

TOWN OF CLARKSTOWN

LOCAL LAW NO. 2 - 2024

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

**Section 1. Title.**

A Local Law Amending Chapter 278 of Clarkstown Town Code Adding a Section on “Policy Regulating the Stopping, Standing, and Parking of Buses/Vans or Chartered Vehicles and the Discharge of Passengers Within the Town”

**Section 2. Legislative intent.**

Incidents have occurred in the Town of Clarkstown in which buses/vans or chartered vehicles have discharged or unloaded passengers within the Town without sufficient clothing, resource, food, other sustaining items and without means to obtain shelter. As the Town is committed to protecting the health, safety, and welfare of individuals residing in and visiting the Town, the Town Board hereby determines that it is in the best interest of the Town, its employees, and its residents to establish a policy for the stopping, standing, and parking of buses/vans or chartered vehicles and the discharge of passengers within the Town.

**Section 3. Definitions.**

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.

**Application** means a form that the Town of Clarkstown Town Clerk makes available for receiving and reviewing proposed bus/van or chartered vehicles operations.

**Approval** means written notice that the Town Clerk has received, reviewed, and determined that an application satisfies the requirements of the Town and this chapter.

**Regularly scheduled service** means bus/van or chartered vehicle service that operates trips on a predictable and recurring basis, following a schedule that is published in advance and available to the general public, and provides service in exchange for paying a fare.

**Town Clerk** means the Town of Clarkstown Town Clerk.

**Town** shall mean the Town of Clarkstown, New York.

**Unscheduled bus/van or chartered vehicle** means any bus/van or chartered vehicle used for the transportation of persons between the Town of Clarkstown and locations outside of the Clarkstown area that is not operating pursuant to authorization of the Town Clerk authorization

via: (i) an approved letter of permission or (ii) an approved schedule and/or approved pick-up/drop-off zone, as of the effective date of this chapter.

#### **Section 4. Applicability.**

- (1) This chapter shall apply to any bus/van or chartered vehicle service when:
  - (a) The vehicle is engaged in a privately chartered service,
  - (b) The service includes the disembarkation of one or more passengers within the Town who will not reboard, and
  - (c) The service does not include arrangements for round-trip transportation
- (2) The following are exempted from the provisions of this chapter:
  - (a) Buses or commercial motor vehicles used to transport passengers to festivals, events, and/or businesses or public services in the Town;
  - (b) Buses or commercial motor vehicles that operate and provide a regularly scheduled service;
  - (c) Buses or commercial motor vehicles operated by a government unit or agency or a school district; or
  - (d) Courtesy shuttles transporting customers or guests to or from a fixed location as an incidental service provided by a business.

The Town Clerk's preexisting application, review and approval process for buses/vans or chartered vehicles, as may be amended from time to time, shall apply to: (i) applicants for regularly scheduled service, and (ii) operators with an approved letter of permission, schedule and/or approved pick-up/drop-off zone as of the effective date of this chapter.

#### **Section 5. Notice and Application Required.**

The operator of any unscheduled bus/van or chartered vehicle must make application for an approval to arrive and load/unload passengers in the Town on the appropriate form made available by the Town Clerk. All applications for unscheduled bus/van or chartered vehicle service must be received by the Town Clerk a minimum of five (5) full business days prior to the requested date of arrival in the application.

All applications shall include the proposed passenger list, and the operator shall be required to perform background checks on each passenger over the age of eighteen, and shall provide copies of the same to the Town Clerk as part of the application.

Each application for an unscheduled bus/van or chartered vehicle drop off must include an order authorizing the drop off executed by the head of the public body originating the transfer of such passengers.

## **Section 6. Processing and Approval of Applications.**

Applications for unscheduled buses/vans or chartered vehicles will be reviewed on a first-come, first-serve basis. No more than one (1) application, regardless of operator, shall be approved by the Town Clerk for a given date, time, and location.

## **Section 7. Days and Hours of Operation.**

Unscheduled buses/vans or chartered vehicles shall load/unload passengers within the Town only between the hours of 10:00 a.m. and 4:00 p.m. Monday through Friday, and not at any time on Saturdays, Sundays, or designated Town Holidays.

## **Section 8. Passenger Pick-up/Drop-Off Locations**

Unscheduled buses/vans or chartered vehicles shall only load/unload passengers at locations designated by the Town Clerk, which shall be listed on the approved application.

## **Section 9. Punctuality.**

For any given approval, unscheduled buses/vans or chartered vehicles must arrive no sooner than, and no later than 30 minutes after, the approved arrival time, otherwise the application shall be considered invalidated. Any loading/ unloading of passengers outside of this scheduled window shall result in a \$750.00 fine per passenger to the operator.

## **Section 10. Proof of Application and Approval.**

Operators of unscheduled buses/vans or chartered vehicles must carry a physical or electronic copy of an approved application and present it for inspection at the place of loading/unloading upon request by any employee or designee of the Town.

## **Section 11. Penalty.**

Any operator of an unscheduled bus/van or chartered vehicle that attempts to, or does in fact, load/unload passengers without an approved application shall be subject to a \$750.00 fine per passenger upon the bus/van or chartered vehicle operator.

## **Section 12. Towing and Impounding.**

In addition to any fees or fines set forth in this chapter, any unscheduled bus/van or chartered vehicle used in violation of this chapter shall be subject to immediate seizure and impoundment. The owner of record of said bus/van or chartered vehicle shall be liable for any and all towing, storage and administrative fees associated with the towing and storage of the bus/van or chartered vehicle. The owner of record shall also be subject to an administrative penalty of Five Thousand U.S. Dollars (\$5,000.00).

Whenever a police officer with supervisory authority and who is present at the time of an alleged violation of this chapter has probable cause to believe that a bus/van or chartered vehicle is subject to seizure and impoundment pursuant to this chapter, the police officer shall provide for the towing of the bus to an authorized towing facility.

Before or at the time the bus is towed, the police officer shall notify any person identifying themselves as the owner of the bus at the time of the alleged violation, or the person who is found to be in control of the bus at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the bus owner's right to request a vehicle impoundment hearing to be conducted in the Town of Clarkstown Justice Court by serving such person with a

If, after the hearing, the hearing officer determines, by a preponderance of evidence, that a violation of this chapter has occurred involving the seized and impounded bus/van or chartered vehicle, then the hearing officer shall enter an order finding the owner of record of the vehicle liable to the Town for administrative fees of five thousand dollars (\$5,000.00), which shall be in addition to any other penalties, fines and remedies sought. If, after a hearing, the hearing officer does not determine, by a preponderance of the evidence, that the vehicle was used in violation of this chapter, the hearing officer shall enter an order finding for the owner and ordering the return of the vehicle.

If the owner of record fails to request a hearing on the seizure and impoundment of the vehicle in a timely manner or fails to appear at the hearing, the owner of record shall be deemed to have waived the owner's right to a hearing, and the hearing officer may enter a default order in favor of the Town in the amount of the administrative fees. However, if the owner of record pays such penalty and the vehicle is returned to the owner, no default order need be entered if the owner is informed of his or her right to a hearing and signs a written waiver, in which case, an order of liability shall be deemed to have been made when the Town receives the written waiver.

A vehicle impounded pursuant to this chapter shall remain impounded until:

- (a) The administrative fee of five thousand dollars (\$5,000.00) is paid to the Town, and all applicable towing fees are paid to the towing agent, in which case, the owner of record shall be given possession of the vehicle;
- (b) A bond in the amount of five thousand dollars (\$5,000.00) is posted with the Town, and all applicable towing fees are paid to the towing agent, at which time, the vehicle will be released to the owner of record; or
- (c) The vehicle is deemed abandoned, in which case it shall be disposed of in the manner provided by law for the disposition of abandoned vehicles.

### **Section 13. Criminal Charges.**

The Chief of Police is hereby authorized to pursue criminal charges against any (i) unscheduled bus/van or chartered vehicle operator, (ii) unscheduled bus/van or chartered vehicle driver, or (iii) third-party employees who are charged with the oversight of the passengers, when such individual attempts to or does discharge passengers where such actions endanger the health, safety or welfare of passengers.

The Chief of Police shall consider the following when determining whether to pursue criminal charges:

- (a) The location of the discharge or attempted discharge of passengers;
- (b) Extreme weather conditions, including temperatures below freezing, snowfall, severe rain, or other inclement weather which poses a risk to passengers;
- (c) Whether any of the passengers are minors; and
- (d) The time of day and access to shelter or transportation for passengers.

### **Section 14. Civil Remedies.**

The Town Attorney or his designee is hereby authorized and directed to pursue any and all civil remedies against bus/van or chartered vehicle operators that fail to or refuse to comply with this chapter. Such civil remedies include, but are not limited to, injunctive relief, declaratory judgements, and debt collection actions.

### **Section 15. Severability.**

If any section, paragraph, clause, provision or portion of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of the balance of this chapter as a whole or any part or provision other than the part held to be invalid or unenforceable.

### **Section 16. Supersession of Inconsistent Statute or Requirement.**

Any state statute or requirement in conflict of this chapter is hereby fully superseded pursuant to the exercise of Section 22 of the NYS Municipal Home Rule Law.

### **Section 17. When effective.**

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