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Town of New Scotland  
Local Law 2 of the year 2017

APR 10 2017

DEPARTMENT OF STATE

A Local Law regulating cargo/shipping containers and portable site storage containers; temporary storage structures; construction trailers.

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

**SECTION I. PURPOSE AND FINDINGS**

To preserve property values and aesthetic resources of the Town, the Town has determined that regulation of cargo containers, shipping containers, and other structures used for temporary or permanent storage is appropriate. It is the intention of the Town Board to maintain a clean, wholesome and attractive community and to guard against the creation of nuisances and conditions that may: (A) endanger the health, safety and welfare of the residents; (B) reduce the value of properties; (C) interfere with the use and enjoyment of adjoining properties; and (D) interfere with the well-being of the public. The Board finds that from time to time containers are needed by the citizens of the Town for various reasons, including but not limited to construction or storage of personal belongings. Nevertheless, the presence of containers can have a negative impact on health, safety, and welfare of the citizens of the Town. This Local Law is intended to minimize the adverse effects that containers may have by regulating the amount of time and location, which they may be parked, or stored, on properties in certain zoning districts. The purpose of this law is to protect the public health, safety, and welfare of the residents and aesthetic resources, and the general welfare of the Town and its residents. The Town finds that regulation of cargo containers is in the best interest of the Town.

**SECTION II. AMENDMENT TO CHAPTER 190-31 OF THE TOWN ZONING LAW**

The Code of the Town of New Scotland, Albany County, New York, Chapter 190, entitled "Town of New Scotland Zoning Law" is hereby amended as follows:

- 1. Section 190-99, entitled "Definitions," is amended by adding the following definitions:

AGRICULTURAL PROPERTY – property located in (A) the Residential Agricultural zoning district, or (B) an agricultural district, as defined by New York State Agriculture

& Markets Law, and being actively farmed or used for agriculture within the last eighteen months.

**ACCESSORY STORAGE CONTAINER** – a storage container that is an accessory use for which a Container Permit has been issued in accordance with Section 190-31.

**CARGO CONTAINER** - a standardized reusable vessel, which is usually made of steel, that was: (i) originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; and/or (ii) originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device. "Transport containers" and "portable site storage containers" having a similar appearance to and similar characteristics of cargo containers, shall be included, in the definition of "cargo containers."

**CONTAINER PERMIT** – a permit issued by the Building Inspector authorizing the use of a cargo container, portable site storage container, or accessory storage container.

**PORTABLE SITE STORAGE CONTAINER or "PODS"** – a container, usually made of plastic, used for the temporary storage and/or transport of household or office furnishings and accessories.

2. Chapter 190 is hereby amended by deleting Section 190-31, and replacing it with the following:

Section 190-31 Cargo/shipping containers; temporary storage structures; construction trailers.

- A. The following list summarizes the rules governing the use of cargo containers, portable site storage containers, and pods. Subsection A of this law is intended as a summary. When Subsection A of this law is in conflict with other provisions of Section 191-31(B) et seq., the more restrictive provisions apply:
  1. Moving/Temporary Storage. Portable site storage containers and "pods" (not cargo containers) are permitted in any zoning district for a 60-day period for use during moving or temporary storage. No permit is required.
  2. Construction Site. Cargo containers, construction trailers, and portable site storage containers are permitted for a period of up to 180 days (6 months) during active construction provided a Building Permit has been issued for the property. An extension of the 180-day period may be obtained upon application to the Zoning Board of Appeals. Building Permit required; no Cargo Container permit required.
  3. Use of Cargo Containers in Industrial, Commercial, and Large Lots Permitted for 5 Year Term Upon Issuance of Container Permit. A Container Permit may be obtained from the Building Inspector for the use

of a cargo container on any lot located in the Industrial or Commercial zoning districts and which is in excess of 5 acres. Certain restrictions apply, and the Container Permit expires after 5 years from the date of issuance.

4. Long Term Use of Cargo Containers on Lots That Are Not Zoned Commercial or Industrial or Are Not in Excess of 5 Acres. Use of a cargo container for a period in excess of 60 days on lots that: (A) are not zoned Industrial or Commercial and a minimum of 5 acres or (B) lots that are less than 5 acres requires site plan approval from the Planning Board.
  5. Agricultural Uses/No Permit Required. No permit is required for use of cargo containers for agricultural uses on Agricultural Property, as that term is defined in this law.
  6. Existing Cargo Containers Grandfathered. Cargo Containers in use as of the effective date of this law are "grandfathered." No permit is required, but the cargo container must be registered with the Building Department within 90 days of the effective date of this law.
  7. Cargo Container Prohibited in MDR, R2 or RH Zoning Districts; Temporary Use of Portable Site Storage Containers or Pods Permitted in Those Districts. No cargo containers are permitted in the following zoning districts: Medium Density Residential (MDR); Residential Conservation (R2); and Residential Hamlet (RH). Pods, or temporary site storage containers, are permitted in those zoning districts for up to sixty (60) days for moving and temporary storage,
- B. Containers Prohibited In Certain Zoning Districts Without A Permit. Except as expressly permitted by the provisions of Section 190-31, cargo containers, portable site storage containers and pods are not permitted to be used for storage or any other use.
- C. Temporary Use of Containers Permitted Without Permit. Notwithstanding the provisions set forth in subsection B of this section, the temporary placement of portable site storage containers, or "pods," on a lot in any zoning district for the limited purpose of temporary storage, or loading and unloading for transport, of household or office furnishings/contents shall be permitted for a period of time not exceeding sixty (60) days.
- D. Containers Permitted During Construction Upon Issuance of Building Permit. Construction contractors may, upon issuance of a building permit, use cargo containers and/or portable site storage containers for the temporary storage of equipment and/or materials during the period the contractor is engaged in construction on the lot where the cargo container and/or portable site storage container is located. If construction ceases or is abandoned for a period of thirty

(30) days, the cargo container and/or portable site storage container, must be removed from the property. In no event shall the cargo container or portable site storage container remain on the premises for a period longer than 180 days. Prior to the expiration of the 180 day period, the owner or contractor may apply to the Zoning Board of Appeals ("ZBA") for an extension, and the ZBA shall have the authority to grant a container permit for a period not longer than 180 days.

E. Use of Cargo Containers Permitted With Container Permit.

1. Except as prohibited in Subsection G of Section 190-31, a property owner may apply for and obtain a Container Permit for long term use of a cargo container, without site plan review, provided the lot in question is: (i) in excess of five (5) acres, or (ii) is located in the Commercial or Industrial zoning districts and is a minimum of 5 acres.
2. The application for a Container Permit shall be accompanied by the following:
  - (i) Three (3) copies of a detailed plan (handwritten sketch plans are acceptable) showing the proposed location of the cargo container, including, but not limited to, property lines and other structures on the property.
  - (ii) Details regarding the cargo container, including, but not limited to, height, width, length, floor area and color.
  - (iii) Description of method of screening.
  - (iv) The plan shall show the proposed location of the cargo container in relation to the property line setbacks.
  - (v) Such other information as the Building Inspector may require to adequately review an application.
  - (vi) Payment of the permit fee, which fee shall be established by resolution of the Town Board.
  - (vii) The permit shall expire after five (5) years from date of issuance. The permit may be extended or renewed upon application to the Building Inspector.
3. The Building Inspector shall not issue a Container Permit if the application does not demonstrate compliance with the following criteria and standards:

- (i) The container shall not exceed 10 feet in height, and shall be located in the side or rear yard. Stacking of cargo containers is prohibited.
- (ii) Cargo containers shall not be placed or located in the front yard of any lot. For a corner lot, yards adjoining each street shall be considered a "front yard" for purposes of this section.
- (iii) The container shall be set back (a) at least 20 feet (if no adjoining residential property) from any side or rear lot line; (b) 50 feet from a side or rear lot line adjacent to a residence or lot in residential use; and (c) at least 10 feet from the main building (principal use) on the lot.
- (iv) The container shall have a maximum of 450 square feet of floor area. All cargo containers shall be painted a uniform earth tone color.
- (v) If visible from any adjoining lot or any bounding street right of way at any time during the year, a cargo container shall be painted a uniform earth tone color, and, if directed by the Building Inspector, appropriately screened with either landscaping so as to provide an opaque sight barrier at least equal to the height of the container or by an opaque fence or similar barrier of equal height.
- (vi) The siting of the cargo storage container shall not be placed so as to negatively impact drainage on any adjacent lot by diversion or impoundment of storm water flows.
- (vii) The cargo container may not occupy any off-street parking spaces or fire lanes required by the Zoning Law or State law.
- (viii) A container shall be permitted only for purposes as an accessory use to the principal use of the lot on which such container may be located. For lots zoned Commercial, the use of the container must be for the commercial use associated with the lot. For lots zoned Industrial, the use of the container must be for the industrial use associated with the lot.
- (ix) Containers used in a manner that constitute a principal use, such as a storage yard, mini-warehousing establishment, or a motor freight terminal shall be subject to the regulations of the Town's Zoning requirements. In such a case, all containers shall be subject to the minimum set back requirements of the zoning district in which they are located.

- (x) In no event shall the number of cargo containers or portable site storage containers on any lot exceed: (i) one (1) in any residential zoning district in which cargo containers are permitted; or (ii) five (5) in any Commercial or Industrial zoning district. Provided, however, if the property is zoned for Commercial or Industrial use but is being used as a residence, only one (1) cargo container may be permitted (provided the lot is a minimum of 5 acres).

F. Long Term Use of Cargo Containers Permitted With Site Plan Approval.

1. Site plan approval is required for cargo containers on: (a) lots that are not located in the Commercial or Industrial zoning districts and are less than five (5) acres; and (b) lots that are less than 5 acres (if not prohibited by Subsection (A)(7) and (G) of this law).
2. Application for site plan approval shall be submitted to the Planning Board. The application shall be accompanied by the following information:
  - (i) Three (3) copies of a detailed plan (handwritten sketch plans are acceptable) showing the proposed location of the cargo container, including, but not limited to, property lines and other structures on the property.
  - (ii) Details regarding the cargo container, including, but not limited to, height, width, length, floor area and color.
  - (iii) Description of method of screening, if any.
  - (iv) The plan shall show the proposed location of the cargo container in relation to the property line setbacks.
  - (v) Such other information as the Building Inspector may require to adequately review an application.
  - (vi) Payment of the permit fee, which fee shall be established by resolution of the Town Board.
3. Upon application for site plan approval, the Planning Board shall have the discretion to issue a permit for one (1) cargo container per lot, provided that the applicant demonstrates compliance with the following standards and criteria:
  - (i) The container shall not exceed 10 feet in height, and shall be located in the side or rear yard.

- (ii) The container shall be set back at least (a) 20 feet from any side or rear lot line (if no adjoining residential property), (b) 50 feet from a side or rear lot line adjacent to a residence district or lot in residential use, and (c) at least 10 feet from the main building (principal use) on such lot.
- (iii) The container shall not occupy more than 10% of the required yard area in which it is proposed to be situated.
- (iv) A maximum of one (1) cargo storage container shall be permitted on each lot. All cargo containers shall be painted a uniform earth tone color.
- (v) The container shall have a maximum of 450 square feet of floor area.
- (vi) If visible from any adjoining lot or any bounding street right of way at any time during the year, an accessory cargo storage container shall be painted an earth tone color and appropriately screened, if necessary, at the direction of the Building Inspector, with either landscaping so as to provide an opaque sight barrier at least equal to the height of the container or by an opaque fence or similar barrier of equal height.
- (vii) A solid, firm base surface shall be provided for the cargo storage container capable of sustaining the load of the cargo storage container and its contents.
- (viii) The siting of the cargo storage container shall not be placed so as to negatively impact drainage on any adjacent lot by diversion or impoundment of storm water flows.
- (ix) The cargo container may not occupy any off-street parking spaces or fire lanes.
- (x) A container shall be permitted only for purposes as an accessory use to the principal use of the lot on which such container may be located.
- (xi) The Planning Board may deny site plan approval if the Board, in its discretion, determines that a cargo container would have a negative impact on the use and enjoyment of adjoining properties.

4. Upon issuance of a site plan approval by the Planning Board, the Building Inspector shall issue a Container Permit.

- G. No cargo containers are permitted in the following zoning districts: Medium Density Residential (MDR); Residential Conservation (R2); and Residential Hamlet (RH).
- H. Exceptions. Nothing herein shall be construed to restrict the use of cargo containers or portable site storage containers for:
- (i) Agricultural uses on Agricultural Property, provided the cargo container is being used in support of an agricultural use on the property in question;
  - (ii) Temporary placement of portable site storage containers or pods for sixty days or less (in any one calendar year) and for the limited purpose of loading and unloading household furnishings, office furnishings or commercial inventory, fixtures or equipment;
  - (iii) By the Town of New Scotland transfer station;
  - (iv) For a natural disaster or emergency, including a fire, flood, sewer storm; Notwithstanding this exception, any cargo container used for more than sixty (60) days for such natural disaster or emergency shall require a permit or waiver by the Zoning Board of Appeals; and
  - (v) Active military operation.
- I. Dwelling Use Prohibited. In all zoning districts, use of cargo containers as a dwelling unit, or dwelling (residence), is prohibited. Cargo containers shall not be used for habitable purposes or as a temporary or permanent residence in any zoning district.
- J. Current Violations/Grandfathering. Any existing cargo container or portable site container that is located on a property as of the effective date of this law is "grandfathered," provided the owner of the property registers the cargo container or portable site container with the Building Inspector (on a form provided by the Building Inspector) within ninety (90) days of the effective date of this law. The "grandfathering" exemption shall apply so long as the property owner owns the lot; the exemption expires on the sale or conveyance of the lot to a third-party. Any cargo container or portable site storage container not registered with the Building Inspector within ninety (90) days of the effective date of this law shall be presumed to be prohibited, unless there is a valid Container Permit on file with the Building Inspector.
- J. Presumptions. The placement of a cargo container or portable site storage container without compliance with this section of the Zoning Law shall be prima



facie evidence of the violation of this law by the owner, tenant or other occupant of the premises upon which such item(s) are located.

- K. Enforcement/Penalties. The Code Enforcement Officer and Building Inspector shall have the authority to enforce this law. A cargo container that is not removed after notice and an opportunity to remedy the violation shall be deemed to be an illegal structure and may be removed by the Town of New Scotland, which shall assess such fines, costs, and expenses against the property on which the storage container is located to be collected and enforced in the same manner as real property taxes. A person who shall knowingly violate any of the applicable provisions of this Local Law or any lawful order, notice, directive, of the Town of New Scotland Code Enforcement Officer shall be subject to a fine of Two Hundred Fifty Dollars (\$250.00) for each day during which there is a failure to comply with the provisions of this law or any order issued by the Code Enforcement Officer. The property owner shall be given written notice, and 10 days to correct the violation, of any alleged violation of the provisions of this law and notice that the container must be removed. The cost of enforcement and removal may be assessed to the property owner as a special ad valorem tax levy.
- L. Appeals. Appeals of any enforcement action or determination of the Building Inspector shall be determined by the Zoning Board of Appeals of the Town of New Scotland.

### **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 110 and Chapter 190 of the Town of New Scotland Code, relating to highway specifications, zoning and permitted and special uses.

### **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. 2 of 2017 of the Town of New Scotland was duly passed by the New Scotland Town Board on March 29, 2017, 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.)**

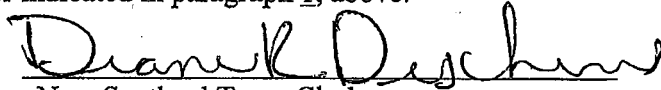
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_ of 20 \_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the 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 1, above.

  
New Scotland Town Clerk

(Seal)

Date: 3/30/17

**(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: April 4, 2017

STATE OF NEW YORK  
DEPARTMENT OF STATE

ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

ROSSANA ROSADO  
SECRETARY OF STATE

April 11, 2017

J. Michael Naughton  
Young/Sommer LLC  
Executive Woods, Five Palisades Drive  
Albany NY 12205

**RE: Town of New Scotland, Local Law 2 2017, filed on April 10, 2017**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, [www.dos.ny.gov](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 473-2492



Department  
of State

RECEIVED  
APR 12 2017  
YOUNG, SOMMER LLC