

## Monthly Town Board Meeting

June 7, 2018

7:30 p.m.

Town Hall

Salute to the Flag

### REVIEW OF MINUTES

- Appeal Hearing – Homeland Tower of May 2, 2018
- Monthly Town Board Meeting of May 3, 2018
- Annual MS4 Stormwater Report of May 3, 2018
- Weekly Town Board Meeting of May 9, 2018

### COMMITTEE REPORTS

- 1) Conservation Board
- 2) Recreation
- 3) Philipstown Coalition that Cares
- 4) Planning Board
- 5) Zoning
- 6) Highway
- 7) Building & Land Acquisition
- 8) Putnam County Legislator
- 9) Cemetery Committee

### AGENDA

1. Roberto Muller to provide an update regarding the progress of the Climate Smart Communities Program.
2. Resolution authorizing Roberto Muller to apply for the 2018 Consolidated Funding Grant on behalf of the Town of Philipstown.
3. Resolution authorizing Carl Frisenda, Highway Superintendent to purchase a Stainless Side Dump Body/Sander in the amount of \$33,463.18.
4. Resolution authorizing Supervisor Shea to sign the Fire Protection Agreement between the Village of Cold Spring and the Town of Philipstown.
5. Resolution authorizing Supervisor Shea to sign a letter of Occupancy of the Philipstown Depot Theatre. (Nunc Pro Tunc)
6. Introduce a Proposed Local Law imposing a six month moratorium on the submission and Processing of application for Land Use Approval for "Vape Shops."
7. Introduce a Proposed Local Law to amend Town Code Chapter 175 entitle "Zoning" to add the use of "Museum" to the uses permitted in the OC district.
8. Resolution appointing Judy Farrell to the Recreation Commission.

May 22, 2018  
June 4, 2018

9. Schedule Workshops/Meetings

*Reschedule July monthly meeting from July 5<sup>th</sup> to July 12, 2018*

10. Code Enforcement Monthly Report.

11. Any other business that may come before the Town Board.

**AUDIENCE**

**VACANCIES**

CV Water District (1)

**APPROVAL OF VOUCHERS**

General      Highway      CVPD      CVWD

**ADJOURNMENT**

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.

**TOWN OF PHILIPSTOWN**

**LOCAL LAW NO. \_\_ OF THE YEAR 2018**

A local law to amend Town Code Chapter 175 entitled "Zoning" to add the use of "Museum" to the uses permitted in the "Office/Commercial/Industry Mixed-Use" ("OC") District.

**Section 1. Purpose:**

The purpose of this Local Law is to implement the provisions of the Town's Comprehensive Plan by amending the definitions section of Chapter 175 and the use table for the Office/Commercial/Industry Mixed-Use District ("OC") to add the use of "Museum".

**Section 2. Amendment of Code:**

The Town of Philipstown Town Code Chapter 175 entitled "Zoning" is hereby amended as follows:

1. In Article XII, Section 175-74(B) there shall be added, in its place in alphabetical order, the following:

" Museum - A building, open to the public at set hours or by appointment, which acquires, conserves, researches, and/or exhibits objects or artistic, historical, scientific, or cultural interest for the purposes of education, study, and enjoyment."

2. The use of "Museum" shall be added to the Table of Use Regulations, in its place in alphabetical order under "Business Uses", and such use shall be permitted only in the OC District subject to site plan approval.

**Section 3. Severability:**

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any 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 4. Effective Date:**

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board.