

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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.

County City Town Village
(Select one.)

of Livingston

Local Law No. 3 of the year 2017

A local law Amending Section 3.2 Schedule of Permitted Uses of the Town of Livingston Zoning Law
(Insert Title)

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

County City Town Village
(Select one.)

of Livingston as follows:

See Attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

- I. Title
Town of Livingston
Local Law #3 of 2017 Amending Section 3.2 Schedule of Permitted Uses.
- II. Enactment
This local law is adopted and enacted pursuant to the authority and power granted by Section 10 of the Municipal Home Rule Law of the State of New York, Articles 2 and 3, and pursuant to Article 2 of the New York State Statute of Local Governments.
- III. Legislative Findings
The Livingston Town Board in March 1992 adopted a Zoning Law. Said law has been amended from time to time.

Said Law divided the town into zoning districts which are illustrated on the Town of Livingston Zoning Map as set forth in Article II of the law.

Among the zones created is the Low Density Residential District, hereafter LDR-2. The law reads: This district provides for orderly residential development, while retaining the rural character of the district.

Until now, the issue of mining has not visited by the Town Board since the Master Plan dated September 13, 1990 and the resultant zoning law in 1992. A revisit after over twenty-five years is warranted.

The Master Plan spoke of mining in three places. It made note of the locations in use at the time (1990). It also noted that 53.9% or roughly half of those surveyed believed in "proper soil and gravel mining." Meanwhile the survey responses were replete with the importance of open land, rural character, the environment and visual appeal. 89.8% of those surveyed stated maintaining environmental quality is important and 82.9% of those surveyed stated maintaining the rural character of the town is important. (See page 7 of Master Plan). The author of the plan noted the participation level of the town residents in the survey which led to the Master Plan as "exceptionally high" (35%).

The Zoning Law which was adopted in March 1992 permitted "Quarrying" in the LDR2 and C-1 (Commercial) Zones by special permit only.

In 2014, the Zoning Law was revised. In the schedule of uses, "Quarrying" was removed and replaced by "Mines, Mining." "Mines, Mining" is currently permitted in LDR2 and C-1 zones by special permit, the same as "Quarrying" was in earlier versions of the Law.

The Town Board has been studying the issue of whether to restrict mining in the town to active mine sites. This study is reflected by the adoption of a

moratorium in September 2016 against all potential or prospective mines not already active, and a continuation of said moratorium in December 2016 and March 2017. In open meetings and public hearings before the Town Board held on the proposed moratoriums, and proposed Local Law #3, there has been large support for further restrictions.

At the open meetings and public hearings community members voiced concerns about increased mining operations and the increased traffic from heavy trucks carrying mined materials on local roads, many of which are winding and narrow-shouldered dating from the pre-automobile nineteenth century. These concerns included the following:

- (a) Concern for safety of school children waiting for school buses alongside local roads
- (b) Concern for safety of school children on school buses which are often stopped in traffic
- (c) Concern for safety of bicyclists and recreational walkers
- (d) Debilitation of local roads and bridges due to increased heavy truck traffic
- (e) Cost to local tax payers in restoring local roads and bridges debilitated due to increased heavy truck traffic
- (f) Dust from mining operations and the potential impact on the Roeliff Jansen Kill and its tributaries
- (g) Dust from mining operations impacting air quality
- (h) Impact on peace and quiet associated with rural character
- (i) Impact on structure of homes which often sit directly on roadways with little or no front yard, due to vibrations of heavy trucks
- (j) Loss of property value based on all of the above.

Importantly, in comments made at open meetings and public hearings and in written correspondence, the Town Board heard from citizens living in various parts of the town.

This amendment has a town wide impact, by removing a use from the residential zone which covers about 80% of the town. The removal of said use from said zone will heighten consistency with the goals of that zone i.e. “provide for orderly residential development” and “retain the rural character”.

This amendment will not affect the current and on-going operations of any of the mines now active in the Town of Livingston. Nor will it affect the potential for future mines and mining which may be allowed after obtaining a special use permit in the Commercial (C-1) zone.

Pursuant to Section 6.9(3) of the Town of Livingston Zoning Law, the town board has reviewed the criteria found at said section, and finds as follows:

- (a) The proposed change is not contrary to the Town Master Plan.

- (b) The proposed change is compatible with the existing land use pattern.
- (c) The proposed change does not create an isolated district unrelated to adjacent and nearby districts.
- (d) The proposed change does not affect the population density pattern or increase over taxing of the load on public facilities such as schools, utilities or streets.
- (e) The proposed change does not create illogically drawn district boundaries.
- (f) A desire to increase the commitment to the rural character and the orderly residential development of the town has made the proposed change necessary.
- (g) The proposed change will not adversely influence living conditions in residential neighborhoods.
- (h) The proposed change will not create or increase traffic congestion or otherwise affect public safety and will in fact decrease the potential of more traffic and decrease potential harm to public safety.
- (i) The proposed change will not create a drainage problem or negatively impact subsurface water resources.
- (j) The proposed change will not reduce light and air to adjacent areas.
- (k) The proposed change will not adversely affect property values, and will in fact serve to protect residential property values.
- (l) The proposed change will not be a deterrent to improvement or development of adjacent properties.
- (m) The proposed change will not constitute a grant of special privilege to an individual owner as contrasted with the public welfare.
- (n) The proposed change will not induce or reduce growth, subsequent development or related activities.

Furthermore, the Town Board finds that removing mines and mining as a special use in the LDR2 Zone, while continuing to permit the operation of all existing mines and mining, and the operation of future mines and mining in the C-1 Zone with a special permit, satisfies the objectives of the Zoning Law as set forth at Section 1.2(2), as follows:

The proposed change

- (a) Promotes and effectuates the orderly physical development of the Town of Livingston, New York, in accordance with the Master Plan.
- (b) Preserves, protects and enhances the agricultural nature and viability of the Town.
- (c) Encourages the most appropriate use of land in the community in order to enhance the value of property.

- (d) Provides for adequate and suitably located commercial facilities, as mines and mining will continue to be allowed by special permit in commercial zone.
- (e) Protects and enhances existing wooded areas, scenic areas and waterways and preserves the rural character of the Town.
- (f) Has no impact on building densities.
- (g) Has no impact on transportation facilities, except to the extent that it helps to maintain local roads and bridges against an increase in heavy traffic.
- (h) Realizes a development plan properly designed to conserve the use of land and the cost of municipal services.
- (i) Assures privacy for residences and freedom from nuisances and things harmful to the senses.
- (j) Protects the community against unsightly, obtrusive and noisome land uses and operations.
- (k) Enhances the aesthetic aspects throughout the entire community to maintain its present character and natural beauty.

Accordingly, the Town Board, acting on (1) the directives of the Master Plan (2) the objectives of the Zoning Law, as found at Section 1.2(2) (3) the criteria found at Section 6.9(3) of the Zoning Law (4) the mission and purpose of the LDR2 zone as found in the Town Zoning Law dating back to 1992 and (5) the information gathered at numerous very well attended public hearings before both the Planning Board and Town Board dating back for approximately one year, believes it is in the best interest, well-being and welfare of the citizens of the Town of Livingston to amend the Zoning Law to prohibit the operation of any mines or mining operations not already operating in the LDR2 zone.

- IV. Town of Livingston Zoning Law Section 3.2 Schedule of Permitted Uses is hereby Amended as Follows:
Mines, Mining are not permitted in the LDR2 District. The amended schedules of permitted uses is annexed hereto.
- V. Severability
The invalidity of any part of provision of this Law shall not affect the validity of any other part of this Law which can be given effect in the absence of the involved part or provision.
- VI. Supervision
This Local Law is intended to supersede any provisions of the Town Law which are inconsistent with the provisions of this Local Law.
- VII. Effective Date
This Local Law shall take effect immediately.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2017 of the ~~(County)(City)(Town)(Village)~~ of Livingston was duly passed by the Livingston Town Board on 2017, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2017, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: _____

(Seal)

3.2 SCHEDULE OF PERMITTED USES

1. No building or permit shall be erected or altered in any district, except for uses designated for the district in the following schedule. No use shall be allowed except as provided by the following schedule and in compliance with all applicable provisions of this chapter. Also, site plan approval is required from the Planning Board pursuant to Section 6.7 for all construction or use in any district, except for a single-family residence and its accessory structures on any approved building lot. Accessory Structure Two needs Approval by Special Use Permit. No certificate of occupancy shall be issued until all other applicable provisions of this chapter have been met. Any use not specifically listed shall be deemed to be prohibited.

Symbols: P : Designates a use permitted by right.

X : Designates a temporary and/or conditionally permitted use requiring application for a special use permit issued by the Planning Board and allowed only if confirmed suitable in the specific case.

-- : Designates a use not permitted by right nor by special use permit.

NOTE: Site plan approval is required from the Planning Board pursuant to Section 6.7 for all construction or use in any district, except for a single-family residence and its accessory structures on any approved building lot.

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Accessory Apartments	P	P	P	P	P	--	P	P
Accessory Use/Building	P	P	P	P	P	X	P	P
Accessory Structure #2	X	X	X	X	X	X	X	X
Agriculture, excluding animals	P	P	P	P	P	P	P	P
Agriculture, including animals	X	X	P	P	X	P	P	X
Agricultural research	--	--	X	--	X	--	X	--
Amusement Center	--	--	--	--	X	--	--	X
Amusement – Specialty	--	--	--	--	X	--	--	X
Antique shop	P	X	X	X	P	X	X	X
Auction hall/Flea market	P	--	X	--	P	--	P	X
Automotive body repair	--	--	--	--	X	--	--	X
Airport	--	--	X	--	--	--	--	--

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Bank	X	--	--	--	P	--	--	X
Bar, dance hall, nightclub	--	--	--	--	X	--	--	--
Bed and Breakfast	X	X	X	X	--	--	--	--
Bowling alley	--	--	--	--	X	--	--	--
Building supply	--	--	--	--	P	--	X	X
Camp	--	X	X	X	--	--	--	--
Campground	--	--	X	X	--	--	--	--
Car wash	--	--	--	--	X	--	--	X
Cemetery	X	X	X	X	--	--	--	--
Church/synagogue	P	P	P	P	--	--	--	X
Club	--	--	X	X	X	--	--	--
Cluster subdivision	P	P	P	P	--	--	--	--
Commercial □ Event Venue	X	X	X	X	P	X	X	X
Commercial greenhouse and plant nursery, including office and sales yard	--	--	X	X	P	--	P	X
Commercial parking lot	--	--	--	--	X	--	X	X
Community pole	P	P	--	--	P	--	--	P
Condominiums	X	X	X	X	--	--	--	--
Country club or golf course	--	X	X	X	--	X	X	--
Cultural facilities (Library, Museum, Art Gallery)	X	X	X	X	X	--	--	X
Drive-in theater	--	--	--	--	X	X	--	--
Dwelling, multi-family	X	X	X	P	X	--	X	X
Dwelling, two family	P	P	P	P	P	--	X	P
Dwelling, single family	P	P	P	P	P	X	P	P

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Equipment rental or Sales yard	--	--	--	--	P	--	X	X
Farm greenhouse	--	P	P	P	P	--	P	X
Farm stand	P	P	P	P	P	X	P	X
Fence	P	P	P	P	P	P	P	P
Food Processing manufacturing	--	--	--	--	X	--	P	--
Funeral home	X	X	X	--	X	--	--	X
Furniture sales	--	--	--	--	P	--	--	X
Garage, Private	P	P	P	P	P	X	P	P
Gasoline filling station	X	--	--	--	X	--	X	X
Group home	X	X	X	X	X	--	--	X
Home occupations:								
HO1	P	P	P	P	P	P	P	P
HO2	P	P	P	P	P	P	P	P
Horse Stable	X	X	P	P	X	P	X	X
Hospital, nursing home or sanatorium	--	--	X	--	X	--	--	--
Hotel or motel including restaurant	--	--	X	--	X	--	--	--
Inn	X	X	X	X	--	--	--	X
Junkyard	--	--	--	--	--	--	--	--
Kennel	--	--	X	X	X	--	--	--
Laundry/dry cleaning	X	--	--	--	P	--	--	X
Light Industrial Park	--	--	--	--	X	--	P	--
Light Manufacturing	--	--	--	--	X	--	X	--
Manufacture, processing coal, tar, asphalt or petroleum products	--	--	--	--	--	--	--	--
Manufactured (Mobile Home) Single Section	--	--	P	--	--	--	--	--

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1 *	LC-1 **
Manufactured (homes)								
2 sections or more	P	P	P	P	P	X	P	P
Meeting hall	X	--	X	--	X	--	--	X
Mines, Mining	--	--	--	--	X	--	--	--
Motor freight terminal	--	--	--	--	X	--	X	--
Motor vehicle repair	--	--	--	--	X	--	X	X
Motor vehicle sales	--	--	--	--	X	--	X	X
Multiple business professional or professional service office	--	--	--	--	X	--	X	X
Nursery school	X	X	X	X	X	--	--	X
Outdoor Boilers								
Public recreation	X	X	X	X	X	X	--	X
Public utility	--	X	X	--	X	--	X	X
Radio, television and other electric transmission stations and towers	--	--	X	--	X	--	X	X
Recreational vehicle or manufactured home (mobile home) sales	--	--	--	--	X	--	X	--
Research laboratories	--	--	--	--	--	--	--	--
Restaurant	P	--	--	--	P	--	--	X
Retail business or service Not otherwise specified and not otherwise prohibited in this chapter	X	--	--	--	P	--	X	X
Riding school	--	--	X	X	--	X	--	--
Satellite Dishes	X	X	P	P	P	P	P	X
School (private)	X	X	X	X	X	--	--	--
School (public)	X	X	P	--	--	--	--	--
Skating rink	--	--	--	--	X	--	--	--
Slaughterhouse	--	--	--	--	--	--	--	--

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Special Event	P	P	P	P	P	P	P	P
Storage yard / Contractor's yard	--	--	--	--	X	--	X	X
Swimming pool, private	P	P	P	P	P	P	P	P
Swimming pool, public	X	X	--	--	P	P	--	X
Telecommunications Towers, Transmitting/Receiving Facility	--	--	X	--	X	--	X	X
Theater	--	--	--	--	X	--	--	--
Townhouses	X	X	X	X	--	--	X	X
Tourist home	X	X	X	--	--	--	--	--
Transportation terminal	--	--	--	X	--	--	--	--
Veterinary clinic	--	--	X	X	--	--	--	--
Veterinary office	X	X	X	X	X	--	--	X
Warehouse, excluding chemicals	--	--	--	--	X	--	X	--
Warehouse, including chemicals	--	--	--	--	X	--	X	--
Wholesale business or service not otherwise specifically mentioned herein and not otherwise prohibited in this chapter	--	--	--	--	X	--	X	--