

**Town of New Scotland  
Proposed Local Law F of the year 2016**

A Local Law regarding notice to residents of pending applications for permits and approvals issued by Planning Board, Zoning Board of Appeals, and Town Board.

Be it enacted by the Town Board of the Town of New Scotland as follows:

**SECTION I. PURPOSE AND FINDINGS**

The Town has received comments from residents that the minimum notice requirements set forth in New York State law and the Town of New Scotland Code for applications for permits and approvals for real estate development projects is inadequate to provide notice to many residents and landowners that may be effected or interested in commenting on a proposal. In an effort to provide a supplemental means of notifying residents of pending applications for approvals, this Local Law is intended to increase the distribution of notices of public hearings that are mailed to landowners, and post a sign on the property so that residents who do not live nearby have another means of being notified that an application is pending regarding the subject property. The Town finds that additional notice to residents and landowners of pending applications will protect the public health, safety and welfare of residents of the Town, and will promote the convenience and general welfare of the Town and its residents.

**SECTION II. AMENDMENT TO CHAPTER 190 OF THE TOWN CODE**

Chapter 190 of the Town of New Scotland Code is hereby amended by adding the following:

§ 190-110 Supplemental Notice Requirements For Applications For Certain Permits and Approvals from the Planning Board, Zoning Board of Appeals, and Town Board.

- A. Approvals Requiring Supplemental Notice. An applicant for any permit or approval from the Planning Board, Zoning Board of Appeals, or Town Board which requires a public hearing shall comply with the provisions of this Section 190-110 regarding supplemental notice. This notice provision applies to applications seeking permits or approvals for:

1. Subdivision of land (minor or major subdivision);

2. Special use permit;
3. Site plan approval;
4. Variance (use and area variances);
5. Cluster development;
6. Rezoning and/or amending of Zoning Law for project;
7. Planned Unit Development.

The foregoing permits and approvals shall be referred to as an “Approval” or “Approvals” under this section of the Zoning Law.

- B. Notice To Neighboring Property Owners. Notwithstanding the provisions of Chapter 164, entitled “Subdivision of Land,” and Chapter 190, entitled “Zoning,” an applicant for an Approval requiring a public hearing shall: (i) post a sign in accordance with subsection D, and (ii) provide prior written notice of a hearing to all property owners within 1,000 feet of the lot subject to the application for an Approval. The written notice shall be mailed (post-marked) by regular mail and certified mail, return receipt requested not less than ten (10) days prior to the date of the scheduled hearing, and not more than forty-five (45) days prior to the hearing. The applicant shall be responsible for the cost of postage and mailing the notice, and shall provide proof of mailing (in a form approved by the Building Inspector (“Inspector”), or his duly authorized assistant) on or before the hearing date.
- C. Deposit. At the time the application is filed, the Inspector shall approximate the cost of mailing (“mailing deposit”), and the applicant shall pay: (i) the cost of mailing notices; plus (ii) a \$100.00 deposit for the sign deposit (the “Sign Deposit”). The Sign Deposit shall be refunded when the sign is returned.
- D. Sign. Within twenty (20) days of filing an application for an Approval, the applicant shall post a sign on the lot that is the subject of the application, which sign is intended to provide the public with notice that an application for an Approval is pending. The sign shall satisfy the following criteria and standards:
- (i) The sign shall be installed (by the applicant) in a location that is visible to the public; and not less than fifteen (15) feet, and not more than thirty (30) feet, from the edge of pavement of the nearest road providing access to the property that is the subject of the application. In the event the subject parcel does not have frontage on a public road, or is located in a densely populated area, the Inspector shall determine, after consultation with the applicant and landowner, a safe and appropriate location for the sign.

- (ii) The sign shall be in a standard format, color, font and style to be determined by the Inspector, which shall be provided to all applicants at the time the application is accepted for filing.
  - (iii) The sign shall state, in words or substance, that: (a) an application for a zoning approval has been filed with the Town of New Scotland; (b) the telephone number of the Building Department; and (c) the Town website for further information regarding the application/project.
  - (iv) The sign shall remain installed on the property until after the public hearing.
  - (v) The Building Department shall purchase and maintain a sufficient number of sign frames and signs.
- E. Sign Deposit/Consent/Authorization. At the time the application is filed for the Approval, the applicant (and the property owner, if the applicant is not the owner of the property) shall sign a Consent and Authorization (in a form approved by the Inspector) consenting to the posting of a sign on the private property, and authorizing the Building Department to install and/or remove the sign.
- F. Return of Sign/Deposit. When the Approval has been granted, or the application for the Approval is denied or withdrawn, the applicant shall remove the sign and sign frame and return it to the Town Building Department in good order and condition. When the sign frame is returned in good order and condition, the Sign Deposit shall be returned to the applicant within thirty (30) days of the return. If a sign frame has been materially damaged, the applicant can repair or replace the frame at the applicant's sole cost and expenses, or forfeit the sign deposit. If the application does not proceed to a hearing, or the application is withdrawn prior to hearing, the applicant may apply for a refund of the mailing deposit, and the deposit shall be refunded within thirty days of the application for a refund. If no application for a refund is made within 30 days, the mailing deposit shall be deemed forfeited.
- G. Compliance Required Prior to Hearing. No public hearing regarding an application for an Approval shall proceed unless the Inspector determines that the applicant has complied with the notice and sign posting requirements of this section; the application shall be deemed incomplete until compliance has been achieved. The Inspector shall have the discretion to waive any minor defect in compliance.
- H. Exemptions. The notice provisions do not apply to the following:
- (i) A zoning amendment introduced by the Town Board, which does not apply to a specific project;

(ii) Applications for building permits not requiring an Approval.

J. Non-Compliance (No Private Enforcement). An applicant's failure to comply with the notice provisions set forth in Section 190-110 may be grounds for denial of an application or rescheduling of a hearing, but failure to comply with the notice provision of this Section shall not be grounds for an Article 78 proceeding or other challenge by a private citizen seeking to annul or vacate an Approval.

K. Appeals. If an applicant or landowner objects to the sign posting provisions of this section, the applicant/landowner may appeal to the Zoning Board of Appeals and request a waiver/variance from the provisions of this section, and the Zoning Board of Appeals is hereby granted authority to grant a waiver or variance in the event of hardship or special circumstances.

### **SECTION III. SEVERABILITY**

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

### **SECTION IV. REPEAL OF OTHER LAWS**

All local laws in conflict with provisions of this Local Law are hereby superseded. This Local Law supersedes any inconsistent provisions in Chapter 164 and Chapter 190 of the Town of New Scotland Code, relating to subdivisions and zoning approval notifications.

### **SECTION V. EFFECTIVE DATE**

This Local Law shall take effect immediately, as provided by law, upon filing with the Secretary of State.

#### **1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ of the Town of New Scotland was duly passed by the New Scotland Town Board on \_\_\_\_\_ 20\_\_, in accordance with the applicable provisions of law.

**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 Town of New Scotland was duly passed by the New Scotland Town Board \_\_\_\_\_ on 20 \_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted 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 Town of New Scotland was duly passed by the New Scotland Town Board \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved) (not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, 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 Town of New Scotland was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved) (not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_.

Such local 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.

**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.

\* **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.**

**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.

\_\_\_\_\_  
New Scotland Town Clerk

(Seal) Date: \_\_\_\_\_

**(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 \_\_\_\_\_  
New Scotland Town Attorney

Date: \_\_\_\_\_