

**SPECIAL TOWN BOARD MEETING
NOVEMBER 20, 2012 7:00 P.M. TOWN HALL**

7:00 p.m. – Public Hearing – A Local Law to amend the code of the Town of Philipstown by deleting and repealing Chapter 90 thereof, Flood Damage Prevention, and replacing it with a new Chapter 90, to be entitled Flood Damage Prevention.

7:15 p.m. – Public Hearing – A Local Law amending the Town Code of the Town of Philipstown Chapter 175-59G.4 of Chapter 175-62F (2) regarding Hearing and Public Notices.

Adopt Final Budget for fiscal year 2013.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that the Town Board of the Town of Philipstown will conduct a Public Hearing on _____ at 7:30 p.m. at the Town Hall, 238 Main Street, Cold Spring, New York. The purpose of the Public Hearing is to hear comments for/against a proposed **LOCAL LAW TO AMEND ZONING LAW SECTIONS 175-59 G.4 AND 175-62 F (2) OF CHAPTER 175 OF THE CODE OF THE TOWN OF PHILIPSTOWN REGARDING NOTICE AND HEARING.**

A copy of the proposed Local Law is on file in the Town Clerk's Office where it may be examined during regular business hours.

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF PHILIPSTOWN

DATED: _____

Tina M. Merando
Town Clerk

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Philipstown will conduct a Public Hearing on 20th day of November at 7:00 p.m., at the Town Hall, 238 Main Street, Cold Spring, New York. The purpose of the Public Hearing is to hear comments for/against a proposed **LOCAL LAW TO AMEND THE CODE OF THE TOWN OF PHILIPSTOWN BY DELETING AND REPEALING CHAPTER 90, THEREOF, FLOOD DAMAGE PREVENTION, AND REPLACING IT WITH A NEW CHAPTER 90, TO BE ENTITLED FLOOD DAMAGE PREVENTION.**

A copy of the proposed Local Law is on file in the Town Clerk's Office where it may be examined during regular business hours.

**BY ORDER OF THE TOWN BOARD
OF THE TOWN OF PHILIPSTOWN**

DATED: November 14, 2012

Tina M. Merando
Town Clerk

PUBLISH 11/14/12

Local Law Filing

(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.

☐ County ☐ City ☒ Town ☐ Village
(Select one.)

of Philipstown

Local Law No. _____ of the year 20¹²

A local law to amend the Code of the Town of Philipstown by deleting and repealing Chapter 90
(Insert Title)

thereof, Flood Damage Prevention, and replacing it with a new Chapter 90, to be

entitled Flood Damage Prevention.

Be it enacted by the Town Board _____ of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one.)

of Philipstown _____ as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Be it enacted by the Town Board of the Town of Philipstown as follows:

Section 1. The Code of the Town of Philipstown is hereby amended by deleting and repealing Chapter 90, Flood Damage Prevention.

Section 2. The Code of the Town of Philipstown is hereby amended by adding thereto a new Chapter, to replace Chapter 90 repealed above, to be Chapter 90, Flood Damage Prevention, to read as follows:

SECTION 90-1
STATUTORY AUTHORIZATION AND PURPOSE

90-1.1 FINDINGS

The Town Board of the Town of Philipstown finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Philipstown and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Chapter 90 - Flood Damage Prevention, is adopted

90-1.2 STATEMENT OF PURPOSE

It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

90-1.3 OBJECTIVES

The objectives of this Chapter are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;

- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 90-2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Chapter or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

“Critical facilities” means:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

“Elevation Certificate” means the NFIP Elevation Certificate used to provide elevation information necessary to ensure compliance with the FIRM and to determine the proper insurance premium rate for Pre-FIRM and Post-Firm buildings, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program (NFIP).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study.

The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodproofing Certificate" means the NFIP Floodproofing Certificate used to determine compliance as an alternative to elevating to or above the Base Flood Elevation for non-residential buildings.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (i) by an approved state program as determined by the Secretary of the Interior or

- (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" also known as the Floodplain Administrator, is the person appointed by the Town Board to administer and enforce this Chapter 90 – Flood Damage Prevention, in accordance with its provisions. This person shall be an employee of the Town of Philipstown.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter 90 – Flood Damage Prevention.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle" The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;

- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 90-4.4-2 of this chapter.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a combination of materials to form a construction that is safe and stable and includes, among other things, a walled and roofed building, a manufactured home, a gas or liquid storage tank, and including but not limited to bridges, dams, trailers, stadiums, platforms, radio towers, sheds, storage bins, billboards, display signs, docks, wharves, boathouses, underground lines and pipes and apparatus, towers and lines for the transmission of electrical power; it excludes swimming pools, poles for local electrical power distribution lines and telephone lines in the Town of Philipstown and underground lines and pipes and apparatus for local distribution of electric power or telephone service in the Town of Philipstown and maintenance of roads and bridges and culverts by the Philipstown Highway Department.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Town Board" means the Town Board of the Town of Philipstown.

"Variance" means a grant of relief from the requirements of this Chapter which permits construction or use in a manner that would otherwise be prohibited by this Chapter.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations, Chapter 90 – Flood Damage Prevention and cited in writing by the Local Administrator.

SECTION 90-3.0 GENERAL PROVISIONS

90-3.1 LANDS TO WHICH THIS CHAPTER APPLIES

This Chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Philipstown, Putnam County, but outside the Villages of Cold Spring and Nelsonville.

90-3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Philipstown, Community Number 361026, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers:

36079C0077E, 36079C0078E, 36079C0079E, 36079C0081E, 36079C0082E, 36079C0083E, 36079C0084E, 36079C0086E, 36079C0087E, 36079C0089E, 36079C0091E, 36079C0092E, 36079C0093E, 36079C0094E, 36079C0105E, 36079C0111E, 36079C0177E, 36079C0178E, 36079C0179E, 36079C0181E, 36079C0182E, 36079C0183E, 36079C0184E

whose effective date is, March 4, 2013, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Putnam County, New York, All Jurisdictions" dated March 4, 2013.

The above documents are hereby adopted and declared to be a part of this Chapter. The Flood Insurance Study and/or maps are on file at:

- Town of Philipstown Town Hall, 238 Main Street, Cold Spring, NY 10516

90-3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Chapter includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

90-3.4 SEVERABILITY

The invalidity of any section or provision of this Chapter shall not invalidate any other section or provision thereof.

90-3.5 NOTICE AND PENALTIES FOR NON-COMPLIANCE

(1) No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Chapter and any other applicable regulations.

(2) Notices of violation. The Local Administrator is authorized to order, in writing, the remedying of any condition or development activity found to exist in, on or about any building, structure, or land in violation of the this Chapter. Upon finding that any such condition or activity exists, the Local Administrator shall issue a notice of violation. The notice of violation shall be in writing; be dated and signed by the Local Administrator; specify the condition or activity that violates this Chapter; specify the provision or provisions of the Chapter, which is/are violated by the specified condition or activity; specify the period of time which the Local Administrator deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Local Administrator shall cause the notice of violation, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Local Administrator shall be permitted, but not required, to cause the notice of violation, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the notice of violation.

(3) Failure to comply with a written order and/or notice of violation from the Local Administrator is a separate violation of this Chapter.

(4) Any infraction of the provisions of this Chapter by failure to comply with any notice or order and any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$1000 (one thousand) or imprisoned for not more than 15 (fifteen) days or both. Each day of noncompliance shall be considered a separate offense.

(5) Nothing herein contained shall prevent the Town of Philipstown from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Chapter for which the developer and/or owner has not applied for and received an approved variance under Section 90-6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

90-3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the Town of Philipstown, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made there under.

SECTION 90-4.0 ADMINISTRATION

90-4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Town Board of the Town of Philipstown shall appoint by resolution the "Floodplain Administrator, " as the Local Administrator to administer and enforce this Chapter by granting or denying floodplain development permits and citing in writing any non-compliances in accordance with its provisions.

90-4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

90-4.2-1 PURPOSE

A floodplain development permit is hereby required for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 90-3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Such forms shall be prescribed by and may be amended by resolution of the Town Board.

90-4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee set forth in the Town of Philipstown Fee Schedule. The Town Board may adopt a schedule of fees, concerning the applications, inspections, petitions and other matters specified in this chapter. Such fees may be amended from time to time by resolution of the Town Board.

90-4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 90-5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 90-5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 90-3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided for all construction and other development to be undertaken as part of a subdivision proposals (See Chapter 112 Land Development) and other proposed

developments (See Chapter 175 Special Use and Site Plan Approval) (including proposals for manufactured home and recreational vehicle parks and subdivisions).

- ~~(8) — The Philipstown Highway Department is exempt from permit requirements for maintenance of roads and bridges and culverts.~~

90-4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

90-4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 90-4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this chapter.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 90-5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 90-5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 90-5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

90-4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 90-4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

90-4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

90-4.4-4 PERMIT ISSUANCE, VALIDITY, TIME LIMIT

- (1) Where the Local Administrator determines that an application for a Flood Development permit is in compliance with this Chapter, and the Code of the Town of Philipstown he/she shall issue such permit.
- (2) Time limits. The Flood Development permits shall become invalid unless the authorized work is commenced within six months following the date of issuance, ~~unless the start of work has been delayed for good cause.~~ The Flood Development permits shall expire 24 months after the date of issuance. A Flood Development permit which has expired may be renewed upon application by the permit holder and fee paid.

90-4.4-5 CONSTRUCTION STAGE

- (1) Before the start of work, a bench mark showing the base flood elevation shall be placed in the field no more than 50 feet from the edge of development activity.
- (2) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, the permit holder shall submit a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data

submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

90-4.4-6 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

90-4.4-7 STOP WORK ORDERS

- A. Authority to issue. The Local Administrator is authorized to issue stop-work orders pursuant to this section. The Local Administrator shall issue a stop-work order to halt:
 - (1) for any floodplain development found ongoing without a development permit.
 - (2) for any floodplain development found non-compliant with the provisions of this chapter and/or the conditions of the development permit.
- B. Content of stop-work orders. Stop-work orders shall be in writing, be dated and signed by the Local Administrator, state the reason or reasons for issuance, and if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Local Administrator shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. The Local Administrator shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
- D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.
- E. Failure to comply with a written order from the Local Administrator is a violation and shall subject the violator to the penalties described in Section 90-3.5 of this Chapter

90-4.4-8 CERTIFICATE OF COMPLIANCE

- A. All Flood Development Permits completed require the issuance of a Certificate of Compliance.
- (1) In areas of special flood hazard, as determined by documents enumerated in Section 90-3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Chapter.
 - (2) A Certificate of Compliance shall be issued by the Local Administrator upon submission by a licensed land surveyor or professional engineer certifying that the development activity has been completed and is in compliance with the plans and specifications on file and this Chapter and;
 - (3) The issuance of the Certificate of Compliance shall be based upon the inspections conducted as prescribed in Section 90-4.4-6, INSPECTIONS, and the submission of an Elevation Certificate or Flood Development Certificate for structures or certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses by licensed land surveyor or professional engineer.

90-4.4-9 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-section 90-4.4-5, and whether or not the structures contain a basement;
- (3) Elevation Certificates and Floodproofing certificates required pursuant to sub-section 90-4.4-8(3), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 90-6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 90-4.4-3, ALTERATION OF WATERCOURSES.

SECTION 90-5.0 CONSTRUCTION STANDARDS

90-5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 90-3.2.

90-5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) The base flood elevation, Special Flood Hazard zone and floodway as shown on the FIRM shall be delineated on the plan;
- (2) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

90-5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Philipstown agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Philipstown for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Philipstown for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 90-3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted.
- (3) Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating

excavation.

90-5.2 STANDARDS FOR ALL STRUCTURES

90-5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

90-5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

90-5.2-3 UTILITIES

- (1) New and substantial improvement structures, new and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components

unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) New on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (5) New and replacement compressed gas and liquid storage tanks, fuel lines, meters and controls shall be design and installed (anchored) to resist the effects of buoyancy, impact loads, scour and movement of connection.

90-5.2-4 BRIDGE-DAMS- CULVERTS

New and substantial improvement of bridges, dams and culverts and other structures in areas of special flood hazard shall be designed to resist the effects of floodwaters and be anchored to prevent flotation, collapse, or lateral movement during a flood event.

(1) New construction and substantial improvements to bridges. The lowest structural member of a bridge spanning the floodplain shall be two feet higher than the base flood elevation or in an A zone when no base flood elevation data are available, elevated at least two feet above the highest adjacent grade.

(2) The supports for the bridge span shall be place two feet beyond the floodway and two feet beyond the steam bank

(3) New and substantial improvement to culverts. 20% of the culvert(s) shall be at and above the base flood elevation, or provided with other means to allow flood water to pass without causing erosion or damage to culvert installation.

90-5.3 RESIDENTIAL STRUCTURES

90-5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 90-5.1-1, SUBDIVISION PROPOSALS, and 90-5.1-2, ENCROACHMENTS, and Section 90-5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 90-3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

90-5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 90-5.1-1, SUBDIVISION PROPOSALS, and 90-5.1-2, ENCROACHMENTS, and Section 90-5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 90-5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A

Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 90-5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

90-5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 90-5.1, GENERAL STANDARDS, and Section 90-5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 90-5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as two feet above the depth number specified on the Flood Insurance Rate Map enumerated in Section 90-3.2 (at least two feet if no depth number is specified).

90-5.6 CRITICAL FACILITIES

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical

facility shall be located within any Area of Special Flood Hazard, or within any 500-year flood zone shown as a B zone or a Shaded X zone on the Community's Flood Insurance Rate Maps.

SECTION 90-6.0 VARIANCE PROCEDURE

90-6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Philipstown shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this Chapter.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

- (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 90-6.1(4) and the purposes of this Chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
 - (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

90-6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 90-6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:

- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing Chapters or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
- (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 90-4.4-9 of this Chapter.

(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 20 12 of the (County)(City)(Town)(Village) of Philipstown was duly passed by the Town Board on _____ 20 _____, in accordance with the applicable (Name of Legislative Body) 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) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) 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) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)~~

~~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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (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.~~

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

Tina M. Merando, Town Clerk

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 _____

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 Edward W. Doyle

Title Town Attorney

County
City of Philipstown

Town
Village

Date: _____

Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Town of Philipstown	2. PROJECT NAME Flood Damage Prevention
3. PROJECT LOCATION: Municipality Philipstown County Putman	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Entire Township	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: A Local Law to amend the Code of the Town of Philipstown by deleting and repealing Chapter 90 thereof, Flood Damage Prevention and replacing it with a new Chapter 90, to be entitled Flood Damage Prevention.	
7. AMOUNT OF LAND AFFECTED: Initially <u>n/a</u> acres Ultimately <u>n/a</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park/Forest/Open Space <input checked="" type="checkbox"/> Other Describe: Entire Town of Philipstown	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Richard Shea</u> Date: _____ Signature: _____	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, coordinate the review process and use the FULL EAF.
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: N/A C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: N/A C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: N/A C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: N/A C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: N/A C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: N/A C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: N/A	
D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:	
E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:	

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- ☐ Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- ☒ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination

Town of Philipstown

Name of Lead Agency

Richard Shea

Print or Type Name of Responsible Officer in Lead Agency

Date

Supervisor

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

Reset

RESOLUTION

The following Resolution was presented by _____, seconded _____ and unanimously carried;

WHEREAS, the Town of Philipstown has reviewed the proposed Local Law to amend the Code of the Town of Philipstown by deleting and repealing Chapter 90 thereof, Flood Damage Prevention and replacing it with a new Chapter 90, to be entitled Flood Damage Prevention;

NOW, THEREFORE, BE IT RESOLVED, that this action is a Type II Action, as defined under NYCRR Part 617.13d, which is an action or class of actions which have been classified by the State of New York to not have a significant effect on the environment and thus do not require environmental impact statements or other determination or procedures under Part 617 of the Environmental Conservation Law.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that the Town Board of the Town of Philipstown will conduct a Public Hearing on November 20, 2012 at 7:15 p.m. at the Town Hall, 238 Main Street, Cold Spring, New York. The purpose of the Public Hearing is to hear comments for/against a proposed **LOCAL LAW TO AMEND ZONING LAW SECTIONS 175-59 G.4 AND 175-62 F (2) OF CHAPTER 175 OF THE CODE OF THE TOWN OF PHILIPSTOWN REGARDING NOTICE AND HEARING.**

A copy of the proposed Local Law is on file in the Town Clerk's Office where it may be examined during regular business hours.

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF PHILIPSTOWN

DATED: November 7, 2012

Tina M. Merando
Town Clerk

Local Law Filing

(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.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Philipstown

Local Law No. _____ of the year 20¹²

A local law to amend Zoning Law Sections 175-59 G.4 and 175-62 F (2) of Chapter 175 of the Code
(Insert Title)
of the Town of Philipstown regarding Notice and Hearing.

Be it enacted by the Town Board _____ of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Philipstown _____ as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 1. AUTHORITY

This Local Law is enacted pursuant to the authority of Municipal Home Rule Law Section 10, the Town Law, and in accordance with the Zoning Law of the Town of Philipstown, New York, Section 175-69, entitled "Amendments."

SECTION 2.

Chapter 175 of the Code of the Town of Philipstown is hereby amended by deleting the existing text of Section 175-59 G. 4. and inserting the following new text in it's place:

G. Hearing and Public Notices

[Subdivision 1-3: No Change]

4. At least five days prior to the date of the hearing of appeals, the Zoning Board of Appeals shall publish notice of such hearing in the official newspaper, mail notice thereof to the Planning Board, *simultaneously with the appeal being placed on the Zoning Board Agenda*, and send notice by first class mail to all property owners within 200 feet of the property upon which the appeal is taken **as shown on the most recently adopted Tax Assessment Roll**. The cost of publishing and mailing such notices shall be borne by the appellant. ✓

[Subdivision 5-7: No Change]

SECTION 3.

Chapter 175 of the Code of the Town of Philipstown, is hereby amended by deleting the existing text of Section 175-62 F. (2), and inserting the following new text in its place:

F. Notice and Hearing.

[Subdivision (1): No Change.]

- (2): The Planning Board shall hold a public hearing on a complete special permit application within 62 days of its submission. The Board shall publish notice of such hearing in the official newspaper at least five days prior to the date thereof. The Board shall also send notices of the hearing by first-class mail to owners of properties within 200 feet of the property boundary **as shown on the most recently adopted Tax Assessment Roll**. This notice requirement to surrounding owners may be modified by the Planning Board, at the applicant's request, in the case of properties of greater than 50 acres where only a small area is being disturbed. In such cases, notification must be sent to owners of land lying

within 1,500 feet of the proposed area of land disturbance and within 200 feet of the parcel's road frontage. If the application is for a property located within 500 feet of the boundary of an adjacent municipality, notice of the hearing shall be sent to the Clerk of the adjacent municipality by mail or electronic transmission at least 10 days prior to such hearing, and such adjacent municipality may appear and be heard. The cost of giving all notices shall be charged to the applicant.

[Subdivision (3): No Change.]

SECTION 4: VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Philipstown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 5: REPEAL

All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.

SECTION 6: EFFECTIVE DATE

This Local Law shall take effect immediately after its adoption by the Town Board and upon filing in the Office of the New York State 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. _____ of 20¹² of the ~~(County)(City)~~(Town)(Village) of Philipstown _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~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) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) 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) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (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.~~

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

(Seal)

Date: _____

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Town of Philipstown	2. PROJECT NAME Hearing and Public Notice
3. PROJECT LOCATION: Municipality Philipstown County Putnam	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Entire Township	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Local Law to amend the zoning Law Sections 175-59 G.4. and 175-62 F (2) of the Code of the Town of Philipstown regarding Hearing and Public Notice.	
7. AMOUNT OF LAND AFFECTED: Initially <u>n/a</u> acres Ultimately <u>n/a</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park/Forest/Open Space <input checked="" type="checkbox"/> Other Describe: Entire Township	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Richard Shea</u> Date: _____ Signature: _____	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, coordinate the review process and use the FULL EAF.
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: N/A C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: N/A C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: N/A C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: N/A C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: N/A C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: N/A C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: N/	
D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:	
E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:	

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.	
Town of Philipstown	
Name of Lead Agency <hr/> Richard Shea Print or Type Name of Responsible Officer in Lead Agency	Date <hr/> Supervisor Title of Responsible Officer
Signature of Responsible Officer in Lead Agency <hr/>	Signature of Preparer (If different from responsible officer) <hr/>

Reset

RESOLUTION

The following Resolution was presented by _____, seconded _____ and unanimously carried;

WHEREAS, the Town of Philipstown has reviewed the proposed Local Law to amend the Zoning Law Sections 175-59 G.4. and 175-62F (2) Code of the Town of Philipstown regarding Hearing and Public Notice;

NOW, THEREFORE, BE IT RESOLVED, that this action is a Type II Action, as defined under NYCRR Part 617.13d, which is an action or class of actions which have been classified by the State of New York to not have a significant effect on the environment and thus do not require environmental impact statements or other determination or procedures under Part 617 of the Environmental Conservation Law.