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North Harmony Property Maintenance

1) NY State Building Code Enforcement History

“Beginning in the late 1940’s, New York State began developing a code known as the State Building Construction Code, which provided standards for the construction of buildings and installation of equipment therein. Developing and maintaining the State Building Construction Code eventually became the responsibility of the New York State Division of Housing and Community Renewal (DHCR). In the 1960’s, DHCR began developing a second code, the State Building Conservation and Fire Prevention Code, to address fire safety practices in buildings. Both of these codes were applicable in a municipality only when affirmatively adopted by the governing body.” (“The decision as to whether to adopt and enforce a building and/or fire prevention code had been left to the discretion of local governments in New York State.”)

“In 1978, the State Legislature added Article 11 to the Energy Law to provide for a comprehensive energy conservation construction code applicable to all public and private buildings in New York State (including buildings located in the City of New York).” “In 1981, the New York State Legislature enacted legislation directing the development and implementation of an integrated building and fire code for the state.” “The New York State Uniform Fire Prevention and Building Code (Uniform Code) took effect January 1, 1984 and prescribed minimum standards for both fire prevention and building construction. It is applicable in every municipality of the state, except for the City of New York, which was permitted to retain its own code.”

According to [New York Laws Title 19, Chapter XXXII, section 1202.1](#): “In general, local governments are charged with the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code). However, a local government has the option to decline that responsibility by adopting a local law to that effect, in which event the responsibility passes to the respective county. Counties are accorded a similar option. If a local government and a county each exercises its option, the statute provides for administration and enforcement of the Uniform Code by the Secretary of State in the place and stead of the local government. Certain other events may also result in administration and enforcement of

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the Uniform Code by the Secretary of State. This Part establishes the procedures applicable in circumstances in which the Secretary of State must administer and enforce the Uniform Code in the place and stead of a local government or county."

2) Analysis of 1989 North Harmony Zoning Code

The current Town of North Harmony Zoning Ordinance evolved from the Planning Board's work with Mr. David Phillips from 1986 to 1989. Mr. Phillips utilized a standardized matrix of uses and supplemental issues to allow communities to work through local land use decisions. This matrix was always evolving as new planning issues emerged as the world changed, such as the advent of cell towers located every four to ten miles apart across the landscape.

While the current North Harmony Zoning Ordinance has served the community well for over 20 years, the world has evolved and even Mr. Phillips 2001 matrix now includes such items as "trash storage, lawn maintenance, and unsafe structures."

The question at hand is whether the Town of North Harmony has a need to implement a separate local "Property Maintenance Ordinance", beyond its obligation to enforce the NYS Property Maintenance Code, and how extensive this should be. In order to answer this question the issues related to property maintenance that have been identified are listed and the existing sections of the current law have been analyzed.

Issues:

- a) Enforcement of violations is currently cumbersome for the Code Enforcement Officer. Local judicial system does not aid enforcement adequately to not create additional future burden on the same issue.
- b) A limited number of properties within the Town have excess storage of rubbish and/or vehicles; an unsafe structure; or lack adequate maintenance. The existence of these properties diminishes the aesthetic value of the Town overall and the value of neighboring properties.
- c) Some semi-trailer bodies are being utilized for storage in non-agricultural settings.

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- d) Travel trailers are required to be licensed in NYS. No provision for the number of trailers per lot or condition of trailers if uninhabited.

Analysis – Current Regulations:

- a) Except Section 614 – Lakeshore Regulations, no sections specifically deal with outdoor storage (except junk vehicles).
- b) Section 601 (b)(3) – General Development Conditions references trash storage as a review item prior to granting a permit.
- c) Section 605 (b)(h) – Shopping Center, states that “Trash” will be dealt with in accordance to the supplemental section on trash. No supplemental section exists.
- d) Section 614 – Lakeshore Regulations, deals extensively with “outdoor storage” for parcels with Lake Front.
- e) Section 624 – Junk Vehicles, allows “no” junk vehicles in any residential or commercial district. “One” junk vehicle is allowed in the Industrial, Ag/Residential and Agricultural Districts if stored out of sight. Junk vehicles are not considered “farm vehicles.”
- f) Section 626 - Heavy Vehicles, allows semi’s in any district. Vehicle must be parked off of the public right-of-way and over 150 feet from nearest residence.

3) Proposed Solutions:

- a) Update current ordinance by: updating and adding definitions for junk vehicles, heavy vehicles, and trash. Modify Section 626 – Heavy Vehicles and Section 631 –Temporary Dwelling Units. Add new “Trash Storage” and “Unsafe Structure” sections.
- b) Adopt July 13th version of Draft Property Maintenance Code based upon *Property Maintenance Code of New York State*.
- c) Adopt modified version of July 13th Draft Property Maintenance Code that incorporates all of revisions in option “a.” A draft of option “c” has been incorporated into this document for your consideration.

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Section 638 - Draft Property Maintenance Law (September 26, 2011)

A. Legislative Findings and Purpose.

The Town Board of the Town of North Harmony hereby finds and determines that:

Outdoor storage, accumulation, deposit or placement of abandoned, junked, discarded, wholly or partially dismantled or unlicensed, or unregistered motor vehicles or heavy vehicles, rubbish, debris, solid waste, or garbage upon private property, and the overall neglect of property conditions threatens the health, safety, and welfare, of Town residents, depreciates property values, and results in adverse impacts on the character of the neighborhood and the community. Visual intrusion into residential neighborhoods is also a primary concern.

B. Scope. The provisions of this article, and the *Property Maintenance and Building Codes of the State of New York*, shall apply to all existing residential structures and non-residential structures and all existing premises and constitute minimum requirements and standards for premises, structures and equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life- safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises; and for administration, enforcement and penalties.

C. General Requirements.

1. Exterior Property Areas, Exterior Structure and Interior Structure

No owner, occupant, lessee, or agent shall allow the exterior property areas, exterior structure or interior structure to violate the *Property Maintenance of New York State* or *Building Code of New York State*. In any case where provisions of this Section impose a stricter standard than that set forth in any law of the State of New York, then the standards as set forth herein shall prevail.

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2. Outdoor Storage

a.) Junk Vehicles (Replaces Article VI, Section 624 - Junk Vehicles)

(1) Residential, Commercial Districts - No person, as owner, occupant, lessee, or agent, or in any capacity shall store, deposit, place, maintain, or cause or permit to be stored, deposited, placed, or maintained outdoors any abandoned, junked, discarded, wholly or partially dismantled, unlicensed, or unregistered motor vehicle in any Residential or Commercial District.

(2) Ag/Residential, Industrial and Agricultural Districts - No person, as owner, occupant, lessee, or agent, or in any capacity shall store, deposit, place, maintain, or cause or permit to be stored, deposited, placed, or maintained outdoors more than one (1) abandoned, junked, discarded, wholly or partially dismantled, unlicensed, or unregistered motor vehicle in any Agricultural, Industrial or Agricultural/Residential District.

(3) Location of Junk Vehicles – Junk Vehicles shall be stored out-of-sight as viewed from adjacent properties and roadways.

(4) Non-Commercial Sales - A motor vehicle which is not both licensed and inspected as provided in the foregoing subsections may, for a period of not more than sixty (60) consecutive days, be displayed in public view for sale. Not more than three (3) such sales shall occur within a period of twelve (12) months.

(5) Exceptions

(a) Allowable uses within the Highway Commercial District, or other Commercial Districts, that as part of their primary business require vehicle storage for repair, temporary storage or sale, may utilize outdoor storage for unlicensed or unregistered motor vehicles, provided that at all times during such storage it has been licensed and inspected to be operated on public streets or waterways at some time within the preceding twelve (12) months.

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(b) Provisions of Section C- 2(a)(2) of this Article shall not apply to farm vehicles or farm machinery as described in the definitions section of the North Harmony Zoning Ordinance.

(c) A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure.

b.) Recreational Vehicles, Boats, Boat Trailers

(1) Boats and Boat Trailers – Recreational Trailers. - The outdoor storage of one recreation vehicle or boat is permitted for any lot or for every 20,000 square feet of lot area, provided that such trailer or boat is unoccupied (unless in compliance with all provisions of Town of North Harmony Zoning Ordinance, Article VI, Section 631 –Temporary Dwellings) and not stored between the street line and the front building line, except that one such vehicle or boat may be stored in a driveway. Under no circumstance may such a vehicle or boat be stored within 15 feet of a street line or closer to a property line than the minimum distance permitted for an accessory structure.

(2) House Coach - Anything to the contrary herein contained notwithstanding, a motor vehicle defined as a "house coach" in the Vehicle and Traffic Law of the State of New York may be stored outside of a completely enclosed building, provided that at all times during such storage it has been licensed and inspected to be operated on public streets at some time within the preceding twelve (12) months and further provided that the owner of such house coach is the owner or occupant of the lot on which such house coach is so stored and that at no time is more than one house coach stored on any lot in accordance with this section.

(3) Exceptions:

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(a) The storage of all recreational vehicles or boats, on parcels controlled by the Town of North Harmony Zoning Ordinance, Article VI, Section 614(G)(2)&(3)(a-e) - Lakeshore Regulations, shall be governed by said provisions of the "Lakeshore Regulations.

(b) The outdoor storage or use of recreational trailers within a travel trailer park is governed by the provisions of the Town of North Harmony Zoning Code, Article VI, Section 633 – Travel Trailer Parks.

c.) Heavy Vehicles (Replaces Article VI, Section 626 – Heavy Vehicles)

(1) Heavy Vehicles – A heavy vehicle shall be allowed to park in any district under the following conditions:

- (a) The vehicle is not parked on the road or in the public right-of-way.
- (b) The vehicle is located a minimum of 150 feet to the closest dwelling unit on adjacent parcels.
- (c) The vehicle is registered, licensed and operable.
- (d) The vehicle is not utilized as a storage structure.

(2) Exceptions:

- (a) Location Exception: In an emergency (e.g. truck breakdown) or for normal deliveries, this parking requirement in Commercial or Industrial Districts shall be waived for a maximum of 48 hours.
- (b) This commercial vehicle parking requirement shall not apply to agricultural uses on farms provided that parked trucks are set back at least 100 feet from all adjacent residential property lines.

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d.) Rubbish and Garbage.

(1) - No person, as owner, occupant, lessee, or agent, or in any capacity shall store, deposit, place, maintain, or cause or permit to be stored, deposited, placed, or maintained outdoors any solid waste, rubbish, debris, or garbage upon any private property within the Town.

(a) Accumulation of rubbish or garbage. All exterior property and premises shall be free from any accumulation of rubbish or garbage.

(b) Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in appropriate containers.

i. Rubbish storage facilities. The owner of every occupied premise shall supply covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

(c) Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in a garbage disposal facility or appropriate garbage containers.

i. Garbage facilities. The owner of every dwelling shall supply a leak proof, covered, outside garbage container.

ii. Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

(2) Exceptions - This section shall not apply to any solid waste, rubbish, debris, or garbage temporarily stored or placed in an appropriate container for collection or disposal for a period not to exceed two (2) weeks.

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D. Enforcement

INVESTIGATION AND REPORT

1. Authority.

The Code Enforcement Officer has the authority to examine the premises and locations of any buildings or structures, or improvements to existing buildings or structures in the Town of North Harmony and shall determine whether or not they comply with this property maintenance law or the *Property Maintenance Code and/or Building Code of the State of New York*. He or she shall keep a permanent record of all violations of this article, whether reported by private citizens or by any board agency; officer or employee of the Town and such record shall show the disposition of all such violations

2. Courtesy Notice of Violation.

When there is non-compliance, the Code Enforcement Officer will send a "Courtesy Notice of Violation" to the owner or occupant of the property with the identifying tax number from the tax rolls describing the violation(s), citing the section in this article and urging compliance within ten days. Copies of the notice will be sent to the Town Board and shall be maintained in a permanent record.

3. Order to Remedy the Violation.

If the owner or occupant fails to comply within the stated time period, the Code Enforcement Officer may issue an "Order to Remedy the Violation" hand delivered or sent by certified mail, with a copy to the Town of North Harmony Board. The "Order to Remedy the Violation shall contain the following statement:

"YOUR ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy these conditions on or before (date – a reasonable length of time not to exceed 30 days). Failure to remedy these conditions and to comply with the applicable provisions of the law may constitute an offense punishable by fine or imprisonment or both.

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"Please be advised that separate and apart from Article VI, Section 638 (D) (4) (Penalties) of the Town of North Harmony Zoning Ordinance , you may be adjudicated civilly liable in the sum of up to \$100 per day for each day of continued violation, plus legal fees incurred by the Town of North Harmony in the enforcement of the Zoning Law and the New York State Property Maintenance Code, and the collection of civil penalties as stated in the Town of North Harmony Zoning Ordinance, Article VI, Section 638(D)(4)(a, b and c). Should it become necessary for the Town to act to remedy the situation, you may be required to pay any cost pursuant to the Town of North Harmony Zoning Ordinance, Article VI, Section 638(D)(1-4 & 7)."

4. Penalties.

a.) A violation of this article is an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense. Conviction of a second offense committed within five years of the first offense, is punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both. Conviction of a third or subsequent offense committed within a period of five years is punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation. However, for the purpose 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.

b.) In addition, any person who is found to be in violation of any provision of this article, or who shall omit, neglect or refuse to do any act required thereby, shall, for each and every violation, forfeit and pay a civil penalty of not more than \$100. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional penalty.

c.) The imposition of penalties for any violation of this article shall not excuse the violation nor permit it to continue. The application of the above penalties or prosecution for violation of any provision of this article shall not prevent the enforced removal of conditions prohibited thereby. The expenses of the Town may be chargeable, in addition to the aforestated criminal and civil penalties, to the offender and may be recovered in civil court of

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appropriate jurisdiction. In addition, all expenses incurred by the Town in connection with the proceedings to repair and secure, or demolish and remove the unsafe conditions, including the costs of actually removing a building, and vehicles shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy. Any contract for demolition and removal of a building shall be awarded through competitive bidding if so required by law.

5. Complaints of Violations.

Whenever a suspected violation of the code occurs, any person may file a signed written complaint reporting such violation to the Code Enforcement Officer. The Code Enforcement Officer may also investigate any oral complaint made to his/her office. All complaints, written or oral, shall be properly recorded, filed and immediately investigated by the Codes Enforcement Officer and reported to the Town Board. The Town Board may by blanket resolution authorize the Code Enforcement Officer to act independently in all cases or a particular class of cases.

6. Legal Action.

Abatement of violations. - If any premises are in violation of this article after the due date for remedy or correction of the violation has past, the Town Board or, with its approval, the Code Enforcement Officer may institute an appropriate legal action or proceeding to prevent, restrain, correct or abate such violation, to prevent the occupancy of the premises or to prevent any illegal act, conduct, business or use in or about such premises.

7. Emergency Actions.

Nothing in this chapter shall prohibit a municipality from entering onto private property to remove any solid waste, motor vehicle, appliance, rubbish, debris, or garbage whenever there exists an imminent threat to the life or safety of persons. Municipal authority pursuant to this section may only be exercised where there is a dire necessity to protect life and safety. Any municipal action taken pursuant to this section must be reasonably calculated to alleviate or prevent the crisis condition and must be limited to those actions necessary to eliminate the emergency situation. A property owner shall be given notice and an opportunity to be heard prior to any

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costs and expenses incurred pursuant to this section being placed on the property's tax bill.

8. Judicial Relief.

Nothing contained in this chapter shall prevent the Town from seeking judicial or equitable relief to abate violations of this chapter.

9. Junkyards.

This chapter shall not apply to any junkyard as defined in the Town Code.

10. Severability.

If any clause, sentence, subdivision, paragraph, section, or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

11. Effective Date.

This local law shall be effective upon the filing with the Secretary of State.