

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
December 19, 2007

Councilman Kittredge called the meeting to order at 7:30 p.m. and the following persons were present:

Councilmen	Rebecca A. Kittredge Gerald K. Geist William H. McClure William R. Weaver
Town Clerk	Ann Leber
Town Counsel	Roland A. Baroni

Supervisor Berman was absent recovering from bi-lateral knee replacement.

Councilman Geist moved, seconded by Councilman McClure, approval of the minutes of the December 5, 2007 regular meeting and the December 11, 2007 special meeting.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure

Noes: None.

Abstentions: Councilman Weaver for the December 5 minutes.

The minutes of the Public Hearing which commenced at 7:40 p.m. follow at the end of these minutes.

Councilman Kittredge presented a plaque to Eagle Scout Matthew Reiter and thanked him for his Eagle project which consisted of clearing and extending a trail in North Castle Community Park.

Councilman Kittredge made the following announcements:

Supervisor Berman is recovering from knee surgery and expects to be back at work on January 2. Residents were advised of the holiday sanitation schedule pick up dates.

The Town Board unanimously adopted the 2008 budget at a special meeting on December 11. The County's Mobile Shredder will be in the Town Hall parking lot on Saturday, February 9 from 9 a.m. to 3:00 p.m. At its last visit on December 15, 77 residents provided 3.25 tons of material for shredding.

Also on February 9, the County will be holding an E-Waste Drop Off Day in the Town Hall parking lot from 9 a.m. to 3 p.m. Computer monitors, printers, towers and accessories, fax machines, telephones, cell phones, small appliances (toasters, blenders, radios, lamps) will be accepted.

Westchester County has asked us to remind residents not to put leaves, brush or grass clippings in the garbage. Please compost organic waste as much as possible.

The Town Board will be considering filling vacancies on various boards and committees.

Residents interested in serving should complete the volunteer service application form.

Dr. Michael Klemens will present the North Castle Biodiversity Study Plan at the January 9 Town Board meeting.

Upon the recommendation of Police Chief Robert D'Angelo, the Town Board took the following actions with regard to Police Department staff:

Councilman Geist moved, seconded by Councilman McClure, that Police Officer Pasquale DeBenedictis be given the title of Detective effective January 5, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

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Councilman Geist moved, seconded by Councilman McClure, the probationary appointments of Donald W. Ahrenberg and Joseph R. Gaglione to the position of Police Officer, effective January 5, 2008, at the budgeted annual salary.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Councilman Geist moved, seconded by Councilman Weaver, acceptance with regret of the resignation of Fred Coughlin from the Highway Department, effective December 28, 2007.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Upon the recommendation of General Foreman Craig Useted, the Town Board took the following actions with regard to Highway Department staff:

Councilman Geist moved, seconded by Councilman McClure, the promotion of Matthew Harisch to Automotive Mechanic, Step 1, effective January 1, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Councilman Geist moved, seconded by Councilman Weaver, the appointment of Alexander Farquhar to the position of Motor Equipment Operator, Step 1, effective January 1, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Councilman Geist moved, seconded by Councilman Weaver, the promotions of Ken Gaska and Marc DiFiore to the position of Motor Equipment Operator, Step 1, effective January 1, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Upon the recommendation of Superintendent Anthony Futia, Stearns and Wheler's request for Payment No. 5 in the amount of \$20,199.85 to RLJ Electric for the wastewater treatment plant project was tabled on the duly adopted motion of Councilman Geist.

Upon the recommendation of Stearns & Wheler, Councilman Geist moved, seconded by Councilman Weaver, authorization for Payments No. 7 and 8 in the amounts of \$1,900 and \$9,025 to Carey & Walsh, Inc., in connection with the wastewater treatment plant project.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Landmarks Preservation Committee Chairman Nicholas Cerullo reporting on the actions taken at the LPC's December 8 meeting, including the approval of a Certificate of Appropriateness for the Armonk Square project.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

With respect to the Quarry Heights sewer project grant, Councilman Geist moved, seconded by Councilman Weaver, receipt of a copy of cover letters from Supervisor Berman to the USEPA

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and also copies of the following documents which were forwarded to that agency: Signed copies of the EPA Affirmation of Award for the grant extension for the period October 1, 2005 through December 31, 2010 and signed copies of EPA Form 5700-52A for the period October 1, 2005 through September 30, 2007.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Councilman Geist moved, seconded by Councilman Weaver, approval of the request of General Foreman Useted for the release of highway bonds in the amount of \$500, to Joel Greenspan, Permit #533 and Jim's Lawn Design, Permit #559; and further moved the release of a \$1,500 cash bond to Mark Unger in connection with plantings on his property at 30 Thornewood Road.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from County Executive Andrew Spano regarding the Suburban Workforce Housing for Economic Sustainability Act and an analysis of that letter from Director of Planning Adam Kaufman. Mr. Kaufman was asked to respond to Mr. Spano and communicate the reservations and concerns of the Town Board as enumerated in Mr. Kaufman's letter. It was also suggested that County Legislator-Elect John Nonna be apprised of these issues.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

In connection with the Rolling Hills Subdivision, Lots 1, 2 and 3, owned by Gifford Lake Estates, LLC, Councilman Geist moved, seconded by Councilman Weaver, acceptance of the recommendation of Kellard Sessions Consulting, P.C., and Director of Planning Kaufman requiring the submission of a \$254,540 bond to ensure the completion of the common driveways and for the construction of the stormwater management system. The inspection fees for the work are set at \$12,727. The developer will submit a paper bond subject to the Town Attorney's approval, or alternatively, a cash bond. Receipt of the bonds will be ratified at the Town Board meeting following their submission.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Director of Planning Kaufman informing the Board that all five Planning Board members have completed their mandated 2007 training pursuant to Section 30-3 of the North Castle Town Code.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

Councilman Weaver moved, seconded by Councilman Geist, receipt of a letter from Director of Planning Kaufman responding to Mr. Pighini's complaints at the last Town Board meeting with regard to the Planning Board's consideration of his subdivision application for 34 General Heath Avenue, which was submitted in July 2007. Mr. Kaufman explained that it was the shortcomings of the applicant which caused the delays, as well as his attorney's request to be removed from the July 23 agenda.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None

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Councilman Geist moved, seconded by Councilman Weaver, receipt of letters from Tax Receiver Patricia Colombo and authorization to pay Certiorari Consent Judgments for Timber Ridge Family Center for tax years 2004 through 2006, in the amount of \$6,038.35; and 200 Business Park Associates LLC, for tax years 1999 through 2006, in the amount of \$21, 085.33.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a memo from Assessor Anna Maria Marrone informing the Board that the new coordinates and section, block and lot numbers have been entered into her office's software for GIS purposes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Cablevision announcing the deletion of Telemundo Puerto Rico from its service effective January 1, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a memo from Finance Director Donovan containing a mortgage tax update. After receipt of the second half payment, the revenue from this source is \$1,598,348.47, which is \$1,651.53 below estimate.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a memo from Finance Director Donovan and authorization for her to process budget transfers prior to Town Board approval during year end processing. The Board will consider approval of the transfers at a subsequent meeting.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of the Results of Canvass of ballots cast at annual elections of the fire districts as follows:

North Castle South Fire District No. 1	- John Soloman - 5 year term as Fire Commissioner
	Theodore Gerster - 2 year term as Fire Commissioner
	John Conte - 2 year term as Fire Commissioner
Armonk Fire District No. 2	- Michael Giaccio - 5 year term as Fire Commissioner
	William DeLotto - 1 year term as Fire Commissioner

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, receipt of an e-mail from Asad Jilani recommending the Town Board form a "Display Committee," involving all faiths, for the Winter Walk.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None

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Councilman Geist moved, seconded by Councilman Weaver, receipt of the Statement of Canvass from the Westchester County Board of Elections with regard to the Town of North Castle for the November 6, 2007 General Elections.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

Councilman Geis moved, seconded by Councilman Weaver, receipt of a letter from John Heimerdinger, chairman of the Ad Hoc Sprinkler Advisory Committee, recommending that North Castle adopt an ordinance similar to the one approved in New Castle. The committee also urged the Board, subject to an economic impact evaluation, to adopt some sort of incentive for residents who sprinkler their residences.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

After thanking Councilman Kittredge and Deputy Town Clerk Anne Curran for their efforts in organizing the events to celebrate the Byram Hills Boys Soccer Team's achievement in winning the State Championship, Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from the team members and their families thanking the Board for its support.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, authorization for the Town's Attorneys to execute the Stipulation and Consent Order in the matter of L.S. Associates, Inc., Index No. 16543/03 et al.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

Upon the recommendation of Superintendent Anthony Futia, Councilman Geist moved, seconded by Councilman Weaver, that the bid for sludge hauling be awarded to Russell Reid Waste Hauling and Disposal Services Co., Inc., the low bidder, for a price of 0.1247 cents per gallon, effective January 1, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Verizon Communications, Inc., regarding cost and service changes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor be authorized to make the budget transfers that follow at the end of these minutes

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a Workers Compensation Report on Michael Lombardi, Highway Department.

The roll call vote was as follows:

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Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, authorization for the Supervisor to sign an amendment to the 2009 – 2010 Municipal Snow and Ice Agreement Extension with the New York State Department of Transportation.

The roll call vote was as follows:
Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None

Councilman Geist moved, seconded by Councilman Weaver, authorization for Councilman Kittredge to sign NYSDOT Supplemental Agreement No. 5 in connection with Route 120 and 22, Exits 2 and 3 on 1-684, project.

The roll call vote was as follows:
Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None

Councilman Geist moved, seconded by Councilman Weaver, that Councilman Kittredge be authorized to sign the agreement with SPCA of Westchester, Inc., for shelter services in 2008. The SPCA will be paid the sum of \$390.46 monthly unless the contract is terminated with 30 days notice before the end of the year.

The roll call vote was as follows:
Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that Councilman Kittredge be authorized to sign the Network Support Contract renewal with Sullivan Data Management for 2008 in the sum of \$27,000.

The roll call vote was as follows:
Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Pursuant to the determination of Westchester County Department of Human Resources, Councilman Geist moved, seconded by Councilman Weaver, that Amelia DeFeo's title be reclassified to Senior Office Assistant – Automated Systems, Group 8, effective January 1, 2008.

The roll call vote was as follows:
Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Pursuant to the request of Assessor Marrone, Councilman Geist moved, seconded by Councilman Weaver, that Assessment Tax/Aide Mercedes Rogers be appointed to the title of Appraisal Technician, Group 8, effective January 1, 2008. Ms. Rogers has taken and passed the appropriate examination.

The roll call vote was as follows:
Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a memo from Assessor Marrone, informing the Board that she would like to hire a part time employee to replace Cathy Brady, who retired. Ms. Marrone would like to hire a certified appraiser to work two days a week (14 hours) at the rate of \$25 per hour.

The roll call vote was as follows:
Ayes: Councilmen Kittredge, Geist, McClure and Weaver
Noes: None.

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Councilman Geist moved, seconded by Councilman Weaver, permission for Herta Smorol to carry over a total of three weeks vacation to 2008 and for Diane Kopenhaver to carry over a total of 67.5 hours vacation to 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Supt. Futia regarding termination of his W-4 agreement. Councilman Geist informed Mr. Futia that the town attorney is working on this and the delay was caused by the attorney retained to research the matter.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure and Weaver

Noes: None.

As Councilman McClure chose not to run for re-election this year and announced his retirement, his fellow councilmen, Town Clerk Leber and Town Attorney Baroni took this opportunity to speak of their association with Mr. McClure over his long tenure with the Town, first over 20 years as a Police Officer, Police Sergeant and Youth Officer, and then an additional 20 years as a Councilman. They spoke of his kindness, humility, principles and honesty; his help as a role model; and his common sense approach to government. Everyone congratulated Councilman McClure and thanked him for his long and distinguished record of public service.

Councilman McClure said it has been an honor and a privilege to serve the Town and to work with the members of the Town Board. Remarking that this is a fine example of how government can work, he praised the department heads, consultants and volunteers on boards and committees, all of which he credited with being the backbone of the Town.

The Town Board audited and approved payments totaling \$1,382,971.76 as indicated on Warrant #22.

After all persons were heard who desired to be heard, Councilman Kittredge closed the meeting at 8:20 p.m. in memory of George "Petey" Anderson, John "Jackie" Lombardi, and John DeLago.

Ann Leber, Town Clerk

Dated: January 4, 2008

PUBLIC HEARING

December 19, 2007

At 7:40 p.m. Deputy Supervisor Kittredge stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on December 19, 2007 at 7:30 p.m., or as soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering Adoption of a new Stormwater Management, Erosion and Sediment Control Law and Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law of the Town of North Castle consistent with the New York State model law.

By Order of the North Castle Town Board
Ann Leber, Town Clerk

Dated: November 20, 2007
Armonk, New York

The Public Notice read by the Town Clerk was marked Exhibit "A" for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit "B" for the record.

The Affidavit of Publication from The Journal News calling the Public Hearing was marked Exhibit "C" for the record.

Director of Planning Adam Kaufman explained that the language for the proposed law comes from the NYS model law and the Town is not required to do anything different than it has been. The town engineer is currently managing our compliance with the NYS law which will be codified with the adoption of the local law. Town Attorney Baroni said that the local law must be adopted by January 8, 2008.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Geist moved, seconded by Councilman Weaver, that the Public Hearing be closed at 7:42 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure, Weaver

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure, Weaver

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, adoption of Local Law 22 of the year 2007 to replace Town Code Chapter 101 entitled Stormwater Management, Erosion and Sediment Control Law and Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law.

The Local Law follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, McClure, Weaver

Noes: None.

Ann Leber, Town Clerk

TOWN OF NORTH CASTLE

Local Law No. 22 For the Year 2007

(Adopted December 19, 2007)

A Local Law to adopt a new Stormwater Management, Erosion and Sediment Control Law
And Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law.

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

Section 1. Replace the entire Chapter 101 with the following new Chapter.

Chapter 101, EROSION AND SEDIMENT CONTROL

§ 101-1. Title; repealer.

This chapter shall be known and cited as the "Stormwater Management, Erosion and Sediment Control Law and Illicit Discharges, Activities and Connections to Separate Storm Sewer System of the Town of North Castle."

§ 101-2. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of North Castle has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of North Castle and for the protection and enhancement of its physical environment. The Town Board of North Castle may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 101-3. Findings; purpose; Applicability; Exemptions

A. Findings. The Town Board of the Town of North Castle hereby finds that:

- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- (8) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- (9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

B. Purpose. The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact identified in Section 101-3 of the Town Code. This Chapter seeks to meet those purposes by achieving the following objectives:

- (1) Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02 or as amended or revised;
- (2) Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
- (3) Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (4) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- (5) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- (6) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

C. Applicability.

- (1) This local law shall be applicable to all land development activities as defined in Section 101-4.B of the Town Code.
- (2) The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of North Castle, engage the services of a registered professional engineer to review the plans, specifications and related documents
- (3) All land development activities subject to review and approval by the (applicable board of the Town of North Castle) under (subdivision, site plan, and/or special permit) regulations shall be reviewed subject to the standards contained in this local law
- (4) All land development activities not subject to review as stated in Section 101-3.C(3) of the Town Code shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

D. Exemptions.

- (1) Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- (2) Any part of a subdivision if a plat for the subdivision has been approved by the Town of North Castle on or before the effective date of this law.

- (3) Land development activities for which a building permit has been approved on or before the effective date of this law.
- (4) Cemetery graves.
- (5) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- (6) Emergency activity immediately necessary to protect life, property or natural resources.
- (7) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- (8) Landscaping and horticultural activities in connection with an existing structure.

§ 101-4. Definitions and word usage.

- A. Unless specifically defined below, words and phrases used in this chapter shall be interpreted to have the meaning they have in common English usage, to give effect to the purpose set forth in § 101-3B and to provide reasonable application of this chapter.
- B. As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL ACTIVITY -- the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT -- a property owner or agent of a property owner who has filed an application for a land development activity.

BEST MANAGEMENT PRACTICES (BMPS) -- schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BUILDING -- any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CHANNEL -- a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEAN WATER ACT -- the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CLEARING -- any activity that removes the vegetative surface cover.

CONSTRUCTION ACTIVITY -- activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEDICATION -- the deliberate appropriation of property by its owner for general public use.

DEPARTMENT -- the New York State Department of Environmental Conservation

DESIGN MANUAL -- the New York State Stormwater Management Design Manual, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER -- a person who undertakes land development activities.

EROSION CONTROL MANUAL -- the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book".

GRADING -- excavation or fill of material, including the resulting conditions thereof.

HAZARDOUS MATERIALS -- Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

IMPERVIOUS COVER -- those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

INDUSTRIAL STORMWATER PERMIT -- a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

ILLCIT CONNECTIONS -- any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to: 1. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or 2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLCIT DISCHARGE -- any direct or indirect non-stormwater discharge to the MS4, except as exempted in 101-9.D of the Town Code.

INDUSTRIAL ACTIVITY -- activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

INFILTRATION -- the process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND -- an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

LAND DEVELOPMENT ACTIVITY -- construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than 5,000 square feet.

LANDOWNER -- the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT -- a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION -- pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

MS4 -- Municipal Separate Storm Sewer System.

MUNICIPAL SEPARATE STORM SEWER SYSTEM -- a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by the Town of North Castle ;
2. Designed or used for collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2

MUNICIPALITY -- the Town of North Castle

NON-STORMWATER DISCHARGE -- any discharge to the MS4 that is not composed entirely of stormwater.

PERSON -- any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

PHASING -- clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT -- dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

POLLUTANT OF CONCERN -- sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PREMISES -- any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

PROJECT -- land development activity

RECHARGE -- the replenishment of underground water reserves.

SEDIMENT CONTROL -- measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS -- cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 -- a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 -- a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards

SPECIAL CONDITIONS -- 1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards. 2. 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water. 3. Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2007, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved. 4. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STABILIZATION -- the use of practices that prevent exposed soil from eroding.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT -- a permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

STOP WORK ORDER -- an order issued which requires that all construction activity on a site be stopped.

STORMWATER -- rainwater, surface runoff, snowmelt and drainage

STORMWATER HOTSPOT -- a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT -- the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY -- one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER (SMO) -- an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. In addition, the SMO enforces the prohibition of illicit discharges, activities and connections to Separate Storm Sewer System.

STORMWATER MANAGEMENT PRACTICES (SMPS) -- measures, either structural or nonstructural, that are determined to be the most effective, practical means of

preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) -- a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF -- flow on the surface of the ground, resulting from precipitation

SURFACE WATERS OF THE STATE OF NEW YORK -- lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

303(D) LIST -- a list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TMDL -- Total Maximum Daily Load.

TOTAL MAXIMUM DAILY LOAD -- the maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

WASTEWATER -- water that is not stormwater, is contaminated with pollutants and is or will be discarded.

WATERCOURSE -- a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY -- a channel that directs surface runoff to a watercourse or to the public storm drain.

§ 101-5. Stormwater Pollution Prevention Plans

A. Stormwater Pollution Prevention Plan Requirement.

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

B. Contents of Stormwater Pollution Prevention Plans

(1) All SWPPPs shall provide the following background information and erosion and sediment controls:

- i. Background information about the scope of the project, including location, type and size of project.
- ii. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed;

- existing vegetation; on-site and adjacent offsite surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
- iii. Description of the soil(s) present at the site;
 - iv. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless a greater amount is determined necessary pursuant to an approved SWPPP.
 - v. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - vi. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;
 - vii. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
 - viii. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - ix. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - x. Temporary practices that will be converted to permanent control measures;
 - xi. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - xii. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - xiii. Name(s) of the receiving water(s);
 - xiv. Delineation of SWPPP implementation responsibilities for each part of the site;
 - xv. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - xvi. Any existing data that describes the stormwater runoff at the site.
 - xvii. Post construction stowmwater controls to the satisfaction of the Town Engineer for disturbances not meeting Condition "A", "B" or "C" in Section 101-5.B(2) of the Town Code.

- (2) Land development activities as defined in Section 101-4.B of the Town Code and meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 101-5(B)(3) below as applicable:

Condition A - Stormwater runoff from land development activities disturbing more than one (1) acre and discharging a pollutant of concern to either an impaired water identified on the Department’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

- (3) SWPPP Requirements for Condition A, B and C:

- i. All information in Section 101-5.B(1) of the Town Code of this local law;
- ii. Description of each post-construction stormwater management practice;
- iii. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
- iv. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- v. Comparison of post-development stormwater runoff conditions with pre-development conditions;
- vi. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- vii. Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
- viii. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
- ix. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with 101-7 of the Town Code;
- x. For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

C. Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

D. Contractor Certification

- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity : “I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards.”
 - (2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
 - (3) The certification statement(s) shall become part of the SWPPP for the land development activity.
- E. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 101-6. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land development activities shall be subject to the following performance and design criteria:

A. Technical Standards

For the purpose of this Chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this Chapter:

- (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)
- (2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

B. Equivalence to Technical Standards

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Section 101-6.A of the Town Code and the SWPPP shall be prepared by a licensed professional.

C. Water Quality Standards

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

§ 101-7. Maintenance, Inspection and Repair of Stormwater Facilities

A. Maintenance and Inspection During Construction

- (1) The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this Chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

- (2) For land development activities as defined in Section 101-4.B of the Town Code and meeting Condition A, B or C in Section 101-5.B(2) of the Town Code, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.
- (3) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

B. Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of North Castle to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the North Castle Town Attorney.

C. Maintenance after Construction

The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- (2) Written procedures for operation and maintenance and training new maintenance personnel.
- (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 101-6.C of the Town Code.

D. Maintenance Agreements.

The Town of North Castle shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of The Town of North Castle Stormwater Control Facility Maintenance Agreement on file with the Town Attorney. The Town of North Castle, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 101-8. Administration and Enforcement

A. Construction Inspection

- (1) Erosion and Sediment Control Inspection.

The Town of North Castle Stormwater Management Officer may require such inspections as necessary to determine compliance with Chapter 101 of the Town Code and may either approve that portion of the work completed or notify the

applicant wherein the work fails to comply with the requirements of Chapter 101 of the Town Code and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of North Castle Building Department at least 48 hours before any of the following as required by the Stormwater Management Officer:

- i. Start of construction
- ii. Installation of sediment and erosion control measures
- iii. Completion of site clearing
- iv. Completion of rough grading
- v. Completion of final grading
- vi. Close of the construction season
- vii. Completion of final landscaping
- viii. Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further land development activity shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

(2) Stormwater Management Practice Inspections.

The Town of North Castle Stormwater Management Officer, is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(3) Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

(4) Submission of Reports

The Town of North Castle Stormwater Management Officer may require monitoring and reporting from entities subject to Chapter 101 of the Town Code as are necessary to determine compliance with Chapter 101 of the Town Code.

(5) Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of North Castle the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section 101-8.A(3) of the Town Code.

B. Performance Guarantee

(1) Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of North Castle in its approval of the Stormwater Pollution Prevention Plan, the Town of North Castle may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of North Castle as the beneficiary. The security shall be in an amount to be determined by the Town of North Castle based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of North Castle, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of North Castle. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

(2) Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of North Castle with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of North Castle may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

(3) Recordkeeping

The Town of North Castle may require entities subject to Chapter 101 of the Town Code to maintain records demonstrating compliance with Chapter 101 of the Town Code.

C. Enforcement and Penalties.

(1) Notice of Violation.

When the Town of North Castle determines that a land development activity is not being carried out in accordance with the requirements of Chapter 101 of the Town Code, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- i. the name and address of the landowner, developer or applicant;
- ii. the address when available or a description of the building, structure or land upon which the violation is occurring;

- iii. a statement specifying the nature of the violation;
- iv. a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- v. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- vi. a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

(2) Stop Work Orders

The Town of North Castle may issue a stop work order for violations of Chapter 101 of the Town Code. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of North Castle confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in Chapter 101 of the Town Code.

(3) Violations

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

(4) Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(5) Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may prevent the occupancy of said building or land.

(6) Restoration of Lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of North Castle may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

D. Fees for Services

The Town of North Castle may require any person undertaking land development activities regulated by Chapter 101 of the Town Code to pay reasonable costs at prevailing rates for review of SWPPPs, inspection, or SMP maintenance performed by the Town of North Castle or performed by a third party for the Town of North Castle.

§ 101-9. Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System

A. The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the Town of North Castle through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this Section are:

- (1) To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- (3) To prohibit Illicit Connections, Activities and Discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- (5) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

B. Applicability

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

C. Responsibility for Administration

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of Section 101-9 of the Town Code. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

D. Discharge Prohibitions.

- (1) Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 101-9.D(1)(i) of the Town Code. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

- i. The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.
- ii. Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.
- iii. Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
- iv. The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

(2) Prohibition of Illicit Connections.

- i. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- ii. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- iii. A person is considered to be in violation of Section 101-9 of the Town Code if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

E. Prohibition Against Activities Contaminating Stormwater.

- (1) Activities that are subject to the requirement of this section are those types of activities that:
 - i. Cause or contribute to a violation of the municipality's MS4 SPDES permit.
 - ii. Cause or contribute to the municipality being subject to the Special Conditions as defined in Section 101-4 of the Town Code.
- (2) Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he

or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

F. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

(1) Best Management Practices

Where the SMO has identified illicit discharges as defined in Section 101-4 of the Town Code or activities contaminating stormwater as defined in Section 8 the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.

- i. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
- ii. Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 101-4 of the Town Code or an activity contaminating stormwater as defined in Section 101-9.E of the Town Code, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
- iii. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

G. Suspension of Access to MS4. Illicit Discharges in Emergency Situations.

- (1) The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

H. Industrial or Construction Activity Discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.

I. Access and Monitoring of Discharges.

- (1) Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of Section 101-9 of the Town Code, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of Section 101-9 of the Town Code.
- (2) Access to Facilities.
 - i. The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with Section 101-9 of the Town Code. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
 - ii. Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement Section 101-9 of the Town Code.
 - iii. The Town shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - iv. The Town has the right to require the facilities subject to Section 101-9 of the Town Code to install monitoring equipment as is reasonably necessary to determine compliance with Section 101-9 of the Town Code. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
 - v. Unreasonable delays in allowing the Town access to a facility subject to this law is a violation of Section 101-9 of the Town Code. A person who is the operator of a facility subject to Section 101-9 of the Town Code commits an offense if the person denies the Town reasonable access to the facility for the purpose of conducting any activity authorized or required by Section 101-9 of the Town Code.
 - vi. If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of Section 101-9 of the Town Code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with Section 101-9 of the Town Code or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

J. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Town in person or by telephone or facsimile no later than the next business day. Notifications in person or

by telephone shall be confirmed by written notice addressed and mailed to the Town within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

K. Enforcement.

(1) Notice of Violation.

When the Town's SMO finds that a person has violated a prohibition or failed to meet a requirement of Section 101-9 of the Town Code, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- i. The elimination of illicit connections or discharges;
- ii. That violating discharges, practices, or operations shall cease and desist;
- iii. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- iv. The performance of monitoring, analyses, and reporting;
- v. Payment of a fine; and
- vi. The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(2) Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of Section 101-9 of the Town Code shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

L. Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

M. Corrective Measures After Appeal.

- (1) If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- (2) If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

N. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of Section 101-9 of the Town Code. If a person has violated or continues to violate the provisions of Section 101-9 of the Town Code, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

O. Alternative Remedies.

- (1) Where a person has violated a provision of Section 101-9 of the Town Code, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Town Attorney and concurrence of the Town Building Inspector, where:
 - i. The violation was unintentional
 - ii. The violator has no history of previous violations of Section 101-9 of the Town Code.
 - iii. Environmental damage was minimal.
 - iv. Violator acted quickly to remedy violation.
 - v. Violator cooperated in investigation and resolution.
- (2) Alternative remedies may consist of one or more of the following:
 - i. Attendance at compliance workshops
 - ii. Storm drain stenciling or storm drain marking
 - iii. River, stream or creek cleanup activities

P. Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of Section 101-9 of the Town Code is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Q. Remedies Not Exclusive.

The remedies listed in Section 101-9 of the Town Code are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Section 2. Create the following new Section A216-31.1 in proper numerical order:

Section A216-31.1. Stormwater Pollution Prevention.

A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 101 of the Town Code shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 101 of the Town Code. The approved Preliminary Subdivision Plat shall be consistent with the provisions of Chapter 101 of the Town Code.

Section 3. Create the following new Section A216-33.1 in proper numerical order:

Section A216-33.1. Stormwater Pollution Prevention

A Stormwater Pollution Prevention Plan consistent with the requirements of Chapter 101 of the Town Code and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 101 of the Town Code. The approved Final Subdivision Plat shall be consistent with the provisions of Chapter 101 of the Town Code.

Section 4. Create the following new Section 213-39.1 in proper numerical order:

Section 213-39.1. Stormwater Pollution Prevention.

A Stormwater Pollution Prevention Plan consistent with the requirements of Chapter 101 of the Town Code shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 101 of the Town Code. The approved Site Plan shall be consistent with the provisions of Chapter 101 of the Town Code.

Section 5. Amend Section 105-1.B(4) of the Town Code as follows:

- (4) A Stormwater Pollution Prevention Plan (SWPPP) pursuant to Chapter 101 of the Town Code.

Section 6. Amend Section 213-17.C(3) of the Town Code as follows:

- (4) A Stormwater Pollution Prevention Plan (SWPPP) pursuant to Chapter 101 of the Town Code.

Section 7. 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 8. 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 9. Effective Date.

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

Dated: _____, 2007