

ORDINANCE No. 25-2007

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON BY ESTABLISHING PROCEDURES FOR MINOR SITE PLANS

WHEREAS, N.J.S.A. 40:55D-46.1 permits a municipality to determine, by ordinance, the scope of development which is to be considered minor and to provide for the waiver of notice and hearing for a minor site plan; and

WHEREAS, Chapter 170 of the Code of the Township of Livingston already contains like provisions in regard to minor subdivisions and it is now found to be proper and appropriate to provide similar procedures with regard to minor site plans;

THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Livingston, in the County of Essex, State of New Jersey, as follows:

Section 1. §170-3 Terms Defined the Code of the Township of Livingston is hereby amended by inserting in alphabetical place the following:

MINOR SITE PLAN – A site plan of one or more lots only for approval of the following:

- (1) pursuant to §170-94.E.(6) or §170-94.G.(2), of a change in use from one previously approved to another within the scope of development specifically permitted in the zoning district by this Chapter; and/or
- (2) of establishment of outdoor seating for consumption of food or beverages by patrons in excess of the number of seats that can be authorized by seasonal permit pursuant to §170-92.1;

provided always that such site plan contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met and does not involve:

- a. A use variance.
- b. A planned development.
- c. Any new street or extension of any off-tract improvement which is to be pro rated pursuant to N.J.S.A. 40:55D-42 or ordinance.

Section 2. §170-3 Terms Defined the Code of the Township of Livingston is hereby further amended by deletion of words stricken through and insertion of underlined words as follows:

SUBDIVISION/SITE PLAN COMMITTEE – A Committee of at least three Planning Board members appointed by the Chairman of the Board for the purpose of reviewing subdivisions and site plans, and such other duties as relate to land subdivision or site plans which may be conferred on this Committee by the Board and the Board's

bylaws-rules of procedure, for determination of whether the subdivision or site plan is a minor subdivision or a minor site plan and making recommendations to the Board in respect of action thereon.

Section 3. §170-36 When required, the Code of the Township of Livingston is hereby amended by deletion of words stricken through and insertion of underlined words as follows:

The Planning Board or the Board of Adjustment, as the case may be, shall hold a hearing on each application for development or adoption, revision or amendment of the Master Plan. Notwithstanding any other provisions of this chapter, nothing contained herein shall be construed to require hearings on concept plans, minor site plans, minor subdivisions or resubdivisions. The Township Council shall hold a hearing on the adoption or amendment of a development regulation and Official Map or a capital improvements program. Those hearings requiring for which a public notice must be given are ~~herewith~~ set forth in §170-45 of this chapter.

Section 4. §170 of the Code of the Township of Livingston is hereby further amended, revised and supplemented by adding new Section 170-64.1 to read as follows:

§170-64.1. Submission of a minor site plan.

- A. A minor site plan application shall be filed in accordance with §170-61 above and shall contain all data and information required in §170-71.E. Minor site plan approval, with or without conditions, shall be deemed to be final approval of the site plan.
- B. Minor site plan approval shall be granted or denied within 45 days of the date of submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor site plan approval.
- C. Whenever review or approval of the application by the county planning board is required by section 8 of P.L. 1968, c.285 (N.J.S.A. 40:27-6.6), the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.
- D. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of two years after the date of minor site plan approval. The Planning Board shall grant an extension of this period for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the

development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the approvals. A developer shall apply for this extension before: (1) what would otherwise be the expiration date, or (2) the 91st day after the date on which the developer receives the last of the legally required approvals from other governmental entities, whichever occurs later.

Section 5 Except as hereby amended, revised and supplemented, the Code of the Township of Livingston shall remain in full force and effect.

Section 6 This Ordinance shall take effect upon final passage and publication in accordance with law.