

TOWN OF NORTH CASTLE  
Local Law # 20 For the Year 2006  
(Adopted November 15, 2006)

A local law to amend various sections of Chapter A216 (Subdivision of Land) of the Town Code to bring those sections into conformity with New York State Town Law.

Be It Enacted by the Town Board of the Town of North Castle as follows :

**Section 1.** Replace Section A216-15.C of the Town Code with the following:

- C. Receipt. A preliminary plat shall not be considered complete until all of the requirements of Subsections A and B have been met and a negative declaration has been filed or a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the state environmental quality review act. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

**Section 2.** Replace Section A216-15.F of the Town Code with the following:

F. Public hearing.

(1) If Planning Board is Lead Agency:

The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearing the Planning Board may schedule pursuant to the state environmental quality review act as follows:

- a) If such board determines that the preparation of an environmental impacts statement on the preliminary plat is not required, the public hearing on such plat shall be held within sixty-two days after the receipt of a complete preliminary plat by the Planning Board Secretary; or
- b) If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft environmental impact statement in accordance with the

provision of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within sixty-two days of filing the notice of completion.

- (2) If Planning Board is not Lead Agency:

The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement or if no public hearing is held on the draft environmental impact statement, the Planning Board shall hold the public hearing on the preliminary plat within sixty-two days after the receipt of a complete preliminary plat by the Planning Board Secretary.

**Section 3.** Replace Section A216-15.G of the Town Code with the following:

G. Public hearing notice.

- (1) Notice of the public hearing shall be advertised at least once in the official town newspaper(s) at least five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith and all property owners of record within a distance of 500 feet from the boundary of the property proposed to be subdivided (200 feet when measured completely within the R-10, R-5 and R-2F Districts) shall be mailed by registered or certified mail copies of such notice. All such return receipts shall be presented to the office of the Planning Board along with a separate typewritten list of all required recipients prior to the date of the public hearing. The notice of public hearing shall bear the signed approval of the Planning Board Secretary and shall be maintained as part of the town's records of the proposed subdivision.
- (2) The Planning Board Secretary shall be responsible for publication in official town newspaper(s) and shall mail to all other required recipients a copy of the public hearing notice.
- (3) If the application includes a draft environmental impact statement, then the applicant shall be required to mail said document to all required recipients by registered or certified mail, return receipt requested. All such return receipts shall be presented to the office of the Planning Board along with a separate typewritten list of all required recipients prior to the date of the

public hearing. The notice of public hearing shall bear the signed approval of the Planning Board Secretary and shall be maintained as part of the town's records of the proposed subdivision.

- (4) The hearing on the preliminary plat shall be closed upon motion of the planning board within one hundred twenty days after it has been opened.

**Section 4.** Replace Section A216-15.J of the Town Code with the following:

J. Planning Board action.

- (1) If the Planning Board is Lead Agency:

The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:

- a) If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required such board shall make its decision within sixty-two days after the close of the public hearing; or
- b) If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the preliminary plat. Within thirty days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.

- (2) If the Planning Board is not Lead Agency:

The Planning Board shall by resolution approve with or without modification or disapprove the preliminary plat as follows:

- a) If the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the preliminary plat.

- b) If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the preliminary plat within sixty-two days after the close of the public hearing on such preliminary plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer.
- (3) Certification and filing of preliminary plat. Within five business days of the adoption of the resolution granting approval of such preliminary plat, such plat shall be certified by the Planning Board Secretary as having been granted preliminary approval and a copy of the plat and resolution shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner.
  - (4) Filing of decision on preliminary plat. Within five business days from the date of the adoption of the resolution stating the decision of the board on the preliminary plat, the chairman or other duly authorized member of the planning board shall cause a copy of such resolution to be filed in the office of the town clerk.

**Section 5.** Replace Section A216-16.C of the Town Code with the following:

C. Public Hearing

- (1) When Planning Board is Lead Agency:

The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearing the Planning Board may schedule pursuant to the state environmental quality review act as follows:

- a) If such board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat, or on a final plat when no preliminary plat is required to be submitted, shall be held within sixty-two days after the receipt of a complete final plat by the Planning Board Secretary; or
- b) If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impacts

statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provision of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within sixty-two days following filing of the notice of completion.

- (2) When Planning Board is not Lead Agency:

The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impacts statement. Failing such agreement or in no public hearing is held on the draft environmental impact statement, the Planning Board shall hold the public hearing on the final plat within sixty-two days after the receipt of a complete final plat by the Planning Board Secretary.

**Section 6.** Replace Section A216-16.E of the Town Code with the following:

E. Public hearing notice.

- (1) When the Planning Board is Lead Agency:

The hearing on the final plat shall be advertised at least once in the official town newspaper(s) at last five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith and all property owners of record within a distance of 500 feet from the boundary of the property proposed to be subdivided (200 feet where measured completely within R-10, R-5 and R-2F Zones) shall be mailed copies of such notice.

- (2) When the Planning Board is not Lead Agency:

The hearing on the final plat shall be advertised at least once in the official town newspaper(s) at last five days before such hearing if held independently of the hearing on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith and all property owners of record within a distance of 500 feet from the boundary of the property proposed to be subdivided (200 feet where measured completely within R-10, R-5 and R-2F Zones) shall be mailed copies of such notice.

- (3) If the proposed subdivision involves a new street connecting directly into any state or county highway, parkway, thruway or road or involves drainage lines connecting directly into any channel lines established by the County Commissioner of Public Works under the Westchester County Stream Control Act, a notice of the public hearing shall be mailed to the County Planning Board at least 10 days prior to the date of the hearing. If the land to be subdivided is within 500 feet of any abutting municipality in the county, a notice of the public hearing shall be mailed to the Clerk of such abutting municipality at least 10 days prior to the date of the hearing.
- (4) The applicant shall be responsible for the publication notice in the official town newspaper and shall mail to all other required recipients a copy of the public hearing notice by registered or certified mail, return receipt requested. All such return receipts shall be returned to the office of the Planning Board Secretary, who shall also receive from the applicant a separate typewritten list of all such required recipients at least 12 days prior to the date of the public hearing. The notice of the public hearing shall bear the signed approval of the applicant or the applicant's appointed representative and shall be maintained as part of the town records for the proposed subdivision. Following approval of the public hearing notice text, the Planning Board Secretary shall be responsible for publication in the official town newspaper.
- (5) The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

**Section 7.** Replace Section A216-16.F of the Town Code with the following:

F. Planning Board action.

- (1) When the Planning Board is Lead Agency:
  - a) If such board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by resolution conditional approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within sixty-two days after the date of the public hearing; or
  - b) If such board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of such public

hearing in accordance with the provisions of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the final plat. Within thirty days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

- c) The time in which the Planning Board must take action on such proposed subdivision plat may be extended by mutual consent of the owner and the Planning Board.

(2) When the Planning Board is not Lead Agency:

The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat as follows:

- a) If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the final plat.
- b) If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the final plat within sixty-two days after the close of the public hearing on such final plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board.

**Section 8.** Replace Section A216-16.K of the Town Code with the following:

- K. The owner shall file in the office of the county clerk or register such approved final plat or a section of such plat within sixty-two days from the date of final

approval or such approval shall expire. The following shall constitute final approval: the signature of the duly authorized officer of the planning board constituting final approval by the planning board of a plat as herein provided; or the approval by such board of the development of a plat or plats already filed in the office of the county clerk or register of the county in which such plat or plats are located if such plats are entirely or partially undeveloped; or the certificate of the town clerk as to the date of the submission of the final plat and the failure of the planning board to take action within the time herein provided. In the event the owner shall file only a section of such approved plat in the office of the county clerk or register, the entire approved plat shall be filed within thirty days of the filing of such section with the town clerk in each town in which any portion of the land described in the plat is situated. Such section shall encompass at least ten percent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of subdivision two of section two hundred sixty-five-a of NYS Town Law.

**Section 9.** Replace the first paragraph of Section A216-17 of the Town Code with the following:

§ A216-17. Completion of improvements or filing of bond.

After adoption of a resolution approving a final subdivision plat and before the plat is endorsed by the Planning Board Chairman or other duly authorized member, the applicant shall be required to complete, at his expense and without reimbursement by the town or any special district, all street and other improvements as shown on the approved construction plans or otherwise specified in the resolution and to dedicate same to the Town of North Castle free and clear of all liens and encumbrances on the property and public improvements thus dedicated. The Planning Board, at its discretion, may waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the subdivision plat and permit the applicant to post a bond or other security sufficient to cover the full cost of the same at the time of application for final subdivision approval in an amount estimated by the Planning Board as sufficient to secure to the town the satisfactory construction, installation and dedication of the incompleting portion of required improvements. Any such security must be provided pursuant to a written security agreement with the town, approved by the town board and also approved by the town attorney as to form, sufficiency and manner of execution, and shall be limited to: (i) a performance bond issued by a bonding or surety company; (ii) the deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this state; (iii) an irrevocable letter of credit from a bank located and authorized to do business in this state; (iv) obligations of the United States of America; or

(v) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the town, such security shall be held in a town account at a bank or trust company. Such bond shall state the period within which the required improvements must be completed, which period shall not exceed three years, however, the term of such performance bond or security agreement may be extended by the Planning Board with consent of the parties thereto.. All improvements shall be completed to the satisfaction of the Town Engineer and approved by the Planning Board, in accordance with the approved construction plans and the requirements of these regulations and the town construction standards and specifications.

**Section 10.** Replace Section A216-17.B(2) of the Town Code with the following:

- (2) Reduction of bond. An applicant may request, in writing, that the Planning Board recommend to the Town Board the reduction in the amount of the bond. Such request shall itemize the extent of required improvements already completed, the estimated cost of improvements remaining to be completed and the amount of bond reduction requested. Then, upon approval of the Planning Board the Town Board may, if it determines that sufficient required improvements have been installed to warrant such action, reduce the face amount of the bond by an appropriate amount so that the new amount will cover the cost in full of all required improvements remaining to be completed, and any security deposited with the bond may be reduced proportionately. In no case shall a performance bond be reduced below 25% of the principal amount.

**Section 11.** Replace Section A216-19.A of the Town Code with the following:

- A. Offers of cession. All streets, highways or parks shown on a filed or recorded plat are offered for dedication to the public unless the owner of the affected land, or the owner's agent, makes a notation on the plat to the contrary prior to final plat approval. Any street, highway or park shown on a filed or recorded plat shall be deemed to be private until such time as it has been formally accepted by a resolution of the local legislative body, or until it has been condemned by the town for use as a public street, highway or park. In accordance with § 279 of the Town Law, the applicant may add as part of the plat a notation, if he so desires, to the effect that no offer of dedication of such streets or parks, or any of them, is made to the public. All offers of cession to the public of all streets and parks not so marked shall be filed with the Planning Board at the time of submission of the final application.

**Section 12.** Replace Section A216-19.D of the Town Code with the following:

- D. Maintenance for dedicated improvements. At the time of dedication of any required improvements and in order to guarantee maintenance of such improvements, the Town Board shall require the applicant to deliver a sum of money equal to 15% of total construction costs of all required improvements, which shall be held in an escrow account for a period not exceeding three years. One month prior to the end of such period, the Town Engineer shall inspect all such required improvements and prior to the release of such maintenance account make a report to the Town Board regarding the condition of the dedicated improvements.

**Section 13.** Replace Section A216-20 of the Town Code with the following:

§ A216-20. Waiver of required improvements.

The planning board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

**Section 14.** Replace Section A216-24.A of the Town Code with the following:

- A. Location, width, grade and improvement. Streets and highways shall be of sufficient width and suitable grade and shall be suitably located to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection, and to provide access of firefighting equipment to buildings, to facilitate police protection, snow-removal and other utility and road maintenance equipment. If there be an official map, town comprehensive plan or functional/master plans, such streets and highways shall be coordinated so as to compose a convenient system conforming to the official map and properly related to the proposals shown in the comprehensive plan of the town.

**Section 15.** Replace Section A216-27.A of the Town Code with the following:

- A. Reservation of parkland on subdivision plats containing residential units.
- (1) General standards.

- a) Before the planning board may approve a subdivision plat containing residential units, such subdivision plat shall also show, when required by such board, a park or parks suitably located for playground or other recreational purposes.
  - b) Land for park, playground or other recreational purposes may not be required until the planning board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population growth to which the particular subdivision plat will contribute.
- (2) Minimum size.
- (a) Areas for parks shall be of reasonable size for neighborhood playgrounds or other recreational uses. In general, not less than 10% of the area of the subdivision shall be set aside for these purposes.
  - (b) In general, sites reserved for recreational purposes shall have an area of at least one acre. The Planning Board may require the location of such areas along the boundary of a subdivision so that additional land may be added at such time as the adjacent property is subdivided.
- (3) Ownership of park area. The ownership of reservations for park purposes shall be clearly indicated on the plat and established in a manner satisfactory to the Planning Board and Town Attorney so as to assure their proper future continuation and maintenance.
- (4) Cash payment in lieu of reservation. In the event the planning board makes a finding that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such subdivision plat, the planning board may require a sum of money in lieu thereof, in an amount as required in Section A216-35 of the Town Code. In making such determination of suitability, the board shall assess the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether

there is a need for additional facilities in the immediate neighborhood. Any monies required by the planning board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the town exclusively for park, playground or other recreational purposes, including the acquisition of property.

**Section 16.** Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

**Section 17.** Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

**Section 18.** Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Dated: \_\_\_\_\_, 2006