

**Topic:** Moratoria; Open Space Preservation  
**Resource Type:** Regulations  
**State:** New York  
**Jurisdiction Type:** Municipal  
**Municipality:** Town of North Castle  
**Year (adopted, written, etc.):** 2004-2005  
**Community Type - applicable to:** Suburban; Rural  
**Title:** Town of North Castle Moratorium Ordinance  
**Document Last Updated in Database:** May 8, 2017

### ***Abstract***

As a result of the negative impact residential development has had on the environment of North Castle, the damage to the Town's natural resources, the loss of open space, and the ability of the infrastructure of Town and special district facilities and services to adequately serve Town residents, along with other factors; the Town Board has enacted this moratorium. It has been specifically determined to be necessary in order to prevent the final approval of any further residential subdivisions Townwide and any new construction or large scale renovations in the Armonk, North White Plains and Banksville business areas until such time as planning recommendations can be prepared and appropriate new and/or amended zoning controls, land development and/or environmental protection regulations can be fully and carefully considered by the Town Board and other involved boards and agencies, as well as by the public, and then put into effect.

### ***Resource***

Town of North Castle NY Moratorium  
Code of the Town of North Castle NY  
Chapter 213  
General Code  
[http://www.codes.generalcode.com/codebook\\_frameset.asp?t=tc&p=0492%2D213%2Ehtm%23ArticleXV&cn=1361&n=\[1\]\[137\]\[817\]\[829\]\[1241\]\[1275\]\[1281\]](http://www.codes.generalcode.com/codebook_frameset.asp?t=tc&p=0492%2D213%2Ehtm%23ArticleXV&cn=1361&n=[1][137][817][829][1241][1275][1281])

### **ARTICLE XV Residential Subdivision and Hamlet Business Centers Moratorium**

**[Added 8-11-2004 by L.L. No. 6-2004; amended 7-14-2005 by L.L. No. 7-2005]**

**§ 213-70. Short title.**

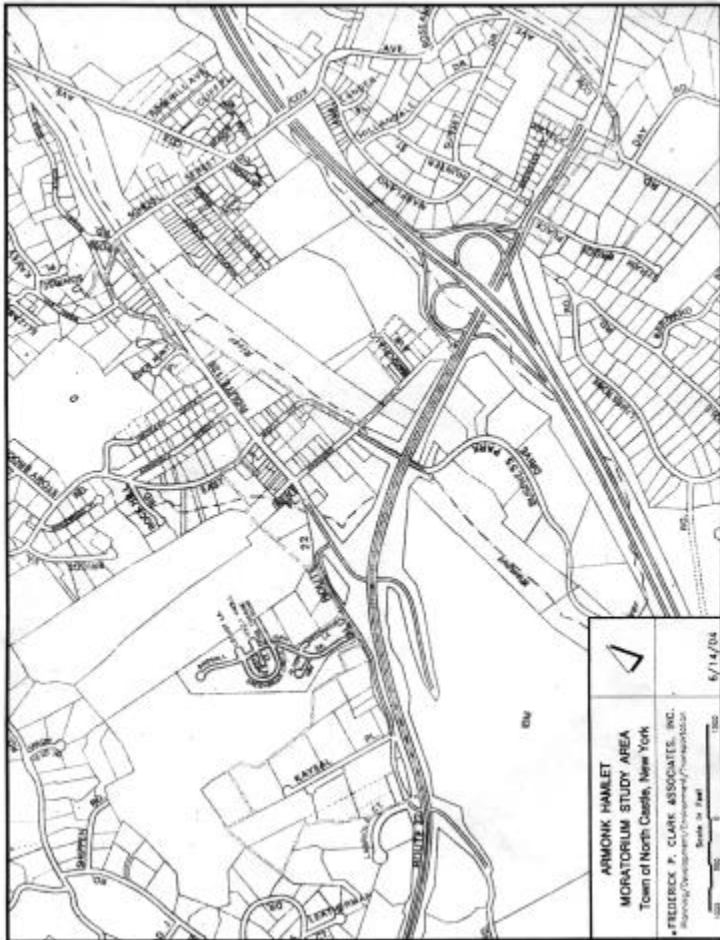
This article shall be known and may be cited as the "Residential Subdivision and Hamlet Business Centers Moratorium Extension Local Law" of the Town of North Castle, New York.

**§ 213-71. Legislative intent.**

- A. The Town Board is concerned about the impact which residential development has been having in recent years upon the quality of North Castle's environment, the damage to the Town's natural resources, the loss of open space, the ability of the infrastructure of Town and special district facilities and services to adequately serve Town residents (including roads, water supply, sewage disposal, and educational, emergency, recreational and administrative services), the character of the community, and the health, safety and general welfare of the Town's residents. For these reasons, the Town Board has asked its Planning Consultant to conduct a study of recent Town development and the Town's present zoning and land development controls with the intent of preparing recommendations for change, within the framework of the Town's current Comprehensive Plan, which will mitigate these impacts, will better protect the Town's environment and its natural resources, will provide a better balance between the demand for new services and the ability of the Town and its various districts to deliver such services, will help to preserve open space and protect North Castle's attractive character, and will otherwise help to promote the health, safety and general welfare of its residents.
  
- B. The Town Board is also concerned with respect to the nature, intensity, character, design and pattern of development in its three hamlet business centers, Armonk, North White Plains and Banksville, specifically including, but not limited to, increased traffic congestion, the inadequacy of available parking, the scale and character of new and expanded buildings, the adequacy of available sewerage and water supply facilities, and other similar related factors. For these reasons, the Town Board has asked its planning consultant to also study the present zoning and development pattern in the Armonk, North White Plains and Banksville hamlet areas with the intent of preparing recommendations for changes which will address these concerns and allow these business centers to properly, safely, efficiently, conveniently and attractively serve their function as a part of the greater North Castle community.
  
- C. Therefore, this moratorium extension is specifically determined to be necessary in order to prevent the final approval of any further residential subdivisions Townwide and any new construction or large scale renovations in the Armonk, North White Plains and Banksville business areas until such time as planning recommendations can be prepared and appropriate new and/or amended zoning controls, land development and/or environmental protection regulations can be fully and carefully considered by the Town Board and other involved boards and agencies, as well as by the public, and then put into effect.

**§ 213-72. Regulatory controls.**

For a period of six months beginning August 11, 2005, no residential subdivision application shall be granted final approval anywhere in the Town of North Castle. Also, for a period of six months beginning August 11, 2005, no site plan, special use permit, use variance or subdivision application shall be granted final approval if it involves any new construction or the renovation or alteration of any existing building which contains 10,000 square feet or more of gross floor area and is located within the Armonk, North White Plains or Banksville Moratorium Study Areas, as shown on the maps on the following three pages. The provision allowing waiver of site plan approval by the Building Inspector, as set forth in § 213-34 of the Town Zoning Code, shall not be applicable during the period of this moratorium.







**§ 213-73. Excluded applications.**

A. Any residential subdivision application which has been filed with the Planning Board of the Town of North Castle, New York on or prior to June 1, 2004, shall continue to be processed in accordance with all applicable zoning, land development and environmental regulations unless such application is withdrawn or is, in the opinion of the Planning Board, not being diligently pursued. Such applications are specifically identified as follows:

**Residential Subdivision Projects**

<b>Applicant</b>	<b>Location</b>	<b>Description</b>
Cohen	Round Hill Road	Section 1, Block 9, Lots 13 and 13-2
DiGiacinto	Briggs Lane	Section 2, Block 11, Lot 3G18 and 3G9

Leary	Wago Avenue	Section 2, Block 1A, Lots 1 and 2
Massaro	Custis Avenue	Section 6, Block 5, Lot 2-3
Masi	Route 22	Section 2, Block 10, Lot 1-40
Nogueira	Overlook Road	Section 5, Block 23, Lots 7, 25 and 27
Pannetta	McDougal Drive	Section 3, Block 8, Lot 12C6
Pighini	General Heath	Section 7, Block 2, Lot 35
Scott	Mianus River Road	Section 1, Block 7, Lot 4
Seven Springs	Oregon Road/Sarles Street	Section 2, Block 6, Lot 1 and 2
Sroka	Wampus Avenue	Section 2, Block 13, Lot 14-18
Valentino	Mianus River Road	Section 1, Block 6, Lot 5B

B. Any site plan, special use permit or subdivision application affecting property within the Armonk, North White Plains and Banksville Moratorium Study Areas, as defined herein, which has been filed with the Planning Board of the Town of North Castle, New York on or prior to June 9, 2004, shall continue to be processed in accordance with all applicable zoning, land development and environmental regulations unless such application is withdrawn or is, in the opinion of the reviewing agency, not being diligently pursued. Such applications are specifically identified as follows:

<b>Applicant</b>	<b>Location</b>	<b>Description</b>
Pembroke Square — Site Plan	Main Street, Avenue and Road	Maple Section 2, Block 14, Lots 3, 8 and 9
Armonk Associates (Digiacinto) — site plan	Whippoorwill 407, 409 and 419 Main Street	Section 2, Block 11, Lots 3A, 3M, 3M-1, 3, 3K
Aguzzi — site plan	480 Main Street	Section 2, Block 13, Lot 5

Pleasant Grooming — site plan	2 MacDonald Avenue	Section 2, Block 13, Lot 25
Framings — special use permit	414 Main Street	Section 2, Block 14, Lot 1
Houlihan Lawrence — site plan	399 Main Street	Section 2, Block 11, Lot 3J
Motiva Enterprises (Shell gas station) — site plan	375 Main Street	Section 2, Block 11, Lot 6-6
3 MacDonald Avenue (Banko) — site plan	3 MacDonald Avenue	Section 2, Block 13, Lot 21
Mediterranean Tile —	758 North Broadway	Section 7, Block 5, Lot 1

- C. Any application for the construction of Middle Income Units (MIU's), or for temporary uses requiring Town Board approval, shall continue to be processed in accordance with all applicable zoning, land development and environmental regulations.
- D. Also excluded from this moratorium extension shall be resubdivision applications and minor modifications or field changes to any previously granted approvals, provided such modifications do not increase density, either in terms of dwelling units or gross floor area.

**§ 213-74. Review of new applications.**

- A. Any applicant wishing to submit and proceed with the review and processing of an application whose final approval is precluded by this moratorium extension may do so at their own risk. Such applications may be reviewed, processed and otherwise considered by the appropriate boards, agencies and/or departments of the Town of North Castle having jurisdiction thereof during the timeframe of this moratorium extension, and any possible future extensions thereof, provided it is understood that such applications may ultimately not receive approval as the result of changes in applicable regulations.
- B. Any applicant wishing to proceed in accordance with this provision must first acknowledge to the Town, in writing, that the applicant understands that: a) the applicant is proceeding at its own peril; b) there are no guarantees or assurances, either express or implied, that any application will be finally approved or granted; c) zoning changes and/or other Code changes may be implemented which would prevent or prohibit final approval of its application; d) all default approval provisions of the Town Law, having been superseded by this moratorium, shall not affect the application; e) all

time limitations and deadlines as established in accordance with the State Environmental Quality Review Act (SEQRA) are tolled; and f) the applicant will not be entitled to any indemnification or compensation of any kind in the event that its application is not finally approved or granted, either as proposed or in any other modified form.

**§ 213-75. Appeal.**

- A. Any property owner may appeal to the Town Board for relief from the provisions of this moratorium extension, and the Town Board shall have the power to grant such relief, or so much relief as said Board may determine to be necessary and appropriate. As a part of the appeal application, the applicant shall set forth the specific basis for the claimed hardship as it relates to this moratorium extension.
- B. Any application for Town Board relief in accordance with the provisions of this section shall include a detailed plan of the proposed development and any other information as may be deemed necessary or appropriate by the Town Board in order to properly consider and arrive at a determination with respect to the application. The application shall also be accompanied by a nonrefundable filing fee in the amount of \$500.
- C. No application for relief may be filed unless and until the board, agency or official having approval authority with respect to the application shall submit a written statement to the Town Board indicating that the processing of the application has been completed except for the vote on final approval by said approval authority and that the approval authority intends to grant such approval if the request for relief is granted by the Town Board.
- D. Before deciding on any such appeal, the Town Board shall conduct a public hearing with the same notice as required by law for zoning amendments. In arriving at its determination, the Town Board shall take into consideration whether the hardship has been self created, whether it is unique to the specific property for which relief is requested, whether the relief requested is the minimum necessary to overcome the claimed hardship, whether the benefit to the applicant if the requested relief is granted is not outweighed by any detriment to the health, safety and general welfare of the community, and whether the application for which the relief is requested is consistent with any proposed new or amended regulations, if and as such may exist at the time of the public hearing.
- E. The decision of the Town Board on any such application for relief shall be final.

**§ 213-76. Severability.**



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

**§ 213-77. Conflicting standards.**

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

**§ 213-78. Effective date.**

This article shall take effect immediately upon its filing in the office of the Secretary of State and shall remain in full force and effect for a period of six months from August 11, 2005, unless terminated or further extended by action of the Town Board of the Town of North Castle, New York.