

TOWN OF CLARKSTOWN
LOCAL LAW NO. ____ OF 2027

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

Section 1. Title.

A Local Law Adding Chapter 135 (Home Improvement Contractors) to the Code of the Town of Clarkstown, establishing a local registration, consumer protection, financial security, and enforcement regime supplementary to Chapter 286 of the Laws of Rockland County; and amending Chapter 149 (Garbage, Rubbish and Refuse), Section 149-3, of the Code of the Town of Clarkstown to extend the solid waste transport exemption to locally registered home improvement contractors.

Section 2. Legislative findings and purpose.

A. The Town Board of the Town of Clarkstown finds that the protection of homeowners from unqualified, uninsured, or unscrupulous home improvement contractors is essential to the health, safety, and general welfare of the community.

B. Rockland County has regulated home improvement contractors since 1984 under Chapter 286 of the Laws of Rockland County. A reorganization of this chapter by the Rockland County Legislature on April 14, 2026, resulted in a new administrative and enforcement framework for the County's home improvement licensing program.

C. In light of these changes to the County's regulatory structure, the Town Board of the Town of Clarkstown has determined that it is in the vital interest of its residents to establish a supplementary local program. This program is designed to provide enhanced consumer safeguards and create clear, locally administered standards of accountability and financial protection for homeowners engaging contractors for work within the Town.

D. The Town of Clarkstown possesses the authority to enact this chapter through two primary grants of power: first, the express authority delegated to towns by Rockland County under Section 286-10.C of the Laws of Rockland County, which preserves a town's right "to regulate the quality, performance or character of the work of contractors"; and second, the Town's independent home rule authority under New York State Municipal Home Rule Law § 10(1)(ii)(a)(12) to adopt local laws for the "government, protection, order, conduct, safety, health and well-being of persons or property" within its jurisdiction.

E. This Local Law exercises that authority by establishing a local registration system that enhances consumer protection through mandatory financial security requirements, robust contract standards, an independent local adjudicatory process for violations, and a contractor-financed homeowner restitution fund. This Local Law is therefore intended to supplement, not

supplant or conflict with, the County licensing regime, ensuring a higher degree of protection for the residents of Clarkstown.

Section 3. Chapter 135 Added.

A new chapter is hereby added to the Code of the Town of Clarkstown, to be designated Chapter 135, Home Improvement Contractors, and to read as follows:

ARTICLE I GENERAL PROVISIONS

§ 135-1. Legislative intent and findings.

The Town Board of the Town of Clarkstown hereby finds and declares:

- A. Homeowners in the Town regularly engage home improvement contractors for work that fundamentally affects the safety, habitability, and value of their residences, and they frequently make substantial advance deposits without adequate knowledge of a contractor's qualifications, insurance, or financial reliability.
- B. Rockland County has regulated home improvement contractor licensing since 1984 under Chapter 286 of the Laws of Rockland County. On April 14, 2026, the Rockland County Legislature voted to divest the Home Improvement Licensing Board of its licensing and enforcement authority, reducing it to an advisory capacity, and to consolidate all licensing and enforcement authority directly in the Director of Consumer Protection, reducing the organizational infrastructure for complaint investigation and enforcement and creating ambiguity regarding the level of consumer protection available to Clarkstown homeowners going forward.
- C. Section 286-10.C of the Laws of Rockland County (enacted as part of the local law enacted April 14, 2026, formerly codified as § 286-16) expressly provides that nothing in Chapter 286 "shall be construed to limit or restrict the power of a Town or Village to regulate the quality, performance or character of the work of contractors, including a system of permits and inspections designed to secure compliance with and aid in the enforcement of applicable state and local building laws or to enforce other laws necessary for the protection of the public health and safety." This chapter constitutes a law necessary for the protection of the public health and safety of Clarkstown homeowners within the meaning of that provision, and is enacted pursuant to the express reservation of municipal authority therein.
- D. Municipal Home Rule Law § 10(1)(ii)(a)(12) confers upon the Town broad authority to legislate for the protection and well-being of persons and property within the Town. This authority, combined with the savings clause of § 286-10.C of the Laws of Rockland County, provides the complete basis for this chapter. No separate licensing authority is invoked; this chapter establishes a registration and consumer protection regime, not a license to engage in the home improvement business.

- E. The Town of Clarkstown presently has no chapter regulating home improvement contractors generally, leaving residents entirely dependent on County-level enforcement for protection. This chapter fills that gap by establishing: a local registration requirement tied to but distinct from the County license; mandatory financial security requirements including a surety bond; contract and consumer protections exceeding state minimums; a complaint, hearing, and enforcement process administered by a Hearing Panel independent of the investigating authority; and a public accountability framework.
- F. This chapter is intended to supplement, not to duplicate or conflict with, Chapter 286 of the Laws of Rockland County. It does not purport to issue a home improvement license, nor does it exempt any Contractor from the requirements of the County’s licensing law. It is to be liberally construed to effectuate its consumer protection purposes.

The Town expressly does not intend for this chapter to constitute “regulating or licensing the home improvement business” within the meaning of § 286-10.B of the Laws of Rockland County, which provides that Chapter 286 shall relate only to areas outside any municipality so regulating or licensing. Rather, this chapter establishes a local registration and consumer protection overlay that presupposes and requires compliance with Chapter 286. County licensing requirements are not displaced, supplanted, or made inapplicable within the Town by the enactment of this chapter. A County License in good standing shall remain a prerequisite to registration under § 135-3 regardless of any interpretation of § 286-10.B.

Judicial-carve-out contingency. If, notwithstanding the foregoing, a court of competent jurisdiction issues a final, non-appealable determination that § 286-10.B operates to render Chapter 286 inapplicable within the Town as a consequence of the enactment of this chapter, the following provisions shall apply:

- (1) Automatic incorporation by reference. The substantive qualification, insurance, and consumer-protection requirements of Chapter 286 of the Laws of Rockland County, as those requirements existed on the effective date of this chapter, are hereby incorporated by reference into this chapter as minimum standards for registration under § 135-3, effective as of the date of such final judicial determination and without requiring any further act of the Town Board. For purposes of this subsection, the version of Chapter 286 so incorporated shall be the version attached as an appendix to the legislative file for this chapter and maintained by the Town Clerk on the Town of Clarkstown’s official website. A County License in good standing shall nevertheless remain a prerequisite to registration under § 135-3 for so long as Chapter 286, or any successor County legislation, continues to be issued by the County of Rockland to contractors operating anywhere within the County.
- (2) Corrective codification. The Town Board shall promptly introduce a corrective local law formally codifying the standards incorporated by paragraph (1), and shall complete all procedures required by Municipal Home Rule Law § 20 at the earliest

practicable date. Nothing in this paragraph shall be construed to bind the legislative discretion of any future Town Board as to the form or scope of such corrective local law; provided, however, that the substantive protection of paragraph (1) shall continue in effect by operation of this chapter pending the effective date of any such corrective local law.

- (3) Continuity of operations. During the period between the court's final determination and the effective date of any corrective local law adopted pursuant to paragraph (2):
- (a) existing registrations in good standing shall remain active, and existing registrants may continue to operate under their current registrations;
 - (b) the Building Inspector shall continue to accept and process new registration applications under this chapter, applying the standards incorporated by paragraph (1); and
 - (c) all other provisions of this chapter, including the contract requirements of § 135-6, Hearing Panel proceedings under §§ 135-9 through 135-12, the Clarkstown Home Improvement Restitution Fund under § 135-16, and all enforcement authorities, shall continue in full force and effect.

§ 135-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

- A. BUILDING INSPECTOR** — The Code Enforcement Officer of the Town of Clarkstown, as established in Chapter 109 of the Code of the Town of Clarkstown, or any inspector or deputy designated to act on the Building Inspector's behalf pursuant to that chapter. In hearings conducted under this chapter, the Building Inspector's office shall act as the presenting authority and shall not serve as adjudicator.
- B. CONTRACTOR** — Any person, firm, partnership, corporation, limited liability company, or other entity that undertakes, offers to undertake, or enters into a contract to perform home improvement work within the unincorporated area of the Town for compensation, whether as a prime contractor or subcontractor, and whether or not required to hold a County License.
- C. COUNTY LICENSE** — A home improvement contractor license issued pursuant to Chapter 286 of the Laws of Rockland County, or any successor legislation.
- D. COUNTY LICENSE IN GOOD STANDING** — A County License that is: (i) current and not expired; (ii) not under any active order of suspension or revocation issued by the County of Rockland or its authorized licensing authority; and (iii) not subject to an order of the County that specifically restricts the licensee from performing the type of home improvement work for which registration under this chapter is sought. A pending, unresolved complaint at the County level shall not, standing alone, constitute grounds for finding that a license is not in good standing.

- E. HEARING PANEL** — The adjudicatory body established under § 135-9 of this chapter, consisting of a neutral attorney designated from a pre-approved roster maintained by the Town Supervisor's office, appointed to conduct hearings and issue decisions on complaints arising under this chapter. The Hearing Panel shall be independent of the Building Inspector's office and shall not include any individual who participated in the investigation of the complaint before the Panel.
- F. HOME IMPROVEMENT** — Any repair, remodeling, alteration, conversion, modernization, improvement, or addition to any land or residential building located in the Town, including but not limited to carpentry, masonry, roofing, siding, painting, flooring, driveway work, fencing, swimming pools, HVAC, decks, kitchens, bathrooms, and landscaping improvements. The term does not include: (i) the construction of a new home or work done pursuant to a guaranty of completion on a new residential project; (ii) work reserved exclusively to licensed tradespeople under applicable state or county law, including electricians licensed under Chapter 250 and any trade licensed under Chapter 319 of the Laws of Rockland County, when working exclusively within the scope of their respective licensed trade; or (iii) work for which the aggregate cost is less than \$500 and which is not part of a larger or phased project. This definition is intended to be at least as broad as the definition of Home Improvement in § 286-2 of the Laws of Rockland County as enacted on the effective date of this chapter. Any subsequent narrowing of the County definition shall not narrow this chapter's coverage.
- G. PATTERN** — Two or more separate instances of the same or substantially similar conduct within any three-year period.
- H. REGISTRATION** — The annual local registration issued by the Building Inspector pursuant to § 135-3 of this chapter. Registration is a ministerial act and is not a license to engage in the home improvement business, and does not constitute a waiver or satisfaction of any County License requirement.
- I. RESTITUTION FUND** — The Clarkstown Home Improvement Restitution Fund established under § 135-16 of this chapter.
- J. RESTITUTION ORDER** — An order issued by the Hearing Panel pursuant to § 135-11.F directing a Contractor to pay a specified monetary amount to an aggrieved homeowner as compensation for financial harm caused by a violation of this chapter.
- K. SURETY BOND** — A home improvement contractor payment and performance bond in the minimum amount of \$50,000, issued by a surety company authorized to do business in New York State and approved by the Town, payable to the Town of Clarkstown for the benefit of homeowners. The bond shall be conditioned upon: (i) the Contractor's payment of claims for failure to complete or properly perform any home improvement contract performed within the Town, including the return of advance payments upon default by the Contractor less the reasonable value of services actually rendered to the date of

default; and (ii) the Contractor's compliance with the requirements of this chapter. The bond shall respond to Restitution Orders issued pursuant to this chapter and to claims by homeowners for contractor default or nonperformance as specified in the bond instrument. The bond instrument shall be approved as to form by the Town Attorney before acceptance. The minimum bond amount of \$50,000 matches the floor of the optional surety bond available under § 286-4.B of the Laws of Rockland County, ensuring Contractors operating in the Town provide financial security at least equivalent to the County's voluntary standard, on a mandatory basis.

- L. THRESHOLD SUBCONTRACTOR** — A Contractor who performs home improvement work within the Town exclusively as a subcontractor (not as a prime contractor) and who performs six (6) or fewer separate home improvement projects within the Town in any calendar year. For purposes of this definition, work performed under a single contract or for a single homeowner as part of a continuous project constitutes one project regardless of the number of visits or days worked.
- M. TOWN** — For the purposes of this chapter, the unincorporated area of the Town of Clarkstown.
- N. TOWN ATTORNEY** — The Town Attorney of the Town of Clarkstown.
- O. TOWN BOARD** — The Town Board of the Town of Clarkstown.
- P. TOWN CLERK** — The Clerk of the Town of Clarkstown.
- Q. TOWN OF CLARKSTOWN** — The Town of Clarkstown, a municipal corporation in the County of Rockland, State of New York, acting as a body politic.
- R. TOWN SUPERVISOR** — The Supervisor of the Town of Clarkstown.

ARTICLE II REGISTRATION

§ 135-3. Local registration required; application; financial security.

- A.** No Contractor shall perform, offer to perform, or enter into a contract to perform home improvement work within the Town without first obtaining a current registration under this chapter.
- B.** No registration shall be issued to any Contractor who is required to hold a County License but does not hold one in good standing. Proof of a County License in good standing, or written confirmation from the County that no license is required for the specific work categories sought, shall be a prerequisite to registration under this chapter.
- C.** Every application for registration shall be filed with the Building Inspector on a form prescribed by the Building Inspector and shall include all of the following:
 - (1) Legal name, trade name(s) if any, principal business address, telephone number, email address, and federal employer identification number (FEIN). For sole

- proprietors who do not have an FEIN, a Town-assigned registration identifier shall be issued upon application;
- (2) If a firm, corporation, LLC, or partnership: name and address of the principal office; names, addresses, and titles of all officers, directors, members, managers, and general partners; and names and addresses of all individuals owning or controlling five percent (5%) or more of the entity;
 - (3) Certified copy of a current County License in good standing, or written County confirmation that no license is required for the categories of work sought;
 - (4) Certificate of commercial general liability insurance naming the Town of Clarkstown as a certificate holder, providing coverage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, including products-completed operations coverage, issued by an insurer authorized to do business in New York State. The certificate shall further provide, on its face or by endorsement, that the insurer will give the Town of Clarkstown not less than thirty (30) days' prior written notice of any cancellation, non-renewal, or material reduction in coverage, except that ten (10) days' notice shall be sufficient for cancellation for non-payment of premium. A certificate that does not include such notice provision shall not be accepted for registration or renewal;
 - (5) Certificate of workers' compensation and disability insurance as required by New York law, or a duly executed CE-200 exemption from the New York State Workers' Compensation Board;
 - (6) A Surety Bond meeting the requirements of § 135-2.K, in the amount of not less than \$50,000, in a form approved as to form by the Town Attorney, executed by a surety company authorized to do business in New York State. The bond shall provide that cancellation shall not be effective until thirty (30) days after written notice to the Town;
 - (7) Designation of a local agent for service of process with a business or residential address within Rockland County;
 - (8) Disclosure of any revocation, suspension, denial, or lapse for cause of any contractor license issued by any jurisdiction within the preceding seven (7) years;
 - (9) Disclosure of any conviction of the applicant, or of any officer, partner, member, or five percent (5%) or greater owner thereof, for any crime involving fraud, theft, larceny, deceptive business practices, or a building or construction-related offense, within the preceding ten (10) years; and
 - (10) Disclosure of all final civil judgments entered against the applicant, or against any entity in which any principal of the applicant held a five percent (5%) or greater interest, related to home improvement work, in amounts exceeding ten thousand dollars (\$10,000), within the preceding five (5) years, together with a statement of whether each such judgment has been satisfied.

- D.** The annual registration fee, and the amount of any surcharge to the Restitution Fund established by § 135-16, shall be set from time to time by resolution of the Town Board.
- E.** Registration shall be valid for one (1) year from the date of issuance and shall be renewed annually, subject to continued satisfaction of the requirements of this section. Each registered Contractor shall: (1) file with the application for renewal a current certificate of commercial general liability insurance and a current Surety Bond rider, each conforming to the requirements of § 135-3.C and evidencing coverage in force on the date of the renewal application and continuing through the renewal term; and (2) provide updated insurance and bond certificates to the Building Inspector within fifteen (15) days of any change of carrier, any change in coverage, or any reduction in bond amount. A renewal application submitted without current certificates conforming to this subsection shall be deemed incomplete and shall not trigger the forty-five (45) day review period under § 135-4.A. Lapse of required insurance or the Surety Bond shall automatically suspend, not void, the registration as of the date of lapse. The Building Inspector shall issue written notice of the lapse and suspension to the Contractor within five (5) business days of discovering it, by the service methods prescribed in § 135-10.C. The suspension shall be automatically lifted upon the Contractor's providing proof of restored coverage within thirty (30) days of such notice. A suspension for lapse shall not constitute a revocation for purposes of § 135-13.B and shall not count toward the revocation threshold, provided the lapse is cured within thirty (30) days of notice. If the Contractor does not provide proof of restored coverage within thirty (30) days of the suspension notice, the Building Inspector shall issue a Notice of Intent to Revoke. The Contractor shall then have fifteen (15) additional days from service of the Notice of Intent to Revoke to either: (i) cure the lapse by providing proof of restored coverage, in which case the suspension shall be automatically lifted; or (ii) request a hearing before the Hearing Panel pursuant to § 135-11, in which case the revocation shall be stayed pending the Hearing Panel's decision. If the Contractor neither cures nor requests a hearing within fifteen (15) days of service of the Notice of Intent to Revoke, the revocation shall take effect on the sixteenth day. A revocation under this subsection shall be subject to the appeal rights of § 135-12.

§ 135-4. Evaluation of applications; grounds for denial.

- A.** Upon receipt of a completed application, the Building Inspector shall review it for completeness and compliance with the requirements of § 135-3. The Building Inspector shall act on the application within forty-five (45) days of receipt. An application not denied within that period, and not subject to a written extension notice stating cause within the initial forty-five-day period, shall be deemed granted. The Building Inspector may deny an application only on one or more of the following objective grounds:
- (1) The application is incomplete or contains a material misstatement or omission;

- (2) The applicant does not hold a County License in good standing where one is required;
 - (3) The applicant has failed to provide proof of required insurance or a Surety Bond;
 - (4) The applicant, or any principal thereof, has been convicted within the preceding ten (10) years of any crime described in § 135-3.C;
 - (5) The applicant's registration under this chapter has been revoked within the preceding period of ineligibility established under § 135-13.B; or
 - (6) The applicant has a history of substantiated complaints under this chapter or a documented history of license revocation or suspension in another jurisdiction for conduct that would constitute a violation of this chapter, and the Building Inspector makes written findings, based on the specific record before the Building Inspector, that registration would present an unreasonable risk of harm to Town homeowners.
- B.** Any denial shall be in writing and shall state specifically the ground or grounds upon which the denial is based, and shall include a notice of the applicant's right to appeal under subsection C of this section.
- C.** An applicant denied registration may appeal to the Hearing Panel within thirty (30) days of receipt of the denial by filing a written notice of appeal with the Town Clerk. In a denial appeal: (1) the applicant shall bear the initial burden of demonstrating compliance with all objective requirements of § 135-3; (2) the Building Inspector shall present the basis for denial and any supporting evidence; (3) the burden shall then shift to the Building Inspector to show, by a preponderance of the evidence, that denial was warranted on the stated ground; and (4) the Hearing Panel shall issue a written decision within thirty (30) days of the hearing sustaining or reversing the denial. If the denial is reversed, the Building Inspector shall issue the registration within ten (10) business days of the Hearing Panel's decision. The appeal proceedings shall otherwise follow the procedures of § 135-11.

§ 135-5. Building permits; display of registration; subcontractors.

- A.** No building permit shall be issued for home improvement work in the Town unless the permit application identifies each Contractor to be engaged by legal name and Town registration number, and each such Contractor holds a current registration under this chapter at the time of permit issuance. The permit applicant shall notify the Building Department in writing before engaging any additional or substitute Contractor, and the substitute Contractor must hold a current registration.
- B.** Every registered Contractor shall: (1) display the Town of Clarkstown registration number in all advertising, written estimates, contracts, and invoices for work performed in the Town; and (2) carry evidence of registration at each job site and produce it upon request by any Town of Clarkstown official having jurisdiction.

- C. No Contractor performing work as a subcontractor within the Town shall do so without either: (1) holding a current registration under this chapter (required for all non-Threshold Subcontractors); or (2) being a Threshold Subcontractor, in which case the prime contractor's registration, insurance, and Surety Bond shall be deemed to cover the Threshold Subcontractor's work on that project, provided that the prime contractor: (a) verifies the Threshold Subcontractor holds any applicable County License; (b) ensures the Threshold Subcontractor carries its own liability insurance at the levels required by § 135-3.C(4) or that the prime contractor's own policy covers the Threshold Subcontractor's work through an additional insured endorsement or equivalent coverage confirmation from the prime contractor's insurer; and (c) maintains a written record of all Threshold Subcontractors used on each Town project, available to the Building Inspector on request. Subcontractors who are licensed under Chapter 250 (Electricians) or Chapter 319 (Other Authorized Trades) of the Laws of Rockland County and who perform work exclusively within their respective licensed trade as part of a home improvement project are exempt from registration under this chapter for that scope of work, provided the prime contractor maintains documentation of each such subcontractor's current County license. The prime contractor bears responsibility for compliance with this subsection. The Town of Clarkstown shall maintain an online, publicly searchable registration database to facilitate subcontractor verification. Where a building permit is required for the work, the prime contractor's permit application shall identify by name, address, and trade each Threshold Subcontractor anticipated to be engaged on the project. The Building Inspector shall maintain a publicly accessible Threshold Subcontractor Project Log recording, for each identified Threshold Subcontractor, the subcontractor's name, trade, subcontractor business address, each prime contractor that has engaged them, each property address at which the subcontractor has performed work pursuant to a permit, and the date of each permit issuance. The Log shall be updated within five (5) business days of each relevant permit issuance and shall be published on the Town of Clarkstown's official website. The Building Inspector may use the Log to identify potential registration violations and may initiate an investigation on the Building Inspector's own motion upon reasonable cause to believe a Threshold Subcontractor has exceeded the six-project limit without obtaining registration.

ARTICLE III CONSUMER PROTECTIONS

§ 135-6. Contract requirements.

- A. Every home improvement contract for work to be performed in the Town where the aggregate cost exceeds five hundred dollars (\$500) shall be in writing, shall be signed by all parties before any work commences, and shall contain each of the following:

- (1) The full legal name, trade name if any, principal business address, telephone number, and Town of Clarkstown registration number of the Contractor, and County License number if applicable;
- (2) A complete description of all work to be performed, all materials to be used or installed, and all equipment to be supplied, including make, model, or grade where applicable, or a written allowance where final selection has not been made;
- (3) The total contract price, or a not-to-exceed price, or, where neither is feasible, a clearly stated basis of compensation (e.g., time and materials with a stated rate schedule);
- (4) All payment terms, including the amount and timing of each installment and the draw schedule to which installments are tied;
- (5) A good-faith schedule of performance, including approximate start and substantial completion dates;
- (6) A list of all permits reasonably anticipated to be required for the work as described at the time of contract execution, and identification of which party is responsible for obtaining each. The parties acknowledge that additional permits may be required upon discovery of concealed conditions and shall address such changes through written change order;
- (7) A plain-language notice, printed on the first page of the contract in no smaller than 12-point boldface type, advising the homeowner of the right to file a complaint under this chapter with the Town of Clarkstown Building Department, and providing the Building Department's address and telephone number; and
- (8) A three (3) business-day right of rescission, conspicuously printed on the first page of the contract in no smaller than 12-point boldface type, together with a detachable notice of cancellation form in a form consistent with New York General Business Law § 771, or as otherwise prescribed by the Town Board by resolution. Where a Federal Trade Commission Cooling-Off Rule notice (16 CFR Part 429) is also required, that notice and the Town of Clarkstown's rescission notice may be combined in a single document meeting the requirements of both.

B. Deposit limitation and draw schedule:

- (1) No Contractor shall require or accept any payment prior to the commencement of work exceeding one-third ($1/3$) of the total contract price where a fixed or not-to-exceed price is stated. For time-and-materials contracts where no total price is stated at signing, the initial payment prior to commencement of work shall not exceed five thousand dollars (\$5,000) or the estimated cost of the first week of labor and materials as stated in the contract, whichever is less. Notwithstanding the foregoing, a Contractor may require and accept payment for the actual cost of special-order or custom materials in excess of the one-third limit, provided that: (a) the materials are

- itemized in the written contract; (b) the Contractor provides the homeowner with a copy of the purchase order or invoice from the supplier; and (c) the funds received for such materials are paid to the supplier within five (5) business days of receipt from the homeowner, with proof of such payment provided to the homeowner.
- (2) No Contractor shall accept any payment for work not yet performed except in accordance with a draw schedule set forth in the written contract and tied to the completion of identified milestones.
- (3) For any contract where the initial deposit exceeds twenty-five thousand dollars (\$25,000), the deposit shall be held in a separate escrow account at a federally insured financial institution, or in an attorney's IOLA account. The Contractor shall be responsible for all steps necessary to establish the escrow account and shall provide the homeowner with written evidence of the account establishment — including the institution name, account number, and escrow agent contact information — before requesting or accepting any deposit. No deposit shall be paid by the homeowner or accepted by the Contractor until that written confirmation has been provided. The escrow account shall be in the name of and under the joint control of the Contractor and the homeowner, requiring both parties' written authorization for any release of funds, or in the name of a neutral escrow agent, attorney, or title company agent designated by mutual written agreement of the parties and identified in the contract. The Contractor shall designate the homeowner as a required co-signatory on any release instruction, or shall engage a neutral escrow agent acceptable to the homeowner. Funds shall be released to the Contractor only upon written authorization by the homeowner, or by the neutral escrow agent in accordance with the agreed escrow terms, confirming completion of the milestone to which each draw is tied. The Contractor shall bear all account establishment and maintenance costs, which shall not be charged to the homeowner as a separate line item. Where a homeowner unreasonably withholds authorization for release of escrowed funds after documented milestone completion, the Contractor may invoke the complaint procedure under § 135-10 or seek relief from a court of competent jurisdiction; such withholding shall not constitute grounds for a prohibited act charge against the Contractor under § 135-7. A Contractor may require and accept advance payment for the actual cost of special-order or custom materials outside of the escrow account, subject to the itemization, supplier-documentation, and timely-payment conditions set forth in the first paragraph of this subsection B; where any such condition imposes a shorter time period than would otherwise apply under this paragraph, the shorter period shall govern.
- C. Emergency work exception. Where home improvement work is required on an emergency basis to protect the health, safety, or habitability of a residence and it is impracticable to execute a written contract before commencing work, a Contractor holding a current registration under this chapter may commence work upon: (1) providing

the homeowner with a written notice of the emergency nature of the work and the applicable hourly or per-diem rate before commencing; and (2) executing a written contract meeting all requirements of subsection A within five (5) business days of commencing the emergency work. The five-business-day contract execution requirement shall not be waived. This exception shall not excuse the Contractor from any registration requirement.

- D. Aggregation of related work.** For purposes of determining whether the \$500 threshold of subsection A is met, all work performed by the same Contractor for the same homeowner at the same property under oral, informal, or separately-denominated written arrangements within any rolling twelve (12) month period shall be aggregated if: (1) the work constitutes phases or components of the same overall home improvement project; (2) the need for the subsequent work was reasonably foreseeable to the Contractor at the time the initial work was agreed upon; or (3) the Contractor structured or labeled the work as separate arrangements for the purpose of avoiding the requirements of this section. Where aggregated work exceeds \$500, the Contractor shall execute a single written contract meeting all requirements of subsection A before commencing any additional phase or component of that project. A Contractor who divides a project into separate arrangements to avoid the requirements of this section shall be deemed in violation of § 135-7.C (false or deceptive statements) and § 135-7.K (material omission in registration). The Building Inspector may, upon investigation, deem separately-denominated arrangements to constitute a single home improvement contract subject to this section.

§ 135-7. Prohibited acts.

No Contractor registered or required to be registered under this chapter shall:

- A.** Perform, offer to perform, or enter into a contract to perform home improvement work in the Town without a current registration under this chapter.
- B.** Misrepresent to any person the Contractor's qualifications, experience, County License status, Town of Clarkstown registration status, insurance coverage, bond status, or the nature of any prior complaints, violations, or convictions.
- C.** Make any false, misleading, or deceptive statement in any advertising, estimate, contract, permit application, or registration application.
- D.** Commence work on any home improvement project without first: (1) obtaining all building permits required by applicable law for the work to be performed; or (2) for work where permit requirements are uncertain, making and documenting in the project file a good-faith written determination that no permit is required. A Contractor shall not be in violation of this subsection where the required permit was timely applied for, and the

Building Department has not acted within its standard processing time through no fault of the Contractor.

- E.** Demand or accept any deposit or payment in excess of the limitations set forth in § 135-6.B.
- F.** Apply any deposit or advance payment to any purpose other than the project for which it was paid, prior to earning that payment by completing the milestone to which it is tied.
- G.** Abandon a project without legal justification, or engage in a Pattern of failing to complete work or honor written, oral, or implied warranties arising from any home improvement contract.
- H.** Substitute materials or products of lesser quality or different specifications than those described in the written contract without prior written consent of the homeowner.
- I.** Employ or engage any subcontractor to perform home improvement work within the Town who does not hold a current registration under this chapter or who does not qualify as a Threshold Subcontractor under the conditions specified in § 135-5.C, unless the subcontractor is a bona fide employee of the registered Contractor or is exempt under § 135-5.C.
- J.** Operate under a different name, a successor entity, or a newly formed entity for the purpose of evading the consequences of prior violations of this chapter, prior revocations, or prior civil judgments arising from home improvement work (“phoenix operation”). Where the Building Inspector identifies evidence of a phoenix operation — including common principals, address, trade name, equipment, or workforce — the Building Inspector may: (1) deny registration and set forth the specific evidence in writing; (2) refer the matter to the Hearing Panel pursuant to § 135-11; and (3) refer the matter to the Town Attorney to commence appropriate court proceedings for such equitable or legal relief as the circumstances may warrant, including an action to pierce the corporate or LLC form before a court of competent jurisdiction.
- K.** Make a material misstatement or material omission in any registration application or renewal.

§ 135-8. Performance standards.

- A.** All home improvement work performed in the Town shall comply with the New York State Uniform Fire Prevention and Building Code, the New York State Energy Conservation Construction Code, all applicable provisions of the Code of the Town of Clarkstown, and all applicable federal and state laws, including the EPA Lead Renovation, Repair and Painting Rule (40 CFR Part 745) and OSHA regulations governing residential construction.

- B.** Every Contractor shall maintain complete and accurate records of each home improvement contract performed in the Town, including the contract, all change orders, all permits, all draw schedule releases, all correspondence with the homeowner, and all invoices and payment records, for a period of not less than six (6) years from the date of substantial completion. Such records shall be produced to the Building Inspector upon reasonable written request in connection with any investigation under this chapter.

ARTICLE IV ENFORCEMENT

§ 135-9. Hearing Panel; establishment and composition.

- A.** There is hereby established a Hearing Panel for the purpose of adjudicating complaints, registration denials, and stop-work order appeals arising under this chapter. The Hearing Panel shall be independent of the Building Inspector's office and shall serve as the neutral adjudicatory body for all proceedings under this chapter.
- B.** The Hearing Panel roster shall be established and maintained through the following process:
 - (1) Request for Proposals. The Town of Clarkstown shall issue a Request for Proposals ("RFP") for Hearing Panel attorney services, publicly noticed in accordance with the Town of Clarkstown's procurement policies and consistent with General Municipal Law § 103 and applicable law. The RFP shall specify, at minimum: (a) admission to the Bar of the State of New York and good standing therein; (b) demonstrated experience in administrative law, real property law, consumer protection law, or a related field; (c) availability to conduct hearings on reasonable notice within the Town; (d) a written certification that the applicant has no current financial interest in, and no disqualifying prior involvement in, home improvement contracting or consumer protection enforcement matters within Rockland County; and (e) proposed fee rates. The RFP shall be reissued at least once every two (2) years; the Town Board may, by resolution, establish a streamlined renewal process for incumbent rostered attorneys who meet the original qualifications and have no new conflicts.
 - (2) Evaluation Committee. Responses to the RFP shall be evaluated by a five-member committee appointed by the Authorized Purchasing Agent of the Town of Clarkstown, consisting of Town of Clarkstown's employees and officials selected at the Authorized Purchasing Agent's discretion in the exercise of the Town's procurement authority. No member of the evaluation committee shall be the Building Inspector or any inspector who participates in enforcement or investigative proceedings under this chapter; the Building Inspector's exclusion is mandatory and may not be waived. The evaluation committee shall assess each response against the criteria stated in the RFP, score responses in accordance with the evaluation criteria established in the RFP, and forward its ranked recommendations to the Town Board.

- (3) Roster approval and publication. Upon the Town Board's approval of the committee's recommendations, the Town Supervisor or a duly authorized designee in the Supervisor's office shall maintain the approved roster of not fewer than five (5) attorneys. The current roster, including each attorney's name, firm affiliation if any, and areas of relevant experience, shall be published on the Town of Clarkstown's official website.
 - (4) Per-matter appointment. For each matter requiring a Hearing Panel, the Supervisor's office shall appoint the next available attorney from the roster in strict alphabetical order by surname. The Town Board shall have no discretion to deviate from the rotation order for any reason, shall engage in no ex parte communications with any Panel attorney regarding any pending or anticipated matter, and shall have no role in directing the proceedings or outcome of any Hearing Panel proceeding after appointment. Where the Town Supervisor has a personal or financial conflict of interest with respect to a specific matter, the Town Supervisor shall disclose such conflict in writing to the Town Board, and the Town Board shall designate another Town of Clarkstown officer to perform the ministerial appointment function for that matter only.
 - (5) Conflict disclosure and recusal. Each appointee shall disclose in writing any potential conflict of interest within five (5) business days of appointment. Upon disclosure of a disqualifying conflict, the Town Supervisor's office shall move to the next attorney in rotation for that matter. If all rostered attorneys have conflicts with a particular matter, the Town Board may appoint a qualified attorney from outside the roster for that matter only, provided such attorney meets the qualifications stated in the RFP, certifies no conflict, and agrees to the Town of Clarkstown's approved fee rate.
 - (6) Town Attorney's role. The Town Attorney may advise the evaluation committee on legal qualifications and on the adequacy of conflict-of-interest certifications, but shall have no role in the selection of any specific Panel attorney for any individual matter and shall not advise any Panel attorney on the merits of any pending proceeding under this chapter.
- C.** Each appointee shall disclose any potential conflict of interest within five (5) business days of appointment. The Building Inspector's office shall serve as the presenting authority in all Hearing Panel proceedings, responsible for presenting evidence and argument in support of the complaint or denial. The Building Inspector, or the inspector who investigated the complaint, shall not serve on or advise the Hearing Panel in any adjudicatory capacity.
- D.** The fees of the Hearing Panel attorney shall be fixed by resolution of the Town Board and shall be paid by the Town of Clarkstown, subject to assessment against the Contractor as part of any penalty imposed under § 135-15 if the Contractor is found to have committed a violation. Fees shall not be imposed as a prerequisite to the hearing.

- E. Proceedings before the Hearing Panel, and all decisions of the Hearing Panel, shall constitute the record for purposes of any appeal to the Town Board and any subsequent Article 78 proceeding.

§ 135-10. Complaints; investigation.

- A. Any person who is a resident of the Town, or who owns or occupies residential property within the Town, or who has contracted with a Contractor for home improvement work within the Town, may file a written complaint with the Building Inspector alleging a violation of this chapter. The complaint shall be in writing, signed by the complainant, and shall set forth with reasonable specificity the facts alleged to constitute the violation. Complaint forms shall be available in plain language at the Building Department and on the Town of Clarkstown's official website. The Building Inspector's staff may assist homeowners in completing and filing complaint forms upon request; such assistance shall be ministerial in nature and shall not constitute legal advice or representation. Each notice served on a homeowner-complainant pursuant to this chapter shall include a plain-language statement of the complainant's current status in the process and a description of the next step, together with the Building Department's telephone number for questions.
- B. Upon receipt of a complaint, the Building Inspector shall conduct a preliminary review to determine whether the complaint, if taken as true, would constitute a violation of this chapter. If the complaint does not state a cognizable violation, the Building Inspector shall so notify the complainant in writing within twenty (20) days of receipt of the complaint.
- C. If the complaint states a cognizable violation, the Building Inspector shall investigate and, upon completing the investigation, shall issue a written notice to the Contractor setting forth the factual allegations and the provisions of this chapter alleged to have been violated. The notice shall direct the Contractor to file a written response within fifteen (15) days of service. Service shall be made by personal delivery upon the Contractor, any general partner, any corporate officer, any managing or general agent, or the local agent designated for service of process under § 135-3.C. In the alternative, the Building Inspector may effect service by simultaneously: (1) mailing the notice by certified mail, return receipt requested, to the Contractor's principal business address on file with the Building Inspector; (2) mailing a duplicate copy by first-class mail to the same address; (3) transmitting the notice by electronic mail to the Contractor's last email address on file with the Building Inspector, with delivery or read receipt requested where available; and (4) posting a copy of the notice in a conspicuous location at the Contractor's principal business address on file, or, where posting at that address is not reasonably feasible, at the jobsite to which the notice relates. Where the Contractor has failed to comply with the duty to update its address or email under this subsection, a notice mailed by certified mail and returned with a notation "Unknown," "Moved," "Refused," "Unclaimed," or any equivalent notation, shall be deemed proper service as of the date of the return notation,

provided that the Building Inspector has also completed the electronic-mail and posting steps of this paragraph. Each registered Contractor shall notify the Building Inspector in writing of any change of business address, local agent, or email address within ten (10) days of such change; failure to provide such notification shall constitute independent grounds for a finding of insufficient diligence in any subsequent challenge to service. The Building Inspector shall complete the investigation and either refer the matter to the Hearing Panel or issue a non-referral notice to the complainant within ninety (90) days of the date on which the Building Inspector determines that the complaint states a cognizable violation under subsection B. This period may be extended by thirty (30) additional days upon written notice to all parties stating good cause for the extension.

- D. Following receipt of the Contractor's response, or following expiration of the response period without response, the Building Inspector shall determine whether to refer the matter to the Hearing Panel. If referral is warranted, the Building Inspector shall file a statement of charges with the Town Clerk and serve a copy on the Contractor. If the Building Inspector determines not to refer the matter, the Building Inspector shall notify the complainant in writing of that determination and the reasons therefor.
- E. A complainant who wishes to appeal the Building Inspector's non-referral determination shall file a written appeal with the Town Clerk within thirty (30) days of receipt of the non-referral notice. The Town Board shall schedule a hearing on the appeal at its next regularly scheduled meeting following receipt of the appeal, or at a special meeting called for that purpose, provided such hearing occurs within forty-five (45) days of the filing of the appeal. The Town Board may, by majority vote, direct the Building Inspector to refer the complaint to the Hearing Panel. The Town Board's decision on such an appeal shall be final at the local administrative level.

§ 135-11. Hearing Panel proceedings; decision; restitution.

- A. Upon receipt of a statement of charges filed with the Town Clerk, the Town Clerk shall transmit the statement to the designated Hearing Panel attorney and notify all parties of the appointment within five (5) business days of filing. The Hearing Panel shall schedule a hearing to be held not less than fifteen (15) nor more than ninety (90) days from the date the Building Inspector files the statement of charges with the Town Clerk; provided that the Hearing Panel may extend this period by up to thirty (30) additional days upon written application by either party showing good cause. The Hearing Panel shall provide written notice of the hearing date to all parties not less than ten (10) days before the hearing. Service of all Hearing Panel notices shall be effected by the Building Inspector's office pursuant to the service procedures established in § 135-10.C.
- B. At the hearing, each party shall have the right to: appear personally or through counsel; present evidence, including documents and testimony; call and cross-examine witnesses; and submit a post-hearing memorandum if the Hearing Panel so permits. Discovery shall

be limited to the exchange of documents and witness lists; there shall be no depositions. An authorized officer or principal of a closely held corporation, LLC, or partnership may represent the entity before the Hearing Panel at the Hearing Panel's discretion; the Hearing Panel may require counsel for complex matters. Formal rules of evidence shall not apply, but the Hearing Panel shall exclude evidence that is irrelevant, unreliable, or unduly prejudicial.

- C. The Hearing Panel shall arrange for a verbatim record of the hearing by a certified court reporter, who shall produce a written transcript. Audio or video recording may supplement the written transcript but shall not serve as the primary record. The written transcript shall be filed with the Town Clerk within twenty-one (21) days of the close of the hearing record and shall constitute the official record for purposes of any appeal under § 135-12 or Article 78 proceeding. The cost of the transcript shall be borne by the Town of Clarkstown initially and assessed against the Contractor as part of any penalty if the Contractor is found to have committed a violation. The hearing record shall close upon the later of: (1) seven (7) days after the last hearing session, if no post-hearing submissions are permitted; or (2) the deadline for post-hearing memoranda as established by the Hearing Panel at the conclusion of the final hearing session.
- D. Within thirty (30) days of the close of the hearing record, the Hearing Panel shall issue a written decision containing: findings of fact; conclusions as to each alleged violation; and the disposition, including any sanction imposed.
- E. If the Contractor fails to appear after proper notice, the Hearing Panel may proceed to a decision on the record submitted by the Building Inspector's office.
- F. Upon a finding that a violation has occurred, the Hearing Panel may impose one or more of the following:
 - (1) A written warning;
 - (2) Suspension of the Contractor's registration for a specified period not exceeding two (2) years;
 - (3) Revocation of the Contractor's registration;
 - (4) A monetary penalty as provided in § 135-15;
 - (5) An order directing the Building Department to decline to issue any further building permit for work to be performed by the Contractor during any period of suspension or revocation;
 - (6) A Restitution Order directing the Contractor to pay a specified sum to the homeowner-complainant as compensation for direct financial harm caused by the violation, including: (1) the amount of any deposit not returned; (2) the reasonable cost of completing or correcting defective work, based on documented contractor estimates or invoices; and (3) other direct, out-of-pocket losses documented by

receipts or invoices. The Hearing Panel shall make specific findings on each category of claimed loss. A Restitution Order shall not preclude the homeowner from seeking in a civil court of competent jurisdiction any additional damages not addressed in the Order, including consequential damages. No finding of fact, conclusion, or disposition by the Hearing Panel — whether finding a violation or finding no violation — shall have preclusive, collateral estoppel, or res judicata effect in any subsequent civil proceeding between the same parties arising from the same home improvement work; and

(7) Assessment of Hearing Panel fees and transcript costs against the Contractor.

G. Nothing in this section shall limit any remedy otherwise available to a complainant at law or in equity, nor shall it preclude concurrent enforcement by the County of Rockland under Chapter 286 of the Laws of Rockland County. The Hearing Panel shall report any substantiated violation involving a County License holder to the Director of Consumer Protection of the County of Rockland, or such other County officer as may be designated pursuant to Chapter 286 of the Laws of Rockland County, for such action as the County deems appropriate under its licensing authority.

§ 135-12. Appeals.

- A.** Any party aggrieved by a decision of the Hearing Panel may appeal to the Town Board by filing a written notice of appeal, together with a written statement of the grounds of appeal, within thirty (30) days of service of the Hearing Panel's decision. The Hearing Panel's written decision shall prominently state on its first page the date by which an appeal must be filed.
- B.** The Town Board shall schedule a hearing on the appeal upon not less than ten (10) days' prior written notice to all parties. The appeal shall be determined solely on the basis of the record made before the Hearing Panel; no new evidence shall be received. The decision of the Town Board shall be final and conclusive for purposes of local administrative review and shall be subject to review by a court of competent jurisdiction pursuant to CPLR Article 78.
- C.** The pendency of a timely appeal shall automatically stay any revocation or suspension of registration imposed by the Hearing Panel, and such stay shall continue until the Town Board issues its decision. The automatic stay shall not apply to monetary penalties, which may be held in escrow by the Town Clerk pending appeal. The automatic stay of revocation or suspension may be lifted prior to the Town Board's decision only upon written application to the Town Board showing that immediate suspension or revocation is necessary to protect the public health or safety and cannot await appeal resolution, and only upon written findings by the Town Board supporting such determination. All other sanctions shall remain in effect during the appeal unless separately stayed by the Town Board upon application.

§ 135-13. Reinstatement after revocation.

- A.** A Contractor whose registration has been revoked may apply for reinstatement upon satisfying all of the following conditions:
- (1) The period of ineligibility established in subsection B has elapsed;
 - (2) The Contractor has provided written certification that all conditions of the revocation order have been satisfied;
 - (3) The Contractor has provided proof that any Restitution Order issued against the Contractor in connection with the revocation has been paid in full, or that a binding written settlement of all such obligations has been reached with the affected homeowner(s);
 - (4) The Contractor has satisfied or discharged any monetary penalty imposed under § 135-15; and
 - (5) The Contractor has filed a new, complete registration application and paid the applicable fee.
- B.** Periods of ineligibility following revocation:
- (1) First revocation: ineligible for reinstatement for one (1) year from the effective date of revocation. Application for reinstatement shall be made to the Building Inspector.
 - (2) Second revocation: ineligible for reinstatement for three (3) years from the effective date of the second revocation. Application for reinstatement shall be made to the Building Inspector.
 - (3) Third or subsequent revocation: ineligible for reinstatement. A Contractor subject to a third or subsequent revocation may apply for reinstatement only after five (5) years from the effective date of the most recent revocation. Such application shall be submitted to the Hearing Panel, not to the Building Inspector. At the reinstatement hearing, the Building Inspector's office shall serve as the presenting authority and shall present: (a) a summary of the prior revocations and their bases; (b) any evidence of continued violations, judgments, or conduct bearing on fitness; and (c) any public record bearing on rehabilitation or risk. The Contractor shall bear the burden of presenting clear and convincing evidence of rehabilitation and current fitness to perform home improvement work in compliance with this chapter, including evidence of: (i) satisfaction of all conditions of prior revocation orders; (ii) completion of any required restitution payments; (iii) adequate financial security (current bond and insurance); and (iv) corrective measures demonstrating current compliance capacity.
- C.** Reinstatement shall require approval by the Building Inspector (or, in the case of a third or subsequent revocation, the Hearing Panel) and shall not be granted as a matter of course. The Building Inspector shall issue a written determination on any reinstatement application within thirty (30) days of receipt of a complete submission.

§ 135-14. Stop-work orders.

A. The Building Inspector is hereby authorized to issue an immediate Stop-Work Order under this chapter, requiring the immediate cessation of all home improvement work on a premises, upon a finding of either of the following:

- (1) Home improvement work is being performed by a Contractor who does not hold a current registration under this chapter; or
- (2) Work is being performed in a manner constituting a violation of this chapter that, if allowed to continue, would cause irreparable harm to the homeowner or the property.

For stop-work orders based on building code violations, imminent safety threats, or work performed without a required permit, the Building Inspector shall use the authority and procedures established in Chapter 109 of the Code of the Town of Clarkstown. Stop-work orders issued under this section are limited to situations arising from non-registration or violations of this chapter.

B. A Stop-Work Order shall be posted conspicuously at the job site and served upon the Contractor pursuant to the service procedures in § 135-10.C. Work shall immediately cease upon posting.

C. A Contractor against whom a Stop-Work Order has been issued under this section may appeal to the Hearing Panel for an expedited hearing. The Hearing Panel shall schedule the appeal hearing within ten (10) business days of receipt of the appeal. The Stop-Work Order shall remain in effect pending the outcome of the expedited hearing unless the Hearing Panel grants an interim stay upon application by the Contractor. If the Hearing Panel cannot be convened within ten (10) business days due to roster availability, the Contractor may apply directly to the Town Board for an emergency stay of the Stop-Work Order pending the expedited hearing, which the Town Board may grant at a noticed emergency session.

D. Violation of a Stop-Work Order issued under this section shall constitute a separate and independent violation of this chapter, subject to the penalties set forth in § 135-15, which shall be cumulative with any other sanctions imposed.

§ 135-15. Penalties.

A. The following monetary penalties shall be imposed by the Hearing Panel as part of its disposition under § 135-11.F and shall not be separately imposed by the Building Inspector without a Hearing Panel proceeding:

- (1) First offense: a fine of up to \$3,500;
- (2) Second offense within three (3) years from the date of the first conviction: a fine of not less than \$3,500 nor more than \$6,000;

- (3) Third offense within three (3) years from the date of the first conviction: a fine of not less than \$8,500 nor more than \$11,000.
- (4) Fourth or subsequent offense within three (3) years from the date of the first conviction: a fine of not less than \$11,000 and not more than \$16,000.
- B.** Each day that a violation continues shall constitute a separate and independent offense; provided, however, that the aggregate monetary penalty for any single course of continuous conduct constituting the same underlying violation shall not exceed twenty-five thousand dollars (\$25,000). This cap shall not limit the assessment of Hearing Panel fees or restrict civil actions for injunctive relief under subsection D.
- C.** Performing home improvement work within the Town without a current registration under this chapter is a strict liability administrative violation. Good-faith ignorance of the registration requirement is not a defense to this administrative violation. This subsection does not create or constitute a criminal offense.
- D.** In addition to monetary penalties, the Town of Clarkstown may maintain an action in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this chapter.
- E.** Evidence of a Contractor's failure to register under this chapter, or of the revocation or suspension of a registration, is relevant and may be offered in any civil action brought by or against the Contractor related to home improvement work performed in the Town during the relevant period. A court may consider such evidence in determining the equities between the parties and in exercising its discretion regarding any award of costs, fees, or equitable relief. Nothing in this provision alters the applicable rules of evidence or limits any court's authority to admit or exclude evidence in its discretion.

ARTICLE V CLARKSTOWN HOME IMPROVEMENT RESTITUTION FUND

§ 135-16. Clarkstown Home Improvement Restitution Fund.

- A.** There is hereby established, pursuant to and consistent with General Municipal Law § 6, a special fund of the Town of Clarkstown to be known as the "Clarkstown Home Improvement Restitution Fund" (the "Fund"). The Fund shall be maintained as a separate account and shall not be commingled with the Town of Clarkstown's general fund.
- B.** The Fund shall be financed by:
 - (1) An annual surcharge paid by each registered Contractor at the time of registration or renewal, in an amount set by resolution of the Town Board (the anticipated range is \$100 to \$300 per contractor per year);
 - (2) Monetary penalties collected under § 135-15 of this chapter that are not otherwise directed by court order; and

- (3) Appropriations by the Town Board, in its discretion, from the Town of Clarkstown's general fund.
- C. The Fund shall be administered by the Town of Clarkstown Comptroller or such officer as the Town Board shall designate.
- D. A homeowner who has obtained a final, non-appealable Restitution Order or civil judgment against a Contractor arising from home improvement work performed in the Town, and who has been unable to collect such order or judgment after reasonable efforts, including exhaustion of the Contractor's Surety Bond, may apply to the Fund for payment. For purposes of this section, a homeowner who obtains a civil judgment against a Contractor for home improvement work performed in the Town during a period when the Contractor was required but failed to register under this chapter shall be deemed to hold a qualifying judgment for purposes of Fund access, subject to all other conditions of this section. The Fund is a remedy of last resort and shall not be applied to satisfy any amount that can be recovered from the Contractor's Surety Bond, insurance, or other available source. A homeowner must document at least two good-faith collection attempts against the Contractor and one claim against the Contractor's Surety Bond before applying to the Fund. Where the Contractor was required but failed to register under this chapter and therefore posted no Surety Bond under § 135-3, the homeowner's obligation to exhaust the Surety Bond and the application requirement of § 135-16.E(3) are waived, and the homeowner shall instead document that the Contractor was unregistered at the time of contract.
- E. An application to the Fund shall be submitted to the Town of Clarkstown Comptroller on a form prescribed by the Town of Clarkstown and shall include: (1) a certified copy of the final Restitution Order or civil judgment; (2) documentation of the applicant's good-faith collection attempts; (3) documentation of a claim made against the Contractor's Surety Bond and its outcome, except that where the Contractor was required but failed to register under this chapter and therefore posted no Surety Bond under § 135-3, the applicant shall instead document that the Contractor was unregistered at the time of contract; and (4) the amount remaining uncollected. The Town of Clarkstown Comptroller shall act on a complete application within sixty (60) days of receipt. A denial of a Fund application shall be in writing and shall state the reasons therefor. An applicant may appeal a denial to the Town Board within thirty (30) days.
- F. The Town of Clarkstown Comptroller shall review each application and may approve payment from the Fund in an amount not exceeding the uncollected balance of the Restitution Order or judgment, subject to the availability of Fund resources. The Town Board may, by resolution, establish a maximum individual claim amount. Payment from the Fund shall operate as an assignment to the Town of Clarkstown of the homeowner's claim against the Contractor to the extent of the amount paid. The Town of Clarkstown shall have full authority, acting through the Town Attorney or designated outside counsel

pursuant to New York Town Law § 65(1), to pursue recovery of Fund payments from Contractors by civil action. Recovery proceeds shall be returned to the Fund.

- G.** Any Contractor against whose account a Fund payment has been made shall not be eligible for registration or reinstatement under this chapter until the Contractor has either: (1) reimbursed the Fund in full for the amount paid, together with interest at the rate prescribed by CPLR § 5004 for money judgments; or (2) entered into and is current on a written installment payment agreement with the Town of Clarkstown Comptroller providing for full repayment within a period not to exceed five (5) years, together with interest at the CPLR § 5004 rate. A Contractor who completes repayment under an installment agreement shall be eligible for registration upon satisfying all other requirements of § 135-3.
- H.** The Town Board may establish additional rules and procedures governing the Fund by resolution.

ARTICLE VI TRANSPARENCY AND ADMINISTRATION

§ 135-17. Public registry; transparency; annual report.

- A.** The Building Inspector shall maintain, and the Town of Clarkstown shall publish and keep current on the Town of Clarkstown's official website, a searchable public registry of all Contractors registered under this chapter, including each Contractor's name, trade name(s), principal business address, registration number, registration expiration date, and County License number if applicable.
- B.** The Town of Clarkstown shall also publish and maintain on the Town of Clarkstown's official website a list of all Contractors whose registration has been suspended or revoked within the preceding three (3) years, including the date and stated basis for such action. Such publication shall be made only following a final decision by the Hearing Panel (or the Town Board on appeal, or upon expiration of the appeal period without appeal being filed), and shall not be made while a timely appeal is pending. Such publication, as an official government record of a final administrative determination, shall be entitled to the qualified privilege afforded by Civil Rights Law § 74 and applicable common law. The Town of Clarkstown and its officers acting in good faith pursuant to a final administrative decision shall not be liable in a civil action for defamation arising from such publication, except to the extent liability is imposed by applicable constitutional and state law standards governing governmental defamation liability.
- C.** On or before March 31 of each year, the Building Inspector shall submit to the Town Board, and the Town of Clarkstown shall publish on the Town of Clarkstown's official website, a written annual report covering the prior calendar year and including: (1) the total number of Contractors registered; (2) the number of complaints received, investigated, referred to the Hearing Panel, and resulting in findings of violation; (3) the

sanctions and penalties imposed; (4) the number and amount of Restitution Orders issued and the amount collected; (5) the status of the Restitution Fund; and (6) the total registration fees and Fund surcharges collected. This report shall be submitted contemporaneously with the annual report required by Chapter 109 of the Code of the Town of Clarkstown.

- D. All non-exempt records maintained under this chapter shall be subject to the Freedom of Information Law, Public Officers Law Article 6.
- E. Plain-language Homeowner Guide. The Building Inspector shall prepare, maintain, and publish on the Town of Clarkstown's official website a plain-language Homeowner Guide to Home Improvement Contractor Protections under this chapter. The Guide shall describe in clear, accessible language: (1) how to verify a contractor's registration status using the online registry; (2) what a compliant home improvement contract must contain; (3) how to file a complaint, what to expect during the investigation, and how the Hearing Panel process works; (4) how to apply to the Restitution Fund, including what documentation is required; and (5) what legal rights and remedies are preserved outside this chapter. The Guide shall be updated within sixty (60) days of any amendment to this chapter. Printed copies shall be available at the Building Department at no charge. The Restitution Fund application form required by § 135-16.E shall be available in plain language as a standalone document separate from the Guide.

§ 135-18. Regulations.

The Building Inspector may, with the approval of the Town Board, promulgate rules and regulations to implement this chapter, including application forms, procedures for investigations, hearing procedures, escrow account requirements, and standards supplementary to those set forth herein. Such rules and regulations shall be published on the Town of Clarkstown's official website.

ARTICLE VII GENERAL PROVISIONS

§ 135-19. Consistency with County law; no conflict.

- A. This chapter is enacted pursuant to § 286-10.C of the Laws of Rockland County and Municipal Home Rule Law § 10(1)(ii)(a)(12). Nothing in this chapter shall be construed to require any Contractor to obtain a license from the Town of Clarkstown for the conduct of the home improvement business, or to exempt any Contractor from the requirements of Chapter 286 of the Laws of Rockland County or any successor legislation. This chapter does not constitute "regulating or licensing the home improvement business" within the meaning of § 286-10.B of the Laws of Rockland County, and the Town of Clarkstown does not intend, by enacting this chapter, to trigger the municipal carve-out in § 286-10.B or to render Chapter 286 inapplicable within the Town. County licensing requirements are not displaced or made inapplicable within the

Town by this chapter. A County License in good standing shall remain a prerequisite to registration under § 135-3 regardless of any interpretation of § 286-10.B. In the event that any court determines that § 286-10.B operates to render Chapter 286 inapplicable within the Town as a consequence of the enactment of this chapter, the contingency provisions of § 135-1.F shall apply, including the automatic incorporation by reference of the substantive qualification, insurance, and consumer-protection requirements of Chapter 286 as the minimum registration standards of this chapter and the continuity-of-operations rules specified in § 135-1.F(3).

- B. Where any provision of this chapter provides greater protection to homeowners than the corresponding provision of Chapter 286 of the Laws of Rockland County or New York General Business Law Article 36-A, the more protective provision of this chapter shall govern home improvement work performed within the Town.
- C. The solid waste transport exemption in Chapter 149 (Garbage, Rubbish and Refuse), § 149-3.C of the Code of the Town of Clarkstown, is formally amended by Section 4 of the Local Law of which this chapter is a part, to extend that exemption to Contractors registered in good standing under this chapter, effective as of the effective date of this chapter.

§ 135-20. Severability.

If any provision of this chapter, or its application to any person or circumstance, is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application. The provisions of this chapter are declared severable.

§ 135-21. Transition period.

- A. This chapter shall take effect as provided in Section 6 of the Local Law of which this chapter is a part.
- B. The registration requirement of § 135-3, the contract requirements of § 135-6, and the Surety Bond requirement shall not be enforced against Contractors already operating in the Town prior to the effective date until one hundred eighty (180) days following the effective date. For purposes of this subsection, a Contractor is deemed to be already operating in the Town if the Contractor has performed home improvement work within the Town, or has entered into a signed written contract to perform such work, within the twelve (12) months immediately preceding the effective date of this chapter. Contractors newly commencing operations in the Town after the effective date shall comply immediately.
- C. The Authorized Purchasing Agent of the Town of Clarkstown shall issue the Request for Proposals required by § 135-9.B within forty-five (45) days of the effective date, and shall establish the Hearing Panel roster within one hundred twenty (120) days of the

effective date. The Authorized Purchasing Agent is encouraged to issue the RFP prior to the effective date so that the roster may be established as of or before the effective date. The Restitution Fund shall be established within ninety (90) days of the effective date. Until the Fund is established, the Town of Clarkstown shall designate a holding account for surcharges collected. During the period before the Hearing Panel roster is established: (1) stop-work order appeals under § 135-14.C shall be heard by the Town Board at an emergency session convened within ten (10) business days of the appeal, which shall serve as the neutral adjudicatory body for such transitional stop-work appeals only, with any party aggrieved by such determination subject to review pursuant to CPLR Article 78; (2) no new complaint hearings shall be scheduled before the Hearing Panel; and (3) the ninety (90) day investigation timelines under § 135-10.C shall be tolled from the effective date until the date the roster is established, after which they shall resume running for any complaint filed before roster establishment.

- D.** During the transition period, the Town of Clarkstown shall conduct an outreach campaign to publicize the registration requirement to contractors operating in the Town, through the Building Department, the Town of Clarkstown's official website, local media, social media platforms, and such other means as the Building Inspector deems appropriate.

Section 4. Conforming Amendment to Chapter 149.

Section 149-3.C of the Code of the Town of Clarkstown is hereby amended to read as follows:

"C. Persons who are licensed home improvement contractors holding a current license under Chapter 286 of the Laws of Rockland County, or who are home improvement contractors registered in good standing under Chapter 135 of the Code of the Town of Clarkstown, and who transport construction and demolition debris for disposal at permitted facilities, in vehicles owned and operated by the contractor, not exceeding 13 tons gross maximum weight, shall not be required to obtain a license under this chapter, provided that the activity is incidental to the contractor's home improvement business. Persons who engage exclusively in the business of the removal of construction and demolition debris or the demolition of buildings and other structures shall not be exempt from the requirement for licensing under this chapter even though such person may be a licensed or registered home improvement contractor."

Section 5. Severability.

If any provision of this Local Law, or its application to any person or circumstance, shall be held invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the provision, clause, sentence, paragraph, or section thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 6. Effective Date.

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

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