

**(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  
Proposed Local Law B of the year 2010**

A local law limiting the scale of retail and wholesale development in the Town.

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

**SECTION I. PURPOSE AND FINDINGS**

In May 2008, the Town Board enacted a moratorium (Local Law 3 of the year 2008) in order to suspend large scale commercial development in the Town while the Town Board considered minimum open space requirements for the Town and maximum building size parameters for commercial uses.

The Town Board appointed a committee, the Commercial Zone Advisory Committee (CZAC), to develop recommendations for changes to the Town's zoning law that would: (1) incorporate the concepts and goals set forth in the Town's Comprehensive Land Use Plan (Comprehensive Plan) and (2) encourage appropriate, viable and sustainable development in the commercial districts of the Town.

The Town Board received a Report concerning short-term and long-term recommendations for zoning law amendments. The Report recommended that the zoning laws be amended to prohibit large, regionally drawing development projects because such retail projects are inconsistent with the stated goals of the Comprehensive Plan. The Report also provides evidence that regional retail development projects are neither appropriate, viable nor sustainable in light of: (1) existing population, infrastructure, and transportation facilities in the Town, and (2) the proximity of regional shopping centers in neighboring communities.

The Town Board finds that retail development projects should be limited in scale, and (1) the maximum building size of any new retail or wholesale store should be 50,000 square feet (s.f.), and (2) any group of new retail or wholesale stores should not exceed 100,000 s.f. The limitations are consistent with the Comprehensive Plan, the findings of the Report, and the comments received from residents of the Town during numerous public hearings, meetings, and workshops.

The building size limitations are applicable to retail and wholesale uses because of: (1) the volume of automobile traffic generated by such uses, (2) the large parking areas required to accommodate peak demand periods, and (3) other considerations, including increased demands

on law enforcement. The Town Board finds that the traffic generated by large, regionally drawing retail or wholesale uses present health and safety concerns. Retail/wholesale developments in excess of 50,000 s.f. (for a single store) and 100,000 s.f. (for a shopping center) have undesirable impacts, including the expansion of existing roadways that would negatively impact the community character of the Town and nearby Slingerlands area. The Town Board finds that a limitation of retail/wholesale development is consistent with the Comprehensive Plan and beneficial to the comfort, convenience, public health and safety, and the general welfare of the citizens of the Town of New Scotland.

Since the Town zoning map for the Commercial Zone was last amended, the patterns of development have changed. The Town Board finds that the Youman's Road area within the Commercial Zone is primarily residential and agricultural and is not conducive to development in accordance with the Commercial Zone. Therefore that area is being re-zoned to Residential Agricultural.

Retail projects larger than those permitted in this law may be acceptable if they present a unique opportunity for the Town and are appropriately designed. Projects of that size have the potential to conflict with the character of the Town and the Comprehensive Plan and should only be approved by the Town Board as a Planned Unit Development under Section 190-53 of the zoning law. This local law furthers the intent of using the PUD as a means of considering larger projects by clarifying the definition of PUD to include single and multiple building projects.

## **SECTION II. AUTHORITY**

This 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, Section 261 of the Town Law, and Section 10 of the Municipal Home Rule Law.

## **SECTION III. AMENDMENTS**

A. Section 190-99 of the Town of New Scotland Zoning Law is hereby amended as follows:

(1) Adding the following definitions:

**RETAIL** - The sale of goods to individual consumers, usually in small quantities and not to be placed in inventory for resale.

**WHOLESALE** - The sale of goods to retailers, individual consumers or jobbers, usually in large quantities to be placed in inventory for resale to the individual consumer

**INDIVIDUAL RETAIL/WHOLESALE TRADE** - Any business or businesses that involve, in whole or in part, retail and/or wholesale sales, that:

1. share check stands or storage areas,
2. share management, or
3. are owned, leased, possessed or otherwise controlled, in any manner, directly or indirectly,

- i. by the same individual(s) or entity(ies), including but not limited to corporation(s), partnership(s), limited liability company(ies) or trust(s), or
- ii. by different individuals or entities, including but not limited to corporations, partnerships, limited liability companies or trusts where
  - a) such individual(s) or entity(ies) have a controlling ownership or contractual right with the other individual(s) or entity(ies), or
  - b) the same individual(s) or entity(ies) act in any manner as an employee, owner, partner, agent, stockholder, director, member, officer or trustee of the entity(ies), and are located within one or more separate buildings or structures within 800 feet of one another, regardless whether they are attached or detached.

**GROUPED RETAIL/WHOLESALE TRADE** - A combination of two or more Individual Retail Trades and/or Wholesale Trades (e.g. a shopping center).

**Dry Cleaning** - A business engaged in the on-site dry cleaning of garments or other textiles. Establishments solely engaged in the collection of garments and textiles for off-site dry cleaning are classified as personal service outlets.

(2) Amending the following definition:

**PLANNED UNIT DEVELOPMENT (PUD)** - A tract of land which is developed as a unit with a grouping of residential, commercial or industrial buildings, together with their accessory buildings and all appurtenant roadways, parking areas, loading areas, open spaces and service buildings and facilities. A PUD can be comprised of a single or multiple buildings.

B. Chapter 190 of the Town Code, entitled Zoning, is amended as follows:

Sections 190-17 is hereby deleted and replaced with the following:

**§ 190-17. COM Commercial.**

**A. Statement of purpose.** These areas permit business development in the Town. These areas have to be relatively large to provide for a selection of stores and adequate parking.

**B. Commercial bulk regulations.**

Class*	Minimum Lot Size		Minimum Yard Setbacks (feet)		
	Area (square feet)	Width (feet)	Front	Side	Rear
1	33,000**	120	50	15	15
2	44,000**	140	50	15	15

**C. Residential bulk regulations.**

Class*	Minimum Lot Area	Minimum Lot Size Width	Minimum Lot Area Per Family (square feet)	Minimum Yard Setbacks (feet)		
	(square feet)	(feet)		Front	Side	Rear
1	33,000**	120	30,000	30	15	30
2	44,000**	140	40,000	30	15	30

NOTES:

\* Type of utility:

Class 1- Public water and sewer.

Class 2 - On-lot water and/or sewage disposal.

\*\* In calculating the minimum acreage required of building lots lands within the boundary of federal or state-designated wetlands and lands with a slope greater than 17% shall not be included.

**D. Uses allowed by permit:**

- (1) Agriculture: farms and nurseries (more than five acres), including display and sale of products raised, except hogs and pigs.
- (2) Accessory uses.
- (3) Essential services.
- (4) Banks.
- (5) Restaurants and taverns.
- (6) Motels, hotels, and/or inn.
- (7) Theaters.
- (8) Clinics.
- (9) Commercial recreation.
- (10) Office, private or public.
- (11) Parking areas.
- (12) Professional services.
- (13) Day care.
- (14) Municipal buildings and facilities.
- (15) Home occupation.
- (16) Building supply facility, not exceeding 10,000 sq. ft. (maximum floor area)
- (17) Educational uses.
- (18) Amateur radio tower.
- (19) Retail uses not exceeding 10,000 sq. ft. ( gross floor area)
- (20) Personal Service Outlet

**E. Special uses:**

- (1) Single-family dwelling.
- (2) Two-family dwelling.
- (3) Multifamily dwelling.
- (4) Essential service structures.
- (5) Cemeteries.
- (6) Churches.
- (7) Automobile service or filling station.
- (8) Auto sales and service.
- (9) Retail and wholesale businesses, provided that no: (A) individual retail/wholesale retail or (B) grouped retail/wholesale trade shall exceed the Maximum Floor Area Limitations. Uses with buildings or structures that exceed the Maximum Floor Area Limitations are prohibited
- (10) Car washes.
- (11) Illuminated signs.
- (12) Self-storage buildings.
- (13) Animal hospital, clinic and/or kennel.
- (14) Day-care center.
- (15) Farming activity, personal.
- (16) Horses, less than five acres.
- (17) Funeral Homes
- (18) Private Clubs
- (19) Dry Cleaning
- (20) Drive Thru Services
- (21) Recreation Facilities – Public and Private/ Non-profit
- (22) Building Supply Facility greater than 10,000 square feet gross floor area with a maximum of 50,000 square feet gross floor area.
- (23) Nursing or Convalescent Homes

**F. The following Maximum Floor Area Limitations apply:**

1. Buildings or structures containing an Individual Retail/Wholesale Trade shall be limited to an aggregate gross leasable area of 50,000 square feet. This subparagraph shall also include Building Supply Facilities. Buildings or structures containing Individual Retail/Wholesale Trade businesses may be grouped together subject to the limit hereinafter imposed for gross leasable area.
2. The 50,000 square foot limitation shall apply to individual retail stores for which permits are sought and also to the cumulative sum of related or successive permits for retail stores that are part of a larger project, such as piecemeal additions to a building or multiple buildings on a lot.
3. For purposes of this section, the gross leasable area of a retail store shall include gross leasable area as defined in this law and the area of all portions of the site outside of the exterior walls of buildings under a roof or permanent canopy and on a non-permeable surface such as a concrete slab, used for the display, storage, or sale of any goods, wares or merchandise.
4. Buildings, structures and/or shopping centers containing a Grouped Retail/Wholesale Trade shall be limited to an aggregate gross leasable area of 100,000 square feet. For the purposes of this subparagraph, Grouped Retail/Wholesale Trade shall include, but are not limited to, Banks, Restaurants and Taverns, theaters, and Building Supply Facilities.
5. The maximum floor area limitations for Individual Retail/Wholesale Trade and Grouped Retail/Wholesale Trade uses shall apply to all lots in single and separate ownership on the effective date of this local law and as shown on the tax map existing on that date and shown in Figures 1 and 2. Further subdivision of a lot shall not increase the density or amount of gross aggregate floor area for Individual Retail/Wholesale Trade and Grouped Retail/Wholesale Trade uses than would otherwise be permitted on the lot as it existed and is shown on Figures 1 and 2. Nothing in this subparagraph shall prohibit the subdivision of parcels in the COM District for development of other uses permitted in the district.

**C. Amendment of Zoning Map**

The Zoning Map of the Town of New Scotland is hereby amended as shown in Figure 1 to rezone that portion of Youman's Road currently located in the Commercial ("COM") District and to re-classify it as part of the Residential Agricultural District.

**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 superceded. This Local Law supercedes any inconsistent provisions in Chapter 190 of the Town of New Scotland Code 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, and publication thereof in the official newspaper of the Town of New Scotland.

**(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. \_\_\_B\_\_\_ of 20\_\_10\_\_ of the ~~(County)(City)(Town)(Village)~~ of New Scotland \_\_\_\_\_ was duly passed by the Town Board \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, 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 ~~(County)(City)(Town)( Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ 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 ~~(County)(City)(Town)( Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ 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 a 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 ~~(County)(City)(Town)( Village)~~ of \_\_\_\_\_ 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 there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

Date: \_\_\_\_\_

*(Seal)*

**(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

Town Supervisor

~~County~~

~~City~~

Town of New Scotland

~~Village~~

Date: \_\_\_\_\_