

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
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(Use this form to file a local law with the Secretary of State.)

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~~COUNTY~~
~~CITY~~ of
Town
~~Village~~

LANSING

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JUL 24 2006

Local Law No. 4 of the year 20 06

MISCELLANEOUS
& STATE RECORDS

A local law RAPID ACCESS LOCK BOXES

(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~COUNTY~~
~~CITY~~ of
Town
~~Village~~

LANSING

as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

"TOWN OF LANSING

LOCAL LAW NUMBER 4 OF 2006

RAPID ACCESS LOCK BOXES

The Town Board of The Town of Lansing, New York, pursuant to a Resolution dated July 19, 2006, does hereby pass a Local Law as follows:

Article 1. INTRODUCTION.

Section 1. Authority.

This Local Law is adopted pursuant to the authority granted the Town in Section 10 of the Municipal Home Rule Law and in Section 130 of Town Law, and related provisions of law and the regulations arising thereunder.

Section 2. Title.

This Local Law shall be known as the Town of Lansing Rapid Access Lock Boxes Local Law, Local Law Number 4 of 2006 (herein "Local Law").

Section 3. Findings.

The Town Board of the Town of Lansing finds the use of alarm systems connected directly or indirectly to an agency providing fire and other emergency responses is increasing within the Town of Lansing (the "Town"). Further, the means of securing and protecting property and structures has become increasingly complex, thus often thwarting the efforts of emergency personnel. Additionally, automatic alarms have sometimes been erroneously activated when the premises are vacant or under other circumstances where the Town of Lansing Volunteer Fire Department, and other fire departments and emergency personnel, have been called to the premises and have been unable to obtain access to the premises to turn off the alarm, or the result of such access is the unnecessary demolition of part of the structure or building. There have been other circumstances where alarms are connected to loud noise-making devices, such as bells or klaxons, and it has not been possible to turn off such noise-making alarms when they have been triggered by an erroneous signal. Additionally, there are circumstances where an emergency such as a fire or burglary is in progress and a non-forced entry to the premises would be desirable to react to the emergency. Thus, the Town has determined that it is in the interest of the public health, safety, and welfare to provide for a method of access by emergency personnel in a controlled manner. Further, the need for immediate access to property and information for fire and emergency personnel is necessary due to the increasing size and density of structures, more complex securing and locking systems, and the increased usage of petroleum products, chemicals, and hazardous materials. The passage and enforcement of this Local Law will help save lives, buildings and properties and will reduce the severity and duration of emergency events, such as fires. Thus, the Town can prevent the spread of injury and damage from such events and prevent unnecessary air and water pollution and waste.

Section 4. Territorial Applicability.

This Local Law shall apply to all areas of the Town of Lansing located outside the Village of Lansing.

Article 2. GENERAL PROVISIONS.

Section 1. Definitions.

The following terms have the following meanings when used in this Local Law:

(A) "Automatic Alarm" or "Automatic Alarms" means any system or alarm that can activate without human intervention.

(B) "Automatic Gate" or "Automatic Gates" means any gate, door, wall, barrier, or obstruction that is electronically or remotely controlled.

(C) "Code Enforcement Office" means the Town of Lansing Code Enforcement Office.

(D) "Elevator" shall mean any electric, geared, or machine powered vertical or horizontal lift or chute, whether or not intended to transport people or animals.

(E) "Fire Department" means any person, group, or organization that is registered, certified, or licensed by the State of New York to respond to fires and other emergencies in the Town of Lansing, specifically including, but not limited to, the Town of Lansing Volunteer Fire Department, and any successor organization thereto. "Town Fire Department" refers to the Town of Lansing Volunteer Fire Department. Whenever the presence or permission of the Town Fire Department is referenced, such reference shall require the presence or permission of the Fire Chief.

(F) "Hazardous Materials" means: (1) any chemical, biological, radiological, petroleum based, carcinogenic, toxic, explosive materials or compounds, polychlorinated biphenyls, other carcinogens, oil and other petroleum products, radon gas, urea formaldehyde, chemicals, gases, solvents, pollutants or contaminants, and any other hazardous or toxic materials, wastes, and substances which are defined, determined or identified as such in any past, present or future federal, state or local laws, by-laws, rules, regulations, codes or ordinances, or in or by any judicial or administrative interpretation thereof, that could be a detriment or pose a danger to the environment or to the health or safety of any Person, animal, property, and/or the environment; and (2) any material or compound defined as hazardous by or under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 *et seq.* and 40 CFR §302.1 *et seq.*), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.* and 40 CFR § 116.1 *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 *et seq.*), the Superfund Amendments and Reauthorization Act of 1986 (hereinafter, "SARA"), the New York State Environmental Conservation Law, and the New York Navigation Law, and all Regulations promulgated under any of the foregoing, all as now exist or as hereafter amended, re-codified, or superseded.

(G) "Key Switch" or "Key Switches" means an approved UL-type switch with a physical or electronic key or code that can be operated to gain access to any Structure or Property.

(H) "Lock Box" or "Lock Boxes" means a UL-type high-security keyed vault approved by the Town Fire Department for the storage of keys and materials providing emergency information and access to a specified Structure or Property.

(I) "MSDS" means Material Safety Data Sheets, being those informative pamphlets or safety and emergency documents as are required to be kept for Hazardous Materials, and hazardous, explosive, caustic, and similar materials, chemicals, and compounds as required by any local, state or federal law or regulation, including, but not limited to, the Regulations of OSHA.

(J) "Person" or "Persons" means any one or more individuals or entities, but not the Town, a Fire Department (including the Town Fire Department), or the Code Enforcement Office, as those terms are separately defined by and within this Local Law.

(K) "Property" or "Properties" means any improved or unimproved lot, piece, parcel, or gore of land.

(L) "Structure" or "Structures" means any and all buildings, facilities, gates, fences, walls, rooms, sheds, garages, tents, and any other permanent or non-permanent building or facility.

(M) "Town" shall mean the Town of Lansing, and such term shall include the Town Board, the Town Planning Board, the Zoning Board of Appeals, all official and standing committees, and all elected officials, Officers, managers, Department Heads, employees, and agents thereof.

Section 2. Properties Requiring Rapid Access Lock Boxes.

Each of the following Structures shall require one or more Lock Boxes:

- (A) All new and existing Structures that have an Automatic Alarm.
- (B) All new and existing Structures that have an Elevator.
- (C) All new and existing Structures that have an automatic fire suppression system.
- (D) All new and existing Structures that contain three or more residential living units with any common entrance or corridors.
- (E) All new and existing Structures that have one or more Automatic Gates.
- (F) All Properties and Structures protected by secured or locked gates, fences, walls, or barriers of any sort.
- (G) All Structures storing more than 500 gallons of petroleum products.
- (H) All new and existing Properties or Structures that store, for industrial or commercial uses or purposes, including retail or wholesale sale or delivery, any Hazardous Materials.

Section 3. Installation of Lock Boxes and Key Switches.

Lock Boxes shall be securely and permanently affixed to the structures in the manner detailed by the manufacturer and in a location established and approved by the Town Fire Department. All Lock Boxes shall be kept locked at all times, except during any emergency event. Each Automatic

Gate shall have a Key Switch installed that permits a Person to open and operate the Automatic Gate from a readily accessible location approved by the Town Fire Department. A "readily accessible location" means a location that does not require such Automatic Gate, nor any other barrier or lock, to be opened, bypassed, or operated to gain ready access to the Key Switch.

Section 4. Retrofitting Requirement.

Any Property or Structure currently in existence to which this Local Law applies shall have a period ending July 31, 2007 within which to comply with the terms of this Local Law.

Section 5. Keys to Lock Boxes and Key Switches.

Each Lock Box and each Key Switch shall be universally keyed to match the master key held by the Town Fire Department. No Lock Box will be sealed without (i) advance notice to the Town Fire Department, and (ii) the presence of the Town Fire Department. The Town Fire Department shall designate the type of Lock Box to be used within the Town and shall have the authority to require all Properties and Structures, and the owner(s) thereof, to use the designated system.

Article 3. REQUIRED CONTENT OF LOCK BOXES.

Section 1. Contents of Lock Boxes.

To the extent reasonably feasible, all information shall be kept in a single Lock Box that shall be of sufficient size to store all required documents and information without compression or damage. All Lock Boxes shall contain the following items and information:

- (A) Master keys to all entry and exit doors.
- (B) Master keys to all Elevators and all Elevator, mechanical, and utility rooms.
- (C) Master keys to all locked storage areas that store or contain any Hazardous Materials.
- (D) Master Keys to allow access to all fire alarm panels and systems.
- (E) Master Keys, together with any activation and deactivation codes and passwords clearly written upon a laminated index card (or its equivalent), to allow the activation, deactivation, operation, and/or shut-off all alarm systems and Automatic Alarms.
- (F) Master keys to any fenced, gated, or secured areas, including master keys, codes, or passwords for each Automatic Gate and each Key Switch.
- (G) A laminated index card (or its equivalent) with the names, addresses, and contact numbers clearly written thereon for all Persons to be notified in the event of an emergency.
- (H) For all commercial or industrial Structures, floor plans for the building that clearly mark the location of: (i) all water sources including OSY, PI valves, fire department connections, fire hydrants, and drains; (ii) all fire fighting equipment; (iii) all Hazardous Materials; (iv) all Elevators; (v) all mechanical and utility rooms; (vi) all alarm panels; (vii) all Key Switches; (viii) all fire escapes; and, if applicable, (ix) all residential units within the Structure.

- (I) If Hazardous Materials are stored on the Property or in the Structure, then the following additional items must be included in a Lock Box:
 - (1) A current emergency and Hazardous Materials inventory that is recorded, updated, and kept in accord with Subtitle B, Section 312, of SARA, as now exists or as hereafter amended, re-codified or superseded.
 - (2) A MSDS for each Hazardous Material on site. The MSDS must be kept in alphabetical order. If the volume of MSDS is too large to keep in the Lock Box, then either: (i) a second Lock Box shall be installed; or (ii) such MSDS must be kept in a location where they are and will be readily available to emergency personnel, and the Lock Box shall disclose the location of such MSDS on a neatly printed laminated index card (or its equivalent).
 - (3) A site plan that shall identify: (i) the locations where any Hazardous Materials are stored or used; (ii) the location of all spill clean-up materials; and (iii) a diagram of the complete sewer, drainage, electrical, and water systems of the Structure.

Section 2. Labeled Keys.

All keys and master keys shall be clearly labeled or tagged so as to identify their proper use and location of use.

Section 3. Changes in Lock Box Locations.

If at any time the location of any Lock Box is changed, the property owner shall promptly and immediately notify the Town Fire Department in writing, and obtain the Town Fire Department's advance approval for such relocation.

Section 4. Changes in Contents of Lock Boxes.

All Properties and Structures affected by this Local Law shall promptly notify the Town Fire Department in writing as to the contents of each Lock Box. Whenever the contents of the Lock Box change or are required to be changed under this Local Law, the owner of the Property or Structure shall promptly notify the Town Fire Department in writing as to the updated contents of each such Lock Box. Any changes in any keys or codes for any Structure, or any other locked area, or any key or code required by this Local Law to be placed within a Lock Box, shall require immediate notification to the Town Fire Department, and such keys and codes shall be placed into the Lock Box in the presence of the Town Fire Department.

Article 4. VARIANCES & WAIVERS.

Any person or entity that desires any variance from or waiver of the requirements of this Local Law shall submit such request to the Town Fire Department. The Town Fire Department shall grant or deny such request within 60 days. Variances or waivers may only be granted upon a showing of good cause or unique circumstances. A variance or waiver may only be granted where (1) such variance or waiver is in harmony with the intent and spirit of this Local Law, (2) such variance or waiver will not be adverse to the best interests of the

community, (3) there are special circumstances involved in the particular case, (4) denying the variance or waiver would result in undue hardship, provided that such hardship has not been self-imposed; and (5) the variance or waiver is the minimum necessary degree of variation from the requirements of this Local Law. Examples of situations where it may be appropriate to issue a variance or waiver include, but are not limited to, Properties or Structures with 24-hour on-site security personnel, home based businesses, and Properties or Structures with imaginative or beneficial design concepts that comply with the spirit and intent of this Local Law.

Article 5. RIGHTS OF INSPECTION.

The Town Fire Department and the Code Enforcement Office may and shall have access to any Property and/or Structure at any time to inspect any Lock Box, Key Switch, or other matter or thing pertaining to this Local Law, without, *inter alia*, liability therefor in trespass.

Article 6. VIOLATIONS AND ENFORCEMENT.

Section 1. Violations.

Any Person who tampers with, defaces, damages, or improperly gains access to any Lock Box or Key Switch, or attempts any of the foregoing, shall be and be deemed in violation of this Local Law. Any Person who shall fail to comply with the requirements of this Local Law shall be and be deemed in violation of this Local Law. Such violation may be prosecuted criminally or civilly, in the sole discretion of the Town or the District Attorney of Tompkins County, or either of their designees, and in the sole discretion of the Town or the said District Attorney (or their designee), without liability or recourse therefor. If a criminal prosecution is pursued, a violation of the requirements of this Local Law shall be and be deemed an unclassified misdemeanor, and all provisions of New York law generally applicable to misdemeanors shall apply to any such criminal proceeding.

Section 2. Penalties.

The following civil and criminal fines and penalties shall apply to any violation of the requirements or terms of this Local Law:

(A) First Violation: Any Person that violates any of the provisions of this Local Law shall be (1) guilty of an unclassified misdemeanor and subject to a criminal fine of not more than \$1,000.00, and/or (2) subject to a civil penalty of not more than \$2,500.00 to be recovered by the Town in a civil action;

(B) Second Violation: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any other violation of this Local Law shall be deemed a second violation. Any Person that commits any second violation shall be (1) guilty of an unclassified misdemeanor and subject to a fine of not more than \$2,500.00, and/or (2) subject to a civil penalty of not more than \$5,000.00 to be recovered by the Town in a civil action.

(C) Third and Subsequent Violations: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any second violation of this Local Law shall be deemed a third or subsequent violation, as applicable. Any Person

who commits a third or subsequent violation of this Local Law shall be (1) guilty of an unclassified misdemeanor and subject to a fine not more than \$5,000.00 and a period of incarceration not to exceed 90 days, and/or (2) subject to a civil penalty of not more than \$10,000.00 to be recovered by the Town of Lansing in a civil action.

(D) Each and all remedies and rights provided to the Town under this Local Law shall be cumulative. The Town's pursuit of any one right or remedy does not effect a waiver or an election of remedies, and the Town may thereafter pursue or continue to pursue any other right or remedy it may have in law, equity, or admiralty. The Town may also maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision or requirement of this Local Law.

Article 7. LIMITATION UPON TOWN LIABILITY.

The Town shall not be liable or responsible for any injury to Persons or damage to property (including Property and Structures) due to the Town's actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Town. In limitation of the foregoing, the Town assumes no liability or responsibility for (i) any defects in the operation of any Lock Box or Key Switch, (ii) the lack of any required documents or things within any Lock Box, (iii) the failure of any Property or Building to have a Lock Box or Key Switch, to have a fully or properly functioning Lock Box or Key Switch, or to have functioning keys or codes thereto, (iv) the security or loss of any property or thing within any Lock Box, and/or (v) the security of or any damage or loss to any Structure or Building, or any contents thereof or appurtenances thereto, arising from unlawful or improper access to or use of any Lock Box or Key Switch, or the codes, keys, documents and things therein contained.

Article 8. SEVERABILITY.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be adjudged invalid by a court of competent jurisdiction, such determination, order, or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law. Any such invalidity shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such determination, order, or judgment shall have been rendered.

Article 9. CONSTRUCTION.

Subject headings in this Local Law are provided for reference and convenience only and shall not be deemed or construed to limit the meaning, definition, or import of any provision contained under any such subject heading. Plural and singular terms shall be construed in the singular or plural, as the definition or context of the term so requires or admits. Terms with gender references shall be construed as male, female, or neuter, as the definition or context so requires or admits.

Article 10. EFFECTIVE DATE.

This Local Law shall be and become immediately effective upon filing."

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2006 of the ~~(County)(City)~~(Town)(Village) of LANSING was duly passed by the TOWN BOARD on July 19 2006, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

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

(Seal)

Date: July 21, 2006

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

STATE OF NEW YORK
COUNTY OF Tompkins

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

[Signature]
Signature

Attorney for the Town of Lansing
Title

~~County~~
City of Lansing
~~Town~~
~~Village~~

Date: July 21, 2006