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Town of Colonie
Local Law No. 2 of the year 2011

Chapter 20. FIRE SERVICES DIVISION AND ACCEPTANCE OF STANDARDS

ARTICLE I. General Regulations and Provisions (§ 20-1 — § 20-11)

SECTION 1. § 20-1 Intent.

It is the intent of this chapter to dissolve the Department of Fire Services and repeal Chapter 20 of the Town Code of the Town of Colonie and to create the Division of Fire Services in the Building Department of the Town of Colonie under the supervision of the Commissioner of Public Works. It is also the intent of this chapter to describe the function of the Division of Fire Services and to prescribe some 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.

SECTION 2. § 20-2 Short title.

This chapter shall be known and may be cited as the "Division of Fire Services Local Law of the Town of Colonie."

SECTION 3. § 20-3 Applicability.

- A. The provisions of this chapter shall apply equally to new and existing conditions, except that existing conditions not in strict compliance with the terms of this chapter shall be permitted to continue where the exceptions do not constitute a distinct hazard to life or property, in the opinion of the Chief of the Division of Fire Services.
- B. Nothing contained in this chapter shall be construed as applying to the transportation of any article or thing shipped under the jurisdiction of and in compliance with the regulations prescribed by the Interstate Commerce Commission, unless specifically stated, nor as applying to the military forces of the United States.
- C. Whenever a provision of this chapter imposes or prescribes any greater requirement or higher standard on premises, buildings or structures, or on the use thereof, than is imposed or prescribed by any other law, ordinance, rule or regulation, the provision of this chapter shall govern.

SECTION 4. § 20-4 Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

APPROVED

Accepted by the Chief of the Division of Fire Services as a result of his investigation and experience or by reason of test, listing or approval by Underwriters' Laboratories, Incorporated; the National Bureau of Standards; the American Gas Association Laboratories or other nationally recognized testing agencies.

BUILDING DEPARTMENTMANAGER

The person in charge of the day to day operations of the Building Department.

CHIEF

The Chief of the Division of Fire Services and the person in charge of the day to day operations of the Fire Services Division.

COMMISSIONER OF PUBLIC WORKS

The person appointed pursuant to § 34-3 of the Town Code of the Town of Colonie.

FIRE DEPARTMENT

Any board of fire commissioners, fire district, fire department, fire company, or village fire department located in the Town of Colonie or which provides fire-fighting services in the Town of Colonie pursuant to contract with the Town in a fire protection district.

FIRE SERVICES

The Division of Fire Services in the Building Department of the Town of Colonie.

INVESTIGATOR

Any member of the Division of Fire Services, the Building Department or the Police Department with investigatory duties and powers, including, but not limited to, the Chief and Fire Protection Specialists.

NYS FIRE CODE

The Fire Code of New York State, as promulgated pursuant to Title 19 of the Official Compilation of Codes, Rules and Regulations of The State of New York, and further refined in

amendments, articles and guidance documents pertaining thereto provided by the Secretary of State pursuant to Section 381 of the Executive Law.

OWNER

The owner of real property, including his duly authorized agent or attorney, a mortgagee or vendee in possession, assignee of rents, purchaser, devisee, fiduciary and any other person having a vested or contingent interest in the property in question.

TOWN BOARD

The Town Board of the Town of Colonie.

SECTION 5. § 20-5 Establishment of Division of Fire Services.

A. The Department of Fire Services established by Local Law No. 2 of 2007 is hereby dissolved and Chapter 20 of the Town Code of the Town of Colonie is hereby repealed and replaced by this chapter. All personnel assigned to such Department are now transferred to the Building Department, Division of Fire Services described herein. Employee titles shall be modified accordingly.

B. The Division of Fire Services is hereby established as a division of the Building Department of the Town government of the Town of Colonie. It shall operate under the day to day supervision of the Chief of the Division of Fire Services who will report to and be under the direction and supervision of the Commissioner of Public Works. The Chief shall devote his full time to the duties of the Division of Fire Services. In the absence of the Chief and at the direction of the Town Board or the Commissioner of Public Works, a member of the Division of Fire Services or the Building Department shall be designated and shall have the full power, authority and responsibility to undertake and perform all acts and duties performed by the Chief. There shall be appointed as many employees as the Town Board determines necessary to assist the Chief in his duties.

SECTION 6. § 20-6 Authority to enter premises.

Any investigator as defined herein or inspector in the Division of Fire Services may, at all reasonable hours, enter any building or premises, with the consent of the owner or occupant or with a search warrant, for the purpose of making any inspection or investigation which, under the provisions of this chapter, he may deem necessary to be made.

SECTION 7. § 20-7 Duties of the Division of Fire Services.

A. It shall be the duty of the Chief to inspect or cause to be inspected by the Division of Fire Services all buildings and premises, except the interiors of one- and two- family dwellings, as often as may be necessary for the purpose of ascertaining and causing to be corrected any condition liable to cause fire or endanger life from fire or any violations of the provisions or intent of this chapter and of any other local law affecting the fire hazard. The interiors of one-

and two-family dwellings may only be inspected upon request of the owner or in conjunction with investigations by some other federal, state or local authority having jurisdiction over such home or its occupants.

B. Upon request, the Chief and the Division of Fire Services shall cooperate with any fire department and its officers in making inspections of any buildings or premises located within its district or fire protection area.

C. Nothing contained in this chapter shall be construed as in any way limiting or restricting the power of any fire department or its officers to make inspections or investigations pursuant to law.

D. It shall be the duty of the Chief to inspect or cause to be inspected by the Division of Fire Services all exterior areas adjacent to or adjoining any structure or building, except one- or two-family dwellings, for the purpose of designating said areas or portions thereof as fire lanes. Any areas so designated shall be plainly defined and marked as such in a manner prescribed by the Chief.

E. It shall be the duty of the Division of Fire Services to investigate the origin, cause and circumstances of the following when said condition or occurrence is within the Town of Colonie:

- (1) Every fire involving injury or loss of life.
- (2) Every suspicious fire, upon request of the owner or fire or police agency having jurisdiction of the scene and with the prior consent of the Commissioner of Public Works.
- (3) Every fire which the Fire Division Chief determines worthy due to its size, speed or unusual conditions, upon concurrence of the owner or the fire or police agency having jurisdiction of the scene.
- (4) Every hazardous condition or occurrence which might present a clear and present danger to the health, safety and welfare of the general public.
- (5) Every fire or related condition or occurrence when requested by the local fire department or other duly authorized agency.

F. It shall be the duty of the Chief and the Division of Fire Services, upon request and with the prior consent of the Commissioner of Public Works, to assist the local fire departments or any other duly authorized agency in the mitigation of any hazardous condition or occurrence which might present a clear and present danger to the health, safety and welfare of the general public when such event shall occur in the Town; provided, however, that any member of the Division of Fire Services may take appropriate action to protect the health, safety and welfare of any person or to minimize damage to property in the event of an emergency. For purposes of this section, an emergency is defined as an unforeseen occurrence or condition that calls for immediate action.

(1) The person or entity responsible for a spill, discharge or other release of any material that creates a hazardous condition or occurrence, as described in § 20-7(F) above, shall reimburse the Town for all expenses incurred for the mitigation and investigation of the hazardous condition or occurrence. This section shall not apply to accidental spills or releases of home heating oil, swimming pool treatments or similar materials within or on the premises of single-family dwellings, unless such spill or release was due to a negligent or intentional act.

G. It shall be the duty of the Division of Fire Services to assist any fire department, fire district, fire company, municipality or any other duly authorized agency not within or part of the Town of Colonie, when assistance is requested by same, in the mitigation or investigation of the origin, cause and circumstances of any fire or hazardous condition or occurrence which might present a clear and present danger to the health, safety and welfare of the general public, regardless of the place of occurrence, provided that the Commissioner of Public Works approves such assistance.

H. It shall be the duty of the Division of Fire Services to enforce the provisions of the New York State Fire Code in addition to any other laws, rules, codes or regulations duly adopted by the Code of the Town of Colonie. This shall include review of construction proposals and plans for commercial buildings to be constructed or renovated in the Town of Colonie.

I. It shall be the duty of the Division of Fire Services to administer, supervise and maintain the Town-wide rapid-entry box system, commonly known as the "Knox Box" system. These responsibilities shall include maintaining all of the required and associated paperwork, working with the Fire Department and property owner to determine the appropriate location of the box system, and all other aspects of this program.

J. In response to "E-911" and similar third-party emergency requests and upon request of the Fire Department or any other duly authorized local agency with jurisdiction over the matter, the Chief may send personnel to assist in the investigation and mitigation of any hazardous condition or occurrence which might present a clear and present danger to the health, safety and welfare of the general public.

SECTION 8. § 20-8 Orders to eliminate dangerous or hazardous conditions.

Whenever the Division of Fire Services shall find in any building, vehicle or vessel or upon any premises dangerous or hazardous conditions or materials as follows, it shall order such dangerous conditions or materials to be removed or remedied in such manner as may be specified by the Chief:

A. Dangerous or unlawful amounts of combustible or explosive or otherwise hazardous materials.

B. Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible or explosive or otherwise hazardous materials.

C. Dangerous accumulations of rubbish, waste paper, boxes, shavings or other highly flammable materials.

D. Dangerous accumulations of dust or waste material in air-conditioning or ventilating systems or of grease in kitchen or other exhaust ducts.

E. Obstructions to or on fire escapes, stairs, passageways, doors or windows liable to interfere with the operations of the Fire Department or egress of occupants in case of fire.

F. Any building or other structure, which for want of repairs, lack of adequate exit facilities, automatic or other fire alarm apparatus or fire-extinguishing equipment, or by reason of age or dilapidated condition or from any other cause, creates a hazardous condition.

G. Any violation of this chapter of the Code of the Town of Colonie.

SECTION 9. § 20-9 Permits.

A. All applications for a permit required by this chapter shall be made to the Chief in such form and detail as he shall prescribe. Applications for permits shall be accompanied by such plans as required by the Chief. A permit shall not be issued for a period longer than one year unless specifically stated by some other section of this chapter or the New York State Fire Code or authorized by the Chief. A permit shall not be effective until such time as the applicant has corrected all violations which were observed at the time of inspection.

B. The permit shall at all times be kept on the premises for which it was issued. It shall at all times be subject to inspection by the Division of Fire Services and any officer of the Town of Colonie Police, the Town Attorney or his designee, Building, Public Works or Planning and Economic Development Divisions.

C. The Chief may revoke any permit or approval issued if any violation of this chapter is found upon inspection or in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

D. No building or structure, except one-family dwellings, shall be erected or altered until the plans therefor have been approved, in writing, by the Chief. Written approval shall not be given where said construction or alteration would be in violation of any of the provisions of this chapter.

SECTION 10. § 20-10 Occupancy of buildings.

No building or structure or part thereof erected or altered in accordance with this chapter shall be occupied for use until an inspection of the same has been conducted by the Division of Fire Services and an appropriate letter of compliance issued.

SECTION 11. § 20-11 Operating permits.

A. Required.

(1) Operating permits required. Operating permits shall be required for conducting the activities or using the categories of buildings listed below:

(a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1;

(b) Hazardous processes and activities, including, but not limited to, commercial and industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;

(c) Use of pyrotechnic devices in assembly occupancies;

(d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town.

(2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.

B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Chief. Such application shall include such information as the Chief deems sufficient to permit a determination by an investigator that quantities, materials and activities conform to the requirements of the New York State Uniform Fire Prevention and Building Code. If the Chief determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Chief, at the expense of the applicant.

C. Inspections. An investigator or an inspector shall inspect the subject premises prior to the issuance of an operating permit.

D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Investigator may require a separate operating permit for each such activity, or the Investigator may, in his or her discretion, issue a single operating permit to apply to all such activities.

E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Investigator to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Investigator, payment of the applicable fee, and approval of such application by the Investigator.

F. Revocation or suspension of operating permits. If the Investigator determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.

G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 20-42, Fees, of this chapter must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

ARTICLE II. Adoption of Standards (§ 20-12 — § 20-15)

SECTION 12. § 20-12 Purpose and intent.

This article provides the Town of Colonie with rules and regulations to improve public safety by promoting the control of fire hazards; regulating the installation, use and maintenance of equipment; regulating the use of structures, premises and open areas; providing for the abatement of fire hazards; and setting forth standards for compliance with and achievement of these objectives.

SECTION 13. § 20-13 Adoption of standards by reference; copies on file.

A. This article adopts the New York State Fire Code and all of its incorporated and referenced standards and guides. The same are hereby adopted and incorporated as if fully set out at length herein.

B. The adopted edition of the New York State Fire Code and its incorporated and referenced standards and codes shall be available for viewing by the public for reasonable periods of time, during regular business hours of the Town of Colonie. Copies of portions of the codes and standards shall be available from the Division of Fire Services at the prevailing cost per page for photocopies.

SECTION 14. § 20-14 Applicability.

A. The provisions of this article shall apply to all buildings, structures, vehicles and marine vessels within the scope of this chapter and to premises which shall be constructed or erected and to conditions which arise in the Town of Colonie after the effective date hereof.

B. The provisions of this article shall also apply to existing buildings, structures, vehicles and marine vessels within the scope of this chapter and to premises or conditions in the Town of Colonie when, in the opinion of the Chief, they constitute a distinct fire hazard to life or the property of others.

SECTION 15. § 20-15 Conflicts with other laws.

This article is intended to be used in conjunction with existing laws, and nothing in this article shall be construed as rendering other applicable laws invalid. Where no law exists or where existing laws are silent in any area where this article sets forth specific provisions, the provisions of this article shall apply. In any situation where a conflict exists between a provision of this article and any existing law, the more restrictive requirement shall prevail, unless otherwise specified.

ARTICLE III. Fire Protection Equipment (§ 20-16 — § 20-22)

SECTION 16. § 20-16 Chief to survey.

The Chief shall survey or cause to be surveyed all buildings and premises in the Town of Colonie, except the interior of single- and two-family dwellings, and shall specify what fire-detecting devices or extinguishing appliances shall be provided therein or thereon. In special hazardous processes or storage, appliances of more than one type or special systems may be required.

SECTION 17. § 20-17 Permit required.

Except for single- and two-family dwellings, a permit shall be obtained from the Town of Colonie Building Department prior to the installation or alteration of any fire alarm system, sprinkler or water-based fire protection system or any other special fire-extinguishing or fire-detection system or for any hood-and-duct system intended for the removal of smoke and grease laden vapors from commercial cooking equipment.

SECTION 18. § 20-18 Approval of systems and equipment.

No device, equipment or system installed pursuant to this chapter shall be deemed acceptable or approved until an inspection of it has been conducted by the Division of Fire Services and an appropriate letter of compliance has been issued for the same.

SECTION 19. § 20-19 Maintenance of equipment.

Sprinkler systems, standpipe systems, fire alarm systems and other fire protection or extinguishing systems or appliances which have been installed in compliance with any permit or order or because of any law or local law shall be maintained in operative condition at all times, and 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 Division of Fire Services shall be notified before such tests, repairs, alterations or additions are started unless the work is to be continuous until completion.

SECTION 20. § 20-20 Inspection and testing of systems.

Every fire protection system shall be inspected, tested and maintained in accordance with the appropriate standards of the New York State Fire Code and any other applicable codes, rules or regulations.

SECTION 21. § 20-21 Notification.

A. Prior to repairing, modifying, testing or inspecting any fire protection system or any auxiliary system, equipment or device connected thereto, the person conducting such work shall notify all entities that might receive automatic notification of the activation of the system, equipment or device.

B. Upon completion of the repairing, modifying, testing or inspection of any fire protection system, equipment or device, or any auxiliary system, equipment or device connected thereto, the person conducting the work shall notify all entities that the work is complete, as well as the operational status of the system, equipment or device.

C. The entities to be notified shall include, but not be limited to, the Fire Division, the alarm-monitoring agency, if any, and the occupants of the building.

SECTION 22. § 20-22 Smoke detectors.

Buildings or structures or any portion thereof occupied or used by persons for whom sleeping accommodations are provided therein shall be protected by an approved automatic smoke detection and alarm device located in or adjacent to all sleeping quarters or where otherwise specified by the New York State Fire Code.

ARTICLE IV. Maintenance of Exitways (§ 20-23)

SECTION 23. § 20-23 Marking, illumination and maintenance.

Access to, marking, operation, illumination and maintenance of all components of all exits, aisles, enclosures and stairways shall at all times be in accordance with the appropriate standards of the New York State Fire Code.

ARTICLE V. Places of Assembly (§ 20-24 — § 20-28)

SECTION 24. § 20-24 Permit required.

A. No place of assembly as defined in Subsection B of this section shall be maintained, operated or used as such, except in accordance with the New York State Fire Code. A permit may be required for a place of assembly pursuant to such code.

B. Definitions. As used in this article, the following terms shall have the meanings indicated:

PLACE OF ASSEMBLY

Any room, space, building or portion thereof used for gathering together persons for such purposes as deliberation, worship, entertainment, eating, drinking, amusement, awaiting transportation or similar purposes when such room, space, building or portion thereof has a capacity of 50 persons or more or has a net area available for use by the occupants for assembly purposes of 250 square feet or more.

SECTION 25. § 20-25 Plan of exitways and aisles.

A plan showing the location of exitways and how the space will be used/set up shall be submitted for approval to the Chief. This plan shall be used to determine the maximum permitted occupancy of the site.

SECTION 26. § 20-26 Maximum allowable occupancy.

A. A maximum allowable occupancy for every place of assembly or portion thereof shall be determined by the Division of Fire Services. A suitable placard or sign, as approved by the Chief, shall be prominently displayed in each place of assembly or portion thereof, indicating the maximum allowable occupancy. Said placard or sign shall be readily visible to the occupants.

B. The owner, operator, managing agent, manager or person in charge of any place of assembly shall ensure that the maximum allowable occupancy for any place of assembly or portion thereof is never exceeded.

SECTION 27. § 20-27 Construction, maintenance and operation.

The construction, repair, maintenance and operation of every place of assembly shall be in accordance with the appropriate standards of the New York State Fire Code.

SECTION 28. § 20-28 Fire protection equipment.

All fire-detecting and -extinguishing equipment and systems and smoke and fire control doors, vents, devices and systems in every place of assembly shall be maintained in full, proper, operative condition at all times when said place of assembly or portion thereof is occupied.

ARTICLE VI. Underground Tanks (§ 20-29 — § 20-30)

SECTION 29. § 20-29 Municipal underground tanks.

The Division of Fire Services shall maintain an inventory of all underground tanks owned and maintained by the Town of Colonie and its special districts. All regulatory requirements for such tanks, including testing and renewal of all necessary licenses, shall be the responsibility of the Division of Fire Services. Additionally, removal of such tanks shall be the responsibility of said Division.

SECTION 30. § 20-30 Privately owned underground tanks.

Although not required, any information pertaining to the removal of underground tanks on properties in the Town of Colonie should be provided to the Division of Fire Services by the private property owners and companies engaged in such activities. The Division of Fire Services shall maintain this information as a public resource as many purchasers of homes and businesses are interested in whether underground tanks have been removed at a site. This inventory shall be maintained strictly as a public service and with no guarantee as to the information provided to the Division of Fire Services. To the extent possible, the Division of Fire Services will try to obtain confirming documentary proof of a tank's removal.

ARTICLE VII. Demolition of Structures (§ 20-31)

SECTION 31. § 20-31 Permit required.

A. No person may raze or demolish a structure, in whole or in part, without obtaining a demolition permit from the Building Division.

B. No structure shall be demolished until all hazardous materials have been removed from the structure and/or site.

ARTICLE VIII. Training and Education (§ 20-32 — § 20-34)

SECTION 32. § 20-32 Training.

The Chief and all investigators and inspectors in the Division of Fire Services shall be required to maintain their technical training standards as required by their various job descriptions and assignments.

SECTION 33. § 20-33 Training center.

The Division of Fire Services shall control and maintain the Town of Colonie Municipal Training Center, currently located on Wade Road. Although designed for training of Town personnel, the Division of Fire Services, to the extent possible, shall work to ensure that the facility is fully utilized and, thus, other emergency services units should be permitted to train their personnel at the site upon terms and conditions agreed upon by the Town Board.

SECTION 34. § 20-34 Public outreach.

Education of Town residents about the New York State Fire Code and fire safety is an important function of the Division of Fire Services. The Chief and his personnel shall, to the extent reasonably possible, and with the prior approval of the Supervisor or the Supervisor's designee, attend public functions to educate the public and distribute educational materials about these matters. The Division shall promote the use of smoke detectors, carbon monoxide detectors, sprinkler systems and evacuation plans for businesses and residences in the Town of Colonie. Further, the Division of Fire Services shall be responsible for the Fire Safety Bus and other similar training tools that may, from time to time, become available.

ARTICLE IX. Liaison Assignments (§ 20-35 — § 20-36)

SECTION 35. § 20-35 Fire Departments.

A. The Chief of the Division of Fire Services shall be the Town of Colonie's liaison to the fire departments. It shall be his or her duty to be familiar with the issues facing the fire departments and other emergency services. This information shall be provided to the Supervisor and the Town Board periodically. Conversely, inquiries presented to Town officials and employees pertaining to the fire services shall be provided to the Chief for investigation, analysis, discussion and response. It is the intent of the Town Board to develop a centralized communications point with the fire departments to ensure that the Town can better understand the challenges faced by the fire departments and, thereby, to the extent legally permissible, continue to provide support to their mission.

B. All commentary about the quality of the fire services in the Town of Colonie received by Town personnel from the public should be provided to the Division of Fire Services so the Chief can investigate same and, if appropriate, forward such comments to the appropriate departments or committees. Further, commentary pertaining to the fire companies under contract with the Town of Colonie to provide fire services in the four fire protection districts in the Town shall be

provided to the Chief. The Chief shall investigate any such comments and provide his analysis to the Supervisor and Town Board.

SECTION 36. § 20-36 Other emergency service providers.

The Chief of the Division of Fire Services shall also be the Town of Colonie's liaison to the other emergency services providers in the capital region and the state of New York pertaining to fire, fire investigation and other related emergency services. The Chief shall provide important information in this regard to the Supervisor and the Town Board periodically.

ARTICLE X. Enforcement; Penalties (§ 20-37 — § 20-39)

SECTION 37. § 20-37 Notice of violation.

Notice of a violation may be provided by the Division of Fire Services to an owner, occupant, or other person who, upon reasonable investigation, appears to be responsible for a violation of this chapter. Such notice shall describe the alleged violation and provide a reasonable amount of time for a voluntary remedy to be effected.

SECTION 38. § 20-38 Service of order to remedy.

A. The service of an order to remedy for the correction of violations of this chapter shall be made upon the owner, occupant or other person who, upon reasonable investigation, appears to be responsible for the conditions, either by delivering a copy of the order to such person or by delivering the order to and leaving it with any person in charge of the premises or, in case no such person is found upon the premises, by affixing a copy of the order in a conspicuous place on the premises. Whenever it may be necessary to serve the order by affixing a copy in a conspicuous place upon said premises, another copy shall be mailed by certified mail and by certified mail with return receipt requested within 24 hours of posting to the person to whom the order is directed at his last known address or place of residence. A courtesy copy of the order to remedy shall also be mailed by first class mail to the person or entity which, according to Town of Colonie Assessor's Office records at the time, is the fee owner of the property in question.

B. If buildings or other premises are owned by one person and occupied by another under lease or otherwise, the order to remedy issued in connection with the enforcement of the provisions of this chapter shall apply to the occupant thereof. This shall apply except where the rules or orders require additions or changes in the premises themselves and those additions or changes would immediately become real estate and be the property of the owner of the premises. In such cases, the rules or orders shall affect the owner and not the occupant.

SECTION 39. § 20-39 Penalties for offenses.

A. For any and every violation of the provisions of this chapter which shall include the failure, refusal or neglect to comply with an order issued by the Chief or his designee, the owner, occupant, general agent, contractor, lessee, tenant or person in charge of an entire building, structure or premises or any portion thereof where such violation has been committed or shall

exist and any other person who knowingly commits, takes part or assists in any such violation or who maintains any building, structure or premises in which any such violation shall exist shall be guilty of an offense and, upon conviction thereof, be punishable by a fine not less than \$50 nor exceeding \$500 and/or imprisonment for a period not to exceed 15 days, unless otherwise specified in Subsection B of this section. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

B. For the second violation of this chapter within three years, the maximum fine shall be \$2,000. A third or subsequent violation within three years shall have a fine not to exceed \$4,000.

C. In lieu of the above-described penalties, a violation of the provisions of this chapter may be enforced by a civil penalty not to exceed \$500 for the first offense; for a conviction of a second offense, both of which were committed within a period of three years, a civil penalty of not less than \$500 nor more than \$2,000; and upon a conviction of a third or subsequent offense, all of which were committed within a period of three years, a punishment by a civil penalty of not less than \$1,000 nor more than \$4,000.

D. In the event that a penalty sought is within the monetary jurisdiction of the Town Justice Court, as established in Article 18 of the Uniform Justice Act, such action to recover such penalty may, as shall be determined by the Town Attorney, be commenced as a small claim pursuant to the provisions of Article 18 of the Uniform Justice Court Act.

E. In addition to the above penalties, any appropriate action or proceeding may be instituted or taken to prevent any unlawful construction, erection, alteration, repair, maintenance or use or to restrain, correct or abate any violation or to prevent the occupancy of any such building, structure or premises or to prevent any illegal act, conduct, business or use in or about such building, structure or premises.

ARTICLE XI. Modifications; Appeals (§ 20-40 — § 20-41)

SECTION 40. § 20-40 Modifications.

The Chief shall have the power to modify any of the provisions of this chapter upon application, in writing, by the owner or lessee or his duly authorized agent when there are practical difficulties in the way of carrying out the strict letter of this chapter, provided that the spirit of the chapter shall be observed, public safety secured and substantial justice done. No modifications may be granted for requirements established by the New York State Fire Code. The particulars of such modification, when granted or allowed, and the decision of the Chief thereon shall be entered upon the records of the Division of Fire Services, and a copy shall be furnished to the applicant and the Town Attorney.

SECTION 41. § 20-41 Appeals.

Whenever the Chief shall disapprove an application or refuse to grant a permit applied for or revoke a permit, or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning of this chapter has been misconstrued or wrongly interpreted, the

applicant may appeal, in writing, from the decision of the Chief to the Commissioner of Public Works within 10 days from the date of the decision appealed. The Commissioner of Public Works, after receipt of such notice of appeal, may, in his or her discretion, stay the effect of any order pending its decision. The decision of the Commissioner of Public Works shall be entered upon the records of the Division of Fire Services, and a copy shall be furnished to the applicant and Town Attorney. No appeals may be considered for those matters requiring a variance from the New York State Fire Code.

ARTICLE XII. Fees; Liability (§ 20-42 — § 20-44)

SECTION 42. § 20-42 Fees.

A fee, established by separate Town Board resolution, shall be paid to the Division of Fire Services prior to the issuance of any permit or for such other services as may be delineated by the Town Board in such resolution.

SECTION 43. § 20-43 Exemption from liability.

This chapter shall not be construed to subject the Town of Colonie, any fire department or any of their respective officers, employees, or agents to any civil or other liability for any damage to persons or property by reason of any reliance upon any permit or approval issued pursuant to this chapter, the inspections or re-inspections authorized herein, the failure to inspect or re-inspect any premises, or by reason of the approval or disapproval of any equipment authorized herein.

SECTION 44. § 20-44 EFFECTIVE DATE.

This local law shall take effect January 1, 2011.

(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. 2 of 2011 of the **Town of Colonie** was duly passed by the Town Board on January 6, 2011, in accordance with the applicable provisions of law.

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 2010 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 2010, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed adopted on _____ 2010, in accordance with applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 2010 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 2010, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed adopted on _____ 2010. 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 _____ 2009, 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 2010 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 2010, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed adopted on _____ 2010. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2010, 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 chairman 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 2010 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 _____ 2010, 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 2010 of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 2010, 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 of 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 _____, above.

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

(Seal)

Date: January 21, 2011

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ALBANY

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Town of Colonie Town Attorney
Date: January 21, 2011