

# 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.

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Of North Castle

Town

XXXXXXXX

Local Law No. 30 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 make miscellaneous changes related to (1) adding a definition of Net Lot Area, (2) revising the present definition of Structure, (3) the installation of power generators, (4) grandfathering existing legal residential lots in areas to be rezoned, (5) establishing certain new setback standards for swimming pools, (6) amending the Schedule of Business District Regulations to conform to the current zoning text, (7) extending the environmental subtractions requirement presently applicable to all office and industrial districts to include all business districts as well, (8) amending certain standards applicable to “conservation subdivisions,” (9) adding environmental consideration requirements to the site plan review process, (10) eliminating the possibility of residential use in the PBO District, and (11) correcting certain typographical and spelling errors.

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

XXXXXX

XXXX

of North Castle as follows:

Town

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**Section 1.** Amend Section 213-3 “Definitions” of the Code of the Town of North Castle, New York so as to add a new definition of “LOT AREA, NET” and to amend the present definition of “STRUCTURE,” to read as follows:

“LOT AREA, NET – Lot area minus seventy five (75) percent of the area of any wetlands, waterbodies and, watercourses, but excluding any adjacent areas, all as defined in Chapter 209 Wetlands and Drainage, of the Town Code, and the area of any steep slopes, as defined herein, except that in the case of one-family lots, the deduction for steep slopes shall be only fifty (50) percent.

“STRUCTURE

- A. Anything which is constructed or erected which requires a location on the land or attachment to something having such location, including but not limited to the following:
  - (1) Signs or billboards.
  - (2) Fences over four feet or six feet in height in a front or side yard and fences over eight feet in height in a rear yard.
  - (3) Walls other than those less than four feet high.
  - (4) Radio and television antennas, except for such antennas installed on a roof of a building, which antennas shall be considered fixtures of the building.
  - (5) Pergolas, porches, patios, terraces, decks, outdoor bins, toolsheds, carports, satellite antennas, equipment and storage buildings or sheds, swimming pools, swimming pool filter pads, tennis, basketball or other similar sports courts, driveways, parking areas, doghouses or sheds.
  - (6) Tents, mobile homes, trailers or similar structures on wheels or other supports used for business or living purposes.
- B. A building permit shall be required prior to the construction or erection of any “structure.”
- C. All buildings are “structures.” For the purposes of setback requirements, classification of buildings as “principal” or “accessory” shall be controlling.
- D. A building permit shall not be required for anything equal to or less than 64 square feet in area and eight feet in height, and such shall not be considered a ‘structure.’ Notwithstanding the foregoing, a building permit shall be required for the installation of a power generator of any size and for the

installation out of doors of any other equipment which would generate audible noise at any property boundary (see Section 213-14.Q).

- E. For floodplain management purposes, a 'structure' shall mean a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home."

**Section 2.** Amend Article V, "Supplementary Regulations", Section 213-13 of the Code of the Town of North Castle, New York by adding a new subsection "L" thereto, as follows:

- "L. Lots made dimensionally nonconforming as a result of the adoption of the rezoning Local Laws of 2006. Any lawfully existing lot which met the minimum dimensional requirements of the zoning district in which it was located prior to the adoption of Local Laws of 2006 but were made dimensionally nonconforming as a result of the adoption of said Local Laws, may continue to be used and developed as a single lot in accordance with the dimensional requirements of the zoning district in which said lot had previously been located. Notwithstanding the foregoing, the Planning Board may still require special setbacks, as provided elsewhere in this Chapter, if said Board determines such to be appropriate."

**Section 3.** Amend Section 213-14.L "Swimming Pools" of the Code of the Town of North Castle, New York so that it will read as follows:

- "L. Swimming pools. All swimming pools shall be considered structures and shall be set back from lot lines at least the minimum distance required for a principal building in the district in which it is located, except that a swimming pool shall not be located in a front yard unless it is set back at least three (3) times the distance required for a principal building and unless the lot area is equal to at least three (3) times the minimum required. The minimum required setbacks established for swimming pools shall also apply to cabanas and decks or terraces surrounding said pool, as well to all structures and mechanical equipment or other appurtenances related to the pool's use and operation. Also, such pools shall conform to the requirements of the Town Swimming Pool Ordinance.<sup>1</sup>"

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<sup>1</sup>. Editor's Note: See Ch. 180, Swimming Pools.

**Section 4.** Amend Section 213-14 “Yard improvements; building projections” so as to add a new Subsection Q as follows:

“Q. Power generators and noise producing equipment. All power generators and other noise producing equipment shall be subject to the following requirements:

- (1) Such equipment shall comply with all minimum setback requirements as applicable to accessory structures.
- (2) Such equipment shall not be permitted to be located within any front yard unless it is set back at least three (3) times the distance required for a principal building.
- (3) All such equipment shall be screened and fenced as required by the Building Inspector.
- (4) “Exercise time” for such equipment shall be limited to weekdays between the hours of 9:00 A.M. and 5:00 P.M.”

**Section 5** Amend Section 213-21 “Schedule of Office and Industrial District Regulations, Part 1” of the Code of the Town of North Castle, New York, so as to change the first listed permitted principal use for the PBO District to read as follows:

“1. Any nonresidential uses permitted in an R-10 District, as permitted and regulated therein.”

**Section 6.** Amend Section 213-21 "Schedule of Office and Industrial District Regulations, Part 1" of the Code of the Town of North Castle, New York, so as to correct a typographical error under the Floor Area Ratio column for the PBO Professional Business Office District, to read as follows:

" 0.20"

**Section 7.** Amend Section 213-21 "Schedule of Office and Industrial District Regulations, Part 2" of the Code of the Town of North Castle, New York so as to correct the maximum building coverage percentages for the PLI, RELIP and IND-AA Districts to read as follows:

" 30"

**Section 8.** Amend Section 213-23 “Additional business district regulations” of the Code of the Town of North Castle, New York, so as to add an additional subsection H thereto, as follows:

“H. 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 Comprehensive Development Plan and § 213-17 of this chapter, the total lot area used in the calculation of maximum permitted density in all business districts shall be ‘net lot area,’ as defined herein.”

**Section 9.** Amend Section 213-25 "Conservation subdivisions" of the Code of the Town of North Castle, New York, to read as follows:

"Section 213-25. Conservation subdivisions. Simultaneously with the approval of a subdivision plat and pursuant to § 278 of the Town Law, either at the written request of an applicant, or on its own motion, the Planning Board is authorized to modify the zoning regulations in residence districts with respect to lot area and dimensions, provided that:

- "A. Purposes. Such modifications shall result in design and development which promote the most appropriate use of the land, facilitates the adequate and economical provision of streets and utilities and preserves the natural and scenic qualities of open lands.
- "B. Eligibility. This authorization shall be applicable to all residentially zoned lands within the Town of North Castle.
- "C. Permitted use. The permitted uses within a conservation subdivision shall be the same as those otherwise permitted in the zoning district in which it is located, except that single-family attached and semidetached dwelling units shall also be permitted in subdivisions the area of which, whether all or partially within the Town of North Castle, is adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, or on smaller parcels when specifically authorized by the resolution of the Town Board, following a determination by the Town Board that the proposed conservation subdivision is compatible with adjacent land uses as determined by the procedure set forth in Subsection D(1) below.

"D. Development standards and controls. Except as specified herein, all development standards and controls normally applicable to other residential subdivisions shall also be applicable to conservation subdivisions:

- (1) Density. The number of building lots permitted in a conservation subdivision shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to all normally applicable requirements of this Town Zoning Ordinance, the Land Subdivision Regulations, the Westchester County Health Department Regulations and all other applicable requirements. The basis for this determination by the Planning Board shall be a conventional preliminary subdivision plat for the subject property, plus such other information as may be required by said Board.
- (2) Type and arrangement of buildings. The type of residential dwelling units permitted within a conservation subdivision shall be, at the discretion of the Planning Board and subject to the conditions set forth below, in detached, semidetached and/or attached buildings.
- (3) Minimum required lot area. In subdivisions the area of which is not adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, and when not specifically authorized by the Town Board, as determined by the procedure set forth in Subsection D(1) above, the minimum required area for building lots within a conservation subdivision shall be one acre or one-half the minimum lot size required in the zoning district in which it is located, whichever requirement is less, except that larger minimums may be required in specific instances where determined necessary or appropriate by the Planning Board or the Westchester County Health Department. In subdivisions the area of which is adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, or on smaller parcels when specifically authorized by resolution of the town Board, as determined by the procedure set forth in Subsection D(1) above, dwelling units may be grouped on one or more separate parcels of land, or located on individual lots, for which there is no minimum size requirement.
- (4) Minimum lot dimension requirements.

- (a) Where the minimum required lot area is one acre, the minimum lot frontage, width, depth and yard setback requirements for building lots within a conservation subdivision shall be the same as required in the R-1A Residence District, except that where a building lot within a conservation subdivision abuts an existing residential lot complying with conventional lot dimensional standards, any front, side or rear yard adjoining such property shall comply with the normally applicable setback requirements of the zoning district in which it is located.
- (b) Where the minimum required lot area is less than one acre, the minimum lot frontage, width, depth and yard setback requirements for building lots within a conservation subdivision shall be as determined by the Planning Board, except that where a building lot within a conservation subdivision abuts an existing residential lot complying with conventional lot dimensional standards, any front, side or rear yard adjoining such property shall comply with the normally applicable setback requirements of the zoning district in which the lot is located.
- (c) Where there is no minimum required lot area and dwelling units in a conservation subdivision abut or are directly across the street from a privately owned residential property, the minimum front, side or rear yard adjoining or facing such property shall be equal to at least twice the normally applicable setback requirement for detached one-family dwellings in the zoning district in which it is located, but not less than 100 feet, or as otherwise determined appropriate by the Planning Board for parcels specifically authorized by the Town Board but not less than twice the normally applicable setback, measured from the boundary of the conservation subdivision. In reviewing the development plan, the Planning Board shall consider the setback and proposed screening of parking and active recreation areas and may require setbacks up to twice the normally applicable setback requirement for one-family dwellings in the zoning district in which the conservation subdivision is located.
- (d) The minimum contiguous buildable area requirement for single-family lots in a conservation subdivision shall be as determined by the Planning Board, taking into consideration

the minimum contiguous buildable area requirements for similar size lots as set forth in § 213-22.2D(2) hereof."

**Section 10.** Amend Section 213-25E(4) of the Code of the Town of North Castle, New York to correct the wording as follows:

"(4) Water and sewer facilities.

- (a) All dwelling units in conservation subdivisions having no minimum required lot area shall be served by public water and sewage treatment facilities, and no certificate of occupancy shall be issued until all dwelling units are connected to approved and functioning public water and sewage treatment facilities. Where, in the opinion of the Planning Board, connection to or establishment of public water and/or sewage treatment shall be designed and constructed to serve all dwelling units in accordance with the standards and subject to the approval of the Westchester County Department of Health and the New York State Department of Environmental Conservation. Such central systems shall be designed and located in such way as to readily permit their connection and/or conversion to off-site systems at such time as they are constructed.
- (b) Where, in the opinion of the Planning Board, the geology of an area is such that wells of large capacity will adversely impact existing wells on adjoining properties, individual water meters for each dwelling unit shall be installed, sufficient measures shall be taken by the applicant to prevent such adverse impact or to indemnify the owners of such impacted wells, and/or where feasible, an off-site source of water supply shall be developed."

**Section 11.** Amend Section 213-37 "Standards" of the Code of the Town of North Castle, New York so that it will read as follows:

"Section 213-37. Standards. In acting on any site development plan application, the Planning Board shall take into consideration the recommendations of the Town Development Plan, the provisions of the Town Flood Hazard Ordinance, the Wetlands and Drainage Law and the Environmental Quality Review Law of the

Town of North Castle,<sup>2</sup> the existing topography and site conditions including wetlands, watercourses, waterbodies, adjacent areas, floodplains, steep slopes, soil conditions, rock outcroppings, vegetation and stonewalls, the proposed location, height and bulk of buildings, traffic circulation within and without the site, provision of off-street parking space, location and provision of off-street parking for the handicapped, exterior lighting, buffer areas and other open spaces, appearance of utility lines and display of signs, so that the impact of development on the environmental quality and scenic character of the site will be minimized, so that it will have a harmonious relationship with the existing or permitted development of contiguous land and of adjacent neighborhoods and so that pedestrian and vehicular traffic will be handled adequately and safely within the site and in relation to the adjoining street system. Where determined appropriate, the Planning Board may forward for review and report one copy each of the application to the Conservation Board (mandatory in the case of properties listed on the open space index), the Architectural Review Board, Town Housing Agency and the Town Engineer."

**Section 12.** 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 13.** 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 14.** Effective Date.

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

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Revised 6/23/06

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<sup>2</sup>. Editor's Note: See Ch. 109, Flood Damage Prevention, Ch. 209, Wetlands and Drainage and Ch. 99, Environmental Quality Review, respectively.