

**Town of New Scotland
Local Law 5 of the year 2019**

A Law Amending the Town of New Scotland Zoning Law in relation to municipal solar facilities.

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

SECTION I. BACKGROUND, PURPOSE AND FINDINGS

In July, 2017 the Town of New Scotland enacted Local Law 5 of 2017 (the “Solar Law”), which amended Chapter 190 of the Code of the Town of New Scotland and established special regulations regarding solar collector systems. Among other things, Local Law 5 of 2017 includes regulations for Large-Scale Solar projects and ground mounted solar energy systems.

In August, 2018, the State of New York, through the New York State Energy Research and Development Authority (NYSERDA), announced a policy of encouraging development of solar collector systems on municipal properties, including former landfills and brownfield sites. NYSERDA provided a “toolkit” to municipalities to facilitate development of solar projects on such properties. Since closed landfills cannot be developed for other uses, they are under-utilized properties that are especially well suited for solar collector systems. NYSERDA also provides certain financial incentives for development of solar collector systems on landfills and brownfield sites.

NYSERDA’s program coincides with other legal developments designed to encourage development of solar projects and streamline the approval process. In January, 2019, the regulations applicable to the State Environmental Quality Review Act (SEQRA) were amended. The regulations now provide that solar energy installations involving 25 acres or less on closed landfills and certain “brownfield” sites are “Type II” actions, exempt from the requirement of SEQRA environmental review.

This Local Law is intended to adopt provisions recommended by NYSERDA and streamline the approval process for solar collector systems and solar storage battery facilities sited on closed municipal landfill sites. It is the intent of the Town to encourage development of solar collector systems on municipal properties, maximize potential for solar energy development on closed landfills, and maximize the resources of the Town in relation to under-utilized landfills.

SECTION II. AMENDMENTS

Chapter 190, Section 190-57-A of the Code of the Town of New Scotland entitled “Town of New Scotland Zoning Law,” is hereby amended as follows:

- A. Subsection (A), entitled “Definitions,” is hereby amended by addition the following definition:

Municipal Solar Facility – A solar collector facility sited on: a) land owned by the Town of New Scotland; and (b) which involves 25 acres or less of physical alteration of a closed landfill.

- B. Part II, Subsection (G) is amended by adding the following subsection:

6. Notwithstanding the provisions of Subsection (C)(6) and Subsection (G)(1)-(4) of Section 190-57-A of the Zoning Law, a Municipal Solar Facility which satisfies the criteria for a Type II action under 6 NYCRR § 627.5(14) of the State Environmental Quality Review Act (“SEQRA”):

- a. Shall not require a Special Use Permit or Site Plan Approval from the Town Planning Board; and
- b. Is exempt from the set back, bulk, area, front and side yard set back requirements and all other siting and utility connection restrictions set forth in Subsection (G)(4) of the Solar Law.

In lieu of a Special Use Permit, private developers leasing land from the Town of New Scotland for a Municipal Solar Facility shall, prior to construction and installation, (i) apply for and obtain a Building Permit and Unified Solar Permit from the Building Department, (ii) provide proof of New York State Department of Environmental Conservation (NYSDEC) approval of a post-closure modification plan for the closed landfill, and (iii) agree, in writing, to adhere to the approved post-closure monitoring and maintenance operations manual as required by 6 NYCRR Part 360. The Building Inspector shall not issue a permit for a Municipal Solar Facility unless the developer presents a signed lease with the Town for such facility and complies with the application requirements regarding a decommissioning plan, as set forth in Subsection (G)(5) and (H) of the Solar Law.

7. A Solar Storage Battery facility is a permitted use in the RA zoning district provided it is: (A) sited and constructed on a closed landfill owned by the Town of New Scotland, and (B) the Town Board approves a lease for the construction, operation, and

decommissioning of such Solar Storage Battery facility. A Solar Storage Battery facility located on property owned by the Town of New Scotland shall not require a Special Use Permit or Site Plan Approval from the Town Planning Board

SECTION III. 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 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 Chapter 190 of the Town of New Scotland Zoning Law 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.

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2019 of the Town of New Scotland was duly passed by the New Scotland Town Board on June 26, 2019, 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 _____

*** 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.**

_____ 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.

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: _____

(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: _____