

**(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 3 of the year 2008**

A local law temporarily suspending large scale commercial development.

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

**SECTION I.**

**PURPOSE**

The Comprehensive Plan is currently being reviewed by a committee appointed by the Town Board. That committee has reported that the 1994 Comprehensive Plan remains a valid expression of New Scotland's land use goals and is not in need of any substantive modification. The Planning Board and Town Board have both expressed concurrence in that opinion.

Since July 2007, the Planning Board has been reviewing a number of possible changes to the zoning law, including zoning regulations relative to the commercial area. Two questions being considered are whether minimum open space requirements should be increased for commercial and industrial developments and whether the zoning law should provide specific parameters regarding maximum building size for commercial and industrial uses.

Many residents of the Town have expressed concern that the Town of New Scotland Zoning Law would allow substantial commercial development in the approved

commercial district. The residents' concerns involve zoning issues including the commercial zoning law regulations being reviewed by the Planning Board.

The Town Board finds that significant commercial development in the commercial zone prior to the review of the zoning law by the Planning Board and/or Town Board may reduce the effectiveness of any amendments thereto and might impact the ability of the Town Board to afford adequate facilities for the distribution of public services, comfort, convenience, public health and safety, and the general welfare of the citizens of the Town of New Scotland.

## **SECTION II. AUTHORITY**

This moratorium 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 and Municipal Home Rule Law Section 10.

## **SECTION III. SCOPE OF CONTROL**

For a period of six months from the effective date of this local law, no applications for building permits, subdivision approval, site plan approval, special use permits, or for planned unit developments shall be accepted or considered by officials or boards of the Town of New Scotland for any commercial building in the Commercial Zone wherein the proposed building or buildings relating thereto exceed in area a total of 30,000 square feet. The review of any pending applications for the foregoing shall be suspended for the duration of this moratorium.

The foregoing restrictions shall not apply to agricultural uses or residential uses.

## **SECTION IV. APPEALS PROVISION**

The Town Board will have the power to vary or modify the application of any provision of this local law upon its determination, in its absolute legislative discretion,

after public hearing on notice, that this local law would impose extraordinary hardship upon a land owner or developer and that a variance from this act will not adversely affect the health, safety and general welfare of the Town. Any requests for an exception or variance shall be filed with the Town Supervisor, or his designee, and shall include a fee of \$250 for the processing of such application; all such applications shall promptly be referred to the Planning Board for its recommendation, and shall thereafter be remanded to the Town Board for a public hearing and final decision.

**SECTION V. PENALTIES.**

Any person, firm, entity or corporation that shall construct, erect, enlarge or alter any building or structure in violation of the provisions of this Local Law shall be subject to a penalty in the amount of One Hundred Dollars (\$100.00) for each day such violation shall exist, in addition to all other remedies the Town may have in all other applicable laws, rules and regulations currently in effect.

**SECTION VI. 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 VII. REPEAL OF OTHER LAWS**

All local laws in conflict with provisions of this Local Law are hereby superseded and suspended for a period of six (6) months from the effective date of this Local Law and for any additional period that this Local Law is extended. This Local Law also supercedes, amends, and takes precedence over any inconsistent provisions of New York

State Town Law under the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law Section 10(1)(ii)(d)(3), Section 10(1)(ii)(a)(14), and Section 22.

In particular, this Local Law supercedes any inconsistent provisions of Town Law Section 276 and Articles II and III of the Subdivision Law of the Town of New Scotland, which require that the Planning Board (and in the case of a minor subdivision the Building Inspector) act upon, hold hearings on, and make decisions concerning subdivision applications within specified time periods. This Local Law suspends and stays the running of time periods for processing, review, action upon, holding hearings on, making decisions and taking action on all subdivision applications prohibited by Section III hereof.

This Local Law also supercedes any inconsistent provisions of Town Law Sections 267, 267-a, 267-b, and 267-c and Article IX of the Town of New Scotland's Zoning Law, which require that the Zoning Board of Appeals act upon, hold hearing on, and make decisions concerning requests for variances within specified time periods. This Local Law suspends and stays the running of time periods for processing, action upon, holding hearings on, making decisions and taking action on all variance requests prohibited by Section III hereof.

This Local Law also supercedes any inconsistent provisions of Town Law Section 274-a and Section 190-52 of the Town of New Scotland Zoning Law, which require that

the Planning Board process, review, hold hearings on, and act upon applications for site plans within specified time periods. This Local Law suspends and stays the running of time periods for processing, review, holding hearings on, making decisions, and taking action on all applications for approval of site plans prohibited by Section III hereof.

This Local Law also supercedes any inconsistent provisions of Town Law Section 274-b and Article IV of the Town of New Scotland Zoning Law, which require that the Planning Board process, review, hold hearings on, and act upon applications for special use permits within specified time periods. This Local Law suspends and stays the running of time periods for processing, review, holding hearings on, making decisions and taking action on all applications for special use permits prohibited by Section III hereof.

This Local Law also supercedes any inconsistent provisions of Town Law Section 261-c and Section 190-53 of the Town of New Scotland Zoning Law relating to the authority of the Town Board and Planning Board to consider planned unit developments with respect to any applications prohibited by Section III hereof.

This Local Law also supercedes any inconsistent provisions of Article X of the Town of New Scotland Zoning Law relating to duties of the Building Inspector with respect to any applications prohibited by Section III hereof.

Finally, this Local Law supercedes any inconsistent provisions in Section 190-17 of the Town of New Scotland Zoning Law relating to permitted and special uses in the commercial zone with respect to uses prohibited by Section III hereof.

**SECTION VIII. EFFECTIVE DATE**

This Local Law shall take effect immediately, as provided by law, upon filing with the Secretary of State and shall remain in force and effect for a period of six (6) months from its effective date and for any additional period for which it is extended by the Town Board of the Town of New Scotland.

DOS-239 (Rev. 11/99)

**(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. \_\_\_\_ of 2008 of the Town of New Scotland was duly passed by the New Scotland Town Board on \_\_\_\_\_ 2008, 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 2008 of the Town of New Scotland was duly passed by the New Scotland Town Board on \_\_\_\_\_ of 2008, and was (approved)( not approved) (repassed after disapproval) by the \_\_\_\_\_

(Elective Chief Executive Officer\*)

and was deemed duly adopted on \_\_\_\_\_ 2008, 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 2008 of the Town of New Scotland was duly passed by the New Scotland Town Board \_\_\_\_\_ on \_\_\_\_\_ 2008 , and was (approved) (not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 2008, 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 \_\_\_\_\_ 2008 , 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 2008 of the Town of New Scotland was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 2008, and was (approved)( not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 2008 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 2008, 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 2008 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 \_\_\_\_\_, 2008, 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 2008 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 one, above.

  
New Scotland Town Clerk

(Seal)

Date: 5/7/08



(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 L. Michael Mackey  
New Scotland Town Attorney

Date: 5/7/08