

## PUBLIC HEARING

April 29, 2020

At 8:36 p.m. Supervisor Schiliro stated that the Public Hearing, which would was opened and adjourned on March 11, 2020, reconvened and adjourned on April 15, 2020, would be reconvened in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a the Public Hearing on March 11, 2020, at 7:30 PM, or as soon thereafter as practical, at Town Hall, 15 Bedford Road, Armonk, NY 10504, to consider a Local Law regarding a Comprehensive Town Code Update to amend various Chapters of the Town Code to improve the administration of the Code by the Building Department.

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

By Order of the Town Board  
Alison Simon, Town Clerk

Dated: February 29, 2020  
Armonk, NY

The Town Clerk noted there was a Negative Declaration for consideration.

The Town Clerk noted there was a revised proposed Local Law for consideration.

The Town Clerk noted there was a Revised Master Fee Schedule for consideration.

Letter from Director of Planning Adam Kaufman, dated April 17, 2020, was marked Exhibit "I" for the record.

Email from Michael Fareri, dated April 27, 2020, was marked Exhibit "J" for the record.

The Supervisor said that, due to the Coronavirus (COVID-19) pandemic, people could participate in the Public Hearing by sending an email with questions and comments to the Town Clerk.

Town Clerk Alison Simon read aloud an email from Michael Fareri, dated April 27, 2020.

Director of Planning Adam Kaufman reviewed the three issues, as detailed in his letter, dated April 17, 2020, to be addressed prior to adoption of the local law:

Fence replacement. – Mr. Kaufman noted that it is recommended by the Building and Planning Departments to remove the following language from the proposed local law:

Replacement of 20% or less of existing fence shall not require a building permit.

The Board indicated that they were in agreement to remove this language.

Portable On-Demand Storage Structures. – Mr. Kaufman noted that the insurance requirements have been removed from the proposed local law.

Portable On-Demand Storage Structures. – Mr. Kaufman noted that the first draft of the proposed local law prohibited Portable On-Demand Storage Structures in the front yard, except for in a driveway. The proposed law has been revised to permit Portable On-Demand Storage Structures in the front yard when the Building Inspector determines that a hardship would occur. He noted that, the legislation, as drafted, does not provide the Building Inspector with any direction as how to evaluate when a hardship would occur which would most likely result in the Building Inspector granting the hardship provision whenever invoked by the Applicant. Mr. Kaufman recommended that the Board consider permitting pods in the front yard in certain zoning districts

Town Board Minutes  
April 29, 2020

with smaller lots. A discussion among the Board, Building Inspector Rob Melillo, and Mr. Kaufman followed. The Board agreed to amend the proposed law as follows:  
Location. Portable on-demand storage structures are prohibited from being placed in streets or in the front yards of a property, except for on a driveway; however, a portable on-demand storage structure in the front yard may be permitted in the R-5, R-2F and R-10 Zoning Districts. The applicant must obtain pre-approval of the storage structure location by the Town of North Castle Building Department.

After all persons were heard who desired to be heard, Councilman DiGiacinto moved, seconded by Councilman Reiter, that the Public Hearing be closed at 9:26 p.m.

The roll call vote was as follows:

Ayes: Councilmen DiGiacinto, Reiter, Berra, Hussain, Supervisor Schiliro

Noes: None

Councilman Berra moved, seconded by Councilman DiGiacinto 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 impacts and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

Ayes: Councilmen DiGiacinto, Reiter, Berra, Hussain, Supervisor Schiliro

Noes: None

Councilman Reiter moved, seconded by Councilman DiGiacinto, the adoption of Local Law 3 of 2020, as amended, regarding a Comprehensive Town Code Update to amend various Chapters of the Town Code to improve the administration of the Code by the Building Department. The Local Law follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen DiGiacinto, Reiter, Berra, Hussain, Supervisor Schiliro

Noes: None

Councilman DiGiacinto moved, seconded by Councilman Reiter, the adoption of the Revised Master Fee Schedule.

The roll call vote was as follows:

Ayes: Councilmen DiGiacinto, Reiter, Berra, Hussain, Supervisor Schiliro

Noes: None

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Alison Simon, Town Clerk

Dated: May 7, 2020

TOWN OF NORTH CASTLE

Local Law No. 3 for the Year 2020  
Adopted April 29, 2020

A Local Law regarding a Comprehensive Town Code Update to amend various Chapters of the Town Code to improve the administration of the Code by the Building Department.

Section 1. In the Alarms Chapter, amend Section 109-7 Penalties for offences as follows:

A. Any person who shall fail to comply with the state licensing requirements provided in Article 6-D of the General Business Law shall be guilty of a misdemeanor and, upon conviction, shall be punishable by imprisonment of not more than 15 days or by a fine of not more than \$1,000 per day, or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation.

B. The failure of any person to obey any provision of this chapter or to obey any order pursuant to this chapter of the licensing authority, Police Chief or his designee or the Town Board constitutes a violation punishable by a fine of up to \$1,000 per day per violation. Each day's continued violation shall constitute a separate additional violation.

C. Any person who shall intentionally tamper with, destroy or compromise any alarm or alarm device or equipment connected therewith, which alarm or alarm device is governed by the provisions of this chapter, shall be guilty of a Class A misdemeanor punishable by a fine of up to \$1,000 per day per violation or by imprisonment of not more than 15 days, or both. Each day's continued violation shall constitute a separate additional violation.

Section 2. In the Blasting and Explosives Chapter, amend Section 122-17 Enforcement; penalties for offenses as follows:

C. Any person or corporation violating any of the provisions of this chapter, upon conviction thereof, shall be punishable by a fine up to \$1,000 per day per violation or by imprisonment of not more than 15 days, or both. Each day's continued violation shall constitute a separate additional violation.

Section 3. In the Building Code Administration and Enforcement Chapter, amend Section 127-15 Enforcement; penalties for offenses as follows:

C. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Building Inspector pursuant to any provision of this chapter, shall be liable to a civil penalty of up to \$1,000 per day per violation or by imprisonment of not more than 15 days, or both. Each violation of this chapter shall be deemed a separate offense. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.

Section 4. In the Numbering of Buildings Chapter, amend Section 131-7 Penalties for offenses as follows:

Any person violating any of the provisions of this chapter shall, upon conviction, be punishable by a fine up to \$1,000 per day per violation or by imprisonment for a term not to exceed 15 days, or both. Each day's continued violation shall constitute a separate additional violation.

Section 5. In the Unsafe Buildings Chapter, amend Section 135-9 Penalties for offenses as follows:

Any person failing or neglecting to comply with the provisions of the report specified in § 135-6 for a period of 10 days after service of the report specified in said section shall be guilty of a violation punishable by a fine up to \$1,000 per day per violation, or by imprisonment for a term

not exceeding 15 days, or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation.

Section 6. In the Cabarets, Adult Entertainment and E-Cigarette Sales Chapter, amend Section 140-30 Penalties for offenses as follows:

Any person committing an offense against any provision of this chapter shall be guilty of a violation, punishable by a fine up to \$1,000 per day per violation or by imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate additional violation.

Section 7. In the Dogs Chapter, amend Section 146-8 Penalties for offenses as follows:

Any person committing a violation of any provision of this chapter other than a violation of § 146-4 shall be deemed guilty of an offense, punishable by a fine up to \$1,000 per day per violation or by imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate additional violation.

Section 8. In the Electrical Installations Chapter, amend Section 152-14 Violations and penalties as follows:

Any violations by a person, firm or corporation of any of the provisions of this chapter shall be and is hereby declared to be a violation and, upon conviction thereof, shall be subject to a penalty not exceeding \$1,000 per day per violation or imprisonment not exceeding 15 days, or both, for such offense. Each day or part thereof that such violation shall continue shall be deemed a separate and distinct violation of the provisions of this chapter. The application of the above penalty shall not prevent the use of the other enforcement provisions of this chapter.

Section 9. In the Filling and Grading Chapter, amend Section 161-6 Penalties for offenses; enforcement as follows:

A. Any person who violates this article, upon conviction thereof, shall be punishable by a fine up to \$1,000 per day per violation or by imprisonment for a term not to exceed 15 days or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation.

Section 10. In the Filming and Photography Chapter, amend Section 165-7 Penalties for offenses as follows:

A. Any person, persons, corporation, company, group or other entity who or which fails to obtain the permit required herein or otherwise violates any provision of this chapter shall be guilty of an offense, which shall be punishable by a fine of not more than \$1,000 per day per offense or by imprisonment not exceeding 15 days, or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation.

Section 11. In the Fireworks Chapter, amend Section 173-8 Penalties for offenses as follows:

B. Notwithstanding any conviction(s) for violation of state law, violation of this chapter shall constitute a violation of the Code of the Town of North Castle, subject to a civil penalty of up to \$1,000 per day per violation or by imprisonment for a term not to exceed 15 days, or both and revocation of any and all permits issued pursuant to this chapter. Each day's continued violation shall constitute a separate additional violation. Any such conviction will also be considered in determining whether future permits under this chapter should be issued to the same sponsor and/or operator.

Section 12. In the Flood Damage Prevention Chapter, amend Section 177-8 Penalties for offenses as follows:

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of

this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$1,000 per day per violation or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of North Castle from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

Section 13. In the Landmarks Preservation Chapter, amend Section 195-26 Penalties for offenses; additional remedies as follows:

A. Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$1,000 per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 14. In the Markets Chapter, amend Section 202-12 Penalties for offenses as follows:

Except as otherwise provided herein, any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$1,000 per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 15. In the Noise Chapter, amend Section 210-7 Penalties for offenses; juvenile violators as follows:

Any person violating any of the provisions of this chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be fined in an amount not exceeding \$1,000 per day per violation or be imprisoned for a period not exceeding 15 days, or by both such fine and imprisonment. In addition, any person violating any of the provisions of this chapter may be subject to judicial prohibition of the use of the specific noise-producing compressor, recreational vehicle, motor vehicle, paving breaker, sound-reproduction instrument or other device complained of for a period not to exceed 60 days. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any person under the age of 16 years who shall violate any of the provisions of this chapter shall be deemed to be a juvenile violator.

Section 16. In the Outdoor Dining Chapter, amend Section 218-9 Penalties for offenses as follows:

Any person who shall violate any of the provisions of this chapter shall be liable to prosecution in the Town Justice Court and shall, upon conviction thereof, be liable to a fine that shall not exceed \$1,000 per day per violation or be imprisoned for a period not exceeding 15 days, or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation. If a fine imposed pursuant to this section or resulting from the maintenance, use or operation of an outdoor dining area is not paid within five business days after the fine is imposed, except as otherwise ordered by the Court, the Town may immediately revoke the license for any such licensee.

Section 17. In the Parks and Public Lands Chapter, amend Section 229-4 Penalties for offenses as follows:

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$1,000 per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an

offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 18. In the Peddling and Soliciting Chapter, amend Section 233-25 Penalties for offenses as follows:

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$1,000 per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 19. In the Sewers Chapter, amend Section 250-3 Penalties for offenses as follows:

Any person, firm, corporation or association violating any rule or regulation of the said Sewer District No. 1 shall be subject to a civil penalty not exceeding \$1,000 per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 20. In the Sewers Chapter, amend Section 250-39 Penalties for offenses as follows:

B. Any person committing an offense against any rules and regulations of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 21. In the Sewers Chapter, amend Section 250-88 Penalties for offenses as follows:

B. Any person who shall continue any violation beyond the time limit provided for in Subsection A shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in the amount not exceeding \$1,000 for each violation per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment.. Each day in which any such violation shall continue shall be deemed a separate offense.

Section 22. In the Sewers Chapter, amend Section 250-138 Penalties for offenses as follows:

B. Any person who shall continue any violation beyond the time limit provided for in Subsection A shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in the amount not exceeding \$1,000 for each violation per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. Each day in which any such violation shall continue shall be deemed a separate offense.

Section 23. In the Private Sewer Systems Chapter, amend Section 254-5 Enforcement; penalties for offenses as follows:

B. If the violation is not remedied within 30 days, the owner shall be subject to a fine not to exceed \$1,000 for each violation per day per violation or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. Each day in which any such violation shall continue shall be deemed a separate offense.

Section 24. In the Solid Waste and Recycling Chapter, amend Section 259-12 penalties for unlawful conduct as follows:

Any person who violates this article, upon conviction thereof, shall be punishable by a fine up to \$1,000 per day per violation or by imprisonment for a term not to exceed 15 days. Each day's continued violation shall constitute a separate additional violation.

Section 25. In the Special Events Chapter, amend Section 263-8 penalties for offenses as follows:

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 26. In the Stormwater Management Chapter, amend Section 267-19 Enforcement as follows:

Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each days' continued violation shall constitute a separate additional violation.

Section 27. In the Streets and Sidewalks Chapter, amend Section 271-7 Penalties for offenses as follows:

Any person committing an offense against any provision of this Article II shall be guilty of a violation, punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 28. In the Tattooing Chapter, amend Section 284-3 Penalties for offenses as follows:

A violation of the provisions of this chapter shall be punishable by a fine not to exceed \$1,000 or imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each day in which any such violation shall continue shall be deemed a separate offense.

Section 29. In the Trees Chapter, amend Section 308-10 Penalties for offenses as follows:

Any person who violates this article, upon conviction thereof, shall be punishable by a fine up to \$1,000 per day per violation or by imprisonment for a term not to exceed 15 days or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation.

Section 30. In the Trees Chapter, amend Section 308-25 Penalties for offenses as follows:

A. The owner of record of any property on which trees subject to this article are removed without the granting of a tree removal permit or are removed in violation of conditions attached to a tree removal permit, or any person removing or in the process of removing such trees, shall be guilty of an offense, which may be punishable by a fine of not more than \$1,000, by imprisonment for not more than 15 days, by a direction or order to restore the property and to replace removed trees by comparable trees according to a plan approved by the approving authority, or by all of the above. Each tree removed without a tree removal permit or in violation of the conditions attached to a tree removal permit shall constitute a separate offense.

B. In addition to the penalties outlined in Subsection A above, the Town shall not issue a building permit, any other permit, any temporary certificate of occupancy, certificate of occupancy or variance for any property for which a violation of this article has been served until said violation is dismissed or resolved to the satisfaction of the approving authority or court, as is appropriate.

C. In addition to the penalties outlined in Subsection A above, trees removed without a permit shall be subject to a tree replacement plan approved by the Planning Board.

- (1) Tree replacement shall occur on-site, except where the Planning Board determines that, because of site constraints, it is impracticable or impossible to do so.
- (2) The total aggregate diameter of trees removed shall be replaced with new trees totaling the same aggregate diameter of trees removed.
- (3) Tree replacement plans shall incorporate a variety of tree species. Exceptions to this requirement may be authorized by the Planning Board, when site specific conditions may warrant such a change. Replanted trees shall be ecologically compatible with the site and neighboring properties. Replanted trees shall be of the same or similar species as those removed when practical. Invasive trees shall not be allowed under any circumstances. All replacement trees shall be a minimum of 2-1/2 inch caliper. For evergreen trees, a minimum size of eight to 10 feet balled and burlapped is required.
- (4) Fee in-lieu. The Town Board, upon recommendation of the Planning Board, shall have the authority to accept a cash payment to the Town of North Castle Tree Mitigation Bank in lieu of providing some, or any, of such required tree replacement, and the Town Board, in its discretion, may elect to accept such payment on behalf of the Town. The amount of the cash payment required for such tree removal shall be in such amount as set forth in the Master Fee Schedule. The expenditure of tree bank revenues shall be limited exclusively to tree planting or the removal of invasive trees.

Section 31. In the Trespassing Chapter, amend Section 312-4 Penalties for offenses as follows:

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 32. In the Water Chapter, amend Section 336-7 Penalties for offenses as follows:

Except as otherwise provided herein, any person committing an offense against any provision of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 33. In the Water Chapter, amend Section 336-62 Penalties for offenses as follows:

Except as otherwise provided herein, any person committing an offense against any provision of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 34. In the Water Chapter, amend Section 336-123 Penalties for offenses as follows:

Except as otherwise provided herein, any person committing an offense against any provision of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 35. In the Water Chapter, amend Section 336-130 Penalties for offenses as follows:

Except as otherwise provided herein, any person committing an offense against any provision of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The



continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 36. In the Water Chapter, amend Section 336-185 Penalties for offenses as follows:

Except as otherwise provided herein, any person committing an offense against any provision of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 37. In the Water Chapter, amend Section 336-240 Penalties for offenses as follows:

Except as otherwise provided herein, any person committing an offense against any provision of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 38. In the Zoning Chapter, amend Section 355-76 Penalties for offenses as follows:

In accordance with Municipal Home Rule Law § 10(1)(ii)(d)(3), the Town has resolved to supersede New York State Town Law § 268 for violations of this chapter as follows:

A. Any person who shall violate any provision of this chapter or who shall violate any other regulation made under authority conferred thereby or who shall knowingly assist therein or who shall use any land, building or premises in violation thereof, or who shall design any building or other structure to be used in violation of this chapter or such regulations made supplemental thereto shall be guilty of an unclassified misdemeanor pursuant to the Penal Law and liable for a fine up to \$1,000 per day per violation or by imprisonment for a term not to exceed 15 days, or by both such fine and imprisonment.

B. Any firm, corporation or other entity who or which shall violate any provision of this chapter or who or which shall violate any other regulation made under authority conferred thereby or who or which shall knowingly assist therein or who or which shall use any land, building or premises in violation thereof, or who or which shall design any building or other structure to be used in violation of this chapter or such regulations made supplemental thereto shall be guilty of an unclassified misdemeanor pursuant to § 80.10 of the Penal Law and liable for a fine in the amount of \$1,000. For purposes of this subsection, "gain" is defined in § 80.00 of the Penal Law.

C. For purposes of this section, subsequent violations consist of violations of any section of this Chapter 355.

D. Each day's continued violation thereof shall constitute a separate additional violation. In addition to the foregoing punitive and remedial provisions, the Town shall have such other remedies for any violation or threatened violation of this chapter, as now or hereafter may be provided by law.

E. In accordance with Municipal Home Rule Law § 10(1)(ii)(d)(3), the Town has resolved to supersede New York State Town Law § 268 for violations concerning illegal housing. Therefore, any person, firm, corporation or other entity who or which is convicted of having an illegal apartment or illegal multifamily home will be guilty of an unclassified misdemeanor pursuant to the Penal Law. The fines contained in Subsection A will not apply to such a conviction. Instead, any person convicted of such an offense shall be liable for a fine of \$1,000 per day and/or imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment. Each and every day that any such violation continues after notification that such violation exists shall constitute a separate offense.

F. In case any building or structure is erected, constructed, reconstructed, altered, converted, located, or maintained, or any building, structure, land or premises is used in violation of this

chapter or any regulation made pursuant thereto or under authority conferred thereby, in addition to other lawful remedies, any appropriate action or proceedings may be instituted to prevent such unlawful erection, construction, alteration, conversion, repair, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building land or premises, or to prevent any illegal act, conduct, business or use in or about such premises. The Building Inspector shall serve written notice, either by personal service or by certified mail, return receipt requested, addressed to the premises of such violation, on the person or corporation committing or permitting the same and, if such violation does not cease within such time as the Building Inspector shall specify, which shall be not less than five days, he may institute such of the foregoing actions as may be necessary to remove the violation. Such notice may also be served by posting on the premises.

Section 39. In the Property Maintenance Chapter, eliminate Section 241-4.P of the Town Code in its entirety.

Section 40. In the Zoning Chapter, amend Section 355-15.G(1)(a) of the Town Code as follows:

a. This chapter shall not prohibit any fence or wall, subject to applicable permits and reviews by the Town, provided that the finished side of such fencing or wall shall face the exterior of the property as defined by the property line, and provided that such fence or wall does not exceed six feet in height. All mesh deer fencing and driveway gates and piers shall require a building permit. Mesh deer fencing exceeding six feet in height and driveway entry piers and gates exceeding six feet in height shall be permitted to reach a height of eight feet, except that deer fencing over six feet in height shall not be permitted within 25 feet of the front property line.

Section 41. Eliminate Chapter 157 from the Town Code.

Section 42. In the Filling and Grading Chapter, amend Section 161-7 of the Town Code as follows:

This article shall not apply to the landowner who has delivered to one specific residential property 50 cubic yards or less of fill, or 250 cubic yards or less of road base, trench backfill, subbase bedding, trench material and bedding, run-of-bank fill for septic, sand for concrete or other commonly used materials for construction, provided that certification of the materials' compliance to 6 NYCRR, Part 360, is provided to the owner by the supplier and prior notification of scheduled delivery the material is provided to the Building Inspector to provide ample opportunity for inspection of same.

Section 43. In the Streets and Sidewalks Chapter, create a new Article III in Chapter 271 as follows:

### Article III

#### Section 271-8. Permit required

No opening or excavation by cutting, digging or otherwise, subsequently herein referred to as an "operation," shall be made, commenced or carried on, in or under any street, highway, sidewalk, sidewalk area or public place in the Town of North Castle for any purpose whatsoever, except as hereinafter provided in Article III of this chapter, until a written permit therefor has been duly issued as herein provided, and in accordance with the procedures set forth in § 271-14 hereof, and in compliance with §§ 271-15 and 271-16 hereof.

#### § 271-9 Effect on existing operations.

The provisions of this article shall be applicable to any and all operations being worked at the time this article shall become effective. No operation shall be extended in area after the effective date of this article without first securing a permit therefor in accordance with the provisions of this article.

#### § 271-10 Bond in lieu of deposit for public utility companies.

Public utility companies making 12 applications or more per year may, in lieu of the deposit hereinafter mentioned, deposit with the Town of North Castle a bond or a surety company bond approved as to form, manner of execution and sufficiency by the Town Board of the Town of North Castle, which bond shall be retained as security for the faithful performance by the applicant of all the terms, agreements, covenants and conditions of the permit on the applicant's part to be done or performed, which said bond shall be in an amount to be determined by the Highway General Foreman, but in no case shall the face amount of the bond be less than \$10,000.

§ 271-11 Resolution guaranteeing performance of municipality in lieu of deposit.

Any city, village, town, public improvement district or other municipality may, in lieu of making the cash deposit hereinafter mentioned, file with the Highway General Foreman a certified copy of a resolution duly adopted by the governing board of such municipality, which said resolution shall guarantee faithful performance by said municipality of all the terms, agreements, covenants and conditions as set forth in the permit. Said resolution shall be effective for the remainder of the calendar year in which it is adopted.

§ 271-12 Emergencies.

If it becomes necessary in case of an emergency or any unforeseen happening to enter upon a Town road for the purpose of making emergency repairs to any sewer, water pipe, conduit or other underground or overhead structure, any person, firm, corporation, public utility or municipal subdivision may do so forthwith, provided that within 24 hours of the time of making such opening (Sundays or holidays not included), proper application for a permit is made there for.

§ 271-13 Hours and days restricted.

In any residence district, no operation authorized under this article shall be permitted on Saturday or Sunday, or before 7:00 a.m. or after 3:30 p.m. on other days. In any business or industrial district, no operation authorized under this article shall be conducted on Sunday, except where otherwise permitted by law. The Highway General Foreman, in his discretion, may vary or modify the application of this provision as occasion and/or necessity may demand.

§ 271-14 Application and approval procedure.

A. Application for a permit under this article shall be made to the Highway General Foreman, in writing, for each such operation and shall contain the following information:

- (1) The full name and address of the applicant.
- (2) The full name and address of the owner or owners of the property in front of which the operation is to be performed.
- (3) The location by street address, if any, of the property in front of which the operation is to be performed and the Tax Map designation of the same.
- (4) A statement of the proposed operation and the size thereof and purpose thereof.
- (5) The date or dates when the proposed operation is to be commenced, and the date or dates when the operation is to be completed.
- (6) The type of pavement or surface to be disturbed.
- (7) A sketch of the proposed operation.
- (8) The estimated maximum quantity to be excavated and/or removed, and the estimated part thereof that will be used for regrading or filling.

- (9) The rehabilitation proposed.
- (10) The estimated cost of the entire proposed operation.
- (11) The location, if any, of any tiles or drainage system or water mains, or other public utility conduits, etc., which may be within the area of the proposed operation.
- (12) Any additional information which may be reasonably required by the Highway General Foreman.
- (13) A signed statement by the applicant that said applicant agrees to perform the proposed operation for which the permit may be granted, in full and strict compliance and in accordance with the conditions of the permit, if issued, and any and all provisions of the Town Law and other applicable statutes and ordinances of the Town of North Castle, and the rules and regulations of the Highway Department of the Town of North Castle.

B. Upon receipt of the application, as herein provided for in Subsection A hereof, the Highway General Foreman shall act thereon by issuing or refusing to issue a permit. No permit shall be issued by him except where there is compliance with the provisions of this article and all other laws and ordinances, and rules and regulations of the Highway Department of the Town of North Castle. Such permit, when issued, shall be effective for such period of time, not to exceed 30 consecutive calendar days, to be specified thereon by the Highway General Foreman. Such specified period of time may be extended for the completion of the operation, if so requested in writing by the permittee prior to the expiration date thereof, for such additional period or periods of time authorized by said Highway General Foreman.

C. Permits granted pursuant to this section shall be issued for up to 300 contiguous feet of frontage abutting a Town right-of-way, such that an additional permit or permit(s) shall be required for any distance in excess of the initial 300 feet and for every 300 feet thereafter. A proposed project encompassing 900 feet along a Town right-of-way, for example, shall require the approval of three street opening permits.

#### § 271-15 Fees and deposits.

A. No permit for an operation shall be issued by the Highway General Foreman until the applicant therefor shall have first paid to the Highway General Foreman, in cash or by check payable to the order of the Town of North Castle:

(1) A fee, as determined by the Board of the Town of North Castle and promulgated in the Master Fee Schedule, to cover the cost of issuing the permit and the supervision and the inspection of the operation done in connection therewith. The fee schedule and corresponding street opening permit fees contained therein shall be updated from time to time by the Board of the Town of North Castle and approved by resolution.

(2) A security deposit, in an amount to be determined by the Board of the Town of North Castle and promulgated in the Master Fee Schedule shall be required for each and every street opening permit as determined by the Highway General Foreman. Said deposit shall be retained by the Town for the duration of the period of maintenance as herein defined. The "period of maintenance" shall be considered as a period of six months after the date of final completion, as determined by the Highway General Foreman, of the operation to be done pursuant to the terms of the permit; except, however, that in the event that the termination of said six-month period shall fall within the months of December, January, February, March or April, then, and in that event, the period of maintenance shall be considered as extending to the first day of May next ensuing; and the permittee shall be responsible for the entire operation and shall keep every portion of the same in good order and repair during the entire period of maintenance. Security deposits that remain unclaimed 18 months after the permit approval date become the property of the Town of North Castle.

B. Upon the failure of or default by the permittee any of the terms, agreements, covenants and conditions of the permit on the permittee's part to be done, to be performed or to be completed, said deposit may be used by the Town for any expense incurred by the Town by

reason of such failure or default on the part of the permittee, and any balance left, after the expense caused by such failure or default, as determined and certified by the Highway General Foreman, has been paid and deducted from the amount of the deposit, shall be refunded to the permittee if claimed within 18 months of the approval date.

§ 271-16 Insurance.

A. Amount. No permit for an operation under this article shall be issued by the Highway General Foreman until the applicant therefor shall have first placed on file with said Highway General Foreman, without cost to the Town, satisfactory evidence of the following types of coverage and limits of liability:

(1) Commercial general liability (CGL) coverage with limits of insurance of not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate.

(a) If the CGL coverage contains a general aggregate limit, such general aggregate shall apply separately to each project.

(b) CGL coverage shall be written on ISO Occurrence Form CG 00 011093 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contractors, products/completed operations, personal and advertising injury and blanket contractual, including injury and to subcontractors' employees.

(c) The Town of North Castle and its agents, volunteers, officers, directors and employees shall be included as additional insureds on the CGL, using ISO Additional Insured Endorsement CG 20 10 1185 or an endorsement providing equivalent or broader coverage to the Town of North Castle and its agents, officers, directors and employees. The coverage must be underwritten by an insurance company with at least an A-7 Best rating, as defined by A.M. Best. Coverage for the additional insureds shall apply as primary and noncontributing insurance before any other insurance or self-insurance, including any deductible, maintained by or provided to the additional insureds.

(d) The applicant and/or contractor shall maintain CGL coverage for itself and all additional insureds for the duration of the project and maintain completed operations coverage for itself and each additional insured for at least two years after completion of the work.

(e) A Waiver of Subrogation endorsement or clause in favor of the Town of North Castle, its agents, officers, Directors, volunteers, and employees.

(2) Automobile liability: business auto liability with limits of at least \$1,000,000 each accident.

(a) Business auto coverage must include coverage for liability arising out of all owned, leased, hired and nonowned automobiles.

(b) The Town of North Castle and its agents, volunteers, officers, directors and employees shall be included as additional insured on the auto policy.

(c) A Waiver of Subrogation endorsement or clause in favor of the Town of North Castle, its agents, officers, directors, volunteers, and employees.

(d) The applicants insurance shall be primary and noncontributory to any insurance the Town of North Castle, NY may have.

(3) Workers' compensation and employers' liability: employers' liability insurance limits per statutory requirements.

(a) A Waiver of Subrogation endorsement or clause in favor of the Town of North Castle, its agents, officers, directors, volunteers, and employees.

(b) The applicants insurance shall be primary and noncontributory to any insurance the Town of North Castle, NY may have.

(4) The applicant shall not sublet any part of his work without assuming full responsibility for requiring similar insurance from his subcontractors and shall submit satisfactory evidence to that effect to the Town of North Castle. Each such insurance policy, except the workers' compensation policy, shall include the Town of North Castle and its agents, officers, directors and employees as an additional insured.

(5) Certificates shall provide that 30 days' written notice prior to cancellation be given to the Town of North Castle. Policies that lapse and/or expire during the term of occupancy shall be recertified and received by the Town of North Castle no fewer than 30 days prior to cancellation or renewal.

(6) Indemnification and hold harmless.

(a) To the fullest extent permitted by law, the applicant and/or contractor will indemnify and hold harmless the Town of North Castle, its officers, representatives, agents and employees from and against any and all claims, suits, liens, judgments, damages, losses and expenses, including reasonable legal fees and all court costs and liability (including statutory liability) arising in whole or in part and in any manner from injury and/or death of a person or damage to or loss of any property resulting from the acts, omissions, breach or default of the applicant and/or contractor, its officers, directors, agents, employees and subcontractors, in connection with the performance of any work by or for the applicant and/or contractor pursuant to any contract, purchase order and/or related proceed order. The applicant and/or contractor will defend and bear all costs of defending any actions or proceedings brought against the Town of North Castle, its officers, representatives, agents and employees, arising in any employee of the applicant and/or contractor and shall not be limited in any way by an amount or type of damage, compensations, or benefits payable under any applicable workers' compensation, disability benefits or other similar employees' benefit act.

(b) The applicant and/or contractor shall expressly permit the Town of North Castle to pursue and assert claims against the applicant and/or contractor for indemnity, contribution and common law negligence arising out of claims for damages for death and personal injury.

B. Duration. Such insurance hereinabove referred to shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give at least 10 days' prior written notice to the Town of North Castle of any modification or cancellation of any such insurance and shall contain a clause to the effect that termination of said insurance shall be without prejudice to the right of the Town of North Castle to make claim or claims thereafter for any loss or damage sustained as a result of any act or acts committed or omitted during the term of said insurance.

#### § 271-17 Protection of existing structures and traffic.

A. Existing structures. No work shall be commenced in connection with an operation for which a permit has been granted under the provisions of this article until the permittee shall have given written notice of the issuance of such a permit at least 24 hours prior to the commencement of such work to the owner or lessee of any pipes, conduits or other structures lying upon, over or under the surface of the area wherein the operation is to be performed pursuant to the permit issued hereunder or to the person, firm or corporation having the custody, control, care or maintenance of said pipes, conduits or other structures, and said permittee shall file with the Highway General Foreman proof of the service of said written notice herein referred to. The permittee shall at all times during the performance of the work on said operation, at his own expense, preserve, support, maintain in operation and protect and safeguard from injury or damage such pipes, conduits or other structures, and in case of injury or damage, shall restore the same, at his own cost and expense, to the same condition as they were prior to the commencement of the work on said operation, and in the event of the failure of the permittee to comply with the provisions of this section, such injuries and damages may be corrected and

repaired by the owner thereof, his agents or employees, and the cost thereof and all damages sustained shall be paid by the permittee.

B. Traffic. Unless otherwise authorized by the Highway General Foreman, traffic shall be maintained at all times during the progress of the operation being performed under the permit, and the permittee shall have due regard for the safety of all traffic and the public and shall:

- (1) Erect and maintain suitable barricades, fences and/or guardrails around the area of operation during the work on said operation and shall arrange the same in such a manner as to cause a minimum of inconvenience, hazard and delay to any and all traffic.
- (2) Suitably place, install and maintain adequate warning flags or signs and lighted red lamps or flares.
- (3) Provide a watchman, if deemed necessary by the Highway General Foreman and if so ordered by the Highway General Foreman, in accordance with his directions and instructions.
- (4) Designate and furnish competent persons to direct and expedite traffic, by means of lights or flags, when necessary, to minimize inconvenience, hazard and delay to any and all traffic.
- (5) Arrange and conduct the work in connection with said operation so as to make possible the removal completely of any obstructions to any and all traffic on Saturdays, Sundays and holidays, if so required by the Highway General Foreman.

§ 271-18 Penalties for offences.

Any person or corporation violating any of the provisions of this article, upon conviction thereof, shall be punishable by a fine up to \$1,000 per day per violation. Each day's continued violation shall constitute a separate additional violation.

Section 44. In the Streets and Sidewalks Chapter, create a new Article IV in Chapter 271 as follows:

Article IV

§ 271-19 Permit required.

A. No driveway entrances and exits and no alteration, change, relocation or reconstruction of existing driveway entrances and exits, subsequently herein referred to as an "operation," shall be constructed by owners and occupants of property abutting on Town highways for any purpose whatsoever, until a written street opening permit therefor has been duly issued as herein provided and in accordance with the procedures set forth in §§ 271-21, 271-22 and 271-23 herein and in § 355-59.F of the Town Zoning Code. The Highway General Foreman may, in his/her sole discretion, require applicants to obtain prior approval from the Planning Board before issuing a street opening permit for a given driveway operation. A permit issued pursuant to this section shall not absolve the applicant of the responsibility of obtaining any other permits required by state or local law.

B. A permit pursuant to this section shall not be granted for real property already featuring one or more driveway entrances unless the applicant receives prior approval of the Planning Board.

§ 271-20 Bond in lieu of deposit for contractors

A contractor may, in lieu of the deposit hereinafter mentioned, deposit with the Town Board its bond or a surety company bond, approved as to form, manner of execution and sufficiency, by the Town Board of the Town of North Castle, which bond shall be retained as security for the faithful performance by the applicant of all the terms, covenants and conditions of any permit under this Part obtained by the applicant for a period of one year from the date of the filing of said bond or surety company bond, which bond shall be in an amount to be determined by the Highway General Foreman, but in no case is the face amount of the bond to be less than \$10,000.

§ 271-21 Application and approval procedure; contents of permit.

A. Application for a permit under this article shall be made to the Highway General Foreman in writing, in duplicate, for each such operation and shall contain the following information:

- (1) The full name and address of the applicant.
- (2) The full name and address of the owner or owners of the property in front of which the operation is to be performed.
- (3) The full name and address of the owner or owners of the property for whom the operation is to be performed.
- (4) The location by street address, if any, of the property in front of which the operation is to be performed and the Tax Map designation of the same.
- (5) A statement of the proposed operation and the size thereof and purpose thereof.
- (6) The date or dates when the proposed operation is to be commenced and the date or dates when the operation is to be completed.
- (7) A sketch of the proposed operation, including a profile from the crown of the road to the property line.
- (8) The location, if any, of any tiles or drainage system or water mains or other public utility conduits, etc., which may be within the area of the proposed operation.
- (9) Any additional information which may be reasonably required by the Highway General Foreman.
- (10) A signed statement by the applicant that said applicant agrees to perform the proposed operation for which the permit may be granted in full and strict compliance and in accordance with the conditions of the permit, if issued, and any and all provisions of the Town Law and other applicable statutes and ordinances of the Town of North Castle, and the rules and regulations of the Highway Department of the Town of North Castle.
- (11) The proposed location of the entry of said driveway onto the Town highway.

B. Upon receipt of the application as herein provided for in Subsection A hereof, the Highway General Foreman shall act thereon by issuing or refusing to issue a permit. No permit shall be issued by him except where there is compliance with the provisions of this article and all other laws and ordinances, and rules and regulations of the Highway Department of the Town of North Castle. Such permit, when issued, shall be effective for such period of time, not to exceed 30 consecutive calendar days, to be specified thereon by the Highway General Foreman. Such specified period of time may be extended for the completion of the operation, if so requested in writing by the permittee prior to the expiration date thereof, for such additional period or periods of time authorized by said Highway General Foreman.

C. Said permit, when issued, shall contain the following conditions to be complied with by the permittee:

- (1) That the proposed driveway at the point of entrance on the Town highway shall have the optimum of sight distance, both vertical and horizontal.
- (2) That the grade, width and drainage of said proposed driveway shall minimize any possible damage or injury to the Town highway and shall be such as to provide the maximum safety for all traffic on the Town highway in the area of the entrance of said proposed driveway on said Town highway.



(3) Any additional requirements which may be imposed by the Highway General Foreman for the preservation of the Town highway at the point of entrance of the proposed driveway onto the Town highway and for minimizing hazards and dangers to the traffic on said public highway.

§ 271-22 Inspections; issuance of certificate of compliance.

Upon notification by the permittee of the completion of the proposed driveway, the Highway General Foreman shall inspect said driveway to determine that its completion is in accordance with the permit. When the Com Highway General Foreman is satisfied that the conditions of such permit have been met, he shall issue a certificate of compliance. There shall be no use of such driveway for any purpose other than the construction until such certificate of compliance has been issued. No certificate of occupancy shall be issued by the Building Inspector of the Town of North Castle if a permit for driveway construction has been issued until such certificate of compliance has also been issued.

§ 271-23 Fees and deposits.

A. No permit for an operation shall be issued by the Highway General Foreman until the applicant therefor shall have first paid to the Highway General Foreman in cash or by check payable to the order of the Town of North Castle:

(1) A fee, as determined by the Town Board and promulgated in the Master Fee Schedule to cover the cost of issuing the permit and the supervision and inspection of the work done in connection with said operation. The amount of the fee shall be periodically reviewed by the Town Board, and the payments so required shall be updated and approved by resolution accordingly.

(2) A deposit, in an amount to be determined by the Highway General Foreman and approved by the Town Board via resolution, which shall be required whenever there is a chance that the surface of any street, highway, sidewalk, sidewalk areas or public place may be damaged by the permittee. This includes drainage ditches, gutters, culverts, pipes, curbs or curbing, which may be disturbed, injured or damaged in connection with an operation hereunder, and if and when machinery is used in connection with an operation and there is a likelihood of damage or injury to areas other than the specific location of the operation, a deposit of an additional amount may be required; said additional amount shall be determined by the Highway General Foreman and approved by the Town Board via resolution. The amount of the deposit shall be periodically reviewed by the Town Board, and the payments so required shall be updated and approved by resolution accordingly.

B. Such deposit shall be retained by the Town until a certificate of compliance shall have been issued by the Highway General Foreman as hereinbefore provided in § 271-22. Deposits remaining unclaimed by the permittee 18 months after the issuance of the permit become the property of the Town of North Castle.

C. Upon the failure of or default by the permittee an any of the terms, agreements, covenants and conditions of the permit on the permittee's part to be done, to be performed or to be completed, said deposit may be used by the Town for any expense incurred by the Town by reason of such failure or default on the part of the permittee, and any balance left, after the expense caused by such failure or default, as determined and certified by the Highway General Foreman, has been paid and deducted from the amount of the deposit, shall be refunded to the permittee.

§ 271-24 Penalties for offences.

Any person or corporation violating any of the provisions of this article, upon conviction thereof, shall be punishable by a fine up to \$1,000 per day per violation. Each day's continued violation shall constitute a separate additional violation.

Section 45. In the Zoning Chapter, amend Section 355-4 of the North Castle Town Code as follows:

## STRUCTURE

A. Anything that is constructed or erected which requires a location on the land or attachment to something having such location, including but not limited to the following:

- (1) Signs or billboards.
  - (2) Fences other than those less than four feet high.
  - (3) Walls other than those less than four feet high.
  - (4) Radio and television antennas, except for such antennas installed on a roof of a building, which antennas shall be considered fixtures of the building.
  - (5) Pergolas, canopies, porches, patios, terraces, decks, outdoor bins, tool sheds, carports, satellite antennas, equipment and storage buildings or sheds, swimming pools, swimming pool filter pads, tennis, basketball or other similar sports courts, driveways, parking areas, doghouses or sheds.
  - (6) Tents in excess of 200 square feet in total, mobile homes, trailers or similar structures on wheels or other supports used for business or living purposes. Tents shall not require site plan approval or be required to meet the minimum setback requirements for a principal or accessory structure; notwithstanding, in no case shall tents be located in the front yard. In addition, tents shall not count toward the calculation of gross land coverage, gross floor area and floor area ratio. Furthermore, tents shall not require the provision of off-street parking.
- B. A building permit shall be required prior to the construction or erection of any structure.
- C. All buildings are structures. For the purposes of setback requirements, classification of buildings as "principal" or "accessory" shall be controlling.
- D. A building permit shall not be required for anything equal to or less than 64 square feet in area and eight feet in height, and such shall not be considered a structure. Notwithstanding the foregoing, a building permit shall be required for the installation of a power generator of any size and for the installation out of doors of any other equipment which would generate audible noise at any property boundary (see § 355-15Q).
- E. For floodplain management purposes, a "structure" shall mean a walled and roofed building, including a gas or liquid storage tank, that is principally above the ground, as well as a mobile home

Section 46. In the Fire Prevention Chapter, amend Section 169-3 of the North Castle Town Code as follows:

- A. All new commercial buildings, new multifamily residential buildings and new commercial driveways with gates, including gated facilities, shall provide a key box of a type approved by the Building Department. The location and contents of the key box must be approved by the Fire Inspector or Building Inspector.
- B. Key boxes shall be required on all existing commercial buildings with an alarm system or sprinkler system or a kitchen hood system which generate three false alarms while under the control of the same owner, as determined by the respective fire chief or his/her designee. The location and contents of the key box must be approved by the Fire Inspector or Building Inspector.
- C. All residential driveways with gates, including gated communities, shall provide a key box acceptable to the Fire Inspector or Building Inspector.
- D. Installation of key boxes shall be optional for one-family and two-family residential buildings.

Section 47. In the Property Maintenance Chapter, amend Section 241-4.E of the North Castle Town Code as follows:

E. All immediate exterior property shall be maintained free from weeds or plant growth in excess of 10 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Section 48. Repeal Chapter 181 – Fuel Storage Tanks of the Town of North Castle Town Code in its entirety.

Section 49. In the Zoning Chapter, amend Section 355-41 of the Town Code as follows:

No building permit shall be issued, and no structure or use of land shall be established or changed, other than for one single-family dwelling approved in accordance with the procedures specified in Article VII of this chapter, except in conformity with a site development plan approved and endorsed by the Planning Board with its date of approval, and no certificate of occupancy for such structure or use of land shall be issued until all the requirements of such site plan and any conditions attached thereto have been met. The continued validity of any certificate of occupancy shall be subject to continued conformance with such approved plan and conditions. Revisions of such plans shall be subject to the same approval procedure. Where the Building Inspector finds that a change of use or occupancy will not require an increase in the number of off-street parking or loading spaces, as required by Article IX, beyond that required for the previous use, or in the number of spaces actually approved for construction to serve the previous use, site plan approval requirements may be waived by said Board. However, an applicant, upon the submission of all required forms and the payment of the required fee, may request that the Building Inspector review a minor proposal for the categories identified in § 355-42, provided that the minor amendment does not include a change of use or principal building enlargement; will not substantially intensify the use or substantially modify the site with respect to generation of traffic, pedestrian movement, parking needs, noise, glare, exposure to hazard from fire or flood, utilization of water supply, sanitary sewer, drainage or other utility system; and will not in any other way have a substantial impact upon the character or environment of the surrounding area. Unless such request is made, minor proposals shall follow the requirements for a regular site plan. If the Building Inspector determines that the proposal is consistent with the general purpose and intent of this chapter, site development plan approval for a minor proposal may be issued by the Building Inspector. At any time prior to the issuance of the minor site development plan approval, the Building Inspector or the applicant may request review by the Planning Board, which shall follow the procedures for a regular site plan.

Section 50. In the Zoning Chapter, amend Section 355-42 of the Town Code as follows:

§ 355-42 Minor site plan amendment categories.

Minor site plan amendment categories are:

- A. Construction/modification of site lighting.
- B. Planting/Modification of site planting/screening.
- C. Construction/Modification of fencing.
- D. Construction/Modification of garbage enclosures.
- E. Restriping of parking spaces.
- F. Relocation of handicap parking spaces.
- G. Adjustment to curbing.
- H. Construction/Modification of sidewalks and walkways.

- I. Construction/Modification of generators.
- J. Construction/Modification of aboveground tanks that contain 275 gallons or less.
- K. Construction/Modification of underground tanks.
- L. Construction/Modification of external refrigerators.
- M. Construction/Modification of transformers.
- N. Construction/Modification of bollards.

Section 51. In the Zoning Chapter, create a new Section 355-26.I of the Town Code as follows:

§ 355-26.I Portable storage structures.

(1) Definitions. As used in this section, the following terms shall have the meanings indicated:

**PORTABLE ON-DEMAND STORAGE STRUCTURES**

(a) Temporary, transportable storage units designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis on one and two-family residential property when associated with the renovation or rehabilitation of an existing structure, or the construction of a new structure.

(b) Accessory structures, such as sheds and liquid or gas containers, complying with all building codes and land use requirements, are not considered portable on-demand storage structures.

(c) Any portable on-demand structure greater than 10 cubic yards is subject to these regulations. Portable on-demand units greater than eight feet in height, eight feet in width or 16 feet in length (37.92 cubic yards) are strictly prohibited.

(2) Permit required; application; fee. Before placing a portable on-demand storage structure on his or her property, a property owner or tenant must submit an application and receive a permit from the Town of North Castle Building Department. A fee shall be charged in connection with the review of all portable on-demand storage structure applications and other actions of the Town described in or contemplated by this article in such amounts as set forth in the Master Fee Schedule. Applications may be obtained from the North Castle Building Department. The permit for the portable on-demand storage structure shall be posted on the container.

(3) Duration. Permits will be granted for a period of 30 days. At the expiration of the 30-day period, applicants may seek to extend their permit for an additional 30 days by seeking an extension for cause from the Town. In no event shall a permit exceed a total of six months. The permit shall terminate upon the expiration of the permit or the issuance of a certificate of occupancy for the associated renovation or rehabilitation or construction of the new structure, whichever is less. Extension of a permit for a portable on-demand storage structure shall be set forth in the Master Fee Schedule.

(4) Location. Portable on-demand storage structures are prohibited from being placed in streets or in the front yards of a property, except for on a driveway; however, a portable on-demand storage structure in the front yard may be permitted in the R-5, R-2F and R-10 Zoning Districts. The applicant must obtain pre-approval of the storage structure location by the Town of North Castle Building Department.

(5) Number of units. Only one portable on-demand storage structure may be placed at any residential property at a given time.

(6) Exceptions. The above regulations do not apply to open containers commonly known as "dumpsters" used for the removal of construction debris or other refuse.

Section 52. Amend the Title of Article V in Chapter 325 as follows:

Article V Safe Roadways

Section 53. In the Vehicles and Traffic Chapter, amend the Section 325-36 of the Town Code as follows:

The purpose of this article is to facilitate the removal of snow, ice and water from highways in the Town of North Castle and to prevent delay and traffic congestion attendant upon and connected with parked vehicles

Section 54. In the Vehicles and Traffic Chapter, amend Section 325-39 from the Town Code:

A. It shall be unlawful for any person to deposit, throw, drain or otherwise allow to accumulate water, snow or ice upon any sidewalk, highway or in or upon the gutter or grass area adjoining any highway.

B. Except as otherwise provided herein, any person committing an offense against any provision of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 55. 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 56. 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 58. Effective Date.

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