

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
162 WASHINGTON AVENUE, ALBANY, NY 12231

(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. Use italics or underlining to indicate new matter.

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**  
JAN 14 1998

*Alexander F. D'Amico*  
Secretary of State

~~County~~  
~~City~~ of Knox  
Town  
~~Village~~

Local Law No. 1 of the year 1998

A local law known as the Mining Moratorium Law of 1998 of the Town of Knox  
*(Insert Title)*

Be it enacted by the Town Board of the

~~County~~xxx  
~~City~~ of Knox as follows:  
Town  
~~Village~~

Section 1. TITLE: This law will be known as the Mining Moratorium Law of 1998 of the Town of Knox.

Section 2. INTENT: On March 14, 1995, the Town Board of the Town of Knox adopted a Master Plan for the Town of Knox pursuant to Town Law Section 263 for a comprehensive plan for the general physical development of the Town of Knox. The Town Board thereafter commissioned an adhoc committee known as the Master Plan Committee to review the Town Zoning Ordinance and to make any recommendations to the Town Board as to any changes, revisions or amendments to the Zoning Ordinance which should be made to give effect to the Master Plan. Since the creation of the Master Plan Committee, issues have arisen concerning the effects of mining on residential properties and adequacy of the current Town Code provisions pertaining to mining in light of the New York Mined Land Reclamation Law.

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

After careful consideration of the relevant information received and the issues raised in connection with mining in the Town of Knox, the Town Board finds as follows:

1. Mining is important to the Town of Knox in that it provides residents and businesses with valuable resources such as sand, gravel, stone, rock, and topsoil and other natural resources for use in housing development, roads, traffic and other applications.
2. The potential for growth in the mining industry has raised issues concerning environmental impacts, aesthetic impact, noise, dust, traffic safety, and preservation of natural resources within the Town.
3. Of most particular concern to the Town is the effect on the health, safety and general welfare of the residents of the Town where mining operations abut residential and other densely populated districts of the Town.
4. The Town of Knox has legitimate goals and aims to protect the community, cultural, historical, recreational and environmental resources within the Town.
5. The Town of Knox does hereby find that a moratorium of twelve months duration is necessary and reasonable in order to afford the Town Board an opportunity to conduct the study currently underway and to afford the Town Board an opportunity to review the results and establish new laws to protect the citizens and resources of the Town. A moratorium of twelve months will prevent the establishment of mining operations that may be contrary to any land use regulations ultimately adopted, and thereby will promote the health, safety and general welfare of the residents and the protection of the Town's natural resources.

Section 3. DEFINITIONS:

PERSON - for purposes of this local law, the term "person" shall include an individual, society, club, firm, partnership, joint venture, corporation, or the association of persons, and the singular shall include the plural number.

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MINING - for purposes of this local law, the term "mining" shall be defined as the use of any land for the excavation, extraction, or removal of sand, gravel, clay, stone, rock, loam, humus or topsoil for sale or for use other than on the property from which the material is extracted.

NEW MINE OR NEW MINING - a location, property, land or parcel within the Town of Knox which as of the effective date of this local law, does not possess a permit from the Department of Environmental Conservation of the State of New York (hereinafter referred to as "NYSDEC") for mining in that location. The person must have received a permit for such mining prior to the effective date, and any applications or application process initiated, but not completed on or before the effective date of this local law shall not be considered to be exempt or excepted from the provisions of this local law, regardless of whether NYSDEC subsequently issues a permit on such application. Any expansion or change in mining pursuant to a permit issued by NYSDEC on or before the effective date of this local law shall be permitted notwithstanding these provisions provided that the person holding such permit is expanding or changing the mining operations or location within the boundaries of the "life of mine" application and plan filed with NYSDEC and such person receives all of the necessary permits, approvals, and complies with all of the requirements of the NYSDEC standards, orders, and regulations, including applicable reclamations standards and timing imposed by NYSDEC.

#### Section 4. GENERAL PROVISIONS

For the period of twelve (12) months following the effective date of this local law, no new mining or expansions beyond the life of mine applications or permits shall be permitted by any person in the Town of Knox.

#### Section 5. EXCEPTIONS

The lawful use of any premises on the effective date of this local law may be continued and those mines operated under a permit issued by NYSDEC may be continued, provided that such use shall not be enlarged or extended beyond the "life of mine" location, operations, and procedure filed with NYSDEC under that or any other permit granted by NYSDEC. All activities which do not amount to "mining" as defined herein shall be exempt from the provisions of this local law.

Section 6. ENFORCEMENT

This local law shall be enforced by the Building and Zoning Administrator of the Town of Knox, or such other individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual to advise the Town Board of all matters pertaining to the enforcement of this local law and to keep all records necessary and appropriate to the office and to file the same in the Office of the Town Clerk.

Section 7. VIOLATIONS

Any person violating any of the provisions of this local law shall be guilty of an offense and upon a conviction thereof, be given a civil penalty of \$350.00 per week for the first violation, \$350.00 to \$700.00 for the second violation in five years, and \$700.00 to \$1,000.00 for the third violation in five years. In addition, a jail sentence of up to six months may be imposed for the first, second, or third violation. Each week's violation shall constitute a separate and additional violation. An action may be commenced in a court of competent jurisdiction to recover such penalty. In addition thereto, violations of this local law shall be subject to being restrained by injunctive relief.

Section 8. SEVERABILITY

If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 9. SUPERSEDING AND REPEALER PROVISIONS

This local law shall supercede all ordinances and local laws of the Town of Knox in conflict with the provisions of this local law, including but not limited to the provisions of the Zoning Ordinance of the Town of Knox, New York. In addition, this local law supersedes the provisions of Town Law Sections 130, 261, 262, 263, 264, 265, 267, 267a, 267b, 267c, 268, 269 and 274-a, and Executive Law Section 381 to the extent inconsistent with the same and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other statute.

(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. 1 of 1998 of the ~~(County)(City)(Town)(Village)~~ of Knox was duly passed by the Town Board on January 13 1998, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. 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 \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, 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.)

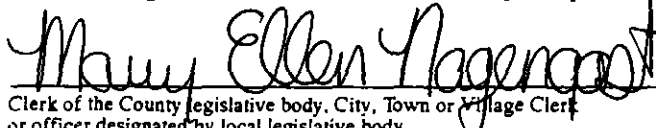
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ at the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, 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  
MARY ELLEN NAGENGAST

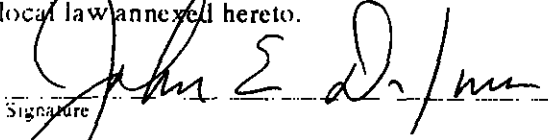
(Seal)

Date: January 13, 1998

(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 Albany

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 \_\_\_\_\_  
Town Attorney \_\_\_\_\_  
Title \_\_\_\_\_

County \_\_\_\_\_  
City of Knox  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: January 13, 1998