

Clerk Item 604-09 – Amendment In the Nature of a Substitution

Introduced by: Legislator Joseph Scannell

LOCAL LAW NO 24 -2009

FORM APPROVED

Joseph Scannell
MAJORITY COUNSEL

A LOCAL LAW in relation to the regulation of private fire hydrants within residential private communities.

Passed by the Nassau County Legislature on October 19, 2009

Voting: ayes: 19, naves: 0, abstained: 0

Became a law on October 26, 2009 with the approval of the County Executive.

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF NASSAU, as follows:

Section 1. This law shall appear in the miscellaneous laws as title 73.

§ 2. Legislative Intent. This Legislature hereby finds and determines that ensuring the proper functioning of fire safety equipment in Nassau County is essential to protecting public safety.

This Legislature further finds and determines that firefighters experienced a difficult time containing a recent fire in Suffolk County due to the inadequate water flow coming from a fire hydrant located within a private co-operative community.

This Legislature further finds and determines that certain fire hydrants within Nassau County are not maintained by municipalities, but are instead the responsibility of private residential communities and pursuant to the Title 19 (NYCRR), Part 1225 Fire Code of New York State, Section 508 Fire Protection Water Supplies, such fire hydrants are to be tested for operation and flow each year.

This Legislature finds it be in the best interest of the County for the Nassau County Fire Commission to play a role in making certain that fire departments and all necessary parties have

the information they need to fight fires as safely and efficiently as possible. Therefore, the purpose of this law is to require the person or entity responsible for testing the fire hydrants within private residential communities to annually file a certification with the Nassau County Fire Commission that they have performed the required annual test of their fire hydrants and have provided the results of those tests to their local fire department.

§ 3. Definitions. As used in this law, the following terms shall have the meanings indicated:

“Commission” shall mean the Nassau County Fire Commission.

“Fire Hydrant” shall mean a private fire hydrant that is not owned or maintained by a municipal entity.

“Private Residential Community” shall mean a residential community consisting of apartments, condominiums, townhouses, co-operative housing, or one or two family homes which utilizes private fire hydrants, and which is required to annually inspect and test fire hydrants pursuant to Title 19 (NYCRR), Part 1225 Fire Code of New York State, Section 508 Fire Protection Water Supplies.

“Responsible Person or Entity” shall mean any individual, business, firm, partnership, limited liability partnership, corporation, company, limited liability company, society, association, or any organized group of persons whether incorporated or not, responsible for ensuring that the annual fire hydrant testing within a private residential community is performed pursuant to Title 19 (NYCRR), part 1225 Code of New York State, Section 508 Fire Protection Water Supplies.

§ 4. Requirements. (a) The responsible person or entity shall submit a copy of the report generated following the annual fire hydrant testing within the private residential community from its annual fire hydrant testing performed pursuant to Title 19 (NYCRR), Part 1225 Fire Code of New York State, Section 508 Fire Protection Water Supplies to the local fire department responsible for providing fire protection services to the private residential community within thirty (30) days of the date in which the testing was required to be performed. The aforementioned report shall include, but not be limited to, the water pressure level coming out of each hydrant as measured by pounds per square inch (psi) and a calculation of the number of

gallons of water per minute from each hydrant based on a reading of twenty (20) psi of flowing pressure.

(b) The responsible person or entity shall submit a completed sworn affidavit with the Commission. The form of said affidavit shall be established by the Commission and shall state that:

(i) The responsible person or entity has caused the fire hydrant to be tested within the private residential community which is required annually under Title 19 (NYCRR), Part 1225 Fire Code of New York State, Section 508 Fire Protection Water Supplies; and

(ii) the responsible person or entity has filed a report containing the information described in Subsection (a) with its local fire department.

This affidavit shall be filed with the Commission within fifteen (15) days after the report described in Subsection (a) is filed with the local fire department.

§ 5. Penalties. (a) Any responsible person or entity other than a corporation violating any provision of this title, or failing to comply therewith, shall upon conviction be guilty of a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000) or, by imprisonment for not more than one (1) year or both, for each and every offense. A corporation violating any provision of this title, or failing to comply therewith, or violating or failing to comply with any order or regulation made thereunder, shall upon conviction be guilty of a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000) for each and every offense. The imposition of the penalty for any violation of this title shall not excuse the violation or permit it to continue, and each fifteen (15) days thereafter that the responsible person or entity fails to comply shall constitute a separate offense.

(b) Where a responsible person or entity has not previously been subject to a penalty imposed under this title, the penalties described in subdivision (a) of this section shall be imposed only after the responsible person or entity receives notice of the violation and fails to comply with the provisions of this title within thirty days.

(c) It shall be a defense to an action brought pursuant to this Title that the person who is the subject of the action is not a responsible person as defined in section three of this local law.

§ 6. Enforcement. The Commission shall promulgate such rules and regulations as it deems necessary for the implementation and enforcement of any provisions of this chapter.

§ 7. Applicability. This law shall apply to all fire hydrant operability tests within a private residential community required to be performed pursuant to Title 19 (NYCRR), Part 1225 Fire Code of new York State, Section 508 Fire Protection Water Supplies after the effective date of this local law.

§ 8. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 2. SEQRA Determination.

This legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this action is an unlisted action under the provisions of Title 6 NYCRR Part 617, and that based on an evaluation of the environmental criteria set forth in §617.7(c) that are considered to be indicia of significant adverse environmental impacts, along with the recommendation of the Nassau County Planning Commission acting in its advisory capacity to the legislature, that such action will not have significant adverse impacts on the environment, and that no additional environmental review or action is necessary.

Section 3. Effective date. This law shall take effect one hundred twenty (120) days after becoming a law.

APPROVED

W. Andrew Gottlieb

County Executive

DATE 10/26/09