

STATE OF NEW YORK  
**DEPARTMENT OF STATE**

ONE COMMERCE PLAZA  
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ALBANY, NY 12231-0001  
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ANDREW M. CUOMO  
GOVERNOR

ROSSANA ROSADO  
SECRETARY OF STATE

March 4, 2021

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

**RE: Town of New Scotland, Local Law 1 2021, filed on March 2, 2021**

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**

COPY

FILED  
STATE RECORDS

**Town of New Scotland  
Local Law 1 of the year 2021**

MAR 02 2021

DEPARTMENT OF STATE

A Local Law amending the Town of New Scotland Zoning Law to regulate chickens.

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

**SECTION I. BACKGROUND, PURPOSE AND FINDINGS**

The Town Board of the Town of New Scotland hereby finds that the keeping of chickens can play a role in ensuring a source of local food and promote a sustainable environment, but that the improper maintenance of chickens in residential and commercial neighborhoods can: (A) cause nuisances to nearby residents and properties, and (B) create conditions which are unsanitary and unsafe. Therefore, the Town finds it necessary to regulate the keeping of chickens within the Town of New Scotland. Prior to this law, residents who wished to raise chickens on a parcel of land less than seven acres were required to obtain a special use permit. This law is intended to supplement the special use permit option, and streamline the process of obtaining a permit (without a public hearing) to raise chickens in certain zoning districts, provided the applicant can satisfy the conditions for issuance of a permit. This law shall in no way be construed to restrict the rights of property owners in designated agricultural districts or those protected by State or County "Right to Farm" laws or the Town's "Right to Farm Law" (Local Law No. 5 of 2006) as amended by Local Law No. 2 of 2016.

**SECTION II. 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 III. AMENDMENTS**

1. Article I of the Town of New Scotland Zoning Law is amended by adding the following terms to Section 190-5

"Coop" shall mean any structure which is used to contain, manage, feed, or protect chickens.

"Pen" shall mean a fenced enclosure for animals usually surrounding the coop.

“Chickens” shall include chickens bred or raised for food, eggs, or other small-scale agricultural purposes, with the exclusion of roosters.

2. Chapter 190 of the Town of New Scotland Zoning Law is hereby amended by adding Section 190-58-a to Article V, entitled “Special Regulations,” as follows:

**Section 190-58-a Keeping of Chickens.**

**A. Permit Required.**

- (1) No person may breed, raise, harbor, or maintain chickens in the Town without a permit on a lot of land of less than seven (7) acres. A building permit shall be required for the construction of a coop/pen for the keeping of chickens.
- (2) Provided the applicant satisfies all conditions and criteria set forth in Section 190-58-a, the Building Inspector or Code Enforcement Officer shall have the authority to issue a permit for the keeping of chickens as an accessory use in the following zoning districts: RF Residential Forestry; RA Residential Agricultural; R2 Residential Conservation; COM Commercial, and IND Industrial.

**B. Regulations for the Keeping of Chickens.**

**(1) Enclosures required.**

- (a) Chickens must be contained or kept in a fully enclosed coop and fenced outdoor pen.
- (b) The coop shall be a covered, predator resistant, well-ventilated structure, providing a minimum of two square feet per bird.
- (c) The pen shall be fenced on all sides including top and bottom: (i) to prevent chickens from escaping, and (ii) to be predator resistant.
- (d) The owner of chickens shall not cause or permit the birds to roam free in the Town, except that chickens may be allowed to free range on the owner’s property under direct supervision of the owner.

**(2) Sanitation and Nuisance Prevention.**

- (a) Chickens shall be kept only in conditions that: limit odors and noise; minimize the attraction of insects; and prevent rodents. The facilities and conditions for keeping the chickens must not cause a nuisance to occupants of nearby buildings or properties, and the

permit holder shall comply with applicable provisions of both the New York State and Albany County sanitary codes.

- (b) Chickens shall not be kept in a manner that is injurious or unhealthful to any animals being kept on the property.

**(3) Limitations.**

- (a) No more than twelve (12) adult chickens shall be permitted at any time.
- (b) The keeping of roosters is prohibited.
- (c) No chickens shall be kept in multifamily or duplex dwellings or on the property thereof, without the written consent of the property owner and all residents and tenants residing on the premises.
- (d) Chickens shall be kept as pets or for personal use only; no person shall sell eggs or meat, or engage in breeding or fertilizer production for any commercial purpose in a residential, non-agricultural zone without first obtaining a special use permit as otherwise required under Section 190 of the Town of New Scotland Zoning Law.
- (e) Outdoor slaughtering of chickens is not permitted.

**(4) Coop/Pen Requirements.**

- (a) Building Permit. A building permit is required to construct a coop and/or pen.
- (b) Setbacks.
  - (i) No coop/pen is permitted within the front yard setback of any lot.
  - (ii) A coop/pen must be separated from any side or rear lot line by a distance equal to the setback specified for a principal structure (not the setback specified for accessory structures) in the relevant zoning district.
  - (iii) No coop/pen shall be located within 100 feet of any public or private well used to supply a dwelling or business or any streams, ponds, lakes or other water body.

- (c) Size. Pens should be at least 10 square feet per bird, but not exceed 150 square feet in area. Appurtenant fences shall not exceed six feet in height.

**(5) Sanitation and Nuisance Prevention.**

- (a) Coops must be kept in a clean, dry and sanitary condition at all times. Outdoor enclosures shall be cleaned on a regular basis to prevent the accumulation of animal waste.
- (b) Any animal waste must be taken off-site or composted on-site. Prior to disposal, waste must be kept in tightly covered containers or in such a manner as shall be approved by the Building Inspector or Code Enforcement Officer so as not to create a nuisance.
- (c) The feed or other food used to feed the chickens shall be stored in a rodent-proof container with a lid.

**(6) Violations, Revocation of Permit.**

- (a) The Town of New Scotland Code Enforcement, Animal Control, and/or local law enforcement shall have the authority to inspect any property housing chickens to ensure compliance with these provisions.
- (d) Violation of any provisions in this chapter may result in fines, enforcement actions, and/or the revocation of a chicken permit.

**(7) Building Permits, Fees.**

Unless a special use permit is applied for, or the Town Board establishes by resolution another fee, the fees for a building permit for the construction of a coop shall be \$20.

**(8) Conflicting Provisions.**

Notwithstanding any provision of the Zoning Law to the contrary, provided an applicant obtains a permit pursuant to the provisions of this Article V of the Zoning Law, no special use permit is required for chickens in the following zoning districts in the Town: RF Residential Forestry; RA Residential Agricultural; R2 Residential Conservation; COM Commercial; and IND Industrial.

**(9) Exceptions.**

Individuals seeking relief from the limitations listed in subparagraph 3 (entitled "Limitations") or subparagraph 4 (entitled "Coop/Pen Requirements") above may submit a special use permit application to the

Town of New Scotland Planning Board. If a special use permit is denied, the applicant may then seek a variance from the Zoning Board of Appeals.

**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: (A) Chapter 190 of the Town of New Scotland Zoning Law relating to zoning and permitted and special uses, and (B) Local Law No. 5 of 2006 as amended by Local Law No. 2 of 2016, entitled "Right to Farm Law of the Town of New Scotland."

**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. 1 of 2021 of the Town of New Scotland was duly passed by the New Scotland Town Board on February 10 2021, 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

\* **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.**

\_\_\_\_\_ 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 \_\_, above.

*Lisa R. Williams*

New Scotland Town Clerk

(Seal)

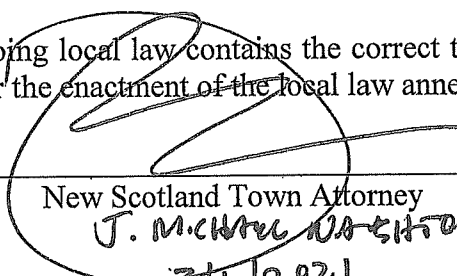
Date: February 25, 2021

**(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 Robinson*

Date:

3/1/2021