

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

A Law Amending the Town of New Scotland Zoning Law.

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

**SECTION I. BACKGROUND, PURPOSE AND FINDINGS**

Articles 25AA and 25AAA of the New York State Agriculture and Markets Law recognize that agricultural lands are irreplaceable assets, and the State should provide certain protections for farms, farmland, and agriculture uses. The protections under Section 301 of the Agricultural and Markets Law apply to farmland of not less than seven (7) acres used as a single operation. In 2006, the Town of New Scotland adopted a local “Right to Farm Law” pursuant to Local Law No. 5 of 2006 to ensure that local farms are protected. Various provisions of the Town of New Scotland Zoning Law permit “farming activity” and agricultural uses in certain zoning districts. The Zoning Law makes distinctions between farming activity on: (1) parcels of land that are less than five (5) acres, and (2) parcels of land that are greater than five (5) acres. In general, the Zoning Law classifies whether the agricultural use is permitted, or permitted by special use permit in certain districts, based on the size of the parcel and the nature of the farming activity. In the interest of consistent regulation and enforcement of farm activities, and other considerations, the Town Board finds that the Zoning Law regulations should correlate to the seven (7) acre threshold used in Article 25AA of the New York State Agriculture and Markets Law, and the determination of whether a special use permit is needed for farming activity in certain districts should be based on a seven (7) acre minimum/threshold. The Town Board finds that the minimum acreage requirements, and regulation of farming activity facilitated by this law and the Town’s “Right to Farm Law” enacted pursuant to Local Law No. 5 of 2006 will foster compatible uses of land in neighborhoods with residential or other uses while continuing to protect and conserve farms and farmland. The Town Board further finds that this law is consistent with the Comprehensive Plan, will preserve the community character, and will benefit the comfort, convenience, public health and general welfare of the citizens of the Town.

**SECTION II. AUTHORITY**

This local law is enacted by the Town Board of the Town of New Scotland pursuant to its authority to adopt local laws under Article IX of the New York State Constitution, Article 18 of the General Municipal Law, and the Municipal Home Rule Law.

**SECTION III. AMENDMENTS**

Chapter 190 of the Town of New Scotland Zoning Law is hereby amended as follows:

- A. Section 190-11, entitled “RF Residential Forestry,” of the Town of New Scotland Zoning Law is hereby amended by:
  - (1) deleting paragraph (C)(2) and replacing it with the following:
    - (2) Agriculture: farms and nurseries (more than seven acres), including display and sale of products raised, except hogs and pigs.
  - (2) deleting paragraph (D)(16) and replacing it with the following:
    - (16) Horses, less than seven acres.
  
- B. Section 190-12, entitled “RA Residential Agricultural,” of the Town of New Scotland Zoning Law is hereby amended by:
  - (1) deleting paragraph (C)(2) and replacing it with the following:
    - (2) Agriculture: farms and nurseries (more than seven acres), including display and sale of products raised, except hogs and pigs.
  - (2) deleting paragraph (D)(18) and replacing it with the following:
    - (18) Horses, less than seven acres.
  
- C. Section 190-13, entitled “MDR Medium Density Residential,” of the Town of New Scotland Zoning Law is hereby amended by:
  - (1) deleting paragraph (C)(1) and replacing it with the following:
    - (1) Agriculture: farms and nurseries (more than seven acres), including display and sale of products raised, except hogs and pigs.
  - (2) deleting paragraph (D)(9) and replacing it with the following:
    - (9) Horses, less than seven acres.
  
- D. Section 190-14, entitled “R2 Residential Conservation,” of the Town of New Scotland Zoning Law is hereby amended by:

(1) deleting paragraph (C)(2) and replacing it with the following:

(2) Agriculture: farms and nurseries (more than seven acres), including display and sale of products raised, except hogs and pigs.

(2) deleting paragraph (D)(11) and replacing it with the following:

(11) Horses, less than seven acres.

E. Section 190-15, entitled “RH Residential Hamlet,” of the Town of New Scotland Zoning Law is hereby amended by:

(1) deleting paragraph (C)(1) and replacing it with the following:

(1) Agriculture: farms and nurseries (more than seven acres), including display and sale of products raised, except hogs and pigs.

(2) deleting paragraph (D)(15) and replacing it with the following:

(15) Horses, less than seven acres.

(3) **Deleting Paragraph (D)(14) and replacing it with the following:**

**(14) Farming activity, personal**

F. Section 190-17, entitled “COM Commercial,” of the Town of New Scotland Zoning Law is hereby amended by:

(1) deleting paragraph (D)(1) and replacing it with the following:

(1) Agriculture: farms and nurseries (more than seven acres), including display and sale of products raised, except hogs and pigs.

(2) deleting paragraph (E)(16) and replacing it with the following:

(16) Horses, less than seven acres.

G. Section 190-18, entitled “IND Industrial,” of the Town of New Scotland Zoning Law is hereby amended by:

(1) deleting paragraph (D)(1) and replacing it with the following:

(1) Agriculture: farms and nurseries (more than seven acres), including display and sale of products raised, except hogs and pigs.

(2) deleting paragraph (E)(9) and replacing it with the following:

(9) Horses, less than seven acres.

H. Section 190-29. Entitled “Yard and Height regulations,” of the Town of New Scotland Zoning Law is hereby amended by adding the following:

E. Determination of Minimum Acreage requirements for agricultural uses, including personal farming activity, farming, stables, nursery, and boarding of horses. When calculating the acreage of a lot or parcel of land used, or proposed to be used, for agricultural purposes, the following shall be excluded when determining whether the parcel satisfies the seven acre threshold:

(1) streams, ponds, lakes and water bodies;

(2) private streets; and

(3) if a residence is located on the parcel or lot, one acre shall be excluded for each residential **dwelling**.

I. Section 190-99, entitled “Definitions,” is hereby amended by:

(1) deleting the definition of “FARMING ACTIVITY, PERSONAL” and adding:

FARMING ACTIVITY, PERSONAL – A parcel of land less than seven acres used for farming, agricultural and/or nursery activities. The display and sale of products grown on site for retail purposes and the raising of livestock, poultry or fowl (except hogs and pigs) shall be allowed only by special use permit. The provisions of this definition shall not apply to family garden produce grown on site for personal consumption.

(2) deleting the definition of “FARMING, AGRICULTURE OR NURSERY” and adding the following:

FARMING, AGRICULTURE OR NURSERY – A parcel of land of at least seven acres, used for cultivation, pasture or other customary agricultural or nursery purpose(s), including the display and sale of products raised on land owned or controlled by said party, providing that 50% or

more of the products sold by said party are produced by said party, and the raising of stock and poultry except hogs and pigs.

- (3) by deleting the definition of “STABLE , PRIVATE” and adding the following:

STABLE, PRIVATE – An accessory building and arena in which horses are kept, exercised or trained for private use and not for remuneration, hire, or sale. For lots under seven acres, the maximum number of horses that can be kept for private use is **Four**. For lots over (seven) acres, one additional horse may be kept for each additional two acres of land.

**SECTION IV. VALIDITY**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect without such invalid part or parts.

**SECTION V. 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: (A) Chapter 190 of the Town of New Scotland Zoning Law relating to zoning and permitted and special uses, and (B) Local Law No. 5 of 2006, entitled “Right to Farm Law of the Town of New Scotland.”.

**SECTION VI. EFFECTIVE DATE**

This local law shall take effect immediately, as provided by law, upon filing with the Secretary of State, and publication thereof in the official newspaper of the Town of New Scotland.

**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.

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\* **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.

\_\_\_\_\_  
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: \_\_\_\_\_