

APRIL 20, 2011

**TOWN BOARD MEETING
TOWN HALL, MAHOPAC, N.Y.**

A Regular Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 20th day of April, 2011 at 7:10 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Ravallo, Councilwoman McDonough, and Supervisor Schmitt. Councilman Lombardi was absent.

The Pledge of Allegiance to the Flag was observed prior to the start of official business and a moment of silence was observed to honor those serving in the United States Armed Forces.

**PUBLIC HEARING HELD – PROPOSED LOCAL LAW ENACTING CHAPTER 118,
ENTITLED “ON-SITE SANITARY SYSTEMS”.**

Supervisor Schmitt asked the Deputy Town Clerk to read the following Notice of Public Hearing as published in the Town’s official newspaper:

LEGAL NOTICE
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, April 20, 2011 at 7:00 p.m. or as soon thereafter that evening as possible on a Local Law enacting Chapter 118, entitled “On-Site Sanitary Systems” of the Town Code of the Town of Carmel, as follows:
TOWN OF CARMEL
Local Law No. for the Year 2011
BE IT ENACTED by the Town Board of the Town of Carmel as follows:
A new Chapter 118 to be entitled On-Site Sanitary Systems is hereby added to the Town Code of the Town of Carmel to read as follows:
Chapter 118: On-site Sanitary Systems
Section 118-1: Purpose and Intent.
The Town of Carmel hereby finds that it is necessary to the health, safety and welfare of the residents of the Town of Carmel that on-site sanitary systems operate and be maintained in a manner that will prevent, to the extent possible, hazards to the public health, to minimize their potential for failure and to protect the drinking water supplies which pass through the Town of Carmel.
This local law is intended to implement the provisions of Part IX.A.3.b of the New York State Department of Environmental Conservation, SPDES General Permit GP-0-10-002 (“Permit”) for Stormwater Discharge from Municipal Separate Storm Sewer Systems (MS4) effective

May 1, 2010, which requires that the Town implement and enforce a program to ensure that on-site sanitary systems are inspected and, where necessary, maintained or rehabilitated as required by Part IX.A.3.b of the Permit and/or similar provisions in successor Permits.
Section 118-2: Definitions.
APPEALS AUTHORITY shall mean the Municipal Code Enforcement Officer.
INSPECTION shall mean the evacuation and removal of septage as necessary from a Separate Sewage Disposal System/On-Site Sanitary System and subsequent reporting by a Septage Collector that is licensed by the Putnam County Department of Health.
MUNICIPAL CODE ENFORCEMENT OFFICER shall mean the Building Inspector of the Town of Carmel, Assistant Building Inspector of the Town of Carmel or any other individual duly authorized by resolution of the Town Board of the Town of Carmel.
SEPARATE SEWAGE DISPOSAL SYSTEM/ON-SITE SANITARY SYSTEM, a system or facilities or means for the treatment or modification or ultimate disposal of waterborne sewage or domestic wastes or trade wastes or offensive material, each being designed for the treatment of less than 1,000 gallons per day, regardless of location with respect to any building or structure or premises thereby served. Such system shall include, but shall not be limited to, septic tanks, cesspools, absorption fields and other facilities for the treatment or modification or required control of sewage.

SEPTAGE COLLECTOR, an individual or entity licensed by the Putnam County Health Department who engages in the performance of any one (1) or more of the following services, or who offers to provide any one (1) or more of the following services for a fee, in Putnam County, with respect to separate sewage disposal systems: evacuation, removal, collection or transportation of septage.
SEPTAGE shall mean the contents of any container including but not limited to a septic tank, which is designed and intended to hold sewage.
SEWAGE shall mean the combination of human and household waste with water which is discharged to the home plumbing system including the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture, equipment or machine.
Section 118-3: Inspections and Requirements.
1. Beginning on May 1, 2011, the owner of any parcel located within the Town of Carmel which relies upon a Separate Sewage Disposal System/On-Site Sanitary System shall cause an inspection to be performed on said Separate Sewage Disposal System/On-Site Sanitary System at a minimum frequency of once every five (5) years.
2. Upon the completion of any inspection, every owner shall maintain a copy of the record of such inspection, which will be provided to the owner by the Septage Collector, for a minimum of six (6) years.

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3. The Septage Collector shall furnish one (1) copy of the record of inspection to the Municipal Code Enforcement Officer in the town/village in which the Separate Sewage Disposal System/On-Site Sanitary System is located and one (1) copy of the record of inspection with the Putnam County Department of Health.

Section 118-4: Waivers/
Variance.

The Appeals Authority shall not grant a waiver or exemption from any of the requirements of this local law provided, however, that the Appeals Authority may vary the time requirements as referenced within this local law, upon the submission and consideration of evidence which may necessitate an extension of time to comply with all aspects of this local law. Such extension shall not exceed one hundred eighty (180) days.

Section 118-5:
Enforcement and Penalties.

Any owner of a parcel which is located in the Town of Carmel and is served by a Separate Sewage Disposal System/On-Site Sanitary System that fails to comply with the provision of this local law, shall be guilty of a violation, and shall be subject to a penalty as follows:

(1) The Municipal Code Enforcement Officer shall first issue a written notice of violation to the owner informing the owner of the anticipated imposition of penalties if the violation is not corrected within thirty (30) days.

(2) Any person or corporation, whether as owner, lessee, principal, agent, employee or otherwise, which violates any of the provisions of this chapter or permits any such violation or fails to comply with any of the requirements thereof shall be guilty of a violation, punishable by a fine not exceeding two hundred fifty dollars, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than three hundred fifty dollars no more than seven hundred dollars and upon conviction of a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars not more than one thousand dollars. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or any part thereof or any condition or requirement of subdivision approval shall be deemed misdemeanors. Each fourteen day (14) period of continued violation shall constitute a separate additional violation.

Section 118-6: Compliance
with Other Laws.

Compliance with this local law shall not be deemed compliance or approval of the municipality under any other rules, regulations codes or laws.

Section 118-7:
Severability.

In the event that any provision of this local law shall be held unconstitutional or unlawful, the remaining provisions in this local law shall remain in full force and effect.

Section 118-8: Effe
Date.

This local law shall effect immediately upon adoption and filing in office of the Secretary of State.

At said Public Hearing interested persons shall be heard on the subject thereof.
By Order of the Town Board of the Town of Carmel
Ann Garriss, Town Clerk

Supervisor Schmitt offered some background information on the proposed local law regarding on-site sanitary systems which call for compliance with the EPA MS4 program. Under minimum guidelines this law advises the town to develop, implement and enforce a program to detect and eliminate illicit discharges into the storm sewer system. He further stated that this is an unfunded mandate by New York State under the Clean Water Act of the EPA which is a federal law that New York State administers. The Town of Carmel is affected due to the fact that it is located almost entirely in the New York City Watershed. The law would require that everyone that has a septic system would have to have their tanks pumped and inspected at least once every five years. The hauler would then be obligated to report any deficiencies to the county and the town. The homeowner would then have to repair, upgrade or replace the system based on the hauler's report.

Supervisor Schmitt explained that the Putnam County Health Department regulates septic systems and would maintain the database. He further stated that the enforcement would be up to the individual municipality but if there is a septic failure the burden then falls on the county.

Supervisor Schmitt indicated that he does not necessarily agree with this local law and he doesn't like the way the EPA and the state are asking for it to be administered. He also doesn't like that the hauler has the responsibility to report on a homeowner who is paying that hauler for a service. Supervisor Schmitt further stated that he does support the spirit of the local law.

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With no one objecting to the public notice as read, Supervisor Schmitt opened the Public Hearing for public comment at 7:22 p.m. Eighteen (18) people were in attendance.

Allan Monzon of West Shore Drive in Carmel near the Croton Falls reservoir spoke regarding the Environmental Protection Agency and federal officials. He questioned Councilman Ravallo on his professional background as a chemist and asked the town board members what phosphorous is and if it is a natural element.

Councilman Ravallo discussed various aspects of phosphorous and noted that phosphates have been removed from laundry detergents.

Mr. Monzon reported that he had been denied permission from New York City Dept. of Environmental Protection to take some trees that they had cut down. He noted that instead they were left there to rot which produces phosphorous. He further stated that NYCDEP is excessive at best.

Jerry Ravnitzky of Mahopac agreed that the intention of the law, which is to provide clean drinking, is important. He stated that phosphorous does cause problems. He addressed the issue of the many unanswered questions with regards to what constitutes an inspection, what techniques would be used to inspect, how is failure determined, what is the form to be used, and what costs would be incurred by the homeowner. He concluded that these questions must be answered before the law is enacted.

Dave Gagliardi of Mahopac questioned if the hauler does an inspection and finds the system deficient do they report it to the town. He also inquired about the possible need for additional personnel in the Building Department to handle the violations that may result.

Supervisor Schmitt acknowledged that there may be a need for additional personnel.

Mr. Gagliardi asked if there needs to be training for the Building Inspector.

Supervisor Schmitt indicated that training may be needed.

Greg Folchetti, Legal Counsel, responded that the town would be acting in a record keeping role only and that the report generated by the hauling companies would be filed with the town and the county. The town's job would be to make sure that the reports are filed and the county would be responsible for dealing with the systems that were reported as failing.

Councilman Ravallo noted that the law mandates homeowners to empty their septic tanks at least once every five years. He questioned that if it is not a private entity that would be doing the inspection then who else would do it. If the town had to be responsible it could result in the increase of taxes. Councilman Ravallo further questioned what would happen if the entity inspecting doesn't detect a problem then one happens?

Supervisor Schmitt pointed out Section 118-5 on Enforcement and Penalties which states that the Municipal Code Enforcement Officer shall issue a written notice of violation informing the owner that they have thirty days to correct the issue.

Dave Gagliardi questioned where the report would be filed.

Greg Folchetti responded with the town and the county.

Mr. Gagliardi commented that there is not much choice if people want clean water but it will cost the taxpayers.

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Greg Folchetti reiterated that the Town of Carmel's role would be to make sure that the inspections are done and Putnam County's role is to determine failure and a way to test for failure.

Supervisor Schmitt pointed out that the town would be responsible for enforcing the law and the county would deal with systems that were reported as failing. He stressed that the implementation of this law would increase taxes and that unfunded mandates by the state are killing the taxpayers.

Councilwoman McDonough questioned what the procedure would be after the form is filed with the town, the county and the homeowner.

Greg Folchetti explained that once the form is filed the role of the town is over. The town lacks the jurisdiction over failing septic systems and the responsibility of the Building Department is to make sure everyone with a septic system has an inspection done and a report is filed within five years. He further stated that no list exists of the properties that have private septic systems.

Councilman Ravallo responded that a list would have to be created. He also commented that he has taken part in this discussion because it affects the health and safety of the residents and that this part of MS4 has nothing to do with New York City therefore there is not a conflict of interest for him. He stated that he felt the intent of the law, which is to eliminate failing septic systems, is good and that keeping your septic system in good working order is the responsibility of the homeowners. Councilman Ravallo further stated that the unfunded part of this law is the administrative part.

Micky Farina noted that many contractors do not like having things imposed on them. He pointed out that most people would want to fix a failing system but may not have the money to do so.

Supervisor Schmitt reiterated that enforcement of this law is the town's responsibility and would cost the taxpayers money.

Dan Pearsall questioned if the inspection fee would be a set amount.

Supervisor Schmitt explained that the county has not produced the form yet nor have the fees been set.

Councilwoman McDonough noted that the fee would probably go to the hauler as they are the ones doing the work.

Mr. Pearsall asked if there is a time limit to correct the violation.

Councilman Ravallo stated that the homeowner would have thirty days to correct the violation.

Councilwoman McDonough acknowledged that the town doesn't have the form yet and there are a lot of unanswered questions.

Mr. Pearsall asked if there are funds available to repair failing systems.

Greg Folchetti stated that this law is only for the town to maintain and enforce the responsibility to conduct an inspection and file a report. The enforcement obligation is for the town to make sure that any property on a private septic system complies with the inspection and reporting components within the time frame stated in the law and if they don't the town can take action and issue a violation and effectively compel compliance. He further stated that anything to do with the form, repairs to a septic system or funding of repairs to a septic system is within the province of the county.

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Robert Pullman expressed his opinion that this is the right thing to do. He suggested that Putnam County have a list of approved haulers and information for the homeowners on what they are inspecting.

Pete Creegan of Mahopac commended Supervisor Schmitt for being instrumental in the formation of the Hudson Valley Coalition. He noted that the MS4 is the first issue to come forward. He reported that the Bronx secured \$250,000,000.00 to improve their parks and that \$20,000,000.00 was earmarked for MS4.

Supervisor Schmitt pointed out that this is just part of MS4 and that there is a lot of money for complying in regards to metrofills for storm sewer water.

Mr. Creegan noted that most of Westchester is hooked up to sewers and that maybe the Town of Carmel can get some funds to help with that issue here.

Supervisor Schmitt noted that a large part of the Town of Carmel is in the New York City Watershed.

George Steer of Mahopac suggested that the number of occupants of the home should determine how often the system has to be cleaned out.

Joseph Pezzo of Mahopac spoke of the need for clean water in the Lake Casse area. He stated that most people are on a septic system and that although a sewer system is needed nothing has been done.

Supervisor Schmitt indicated that the problem Mr. Pezzo had been having had to do with stormwater runoff.

Councilman Ravallo stated that the quality of water from a well maintained system is just as good as water coming out of a sewer system.

Mr. Pezzo said the problem is failing septic systems.

Discussion between members of the Town Board and Mr. Pezzo ensued regarding failing systems.

Mr. Pezzo concluded that a septic system should be pumped every two years and if water is hit at a depth of five feet houses should not be built because the water table would get contaminated.

Jerry Ravnitzky pointed out that a problem with a septic system is usually easy to determine and that if the local law doesn't spell it out the New York State Department of Environmental Conservation will clarify the guidelines for a failing system.

Mr. Ravnitzky questioned whether the hauler or the Town of Carmel Building Inspector would receive training. He also asked what the consequences would be come May 1, 2011 if no form exists and questioned how people can comply.

Supervisor Schmitt agreed that answers are needed from Putnam County regarding forms and fees and that it would have been helpful to have someone from the Putnam County Health Department at the meeting.

Supervisor Schmitt concluded that he was not comfortable passing this local law tonight as the law is not clear nor is the role of the town. Supervisor Schmitt acknowledged that the town attorney gave his opinion but that he respectfully disagreed with him regarding the role of the town. He further stated that he would vote no if the local law goes before the board tonight.

Councilman Ravallo questioned what the penalty would be if the board doesn't act at this time or if the law is enacted with changes.

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Greg Folchetti responded that it has yet to be determined what, if any, penalties may be applied. He further stated that it has also not been determined if Putnam County is going to be preparing a form for the reporting or if the collector can issue their own report.

Discussion was held regarding the possibility of reports being issued from the haulers.

Supervisor Schmitt once again stated that he was not comfortable with the law as it is now because he feels that it is incomplete. He further stated that he felt the spirit and intent of the law was good and that Putnam County does have a septic repair program which may provide funds for failing systems.

Councilwoman McDonough agreed that answers are needed from the Putnam County Health Department and she felt that the burden on our Building Department could be huge.

Councilman Ravallo addressed the issue of not being able to implement the law whether it is passed or not at this point because there is no data base of homeowners who have a septic system and one would have to be created. He further stated that he felt there was no harm in adopting the law now as it must be done sooner or later.

Greg Folchetti explained that if the law is not voted on at this meeting that the resolution for the SEQR review should be tabled.

Councilman Ravallo suggested that any changes would not make the law simpler than it already is.

Supervisor Schmitt disagreed saying that the law is unclear and since the town is responsible for it's enforcement the law needs to be clearer on the role of the town.

With no one else present wishing to be heard on the subject of the Public Hearing, on motion by Councilman Ravallo, seconded by Councilwoman McDonough, with all members of the Town Board present in agreement, the Public Hearing was closed at 8:20 p.m.

**PROPOSED LOCAL LAW ENACTING CHAPTER 118, ENTITLED "ON-SITE
SANITARY SYSTEMS"- SEQR DETERMINATION - TYPE II ACTION – TABLED.**

RESOLVED that the Town Board of the Town of Carmel hereby determines that proposed Local Law #2 of 2011 concerning the addition of Chapter 118 entitled "On-Site Sanitary Systems" to Town of Carmel Town Code is a Type II action under SEQR and no further review is necessary.

Motion to Table

Offered by: Councilwoman McDonough
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

After the resolution was offered by Councilwoman McDonough and seconded by Councilman Ravallo, Councilwoman McDonough made the motion to table the resolution as noted above.

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MINUTES OF TOWN BOARD MEETINGS HELD ON MARCH 16, 23 AND APRIL 6, 2011- ACCEPT AS SUBMITTED BY THE TOWN CLERK

On motion by Councilman Ravallo, seconded by Councilwoman McDonough, with all members of the Town Board present voting “aye”, the minutes of the Town Board meetings held on March 16, 2011, March 23, 2011 and April 6, 2011 were accepted as submitted by the Town Clerk.

LAKE CASSE PARK DISTRICT – NEWSLETTER – APPROVED.

RESOLVED, that the Town Board of the Town of Carmel, acting as Commissioners of the Lake Casse Park District, hereby accepts and authorizes the proposed Lake Casse Park District Newsletter in form as attached hereto and made part hereof, and

BE IT FURTHER RESOLVED that the Lake Casse Park District Advisory Committee is authorized to distribute the aforesaid newsletter within the Lake Casse Park District.

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	



Lake Casse
Newsletter Spring 2011

✓ Motion Approved 4/13/11 ...
✓ Agenda 4/20/11 ...

#2

LAKE CASSE SAYS GOODBYE

Lake Casse says goodbye to two of their own. Roy Strauss and May Ferrick both passed away in December 2010. Roy and May were on the Lake Casse Advisory Board for many years. Both were very instrumental in Lake Casse’s improvements over the years. A tree will be planted in honor of Roy Strauss for serving as Chairman of the Advisory Board for over 20 years. They both will be missed.

ACTIVITIES COMMITTEE

We are “Lake Casse” residents who joined together to foster community spirit and to provide family unity. We aim to keep families involved in the community. For more information on how to join call Gail Perillo at 845-628-4186.

UP COMING EVENTS

ADVISORY BOARD NEWS

Club House Improvements

Clubhouse improvements are a priority and a review of the facility is underway. Bathrooms and main floor restorations are at the top the list.

Lake Casse Open Meeting

Tuesday May 10th 7pm at the Lake Casse Club House. Come meet your Advisory Board Committee and your neighbors. It's time to learn more about Lake Casse and and see how you can be on our Advisory Board Committee. Come with your questions.

STAY IN TOUCH!

Sign up for the e-newsletter. Send your email address to LakeCasse@aol.com and we will keep you informed of Lake Casse Meetings, fun events and any important information concerning Lake Casse.

LOOK FOR US ON FACEBOOK

Family Tag Sale

April 30th and May 1st 10AM – 4PM

Mark your calendar and come and shop.

Clean out your closets, sheds and attics and get ready to sell. Space is limited to 25 vendors only \$10 per person. Call Bob at 845-628-8115 to reserve a spot.

FAQ ABOUT THE CLUB HOUSE

Who can rent the club house?

Anyone that lives in Lake Casse and can show proof to the town.

What is the cost?

You can rent the club house for \$250.

Can we serve wine and beer at a party?

Yes!

How do I rent the club house.

Call Bob at 845-628-8115 to see if the date is available

LAKE OPENS

The lake will be opening for swimming Memorial Day weekend. We are very lucky to have our 3 fabulous lifeguards back. Lifeguards will be on duty from 11am-6pm.

LAKE SECOR PARK DISTRICT – HIRING OF TEMPORARY SUMMER HELP – AUTHORIZED. AMENDED 4/27/11

RESOLVED that the Town Board of the Town of Carmel, acting as Commissioners of the Lake Secor Park District, upon the recommendation of the Lake Secor Park District Advisory Board hereby authorizes the hiring of the following as temporary summer help subject to submission of necessary certifications to the Director of Recreation and Parks and subject to obtaining of working papers, if required by law:

NAME	POSITION	HOURLY RATE
Caitlin Perrotta	Head Lifeguard	\$13.75
Deirdre Hickey	Lifeguard	\$11.50
Nicholas Lopilato	Lifeguard	\$10.50
Christopher Gray	Lifeguard	\$10.50
Dan Kennedy	Lifeguard	\$10.50
Gregory Lorenzini	Lifeguard	\$10.00

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Resolution

Offered by: Councilwoman Ravallo
Seconded by: Councilman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

LAKE CASSE PARK DISTRICT – HIRING OF TEMPORARY SUMMER HELP – AUTHORIZED.

RESOLVED that the Town Board of the Town of Carmel, acting as Commissioners of the Lake Casse Park District, upon the recommendation of the Lake Casse Park District Advisory Board hereby authorizes the hiring of the following as temporary summer help subject to submission of necessary certifications to the Director of Recreation and Parks and subject to obtaining of working papers, if required by law:

NAME	POSITION	HOURLY RATE
Lisa Jennings	Lifeguard	\$16.00
Ross Metcalf	Lifeguard	\$16.00
Tim Hines	Lifeguard	\$15.00
Marissa Jumper	Lifeguard	\$16.00

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

TOWN COMPTROLLER – DECEMBER 2010 AUDITED BUDGET MODIFICATIONS / REVISIONS SCHEDULE #2010-13 - AUTHORIZED

WHEREAS the Town Comptroller has reviewed the December, 2010 Audited Budget Modifications with the Town Board which are detailed and explained on the attached Budget Revisions Schedule identified as #2010-13;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes and ratifies the December, 2010 Budget Modifications/Revisions itemized on Schedule #2010-13 which is attached hereto, incorporated herein and made a part hereof.

Resolution

Offered by: Supervisor Schmitt
Seconded by: Councilman McDonough

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Roll Call Vote	YES	NO	
Robert Ravallo	X		
Frank Lombardi			Absent
Suzanne McDonough	X		
Kenneth Schmitt	X		

✓ Town Session 4/13/11
✓ Agenda 4/20/11

TOWN OF CARMEL
FINAL 2010 BUDGET REVISIONS - AUDITED
#2010-13

#6

BUDGET REVISION NUMBER	ACCOUNT	ACCOUNT TITLE & TRANSFER DESCRIPTION	INCREASE USES & SOURCES OF FUNDS	DECREASE USES & SOURCES OF FUNDS
CARMEL WATER DISTRICT 2 EXT				
	622-8310-0049	SERVICES OTHER GOVTS	12,315.60	
	622-8310-9909	APPROPRIATED FUND BALANCE	*	12,315.60
		- PROVIDE FOR CORRECTION OF OOD CHARGES		
CARMEL SEWER DISTRICT #2				
	702-8130-0045	OPER & MAINTENANCE CONTRACTUAL EXPENSE	102,480.00	
	702-8130-2770	OTHER REVENUE - NYC	*	102,480.00
		- PROVIDE FOR YEAR END CONTRACT BILL		
CARMEL SEWER DISTRICT #4				
	704-8130-0045	OPER & MAINTENANCE CONTRACTUAL EXPENSE	102,480.00	
	704-8130-2770	OTHER REVENUE - NYC	*	102,480.00
		- PROVIDE FOR YEAR END CONTRACT BILL		
CARMEL SEWER DISTRICT # 8 DEBT FUND				
	878-8130-0040	CONTRACTUAL EXPENSE	159,090.00	
	878-8130-9909	APPROPRIATED FUND BALANCE	*	159,090.00
		- PROVIDE FOR CORRECTION OF OOD CHARGES		

**HIGHWAY DEPARTMENT – BIDS FOR MISCELLANEOUS HIGHWAY
DEPARTMENT MATERIALS AND SERVICES – AWARDED AMENDED 4/27/11**

WHEREAS the Town Board of the Town of Carmel has previously authorized advertisement for the solicitation of bids for various highway materials and services for the Town Highway Department, and

WHEREAS such bids were received and opened and the Highway Superintendent has recommended the awarding of the bids (after equalizing all FOB bids based on distance to the Town Highway Department yard),

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Carmel hereby awards the bids for the purchase of various highway materials and services to the lowest responsible bidders who met specifications as follows:

Run of Bank Gravel	-	Red Wing Properties Inc.
FOB Bidder's Plant & Delivered		PO Box 408
		Stormville, NY 12582

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Bituminous Concrete Asphalt Concrete Type 6 & 6F Top Course Type 7 and 7F Binder Course Type 3 Curb Mix	-	Peckham Materials Corp. Carmel Plant, Route 6 Carmel, NY 10512
Bituminous Concrete In-Place In-Place with tack coat In-Place with keys		Bilotta Construction Corporation 296 Purchase Street Rye, NY 10580
Road Oils, Cutbacks Etc. Medium Curing Cutbacks Rapid Curing Cutbacks Penetration Asphalt Cationic Emulsified Asphalt	-	Peckham Materials Corp. 20 Haarlem Avenue White Plains, NY 10603
Tree Felling and Trimming	-	Laurel Oak Landscaping of NY, Inc. 21 Branch Road Brewster, NY 10509
Crushed Gravel FOB - 1/4" Delivered - 1/4"	-	Thalle Industries, Inc. 172 Route 9 Fishkill, NY 12524
Crushed Gravel FOB - 3/8" Delivered - 3/8"	-	Nicholas F. Domain Sand & Gravel 2441 Route 22 Dover Plains, NY 12522
Crushed Gravel- Delivered 3/4" Delivered 1 1/2 Delivered 3/8"		West Hook Sand & Gravel 25 West Hook Road Hopewell Jct., NY 12533
Crushed Gravel FOB 3/4" FOB -1 1/2"	-	Putnam Materials Corp. Rte 311 Patterson, NY
Granular Base Item 4 FOB	-	Putnam Materials Corp. Rte 311 Patterson, NY
Granular Base Item 4 Delivered	-	Putnam Materials Corp. Rte 311 Patterson, NY
Steel Culvert Pipe FOB & DELIVERED Plain and Perforated All Sizes	-	Chemung Supply Corporation Elmira, NY
Aluminum Culvert Pipe FOB & DELIVERED Plain & Perforated All sizes	-	Chemung Supply Corporation Elmira, NY
Corrugated Polyethylene Drainage Pipe FOB & Delivered	-	Reject all bids & purchase Under NYS Bid

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Catch Basin Sumps & Tops - M & M Precast Corp.
Delivered 39 Padanaram Road
Danbury, CT 06811

Resolution
Offered by: Councilwoman Ravallo
Seconded by: Councilman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	X		
Frank Lombardi			Absent
Suzanne McDonough	X		
Kenneth Schmitt	X		

**HIGHWAY DEPARTMENT - DECLARING CERTAIN EQUIPMENT OBSOLETE
AND AUTHORIZING DISPOSAL**

RESOLVED that, upon the recommendation of Michael Simone, Superintendent of Highways, the Town Board of the Town of Carmel hereby declares the following equipment to be obsolete and hereby authorizes its disposal in accordance with Town Law, including but not limited to disposal pursuant to Town Law § 64(2-a):

- 1995 Grad All VIN #0317333

Resolution
Offered by: Councilwoman McDonough
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	X		
Frank Lombardi			Absent
Suzanne McDonough	X		
Kenneth Schmitt	X		

**DEPARTMENT OF RECREATION AND PARKS – ISSUANCE OF A REVOCABLE
LICENSE TO BUCCI BROTHERS DELI OF MAHOPAC FOR OPERATION OF
SYCAMORE PARK CONCESSION STAND FOR PERIOD OF MARCH 21, 2011
THROUGH MARCH 21, 2012 – AUTHORIZED.**

WHEREAS the Director Of Recreation and Parks, James R. Gilchrist, has forwarded a memo to the Town Board, dated March 22, 2011, detailing proposals received for operation of the Sycamore Park concession stand for the period March 21, 2011 through March 21, 2012;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes the issuance of a revocable license to Bucci Brothers Deli of Mahopac, NY to operate the concession stand at Sycamore Park for the period March 21, 2011 to March 21, 2012; and

BE IT FURTHER RESOLVED that upon presentation of insurance certificates in form as approved by the Town Counsel, the Town Supervisor is authorized to sign the License Agreement and attached menu in form as attached hereto and made a part hereof.

Resolution
Offered by: Supervisor Schmitt
Seconded by: Councilman Ravallo

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Roll Call Vote	YES	NO	
Robert Ravallo	X		
Frank Lombardi			Absent
Suzanne McDonough	X		
Kenneth Schmitt	X		

Supervisor Schmitt noted that in comparing the prices of the menu items between Bucci Brothers Deli and Carmel Bagel Deli...licious some were higher and some were lower therefore balancing out overall but that Bucci Brothers Deli offered to pay more money to the town for the license fee.

2011 MENU COMPARISON	Carmel Bagel Deli...licious Suggestd Price	Bucci Brothers Suggested Price
Breakfast Items:		
Bagel (w/cream cheese or butter)	\$ 2.00	\$ 1.00
Buttered Roll	\$ 1.00	\$ 0.75
Bacon, Egg, & Cheese Sandwich	\$ 2.50	\$ 2.00
Meat and Cheese Sandwich	\$ 2.00	\$ -
Bacon and Egg Sandwich	\$ 2.00	\$ 1.50
Egg Sandwich	\$ 1.75	\$ -
Fruit Cups	\$ 2.00	\$ 3.00
Lunch Items:		
Hot Dog	\$ 2.00	\$ 2.00
Hamburger	\$ 3.00	\$ 3.00
Cheeseburger	\$ 3.50	\$ 3.50
Bacon Cheeseburger	\$ 3.75	\$ 3.95
Peanut Butter & Jelly	\$ 2.50	\$ 3.00
Pizza Bagels	\$ 1.50	\$ 3.00
Grilled Cheese	\$ 2.75	\$ 3.00
Italian Combo	\$ 2.50	\$ 3.00
American Combo	\$ 2.50	\$ 3.00
Chicken Nuggets	\$ 2.75	\$ -
Chicken Tenders	\$ 2.75	\$ 4.00
French Fries	\$ 2.25	\$ 2.00
Mozzarella Sticks	\$ 3.75	\$ -
Crispy Chicken Wrap	\$ 4.00	\$ 5.00
Onion Rings	\$ 2.50	\$ -
Chicken Cutlet Sandwich	\$ 4.00	\$ 4.00
Grilled Chicken	\$ 4.00	\$ -
Grilled Chicken Salad	\$ 4.00	\$ 5.00
Garden Salad	\$ 3.00	\$ 5.00
Soft Pretzel	\$ 2.50	\$ 2.00
Chips (Assorted)	\$ 0.50	\$ 0.50
Pretzels / Popcorn	\$ 0.50	\$ 0.50
Fresh Fruit	\$ 0.75	\$ 1.00
Beverages:		
Pepsi / Diet Pepsi	\$ 1.00	\$ 1.00
Mountain Dew	\$ 1.00	\$ -
Root Beer	\$ 1.00	\$ -
7Up	\$ 1.00	\$ 1.00
Orange Soda	\$ 1.00	\$ -
Hawaiin Punch	\$ 1.00	\$ -
Code Red Mountain Dew	\$ 1.00	\$ -
Iced Tea	\$ 1.00	\$ -
Snapple	\$ 2.00	\$ 1.00
Gatorade (Assorted Flavors)	\$ 2.00	\$ -
Milk (whole, skim, 2% chocolate)	\$ 0.50	\$ 0.75
Nesquick	\$ 2.25	\$ -
Vitamin Water (Assorted Flavors)	\$ 2.00	\$ 2.00
Water	\$ 1.00	\$ 1.00
Coffee	\$ 1.00	\$ 1.00
Tea	\$ 1.00	\$ 1.00
Orange Juice / Apple Juice	\$ 1.50	\$ 1.50
Assorted Candy	\$.25 - \$1.00	\$.35 - \$1.75
Assorted Snacks		
Sunflower Seeds, Cookies, Rice Krispie Treats, etc.	\$ 1.00	\$.75 - \$1.00
Assorted Ice Cream & Ice Pops		
Strawberry Shortcake, Sandwiches, Cones, etc.	\$1.00 - \$2.00	\$ 2.00
Fee Offered to Town	\$ 3,000.00	\$ 3,200.00

APRIL 20, 2011
TOWN BOARD MEETING

RECREATION AND PARKS DEPARTMENT - ADVERTISING FOR BIDS FOR PURCHASE AND CONSTRUCTION OF A PAVILION AT CAMARDA PARK – AUTHORIZED.

RESOLVED that, pursuant to the request of James Gilchrist, Director of Recreation and Parks, the Town Clerk of the Town of Carmel is hereby authorized to advertise for bids for the purchase and construction of a Pavilion at Camarda Park; and

BE IT FURTHER RESOLVED that the Director of Recreation and Parks is to furnish detailed specifications for the above to the Town Clerk Ann Garris to be used in conjunction with the Town's general bid conditions and specifications.

Resolution

Offered by: Councilwoman Ravallo
Seconded by: Councilman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

Supervisor Schmitt explained that the pavilion that was there collapsed due to heavy snow and that the new one would be made of steel. He further explained that the insurance company would be reimbursing the town for most of the cost.

BUILDING DEPARTMENT - ATTENDANCE AT NEW YORK STATE BUILDING OFFICIALS CONFERENCE IN ROCKLAND COUNTY BY DIRECTOR OF CODES ENFORCEMENT, MICHAEL CARNAZZA, AND ASSISTANT BUILDING INSPECTOR, SEVEN VELARDO, ON MAY 3 – MAY 5, 2011 – AUTHORIZED.

RESOLVED that the Town Board of the Town of Carmel hereby authorizes Director of Codes Enforcement Michael Carnazza and Assistant Building Inspector Steven Velardo to attend the New York State Building Officials Conference offered in Rockland County on May 3, May 4 and May 5, 2011; and

BE IT FURTHER RESOLVED that the Town Board of the Town of Carmel authorizes payment of his reasonable and necessary expenses upon audit.

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

Supervisor Schmitt explained that the money to cover the costs has been budgeted for in the 2011 budget.

OFFER OF MAHOPAC-CARMEL CHAMBER OF COMMERCE TO SPONSOR EPISODES OF “COMMUNITY CONNECT” – ACCEPTED.

APRIL 20, 2011
TOWN BOARD MEETING

RESOLVED that the Town Board of the Town of Carmel hereby accepts the offer of the Mahopac - Carmel Chamber of Commerce to sponsor episodes as needed of "Community Connect" as contained in its letter of March 24, 2011 to the Town Supervisor Kenneth Schmitt which is incorporated herein by reference.

Resolution
Offered by: Supervisor Schmitt
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

Supervisor Schmitt thanked the Mahopac-Carmel Chamber of Commerce for their support.

DESIGNATION OF APRIL 15, 2011 THROUGH MAY 15, 2011 AS TOWN OF CARMEL LITTER CLEANUP MONTH

RESOLVED that the Town Board of the Town of Carmel hereby designates the dates of April 15, 2011 through May 15, 2011 as Litter Cleanup Month in the Town of Carmel.

Resolution
Offered by: Councilwoman Ravallo
Seconded by: Councilman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

Supervisor Schmitt announced that as part of the Town of Carmel Litter Cleanup Month the Building Inspector will be checking for illegal signs and issuing violations throughout the Town of Carmel. Additionally, on Saturday, April 30, 2011 volunteers will be meeting at the Carmel Town Hall at 8:30 AM to go out and help clean up areas around the town.

SCHEDULING OF PUBLIC HEARING ON MAY 11, 2011 ON A LOCAL LAW ENACTING CHAPTER 53 OF THE TOWN CODE OF THE TOWN OF CARMEL ENTITLED "BLASTING" – AUTHORIZED.

RESOLVED that the Town Board of the Town of Carmel hereby authorizes the scheduling of a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, May 11, 2011 at 7:00 p.m. or as soon thereafter that evening as possible on a Local Law enacting Chapter 53 of the Town Code of the Town of Carmel, entitled "BLASTING"; and

BE IT FURTHER RESOLVED that the Town Clerk Ann Garris is hereby authorized and instructed to publish and post the necessary notices in the official newspaper of the Town and on the Town bulletin board regarding this Public Hearing.

Resolution

Offered by: Councilwoman McDonough

Seconded by: Councilman Ravallo

Roll Call Vote	YES	NO	
Robert Ravallo	X		
Frank Lombardi			Absent
Suzanne McDonough	X		
Kenneth Schmitt	X		

CHAPTER 53

BLASTING

§52-1. Intent.

The Town Board of the Town of Carmel takes recognition of requests by residents of Town of Carmel to impose regulations on the discharge of explosives within the town so as to promote the peace, good order and safety of the community.

§52-2. Statutory authority.

This chapter is adopted pursuant to Article 2, § 10, of the Municipal Home Rule Law of the State of New York and Article 16 of the Labor Law Of the State of New York.

§52-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BLAST AREA/BLAST SITE – The specific parcel(s) or property(ies) where explosive charges are set and detonated.

BLAST LOCATION – The actual physical location within a blast area or blast site where explosive charges are set and detonated.

BUILDING INSPECTOR --Unless otherwise specified, the Town of Carmel Building Inspector or his/her designated representative.

ENFORCEMENT AGENCY OR AUTHORITY – The Town Engineer of the Town of Carmel, the Building Inspector of the Town of Carmel or his/her designated representatives.

ENGINEER – Unless otherwise specified, the Town Engineer or his designated representative.

EXPLOSIVES – Gunpowder, powders used for blasting, high explosives, blasting materials, detonating fuses, detonators and other detonating agents, smokeless powder and any chemical compound or any mechanical mixture containing any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonation any part thereof may and is intended to cause an explosion, but shall not include gasoline, kerosene, naphtha, turpentine, benzine, acetone, ethyl ether, benzol and all quantities of black powder not exceeding five pounds for use in firing of antique firearms or artifacts or replicas thereof. Fixed ammunition and primers for small arms, firecrackers, safety fuses and matches shall not be deemed to be explosives when the individual units contain any of the above-mentioned articles or substances in such limited quantity, of such nature and so packed that it is impossible to produce an explosion of such units to the injury of life, limb or property.

FIRE INSPECTOR – Unless otherwise specified, the Town of Carmel Building Inspector or his designated representative.

ROCK – All ledge or bedrock, boulders or masonry larger than ½ cubic yard in volume and any material requiring blasting, barring, chipping, wedging or other methods for removal from its original bed.

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§53-4. Permit required.

No person shall blast or use any explosives in blasting operations in the Town of Carmel unless he/she is a holder of a blaster's license issued by the State of New York and unless he/she obtains a permit for the proposed work from the Building Inspector of the Town of Carmel.

§53-5. Blaster's permit and fees.

A. A blaster's permit shall be issued by the Building Inspector of the Town of Carmel- upon application on forms prescribed by him. Applicants shall be at least 21 years of age and shall satisfy the Building Inspector as to their experience in handling explosives and ability to use the same without undue risk. Applicants shall submit proof of a state certificate of competence and a license to purchase, own, possess, transport or use explosive as required by the New York State Department of Labor and its regulations by § 482 of the General Business Law.

B. The permit shall not be issued until the applicant shall furnish a bond in a sum to be fixed by the Town Engineer and in a form acceptable to the Town Attorney. After such approval, said bond shall be filed with the Town Clerk. In addition, each applicant shall secure and deliver to the Building Inspector a liability insurance policy in an amount set by resolution of the Town Board (Suggested \$3,000,000 per incident /\$10,000,000 aggregate) with the Town named as an additional insured. Each application shall be accompanied by a fee in an amount set by resolution of the Town Board. Permits shall expire on December 31 next following the date of their issuance and may be renewed by the Building Inspector for a period of one year on the payment of a registration fee in an amount set by resolution of the Town Board for each renewal. The current permit License and Fee Schedule is on file in the Town Clerk's Office. Each applicant for renewal of license shall furnish a bond as herein above provided. A license permit may be revoked if, in the opinion of the Building Inspector, the holder of such permit has proven himself incompetent or careless. If so revoked, no new permit shall be issued to the same person for a period of three months, and then only upon satisfying the Building Inspector of his fitness for such permit.

§53-6. Conditioning of bonds and insurance.

All bonds herein required shall be conditioned for the payment to the Town of Carmel, in full or in part, or to any person entitled thereto, for any loss, damage or injury resulting to persons or property by reason of any use of any explosives in blasting operations, and for the strict and full compliance with the provisions of this chapter and with such other regulations pertaining to explosives as may hereinafter be lawfully made and enacted. The period or duration of bond shall expire no earlier than one (1) year after the completion of all proposed blasting activity.

§53 -7. Blasting permit.

Any person, firm or corporation intending to detonate explosives within Town of Carmel shall, prior to such detonation, apply for a permit to detonate such explosives from the Building Department of the Town of Carmel. Such person, firm or corporation shall supply the Building Department with the following information:

- (1) The name of the owner of the property upon which the detonation of explosives is intended to occur.
- (2) The business address of the person, firm or corporation proposing to detonate explosives on the subject property.
- (3) Evidence of the fact that the person, firm or corporation intending to detonate explosives is duly licensed pursuant to § 458 of the Labor Law of the State of New York.
- (4) The precise location of the intended detonation of explosives, as well as the size of charges intended to be detonated and the proposed schedule for detonation of explosives.
- (5) Evidence that the person, firm or corporation intending to detonate explosives has sufficient insurance coverage, as described in §53-5 & 53-6, Bond and insurance requirements, to provide payment for damages to any person suffering damages by virtue of the detonation of the explosives.
- (6) Adjacent structures. A description of all structures and utilities, including residential dwellings, garages, swimming pools, tennis courts, etc., located within five hundred (500) feet of the blast site and a list of the names and addresses of the owner or owners of any parcel within five hundred (500) feet of the blast site on which the blasting is to take place, as shown on the most recent tax rolls of the Town of Carmel.
- (7) Notice Provisions. As an express condition of issuance of any permit sought hereunder, the applicant shall submit proof of written notice of its intent to commence or conduct blasting operations at the proposed site(s) to all property owners with a 500 foot radius of any proposed blasting operation, either by hand delivery, certified mail, or in such manner as the building inspector shall deem appropriate to confer sufficient notice on the aforesaid property owners. Such notice shall include the proposed date(s) and time(s) of and locations the proposed blasting activity

APRIL 20, 2011
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- B. The permit shall state the location for which it is approved, the date issued, the name of the person or persons authorized to do the blasting and such other information as the Building Inspector may deem necessary. The permit shall be good only for the one location designated therein, shall not be transferable and shall expire not later than one year from the date thereof. Application for such permit shall be accompanied by an inspection fee in an amount set by resolution of the Town Board. The current License and Fee Schedule is on file in the Town Clerk's office.
- C. If the Building Inspector finds, upon reviewing an application for a blasting permit, that the conduct of such blasting operation will require the Town to hire an outside expert or consultant to review the permit application, to monitor the activity or to offer advice on the placing and firing of the charges, the estimated cost of the services of such outside expert or consultant will be added to the permit fee, and, if the actual fee exceeds the estimate, the licensee shall be required to pay said excess to the Town as part of the conditions of the permit.
- D. Pre-blast inspection/Post-blast inspection.
- (1) When any actual blast location is proposed or planned to occur within a five hundred (500) foot radius of any-existing home, structure, roadway, pool, utility or other facility, including but not limited to septic systems, sewer lines/mains/collectors, water distribution mains or services and/or water wells and distribution lines, the Building Inspector shall require est that a pre-blast inspection be performed by the applicant. The pre-blast inspection should provide reports, photographs and video documentation delineating the existing conditions of such buildings, structures, utilities or facilities. The cost of said inspections shall be born by the applicant and/or permittee.
- (2) Upon review of the pre-blast inspection reports and field visits, the Building Inspector may determine that a blasting plan be prepared.
- (3) The Building Inspector shall require post-blast inspection with regard to all blast locations which occur within a five hundred (500) foot radius of any-existing home, structure, roadway, pool, utility or other facility, including but not limited to septic systems, sewer lines/mains/collectors, water distribution mains or services and/or water wells and distribution lines. Such post-blast inspection shall be in accordance with the requirements of section D(1) herein and shall be completed within 12 (twelve) months of completion of all blasting activity.
- (4) The Building Inspector, in his discretion may direct or require potable water testing be conducted and that the cost of said testing be born by the applicant and/or permittee.
- E. Blasting plan. When determined necessary by the Town Building Inspector, the applicant shall have prepared a blasting plan for the proposed work. The blasting plan shall be prepared by a professional engineer licensed in New York State and provide the following information:
- (1) A performance specification outlining the spacing, diameter and depth of drill holes; number of drill holes to be loaded during any blast; caps, delays, charge weight and sequence per blast; peak particle velocity computations; vibration monitoring program; removal methods; safety measures to protect vehicles and pedestrians; and impacts and mitigation proposed to neighboring properties due to noise, dust, traffic and blasts.
- (2) The design of exposed rock faces based on factual representation of bedrock stability as determined by a geotechnical consultant. The design should include profiles of existing and proposed conditions; location of varying stability of bedrock; improvements to control drainage and groundwater; and details of walls, cribbing, rock pinning or other methods proposed to stabilize face.
- E. Review. The Town Building Inspector, in his review of applications, shall from time to time, as he finds necessary, request the opinion of the Town Engineer in the review of applications, pre-blast inspections, reports and blasting plans.

§53-8. Restrictions Hours of Activity

It shall be unlawful to blast or carry on any blasting operation after 3:00 p.m. or before 9:00 a.m., nor shall any blasting operation be done on Holidays, Saturday or Sunday, except with the approval of the Building Inspector.

§53-9. Quantity of explosives; storage.

No person shall use for a blasting operation a quantity of explosives greater than necessary to properly start the rock. It shall be unlawful to store explosives, fuses, electrical equipment or other apparatus necessary to blast or any equipment involved with exploding or blasting charge, except for covering materials on site overnight.

§53-10. Covering of material to be blasted.

Before firing any blasts, except where the same is in a tunnel, the material to be blasted shall be covered on the top and sides with timber, held securely together by strong chains or ropes of iron or steel, and covered with sheets of tin or heavy woven material of rope or wire.

§53-11. Firing; warning.

It shall be unlawful to explode a blasting charge by means of time fuse, slow-burning or safety fuse or by any means other than some form of electrical apparatus. At least three minutes before firing a blast, the blaster shall give warning thereof by causing a competent person carrying a red flag to be stationed at a reasonable distance from the blast at each avenue of approach or point of danger.

§53-12. Shoring of weak structures.

The blasting of rock contiguous to any structure shall be so conducted as not to cause damage thereto. To this end, weak walls or other supports shall be shored up, and rotten or decomposed rock shall be removed only by the use of gads, picks or crowbars. When blasting in the vicinity of a weak structure is unavoidable, only light-face blasts with short lines of resistance and small charges shall be used.

§53-13. Tamping.

Blasting charges shall be tamped only by means of wooden tamping rods, and explosives shall be pressed or set into place by steady, even pressure only. All strokes or blows with the tamping rods are forbidden, and no tamping rod shall be used which is frayed or split at the end.

§53-14. Unexploded charges.

Immediately after firing a blast, the blaster shall cause all debris to be removed and shall thoroughly examine the rock and the drill holes to ascertain whether there remains any unexploded charge, and until this is done, no drills shall be set up. In case a charge shall fail to explode, it must be exploded by drilling one hole at least 12 inches away, which shall be loaded and fired in the usual manner, but in no case shall the charge and tamping be removed from the hole without the special permission of the Building Inspector. In case a blast shall fail to carry away the entire drill hole and leaves the lower part intact, no further drilling shall be done in that hole.

§53-15. Blaster's helpers.

No person shall load holes in blasting operations except the blaster authorized in the permit; provided, however, that while holes are being actually loaded, drillers and drill-helpers may act as blaster's helpers under the direct supervision and responsibility of the blaster.

§53-16. Capping cartridges.

Cartridges, while being capped, shall be removed from any magazine to a distance of not less than 50 feet, and, after being capped, shall not be returned to a magazine. Cartridges shall be capped only as required for the work and for immediate use

§53-17.Maintenance and Submission of Records

Any applicant issued a permit pursuant to the terms of this chapter shall be responsible for conducting seismic monitoring and generating records of all seismic readings for any and all blasting activity conducted pursuant to said permit(s). True and exact copies of all such records of seismic readings, as well as pre-blast surveys, shall be submitted to the Town of Carmel Building Department and shall also be retained by the permittee(s) for a duration of at least 5 years from the date of issuance of the permit(s).

§53-18 Penalties for offenses.

Any person or corporation violating any of the provisions of this chapter, upon conviction of a first offense thereof, shall be subject to a fine of not more than \$2,500 or imprisonment for a term of not more than 15 days, or both, for each offense. Upon conviction of each subsequent offense thereof, shall be subject to a fine of not more than \$5,000 or imprisonment for a term of not more than 15 days, or both, for each offense. Every violation of any provision of this chapter shall be a separate and distinct offense, and, in case of continuing violation, every day's continuance thereof shall be deemed to be a separate and distinct offense.

This chapter may be enforced by the Building Inspector/Director of Code Enforcement, Property Compliance Officer, and/or Zoning Officer or any other individual designated by duly authorized resolution of the Town of Carmel Town Board.

§53-19 Repeal of Existing Laws

Immediately upon the enactment of this section, §59-30 of the Town Code of the Town of Carmel is hereby repealed.

SCHEDULING OF PUBLIC HEARING ON MAY 11, 2011 ON A LOCAL LAW AMENDING ARTICLE 95 OF THE TOWN CODE OF THE TOWN OF CARMEL ENTITLED “GARBAGE, RUBBISH AND REFUSE” – AUTHORIZED.

RESOLVED that the Town Board of the Town of Carmel hereby authorizes the scheduling of a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, May 11, 2011 at 7:00 p.m. or as soon thereafter that evening as possible on a Local Law amending Article 95 of the Town Code of the Town of Carmel, entitled “GARBAGE, RUBBISH AND REFUSE”; and

BE IT FURTHER RESOLVED that the Town Clerk Ann Garris is hereby authorized and instructed to publish and post the necessary notices in the official newspaper of the Town and on the Town bulletin board regarding this Public Hearing.

Resolution

Offered by: Supervisor Schmitt
Seconded by: Councilman Ravallo & Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

CHAPTER 95 GARBAGE, RUBBISH AND REFUSE

GENERAL REFERENCES

- Public assemblies — See Ch. 43.
- Boats — See Ch. 55.
- Fees — See Ch. 80.
- Property maintenance — See Ch. 114.
- ARTICLE I Littering (§ 95-1 — § 95-13)
- ARTICLE II Recycling (§ 95-14 — § 95-18)

ARTICLE III Storage, Collection and Disposal (§ 95-19 — § 95-39)

§ 95-19 Intent.

It is the purpose of this article to protect and enhance the public health and welfare of the Town of Carmel by regulating the storage, collection and transportation for disposal of solid waste and recyclable materials within the Town of Carmel, including the licensing and regulation of persons and vehicles engaged in such collection and transportation.

§ 95-20 Definitions.

For the purposes of this article, certain words and terms used herein are defined as follows:

COMMERCIAL CUSTOMER

Any customer of a refuse collector who stores refuse and garbage in the containers referred to in §95-21C herein.[Added 11-1-2006 by L.L. No. 7-2006]

CURBSIDE COLLECTION

Placement of contained garbage or refuse designated for collection within ten (10) feet of a private, town, county or state right-of-way from which a residence derives access.

GARBAGE

All putrescible animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food or the storage and sale of produce.

HAZARDOUS WASTE

All those wastes that can cause serious injury or disease during the normal storage, collection and disposal cycle, including but not limited to explosives, inflammables, pathological and infectious wastes, radioactive materials, poisons, acids and dangerous chemicals or combinations of chemicals and any material designated as hazardous waste by federal and state agencies having jurisdiction.

PERSON

Any individual, group of individuals, partnership, firm, corporation or association.

RECYCLABLES OR RECYCLABLE MATERIALS

Raw or processed material that can be recovered from a waste stream for reuse as defined in Chapter 205, et seq of the Code of Putnam County New York as may be amended.

REFUSE

All putrescible and nonputrescible solid waste, including garbage, rubbish, rubble, trash, small dead animals, ashes, solid commercial and industrial waste, but not including human or rendering waste, junk motor vehicles, dirt or rocks.

REFUSE COLLECTOR

Any person duly licensed or authorized, pursuant to this article, to engage in the business of collecting, storing, hauling or transporting of refuse and garbage in the Town of Carmel.

RESIDENTIAL CUSTOMER

Any customer of a refuse collector who stores refuse and garbage in the manner described in § 95-21A and B herein.

SOLID WASTE

All matter of useless, unwanted or discarded solid or semisolid domestic, commercial, industrial, institutional, construction and demolition waste material, including garbage and refuse, but excepting human or rendering waste.

§ 95-21 Storage.

A. Except as otherwise provided, all garbage and refuse shall be stored in containers, commercially manufactured for that purpose, equipped with suitable handles and tight-fitting covers and which shall be watertight and capable of being properly cleaned and sanitized. Such containers shall not exceed 90 (Ninety) in capacity.

B. Plastic (polyurethane) bags may be used for storage of all refuse, provided that such bags are securely tied or otherwise fastened at the top, are free from holes, rips or tears and are of sufficient strength to permit normal handling without rupture.

C. Containers, larger than those permitted in Subsection A of this section, may be used on commercial properties and other properties where the type of collection equipment and/or collection methods permit the handling of such containers without endangering health or safety.

D. Any waste material, other than garbage which cannot readily be deposited in containers, may be compacted and securely bundled, tied or packed so as not likely to be spilled or scattered and when so packed and secured.

E. Hazardous waste shall not be stored, placed for collection nor collected, except on special permission by the Town Board or approval by federal or state agencies having jurisdiction and only in conformance with the regulations applicable thereto.

§ 95-22 Point of collection.

A. Where collection is provided at the roadside, containers shall be placed in a visible and accessible area and shall not interfere with sidewalk or vehicular traffic or parking.

B. Where collection is provided at the roadside, the refuse collector shall place containers back onto the owner's property in a neat fashion with covers on.

C. The refuse collector shall not leave refuse or garbage upon streets or public or private property which may have dropped from containers or the collector's equipment.

§ 95-23 Collection hours.

Collection shall be restricted to the hours of 6:00 a.m. to 6:00 p.m., Monday through Saturday, and shall be carried on by the refuse collector with a minimum of discomfort to property owners and residents.

§ 95-24 Remedy of service.

Refuse collectors shall remedy any and all missed or improper service within 24 hours, excepting Sundays.

§ 95-25 Collection vehicles.

A. All vehicles used to collect, haul or transport refuse and garbage shall be of metal or other impervious material, shall be constructed and maintained to prevent refuse and garbage from accumulating in or on the body, shall be capable of being completely emptied and shall be kept in a clean and sanitary condition.

B. Any vehicle used to collect, haul or transport refuse and garbage shall be of such design and construction so as to prevent escape of refuse, garbage or recyclables or other contents, and such preventative design shall be implemented at all times during the hauling or transportation of refuse and garbage.

C. All vehicles used by any refuse collector shall display the name of the collector and vehicle number clearly printed and readily visible on each side of the vehicle, as well as display any Town of Carmel issued inspection/license stickers as have been issued by the Town of Carmel, in a conspicuous location of designated by the Town of Carmel.

D. All vehicles used to collect, haul or transport refuse and garbage shall be subject to inspection by the Town of Carmel

§ 95-26 License required.

A. Except as otherwise provided herein, it shall be unlawful for any person to operate, engage in, conduct or cause the operation of a business engaged in the collection and disposal of refuse and garbage in the Town of Carmel without first having obtained a license from the Town Board as well as any permits or approvals required by state and county agencies having jurisdiction, or to use in such collection of refuse and garbage any vehicle other than one approved in such license.

B. Nothing provided herein shall prohibit the actual producers of refuse and garbage, or the owners of premises upon which refuse and garbage has accumulated, from personally collecting, conveying and disposing of such refuse and garbage without the license provided herein, provided that it is done in compliance with all other relevant provisions of this article.

C. A copy of the current license must be kept in all vehicles used for the collection and disposal of garbage and refuse for any person or corporation licensed under this chapter.

§ 95-27 License application and Insurance Requirements.

A. Every person who desires to collect or engage in the business of collecting refuse and garbage within the Town of Carmel shall file a written, certified application for a license in form and content as approved by the Town Board of the Town of Carmel.

B. Before a license may be issued by the Town Board, each applicant shall file satisfactory proof of the following insurance coverage:

- (1) Worker's compensation insurance.
- (2) Disability benefits insurance.
- (3) Public liability insurance with minimum limits of \$1,000,000 per occurrence for bodily injury and \$100,000 per occurrence for property damage.
- (4) Automobile liability insurance with minimum limits of \$500,000 per person and \$1,000,000 per accident for bodily injury and \$50,000 for property damage.

§ 95-28 Issuance of license.

If the Town Board shall find from the statements contained in the application and after investigation of other relevant factors that the applicant is qualified and able to conduct the business of collection of refuse and garbage and conforms to the provisions of this article and any other applicable rules and regulations of the Town of Carmel, and if it appears that the issuance of a license is in the public interest, then the Town Board shall issue a license stating the name and address of the applicant, the number of collection vehicles the applicant is authorized to operate the date of the issuance thereof and the effective date of the license.

§ 95-29 License fee.

Each application for a license or license renewal shall be accompanied by a nonrefundable annual fee, which license fee shall be established annually by the Town Board and shall be on file with the Office of the Clerk.

§ 95-30 Renewal of license.

A. All licenses shall, unless properly renewed, expire one year after the effective date thereof. In seeking a license renewal, the licensee shall submit an application pursuant to § 95-28 herein.

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B. In seeking renewal of a license issued pursuant to this Chapter, the applicant shall submit a completed application pursuant to §95-28, together with the applicable fee(s) no later than 45 (forty-five) calendar days prior to the expiration date of the current license. The submission of a completed application and fees pursuant to this section shall be deemed compliance with the licensing provisions of this chapter and shall be deemed a valid current license in the absence of any action to the contrary by the Town Board of The Town of Carmel.

C. The failure of the applicant to submit the renewal application in strict accordance with subsections A and B above shall be deemed a new license application pursuant to §95-29 herein and any existing license shall expire on its expiration date.

§ 95-31 Collection fees and Service Requirements.

Every person or entity licensed pursuant to this chapter shall, in addition to all other requirements set forth within this Chapter, provide the following services with respect to residential refuse and garbage collection within the Town of Carmel:

- A. Provide recyclable item pickup for items as defined in Article II of this Chapter for residential customers at a minimum interval of one (1) time per week.
- B. Provide Curbside Bulk Pickup for residents' households at a minimum interval of two (2) times per year, subject to the following:
 - 1. Curbside Bulk Pickup applies to household items only and must be at the curb by the night before the scheduled pickup;
 - 2. The Curbside Bulk Pickup requirement is limited to three (3) cubic yards per household per pickup. Any amount in excess of three (3) cubic yards per pickup shall be governed by private agreement between hauler and the property owner and/or occupant.
 - 3. The following items are not included for Curbside Bulk Pickup: paint, chemicals, liquids, stumps, tree, masonry, lumber, logs, brick, used oil, batteries, stone, tires, propane tanks, construction, renovation or remodeling debris including kitchens, baths, decks and windows, as well as hazardous waste as defined herein.
 - 4. Refuse Collector shall not be responsible for Curbside Bulk Pickup of refrigerators, freezers, air conditioners, etc., unless same have been de-charged and certified by an individual or entity licensed accordingly by the State of New York.
- D. Provide discarded Christmas Tree pickup during the week of January 7 through January 14 each year. This provision shall not apply to artificial Christmas Trees.
- E. Establish and maintain its periodic and/or unit-cost rates for household garbage and refuse pickup in accordance with and not exceeding the periodic and/or unit cost rates set by the Town Board of the Town of Carmel by resolution annually, subject to the following:
 - 1. For once-per-week collection the rate established by the Town Board shall include pickup of 90 (ninety) gallons of refuse/garbage in quantity or less, collected at curbside.
 - 2. For twice-per-week collection the rate established by the Town Board shall include pickup of the aggregate of 180 gallons of refuse/garbage in quantity or less, collected at curbside.

- F. Any person or entity licensed pursuant to this chapter may provide collection containers to any residential customer at no additional charge.
- G. Any person or entity licensed pursuant to this chapter may provide services in excess of those set forth in subsection (E) above at an agreed-upon cost with the residential customer, including but not limited excess volume of garbage and refuse, or bulk pickup, increased frequency of collection, driveway service, etc.
- H. Licensees shall provide a ten-percent discount to all residential customers 65 years of age or older.

§ 95-32 Nontransferability of license.

No license issued hereunder shall be assigned, sold or transferred.

§ 95-33 Records.

A. Every licensee shall keep complete and accurate books of account with respect to the operation of his business in which shall be entered and which shall show, among other things, a current schedule of fees charged to customers, all income derived or received from each of his customers and all other sources, together with details of all expenses and disbursements made or incurred in the operation of his business in the Town of Carmel. Such books of account shall be kept current on a monthly or quarterly basis and brought up to date not later than 30 days after the expiration of such period. All such records shall be retained by the licensee for at least three years.

B. The Town of Carmel shall have the right to inspect such books of account and records maintained by the licensee.

C. Every licensee shall provide the Town of Carmel with a financial statement for the preceding calendar year which shall be certified by an accountant and which shall include the licensee's total income derived from customers in the Town of Carmel, the number of said customers, the sources of revenue relative to the Town of Carmel, together with the details of all expenses and disbursements made or incurred by the licensee in the operation of the licensee's business in the Town of Carmel. Said financial statement shall be filed with the Town Clerk within 90 days following each calendar year.

§ 95-34 Suspension or revocation of license.

A. Any license issued under the provisions of this article may be suspended by the Town Board for a period not exceeding 30 days, or the Town Board may revoke such license, where one or more of the following situations is found to exist:

- (1) That the licensee has failed to reasonably fulfill his obligations as a private refuse collector to a customer.
- (2) That the licensee is insolvent or has made a general assignment for the benefit of creditors or has been adjudged a bankrupt or a money judgment has been secured against him upon which an execution has been returned wholly or partly unsatisfied.
- (3) That a licensee has failed to keep and maintain records or has refused to allow the inspection thereof as provided herein.
- (4) That a licensee has violated any of the provisions of this article.
- (5) That a licensee has ceased to operate as a private refuse collector within the Town of Carmel.

B. No such suspension shall be sustained nor any license be revoked except after a hearing by the Town Board upon at least 10 days' written notice thereof to such licensee.

§ 95-35 Additional rules and regulations.

The Town Board of the Town of Carmel may adopt such further rules and regulations as it may deem necessary or expedient in the implementation and administration of this article.

§ 95-36 Penalties for offenses.

- A. Any person committing an offense against this article shall be guilty of a violation punishable by fine not exceeding \$500 or imprisonment for a period not exceeding 15 days for each such offense, or by both such fine and imprisonment.
- B. Each day an offense against this article shall continue to exist shall constitute a separate offense.
- C. In addition to the above-provided penalties, the Town of Carmel may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this article.
- D. This chapter and its provisions shall be enforced by the Police Department of the Town of Carmel.

§ 95-37 When effective.

This article shall take effect immediately.

SCHEDULING OF PUBLIC HEARING ON MAY 11, 2011 ON A LOCAL LAW ENACTING CHAPTER 107 OF THE TOWN CODE OF THE TOWN OF CARMEL ENTITLED “OUTDOOR WOOD BURNING FURNACES” – AUTHORIZED.

RESOLVED that the Town Board of the Town of Carmel hereby authorizes the scheduling of a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, May 11, 2011 at 7:00 p.m. or as soon thereafter that evening as possible on a Local Law enacting Chapter 107, entitled “OUTDOOR WOOD BURNING FURNACES” of the Town Code of the Town of Carmel; and

BE IT FURTHER RESOLVED that the Town Clerk Ann Garris is hereby authorized and instructed to publish and post the necessary notices in the official newspaper of the Town and on the Town bulletin board regarding this Public Hearing.

Resolution
Offered by: Councilwoman Ravallo
Seconded by: Councilman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

**TOWN OF CARMEL
PROPOSED LOCAL LAW # _____ OF THE YEAR 2011**

**A LOCAL LAW PROHIBITING OUTDOOR WOOD BURNING FURNACES AND
ESTABLISHING REGULATIONS FOR THE ISSUANCE OF PERMITS
FOR EXISTING OUTDOOR WOOD BURNING FURNACES**

Be it enacted by the Town Board of the Town of Carmel, Putnam County, State of New York as follows:

Section 1: PURPOSE

The purpose of this local law is to amend the Town Code to prohibit the future use of outdoor wood burning furnaces and to establish regulations for the issuance of permits by the Building Inspector for preexisting outdoor wood burning furnaces.

Section 2: AMENDMENT OF THE TOWN CODE

The Town Code of the Town of Carmel is hereby amended by the addition of a new chapter entitled, "CHAPTER 107, OUTDOOR WOOD BURNING FURNACES" which shall read as follows:

CHAPTER 107, OUTDOOR WOOD BURNING FURNACES

§ 107-1. Purpose.

The Town Board of the Town of Carmel has received numerous complaints in regard to outdoor wood burning furnaces concerning their pollution of the atmosphere and their safety. Although outdoor wood burning furnaces may provide an economical alternative to conventional heating systems, it is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor wood burning furnaces, creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens health and can deprive neighboring residents of the enjoyment of their property or premises. Therefore, it is the intention of the Town Board of the Town of Carmel to establish and impose restrictions upon the construction and operation of outdoor wood burning furnaces for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Town and its inhabitants. This chapter is intended to prohibit the construction and/or installation of any further outdoor wood burning furnaces and to ensure that existing outdoor wood burning furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.

§ 107-2. Authority

This chapter is adopted pursuant to the authority, of Article 2, § 10 of the New York State Municipal Home Rule Law,

§ 107-3. Enforcement

The Town of Carmel Director of Codes Enforcement, Building Inspector and Code Enforcement Officer, or any other person who may hereafter be designated by resolution of the Town Board is hereby authorized in the name and on behalf of the Town of Carmel to undertake and prosecute any proceedings necessary or appropriate to enforce compliance with this article including the issuance of appearance tickets.

§ 107-4. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

FIREWOOD -- Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

OUTDOOR WOOD BURNING FURNACE -- Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose

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of combustion of wood fuel to produce heat or energy used as a component of a heating system providing heat and/or hot water for any interior space in any principal structure or
any other interior or exterior site, building, or structure.

UNTREATED LUMBER -- Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

VIOLATOR OR ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE
Any person who owns or occupies the property at the time the outdoor wood boiler has been installed and/or operated.

STACK or CHIMNEY- Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired heating device; especially that part of such structure extending above the roof.

§ 107-5. New construction and operation prohibited.

The construction and/or installation of any new outdoor wood burning furnaces are hereby prohibited in any zone within the Town of Carmel.

§ 107-6. Existing outdoor wood burning furnaces

Except as hereinafter provided, the lawful use of any outdoor wood burning furnace which is legally permitted and existing at the time of the adoption of this chapter may be continued, subject to the provisions of the section

- A. No outdoor wood boiler, lawfully existing or in existence at the time of the adoption of this chapter, shall thereafter be extended, enlarged or replaced with a new or previously owned unit or restored or repaired beyond 50% of its value.
- B. Any existing outdoor wood burning furnace which is abandoned or discontinued for a period of seven consecutive months shall not be permitted to be reestablished and must be immediately removed by the property owner from the subject premises. If the property owner fails to remove the outdoor wood burning furnace by the end of said seven-consecutive-month period, the Town of Carmel Code Enforcement Officer/Building Inspector shall give written notice by certified mail or personal service to the owner of the property upon which the outdoor wood burning furnace is located. Such notice shall provide that said owner shall remove the outdoor wood burning furnace within 15 days of the date the notice is either postmarked or personally served upon the owner. Should the outdoor wood burning furnace not be removed within the time specified, the Code Enforcement Officer/Building Inspector shall take reasonable steps to effect its removal. The costs incurred by the Town to effect said removal including attorney's fees shall be charged to the owner of said premises. Said expense shall be paid by the owner of the property so affected within 30 days from the date said costs are presented to the owner. If said expense is not paid within said thirty-day time frame, then said expense shall be charged to the property so affected by including such expense in the next annual Town tax levy against the property.
- C. All outdoor wood burning furnaces lawfully permitted and in existence on the effective date of this chapter shall be permitted to remain, provided that the owner applies for and receives a permit from the Town Building Inspector within one year of the effective date of this chapter to comply with provisions governing the use and existence of outdoor wood burning furnaces set forth herein. If the owner of an existing outdoor wood burning furnace does not receive a permit within one year of the effective date of

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this chapter, the outdoor wood burning furnace shall be removed. "Existing" or "in existence" means that the outdoor wood burning furnace is legally permitted, existing, in place and operational on the effective date of this chapter. Application for a permit shall be made to the Building Inspector on the forms provided.

§ 107-7. Continuing requirements for the continuing use of existing outdoor wood burning furnaces. All existing outdoor wood burning furnaces which receive permits from the Building Inspector shall be subject to the following regulations which constitute continuing conditions for the permit:

- A. Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor wood burning furnace. Burning of any and all other materials, including but not limited to trash, plastics, gasoline, rubber, household garbage, material treated with petroleum products such as particle board, railroad ties and pressure treated wood, leaves, paper products and cardboard, in an outdoor wood burning furnace is prohibited.
- B. Stack height. Outdoor wood burning furnaces shall be equipped with a permanent stack extending a minimum of two feet above the peak of any roof structure located within 150 feet of the outdoor wood boiler and no less than 18 feet above ground level.
- C. Months of operation. Outdoor wood burning furnaces shall be operated only between October 1 and April 30.
- D. Spark arrestors. All outdoor wood burning furnaces shall be equipped with properly functioning spark arrestors which shall be maintained in proper working order at all times.
- E. Lighter fluids, gasoline or chemicals may not be used to start the furnace are prohibited.

§ 107-8. Suspension of permit.

- A. Any permit issued pursuant to this chapter may be suspended by the Code Enforcement Officer/Building Inspector to protect the public health, safety and welfare of the residents of the Town of Carmel if any of the conditions in § 107-7 is violated. A suspended permit may be reinstated once the condition which resulted in suspension is remedied. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this chapter subject to the penalties provided in § 107-9 hereof.
- B. In addition to the provision set forth in subparagraph A above, Any permit issued pursuant to this chapter may be suspended when in the discretion of the Code Enforcement Officer/Building Inspector, such suspension is warranted to protect and preserve the health, safety and welfare of the residents of the Town of Carmel.

§ 107-9. Penalties for offenses.

- A. Failure to comply with any of the provisions of this chapter shall be a violation and, upon conviction thereof, shall be punishable by a fine of not less than \$500 or imprisonment for a period of not more than 10 days, or both, for the first offense. Any subsequent offense shall be punishable by a fine of not less than \$1,000 or imprisonment for a period of not more than 30 days, or both. In addition, any permit issued pursuant to this chapter shall be revoked upon conviction of a second offense and the subject outdoor wood burning furnace shall not be eligible for another

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permit and shall be removed. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this chapter.

- B. Compliance with the provisions of this chapter may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction.
- C. In the event the Town is required to take legal action to enforce the provisions of this chapter, the violator will be responsible for any and all necessary costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court.
- D. Any fine imposed and any costs incurred hereunder shall constitute a lien upon the real property where the outdoor wood burning furnace is located. If such fine and/or costs assessed by the court are not paid in full within 30 days from the date determined and assessed by the Court, such fine and/or costs shall be charged to the property so affected by including such expense in the next annual Town tax levy against the property §

§107-10. Effect on other regulations.

A. Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation, or any other federal, state, regional or local agency. Outdoor wood burning furnaces, and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood burning furnace, shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this chapter and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

B. Any outdoor wood furnace must also comply with any other county, state or federal guidelines for the same.

Section 3: REPEAL OF SECTION 59-49 D OF THE TOWN CODE

§107-11

Section 59-49 D of the Town Code is hereby repealed.

Section 4: EFFECTIVE DATE

§107-12

This Local Law shall take effect immediately in accordance with the law of the State of New York.

RECOGNITION OF PUBLIC

Jerry Ravnitzky commented on the three public hearings that were scheduled for May 11, 2011. He encouraged the public to attend as the issues to be discussed are very important.

RECOGNITION OF TOWN BOARD MEMBERS

Councilman Ravallo made a brief announcement that he has made the decision not to run for re-election in November. He noted that he has been on the Carmel Town Board for 24 years and has enjoyed that time. He further stated that he will continue to be concerned about issues affecting the town.

Supervisor Schmitt thanked Councilman Ravallo for his service to the Town of Carmel over the years.

Councilman Ravallo reported that some candidates have already come forward. He stated that he has asked them to address the issues and to let the public know where they stand.

All agenda items having been addressed, on motion by Councilman Ravallo, seconded by Councilwoman McDonough, with all members present and in agreement, the meeting was adjourned at 8:55 p.m to a Special Work Session regarding an update from the Comptroller on Highway Capital Projects and an Executive Session to discuss the contract with Carmel Volunteer Ambulance.

Respectfully submitted,

Phyllis Bourges, Deputy Town Clerk