

RESOLUTION NO. 243 -2010, ADOPTING LOCAL LAW NO. 13 -2010, A CHARTER LAW REPEALING ARTICLE III OF CHAPTER 294 OF THE SUFFOLK COUNTY CODE AND ENACTING STRENGTHENED AND IMPROVED REGULATION OF THE INSTALLATION AND SERVICING OF PORTABLE FIRE EXTINGUISHERS AND AUTOMATIC FIRE EXTINGUISHING SYSTEMS

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on February 2, 2010, a proposed local law entitled, "**A CHARTER LAW REPEALING ARTICLE III OF CHAPTER 294 OF THE SUFFOLK COUNTY CODE AND ENACTING STRENGTHENED AND IMPROVED REGULATION OF THE INSTALLATION AND SERVICING OF PORTABLE FIRE EXTINGUISHERS AND AUTOMATIC FIRE EXTINGUISHING SYSTEMS**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

1st RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 13 -2010, SUFFOLK COUNTY, NEW YORK

A CHARTER LAW REPEALING ARTICLE III OF CHAPTER 294 OF THE SUFFOLK COUNTY CODE AND ENACTING STRENGTHENED AND IMPROVED REGULATION OF THE INSTALLATION AND SERVICING OF PORTABLE FIRE EXTINGUISHERS AND AUTOMATIC FIRE EXTINGUISHING SYSTEMS

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

Section 1. Legislative Intent.

This Legislature hereby finds and determines that it has recognized that portable fire extinguishers and automatic fire extinguishing systems are the first line of defense in the control and extinguishment of fires, and therefore it is essential that these devices be properly installed, regularly inspected, tested, serviced, and repaired to ensure their usefulness and effectiveness when discharged on incipient fires.

This Legislature further finds and determines that the best way to ensure the effectiveness of these devices is to establish professional standards for persons authorized to install and service these devices and the manner in which the installation and servicing must be done.

This Legislature further finds and determines, based upon input from the fire safety community, the code enforcement community, consumers and businesses that nationally recognized industry standards have not been consistently adhered to by all of those involved in the installation and servicing of portable and automatic fire extinguishing systems.

This Legislature further finds that Local Law No. 18-2004, now codified in Article III of Chapter 294 of the Suffolk County Code, controls the servicing of portable fire extinguishers and automatic fire extinguishing systems, but the Department of Fire, Rescue and Emergency Services has recommended that these Code provisions be repealed and replaced with a new law that will better regulate the installation and servicing of these systems in order to better protect the health, safety, and welfare of the residents of Suffolk County.

Therefore, the purpose of this legislation is to repeal Article III of Chapter 294 of the Suffolk County Code and add a new Article III of Chapter 294 of the Suffolk County Code which strengthens and improves the regulation of the installation and servicing of portable fire extinguishers and automatic fire extinguishing systems and to amend other related sections of the Suffolk County Charter and Suffolk County Code.

Section 2. Repeal.

Article III of Chapter 294 (294-12 through 294-21) of the SUFFOLK COUNTY CODE is repealed in its entirety.

Section 3. Amendments.

I. Article XI of the SUFFOLK COUNTY CHARTER is hereby amended to read as follows:

C11-3 Powers and Duties.

A. The Department of Fire, Rescue and Emergency Services shall:

* * * * *

(35) Be responsible for coordinating the regulation, and licensing of the installation and servicing of portable fire extinguishers and automatic fire extinguishing systems.

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II. Section A11-1 of the Administrative Code is amended to read as follows:

A11-1 Powers and Duties.

* * * * *

O. Be responsible for coordinating the supervision, regulation, and licensing of the installation and servicing of portable and automatic fire extinguishing systems.

Section 4. Servicing of Portable Fire Extinguishers and Automatic Fire Extinguishing Systems.

A new Article III is hereby added to Chapter 294 of the Suffolk County Code as follows:

§ 294-13. Definitions.

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

“AUTOMATIC FIRE EXTINGUISHING SYSTEM” means a nonportable fire extinguishing system containing an extinguishing agent under pressure that is expelled for the suppression of a fire, not to include any type of fixed fire sprinkler system.

“BOARD” means the Portable Fire Extinguisher and Automatic Fire Extinguishing Systems Licensing Board.

“CERTIFICATE OF REGISTRATION” means a certificate or document issued to a Person by the Suffolk County Commissioner of Fire, Rescue and Emergency Services authorizing the existence and use of premises for the purpose of the design, installation and/or servicing of portable fire extinguishers and automatic fire extinguishing systems.

“CLEAN AGENT” means electrically non-conducting volatile or gaseous fire extinguishant that does not leave a residue upon evaporation, exclusive of carbon dioxide.

“CLOSED RECOVERY SYSTEM” means equipment required for the recovery of dry chemical or halogenated agents so that the extinguishing agent is captured in a closed system.

“COMMISSIONER” means the Commissioner of the Suffolk County Department of Fire, Rescue and Emergency Services (FRES).

“DEPARTMENT” means the Suffolk County Department of Fire, Rescue and Emergency Services (FRES).

“FIRE MARSHAL” means a Fire Marshal duly appointed by or employed by Suffolk County.

“HIGH PRESSURE HYDROSTATIC TESTING” means pressure testing by hydrostatic methods in accordance with United States Department of Transportation regulations.

“IDENTIFICATION CARD” means a card issued to a holder of a license as defined herein.

“INSTALL AND INSTALLATION” means the placement of any automatic fire extinguishing system or portable fire extinguisher as defined herein in a structure, building, or any other item, place, or location for the purpose of controlling or extinguishing a fire.

“LABELED” means equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization acceptable to the Fire Marshal and concerned with product evaluation, that maintains periodic inspection of production of labeled equipment or materials, and by whose labeling the manufacturer indicates compliance with appropriate standards of performance in a specified manner.

“LICENSE” means a certificate or document issued to a natural person by the Commissioner authorizing the holder thereof to install and service portable fire extinguishers and automatic fire extinguishing systems.

“LISTED” means equipment and/or materials that are included in a list published by an organization acceptable to the Fire Marshal and concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states that either the equipment or materials meets appropriate standards or has been tested and found suitable for use in a specified manner. The means for identifying listed equipment

vary for each organization concerned with product evaluation, some of which do not recognize equipment as listed unless it is also labeled. The Fire Marshal shall utilize the system employed by the listing organization to identify a listed product.

“LOW-PRESSURE EXTINGUISHERS OR PRESSURE VESSELS” means those units having an operating pressure of 500 psig (34.45 bars) or less.

“LOW-PRESSURE HYDROSTATIC TESTING” means pressure testing by hydrostatic methods in accordance with National Fire Protection Association (NFPA) 10 standard.

“NFPA” means National Association of Fire Protection.

“PERSON” means any natural person, firm, corporation, partnership, limited liability company, entity, joint venture, association, or organization.

“PORTABLE FIRE EXTINGUISHER” means a portable device, carried or on wheels and operated by hand, containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing fire.

“PLACE OF BUSINESS” means a designated location at which work in connection with servicing or installation of portable fire extinguishers and automatic fire extinguishing systems is conducted.

“RECOVERY” means the act of removing dry chemical or halogenated agents from a fire extinguisher or systems by means of a closed recovery system as defined herein.

“REGISTERED FACILITY” means a place of business which has a valid, current certificate of registration duly issued by the Commissioner.

“SERVICE AND SERVICING” means any or all of the following:

- A. Maintenance
- B. Recharging; and
- C. High Pressure and Low Pressure Hydrostatic Testing

Section 294-14. License required; provisions of other legislation not affected.

A. It is unlawful, except as permitted under Section 294-16 of this law, to install or service portable fire extinguishers and automatic fire extinguishing systems, or to be employed by the owner or operator of a facility registered under section 294-18 of this law as an installer or servicer in Suffolk County, or to represent or advertise that a person intends to or is engaged in the Installation or Servicing of Portable Fire Extinguishers or Automatic Fire Extinguishing Systems, without obtaining a License from the Commissioner in accordance with, and subject to, the provisions of this law.

B. A License issued pursuant to this law does not authorize the performance of any work which is reserved to qualified individuals under separate provisions of state, federal, or local law.

C. Liability for damage. This law does not confer any immunity from liability upon any License holder for any loss of life or damage to person or property. The County of Suffolk is not to be deemed to have assumed any liability by reason of its issuance of a License.

Section 294-15. Registered facility required.

Portable Fire Extinguishers and Automatic Fire Extinguishing Systems shall be serviced at a Registered Facility except that a Clean Agent Automatic Fire Extinguishing System may be serviced at the location of its installation by a License holder.

Section 294-16. Exempted Operations.

The provisions of this law do not apply to employees of or individuals acting on behalf of any federal, state, or local government or any agencies thereof.

Section 294-17. License application procedure; information required; qualifications; issuance and display of License.

A. All applications for a License shall be submitted in writing on forms furnished by the Department, signed by the applicant under oath, and accompanied by a nonrefundable application fee in the amount of \$100.00.

B. Applications shall contain all information and supporting data concerning qualifications as the Commissioner may prescribe.

C. The applicant may be required to appear before the Board at such time and place as may be designated by the Board to enable the Board to determine the accuracy of the facts set forth in the initial or renewal written application.

D. An applicant must be at least 18 years of age, of good character, and financially responsible. No individual shall be entitled to a License if the applicant has been convicted in this state or elsewhere of a felony, or a crime with a New York State felony equivalent, unless he or she has received an executive pardon. Valid certificates of relief from disabilities or good conduct from the appropriate parole board to remove the disability under this section because of such conviction will be considered.

E. An applicant who has successfully completed the application process must be employed by, or be the owner of, a Registered Facility before a license will be issued to him or her.

F. An applicant must take and pass written and practical qualification examinations prepared and administered by the Department evidencing competency in the Servicing and Installation of Portable Fire Extinguishers and Automatic Fire Extinguishing Systems.

G. An applicant shall submit an original manufacturer's certification for any particular system for which he/she has been so certified to Service and/or Install and/or a certificate of training acceptable to the Board for Portable Fire Extinguisher Servicing.

H. An applicant shall meet such further qualifications as may be prescribed by rules and regulations issued by the Commissioner or the Board.

I. Upon the authorization of the Board, the Commissioner shall issue a License to each applicant who has submitted satisfactory evidence of qualifications and who has complied with all of the requirements of this article and the rules and regulations of the Commissioner or the Board.

J. No applicant for a License or License renewal shall have any unsatisfied judgment from which there is no appeal made, or available further appeal for child support against him or her, or be in arrears in child support payments as determined by official court records or official government records, at the time an application is filed for such License or License renewal. If an applicant has such a judgment against him or her, or is in such arrears, but is current in payments on a judicially approved, or Child Support Enforcement Bureau-sanctioned payment schedule to pay off or reduce such judgment or arrears, then such individual shall be eligible for a License or License renewal.

K. All applications shall include a representation by the applicant that he or she is making all required payroll tax payments for his or her employees, including Social Security taxes, Medicare taxes, and state and federal unemployment taxes. If such representation is not made, a License will not be issued. The applicant's failure to make required payroll tax payments during the term of his or her License or Certificate of Registration, as determined by the Commissioner after an investigation by the Suffolk County Department of Labor or based upon a finding of a federal or state court, administrative law judge, hearing officer, or agency of competent jurisdiction, shall constitute grounds for the imposition of a fine or the suspension or revocation of a License or the denial of an application for the renewal of a License, in accordance with the applicable provisions of this law.

L. A License holder shall conspicuously display his or her License at his or her place(s) of employment at all times, and shall carry with him or her, at all times, the License Identification Card issued to him or her for display, upon request, at any time while performing work for which a License is necessary. The display of a License, or License Identification Card whose term has expired is prohibited.

M. A License holder shall notify the Department in writing, in a manner and form prescribed by the Department, within seven days, of a change of residence or business address. A failure to provide such notification shall result in suspension of the License until such suspension has been vacated by the Department.

Section 294-18. Registration of Places of Business and facilities used in connection with Servicing or Installing Portable Fire Extinguishers and Automatic Fire Extinguishing Systems.

A. Except as authorized in Section 294-15 and 294-16, no building, facility, or other place or location may be used as a Place of Business unless it is first inspected by the Department and a Certificate of Registration is issued.

B. Except as permitted under Section 294-16, no person shall Install or Service, or allow the Installing or Servicing of Portable Fire Extinguishers or Automatic Fire Extinguishing Systems, or represent, advertise, or otherwise hold oneself out as engaged or intending to engage in the Installation or Servicing of Portable Fire Extinguishers or Automatic Fire Extinguishing Systems, except at a Registered Facility.

C. The Department may conduct inspections, during reasonable hours, of a Registered Facility and the records required to be maintained on the premises under this law or rules and regulations of the Commissioner or the Board throughout the period of registration to ensure compliance with the requirements of this law.

D. Liability for damage. This article does not confer any immunity from liability upon any holder of a Certificate of Registration for any loss of life or damage to person or property. The County of Suffolk is not to be deemed to have assumed any liability by reason of the issuance of a Certificate of Registration.

Section 294-19. Application Procedure for Registered Facilities; information required; qualifications; issuance and display of Certificate of Registration.

A. An application for Registered Facility designation shall be submitted in writing on forms furnished by the Department, signed under oath by a natural person or corporate officer or member of an applicant and shall set forth:

1. Name and address of applicant; if an individual, the residence address of the individual and the name under which he/she intends to conduct business; if a co-partnership or limited liability company, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation, the name of the corporation and the name and residence address of each of the officers and stockholders.
2. The business(es) or occupation(s) engaged in by the applicant, or, if a copartnership, by each member thereof, or, if a limited liability company, by each member thereof, or, if a corporation, by each officer thereof for the two year period immediately preceding the date of the application, setting forth the addresses where such business or occupation was engaged in and the name or names of the employers, if any.
3. The place, or places, including the complete address(es), where the Servicing or Installation is to be conducted.
4. A federal tax identification number and/or New York State sales tax identification number, as applicable.
5. A representation by the applicant that he or she or it is making all required payroll tax payments for his or her or its employees, including Social Security taxes, Medicare taxes, and state and federal unemployment taxes. If such representation is not made, a Certificate of Registration will not be issued. The applicant's failure to make required payroll tax payments during the term of his or her or its Certificate of Registration, as determined by the Commissioner after an investigation by the Suffolk County Department of Labor or based upon a finding of a federal or state court, administrative law judge, hearing officer, or agency of competent jurisdiction, shall constitute grounds for the imposition of a fine or the suspension or revocation of a Certificate of Registration or the denial of an application for the renewal of a Certificate of Registration, in accordance with the applicable provisions of this law.

6. All other information as is prescribed under Rules and Regulations promulgated by the Commissioner and/or the Board.

B. The applicant is required to appear at such time and place, in the Board's discretion, as may be designated by the Board, to enable the Board to make a determination of the accuracy of the facts set forth in the written initial or renewal application.

C. An applicant who is a natural person must be at least 18 years of age, of good character, and financially responsible.

D. No Person shall be entitled to a Certificate of Registration if he or she, or a corporate officer or member of any other type of business entity, has been convicted in this state or elsewhere of a felony, or a crime with a New York State felony equivalent, unless he/she has received an executive pardon. Valid certificates of relief from disabilities or good conduct from the appropriate parole board to remove the disability under this section because of such conviction will be considered.

E. Each applicant and each member or each officer of a business entity must possess trustworthiness and good character necessary to transact business in a competent manner that safeguards the public.

F. A Registered Facility shall have adequate space and proper facilities to retain and safeguard all records and documents required to be maintained upon the premises by the rules and regulations promulgated by the Commissioner or the Board.

G. A Place of Business for which an application for a Certificate of Registration is made shall be subject to a visual inspection, which may include the taking of photographs.

H. A Place of Business for which an application for a Certificate of Registration is made must possess a valid certificate of occupancy or other certificate issued by the local municipality having jurisdiction, and the use as a Registered Facility must be a permitted use by the municipality having zoning jurisdiction over the premises.

I. Fees. Every initial and renewal application for registration shall be accompanied by a non-refundable application fee of \$200.00. An additional inspection fee of \$350.00 will be payable at the time of application for any inspection of a premises that is located outside of the County of Suffolk.

J. Upon the authorization of the Board, the Commissioner shall issue a Certificate of Registration to each applicant who has submitted satisfactory evidence of qualifications and who has complied with all the requirements of this article and the rules and regulations of the Commissioner or the Board.

K. A Certificate of Registration issued under this section may be renewed upon application therefor in such form as may be prescribed.

L. An application may be made for a Certificate of Registration issued in the name of an individual to be assigned or transferred for the remainder of the registration period to a partnership, corporation or other entity, provided that the individual holding such certificate is a general partner of such partnership, the owner of not less than 25% of the outstanding

voting shares of such corporation or the holder of not less than a 25% interest in any other type of business entity accompanied by evidence satisfactory to the Commissioner that the requirements of the relationships described above have been satisfied. Such assignment or transfer may be granted in the discretion of the Commissioner. No assignment or transfer shall become effective until proper endorsement evidencing said transfer or assignment has been made on the face of the registration by the Commissioner and such registration certificate, so endorsed, has been returned to the assignee or transferee. All such endorsements shall require the payment of a fee of \$ 50.00. Every other holder of a certificate of registration shall within seven days of a change in its ownership, control or management, notify the Department in writing of such change and apply for a new certificate of registration.

M. A Certificate of Registration issued pursuant to this chapter shall be conspicuously posted in each place of business.

Section 294-20. Term of Licenses and Registration Certificates of Registration; renewal: conditions; display required.

A. A License or Certificate of Registration shall be valid for two (2) years from the date of issuance thereof and shall expire on the last day of the 24th month following such issuance. Subsequent renewals shall be for periods of two (2) years. A non-refundable application fee of \$50.00 is payable at the time of submission of a renewal application. A registered facility is subject to a visual re-inspection prior to issuance of a renewal Certificate of Registration.

B. The fee for a License, and for each renewal of License, shall be four hundred (\$400.00) dollars. The fee for a Certificate of Registration, and for each renewal of a Certificate of Registration, shall be eight hundred (\$800.00) dollars. The fees are payable after approval of an application and prior to issuance of the License, Renewal License, Certificate of Registration or Renewal Certificate of Registration.

C. Failure to make application and pay the required annual fee for renewal of a License or Certificate of Registration prior to the expiration date shall render the License or Certificate of Registration null and void on the expiration date and require the License holder or Certificate of Registration holder to submit a new application for an original License or Certificate of Registration. Compliance with the provisions of this law shall entitle the License or Certificate of Registration holder to renewal, provided such License or Certificate of Registration has not been suspended or revoked by the Commissioner prior to the expiration date.

D. The death of an individual License holder or Certificate of Registration holder shall terminate such License or Certificate of Registration.

E. A License may not be assigned or transferred. A Certificate of Registration may not be assigned or transferred except as provided in Section 294-19 (K).

F. A License or Certificate of Registration shall be conspicuously posted in the Registered Facility; and a License in the place(s) of employment of a License holder.

G. A License holder is not permitted to authorize or allow the use of his/her License by or on behalf of any other Person.

H. All advertising by a License or Certificate of Registration holder shall include a Suffolk County Department of Fire, Rescue and Emergency Services License and Registration number.

Section 294-21. Duplicate and supplementary License and Certificate of Registration.

A. A duplicate License or Certificate of Registration may be issued by the Department for a License or Certificate of Registration which has been lost, destroyed, or mutilated, upon application therefor on a form prescribed by the Commissioner and the payment of a Twenty Dollar (\$20.00) fee. Each such duplicate License or Certificate of Registration shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaces.

B. A License holder shall request from the Department a supplementary License for each of his/her places of employment within the County of Suffolk upon application therefor on a form prescribed by the Commissioner and the payment of a Twenty Dollar (\$20.00) fee. Each such supplementary License shall have the word "supplementary" stamped across the face thereof, shall bear the same number as the original and shall be conspicuously posted in each additional place of employment.

Section 294-22. Licensing Board.

A. Board creation; purpose. There shall be a five (5) member Board known as the Portable Fire Extinguishing and Automatic Fire Extinguishing Systems Licensing Board. The Board shall be under the general supervision of the Department. Said Board shall evaluate the fitness of an applicant for a License to Install or Service Portable Fire Extinguishers and Automatic Fire Extinguishing Systems and an applicant for a Certificate of Registration, and shall investigate and report to the Commissioner on all proposed suspensions or revocations of Licenses and Certificates of Registration as hereinafter provided. Said Board shall be composed of:

- i. The designee of the Commissioner, who shall serve as Chair of the Board,
- ii. The Suffolk County Chief Fire Marshal,
- iii. One (1) representative nominated by the Fire Marshal's Association of Suffolk County and confirmed and appointed by the Commissioner; and
- iv. Two (2) representatives nominated by the National Association of Fire Equipment Distributors (NAFED) and confirmed and appointed by the Commissioner.

B. The three appointed members of the Board shall each serve for a four-year term, and may be removed by the Board only for cause.

C. Compensation. No members of the Board shall be compensated for performing the duties of said Board. Reasonable and necessary expenses incurred by a member carrying out the duties defined herein shall be reimbursable by the County of Suffolk.

D. Powers and duties. The Board shall have the following powers and duties:

1. To hold meetings at regular times and places for the efficient discharge of the responsibilities and duties of the Board.

2. To make rules for the conduct of its meetings and to keep a minute book of its proceedings, including a record of its examinations and other official actions.
3. To examine and evaluate the qualifications and fitness of applicants for Licenses and Certificates of Registration under this Article.
4. To make recommendations to and authorize the Commissioner to issue a License or Certificate of Registration authorizing the Installation or Service of Portable Fire Extinguishers and Automatic Fire Extinguishing Systems.
5. To conduct meetings and, after a hearing at which all interested parties are afforded a sufficient opportunity to be heard, submit recommendations to the Commissioner relating to the suspension, revocation, or non-renewal for cause of a License or Certificate of Registration authorizing the Installation and Service of Portable Fire Extinguishers and Automatic Fire Extinguishing Systems. Such hearing shall be on at least seven business days' notice to the holder of the License or Certificate of Registration. Such notice shall be served either personally or by certified mail, return receipt requested, to the last known address of the holder of the License or Place of Business of the holder of the Certificate of Registration and shall state the date and place of the hearing as well as enumerate the grounds constituting the allegations against the holder of the License or Certificate of registration. The holder of the License or Certificate of Registration may be represented by counsel and may produce witnesses in its behalf. A record of the hearing shall be taken and preserved.
6. To prepare, amend, and repeal a manual of rules and regulations in consultation with the Commissioner and in compliance with this law relating to any of the provisions of this article and necessary for the proper administration and enforcement of the provisions of this article. The Commissioner is also empowered to promulgate rules and regulations not inconsistent with the provisions of this law and necessary for the proper administration and enforcement of this law. Regulations promulgated pursuant to this subdivision shall be filed in the Office of the Clerk of the Suffolk County legislature.
7. In its discretion, to formulate, and from time to time amend or repeal, a code of rules and regulations governing the Installation and Servicing of Portable Fire Extinguishers and Automatic Fire Extinguishing Systems, including the materials, workmanship, and manner of executing such work. Before making such rules and regulations, the Board may confer and meet with representatives of the industry, and shall hold a public hearing on the proposed rules and regulations. Reasonable prior notice of the time and place of such hearing shall be given by publication in the official newspapers of the County. Rules and regulations promulgated pursuant to this subdivision shall be filed in the Office of the Suffolk County Clerk.

Section 294-23. Requirements for Registered Facilities.

A. All Registered Facilities shall at all times be equipped with and maintain the following:

1. CO2 receiver or cascade system for proper filling of CO2 extinguishers;
2. Adequate hydrostatic test equipment for low-pressure cylinders;
3. Approved drying method for low-pressure cylinders after hydrostatic testing;
4. Adequate safety cage for hydrostatic testing of low-pressure cylinders;
5. Proper wrenches with non-serrated jaws or valve puller, hydraulic or electric;
6. Adequate inspection light for internal inspection;
7. Labels containing the information described in Section 294-17(B) and (C);
8. Appropriate weighing scales for extinguisher inspection and filling and sealed by the Suffolk County Department of Consumer Affairs;
9. Appropriate weighing scales for cartridge inspection and filling and sealed by the Suffolk County Department of Consumer Affairs;
10. Adequate vise for shop use;
11. Facilities for proper storage and adequate supply of extinguishing agents;
12. Equipment for leak testing of pressurized extinguishers;
13. Commercial dry nitrogen supply (-60° F or 51.1° C dew point or less) and regulated pressure gauges and pressure regulator with supply and regulated pressure gauges suitable for pressurizing extinguisher cylinders;
14. Adapters, fittings, and sufficient tools and equipment for the proper installation, servicing and recharging of all portable fire extinguishers and automatic fire extinguishing systems;
15. Adequate closed recovery system and storage to remove and store chemicals from cylinders during servicing;
16. Adequate inventory of spare parts;
17. Manufacturers' service and maintenance manuals;
18. Material Safety Data Sheets shall be available for all extinguishing agents as necessary; and
19. Training records and copies of licenses of employees installing and servicing portable fire extinguishers and/or installing and servicing fixed extinguishing systems shall be made available to the Fire Marshal;
20. United States Department of Transportation (DOT) approved hydrostatic test equipment for pressure testing and calibration of cylinders;
21. Adequate equipment for stamping of test date on appropriate cylinders (operating pressure over 500 psi - 34.45 bars). Dye stamps must be a minimum of 1/4 inch (6.35 mm); and
22. Approved drying methods for cylinders after hydrostatic test.

B. Exceptions:

- i. In lieu of maintaining items 1, 20, 21 and 22 in subdivision (A) of this section, a Registered Facility may have a written agreement with another Registered Facility to perform and meet its High Pressure Hydrostatic Testing needs, provided the agreement is approved by the Board and remains in full force and effect throughout the term of registration of the Registered Facility using the services of another Registered Facility.
- ii. Upon a request made by a Registered Facility and approved by the Board, a Registered Facility that only performs Clean Agent system Installation and Servicing may be permitted to maintain only the equipment required to be consistent with manufacturer requirements for Installation and Servicing Clean Agent systems.

Section 294-24. Servicing Standards and Procedures for Portable Fire Extinguishers and Automatic Fire Extinguishing Systems.

In order to maintain a License or a Certificate of Registration, the following standards and procedures shall be followed:

A. Fire and Performance Standards.

1. Installation and Service may only be performed on a portable fire extinguisher or an automatic fire extinguishing system that is listed and labeled and meets or exceeds all of the requirements of the fire test standards and performance standards referenced in the appropriate NFPA standards referred to in subparagraph 3 of this section.
2. The identification of the listing and labeling organization and the fire test and performance standard that the extinguisher meets or exceeds shall be clearly marked on each extinguisher, with the exception of extinguishers manufactured prior to January 1, 1986.
3. The selection, installation, inspection, and servicing of portable fire extinguishers shall be as specified in NFPA 10 and the applicable section(s) of the Fire Prevention and Building Code of the State of New York.
4. The selection, installation, inspection and servicing of automatic fire extinguishing systems shall be as specified in NFPA 12, 12A, 17, 17A, and 2001 and the applicable section(s) of the Fire Prevention and Building Code of the State of New York.

B. Record Tags and Labels.

1. New record tags shall be attached to each portable fire extinguisher and automatic fire extinguishing system in accordance with the applicable NFPA standard when put into service and each time Service is performed. The following information shall be recorded on a record tag:

- a) Name and License number of individual who performed servicing;
 - b) Serial number of cylinder;
 - c) Statement of the type of Service performed;
 - d) Statement of the type of portable fire extinguisher involved;
 - e) Statement of the month and year that the service was performed;
 - f) The words "DO NOT REMOVE;" and
 - g) The name, address, phone number, and Certificate of Registration number of the Registered Facility.
2. Each six (6) year maintenance shall be recorded on a record label consisting of a metallic decal, which shall be affixed on the exterior of the cylinder and which shall self destruct when removal is attempted. Any six (6) year maintenance label previously attached to a cylinder shall be removed prior to affixing a new label. The label shall contain the following information:
 - a) The year and month that the six (6) year maintenance was performed;
 - b) The name, address, phone number, and Certificate of Registration number of the Registered Facility performing the maintenance; and
 - c) The initials and license number of the license holder performing the maintenance.
 3. When a low-pressure hydrostatic test is performed, it shall be recorded on a record label consisting of a metallic decal which shall be affixed on the exterior of the cylinder. Any Low Pressure Hydrostatic test labels previously attached to a cylinder shall be removed prior to affixing a new label. The record label shall contain the following information:
 - a) The year and month the test was performed;
 - b) The test pressure;
 - c) The name, address, phone number, and Certificate of Registration number of the Registered Facility; and
 - d) The initials and License number of the License holder performing the testing.

C. Verification of Service Collar.

1. Each extinguisher that has undergone maintenance that includes internal examination, or that has been recharged, shall have a "Verification of Service" collar located around the neck of the cylinder.
2. The collar shall consist of a single circular piece of uninterrupted material forming a hole of a size that will not permit the collar assembly to move over the neck of the cylinder unless the valve has been completely removed.

3. The collar shall not interfere with the operation of the extinguisher.
4. The collar shall include the month and year of the service performed, indicated by a perforation such as is done by a hand punch.
5. The collar shall include the name and Certificate of Registration number of the Registered Facility.

E. Failure to comply with the requirements of this Section shall be grounds for License or Certificate of Registration revocation, suspension or non-renewal.

Section 294-25. Effect on validity of contracts.

A contract entered into one year after the effective date of this local law to Install or Service Portable Fire Extinguishers and Automatic Fire Extinguishing Systems by a Person who, on the date of the contract, does not possess a valid License or Certificate of Registration is unenforceable by him/her or it and voidable at the option of any other party to the contract. Nothing contained herein shall be construed to prevent any other party to the contract from enforcing its terms.

Section 294-26. Suspension, revocation and refusal to issue or renew a License or Certificate of Registration;

A. Grounds

It is a violation of this article, and shall also constitute additional grounds for denial of an application of any Person for a License or Certificate of Registration under this section, and the Commissioner may suspend a License or Certificate of Registration for such period of time as the Commissioner deems proper, or revoke a Certificate of Registration or License issued under this section, or refuse to issue a renewal thereof if he/she determines that such Person, License holder or holder of a Certificate of Registration, or any officer, director, stockholder, member or partner, or any other person directly or indirectly interested in an entity which holds a Certificate of Registration:

1. Has made a material false statement in his or its application or has committed fraud, deceit, misrepresentation or bribery in securing a License or Certificate of Registration; or
2. Has committed fraud or fraudulent practices, or has practiced dishonest or misleading advertising; or
3. Has failed to comply with any of the provisions of this law, or Chapter 249 of this Code, or the rules and regulations of the Commissioner or Board; or
4. Has been convicted of any crime involving dishonesty or deceit; or
5. Was the former holder of a License, or was an officer, director, stockholder, or partner in a corporation, partnership or limited liability company which was the former holder of a Certificate of Registration, which was suspended or revoked by the Commissioner; or
6. Has demonstrated untrustworthiness or incompetence in the Installation or Servicing of portable fire extinguishers or automatic fire extinguishing systems; or
7. Is financially irresponsible or not of good moral character.

B. Whenever a License or Certificate of Registration is revoked by the Commissioner, the holder of the License or Certificate of Registration shall be ineligible to apply

to be re-licensed or re-certified for one (1) year from the date of the revocation, unless otherwise provided in an order of the Commissioner.

Section 294-27. Judicial Review.

The final determination of the Commissioner in granting or refusing to grant or to renew a License or Certificate of Registration, or in revoking or suspending a License or Certificate of Registration, shall be subject to review by a proceeding brought pursuant to article seventy-eight of the New York Civil Practice Law and Rules.

Section 294-28. Penalties for offenses; injunctive relief.

A. Any person who shall Install or Service or shall hold himself out as authorized to Install or Service Portable Fire Extinguishers or Automatic Fire Extinguishing Systems without obtaining a License, and/or a Certificate of Registration as required by this article, or any person whose License or Certificate of Registration has lapsed, been suspended or revoked, and who shall continue to Install or Service Portable Fire Extinguishers or Automatic Fire Extinguishing Systems, or any person who shall violate any other provision of this article shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Each such violation shall be deemed a separate offense.

B. A violation of any provision of this article or of any rule or regulation promulgated hereunder is also subject to and shall be punishable, upon proof thereof, by the payment of a civil penalty not to exceed \$5,000.00 for each violation, to be recovered in a civil action.

C. The County Attorney, upon the request of the Commissioner, may commence an action on behalf of the County for a restraining order, temporary or permanent injunction, or other equitable relief to restrain, prevent and enjoin a violation of this article or any rule or regulation promulgated hereunder.

Section 294-29. Enforcement.

The Department and Fire Marshal shall enforce this law. A fire marshal shall be authorized to serve official notices of violation of this law.

Section 5. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 6. 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 7. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 8. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED: March 23, 2010

APPROVED BY:

/s/ Steve Levy
County Executive of Suffolk County

Date: April 13, 2010

After a public hearing duly held on April 6, 2010
Filed with the Secretary of State on April 28, 2010