

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 of Livingston
Town
Village

Local Law No. 4 of the year 2016

A local law extending a three-month moratorium on mines and mining.

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

County
City of Livingston as follows:
Town
Village

Section 1. LEGISLATIVE INTENT:

The Town of Livingston presently has established zoning regulations for the Town of Livingston. The Town Board believes that the Town of Livingston is particularly situated for the establishment of mines and mining within the boundaries of the Town.

The Town of Livingston adopted Local Law #2 of 2016 enacting a three-month moratorium on mines and mining on September 22, 2016, said moratorium is set to expire on December 22, 2016. The Town has been undertaking a review and study of the issue relating to mines and mining and the current zoning law as it applies to the use within the town. The Town desires to extend the moratorium to allow for further study.

The Town Board of the Town of Livingston is concerned that the present Town of Livingston Zoning Law provisions may not be adequate to address any applications for mines and mining operations. Under the current zoning law mines and mining are allowable in the LDR-2 and C-1 zones which encompass a large amount of the town, and include areas of rural, residential, historical and agricultural nature.

The Town Board of the Town of Livingston remains of the opinion that if mines or mining are allowed to proceed under the current zoning law it will lessen the ability of the Town to plan for its orderly development and protect the public health, safety and general welfare of the Town's residents. The Town Board also realizes that the Town, as well as the County, are a rural and open community, and that mines and mining are a generally allowable and necessary commercial activity.

The Town Board finds that a moratorium should be extended to enable the Town to further investigate the appropriate regulation of mines and mining operations.

The Town Board finds that pursuant to 6 NYCRR 617.5(c)(30) the adoption of a moratorium on land development or construction is a Type II action under the New York State Environmental Quality Review Act ("SEQRA") which has been determined not to have a significant impact on the environment. Further, this moratorium is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

This moratorium is exempted from referral to the Columbia County Planning Board pursuant to the New York General Municipal Law 239-m by adoption of the "Opt Out" resolution, paragraph 14, stating that land use moratoria for a period of three months or less are exempt from referral, and are of local concern, said resolution adopted by the Town of Livingston on January 11, 2001.

Section 2. MORATORIUM.

- A) A moratorium on the application, including for building permits, site plan approval and/or any zoning permits or variances for the installation, construction, modification, alteration, approval or extension of mines and mining operations is hereby imposed from the period of December 22, 2016 commencing upon the expiration of Local Law #2 of 2016, for a period of three (3) months, it being the intent of the Town Board to have no gap or lapse of said moratorium. During the period of such moratorium the Town, including but not limited to the building inspector, planning board or zoning board of appeals shall accept no new application.
- B) For the purposes of this Local Law, the terms mines and mining are as defined within the Town of Livingston Zoning Law:

MINES, MINING - Means the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or

excavations in aid of agricultural activities.

- C) Applications for any of the above-mentioned permits, approvals or variances that have been submitted and that were under review shall be included in this moratorium extension.

Section 3. RELIEF FROM PROVISIONS OF THIS LOCAL LAW:

If any owner of property within the Town of Livingston seeks relief from this moratorium to enable such owner to obtain a permit for activity otherwise prohibited under this moratorium, such owner shall make application to the Town Board. Such request shall be taken under the procedural provisions of the existing Town of Livingston Zoning Law in relation to appeals, and shall be the subject of a public hearing before the Town Board in accordance with such procedures. It shall be within the discretion of the Town Board to grant, in whole or in part, or deny, the application for such relief from the terms of this moratorium. It shall be the burden of the applicant for such relief to demonstrate to the satisfaction of the Town Board upon competent evidence that an unjust result and extraordinary hardship will occur to the applicant, if such relief is not granted, and such showing must demonstrate that the proposed activity for which relief is sought shall be consistent with the reasonable and orderly development of the Town.

Section 4. VALIDITY & SEVERABILITY, SUPERSESSON.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law. The Town Board of the Town of Livingston declares the legislative intent to supersede any provision of any local law, rule or regulation and any provision of State law or other special law that may be declared inconsistent or in conflict with this local law. The State law provisions that be and are hereby superseded include but are not limited to Article 16 of the New York State Town Law.

Section 5. EFFECTIVE DATE.

This local law shall be effective upon passage.

(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. 4 of 2016 of the Town of Livingston was duly passed by the Town Board on 12/8/16, 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 (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____, 20__, (Elective Chief Executive Officer*) in accordance with the applicable provisions of law.~~

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 (Name of Legislative Body) disapproval) by the _____ on _____, 20__. Such local law was (Elective Chief Executive Officer*) 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 (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ on _____, 20__. Such local law was subject (Elective Chief Executive Officer*) to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20__, in accordance with the applicable provisions of law.

*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 chairman 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 _____, _____, 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 1, above.



T. Molinski

Tammy Molinski, Town Clerk

Date: 12/8/16

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF COLUMBIA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature Robert J. Fitzsimmons

Title: Counsel

County
City of Livingston
Town
Village

Date: 12/15, 2016