$1000) dollars or by a term of imprisonment not in excess of three months.

Section 9.

Amend Chapter 126 - Massage Establishments - as follows:

Change § 126-2. License required. To read:

'Building Inspector' (delete 'Police Department')

Change § 126-3. Business license for massage establishments.

B. To read: 'may' (delete 'shall')

F. To read: 'for the life of the tenancy and be valid only for the individual(s) named on the application.'

(delete balance of the calendar year and shall expire on December 31 of the same year, unless sooner suspended or revoked. Prorations of the fees shall be made.)

Change § 126-9. Licensed massage therapists. To read:

(delete: 'and a fee for a certified massage therapist license, and the actual cost of processing fingerprints as required in this chapter, to the Town Police. The license and application fee shall be waived when the massage therapist is the primary applicant of the massage establishment, has paid the appropriate massage establishment application fees and has been issued a duly authorized massage establishment license.')

Change § 126-11. Issuance of massage therapist license.

B. To read: (delete: 'Proration of fees shall be made.')

Change § 126-14. Inspection of massage establishments.

To read: change to 'once a year' (delete: 'twice a year')

Change § 126-15. Identification card required. To read:

'Building Inspector' (delete: 'Police Chief')

Change § 126-16. License renewal; licenses nontransferable.

To read: change to 'may' (delete: 'shall')

Section 10.

Amend Chapter 133. Electrical installations. As follows:

Change § 133-2. Electrical inspector. To read:

'electrical inspection agency approved by resolution of the Town Board' (delete: 'the New York Board of Fire Underwriters')

Add § 133-4. Failure to perform.

The electrical inspection agency(ies) approved by resolution of the Town Board are expected to operate in a professional and competent manner. If the Building Inspector determines that an electrical inspection agency is not performing their duties in the best interest of the inhabitants of the Town of Clarkstown he shall notify the Town Board of this failure to perform. The Building Inspector may request such agency be suspended for a period of time or permanently removed from the list of approved electrical inspection agencies.

Change § 133-4 to 133-5 and 133-5 to 133-6

Section 11.

Amend Chapter 136. Explosives. As follows:

Add: § 136-2 C. The manufacture of explosives is prohibited within the Town. A certificate of compliance shall be obtained from the Chief Fire Safety Inspector or the Building Inspector to have, keep, use, store or transport any explosives. Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, cable, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. In an emergency, this time limit may be waived by the Chief Fire Safety Inspector or Building Inspector.

Add: § 136-4. Use.

C. Whenever blasting is to be conducted, the Chief Fire Safety Inspector or Building Inspector shall be notified 24 hours in advance of blasting, specifying the location and intended time of such blast by the blaster.

Change § 136-5. Enforcement. To read:

The Building Inspector, the Chief Fire Safety Inspector, the Chief of Police or their designees are hereby authorized, jointly and severally, to enforce this chapter.

Change § 136-6. Penalties for offenses.

Change to: 'five hundred (\$500) dollars' (delete: 'two hundred fifty (\$250) dollars').

Section 12.

Amend Chapter 143. Fire Prevention. As follows:

Chapter 143, FIRE PREVENTION

ARTICLE I, General Provisions

Change § 143-1. Legislative intent. To read:

It is the intent of this chapter to prescribe regulations, consistent with nationally recognized good practice, for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the use or occupancy of buildings or premises. The National Fire Protection Association shall be deemed to be prima facie evidence of compliance with this intent, except where this chapter is stricter.

Change § 143-2. Supplementary requirements. To read:

All matters within the intent of this chapter covered in detail by this chapter shall comply with nationally

recognized good practice. The National Fire Protection Association shall be deemed to be prima facie evidence of compliance with nationally recognized good practice.

ARTICLE II, Enforcement

Change § 143-4. Fire inspection. By deleting paragraph (C) in its entirety.

(Delete: C. The Chief Fire Safety Inspector, Fire Safety Inspector and Assistant Fire Safety Inspectors shall be appointed by the Town Board in the same manner as the Building Inspector of the Town of Clarkstown and shall be compensated by a salary to be established by the Town Board by resolution. The Chief Fire Safety Inspector, Fire Safety Inspector and Assistant Fire Safety Inspectors shall have civil service status to be determined by the Rockland County Personnel Director.)

Change § 143-6. Penalties for offenses. To read:

A. (2) For any subsequent violation, a fine not exceeding five thousand (\$5000) dollars or imprisonment for a term not exceeding one year, or both such fine and imprisonment, and such offense shall constitute a misdemeanor.

Change § 143-9. Prohibited dangerous conditions.(L) to read:

L. Any building or structure which, for the want of repairs or by reason of age or dilapidated condition or by reason of fire or any other cause, creates a hazardous condition. Every person owning or having control of any vacant or fire-damaged building shall remove all combustibles therefrom and lock, barricade or otherwise secure all windows, doors and other openings in the building to prohibit entry by unauthorized persons. Fire alarm, sprinkler and standpipe systems shall be maintained in an operable condition at all times. EXCEPTIONS: When the building has been cleared of all combustible contents and debris, is secured against entry, and conforms to Sections 704.5 and 704.8 of the Building Code of New York State, fire protection equipment is permitted to be disabled, subject to the approval of the code

enforcement official. A notice that such equipment is disabled shall be posted on the building in a location as directed by the code enforcement official, and shall be provided to the fire department. Where buildings will not be heated and fire protection systems will be exposed to freezing temperatures, fire alarms and sprinkler systems are permitted to be placed out of service and standpipes are permitted to be maintained as dry systems, without automatic water supply, provided the building has no contents or storage, and windows, doors and other openings are secured to prohibit entry by unauthorized persons.

Change § 143-10. Service of orders. To read:

. . . . by sending such copy by first class mail and certified mail

Change § 143-11. Certificates of compliance. (A) to read:

Delete: "Bowling alleys, pin refinishing and alley resurfacing"

Change § 143-13. Definitions. To read:

AUTOMATIC FIRE ALARM SYSTEM -- A system sounding an alarm as a result of the manual operation of a fire alarm box or the operation of protection equipment or water flowing in a sprinkler system, a discharge of carbon dioxide or other fire suppression agent or the detection of heat and/or smoke. All automatic fire alarm systems shall be directly connected into the Rockland County Fire Control Center (44-Control), with no retransmission of the signal to any other location by any other means.

Delete the following definitions:

FIRE-RESISTANCE RATING, ICC CONTAINER, MERCANTILE OCCUPANCY

Delete § 143-14. Exemption from liability. In its entirety.

Add § 143-14. Reserved

Change § 143-19. Burning operations. To read:

The burning of wrecked or discarded automobiles or any parts thereof or junk or any waste materials is prohibited.

Delete § 143-20. Construction requirements. In its entirety.

Delete ARTICLE IV, Bowling Alleys in its entirety to include:

§ 143-21. Conformance.

§ 143-22. Certificate of compliance required.

§ 143-23. Alley resurfacing operations.

§ 143-24. Pin refinishing.

Add: ARTICLE IV. RESERVED.

Change ARTICLE V, Dry-Cleaning Plants to read:

§ 143-20. Definitions.

For the purpose of this article, the terms used herein are defined as follows:

DRY CLEANING -- The process of removing dirt, grease, paints and other stains from wearing apparel, textiles, fabrics, rugs, etc., by the use of nonaqueous liquid solvents, flammable or nonflammable, and it shall include the process of dyeing clothes or other fabrics or textiles in a solution of dye colors and nonaqueous liquid solvents.

RATED -- As applies to solvents, classified as to fire hazard in accordance with Underwriters' Laboratories, Inc.'s, standard of classification.

§ 143-21. Certificate of compliance required.

A. No person shall engage in the business of dry cleaning without a certificate of compliance, which shall prescribe the class of system to be used.

B. No change shall be made in the solvent used in the equipment to a solvent in a more hazardous class unless permission for such change shall first have been obtained from the Chief Fire Safety Inspector.

Delete § 143-27. Classification of systems. In its entirety.

Delete § 143-28. Class I systems. In its entirety.

Delete § 143-29. Class II systems. In its entirety.

Delete § 143-30. Class III systems. In its entirety.

Delete § 143-31. Class IV systems. In its entirety.

Delete § 143-32. Heating equipment. In its entirety.

Change ARTICLE VI, Explosives. to read: (numbering only)

§ 143-22. Scope.

§ 143-23. Definitions.

§ 143-24. Certificate of compliance required.

Change ARTICLE VII, Fireworks. To read: (numbering only)

§ 143-25. Statutory provisions apply.

Change ARTICLE VIII, Fire-Protection Equipment. To read:
(numbering only)

§ 143-26. Determination of necessary equipment.

& Add at end of paragraph:

Fire prevention chart is located at the end of this chapter.

Change § 143-38. Maintenance of equipment. To read:

§ 143-27. Maintenance of equipment.

A. Sprinkler systems, standpipe systems, fire-detection systems and other fire-protective or extinguishing systems and other fire safety devices which have been installed as a requirement of a building permit, order or because of any law or ordinance, shall be maintained in operative conditions at all times. It shall be unlawful for any owner or occupant to reduce the effectiveness of the protection so required, except that this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make tests, repairs, alterations or

additions. The Chief Fire Safety Inspector shall be notified before such tests, repairs, alterations or additions are commenced if the work is not to be completed within a twenty-four-hour period.

- B. In order to ensure fire protection devices will operate properly when and if required, routine inspections, tests and maintenance is required. These inspections, tests and maintenance shall be performed by a qualified individual and in accordance with NFPA or other applicable standards and codes or as and when required by the Chief Fire Safety Inspector.

Whenever inspection, tests and maintenance is done, a written report on a form approved by the Chief Fire Safety Inspector shall be submitted to the Chief Fire Safety Inspector's office within five (5) days.

Change (4) Yard hydrant systems. To read:

(a)...Chief Fire Safety Inspector... (Delete: 'Code Enforcement Official')

Change C. Fire alarm systems. To read:

(1) Heat, smoke, flame detectors, water flow devices and similar devices shall be maintained in a proper operating condition at all times. Such systems shall be inspected and tested for proper operation at least quarterly. Such inspections shall include all items as specified by the Chief Fire Safety Inspector.

(2) False alarms.

(c) A third or additional false alarms reported to the Chief Fire Safety Inspector's office within a calendar year are violations of this chapter and subject to penalties as provided in § 143-6 of this chapter.

(d) A false alarm caused by the failure of a person, firm or corporation to properly put a fire alarm system out of service while making repairs, tests, inspections or other maintenance is a violation of this chapter and subject to penalties as provided in § 143-6 of this chapter.

Change E. to read:

(E) Elevators, escalators and dumbwaiters.

- (1) General. Elevators, escalators and dumbwaiters shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter or available for inspection in the office of the building operator.
- (a) Elevators, dumbwaiters, escalators and platform lifts shall be maintained and meet the schedule of inspections in accordance with the Building Code of New York State §3001 and Appendix N, Table-1 of ASME A17.1 and ASME A18.1.
- (2) Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied. EXCEPTION: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

Add new:

(F) Emergency and standby power systems.

- (1) Maintenance. Emergency and standby power systems shall be maintained such that the system is capable of supplying service within the time specified for the type of duration required.
- (2) Inspections. Inspection, testing and maintenance of emergency standby power systems shall include the date of service, name of the servicing technician, a summary of conditions noted and a detailed description of any conditions requiring correction and what corrective action was taken. Such records shall be kept on the premises served by the emergency or standby power system and be available for inspection by the code enforcement official.

- (3) Switch maintenance. Emergency and standby power system transfer switches shall be included in the inspection, testing and maintenance. Transfer switches shall be maintained free from accumulated dust and dirt. Inspection shall include examination of the transfer switch contacts for evidence of deterioration. When evidence of contact deterioration is detected, the contacts shall be replaced in accordance with the transfer switch manufacturer's instructions.
- (4) Operational inspection and testing. Emergency power systems, including all appurtenant components shall be inspected and tested under load at least annually.
- (5) Transfer switch test. The test of the transfer switch shall consist of electrically operating the transfer switch from the normal position to the alternate position and then back to the normal position.
- (6) Supervision of maintenance and testing. Routine maintenance, inspection and operational testing shall be overseen by a properly instructed individual.

Change old "E" to "G" as follows:

G. Whenever such tests, repairs, alterations or maintenance inspections are made, a written report in a form specified by the Chief Fire Safety Inspector shall be forwarded to the Building Department by the person, firm or corporation making said tests, repairs, alterations, inspections or additions.

ARTICLE IX, Flammable Liquids

Change § 143-39. Scope. To read: § 143-28 (number only)

Change § 143-40. Definitions. To read:

§ 143-29. Definitions.

For the purpose of this article, the terms used herein are defined as follows:

COMBUSTIBLE LIQUID. A liquid having a closed cup flash point at or above 100°F (38°C). Combustible liquids shall be subdivided as follows:

Class II. Liquids having a closed cup flash point at or above 100°F (38°C).

Class IIIA. Liquids having a closed cup flash point at or above 140°F (60°C) and below 200°F (93°C)

Class IIIB. Liquids having closed cup flash points at or above 200°F (93°C).

The category of combustible liquids does not include compressed gases or cryogenic fluids.

FLAMMABLE LIQUID. A liquid having a closed cup flash point below 100°F (38°C). Flammable liquids are further categorized into a group known as Class I liquids. The Class I category is subdivided as follows:

Class IA. Liquids having a flash point below 73°F (23°C) and having a boiling point below 100°F (38°C).

Class IB. Liquids having a flash point below 73°F (23°C) and having a boiling point at or above 100°F (38°C).

Class IC. Liquids having a flash point at or above 73°F (23°C) and below 100°F (38°C).

The category of flammable liquids does not include compressed gases or cryogenic fluids.

Change § 143-41. Certificates of compliance required. To read:

§ 143-30 (number)

A. Storage, handling or use of Class I or Class II flammable liquids in excess of six gallons in a dwelling or other place of human habitation, or in excess of ten gallons in any other building or other occupancy, or in excess of 10 gallons outside of any building, except that no certificate of compliance shall be required for the following:

- (1) For the storage or use of flammable liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant.
- (2) For the storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.

B. Storage, handling or use of Class III flammable liquids in excess of 25 gallons in a building, or in excess of 60 gallons outside of a building.

C. For the manufacture, processing, blending or refining of flammable liquids.

D. For the storage of flammable liquids in stationary tanks.

Change § 143-42. Storage in outside aboveground tanks. To read:

§ 143-31.

Change A. Limitations. To read:

(1) The storage of Class I and II flammable liquids in aboveground tanks outside of buildings is prohibited.

(2) Aboveground tanks for Class III liquids are limited to one tank of 500 gallons' capacity. For multiple products tanks are limited to one 500 gallon tank per product.

(3) All tanks shall be labeled with product names and type and shall display proper hazard placard in accordance with NFPA 704.

B. The minimum distance of any part of an aboveground tank for the storage of flammable liquids other than crude petroleum to the nearest line of adjoining property which may be built upon shall not be less than the distance indicated in Table A:

Change Table A to read:

TABLE A

CAPACITY OF TANK (GALLONS)	<u>MINIMUM DISTANCE (FEET)</u>	
	FROM PROPERTY LINE THAT IS OR CAN BE BUILT UPON, INCLUDING THE OPPOSITE SIDE OF A PUBLIC WAY	FROM NEAREST SIDE OF ANY PUBLIC WAY OR FROM NEAREST IMPORTANT BUILDING ON THE SAME PROPERTY
275 OR LESS	5	5
276 TO 750	10	5
751 TO 12,000	15	5
12,001 TO 30,000	20	5
30,001 TO 50,000	30	10
50,001 TO 100,000	50	15
100,001 TO 500,000	80	25
500,001 TO 1,000,000	100	35
1,000,001 TO 2,000,000	135	45
2,000,001 TO 3,000,000	165	55
3,000,001 OR MORE	175	60

Change C. to read:

C. Any underground storage tank not in use for more than one year must be removed. All underground storage tanks removed shall be made safe by removing all liquids from the tank and connecting lines; disconnecting suction inlet, gauge and vent lines. Said removal of the tank requires the application and receipt of a permit from the Building Inspector. Removal of the tank shall be witnessed by the Chief Fire Safety Inspector or designee.

Delete D. through G.

Change § 143-43. Storage in closed containers inside buildings. To read:

§ 143-32. (number only)

Change B. to read:

B. Flammable liquids (including stock for sale) shall not be stored near exits, stairways, or areas normally used for the safe egress of people.

Change C. to read:

C. The storage of flammable liquids in closed containers shall comply with the following occupancy schedule, except that the Chief Fire Safety Inspector may impose a quantity limitation or require greater protection where, in his opinion, unusual hazard to life or property is involved, or he may authorize the increase of these amounts where the type of construction, fire protection provided or other factors substantially reduce the hazard.

(1) Dwellings and apartment houses containing not more than three dwelling units and accompanying attached or detached garages. Storages other than fuel oil for oil burner service shall be prohibited, except that which is required for maintenance or equipment operation, which shall not exceed 6 ½ gallons. Such flammable liquid shall be stored in metal closed containers or safety cans.

(2) Assembly and business occupancies, apartment houses containing more than three dwelling units, and hotels. Storage other than fuel oil for oil burner service shall be prohibited except that which is required for maintenance and operation of the building and operation of equipment. Such storage shall be kept in closed metal containers or in safety cans or in an inside storage room not having a door that opens into that portion of the building used by the public.

(3) Educational and institutional occupancies. Storage other than fuel oil for oil burner service shall be limited to that required for maintenance, demonstration, treatment and laboratory work. Flammable liquids in the laboratories and at other points of use shall be in containers not larger than one quart or in safety cans or in storage cabinets.

(4) Mercantile occupancies. In rooms or areas accessible to the public, storage shall be in closed containers and limited to quantities needed for display and normal merchandising purposes. Where the aggregate quantity of additional stock exceeds 50 gallons, it shall be stored in rooms or portions of buildings that comply with the construction requirements of Subsection B above.

Delete D through G.

Change § 143-44. Storage in closed containers outside buildings. To read:

§ 143-33 (number only)

Change § 143-45. Dispensing systems at service stations. To read:

§ 143-34 (number only)

Change A. through D. to read:

- A. Automatic dispensing units. The installation and use of currency operated dispensing devices for Class I flammable liquids is prohibited.
- B. Delivery nozzles.
 - (1) Manual nozzle. The dispensing of Class I flammable liquids into the fuel tank of a vehicle or into a container shall at all times be under the control of a competent person. The use of any device which permits the dispensing of Class I flammable liquids when the hand of the operator of the discharge nozzle is removed from the nozzle control lever is hereby forbidden except when using an automatic nozzle at an automotive service station as provided in Subsection D(2) of this section.
 - (2) Automatic nozzle with latch-open devices. In lieu of being held open by hand, an approved automatic nozzle may be used for dispensing Class I flammable liquid into the fuel tank of a vehicle. Such a nozzle shall have the latch-open device as an integral part of the assembly and shall shut off the liquid reliably and positively when the gasoline tank is filled, when it falls from the filling neck of an automobile tank, when it is subject to rough usage such as dropping or lack of proper lubrication, or when an automobile is driven away while the nozzle is still in the tank. A competent attendant shall be in the immediate vicinity of the vehicle being filled by such an approved nozzle.

(3) Latch hold open devices on hose nozzle valves are prohibited on self-service gas pumps.

C. Dispensing containers. No delivery of any Class I or II flammable liquids shall be made into portable containers of five gallons' capacity or less unless such container is of approved material and construction, and has a tight closure with a screwed or spring cover and is fitted with a spout or so designed that the contents can be poured without spilling.

D. Location of containers being filled. Portable containers shall not be filled while located inside the trunk, passenger compartment or truck bed of a vehicle.

Delete 'E.'

ARTICLE X, Garages

Change § 143-46. Conformance. To read:

§ 143-35. (number only)

Garages shall conform to all other applicable requirements of this chapter as well as the following provisions.

Change § 143-47. Certificate of compliance required. to read:

§ 143-36. (number only; text unchanged)

Change § 143-48. Cleaning with flammable liquids. To read:

§ 143-37. (number)

No flammable liquid with a flash point below 100° F. shall be used in any garage for washing parts or removing grease or dirt.

Delete § 143-49. Handling of gasoline and oils. In its entirety.

ARTICLE XI, Hazardous Chemicals

Change § 143-50. Scope. To read:

§ 143-38. (number only)

This article shall apply to materials not otherwise covered in this chapter which are highly flammable or which may react to cause fires or explosions, or which by their presence

create or augment a fire or explosion hazard, or which because of their toxicity, flammability or liability to explosion render fire fighting abnormally dangerous or difficult; also to flammable liquids which are chemically unstable and which may spontaneously form explosive compounds or undergo spontaneous reactions of explosive violence or with sufficient evolution of heat to be a fire hazard. Hazardous chemicals shall include such materials as flammable solids, corrosive liquids, radioactive materials, oxidizing materials, potentially explosive chemicals, highly toxic materials and poisonous gases, as defined in § 143-39 of this article.

Change § 143-51. Definitions. To read:

§ 143-39. (number only)

For the purpose of this article, the terms used herein are defined as follows:

CORROSIVE LIQUID -- Those acids, alkaline caustic liquids and other corrosive liquids which, when in contact with living tissue, will cause severe damage of such tissue by chemical action, or, in case of leakage, will materially damage or destroy other containers of other hazardous commodities by chemical action and cause the release of their contents, or are liable to cause fire when in contact with organic matter or with certain chemicals.

FLAMMABLE SOLID -- A solid substance, other than one classified as an explosive, which is liable to cause fires through friction, through absorption of moisture, through spontaneous chemical change or as a result of retained heat from manufacturing or processing.

HIGHLY TOXIC MATERIAL -- A material so toxic to man as to afford an unusual hazard to life and health during fire-fighting operations. Examples are parathion, TEPP (tetraethyl phosphate), HETP (hexaethyl tetraphosphate) and similar insecticides and pesticides.

OXIDIZING MATERIAL -- Substances, such as chlorates, permanganates, peroxides or nitrates, that yield oxygen readily to stimulate combustion.

POISONOUS GAS -- Any noxious gas of such nature that a small amount of the gas when mixed with air is dangerous to life. Examples are chloropicrin, cyanogen, hydrogen cyanide, nitrogen peroxide and phosgene.

POTENTIALLY EXPLOSIVE CHEMICAL -- Any chemical substance, other than one classified as an explosive or blasting agent, which has a tendency to be unstable and which can be exploded by heat or shock or a combination thereof.

RADIOACTIVE MATERIAL -- Any material or combination of materials that spontaneously emits ionizing radiation.

SEALED SOURCE -- A quantity of radiation so enclosed as to prevent the escape of any radioactive material but at the same time permitting radiation to come out for use.

Change § 143-52. Certificate of compliance required. To read:

§ 143-40. (number only) and text to read:

A certificate of compliance shall be required for the storage or handling of corrosive liquids, oxidizing materials, organic peroxides, nitromethane, ammonium nitrate, ammonium nitrate fertilizers, fertilizer mixtures, highly toxic material, poisonous gas or radioactive material.

Delete B.

Change § 143-53. General requirements. To read:
§ 143-41. (number only)

A. The manufacture, storage, handling and use of hazardous chemicals shall be safeguarded with such protective facilities as public safety requires.

B. The Chief Fire Safety Inspector may require the separation or isolation of any chemical that in combination with other substances may bring about a fire or explosion or may liberate a flammable or poisonous gas. The Chief Fire Safety Inspector may require separation from other storage, occupancies or buildings when the quantity stored constitutes a material hazard. [Amended 12-31-1996 by L.L. No. 18-1996]

C. Where identification of buildings and structures containing hazardous materials is required in accordance with the New York State Uniform Fire Prevention and Building Code, the National Fire Protection Association Hazardous Materials Identification System (NFPA 704) shall be utilized. [Added 12-31-1996 by L.L. No. 18-1996]

Change § 143-54. Oxidizing materials. To read:

§ 143-42. (number only)

Change § 143-55. Radioactive materials. To read:

§ 143-43. (number only)

Delete § 143-56. through § 143-59. in their entirety.

ARTICLE XII, Liquefied Petroleum Gases

Change § 143-60. Definitions. To read:

§ 143-44 (number only)

Change § 143-61. Certificates of compliance; records of installations. To read:

§ 143-45 (number) Certificates of compliance; records of installations.

A certificate of compliance shall be obtained for each location where liquefied petroleum gas is stored or used in containers larger than 20 gallons water capacity tank size. For permanent installations, a building permit with plans submitted to the Chief Fire Safety Inspector, is required. In residential occupancies where liquefied petroleum gas is used only for heating and cooking purposes, no certificate of compliance is required unless tank size is over 500 gallons or is buried underground.

Change § 143-62. Inspection of installations. To read:

§ 143-46. (number) Inspection of installations.

The Chief Fire Safety Inspector will perform inspections of liquefied petroleum gas installations, per his discretion, to determine if the provisions of this article are being complied with.

Change § 143-63. Location of containers. To read:

§ 143-47. (number) Location of containers.

A. No aboveground tank installation shall be permitted where the tank size exceeds 1,000 gallons water capacity.

Change ARTICLE XIII, Lumberyards and Woodworking Plants to read: 'Lumberyards'

Change § 143-64. Certificate of compliance required. To read:

§ 143-48. (number) Certificate of compliance required.

A certificate of compliance as provided herein is required to conduct operations as a lumberyard.

Change § 143-65. Open yard storage. To read:

§ 143-49. (number only)

Change § 143-66. Fire hazards. To read:

§ 143-50. (number) Fire hazards.

Delete paragraph 'A.'

Remove designation of 'B.' (but no change to text)

Delete: § 143-67. Required facilities for woodworking plants.
in its entirety.

Delete: ARTICLE XIV, Oil-Burning Equipment in its entirety.
(§ 143-68 Through § 143-77)

Add: "ARTICLE XIV: RESERVED"

ARTICLE XV, Places of Assembly

Change § 143-78. Certificate of compliance required. To
read:

§ 143-56.

A. No place of assembly, as defined in Subsection B of this
section, shall be maintained, operated or used as such
without a certificate of compliance. (Delete 'except...')

Delete § 143-79 through § 143-81 in their entirety.

Change § 143-82. Exit doors. To read:

§ 143-57. (number only)

§ 143-83. Aisles. To read:

§ 143-58. (number only)

In each room where chairs or tables and chairs are used, the
arrangement shall be such as will provide for ready access by
aisles to each exit doorway. Aisles leading directly to exit
doorways shall have not less than 36 inches clear width,

which shall not be obstructed by chairs, tables or other objects. Except where single exits or limited dead ends are permitted by the Building Code or other regulations, such aisles shall be arranged as to provide access to at least two remote exits by separate paths of travel.

Change § 143-84. Exitways. To read:

§ 143-59. (number only)

Change § 143-85. Plan of exitways and aisles. To read:

§ 143-60. (number only)

Change § 143-86. Ashtrays. To read:

§ 143-61. (number only)

Change § 143-87. Fire-protection equipment. To read:

§ 143-62. (number only)

ARTICLE XVI, Fire Precautions

Change § 143-88. Outdoor fires. To read:

§ 143-63. (number only)

Change § 143-89. Use of torches for removing paint. To read:

§ 143-64. (number only)

Change § 143-90. Hot ashes and other dangerous materials. To read:

§ 143-65. (number only)

Change § 143-91. Accumulations of waste materials. To read:

§ 143-66. (number only)

§ 143-92. Handling of readily combustible materials.
To read:

§ 143-67. (number only)

Delete: § 143-93. Storage of readily combustible materials.
In its entirety.

Change § 143-94. Flammable materials in public places.
To read:

§ 143-68. (number only)

Change § 143-95. Open flames and lights. To read:

§ 143-69. (number only)

Change § 143-96. Chimneys and heating appliances. To read:

§ 143-70. (number only)

ARTICLE XVII, Smoking Prohibited

Change § 143-97. Definitions. To read:

§ 143-71. (number only)

Change § 143-98. Designation of no-smoking areas.
§ 143-72. (number only)

Change § 143-99. Signs. To read:

§ 143-73. (number)

Change (in text) § 143-98 to: § 143-72 "

Change § 143-100. Smoking and removal of signs prohibited. To read:

§ 143-74. (number only)

ARTICLE XVIII, Welding and Cutting

Change § 143-101. Scope. To read:

§ 143-75. (number only)

Change § 143-102. Certificate of compliance required. To read:

§ 143-76. (number)

Change A. to read:

"A certificate of compliance shall be required for each company, corporation, partnership or owner-operator performing welding or cutting operations. This certificate of compliance shall not be required for each welding or cutting job location. The company, corporation, partnership or owner-operator shall notify the Chief Fire Safety Inspector in advance where such work is taking place, except where such work is done in response to an emergency call that does not allow time for the Chief Fire Safety Inspector to be notified in advance of the work."

Delete: 'B.'

Change C. to B. (paragraph letter only; no text change)

Change D. to C. (paragraph letter only; no text change)

Change E. to D. (paragraph letter only; no text change)

Change § 143-103. Fire prevention procedures. To read:

§ 143-77. (number)

Change 'F.' to read: "Hot tapping" may be permitted on tanks and pipelines, provided that such operations are performed by companies, corporations, copartnerships or owner-operators approved to perform such work.

ARTICLE XIX, Safety Requirements

Change § 143-104. Safeguards. To read:

§ 143-78. (number)

Delete Paragraphs P., Q., and R. and T. in their entirety.

Change Paragraph S. to read: P. (Access to Hydrants.)

Change Paragraph U. to read: Q. (Key box required.)

Change Paragraph V. to read: R. (Shafts & Stairway markings.)

ARTICLE XX, Fire Board of Appeals

Change § 143-105. Establishment. To read:

§ 143-79. (number only)

Change § 143-106. Powers and duties. To read:

§ 143-80. (number only)

ARTICLE XXI, Effect of Chapter

Change § 143-107. Effect on other laws. To read:

§ 143-81. (number only)

ARTICLE XXII, Truss-Type Construction

Change § 143-108. Scope. To read:

§ 143-82. (number only)

Change § 143-109. Definitions. To read:

§ 143-83. (number only)

Change § 143-110. General provisions. To read:

§ 143-84. (number only)

Change § 143-111. Fees. To read:

§ 143-85. (number)

Change text to read:

"Fees, or the waiver thereof, for identification and marking, and replacement logos shall be established from time to time by resolution of the Town Board."

Delete: § 143-112. Penalties for offenses. In its entirety.

Change § 143 ATTACHMENT I TABLE A WITH THE FOLLOWING (PG 34A)

Section 13.

Amend Chapter 157. Housing Standards. As follows:

Change § 157-7. Definitions. To read:

BASEMENT - That portion of a building which partly or completely below grade.

Delete: the definition of "CELLAR" in its entirety.

FAMILY - One or more individuals occupying a dwelling unit and living together as a single household unit with common access to, and common use of, all facilities comprising the dwelling unit, as distinguished from a boarding or rooming house, fraternity or sorority house, club, motel or other similar uses.

Change § 157-12. Habitable space. To read:

- C.(1) eight percent (8%) (delete: ten percent (10%))
- C.(3) four percent (4%) (delete: five percent (5%))

Change § 157-15. Stairs. To read:

B. Railings shall be provided on open portions of stairs with more than four risers, balconies, landings, decks, ramps or other walking surfaces which are more than thirty (30) inches above the floor or grade below. (delete: 'stairwells')

Change § 157-21. Regulations to prevent the spread of fire.

Add: "D. Smoke alarms and carbon monoxide detectors shall be installed and maintained as per Section 704 of the Property Maintenance Code of New York State."

Change § 157-25. Plumbing. To read:

D. Storm drainage.

- (1) Add after 'sidewalks': "into the street or on to adjoining properties."

Change § 157-27. Heating. To read:

A. General requirements.

(1) Residential buildings intended for occupancy between September 15th and May 31st of the following year shall be provided with heating equipment designed to maintain a temperature of not less than sixty-eight (68) degrees Fahrenheit at a distance of three (3) feet above the floor near the center of the room and two (2) feet inward from the center of each exterior wall in habitable spaces, kitchenettes, bathrooms and toilet rooms. The capability of the heating equipment to maintain such indoor temperature shall be based on the average of the recorded annual minimum outside temperatures for the locality.

(2) In multiple dwellings, adequate heat shall be provided to maintain the indoor temperature in habitable spaces,

kitchenettes, bathrooms and toilet rooms at sixty-eight (68) degrees Fahrenheit from 6:00AM to 11PM when the outside temperature falls below fifty-five (55) degrees Fahrenheit.

Change § 157-36. Elevators, dumbwaiters and escalators in multiple dwellings. To read:

(A.) Elevators, dumbwaiters and escalators shall be maintained so as to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter. Or available in the office of the building manager.

Change § 157-47. Penalties for offenses. To read:

Any person committing an offense against any provision of this chapter shall be guilty of a Class B misdemeanor punishable by a fine not exceeding one thousand (\$1000) dollars or by a term of imprisonment not in excess of three months, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 14.

Amend Chapter 188. Notification of Defects. As follows:

Change § 188-1. Written notice of defect required. To read:

"§ 188-2,"

Add § 188-2(C) as follows:

"The notice shall be given by delivering a copy thereof personally or by registered or certified mail to the Town Clerk or to the Town Superintendent of Highways."

Change §188-2(B) to read:

Delete "transfer stations"

Create new §188-1. Purpose and Intent. To read:

"§188-1. Purpose and Intent

This shall be a local law providing for written notification of defects and obstructions on Town highways, bridges, streets, sidewalks, crosswalks and culverts in the Town of Clarkstown and for damages or injuries to person or property sustained by reason of any buildings, land, facilities and/or easements owned, operated, maintained, controlled, leased or used by the Town of Clarkstown, its agencies and/or departments, including but not limited to Town Hall, court facilities, police headquarters and facilities, parks, recreation facilities, community centers, counseling centers, lakes and ponds, parking lots, landfill complex, composting facilities, storm and sanitary sewer easements, utility easements and walking easements, being defective, out of repair, unsafe, dangerous or obstructed. The purpose of this article is to provide notification to the Town to ensure the safety, health, protection and general welfare of persons in the Town of Clarkstown."

Change § 188-3. Applicability of Town Law. to read:

"§ 188-4. Applicability of Town Law. Section 188-2(A) and
188-2(A)

(numbering updates)

Create new §188-3. Record of notices. To read:

"The Town Clerk shall keep an indexed record in a separate book of all written notices which said Clerk shall receive pursuant to this article of the existence of a defective, unsafe, dangerous, or obstructed condition in or upon, or of an accumulation of ice or snow upon, any Town highway, traffic signal, bridge, sidewalk or culvert, damages or written notices of injuries to person or property sustained by reason of any buildings, land, facilities and/or easements owned, operated, maintained, controlled, leased or used by the Town of Clarkstown, its agencies and/or departments, including but not limited to Town Hall, court facilities, police headquarters and facilities, parks, recreation

facilities, community centers, counseling centers, lakes and ponds, parking lots, composting facilities, storm and sanitary sewer easements, utility easements and walking easements, being defective, out of repair, unsafe, dangerous or obstructed, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received. The records of each notice shall be preserved for a period of five years after the date it is received."

Section 15.

Amend Chapter 202. Parks and Recreation Facilities.
as follows:

Change § 202-1. Use of park property within the town.

To read:

A. The use of pools, parks, lakes and immediate adjacent areas under the control of the Clarkstown Parks Board and Recreation Commission shall be deemed a privilege and shall be opened solely and exclusively to the residents of the Town of Clarkstown and their guests. Residents of the Town of Clarkstown shall be required to exhibit identification as may be required by the Superintendent of Recreation and Parks and/or the Clarkstown Parks Board and Recreation Commission, and no nonresident guests may enter the facilities or areas of the Clarkstown Parks Board and Recreation Commission unless accompanied by an adult resident of the Town of Clarkstown bearing proper identification.

B. The use of the property known as the "Charles B, Davenport Preserve" is not restricted solely to residents of the Town of Clarkstown.

§ 202-3. Disposal of refuse.

No person shall deposit or abandon in any park, park driveway or parking lot, or in the waters in any such park or adjacent to any such park, any garbage, sewage, refuse, trash, waste or other obnoxious material, except in receptacles provided for such purposes.

Change § 202-8. Park hours. To read:

No person shall loiter or remain in any park except from dawn to one (1) hour after sunset on each and every day without special permission from the Superintendent of Recreation and Parks.

Change § 202-18. Use of parks for business purposes or solicitation. To read:

A person shall not use park property for business or professional purposes involving the sale of any goods, the rendering of any service for a fee, the soliciting of alms or contributions or any other sales, marketing or related activity unless authorized to do so by the Parks Board and Recreation Commission or the Superintendent of Recreation and Parks.

Change § 202-21. Penalties for offenses. To read:

Any person who violates any of the provisions of this chapter shall be subject to the loss of privileges herein granted and/or shall be guilty of a violation and shall, upon conviction thereof, be subject to a fine not exceeding five hundred dollars (\$500) or by imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment. Each day such violation shall continue shall be considered a separate violation.

Add § 202-22. Enforcement.

Enforcement of this chapter is hereby delegated to the Superintendent of Recreation and Parks, the Superintendent's designee(s) and code enforcement personnel of the Town of Clarkstown.

Section 16.

Amend Chapter 240. Shopping Center Parking Areas. As follows:

Change § 240-6. Enforcement; penalties for offenses. To read:

C. Any owner as defined in this chapter who fails to comply with a violation order within the time limit stated therein or who commits an offense against any other provision of this chapter shall be guilty of a misdemeanor punishable by a fine not exceeding one thousand (\$1000) dollars or by imprisonment for a term not exceeding three (3) months, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 17.

Amend Chapter 258. Swimming Pools. As follows:

Change § 258-1. Definitions. To read:

BUILDING INSPECTOR -- The Building Inspector of the Town of Clarkstown also known as the Chief Code Enforcement Officer.

SWIMMING POOL (delete "OUTDOOR") - Any structure intended for swimming or recreational bathing that is capable of holding water over 24 inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Change § 258-2. Regulations. To read:

A. No permanently installed swimming pool capable of holding 24 inches or more of water shall be constructed, installed, enlarged or altered unless a building permit is issued therefor. The applicant shall provide the Building Inspector with a plot plan showing the location of the pool, plans and specifications in detail, subject to the approval of the Building Inspector. Fees are to be charged for said permit by the Building Inspector.

B. All pools over twenty-four (24) inches in depth shall be completely enclosed by a fence constructed of materials, whether artificial or natural, which shall be durable enough to prevent the entrance into the pool area by any persons. If of wire mesh construction, this fencing is not to have a linkage of more than two (2) inches in diameter and shall be nonclimbable. The entrance gate or gates shall have a closing device with protective fastening latch and a lock. Fence height shall be a minimum of four (4) feet and a maximum of six (6) feet for a private pool, seven (7) feet for club or commercial pools. Fence location shall be subject to the approval of the Building Inspector; provided, however, that the owners of pools which are not permanently installed may elect to use a pool cover instead of a fence. The pool cover must be of durable material and of sufficient tightness so as to prevent the entrance of a person into the pool when secured: provided, however, that the owners of aboveground pools whose solid walls are a minimum of 48 inches above grade measured at a point 36 inches from the wall of the pool and prevent entrance to the pools except by an entrance ladder shall be deemed as complying with the fencing requirements of this subsection. During the periods that swimming pools containing water are not in use and are unattended, the gate in a fence shall be locked or the pool cover affixed in place or the ladder removed from a pool which can only be entered by means of a ladder, so that no entry into the pool can be made by any person.

Add "J. All residential and commercial swimming pools installed, constructed or substantially modified after December 14, 2006 shall be equipped with an approved pool alarm which: (1) Is capable of detecting a child entering the water and giving an audible alarm when it detects a child entering the water. (2) Is audible poolside and at another location on the premises where the swimming pool is located. (3) Is installed, used and maintained in accordance with the manufacturer's instructions. (4) Is classified by Underwriter's Laboratory, Inc. to reference standard ASTM F2208. (5) Is not an alarm device which is located on a person or persons or which is dependent on devices located on a person or persons for its proper operation. A pool alarm installed pursuant to this subdivision must be capable of detecting entry of detecting entry into the water at any point on the surface of the swimming pool. More than one pool alarm shall be installed to insure detection capability at every point on the surface of the swimming pool.

Change § 258-4. Penalties for offenses. To read:

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding one thousand (\$1000) dollars or by imprisonment for a term not exceeding three (3) months, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 18. When effective.

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