

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 _____

FILED
STATE RECORDS

DEC 18 2015

DEPARTMENT OF STATE

Local Law No. 4 of the year 2015

A local law Amendment to existing Zoning Local Law (Local Law No.2-2003)
(Insert Title)

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

County City Town Village
(Select one.)

of Kingston as follows:

See attached pages.

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

**Introductory Local Law
Town of Kingston, New York
[No. 4 of 2015]**

Amendment of Chapter 425, Zoning, to Authorize Active Auto Recycling Facility as Special Permit Use and Establish Bulk Regulations and Special Permit Conditions.

BE IT ENACTED by the Town Board of the Town of Kingston, Ulster County, New York that

Section 1.

Chapter 425, of the Code of the Town of Kingston, entitled "Zoning", is hereby amended as follows:

1. Deleting existing paragraphs A and B of Section 425-5, and adding new paragraphs A and B as follows:

A. MU-1 Mixed-Use 1 District. The Mixed-Use 1 District encompasses the southerly portion of the Route 28 corridor and a portion of the northerly Route 28 corridor, and all of the Route 28A highway corridor. Its purpose is to provide for a wide variety of highway-oriented commercial uses consistent with its function as a regional gateway to the Catskill Park.

B. MU-2 Mixed-Use 2 District. The Mixed-Use 2 District encompasses a portion of the northerly Route 28 corridor and the Hill Road corridor. With regard to the northerly Route 28 corridor, its purpose is to allow lands previously used for quarrying and similar uses to be redeveloped for a variety of commercial uses that are not highway oriented. With regard to the lands along the Hill Road corridor, its purpose is to allow commercial uses compatible with the residential character of the Hill Road corridor, especially including outdoor recreation uses.

2. Adding a new definition of "Active Auto Recycling Facility" to Section 425-81, Definitions, as follows:

ACTIVE AUTO RECYCLING FACILITY. A business or place of operation of a business for the efficient, environmentally responsible processing of motor vehicles for reusable components and materials. Such facility shall: (i) receive delivery of unregistered motor vehicles acquired from wholesale sources, such as auctions, which are no longer intended or in condition for legal use on the public highways ; (iii) maintain an inventory of such motor vehicles; (iiii) promptly remove batteries and fluids, refrigerants, hazardous substances and precious metals from such vehicles in an environmentally compliant manner, consistent with all federal, state and local permits and applicable regulations; (v) dismantle such vehicles to remove major parts , which dismantling must occur within a structure or structures devoted to the vehicle preparation and dismantling process; (vi) maintain an internal and external inventory of warehoused vehicles and vehicle parts for wholesale sale, refurbishing or remanufacturing; and (vii) engage in the wholesale sale of such warehoused parts.

1. Storm Water Pollution Prevention Plan. The SWPPP shall include a narrative and plan that demonstrates that the proposed use of the site will comply with the DEC General Permit for Discharge of Stormwater from Construction Activities and the DEC SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity, to the extent applicable; and that the activities on the site incorporate best practices so as to avoid the risk of pollution of stormwater or the groundwater resources on the site.

2. Description of the potable water supply, and the nature and means of disposal of any water, including waste water, to be generated in connection with the proposed use, in accordance with all applicable requirements of the State and County Departments of Health and the Department of Environmental Conservation.

c. The site plan filed in connection with such special permit application shall show measures to be taken to provide buffer areas and other proposed screening measures. A vegetated buffer of one hundred (100') feet shall be provided for any property boundary adjacent to a residential district or an existing residence within 100 feet of the property boundary. Such buffer area may remain in its natural state provided that such natural state, combined with any additional screening measures to be provided by applicant, is determined by the Planning Board to be sufficient screening from abutting residential areas. The Planning Board may reduce the buffer where it finds that by reason of the existing vegetation or topography a lesser buffer will adequate, but the buffer shall be maintained to provide at least 50 feet of vegetated buffer from the property boundary adjoining such district or existing residence.

d. The site plan shall also include location of a gate and fencing to minimize access during times when the facility is not open and shall comply with the screening requirements of Section 425-15.C..

e. The grant of such special permit shall be conditioned in all cases upon the operator of the Active Auto Recycling use receiving and maintaining all required State and Federal permit(s) and license(s) for such use.

f. The site plan shall provide for the storage of waste oil, batteries, antifreeze, and used electronics in accordance with the following requirements:

1. Waste oil, batteries, antifreeze, and used electronics shall be stored in an enclosed structure or under a roof that prevents storm water entry to the containment area and shall be protected from groundwater intrusion.

2. Floors within a structure where waste oil, batteries, antifreeze, and used electronics may be stored shall be coated to protect the surface of the floor from deterioration due to spillage of or from any such material.

3. Waste oil, batteries, antifreeze, and used electronics shall be stored within an impermeable containment area capable of containing at least the volume of the

largest container of such material present in structure, or 10% of the total volume of all such containers in such area, whichever is larger, without overflow or release of material from the containment area.

4. Waste oil, batteries, antifreeze, and used electronics shall be stored in a manner that will prevent the contact of materials with such materials so as to create a hazard of fire, explosion or generation of toxic substances. Storage areas shall comply with all applicable requirements of the New York State Fire Protection and Building Code.

5. Waste oil, batteries, antifreeze, and used electronics shall be stored only in containers that have been certified by a State or Federal agency or the American Society of Testing Materials as suitable for the transport or storage of such materials.

6. Storage area for waste oil, batteries, antifreeze, and used electronics shall be inspected daily for damage, leaks, or spills. The operator of the site shall maintain a spill response plan complying with OSHA and DEC requirements. Cleanup of all spills shall be initiated promptly, and in no event longer than two hours after discovery. All spills shall be reported in accordance with DEC spill reporting requirements.

7. Those aspects of the site plan showing arrangements for temporary storage of combustible materials shall be approved by the Building Inspector and the Fire Marshal prior to construction. Site operations shall be conducted in accordance with the site plan at all times. Any material change to the storage, fire prevention and fire protection practices implemented on the site shall be reviewed and approved by the Building Inspector and Fire Marshal prior to implementation.

8. The current site plan, showing the aforesaid storage areas, and Material Safety Data Sheets for all materials stored on the site shall be provided to the fire, police, ambulance and other emergency service organizations (ESOs) serving the site, and shall be updated at least once a year. The site operator shall designate at least two (2) individuals with general familiarity with the site as emergency contacts, and provide current emergency contact information for those individuals to all ESOs.

g. Provisions shall be made to minimize noise and dusts emitted by operations carried on at the site.

h. An Active Auto Recycling Facility must be located on a lot: (i) having frontage on a State highway; and (ii) containing at least seventy-five (75) acres of land available to the proposed use. No buildings shall be constructed, and no inventory vehicles shall be stored, on land within 250 feet of a State or County highway or within 100 feet of any other public highway.

i. No exterior dismantling or stacking operations shall take place between the hours of 6:00 PM and 7:00 AM. The facility shall not be open on Sundays. Compacting and loading of vehicles for scrap disposal activities shall take place in an area shown on the site plan, which shall be at least 500 feet from any existing residence, and shall be limited to weekdays only and during the hours of 9:00 AM to 4:00 PM.

j. The facility must contain at least seventy-five (75,000) square feet of enclosed building space, in one or more buildings. The Planning Board shall review and approve the colors of the roof and sides of buildings that will be visible from public roads or areas used by the public for recreation, so that the visual impact of such building(s) is reduced to the extent practicable.

k. Dismantling of vehicles shall take place in a designated area located inside the main building, which dismantling area shall contain no less than 15,000 square feet.

l. The site plan shall show suitable arrangements for the external warehousing of inventory vehicles. Parts removed from inventory vehicles shall be stored in designated areas of the building pending shipment. All external operations shall be conducted in an orderly fashion.

m. Vehicles must be processed within one (1) year of being brought to the facility. The Planning Board may allow designation of one "high value storage area" of the site for the storage of high value inventory vehicles, which may be stored on site for up to two (2) years. The designated "high value storage area" may not exceed 5% of the total inventory area of the site shown on the site plan, exclusive of internal access ways.

n. Height of any exterior parts storage areas shall not exceed fifteen (15) feet.

o. The facility shall be subject to a minimum annual inspection by the Town. The Town may, at the owner's expense, up to a cost not to exceed one thousand (\$1,000.00) dollars, hire an expert to insure the owner is operating the permitted facility in compliance with this law, as well as all applicable County, State and Federal laws.

p. Where the owner of a property on which an Active Auto Recycling Facility is duly served by the Code Enforcement Office of the Town with notice of a violation of this Chapter, and the same is not corrected or removed within 30 days of the date of the written violation, said condition may be corrected by the Town at the expense of the property owner, and if the Town is not reimbursed for the necessary and reasonable cost of remedying such violation within 30 days of making a demand for reimbursement upon the owner, the Town may added such cost to the taxes on said property. Prior to doing so, the Town shall provide the owner with notice of its intent to assess such unreimbursed costs against the property and provide owner with an opportunity for a hearing before the Town Board.

6. Amending the Zoning Map of the Town of Kingston as follows:

Legislative Intent. On consideration of the petition of Aarjen Development Co. to rezone its property from the MU-1 to the MU-2 zoning district, and the facts set forth therein with respect to the past uses of the property and the current suitability of the property for existing uses allowed in the MU-1 and the MU-2 Zoning District, as well as the limited highway frontage available for highway-oriented uses, the Town Board finds that that the property should be rezoned into the MU-2 Zoning District, and that the uses allowed in that District should be expanded to allow Active Auto Recycling Facility by special use permit..

The zoning map of the Town of Kingston, made part of Chapter 425, "Zoning," by Section 425-6, titled, "Zoning Map," is amended by changing the zoning district designation of the property identified as S/B/L 38.4-1-36.100 on the Tax Map of the Town of Kingston from the MU-1 Zoning District to the MU-2 Zoning District.

Section 2.

Severability Clause. If any clause, sentence, paragraph, section 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 or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 3.

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

3. Amending Section 425-81, Schedule 3, Schedule of Use, area and bulk regulations, MU-2 Mixed Use, Residential 2, as follows:

- a. Add under special permit uses "Active Auto Recycling Facility"
- b. Add the following bulk requirements for an "Active Auto Recycling Facility":

Minimum Lot Size:	75 acres
Minimum Lot Width:	300 feet
Front Yard Setback:	50 feet
Rear Yard Setback:	20 feet
Side Yard Setback:	20 feet
Maximum Lot Coverage:	40%
Maximum Height:	35 feet

- c. Add an asterisk (*) to the following uses under special permit:

Mobile Home Park
Active Auto Recycling Facility
Mining/Quarrying
Daycare
Television and Radio Stations
Public Utility Use

4. Amending Section 425-21.D. Junkyards, to add the following sentence to the end of paragraph D.

An Active Auto Recycling Facility shall be excluded from this definition of Automobile Junkyard.

5. Amending Section 425-21, Additional Standards for Specific Use, to add a new paragraph F:

F. Active Auto Recycling Facility

An Active Auto Recycling Facility shall be permitted by Special Permit in the MU-2 Zoning District. In addition to any requirements established by New York State law, such Auto Recycling Facility is subject to the standards below:

- a. Any application for a proposed Auto Recycling Facility shall include description of the purpose and nature of the proposed use, a site plan showing the location of proposed buildings and activities on the site, and the location and extent of outside areas on the site that will be used for the inventory vehicles.
- b. The application shall include:

(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 2015 of the (County)(City)(Town)(Village) of Kingston was duly passed by the Town Board on November 18 2015, 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local *(Elective Chief Executive Officer*)* 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.

* 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.

Deni Vesic

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

Date: November 30, 2015

(Seal)

