

(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.

**Town of New Scotland
Local Law 5 of the Year 2010**

A Local Law Providing New Rules and Regulations for Home Occupations

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

Section I. Purpose and Findings

The Town Board finds that, in recent years, the nature of home occupations in the Town of New Scotland has changed, as have the opportunities for a more robust rural economy. The Town desires to promote preservation, restoration, and alternative uses for older, secondary structures such as barns, that sustain New Scotland's rural character. It is the purpose of this Local Law to update the rules and regulations pertaining to home occupations to accommodate such changes and to implement the intent and purposes of the Town's Comprehensive Plan. It is a further purpose of this Local Law to ensure that home occupations do not negatively affect, nor are conducted in a manner that alters the primarily residential use, character, or appearance of the neighborhood in which it occurs or impairs safety on our rural roads.

Section II. Authority

This 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, Section 265 of the Town Law and Section 10 of the Municipal Home Rule Law.

Section III. Amendments

A. Section 190-19 of the Town of New Scotland Zoning Law is hereby amended by deleting the first paragraph thereof and replacing it with the following:

The following additional requirements and standards shall apply to all commercial and industrial uses, except in the Commercial Hamlet Zones, and for Major Home Occupations.

B. Section 190-34 of the Town of New Scotland Zoning Law is hereby deleted and replaced with the following:

§ 190-34. Home Occupations.

A. Minor Home Occupations.

Minor home occupations are permitted if all of the following conditions are met:

1. The home occupation shall be carried on by a member of the family residing in the dwelling unit only. Two employees who are not part of the family are permitted.
2. The home occupation shall be carried on entirely within the dwelling.
3. Exterior displays or signs, other than those permitted under § 190-32, exterior storage of materials and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted.
4. Objectionable circumstances such as noise, vibrations, smoke, dust, electrical disturbance, odors, heat or glare shall not be permitted.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
6. Parking shall be provided off-street and shall not be located in front yards except with special use permit.

B. Major Home Occupations. A major home occupation is allowed only in the RF RESIDENTIAL FORESTRY Zone and may occur only upon issuance of a Special Use Permit pursuant to Article IV of the Town of New Scotland Zoning Law. It may be carried on entirely within the principal dwelling or may be carried on in an accessory structure. Structures including but not limited to barns, garages, and carriage houses shall be considered accessory structures acceptable for home occupations. The following conditions shall be met for all major home occupations:

1. Only one accessory building on the property may be used for a home occupation. All accessory structures used for a home occupation shall meet all provisions of §190-29 (D) of this chapter.
2. No more than 25% of the habitable space of the principal dwelling shall be occupied by a home occupation provided the home occupation remains incidental to the residential use.
3. No more than 2000 sf of an existing accessory structure may be used for a major home occupation. No new accessory structure built for the purpose of a major home occupation shall be greater than 2000 sf.
4. No major home occupation may have more than two employees who are not residents of the premises, except in instances where the applicant can demonstrate that additional employees will not generate additional customers, as demonstrated by information to be submitted by the applicant, in which case up to a total of four employees who are not residents of the premises may be permitted.
5. No home occupation shall change the exterior residential character of the principal residence or of the accessory structure in any manner.
6. Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be permitted.
7. Any exterior lighting associated with the home occupation shall use fully shielded light fixtures to prevent glare.
8. Signs shall meet the provisions of §190-32 (C) and either (A) (1), or §190-32 (B) (4) or (5). Internally lighted signs shall not be permitted.
9. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood. No tractor-trailers or tandem trailers shall be permitted to park, pick up or drop off materials at the property or immediate area.
10. Parking shall be provided off-street in accordance with the provisions of §190-23 except that one additional space per employee shall be provided for with total number of spaces not to exceed six. Where a parking lot is required, such facility shall be placed to the rear of the accessory structure where feasible or to the side of the accessory structure and screened from view of adjacent residences. Use of

pervious surfaces for off-street parking lots associated with home occupations is permitted. No parking shall be located in front yards except with special use permit.

11. All outdoor storage of products, materials, equipment, vehicles, or supplies used in the major home occupation shall be in the rear yard only, fully enclosed and screened from view from the road or adjacent properties, and shall have a minimum of 20 foot side yard setback and a minimum of 20 foot rear yard setback.
12. Prior to approval of a Major Home Occupation the proposal shall be referred to the Albany County Department of Health for review of the adequacy of the existing septic system and well to accommodate additional anticipated usage.

C. Permitted Home Occupations.

1. Permitted home occupations include personal service, professional service, artisan studios, and small businesses including:
 - a. Production of homemade goods, foods, food products, and crafts including wood, pottery, fabric or metal items.
 - b. Studios for musicians, artists, photographers, upholsterers, seamstresses, tailors, and potters.
 - c. Offices for professionals in the fields of professional counseling, advertising, graphic arts design, publishing, real estate, insurance, accounting, architecture, law, medicine, artists, engineering and surveying.
 - d. Small businesses such as pet grooming, individual lessons, and repair of small equipment such as clocks, radios, and electronic equipment.
2. Prohibited home occupations include antique shops, restaurant, café or tavern, gymnasium or health club, commercial repair or storage of any kind of vehicle, kennels, animal hospitals, restaurants, mortuaries, private clubs, contracting business with outdoor storage of equipment such as backhoes, graders, dump trucks, etc., or any similar type of use not compatible with the neighborhood shall not be considered home occupations.

C. Section 190-99 of the Town of New Scotland Zoning Law is amended as follows:

1. The definition of "Accessory Structure" is deleted and replaced with the following:

ACCESSORY STRUCTURE – A structure, the use of which is incidental to that of the main building, and which is not attached thereto, and is located on the same premises. Examples of accessory structures include barns, carriage houses, garages, storage sheds, private garages and screened trash disposal containment areas. Such structures shall not be located closer than 10 feet to the principal structures.

2. The definition of "Home Occupation" is deleted and replaced with the following:

MINOR HOME OCCUPATION - Any nonresidential use that is incidental and clearly subordinate to an existing residential use, conducted within a dwelling unit, which does not change the residential character of the dwelling unit or vicinity and where no more than two non-resident employees are on the premises, and where no signage, additional parking, or exterior storage of products, materials, or equipment are required.

MAJOR HOME OCCUPATION - Any nonresidential use that is incidental and clearly subordinate to an existing residential use, conducted within a dwelling unit or accessory structure, which does not change the residential character of the dwelling unit or vicinity, or have any exterior evidence of such secondary use other than a sign, and where customers, clients, or sales representatives enter the premises and in which nonresidents may be employed.

D. Section 190-11 of the Town of New Scotland Zoning Law is amended to add Major Home Occupation as a Special Use in the RF RESIDENTIAL FORESTRY Zone.

E. Sections 190-11, 190-12, 190-13, 190-14, 190-15, 190-16, 190-17, and 190-18 are amended by substituting "Minor Home Occupation" for "Home Occupation" as permitted uses in these Zones.

Section IV. Validity

The validity 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 superceded. This Local Law supercedes any inconsistent provisions in Chapter 190 of the Town of New Scotland Code relating to zoning and permitted and special uses.

Section VI. Effective Date

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

(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. 5 of 2010 of the Town of New Scotland was duly passed by the New Scotland Town Board on July 14, 2010, 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.

* **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.

Daniel Dechimo
New Scotland Town Clerk

(Seal)

Date: 7/20/10

(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)ss.:

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 *L. Michael Mackey*
New Scotland Town Attorney

Date: July 16, 2010