

COPY

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

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STATE RECORDS

Town of New Scotland
Proposed Local Law 1 of the year 2017

MAR 24 2017

DEPARTMENT OF STATE

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 are insufficient in certain circumstances 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 only to applications requiring a public hearing, including 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 a specific 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 be responsible for: (i) posting a sign in accordance with subsection C of Section 190-110, and (ii) providing prior written notice of a hearing to all property owners within 1,000 feet of the lot subject to the application for an Approval.
- C. Sign. Within five (5) days of filing an application for an Approval, the Building Inspector shall post a sign (in a form that conforms to the sample attached as **Exhibit 1**) on the lot that is the subject of the application. The sign is intended to provide the public with notice that an application for an Approval is pending. (The Applicant shall be responsible for maintaining the sign.) The sign shall satisfy the following criteria and standards:
- (i) The sign should be installed 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, but the Building Inspector shall have discretion in determining the proper location of the sign(s). In the event the subject parcel does not have frontage on a public road, or is located in a densely, populated area, the Building Inspector shall determine, after consultation with the applicant and landowner, an appropriate location for the sign.
 - (ii) The sign shall be in a standard format, color, font and style to be determined by the Building Inspector.
 - (iii) The sign shall state, in words or substance, the following information: (a) an application for a 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 all public hearings are completed. If a second public hearing is required, the sign shall be re-installed ten (10) days prior to a second or subsequent hearing. (A continuation of a hearing shall be construed, for the purpose of this subsection, as a "second" hearing.)
 - (v) The Building Department shall purchase and maintain a sufficient number of sign frames and signs.
- D. 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 Building Inspector) consenting to the posting of a sign on the private property, and authorizing the Building Department to install and/or remove the sign.
- E. Deposit. At the time the application is filed, the applicant shall pay: (i) the cost (postage) of mailing notices; plus (ii) a deposit for the sign deposit (the "Sign Deposit"). The Town Board shall determine, by resolution, the amount of the Sign Deposit. The Sign Deposit shall be refunded when the sign is returned.
- F. Return of Sign/Deposit. When the Approval has been granted, or the application for the Approval is denied or withdrawn, the Building Inspector shall remove the sign. When the sign frame is returned in good order and condition, the Sign Deposit shall be returned to the applicant within thirty (30) days. 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 deposit, and the deposit shall be refunded within thirty days of the application for a refund.
- G. Written Notice to Neighbors. Written notice of a public hearing regarding an Approval shall be mailed (by regular mail) 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. Notice of the public hearing shall be sent to property owners within 1,000 feet of the subject property. In densely populated areas (e.g., hamlets), the Building Inspector shall have discretion, after consultation with the Chair of the Planning Board and/or Zoning Board of Appeals, to reduce the number of notices mailed to adjoining property owners within 500 feet of the subject property. The applicant shall be responsible for the cost of postage and the Building Department shall be responsible for mailing the notice. The contents of the notice shall be approved by the Building Inspector ("Inspector"), or his duly authorized representative.

- H. Compliance Required Prior to Hearing. No public hearing regarding an application for an Approval shall proceed unless the Building 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 Building Inspector shall have the discretion to waive any minor defect in compliance.
- I. 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;
 - (iii) Any Approval that does not require a public hearing.
- 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. 1 of 2017 of the Town of New Scotland was duly passed by the New Scotland Town Board on March 8, 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.

* **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: 3/8/2017

(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
J. Mitchell

Date: _____

MARCH 20, 2017

EXHIBIT 1

NOTICE

AN APPLICATION HAS BEEN FILED

FOR A

ZONING APPROVAL

FOR THIS PROPERTY/LOT

**INFORMATION REGARDING THE APPLICATION
IS AVAILABLE AT THE BUILDING DEPARTMENT,
TOWN OF NEW SCOTLAND TOWN HALL
2029 NEW SCOTLAND ROAD
SLINGERLANDS, NEW YORK 12159
TELEPHONE: (518) 439-9153
www.townofnewscotland.com**

A PUBLIC HEARING

WILL BE SCHEDULED