

TARA K. PERCACCILO
TOWN CLERK AND TAX COLLECTOR

TOWN OF PHILIPSTOWN

238 Main St. P.O. Box 155 Cold Spring, NY 10516

RICHARD SHEA, SUPERVISOR (845) 265-3329

JOHN VAN TASSEL, COUNCILMAN
JASON ANGELL, COUNCILMAN
ROBERT FLAHERTY, COUNCILMAN
JUDITH FARRELL, COUNCILWOMAN

November 9, 2021

NYS Dept. of State
Div. of Corporations,
State Records & Uniform Commercial Code
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231

Re: Local Law #3-2021

To whom it may concern:

Attached is Local Law #3-2021 for the Town of Philipstown which was adopted at the Monthly Town Board meeting of November 4, 2021 to be filed in your office. Thank you.

Sincerely,

Tara Percacciolo
Town Clerk

Encl.

cc: file

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. 3 of the year 20 21

A local law To Amend Town of Philipstown §112-35 And The Open Development Area General
(Insert Title)
Regulations OF Chapter 112, Article VIII, In Regard To Standards For Development Of
Private Roads

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.)

TOWN OF PHILIPSTOWN
LOCAL LAW NO. 3 OF THE YEAR 2021

A Local Law entitled "A Local Law To Amend Town of Philipstown Town Code §112-35 And The Open Development Area General Regulations Of Chapter 112, Article VIII, In Regard To Standards For Development Of Private Roads."

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

Section 1. Purpose:

The purpose of this Local Law is to promote the public health, safety and welfare by amending the Town of Philipstown Zoning Code in regard to private road development standards.

Section 2. Municipal Home Rule Law:

This law is adopted pursuant to Municipal Home Rule Law § 10(1)(ii)(a)(1) that grants local governments the authority to enact local laws regarding the public health, safety and welfare. To the extent the provisions of this Local Law are in conflict with State law, the Town Board hereby asserts its intention to supersede same pursuant to the Municipal Home Rule Law.

Section 3. Amendment of the Town Code.

I. Section 112-35, entitled "Street construction", of Town of Philipstown Town Code Chapter 112, entitled "Land Development" is hereby repealed and reenacted to provide as follows:

"§112-35. Street construction.

- A. Private ways providing access to ten (10) or more lots shall be built to the standards of the Town Road Specifications. Provided, however, that owners or developers on private ways providing access to ten (10) or more lots may apply to the Planning Board for authorization to improve the same to a lesser standard as set forth under the Open Development Area General Regulations of the Town of Philipstown if they are unable to comply with the applicable Town Road Specifications.
- B. Private ways providing access to nine (9) or fewer lots, shall be constructed as follows:
 - (1) Travelway. Private ways shall be provided with at a fourteen-foot travelway constructed with a suitable compacted gravel or crushed stone base eight inches

in depth, meeting the specifications for a foundation course set forth in the Town Road Specifications.

- (2) Drainage. The travelway shall be provided with sufficient drainage to protect the stability of the travelway and to prevent water from crossing the travelway surface.
- (3) The travelway shall have suitable grades and alignment to provide safe and convenient access to cars, fire apparatus and emergency vehicles, as well as for clearing of snow and ice.

Provided, however, if compliance with the said standards in regard to width of the travelway is not possible, the travelway may be improved to a lesser standard under the Open Development Area General Regulations of the Town of Philipstown if authorized by the Planning Board.

- C. Road maintenance agreement. All private ways shall have a legally established private road maintenance agreement as provided in Town Code §112-64(J)(4)."

II. Section 112-54, entitled "Travelways", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and reenacted to provide as follows:

"§112-54 Travelways.

A private right-of-way or easement that is not required to meet Town road standards, either under Code §112-35 or by Open Development Area approval from the Planning Board, shall be improved with a travelway meeting the minimum standards for private ways as specified in the Land Subdivision Regulations. (See Summary of standards in "§112-64). The travelway shall have suitable grades and alignment to provide safe and convenient access to cars, fire apparatus and emergency vehicles, as well as for clearing of snow and ice."

- III. Subsection (A)(5) of Code Section 112-56 is repealed.

IV. Section 112-57, entitled "Action by Planning Board", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and reenacted to provide as follows:

"§112-57 Action by Planning Board.

- A. Upon receipt of the application referred by the Building Inspector, the Planning Board shall process the application using the procedure prescribed for major project site plan approval as set forth in Code §175-66.
- B. In regard to applications for approval of private ways providing access to ten (10) or more lots, the Planning Board shall approve such application only if the applicant demonstrates that it is unable to comply with the applicable Town Road Specifications due to physical limitations on development or other circumstances beyond its control. If such a showing is made, and the travelway meets the summary of standards for private rights-of-way and easement layouts set forth in Code §112-64, the Planning Board shall grant the application, and in doing so may attach reasonable conditions. Further, the Planning Board may waive the development standards set forth in Code §112-64 in the event that applicant demonstrates that compliance with the said standards is not possible, but only if the Planning Board is satisfied, in its discretion, that notwithstanding the waiver the travelway shall still have suitable grades and alignment considering the volume of traffic anticipated and shall provide safe and convenient access to cars, fire apparatus and emergency vehicles, as well as for clearing of snow and ice.
- C. In regard to applications for approval of private ways providing access to nine (9) or fewer lots, the Planning Board shall approve such application if the travelway meets the summary of standards for private rights-of-way and easement layouts set forth in Code §112-64, provided that the Planning Board may waive compliance with the said standards if it is satisfied, in its discretion, that notwithstanding the waiver the travelway shall still have suitable grades and alignment considering the volume of traffic anticipated and shall provide safe and convenient access to cars, fire apparatus and emergency vehicles, as well as for clearing of snow and ice. The Planning Board may impose reasonable conditions on such approval."

V. Section 112-58, entitled "Return of application", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and reenacted to provide as follows:

"§112-58 Return of application.

Upon rendering a determination on an application for an Open Development Area approval, the Planning Board shall file the same with the Building Inspector and provide a copy to the applicant by mail."

VI. Section 112-60, entitled "Exceptions for existing right-of-way", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and shall be left blank for possible future use.

VII. Section 112-62, entitled "Appeals", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and reenacted to provide as follows:

"§112-62 Judicial Review.

Any person aggrieved by the action of the Planning Board upon an application for an Open Development Area approval may apply to the Supreme Court of the State of New York for appropriate relief within thirty (30) days after the Planning Board's decision has been filed with the Building Inspector.

VIII. Subsection "H" of Section 112-64, entitled "Summary of standards for private rights-of-way and easements layouts" of Town of Philipstown Town Code Chapter 112, Article IX, entitled "Summary of Standards" is hereby repealed and shall be left blank for possible future use.

Section 4. Severability.

If any clause, sentence, paragraph, word, section or part of this local law shall be judged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which judgment shall have been rendered.

Section 5. 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.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2021 of the (County)(City)(Town)(Village) of Philipstown was duly passed by the Town Board on November 4 2021, 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.

Laura Pucacciso

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

Date: November 9, 2021

(Seal)

**RESOLUTION ADOPTING LOCAL LAW ENACTING AMENDMENTS
TO OPEN DEVELOPMENT AREA REGULATIONS**

WHEREAS, heretofore the Town Board has considered the adoption of a local law entitled: "A Local Law To Amend Town of Philipstown Town Code §112-35 And The Open Development Area General Regulations Of Chapter 112, Article VIII, In Regard To Standards For Development Of Private Roads," and

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

NOW, THEREFORE, BE IT RESOLVED as follows:

That the Town Board does hereby adopt the above local law which said local law shall be effective upon publication, posting and filing in the Office of the Secretary of State in Albany.

Councilman Van Tassel presented the foregoing resolution which was seconded by Councilman Flaherty,

The vote on the foregoing resolution was as follows:

The vote on the foregoing resolution was as follows

Judith Farrell, Councilwoman, voting _____ AYE _____

John VanTassel, Councilman, voting _____ AYE _____

Robert Flaherty, Councilman, voting _____ AYE _____

Jason Angell, Councilman, voting _____ AYE _____

Richard Shea, Supervisor, voting _____ AYE _____

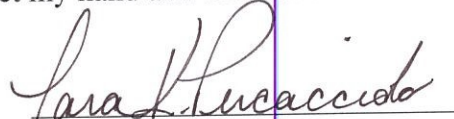
CERTIFICATION

I, **Tara K. Percacciolo**, 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 the Monthly Meeting of the Town Board of the Town of Philipstown,

held on November 4, 2021, 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 4th day of November, 2021.


Tara K. Percacciolo
TOWN CLERK

(seal)

A true copy of this Resolution was filed in the Office of the Town Clerk on November 4, 2021.


Tara K. Percacciolo
TOWN CLERK

RESOLUTION MAKING A NEGATIVE DECLARATION UNDER SEQRA

WHEREAS, the Town Board has before it a proposed local law entitled "A Local Law To Amend Town of Philipstown Town Code §112-35 And The Open Development Area General Regulations Of Chapter 112, Article VIII, In Regard To Standards For Development Of Private Roads."; and

WHEREAS, this is an action subject to SEQRA, and

WHEREAS, the Town Board as Lead Agency has caused to be prepared an Environmental Assessment Form ("EAF") Parts I and II; and

WHEREAS, following due notice the Town Board has conducted a public hearing on the proposed local law and heard all persons interested in the subject matter thereof; and

WHEREAS, the Town Board, as assisted by its consultants, has considered the potential environmental impacts of the proposed action;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Town Board accepts and approves the said EAF Parts I, II and III and the Supervisor is hereby authorized to sign the same; and
2. That after considering all of the information presented to it, including the EAF, the Town Board adopts the Negative Declaration attached hereto.

Councilwoman Farrell presented the foregoing resolution which was seconded by Councilman Angell.

The vote on the foregoing resolution was as follows

Judith Farrell, Councilwoman, voting AYE

John VanTassel, Councilman, voting AYE

Robert Flaherty, Councilman, voting AYE

Jason Angell, Councilman, voting AYE

Richard Shea, Supervisor, voting AYE

**STATE ENVIRONMENTAL QUALITY REVIEW ACT
NEGATIVE DECLARATION
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

November , 2021

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Philipstown Town Board as Lead Agency has determined that the proposed action described below does not present any potential significant adverse environmental impacts and a Draft Environmental Impact Statement will not be prepared.

Name of Action: The adoption of a local law entitled: "A Local Law To Amend Town of Philipstown Town Code §112-35 And The Open Development Area General Regulations Of Chapter 112, Article VIII, In Regard To Standards For Development Of Private Roads."

Action Type: Type Unlisted

Conditioned Negative Declaration: No

Description of Action: The Town of Philipstown is adopting a local law to amend the private road standard provisions of the Town Code (§112-35) and the Open Development Area regulations in the Town Code (Chapter 112) to increase the standards for private road development and the conditions for construction of improvements on lots on private roads within the Town of Philipstown. More particularly, private roads providing access to ten (10) or more lots should be built to Town road standards, unless it is not physically practicable to do so, in which case application may be made to the Planning Board for a permit waiving the unattainable portion of the said development standards. Private roads providing access to nine (9) or fewer lots may be built to a lesser prescribed road standard.

Contact Person: Richard Shea, Supervisor, Town of Philipstown, Town Hall, 238 Main Street, Cold Spring, NY 10516.

Location: Town-wide.

Reasons Supporting Negative Declaration:

As per review of the EAF and Parts II and III, which are incorporated herein by reference, and as has also been discussed, the Town Board has determined that no potential significant adverse environmental impacts are associated with the proposed Local Law and, therefore, an Environmental Impact Statement will not be prepared.

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

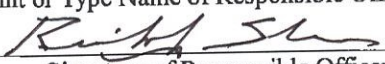
Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Through investigation undertaken during the course of a lengthy moratorium and after consultation with the Highway Department, the Town Planning Consultant and the Town Attorney, it has been determined that the Open Development Area Regulations for the Town of Philipstown should be amended to require that all private roads giving access to 10 or more lots should be constructed to Town Road standards. The proposed amendment to the Town Code allows the Planning Board to grant waivers for property owners who are not able to construct proposed private roads to such standards. Construction of private roads to Town Road standards will have no greater environmental impacts than construction of private roads to the current lesser construction standards allowed by the Code, and in fact may have less environmental impacts due to the increased quality of the roadways being built.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<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.	
Town Board Town of Philipstown <hr/> Name of Lead Agency	November , 2021 <hr/> Date
Richard Shea <hr/> Print or Type Name of Responsible Officer in Lead Agency	<hr/> Town Supervisor <hr/> Title of Responsible Officer
 <hr/> Signature of Responsible Officer in Lead Agency	<hr/> Signature of Preparer (if different from Responsible Officer)

CERTIFICATION

I, **Tara K. Percacciolo**, 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 the Monthly Meeting of the Town Board of the Town of Philipstown, held on November 4, 2021, 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 4th day of November, 2021.



Tara K. Percacciolo

TOWN CLERK

(seal)

A true copy of this Resolution was filed in the Office of the Town Clerk on November 4, 2021.



Tara K. Percacciolo

TOWN CLERK