

PUBLIC HEARING

November 4, 2015

At 9:00 p.m. Supervisor Schiliro 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 November 4, 2015, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY, 10504, for the purpose of considering a local law to provide for the codification of the local laws of the Town of North Castle into a Municipal Code to be designated the "Code of the Town of North Castle."

The local law is available in the Town Clerk's office during regular business hours and on the Town website www.northcastleny.com. ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

By Order of the Town Board
Anne Curran, Town Clerk

Dated: October 24, 2015
Armonk, NY

The Public Notice 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.

Proposed Code Adoption Local Law including Schedule A of Specific Revisions to the Code.

Town Clerk Anne Curran provided an overview of the Recodification Project, a two year project approved in November 2013 by the then Town Board. The Manuscript provided by General Code includes the 1987 Town Code. Since this time, the Code has been supplemented 57 times; and there have been about 25 laws adopted since the Code was last supplemented in 2012. While these laws appear in New Laws listing of Town Code, due to many changes to the Code including the adoption of a Master Fee Schedule by the Town Board in 2013, the laws have not been codified, and thereby have not been incorporated into chapters and sections.

Ms. Curran said the Recodification Project is a comprehensive review and updating of the Code. The scope of the Project included:

- research and editorial analysis by General Code to identify conflicts, inconsistencies and areas in need of updating and correction
- review of Legal and Editorial Analysis and sample legislation provided by General Code
- review of local laws of neighboring municipalities
- review and comment by Dept. Heads of specific chapters
- evaluation of the Town's experience - with code enforcement, applications for permits, changes needed to tighten and clarify the administration of Code requirements
- incorporation of revisions, deleting of obsolete chapters and overhauls of chapters as needed
- review and discussion of proposed changes at three public Town Board Work Sessions
- compilation of all proposed revisions by General Code

The following is a summary of the discussion by the Town Board regarding revisions, by Chapter, and comments provided by the public at the hearing.

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Chapter 146, Dogs.

Section 146-6. Dogs at large.

Subsection A.

Ed Lobermann, North White Plains, referred to the law as currently written which states that “any dog off its premises must at all times be under restraint”. Mr. Lobermann said the law does not require a dog to be leashed, and therefore becomes enforceable only after a person is injured by a dog. “Under Restraint” is defined in the Chapter as “secured by a leash or lead or well-controlled by a responsible person”. He said the law should be a leash law, not a “dog under control” law.

Subsection B.

Councilman DiGiacinto recommended that language be added to reference the Master Fee Schedule regarding the payment of the impoundment fee by the owner to obtain possession of dog found to be at large. The Board was in agreement.

Section 146.7. Other prohibited acts.

Subsection A.

Councilman DiGiacinto recommended that Section Chapter 210, Noise, Section 210-5.E., entitled Enumeration of violations, be revised to be consistent with the language in this section of the Dogs chapter. The Board was in agreement.

Following discussion, the Board agreed to add the language “Habitual is defined as” to this subsection as follows:

“Engage in habitual loud howling or barking so as to annoy any person other than the owner. *Habitual is defined as* howling or barking continually for 20 minutes or intermittently for 45 minutes shall constitute a violation of this section.”

Chapter 210, Noise.

Section 210-5. Enumeration of violations.

Subsection E.

As recommended by Councilman DiGiacinto, the language in this subsection was revised to be consistent with Section 146.6. Subsection A. of Chapter 146, Dogs and the language was revised as follows:

“Excessive animal noise which is unreasonably annoying, disturbing, offensive, or which unreasonably interferes with the comfortable enjoyment of life or property of one or more persons within reasonable proximity to the property where the animal(s) is kept. The noise shall be continuously audible for 20 minutes or intermittently audible for 45 minutes to be deemed excessive animal noise.” The Board agreed to delete the language “within a three-hour period”.

Subsection G.

With regard to the operation of power lawn mowers, rakes or leaf blowers, or other motor-driven or garden equipment, Supervisor Schiliro noted that the Board had previously reviewed at a Work Session the revision of hours permitted from 7:00 p.m. to 8:00 p.m. on Monday through Friday, and from 5:00 p.m. to 7:00 p.m. on Saturdays, Sundays and any federal holidays.

Section 210-8. Exemptions.

Councilman DiGiacinto recommended that the language “Refuse-collecting equipment duly licensed by the Town of North Castle shall also be exempt from the requirements of this chapter” be deleted. The Board was in agreement. Councilman DiGiacinto noted that Chapter 259, Solid Waste and Recycling, Section 259-15, Appeals; variances, Subsection B. (3) states that “No hauler shall commence work before 7:00 a.m. nor continue after 7:00 p.m.”.

Chapter 233, Peddling and Soliciting

Councilman DiGiacinto said after further consideration, she was in agreement with the view expressed by Supervisor Schiliro during a Work Session that a Do Not Knock Registry should not be added to the Peddling and Soliciting chapter. Ms. DiGiacinto said such a registry would require

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an owner to register their property address with the Town Clerk's Office. The reasons cited emphasized the difficulty in updating the registry when residents move.

Supervisor Schiliro said he was not in favor of the Do Not Knock Registry as this issue seems to regulate itself. Mr. Schiliro said it should be the responsibility of the resident who can post a sign to prohibit any peddler, solicitor or canvasser to enter their property; and the size and scope of the government should not be broadened.

Councilman D'Angelo agreed it is incumbent upon the resident and cited the provision in Subsection 233-14. D. of the chapter which provides for the posting of a sign.

All Board members were in agreement not to include a provision for a Do Not Knock Registry.

Residents Ed Lobermann and Susan Shimer commented during the hearing that the public should be given the information and opportunity it needs to review the proposed revisions to the Code and provide their comments for additional revisions which the Town Board may not have considered. They said the public hearing is the time when the public can provide comments; and they urged the Board to adjourn the hearing.

Referencing the three Work Sessions during which the Board reviewed the proposed revisions to the Code, Supervisor Schiliro said the process was transparent and the public was able to attend or view these meetings which are available on the Town website.

Councilman D'Angelo noted that the recent public hearing on a contentious issue regarding retaining walls was held over three meetings before the Town Board adopted the local law.

Town Clerk Curran said she is able to provide detailed information and copies of current and proposed laws regarding revisions being considered to specific chapters of the Code, if so requested.

Supervisor Schiliro said the public hearing could be adjourned if the Board was in agreement.

After all persons were heard who desired to be heard, Councilman Reiter moved, seconded by Councilman D'Angelo, that the Public Hearing be adjourned, to the November 18, 2015 meeting, at 10:12 p.m.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Mezzancello, Supervisor Schiliro

Noes: None

Anne Curran, Town Clerk

Dated: November 17, 2015