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**(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 2009**

A local law Providing for Source Separation of Recyclable Trash  
(Insert Title)

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

**SECTION 1. INTENT.**

The Town Board of the Town of New Scotland finds that the reduction of the amount of solid waste and the conservation of recyclable materials are important public concerns. The separation and collection of newspaper, paper, cardboard, glass, cans, plastic containers, vegetative yard waste and other materials for recycling from the residential, commercial, industrial and institutional establishments in the Town will protect and enhance the Town's physical and visual environment as well as promote the health, safety and well-being of persons and property within the Town by minimizing the potential adverse effects of landfilling through reduction of the need for landfills and conservation of existing landfill capacity, facilitating the implementation and operation of other forms of solid waste management, conserving natural resources, ensuring conformance with the New York State Waste Management Plan, and facilitating the implementation of a solid waste management plan for the Town as a whole. The promotion and use of recyclable materials, and goods which facilitate recycling will further serve the same purpose by encouraging and facilitating recycling.

**SECTION 2. DEFINITIONS.**

As used in this local law, the following definitions shall apply:

- (a) CANS shall mean containers comprised of aluminum, tin, steel, or a

combination thereof, which contain or formerly contained only food and/or beverage substances.

- (b) CARDBOARD shall mean all corrugated cardboard normally used for packing, mailing shipping of containerizing goods, merchandise or other material, but shall not mean wax-coated or soiled cardboard.
- (c) GARBAGE shall mean putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (d) GLASS shall mean all clear (Flint), green and brown (amber) colored glass containers.
- (e) HAZARDOUS MATERIAL or HAZARDOUS WASTE shall mean a solid waste, or a combination of solid wastes, which, because of its quantity concentration or physical, chemical or infectious characteristics, may: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Such materials or wastes shall include, but are not limited to, explosives, hazardous radioactive materials, toxic substances and those substances which the Town Board has identified as a hazardous waste pursuant to the above criteria and has included on a list of hazardous waste promulgated by the Town Board.
- (f) NEWSPAPERS shall include newsprint and all newspapers and newspaper advertisements, supplements, comics and enclosures.
- (g) PAPER shall mean all high-grade office paper, fine paper, bond paper, office paper, xerographic paper, mimeo paper, duplication paper, magazines, paperback book, school paper, catalogs, junk mail, computer paper, telephone books, and similar cellulosic material, but shall not mean newspaper, wax paper, plastic or foil-coated paper, Styrofoam, wax-coated food and beverage containers, carbon paper, blue-print paper, food contaminated paper, soiled paper, and cardboard.
- (h) PERSON shall mean any individual, firm, partnership, company, corporation, association, joint venture, cooperative enterprise, trust, municipality, or other governmental agency or any other entity or any group of such persons which is recognized by law as the subject or rights and duties. In any provisions of this ordinance prescribing a fine, penalty or imprisonment, the term PERSON shall include the officers, directors, partners, managers or persons in charge of a company, corporation or other

legal entity having officers, directors, partners, managers or other person in charge.

- (i) PLASTIC CONTAINERS shall mean containers composed of high-density polyethylenes, polyethylene terephthalate or other specific plastics as the Town may designate.
- (j) RECYCLABLE MATERIAL shall mean a material which would otherwise become solid waste, which can be collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product.
- (k) RECYCLABLES shall mean those recyclable materials designated by this ordinance and/or by determination of the Town Board to be source separated. The term includes, but is not limited to newspaper, glass, paper, cardboard, cans, plastic containers and vegetative yard waste.
- (l) RECYCLING shall mean any process by which materials, which would otherwise become solid waste, are collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product.
- (m) RECYCLING COLLECTION AREA shall mean any facility designed and operated solely for the receiving and storing of source-separated designed recyclable materials.
- (n) RUBBISH shall mean non-putrescible solid wastes consisting of both combustible and non-combustible wastes, including, but not limited to, non-recyclable paper, wrappings, cigarettes, wood, wires, glass, bedding, furniture and similar materials which are not designated recyclable materials.
- (o) SOLID WASTE shall mean all putrescible and non-putrescible materials or substances discarded or rejected as having served their original intended use or as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection, including garbage, refuse, litter, rubbish, industrial waste, but not including designated recyclable materials, solid or dissolved matter in domestic sewage or substances, materials in non-containerized gaseous form or hazardous materials or waste.
- (p) SOURCE SEPARATED shall mean to separate recyclable materials from the solid waste stream at the point of waste generation.
- (q) VEGETATIVE YARD WASTE shall mean organic yard and garden waste, leaves, grass clippings and brush.

**SECTION 3. REQUIREMENTS APPLICABLE TO SOURCE SEPARATION AND PLACEMENT OF DESIGNATED RECYCLABLES IN RECYCLING COLLECTION AREAS.**

All designated recyclables required to be placed for collection or in recycling collection areas pursuant to the requirements of this ordinance shall be prepared for collection in accordance with regulations promulgated by the Town Board.

**SECTION 4. MANDATORY SOURCE SEPARATION PROGRAM.**

- (a) All residents, all commercial, industrial and institutional establishments within the Town of New Scotland shall source separate and arrange for the collection of recycling of: newspaper and any and all other designated recyclables as may be included in or added to such curbside program within 180 days of such inclusion in the curbside program.
- (b) Except for private dwellings, the arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the person who owns, manages or operates the commercial, industrial or institutional establishment at which the recyclables are generated or the person contractually obligated to arrange for collection and disposal of its solid waste.

**SECTION 5. SPECIAL PROVISION REGARDING VEGETATIVE YARD WASTE.**

Nothing in this local law shall be construed as preventing any person from using vegetative yard waste for compost, mulch, or other agricultural, horticultural, silvicultural gardening or landscaping purposes.

**SECTION 6. ENFORCEMENT, RULES AND REGULATIONS.**

The Department of Highways and Sanitation of the Town of New Scotland is authorized to enforce the provisions of this ordinance and to administer the recycling programs established herein. The Town Board may adopt and promulgate, amend and repeal rules and regulations implementing this ordinance in order to carry out and effectuate the intent and purpose thereof.

**SECTION 7. UNLAWFUL ACTIVITIES.**

- (a) It shall be unlawful for:
  - (1) Any person, other than those persons so authorized, to collect any designated recyclable which has been placed at the roadside for

collection or within a recycling collection area pursuant to this ordinance.

- (II) Any person to violate or to cause to assist in the violation of any provision of this ordinance or any implementing rule or regulation promulgated by the Town Board.
- (III) Any person to place or to cause to be placed any material other than a designated recyclable in or near a recycling collection area.

(b) All unlawful conduct set forth in this section shall constitute a violation.

**SECTION 8. NON-COLLECTION OF SOLID WASTE CONTAMINATED BY DESIGNATED RECYCLABLES.**

The Department of Highways & Sanitation may refuse to collect solid waste from any person who has clearly failed to source separate recyclables to designated under an applicable section of this ordinance.

**SECTION 9. PENALTIES.**

Any person who engages in unlawful conduct as defined in this local law may, upon conviction thereof, in a proceeding before a court of competent jurisdiction be sentenced to imprisonment for a term not exceed fifteen (15) days or to a term of community service related to the purpose of this ordinance or to pay a fine of not more than Two Hundred Fifty Dollars (\$250) and not less than Twenty-Five Dollars (\$25) or any combination of the above penalties.

**SECTION 10. INJUNCTION; CONCURRENT REMEDIES.**

- (a) In addition to any other remedy provided herein, the Town of New Scotland may institute a suit in equity where unlawful conduct exists for an injunction to restrain a violation of this local law.
- (b) The penalties and remedies prescribed by this local law shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the Town from exercising any other remedy provided herein or otherwise provided at law or equity.
- (c) The terms and provisions of this local law are to be liberally construed, so as best to achieve and effectuate the goals and purposes hereof.

**SECTION 11. SEVERABILITY.**

The provisions of this local law are severable. If any provision of this local law or its application to any person or circumstances is held invalid, such invalidity shall not affect any other provision or application which can be given effect without the invalid provision or application of the local law.

All provisions of any other local law or ordinance which are inconsistent with the provisions of this ordinance are hereby repealed.

**SECTION 12. EFFECTIVE DATE**

This local law shall be effective immediately upon filing with the Secretary of State.

(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. 3 of 2009 of the Town of New Scotland was duly passed by the New Scotland Town Board on June 24, 2009, 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

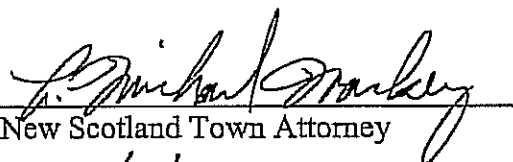
(Seal)

Date: 6/29/09

(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: 7/1/09