

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

XXXXXX

XXXX

of _____ North Castle _____

Town

XXXXXXXX

Local Law No. 28 of the year 2006

A Local Law amending Chapter 213, Zoning, of the Code of the Town of North Castle, New York, so as to add new residential development standards including (1) floor area ratio (FAR) controls, (2) gross land coverage (impervious surface) limitations, (3) a maximum exterior wall height limit, (4) environmental subtractions and (5) minimum contiguous buildable area requirements. The basic purposes of these new residential development standards include protecting community character by preventing oversized houses; minimizing land disturbance and the removal of existing vegetation; minimizing the rate of stormwater runoff by controlling the amount of impervious surface coverage; helping to protect sensitive environmental features through a requirement that only a portion of such features can be counted toward meeting minimum lot area requirements; and by requiring that each new building lot have an adequate sized minimum contiguous buildable area, excluding sensitive environmental features. This proposed Local Law also amends the net development density requirements applicable to all non-residential zoning districts.

Be it enacted by the _____ Town Board _____ of the
(Name of Legislative Body)

XXXXXX

XXXX

of _____ North Castle _____

as follows:

Town

XXXXXXXX

Section 1. Amend Section 213-3, "Definitions," of the Code of the Town of North Castle, New York so as to change the definition of "Floodplain or Flood-Prone Area" to read as follows:

"FLOODPLAIN – Any land area subject to flooding during a one-hundred-year storm event (see also the Flood Insurance Study, Town of North Castle, prepared by the Federal Emergency Management Agency (FEMA) and their Official Flood Insurance Rate Maps (FIRM) and Flood Boundary Maps of the Town of North Castle, as such may, from time to time, be amended."

Section 2. Amend Section 213-14, "Yard improvements; building projections," Subsection A, "Terraces," of the Code of the Town of North Castle, New York so as to modify it to read as follows:

"A. Terraces. A paved terrace shall not be considered in the determination of, floor area ratio or yard requirements; provided, however, that such terrace is without roof, awnings, screens, walls, parapets or other forms of enclosure. Such terrace, however, may have a guard railing, low wall or fence, but such terrace shall not project into any yard to a point closer than five feet from any lot line."

Section 3. Amend Section 213-19, "Schedule of Residence District Regulations," of the Code of the Town of North Castle, New York so as to add a footnote "s" with reference to the heading "Maximum Building Coverage," which footnote "s" shall read as follows:

"s. See Subsection 213-22.2C for maximum gross land coverage limitations applicable to one and two family residences."

Section 4. Amend Section 213-22, "Additional Multifamily Residence District regulations," Subsection B, "Allowable density," of the Code of the Town of North Castle, New York so as to modify the density standards applicable to Multi-Family Residence Districts as follows:

"B. Allowable density.

"(1) Maximum density. The maximum gross density shall not exceed one density unit, as defined in § 213-3 of this chapter, per 25,000 square feet of net lot area, as defined in Subsection B(2), except that the maximum permitted density may be increased by not more than 45% if the applicant constructs at least 40% of the increase as middle-income dwelling units. The Planning Board may limit the increase in density where the Board determines that such may be necessary or appropriate because of the specific characteristics of the individual site.

"(2) Net density. To further the achievement of the objectives of the State Freshwater Wetlands Act, (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law), the State Environmental Quality

Review Act (Article 8 of the Environmental Conservation Law), the North Castle Town Wetlands and Drainage Law, the North Castle Town Environmental Quality Review Law, the North Castle Town Development Plan and § 213-17 of this Chapter, the lot area used in the calculation of maximum density in the R-MF District shall be net lot area, as defined herein."

Section 5. Amend Section 213-22.2 "Additional One- and Two-Family Residence District regulations" of the Code of the Town of North Castle, New York so as to add new standards and regulations with respect to gross floor area, gross land coverage, exterior wall height, net lot area and minimum contiguous buildable area, as follows:

"A. Legislative intent.

- (1) It is the legislative intent of the Town Board to establish additional regulations controlling building height, gross floor area, gross land coverage and the construction of new, substantially expanded or reconstructed one- and two-family dwellings in One- and Two-Family Residence Districts for the purpose of protecting the established and attractive character of the Town's various neighborhoods and assuring privacy and adequate access to light and air for all present and future Town residents.
- (2) It is also the legislative intent of the Town Board to further the achievement of the objectives of the State Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law), the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law), the North Castle Town Wetlands and Drainage Law, the North Castle Town Environmental Quality Review Law, the North Castle Town Development Plan and § 213-17 of this Chapter.

B. Maximum gross floor area. The following table establishes both the **basic** and the **maximum** permitted gross floor area for one- and two-family dwellings on lots of the sizes indicated, irrespective of zoning district. The **basic** permitted gross floor area is allowed subject only to obtaining a building permit, unless (1) a new or reconstructed dwelling is involved, (2) the size of the expansion is 1,500 square feet or greater or (3) a wetland or steep slope disturbance permit is required. In such case, Planning Board site plan approval must be obtained. Any proposed development in excess of the **basic** permitted gross floor area shall require Planning Board special permit approval and shall be subject to the standards as set forth in

Subsection 213-22.2.H below. In any event, the **maximum** permitted gross floor area shall not be exceeded.

- (1) For any new building lot created by subdivision subsequent to the effective date of this amendment, the “lot area” used for measurement purposes in the following table shall be “net lot area,” as defined herein. For any existing lot in a one- or two-family residence district, it shall be “lot area,” as defined herein.
- (2) The owner of any one- or two-family dwelling which exists or is under construction as of the effective date of this amendment shall be permitted a one time gross floor area expansion of up to ten (10) percent, provided that such expansion does not exceed the **maximum** permitted gross floor area by more than ten (10) percent. If no wetland or steep slope disturbance permit is required, such expansion shall not require Planning Board approval. If such type of permit is required, then the application shall require Planning Board site plan approval.
- (3) The Planning Board may, by special permit and subject to the standards as set forth in Subsection 213-22.2.H below, allow an increase in the maximum permitted gross floor area for estate lots of ten (10) acres or larger.
- (4) Notwithstanding the table of **basic** and **maximum** permitted gross floor area limitations and the requirements of Section 213-55 “Restoration of Damaged Buildings,” any one- or two-family dwelling which is damaged or destroyed by fire or other natural causes shall be permitted to be reconstructed as it existed prior to such damage or destruction. If the size, design and/or configuration of the reconstructed building and premises are the same as existed prior to the damage or destruction, no approval other than a building permit shall be required. If, however, the size of the dwelling is proposed to be increased or if, in the judgment of the Building Inspector, there is a significant change in the design or configuration of the dwelling or the site, then said application shall be referred to the Planning Board for site plan review and approval. Any proposal to reconstruct a damaged or destroyed dwelling with additional floor area, shall be subject to all applicable requirements of this Chapter.
- (5) If any dwelling is proposed to be built or expanded on a lot in an existing neighborhood (as opposed to a lot in a subdivision of five (5) or more lots filed within the five (5) year period immediately

preceding the date of application for a building permit), which dwelling exceeds by more than fifty percent (50%) the average gross floor area of the five (5) dwellings closest to it, as measured from the property line(s) separating the lot from the street(s) which it abuts, but not to include any dwelling which is more than five hundred (500) feet distant from such street line(s), Planning Board special permit approval and compliance with the standards as set forth in Subsection 213-22.2.H below, shall be required.

LOT SIZE	BASIC PERMITTED GROSS FLOOR AREA FOR ONE-FAMILY DWELLINGS AND ACCESSORY BUILDINGS* (Square Feet)	MAXIMUM PERMITTED GROSS FLOOR AREA FOR ONE-FAMILY DWELLINGS AND ACCESSORY BUILDINGS* (Square Feet)
Less than 5,000 square feet	1,500 or 40% of lot area, whichever is greater	1,875 or 50% of lot area, whichever is greater
5,000 to 9,999 square feet	2,000 plus 12.5% of lot area in excess of 5,000 square feet	2,500 plus 25% of lot area in excess of 5,000 square feet
10,000 to 14,999 square feet	2,625 plus 10% of lot area in excess of 10,000 square feet	3,750 plus 20% of lot area in excess of 10,000 square feet
15,000 square feet to 0.499 acres	3,125 plus 7.5% of lot area in excess of 15,000 square feet	4,750 plus 15% of lot area in excess of 15,000 square feet
0.5 to 0.749 acres	3,634 plus 5% of lot area in excess of 0.5 acres	5,768 plus 10% of lot area in excess of 0.5 acres
0.75 to 0.999 acres	4,178 plus 4% of lot area in excess of 0.75 acres	6,856 plus 8% of lot area in excess of 0.75 acres
1.0 to 1.499 acres	4,614 plus 3% of lot area in excess of 1.0 acres	7,727 plus 6% of lot area in excess of 1.0 acres
1.5 to 1.999 acres	5,267 plus 2.5% of lot area in excess of 1.5 acres	9,034 plus 5% of lot area in excess of 1.5 acres
2.0 to 3.999 acres	5,812 plus 2% of lot area in excess of 2.0 acres	10,122 plus 4% of lot area in excess of 2.0 acres
4.0 acres or more	7,554 plus 1.5% of lot area in excess of 4.0 acres	13,607 plus 3% of lot area in excess of 4.0 acres

*Permitted gross floor area for two-family dwellings in the R-2F District shall be one-third (1/3) greater than that permitted for one-family dwellings.

- C. Maximum gross land coverage. The following table establishes the **basic** and **maximum** permitted gross land coverage for one- and two-family residences on lots of the sizes indicated, irrespective of zoning district.

For any proposed lot development which would exceed the **basic** permitted gross land coverage as shown on the following table, the Planning Board may, subject to site plan approval and compliance with the standards as set forth in Subsection 213-22.2.H below, allow an increase in gross land coverage up to, but not exceeding, the **maximum** permitted gross land coverage as shown on the table. Notwithstanding said limitations, an additional ten (10) square feet of gross land coverage shall be permitted for each one (1) foot of front yard setback of the principal dwelling in excess of the minimum front yard setback required. For any new building lot created by subdivision subsequent to the effective date of this amendment, the “lot area” used for measurement purposes in the following table shall be “net lot area,” as defined herein. For any existing lot in a one- or two-family residence district, it shall be “lot area,” as defined herein.” The **basic** gross land coverage is allowed subject only to obtaining otherwise applicable permits unless the increase in gross land coverage is proposed in connection with an application requiring Planning Board review, in which case Planning Board site plan approval shall be required.

LOT SIZE	BASIC PERMITTED GROSS LAND COVERAGE FOR ONE-FAMILY DWELLING LOTS* (Square Feet)	MAXIMUM PERMITTED GROSS LAND COVERAGE FOR ONE-FAMILY DWELLING LOTS * (Square Feet)
Less than 5,000 square feet	40% of lot area	50% of lot area
5,000 to 9,999 square feet	2,000 plus 20% of lot area in excess of 5,000 square feet	2,500 plus 30% of lot area in excess of 5,000 square feet
10,000 to 14,999 square feet	3,000 plus 15% of lot area in excess of 10,000 square feet	4,000 plus 24% of lot area in excess of 10,000 square feet
15,000 square feet to 0.499 acres	3,500 plus 12% of lot area in excess of 15,000 square feet	5,200 plus 18% of lot area in excess of 15,000 square feet
0.5 to 0.749 acres	4,310 plus 9% of lot area in excess of 0.5 acres	6,420 plus 15% of lot area in excess of 0.5 acres
0.75 to 0.999 acres	5,290 plus 7.5% of lot area in excess of 0.75 acres	8,050 plus 12% of lot area in excess of 0.75 acres
1.0 to 1.999 acres	6,100 plus 6% of lot area in excess of 1.0 acres	9,350 plus 9% of lot area in excess of 1.0 acres
2.0 acres or more	8,710 plus 5% of lot area in excess of 2.0 acres	13,270 plus 7.5% of lot area in excess of 2.0 acres

*Permitted gross land coverage limitations for two-family dwelling lots in the R-2F District shall be twenty five (25) percent greater than that permitted for one-family dwelling lots.

- D. Maximum exterior wall height. Notwithstanding the maximum permitted building height as set forth elsewhere in this Chapter, the maximum permitted vertical differential between the lowest grade elevation at any point along the exterior wall of a building and the point on the roof from which the building’s height is measured, shall not exceed thirty-eight (38) feet in the R-4A and R-2A Districts, thirty-six (36) feet in the R-1.5A and

R-1A Districts, and thirty four (34) feet in all other districts. This provision shall apply only to new dwellings or expansions of existing dwellings for which a building permit is applied for after the effective date of this regulation. This provision shall not be deemed to render any legally existing dwelling nonconforming nor to prevent any expansion of such dwelling which does not extend or increase any height nonconformity. Notwithstanding the foregoing, the Planning Board is hereby granted the authority, in connection with its review of any site plan for a one- or two-family dwelling, to allow a greater maximum exterior wall height than set forth above provided said Board determines that the intent of this provision will be met, after taking into consideration the topographic conditions of the building site, the amount of building setback provided and the size of the parcel involved.

E. Increased building height. For the purpose of bringing a greater number of existing and under-construction one-family dwellings into conformance with the Town's building height restrictions, and so as to help assure that the construction of new and/or expanded one-family dwellings will be consistent with the height of other such dwellings in the neighborhoods in which they are located, an increase in building height shall be permitted in the R-1A through R-4A Districts as follows:

- (1) Any one-family dwelling which is existing or for which a building permit has been issued on or before December 15, 2002, and which exceeds the basic permitted building height of 30 feet but does not exceed an average building height of 35 feet, with the highest roof section (plane) not exceeding 40 feet, all measured as defined herein, shall be automatically deemed to be conforming with respect to its building height without any further action being required.
- (2) Where the average height of the five dwellings located closest to a proposed new or expanded one-family dwelling, as measured from the street line(s) of the lot on which it is located, but not to include any dwelling which is more than 500 feet distant from such street line(s), exceeds 30 feet in height as of December 15, 2002, and as certified by a New York State licensed professional architect or engineer, the Town of North Castle Building Engineer is hereby authorized to permit an increase in building height up to but not exceeding the average height of those five dwellings but in no case more than 35 feet, provided that the highest roof section (plane) does not exceed five feet above the permitted building height, all as measured and defined herein.

F. Additional lot area requirements.

- (1) The minimum lot area for any new lot proposed to be created by subdivision subsequent to the effective date of this amendment shall be based upon “net lot area,” as defined herein.
- (2) Any new lot proposed to be created by subdivision subsequent to the effective date of this amendment shall also contain a minimum contiguous buildable area, excluding wetlands, waterbodies, watercourses and adjacent areas, all as defined in the North Castle Town Wetlands and Drainage Law, and floodplains and steep slopes, as defined herein, of not less than the following size and with not less than a minimum dimension in every direction of at least one-half the minimum lot width required in the zoning district in which it is located;

RESIDENCE DISTRICT	WITH ON-LOT SEWAGE DISPOSAL AND WELL (Square Feet)	WITH ON-LOT SEWAGE DISPOSAL AND CENTRAL WATER SERVICE (Square Feet)	WITH CENTRAL SEWER SERVICE AND ON-LOT WELL (Square Feet)	WITH CENTRAL SEWER AND CENTRAL WATER SERVICE (Square Feet)
R-4A	40,000	35,000	25,000	22,000
R-2A	35,000	30,000	22,000	20,000
R-1.5A	30,000	25,000	20,000	18,000
R-1A	25,000	20,000	17,000	16,000
R-3/4A	22,000	18,000	15,000	14,000
R-1/2A	20,000	16,000	13,000	12,000
R-10	10,000	10,000	9,000	8,000
R-5	5,000	5,000	4,500	4,000
R-2F	5,000	5,000	4,500	4,000

G. New construction, teardowns and major expansions. If any new construction, teardown or major expansion of a one- or two-family dwelling is proposed, then Planning Board approval pursuant to subsection 213-22.2.H below shall be required. All gross floor area measurements shall be subject to verification by the Town Building Inspector. Any major expansion involving an increase in the number of bedrooms, or any new construction or teardown, shall be subject to Westchester County Health Department approval.

H. Standards and procedures.

- (1) Application. Each applicant seeking Planning Board approval pursuant to the requirements of this section, shall submit to the Architectural Review Board essential plans and information as specified in § 7-4 of the Town Code and shall simultaneously submit to the Planning Board and to the Architectural Review Board, site and building plans, prepared and sealed by a properly qualified professional, accurately depicting the location of the proposed new, expanded or reconstructed dwelling and any other existing or proposed buildings, structures and accessory uses (including subsurface sewage disposal and stormwater drainage systems) on the site, including all of the following information, unless waived by the Planning Board:
 - (a) Topography of the proposed building site with contours at a vertical interval of not more than two (2) feet;
 - (b) The location of any significant natural features on and within one hundred (100) feet of the proposed building site (limit of construction), such as wetlands, waterbodies, watercourses, adjacent areas, floodplains, steep slopes, hilltops, ridgelines, buffer areas, rock outcroppings, wooded areas, and individual trees to be removed and those to be preserved;
 - (c) The location and use of existing structures on neighboring properties, including a photograph(s) of each;
 - (d) Proposed building and lot cross-sections, if and as appropriate to illustrate the relationship of the proposed building(s) to the site's topography and to neighboring streets and properties;
 - (e) Proposed architectural elevations of all building sides;
 - (f) Proposed building floor plans;
 - (g) Proposed landscaping plan;
 - (h) A detailed calculation of proposed gross floor area and gross land coverage, unless waived by the Building Inspector based upon his judgment that the basic permitted gross floor area and/or gross land coverage, as appropriate, will clearly not be exceeded;

- (i) The location of existing and proposed septic systems, including reserve areas;
 - (j) Name and address of the applicant, property owner(s) if other than the applicant, and of the engineer, architect, landscape architect, surveyor and/or other qualified professional(s) who prepared the application, including their certification that the plans and calculations are accurate and correct;
 - (k) The location of all existing easements; and
 - (l) Such other information as the Planning Board or Architectural Review Board may deem necessary or appropriate in order to arrive at their decision.
- (2) Procedure.
- (a) Within no more than 45 days of receipt of the copy of the application by the Architectural Review Board, said Board shall complete and submit its report and recommendations to the Planning Board in accordance with Chapter 7 of the Town Code.
 - (b) Following receipt of the Architectural Review Board's report and recommendations, the Planning Board shall schedule the application for discussion at a public meeting. The applicant shall be responsible for sending notice of such meeting, by certified mail, return receipt, to all owners of neighboring properties within 250 feet if located in an R-3/4A or smaller minimum lot size zoning district and within 500 feet if located in an R-1A or larger minimum lot size zoning district. Such notice shall indicate the street address and tax lot number of the subject premises, the nature of the proposed application (including height and gross floor area of the proposed dwelling, lot area and any variances which will be required), the date, time and place of the Planning Board meeting, and the name, address and telephone number of the applicant. The applicant shall be responsible for submitting all return receipts to the Planning Board prior to the opening of discussion of the application at the Planning Board meeting.

- (c) Based upon the standards and criteria as set forth below and within no more than 90 days of its receipt of the application, the Planning Board shall render its determination.
- (3) Standards and criteria. In reviewing such applications, the Planning Board shall consider, and base their determination upon, the legislative intent of the Town Board as set forth in this chapter and, in particular, the following:
- (a) The visibility of the proposed new, expanded or reconstructed building(s) from neighboring streets and properties;
 - (b) The present use and zoning of neighboring properties;
 - (c) The size, location, height, bulk, appearance, character and design of all buildings and facilities;
 - (d) The topography, landscaping and open spaces in relation to each other and to adjacent properties and the surrounding neighborhood;
 - (e) The objective of preservation of environmentally sensitive lands including wetlands, watercourses, waterbodies, adjacent areas, steep slopes, hilltops, ridgelines and floodplains;
 - (f) The objective of preservation of trees and other vegetation, and the protection of areas and features of historical, archaeological and/or cultural sensitivity;
 - (g) The degree to which existing or proposed landscaping, house siting, grading and building design may serve to mitigate any potential adverse environmental impacts and/or visual impacts as viewed by persons on neighboring streets and properties;
 - (h) The safety and adequacy of proposed driveway grades, curvature and sight lines;
 - (i) The location and design of proposed off-street parking areas;
 - (j) The adequacy and design of other proposed site improvements, including drains, culverts, retaining walls, fences, storage sheds, etc.;

- (k) The viability of proposed water supply and sewage disposal facilities and the proposed location of such facilities;
 - (l) The adequacy and design of proposed lighting, power and communication facilities; and
 - (m) Other such similar factors as may be determined appropriate by the Planning Board.
- (4) Planning Board decision. Based upon the above-established standards and criteria, and taking into consideration any report and recommendations of the Architectural Review Board and the Conservation Board, the Planning Board shall approve, disapprove or approve with required modifications any such application. Such modifications may include a required reduction in proposed gross floor area, gross land coverage, building coverage and/or building height as proposed by the applicant, additional landscaping, and/or the redesign or relocation of any proposed new building or building expansion on the site.
- (5) Performance bond. Subsequent to any such Planning Board approval, the Building Inspector may require, as a condition to the issuance of a building permit or a certificate of occupancy, the posting of a performance bond in an amount as said Building Inspector determines is necessary to restore the property to a safe, sanitary, stable and attractive condition in the event that construction is halted or delayed for any reason.”

Section 6. Amend Section 213-24 "Additional office and industrial district regulations," Subsection G "Development density" of the Code of the Town of North Castle, New York so as to amend the net development density requirements of that section and to make them applicable to all zoning districts, as follows:

"G. Development density. To further the achievement of the objectives of the State Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law), the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law), the North Castle Town Wetlands and Drainage Law, the North Castle Town Environmental Quality Review Law, the North Castle Town Development Plan and § 213-17 of this chapter, the lot area used in the calculation of maximum allowable density shall be "net lot area," as defined herein."

Section 7. Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or of other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 8. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part of parts.

Section 9. Effective Date.

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