

Public Hearing – Vape Shops
June 20, 2018 7:00 p.m. Town Hall

**IMMEDIATELY FOLLOWING
WEEKLY TOWN BOARD MEETING**

AGENDA

1. Resolution adopting Local Law #3-2018 establishing a six (6) month moratorium on the submission and processing of applications for Land Use approvals for "Vape Shops" within the Town of Philipstown.
2. Resolution authorizing the release of Escrow Funds for Martin McHugh, 200 Lake Surprise Road.
3. Resolution authorizing Supervisor Shea to sign a letter of support for the Town of Patterson's Basic Life Support Response Agency for Emergency Medical Services.
4. Resolution appointing Bill Rimm as Assistant Superintendent for the Continental Village Water District at a salary not to exceed that set forth in the 2018 budget.
5. Resolution authorizing Town Clerk Merando to advertise for bidders for the Window Replacement for the Town Hall.
6. Adjournment

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Philipstown will conduct a Public Hearing on June 20, 2018 at the Town Hall, 238 Main Street, Cold Spring, New York at 7:00 p.m. o'clock in the evening of that day upon the enactment of a Local Law establishing a six (6) month moratorium on the submission and processing of applications for Lane Use Approvals for "Vape Shops" within the Town of Philipstown.

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. All persons interested will be heard at the time, date and place specified above.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF PHILIPSTOWN

Tina M. Merando
Town Clerk

DATED: June 13, 2018
Cold Spring, New York

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 20¹⁸

A local law establishing a six (6) month moratorium on the submission and processing
(Insert Title)
of applications for Land Use Approvals for "Vape Shops" within the Town of

Philipstown.

Be it enacted by the Town Board
(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.)

Town of Philipstown, County of Putnam, State of New York

Proposed Law No. ____ of the year 2018

A Local Law establishing a six (6) month moratorium on the submission and processing of applications for Land Use Approvals for "Vape Shops" within the Town of Philipstown.

Be it enacted for a period of six (6) months by the Town of Philipstown as follows:

Section 1. Intent and Authority

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York and Article 16 of the Town Law of the State of New York, with the procedural provisions of the Municipal Home Rule Law controlling.

Section 2. Short Title

This Local Law shall be known as: "The Town of Philipstown Vape Shop Moratorium Law of 2018."

Section 3. Definitions

"Code" means the Town of Philipstown Code.

"Town" means the Town of Philipstown.

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

"Town Clerk" means the Town Clerk of the Town of Philipstown.

"Land Use Approvals" means special use permit, site plan approvals and building permits.

"Vape Shops" means retail stores selling electronic cigarettes and other vaporizing products and accessories whether or not such products contain nicotine.

Section 4. Legislative Purpose

A. The purpose of this Local Law is to enable the Town to prevent the submission and processing of any applications for Land Use Approvals for Vape Shops within the Town pending the Town Board's review and consideration of proposed amendments to the Town Coder regarding placement and operation of the same.

B. It is further the purpose of this Local Law to fulfill the Town's constitutional, statutory, and legal obligations to protect and preserve the public health, welfare, and safety of the citizens of the Town, as well as to protect the value, use and enjoyment of property in the Town by temporarily prohibiting the submission and processing of applications for Land Use

Approvals for Vape Shops within the Town pending consideration of the said amendments to the Town Code.

C. The Town Board finds that the following concerns must be considered with respect to the present land use regulations of the Town and the possible adoption of regulations with respect thereto:

1. The widespread sale and use of vaporizing products has increased significantly in the region.

2. The Town Board desires to protect the aesthetic and scenic resources as well as real estate values within the Town by considering the appropriate zoning and other regulation of Vape Shop uses under the Town Code.

D. That the submission and processing of applications for Land Use Approvals for Vape Shops within the Town without first addressing the above factors may have a permanent, significant, and substantial negative impact on the nature and quality of life in the Town and on the health, safety, general welfare, and comfort of its residents.

E. That to preserve the resources and character of the Town, to consider further the concerns of the residents and property owners of the Town, and to address further the needs of those residents and property owners, the Town finds that it requires time to study the impacts, effects, and regulation of the development of Vape Shops within the Town.

F. The Town Board hereby finds that a moratorium of six (6) months duration, coupled with a hardship waiver procedure and mechanism for persons seeking Land Use Approvals for Vape Shops within the Town, will achieve the balancing of interests between the public need to safeguard the resources and character of the Town, the health, safety and general welfare of its residents, and the rights of individual property owners, persons, or businesses engaging in various development activities during such period.

Section 5. Imposition of Moratorium

A. For a period of six (6) months from and after the effective date of this Local Law, except as provided in Section "6" below: (i) no new applications for Land Use Approvals for Vape Shops shall be accepted or processed by the Town; and (ii) no previously submitted applications for Land Use Approvals for Vape Shops will be further processed by the Town.

Section 6. Alleviation of Extraordinary Hardship

A. The Town Board may authorize exceptions to the moratorium imposed by this Local Law when it finds, based upon evidence presented to it, that deferral of action on an application for a Land Use Approval for a Vape Shop would impose an extraordinary hardship on a landowner or applicant.

B. An application for an exception based upon extraordinary hardship shall be filed with the Town Clerk, including a fee of five hundred and 00/100 Dollars (\$500.00) for each tax map parcel claimed to be subject to extraordinary hardship, by the landowner or the applicant, upon the consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship and shall contain such other information and/or documentation as the Town Board or its designee, shall prescribe as necessary for the Town Board to be fully informed with respect to the application.

C. A public hearing on any application for an exception to this Local Law based upon extraordinary hardship shall be held by the Town Board at a meeting of the Town Board no later than forty-five (45) days after the complete application for extraordinary hardship has been filed with the Town Clerk. The Town Board shall determine, by motion duly adopted, when an application based upon extraordinary hardship is complete.

D. In reviewing an application for an exception based upon a claim of extraordinary hardship, the Town Board shall consider the following criteria:

1. The extent to which the proposed development activity would cause significant environmental degradation, adversely impact existing development in the area, be detrimental to public health, comfort or safety concerns and/or have a negative impact upon the Town.

2. Whether the moratorium will expose a property owner or applicant to substantial monetary liability to a third person or would leave the property owner or applicant completely unable, after a thorough review of alternative solutions, to have a reasonable alternative use of the property.

3. The extent to which actions of the applicant were undertaken in good faith belief that the proposed development would not lead to significant environmental degradation, adversely impact existing development in the area, have an adverse impact on public health or safety, and/or have a negative impact upon the Town of Philipstown.

E. Mere delay or concern that regulations may be adopted prohibiting establishment of a Vape Shop use is insufficient to constitute an extraordinary hardship under this section.

F. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Town Board shall, in its sole discretion, act upon the application for an exception based upon extraordinary hardship. The Town Board may approve, deny or approve in part and deny in part the application being acted upon.

Section 7. Validity

In the event that any section, sentence, clause or phrase of this Local Law is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding shall in no way affect the validity of the remaining portions of this Local Law.

Section 8. Effective Date

This Local Law shall become effective upon being duly adopted by the Town Board,
provided that it shall subsequently be filed with the Secretary of State of the State of New York.

(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____ of the (County)(City)(Town)(Village) of Town 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____.

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: _____

RESOLUTION #2018

The following Resolution was presented by Councilman _____, seconded by _____;

WHEREAS, heretofore the Town Board has considered the adoption of Local Law No. 3 of the year 2018 entitled: A Local Law establishing a six (6) month moratorium on the submission and processing of applications for Land Use Approvals for “Vape Shops” Within the Town of Philipstown; and

WHEREAS, following due notice the Town Board held a public hearing on the proposed local law on June 20, 2018;

NOW, THEREFORE, BE IT RESOLVED as follows: That the Town Board does hereby adopt Local Law No. 3 of the year 2018 entitled: A Local Law establishing a six (6) month moratorium on the submission and processing of applications for Land Use Approvals for “Vape Shops” Within the Town of Philipstown; which said local law shall be effective upon publication, posting and filing in the office of the Secretary of State in Albany.

The vote on the foregoing resolution was as follows:

ROLL CALL VOTE

Supervisor Shea	_____
Councilwoman Montgomery	_____
Councilman Van Tassel	_____
Councilman Leonard	_____
Councilman Flaherty	_____

The resolution was thereupon declared duly adopted.

CERTIFICATION

I, **Tina M. Merando**, the duly qualified and acting Town Clerk of the Town of Philipstown, Putnam County, New York, do hereby certify that attached hereto is a true and correct copy of an extract from the minutes of a Weekly Meeting of the Town Board of the Town of Philipstown, held on June 20, 2018, and that the Resolution set forth herein is a true and correct copy of the Resolution of the Town Board of said Town adopted at said meeting.

I FURTHER CERTIFY that pursuant to section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

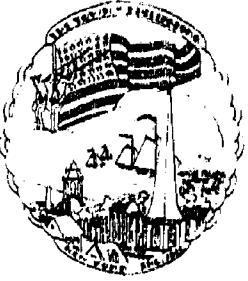
IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the said Town, this 20th day of June, 2018.

Tina M. Merando
Town Clerk

(seal)

A true copy of this Resolution was filed in the Office of the Town Clerk on June 20, 2018.

Tina M. Merando
Town Clerk



Town of Philipstown

Planning Board

238 Main Street, PO Box 155
Cold Spring, NY 10516

Office (845) 265-5202 Fax (845) 265-2687

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MEMORANDUM

June 6, 2018

ATTN: RICHARD SHEA
Town Board of Town of Philipstown
238 Main Street
P. O. Box 155
Cold Spring, New York 10516

Re: Release of funds for Martin McHugh, 200 Lake Surprise Road, TM# 27.-1-29 & 30

Dear Supervisor Shea:

At the June 5, 2018 Town Planning Board meeting a motion was made by Neal Zuckerman to okay the return of the escrow to Martin McHugh, subject to any outstanding invoices, and Kim Conner seconded the motion. The motion carried unanimously.

I am requesting that any remaining escrow funds for processing and consultants' fees being held by the Town should be released back to the applicant at this time.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tara K. Percacciolo".

Tara K. Percacciolo
Zoning/Planning Secretary

RECEIVED
6/6/18
JL

RESOLUTION #-2018

The following Resolution was presented by Councilman _____, seconded by _____;

RESOLVED, that the Town Board hereby authorizes the release of Escrow Funds for Martin McHugh of 200 Lake Surprise Road, Cold Spring as recommended by the Philipstown Planning Board.

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SUPERVISOR

Richard Williams Sr.
(845) 878-6564



TOWN COUNSEL

Hogan & Rossi
Tel. (845) 279-2986
Fax (845) 278-6135

1142 ROUTE 311
P.O. BOX 470
PATTERSON, NEW YORK 12563

TOWN BOARD

Charles W. Cook
Peter Dandreano
Shawn Rogan
Mary E. Smith

TOWN CLERK

Antoinette Kopeck
Tel. (845) 878-6500
Fax (845) 878-6343
townclerk@pattersonny.org

June 7, 2018

Town of Philipstown

235 Main Street

Cold Spring, NY 10516

Re: Letter of support to operate as a Basic Life Support Response (BLS) Agency

To whom it may concern:

The Town of Patterson EMS has been providing Emergency Medical Services in the town of Patterson with a temporary ambulance certificate for the past 15 months. We must now apply to the New York State Department of Health (NYS DOH) to convert the certificate to a permanent status. To that end, the Town requests your assistance through a letter of support.

The Town of Patterson established the Town of Patterson ambulance service in 2016 to provide basic life support services to the town. The formation of this service was established when the local fire departments providing EMS services were unable to staff their ambulances, thus leaving the community at risk and with the financial strain of contracting a commercial EMS agency to provide BLS services. The town evaluated several options to provide quality EMS services and deciphered that a town run agency would be most beneficial in the level of care and the cost of providing such. The Town accomplished this change under the authority of the DOH through a temporary certificate of operation as a Basic Life Support Response (BLS) Agency. After 15 months of operation at this level, the Town must now apply for permanency.

RECEIVED
6/12/18
cc: TB

As a component of the transition to the permanency process, the Town must prove public need of the services we provide and elicit support from our surrounding community. New and established organizations alike, must use this process, as part of a larger system of healthcare delivery, to ensure such change is valid and necessary and that the organization will provide the new services according to the regulations set forth by the DOH.

The NYS DOH Bureau of EMS evaluates public need through a process of application; determination of fitness and competency; compliance to policies, rules and regulations; public support; and support by peer agencies and organizations within the region. According to DOH Policy Statement 06-06: The State EMS Council and the State Department of Health define public need as: *The demonstrated absence, reduced availability or an inadequate level of care in ambulance or emergency medical service available to a geographical area which is not readily correctable through the reallocations or improvement of existing resources.* Variables in considering "Public Need" are:

Geography

Population (size, density, projections)

Level of care (existing, available)

Quality, reliability, and response patterns of existing services

Type of service (emergency, non-emergency)

Special need (i.e. Air, Industrial or Facility)

Other local factors

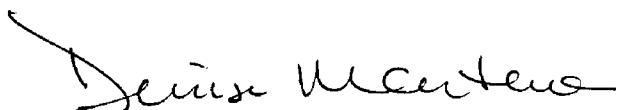
The Town of Patterson EMS has been providing emergency medical care to the community for the past 15 months, and has responded to 100% of their first calls in district which is a clear demonstration of continued public need. We are averaging approximately 1,366 calls annually. The Town of Patterson EMS has 2 paid EMT's on staff and in house 24/7. This has reduced patient encounter times, increased turn around times, decreased utilization of ALS services therefor, allowing the paramedics to get back in service to handle ALS appropriate calls sooner, responded to 100% of first calls in district which has alleviated the strain on mutual aid, negated any out of service time and has significantly reduced the ambulance expense to the tax base.

The development of the Town of Patterson EMS has increased the coverage and availability of BLS care to our community as well as the surrounding municipalities under current mutual aid agreements. To continue, the Town of Patterson EMS seeks a letter of support to apply for permanency in operation as a BLS Agency. An agency / organization / city / town / village principal should sign the letter and it must indicate acknowledgement of the definition of public need.

For your convenience, I have enclosed a sample letter of support and a pre-addressed / stamped return envelope. Please send correspondence no later than **Monday, June 25, 2018**, as we must include your correspondence with our application.

Please feel free to contact me with any questions.

Thank you in advance,



Denise E. Montana
EMS Administrator, Town of Patterson
(845) 878-6500 ext. 27
(845) 878-2019 (fax)

Town of Patterson EMS
Attn: Denise Montana
P.O. Box 470
Patterson, NY 12563

Re: Letter of support to operate as a Basic Life Support First Response (BLS) Agency

Captain Montana,

We have received the Town of Patterson EMS's request for a letter of support to make permanent the temporary New York State Department of Health Basic Life Support First Response operating certificate. Your letter contained the definition of "public need" utilized by the Department of Health in determining whether or not to make permanent your temporary status: *The demonstrated absence, reduced availability or an inadequate level of care in ambulance or emergency medical service available to a geographical area which is not readily correctable through the reallocation or improvement of existing resources.* Additionally, your letter explained how you have provided for the needs of the community in the past and how this change will provide for the needs of the community into the future.

Our agency supports the Town of Patterson EMS's application to become a permanent Basic Life Support First Response Agency. We have worked well together to serve the health care needs of the community through a systems-based approach and this change for the Town is evidence of improving such effectiveness and efficiency.

Richard Shea

Printed Name

Supervisor

Title

Town of Philipstown

Name of Agency

Signature

June 20, 2018

Date

RESOLUTION #2018

The following Resolution was presented by Councilman _____, seconded by _____;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign a letter of support for the Town of Patterson's EMS's to apply for a permanent New York State Department of Health Basic Life Support First Response operating certificate.

RESOLUTION #-2018

The following Resolution was presented by Councilman _____, seconded by _____;

RESOLVED, that the Town Board hereby authorizes Town Clerk Merando to advertise for bidders for the Windows Replacement for the Town Hall.