

TOWN OF CLARKSTOWN  
LOCAL LAW NO. 1 - 2019

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

**Section 1. Title.**

A Local Law creating a new chapter of the Clarkstown Town Code entitled "Landscaper Licensing Law of the Town of Clarkstown."

**Section 2. Legislative intent.**

The Town Board of the Town of Clarkstown hereby determines that, to protect the public health, safety and welfare of the residents of the unincorporated area of the Town of Clarkstown, the public interest requires registration and licensing of landscapers operating within the Town so as to control their activities, as such activities relate to the use of Town streets, and the removal of landscape materials from real property within the Town.

**Section 3. Definitions; word usage.**

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.

**HAULER**

Hauler shall be defined as each such individual or entity authorized by a valid permit issued by the Rockland County Department of Health (current existing legal requirement as per Rockland County Flow Control Law §350-12A and Rockland County Sanitary Code Article III) to collect, pickup, remove, transport and/or dispose or cause to be collected, picked up, removed, transported or disposed any yard waste generated within the Town of Clarkstown.

**LANDSCAPE MATERIAL**

Includes grass clippings, prunings, leaves, tree branches, trunks, stumps, roots, rocks, sand and any other natural materials indigenous to gardens, lawns, shrubbery and trees.

**LANDSCAPER**

Includes any person or entity that engages in: cutting, trimming, lawn care, and maintenance of trees and shrubs; collection, consolidation and removal of yard waste.

**PERSON**

Includes any individual, association of individuals, firm, partnership or corporation.

**PRIVATE PROPERTY**

Includes all real property, improved or unimproved, owned by any person, association of persons, corporation, including municipal corporations, or otherwise, which is not otherwise defined as a "public highway" or "public place" herein.

**PUBLIC HIGHWAY**

Includes any street open to the public which has been accepted for dedication by the Town of Clarkstown, or has been maintained continuously by the Town of Clarkstown in accordance with the provisions of the Town Law of the State of New York, for its full width from property line to property line, including the sidewalk area, if any, whether or not the same shall have been installed.

**PUBLIC PLACE**

Includes any real property available to, or open to use by, all residents of the Town of Clarkstown.

**Section 4. License required; exceptions.**

No person who is a landscaper who operates a business for profit shall conduct any such business and remove any landscape material of any kind from the premises of any person, or cart or transport the same through or upon any street, avenue, parkway or highway within the Town unless he shall have first obtained a license from the Town Clerk and shall have agreed to conform to the provisions of this chapter with respect to the conduct of the business of a landscaper, except that no license shall be required for:

- A. Any person engaged under contract by the Town for the purpose of said service of removing landscape material as part of an overall contract with the Town to remove materials of any kind from private premises; or

- B. Any person under the age of 18 years.

**Section 5. Application for license; fee; expiration of license.**

- A. All landscapers shall apply for a license annually, as required by this section, to the Town Clerk and pay therefor a fee in accordance with the Standard Schedule of Fees of the Town of Clarkstown, which is adopted and amended from time to time by the Town Board, for each vehicle used by the landscaper in the conduct of his/her business.
- B. Each application for a license shall be filed in writing, with the Town Clerk and shall specify the following:
  - (1) Name and address of the landscaper and the address of said individual or, if a firm, the office of the corporation, partnership or association, together with a telephone number therefor.
  - (2) The names of all principals of the business entity conducting business as the landscaper.
- C. The applicant shall attach to his application for a license a copy of a valid home improvement license duly issued by the Rockland County Home Improvement Licensing Board or a certification that the applicant has fulfilled the licensing requirements set forth in the laws of Rockland County.
- D. As a precondition to the issuance of a license, a landscaper will be required to furnish proof of a valid hauler permit, if applicable, issued by the Rockland County Department of Health to deposit leaves, grass clippings and other debris at the facility designated by the Rockland County Solid Waste Management Authority in accordance with the Flow Control law.
- E. Each license issued pursuant to this section shall be issued as of the date of the granting thereof and shall expire on December 31 of the same year, unless sooner suspended or revoked. Licenses may be renewed upon payment of an annual fee in accordance with the Standard Schedule of Fees of the Town of Clarkstown.
- F. All licensed landscapers will receive a sticker/decal which must be prominently displayed on the landscaper's vehicle.

## **Section 6. Transferability.**

Licenses issued pursuant to this chapter shall not be assignable or transferable. A replacement license may be issued, upon the payment of a fee in accordance with the Standard Schedule of Fees of the Town of Clarkstown.

## **Section 7. Regulations.**

The licensee shall comply with the following regulations:

- A. No landscaper shall operate any power or manual lawn mower or any other gardening equipment Monday through Friday prior to 7:00 a.m. and after 8:00 p.m., on Saturdays prior to 8:00 a.m. and after 6:00 p.m., and on Sundays prior to 11:00 a.m. and after 5:00 p.m. in any residential zone or any other zone as such zone is established or may be established by any zoning ordinance or local law enacted by the Town Board of the Town of Clarkstown.
- B. Burning of any landscape material is prohibited unless written permission is given by the County of Rockland and Town of Clarkstown Chief Fire Inspector.
- C. No one shall blow or rake leaves, grass or other debris onto the public highway or right-of-way or onto adjoining property without removing and/or cleaning the same immediately, nor shall any such material be allowed to enter any storm drains.
- D. The Town of Clarkstown will pick up any remaining leaves on or after December 21<sup>st</sup> providing that such leaves and related yard waste are placed in biodegradable bags.

The Highway Department will continue to pick up unbagged leaves placed on their property prior to December 21<sup>st</sup>.

- E. No one shall spill or dump oil, gasoline or other petroleum products or any pesticides on the public highway or right-of-way. No equipment shall be filled or refilled except over a drop cloth or other device designed to catch and retain any accidental spillage.

**Section 8. Applicability to all unlicensed landscapers and other individuals.**

All requirements and obligations of this chapter shall apply to every owner, lessee, tenant, occupant, or other person having charge or control of property as well as all unlicensed landscapers.

**Section 9. Vehicles.**

All vehicles used by the licensee in the Town of Clarkstown shall display the license issued by the Town Clerk.

**Section 10. Enforcement.**

- A. The Highway Superintendent of the Town of Clarkstown shall have the power to deputize workers for enforcement purposes and to utilize existing code enforcement officers.
- B. The Sanitation Commission may, following a hearing before such Commission, revoke the license or licenses granted to any person, firm or corporation under the authority of this chapter or any law, ordinance, rule or regulation relating to landscaping. In addition, an action in the name of the Town may be brought to compel compliance in any court of competent jurisdiction.
- C. The Sanitation Commission has all other powers necessary, incidental or implied, to carry out the purposes and proper functions of this local law.

**Section 11. Penalties for offenses.**

- A. Except as otherwise provided, any landscaper licensee or any individual committing an offense that violates any provision of this article shall be guilty of a violation punishable as follows: for the first offense, any person found guilty of a violation of this chapter shall be punished by a fine of up to \$2,500; and any person found guilty of a second offense of any provision of this chapter within 36 months of the date of the first offense shall be punished by a fine of not less than \$2,500 and not more than \$5,000; and revocation of the landscaper's license without possibility of reapplication for one year from the date of the second offense.

In addition, any individual cited for a second offense or more shall also be subject to impoundment of vehicle or vehicles used in the commission of the offense as stated below in subsection D of this section.

- B. In addition to the powers of the Sanitation Commission and any other available enforcement options at law, the provisions of this chapter shall be enforced by the Superintendent of Highways, his designees and/or code enforcement officials of the Town of Clarkstown through Justice Court adjudication and prosecution.
- C. Any person who takes part in or assists in any violation of this chapter can also be cited by enforcement officials as stated in section B above and will be subject to the penalties provided herein. This provision includes any person hiring a landscaper who does not dispose of landscape material from landscape activity on their private property as provided in this chapter.

The Town will not pick up any landscape material in or on a highway or road. Any landscaper and/or property owner who violates this chapter by putting leaves in street or road will be committing a violation of §173-1A of the Town Code prohibiting littering in public streets and roads and will be subject to all the penalties of §173-4A.

Nothing herein shall preclude compliance with any other applicable statutes, including but not limited to Chapter 250.

- D. In addition to any other penalties, the Clarkstown Highway Department may, in its discretion, impound equipment used in violation of this chapter as follows:
  - (1) Any police officer, code enforcement officer, or Highway Department employee deputized to enforce this chapter, upon service on the operator of a vehicle of a notice of violation for operating without a license required by §4 of this chapter, may seize and impound any vehicle which such officer has reasonable cause to believe is being used in connection with such violation. If stopping the work and impounding any vehicle, tools or implements shall result in rendering the premises being worked on uninhabitable or unsecured, the police officer or authorized officer, employee or agent of the Highway Department issuing the notice of violation shall have the discretion to permit the worker or workers to either complete the work or in some manner render the premises

temporarily habitable and secure prior to impounding any vehicle, tool or other implements. Any vehicle, tool or implement seized pursuant to this subsection shall remain in the custody of the Police Department or Highway Department.

(2) A person from whom a vehicle has been seized and impounded pursuant to this subsection shall receive notice at the time of such seizure and by overnight mail, as soon thereafter as practical, informing such person how and when the vehicle may be reclaimed. In the event that the person from whom the vehicle was seized is not the registered owner of the vehicle, separate notice shall be provided by overnight mail to the registered owner of the vehicle.

(3) Sanitation Commission Chairman shall hold a hearing to adjudicate the violation of §4 of this chapter underlying the seizure and impoundment within five business days after the date of such seizure and impoundment and shall render his or her determination immediately following the conclusion of such hearing.

(4) A vehicle, tool or other implement seized and impounded pursuant to this subsection may be released to the owner prior to the hearing provided in subsection D (3) of this subsection upon the posting of an all-cash bond in an amount to cover:

- (a) the maximum civil penalties which may be imposed for the violation of §4 of this chapter; and
- (b) all reasonable costs for removal and storage of such vehicle.

(5) Following an adjudication that has resulted in a determination that the vehicle, tool or other implement was used in connection with unlicensed activity in violation of §4 of this chapter, release of such vehicle, tool or other implement to the owner of such property may be obtained upon the payment of:

- (a) all civil penalties for the violation of §4 of this chapter underlying the seizure and impoundment; and
- (b) all reasonable costs for removal and storage of such vehicle and proof of ownership of such vehicle.

(6) No person shall obtain release of a vehicle, tool or other implement unless and until such person submits an application for a landscaper's license, or reinstatement of such a license. Notwithstanding the provisions of this section, in the event that the owner of the vehicle, tool or other implement was not the person

who was served with a notice of violation alleging a violation of the provisions of §4 of this chapter, the owner may obtain release upon payment of all reasonable costs of removal and storage as provided herein and upon execution of a sworn statement, subject to the provisions of the Penal Law relative to false statements, that he or she will not permit the person who is alleged to have violated or found to have violated such provisions to operate or possess the vehicle in violation of §4.

(7) After adjudication of the violation underlying the seizure, if the Chairman of the Sanitation Commission finds that the vehicle, tool or other implement has not been used in connection with unlicensed activity, the Sanitation Commission shall promptly cause such vehicle to be released to its lawful owner upon written demand of the owner. If applicable, the Commission shall also promptly return any cash bond posted.

(8) In the event that property impounded pursuant to this subsection is not released to its owner due to the owner's failure to respond to the notice of violation and appear at three hearing dates scheduled at least one month apart, said property will be considered lost and abandoned property, the disposition of which is governed by New York State law under Personal Property Law §253.

### **Section 12. Interpretation.**

Nothing contained in this local law shall be construed or interpreted to make the Town of Clarkstown a party to any contract for landscaping or lawn material removal.

### **Section 13. Effective Date.**

This Local Law shall take effect upon filing with the Secretary of State.