

**(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 2 of the Year 2011**

**A local law Limiting the Terms and Providing a Code of Conduct for Zoning Board of Appeals Members.**

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

**SECTION I. AMENDMENTS TO TOWN CODE**

Subdivision B of Section 190-70 and Subdivisions B(3) and B(4) of Section 190-71 of the New Scotland Town Code are hereby repealed and replaced with the following. Additionally, Subdivisions D and E are added to Section 190-70 and Subdivisions F and G are added to Section 190-72, as follows:

**§ 190-70. Membership**

- B. A Vice-Chairman will be selected, to fill the role of the Chairman upon his temporary absence or disqualification for up to two consecutive meetings, by the Chairman at the January meeting each year.
  
- D. Terms of office of new board members shall be five years. No member shall serve more than two consecutive terms (ten years), provided, however, that if a person is appointed to a partial term of two and one half years or less, then he or she shall be eligible for appointment to two full terms thereafter. If a person is appointed to fill a partial term of more than two and one half years, then he or she shall be eligible for appointment to only one full term. A former member may be considered for reappointment after a minimum two year hiatus.

- E. The primary residence of a member must be located in the Town of New Scotland. In the event that a member's primary residence ceases to be located as such during his or her term of office, said member's term shall immediately terminate thus creating a vacancy upon which a new member shall be appointed by the Town Board.

**§ 190-71. Organization and Procedure**

- B(3). ZBA action may be taken only upon the affirmative vote of a majority of the entire membership of the ZBA.
- B(4). Any Zoning Board of Appeals member who has a direct or indirect interest, or has an immediate family member who has a direct or indirect interest, whether personal, charitable, or financial, in any matter pending before the ZBA, shall immediately upon learning of the application, disclose such interest and shall abstain from engaging in any action pertaining to such matter, including but not limited to, participating in any presentation, hearing, public comment, voting, or any discussion of such matter with other board members or Town officials. Said member shall absent himself or herself from the room at any time that such matter is discussed or acted upon.

**§ 190-72. Powers and duties.**

- F. Members (including alternates) have the duty to attend all Town of New Scotland Zoning Board of Appeals meetings. In the event a member is unable to attend a meeting it is his or her responsibility to notify the Chairman that he or she is unable to attend. The Town Board may, after a public hearing, remove any member who fails to attend two regularly scheduled consecutive meetings or three regularly scheduled meetings in the twelve-month period of January through December.
- G. Members (including alternates) shall have the duty to complete all training required by Town Law Section 267. Any member may be removed by the Town Board, after a public hearing, for failure to complete such training.

**SECTION II.**

**AUTHORITY**

This Local Law is enacted by the Town Board of the Town of New Scotland pursuant to its authority under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10. This Local Law supersedes, amends, and takes precedence over any inconsistent provisions of Town Law Section 267.

**SECTION III.**

**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 IV.**

**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. 2 of 2011 of the Town of New Scotland was duly passed by the New Scotland Town Board on January 12, 2011, 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.

Dean R. Dechens  
New Scotland Town Clerk

(Seal)

Date: 1/17/11

**(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 Brodsky  
New Scotland Town Attorney

Date: 1/17/11