

TOWN OF HUNTER
Local Law No. 8 of 2016

THE TOWN OF HUNTER SMALL SCALE MINING LAW

A LOCAL LAW repealing and replacing Local Law No. 1 of 2016 of the Town of Hunter regulating Small Scale Mining.

BE IT ENACTED by the Town Board of the Town of Hunter, Greene County, as follows:

SECTION I. Authority

This law is enacted pursuant to the authority granted under Section 10 of the Municipal Home Rule Law.

SECTION II. Purpose

The Town of Hunter recognizes that minerals are an important economic resource and that the NYS Department of Environmental Conservation has jurisdiction over large scale mining operations through the Mined Land Reclamation Law. However, the Town also recognizes that even small scale mining operations can create adverse impacts to immediate neighbors due to noise, dust, and heavy truck traffic. In addition, if mining practices are poorly conducted they can result in significant damage to the community's water quality, habitats, and scenic resources. The purpose of this law is to protect the Town's environmental resources, quality of life and public infrastructure by regulating small scale mining activities through a permitting process.

SECTION III. Definitions

For the purpose of this local law, the following terms shall apply:

Agriculture: All agricultural operations and activities related to the growing or raising of crops, livestock or livestock products, and agricultural products, as such terms are defined in or governed by the New York State Agriculture and Markets Law on lands qualified under the NYS law for agricultural exemption by the assessor of the Town of Hunter.

Land Stewardship Plan: A written description of land management and stewardship practices employed on property, and how such practices are in keeping with the intent of this law as set forth in the purposes section herein. Said written description shall include an enumeration of all such land management practices, but does not need to be specific in terms of location, scope or duration of said practices.

Mineral: Any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this definition, overburden, peat, topsoil, subsoil, sand, gravel and other stone materials shall be considered minerals.

Mining: The extraction of minerals from the earth for offsite use; the preparation and processing

of any minerals, including washing, cleaning, crushing, stockpiling or other processing of minerals for offsite use; or the onsite disposition of overburden, tailings and waste.

Large Scale Mining: Mining operations that require a NYSDEC Permit under the New York Mined Land Reclamation Law (Environmental Conservation Law Article 23, Title 27). A NYSDEC permit is required for extraction of more than:

- 1,000 tons or 750 cubic yards of minerals, whichever is less, during 12 successive months. (Approximately 40-50 tandem axle, 10 wheeler, dump truck loads.) Or,
- 100 cubic yards of minerals removed in or adjacent to any water body not subject to the jurisdiction of the Protection of Waters Program or the Public Lands Law.

Small Scale Mining: Mining operations that involve the extraction of less than 750 cubic yards, and more than 375 cubic yards of minerals during 12 successive months.

SECTION IV. Permit Required

No person, firm, partnership, corporation or other entity (hereafter referred to as “person”) shall engage in small scale mining in the Town of Hunter without a permit issued by the Town Code Enforcement Officer. Small Scale Mining Permits are issued for a one-year term and may be renewed.

SECTION V. Exemptions

The following are exempt activities:

1. Agricultural, as defined herein;
2. Excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.
3. Maintenance of landowner interior driveways, roadways carriageways, hiking trails, culverts and drainage ditches, swales and other drainage courses.
4. Land stewardship plan: For lands eligible to submit a land stewardship plan to ensure that such lands are managed consistently with the intent and spirit of this article, the following procedures apply and shall supersede all other application procedures:
 - A. The owner of said land shall submit to the CEO a land stewardship plan as defined herein to define practices employed on the property. The plan shall demonstrate that all such practices are in keeping with the intent of this article, as set forth in the findings, purpose and intent section herein. A written description shall enumerate all such locations, scope, schedules or duration of said practices.
 - B. Said landowner shall submit, to the CEO for review and filing, an updated description of any changes to the land management plan activities or new practices.
5. The Town of Hunter Highway Department shall be exempt from the procedural requirements of the article.

6. Emergency actions and measures necessary to protect human life and preserve property, such as clearing rock slides, creating a fire break to fight fire, or other situations which public health, safety and welfare are threatened.

SECTION VI. Permit Application Procedure

1. Any person desiring to engage in small scale mining shall obtain a Small Scale Mining application package from the Town Clerk which will include a permit application, a copy of this local law, and the NYSDEC standards in 6 NYCRR PART 422.3.
2. The completed permit application shall be filed with the Code Enforcement Officer (CEO) together with a Small Scale Mining Site Map, Reclamation Plan Narrative, supporting information, and the required permit fee as set periodically by the Town Board. The completed permit application shall state the location and extent (in area) of the operation, and the expected volume of the minerals to be extracted in the one-year permit term. The application shall be signed by the owner of real property on which the activity will occur and shall be notarized.
 - A. The Small Scale Mining Site Map shall include a topographical base map (e.g. downloaded from Greene County GIS website) showing parcel boundaries, entrance and exits to public roadways, interior haul roads, streams, water bodies, wetlands, and the proposed areas of excavation including setbacks from streams and parcel boundaries. If the mining operation will be active for more than a year, the Site Map shall identify the area to be mined in the first one-year period and shall also show the planned areas of future excavation. (Office assistance available if needed.)
 - B. The Reclamation Plan narrative shall explain restoration and rehabilitation of the site with both existing and proposed final grading after operations are completed. If the operation is to be phased, the Reclamation Plan narrative shall explain how the site's reclamation in one-year phases. The plan shall demonstrate that a layer of topsoil free of contaminants, and natural vegetative cover will be restored to all disturbed areas, creating erosion resistant conditions. Disposition of materials, treatment of haul roads, drainage and water control, grading and revegetation shall conform to NYSDEC standards in 6 NYCRR Part 422.3.
 - C. Supporting information shall include a time schedule for completion of the entire operation including reclamation; dust control measures to be employed; proposed hours of operation; a description of the number, types and capacities of trucks and other machinery and equipment to be used on site; and an estimate of the number of vehicles expected to enter and exit the site on a daily basis and at peak hours.
3. The Town CEO shall refer the complete Small Scale Mining Permit Application to the Town Highway Superintendent and to the Greene County Highway Department or NYSDOT as applicable. A site inspection may be conducted by the appropriate agencies to determine if the operation will create a hazard to traffic safety or environmental quality, or potentially damage public highways. These agencies have 15 business days to respond.
4. The CEO will send a copy of all permit applications to the NYSDEC Region 4 for informational purposes only.

5. The CEO shall issue the Small Scale Mining Permit to the applicant upon determination that it complies with the standards in Section VIII and other requirements of this local law. The permit shall expire one year after issuance, and may be renewed with a renewal permit application.

SECTION VII. Renewal Permit Application

1. The application for a renewal of a small scale mining permit must be submitted to the CEO at least 30 days prior to the expiration date on the permit.
2. A renewal small scale mining permit application shall contain the following:
 - a. A completed application form.
 - b. An updated Site Map identifying the area to be mined during the proposed permit term.
 - c. An updated Reclamation Plan identifying the reclamation accomplished during the existing permit term and reclamation planned during the proposed permit term.

SECTION VIII. Small Scale Mining Standards

1. All lands to be covered by the permit must be owned or otherwise controlled by the applicant.
2. The proposed excavation, quarrying, and/or associated activity shall not endanger the stability of adjacent structures or land, affect natural drainage patterns or contribute to soil erosion.
3. The proposed excavation shall not constitute a detriment to public health, safety, welfare or convenience by reason of excessive dust, noise, traffic or other conditions before, during or after operations.
4. The operation shall not adversely affect any wetland, watercourse, residential, commercial or municipal water supply or sewage disposal system.
5. The operation shall not adversely affect any valuable environmental, scenic, cultural or historic features in the area.
6. Ingress and egress to the site, and the routing of mineral/material transport vehicles shall not adversely impact public roads.
7. Screening, fencing and/or buffer areas should be provided to screen the excavation site from adjacent properties and public roads to the extent possible.
8. Natural or manmade barriers should restrict access to the site.
9. Dust, noise and vibration control methods should be provided.
10. Final site grading after reclamation shall comply with NYSDEC grading standards included in 6 NYCRR Part 422.3:
 - a. Rock (ledge or bedrock) - 90°
 - b. Talus (broken rock) - 37°, or a slope of 1 vertical on 1 ¼ horizontal

- c. Coarse sand and gravel - 33°, or a slope of 1 vertical on 1 ½ horizontal
- d. Fine sand, silt and clay - 26°, or a slope of 1 vertical on 2 horizontal

SECTION IX. Enforcement and Violations and Enforcement

1. Enforcement

This Law shall be enforced by the CEO. They shall be authorized and have the right in the performance of duties to enter upon any property in the process of being mined, or in the process of being reclaimed after mining to investigate any complaint or violation of this law. Such entrance and inspection shall be initiated at reasonable times and in emergencies whenever necessary to protect interest. Note: Many of the following items are regulated by other agencies and have been included for informational purposes for public knowledge. Any complaints regarding items already regulated by other agencies will have those complaints forwarded to appropriate regulating agency by the CEO.

2. Violations

- A. Failure to Notify the Town. Upon determination by the CEO that a small scale mining operation was undertaken without a permit he shall serve upon the property owner and mining contractor an initial order in writing to cease and desist immediately and shall direct the land owner to apply for such permit.
- B. Failure to Comply. Upon determination by the CEO that a small scale mining operation is not being conducted or reclaimed in compliance with the standards in Section VII or the filed Reclamation Plan, he shall serve upon the property owner and mining contractor an order in writing to cease and desist immediately.
- C. Notice to Appear in Court. If the landowner continues mining activities in violation of a cease and desist order the CEO shall serve a written notice upon the landowner and mining contractor requiring their appearance before the Town Justice at a time to be specified. It is the Town's intention to hold both the landowner and mining contractor liable for any violations.
- D. Fine/Imprisonment. The Town Justice may, after a hearing at which the testimony and witness of the CEO and violator shall be heard, determine the violator is subject to a fine not to exceed \$350.00 or imprisonment for a period not to exceed 30 days, or both. Every week such condition shall continue, shall constitute a separate offense.
- E. In addition to the above provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this law.
- F. The person responsible for the violation shall be responsible for the Town's reasonable attorney fees and court costs.

SECTION X. MISCELLANEOUS

- 1. Liability.** Neither the issuance of a permit, nor the compliance with the provisions hereof or

with any conditions imposed in the permit issued hereunder, shall relieve the permittee from the full responsibility for any damage whatsoever to other persons or property, nor impose any liability upon any officer, agent or employee of the Town for damage to persons or property.

2. **Severability.** If any section, paragraph, subdivision or provisions of this Law shall be declared invalid, such invalidity shall apply only to the section, paragraph, subdivision or provisions adjudged invalid and the rest of this Law shall remain valid and effective.
3. **Repealer.** Local law No. 1 of 2016, and all amendments thereto, regulating Small Scale Mining in the Town of Hunter, is hereby repealed.
4. **Effective Date.** This local law shall become effective upon the date it is filed in the Office of the New York Secretary of State.