

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. 1 of the year 2018

A local law to amend the Town Code by enacting a new Chapter 140 entitled "Safe Storage of
(Insert Title)
Firearms."

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. __ OF THE YEAR 2018**

A local law to amend the Town Code by enacting a new Chapter 140 entitled "Safe Storage of Firearms".

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 enacting a new Chapter 140 to the Town Code entitled "Safe Storage of Firearms" for the purpose of requiring safe storage of firearms in residences.

Section 2. Municipal Home Rule Law.

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. To the extent the provisions of this local law are in conflict with Town Law, the Town Board hereby asserts its intention to supersede Town Law pursuant to the Municipal Home Rule Law.

Section 3. Amendment of Code.

The Town of Philipstown Town Code is hereby amended to enact a new Chapter 140 entitled "Safe Storage of Firearms" to read as follows:

§ 140-1 Purpose.

The Town Board hereby finds that when a firearm is stored in a residence and the owner or custodian of the firearm is not present in the residence the firearms should be kept locked or stored securely in order to prevent theft and/or access by children who should not have access to firearms. The purpose of this Chapter is to require that the owners and custodians of firearms in the Town of Philipstown take appropriate steps to securely store their firearms when they are not in the residence and they know or have reason to know that that children are or may be present in the residence.

§ 140-2 Definitions.

- (A) "Antique firearm". As used in this Chapter, "antique firearm" means any unloaded muzzle loading handgun, rifle or shotgun with a matchlock, flintlock, percussion cap, or similar type of ignition system, or an unloaded rifle or shotgun which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.
- (B) "Custodian". As used in this Chapter "custodian" means a person, other than the owner of a particular firearm, who is in lawful possession of that firearm.

- (C) "Firearm." As used in this Chapter, "firearm" means any "firearm", "rifle" "shotgun" or "machine gun" as those terms are defined in New York State Penal Law Section 265.00. As used in this Chapter, "firearm" shall not mean any:
- (i) model or toy firearm that does not discharge projectiles with deadly force;
 - (ii) unloaded antique firearm;
 - (ii) starter or blank gun; or
 - (iii) ordinary air gun.
- (D) "Lawful custodian." As used in this Chapter, "lawful custodian" means any natural person who may legally possess and control the firearm at issue.
- (E) "Locked container." As used in this Chapter, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock or similar locking device.
- (F) "Ordinary Air gun". As used in this Chapter "ordinary air gun" means a firearm which uses compressed air to shoot projectiles of at a medium or low velocity such as would not be lethal to large game.
- (G) "Owner." As used in this Chapter "owner" means the lawful owner of a handgun or firearm.
- (H) "Possession" shall mean have physical possession or otherwise to exercise dominion or control over.
- (I) "Present in the residence." As used in this Chapter, "present in the residence" means physical presence within the residence, including any outdoor structures physically connected to the residence, such as porches or decks.
- (J) "Residence." As used in this Chapter, "residence" means any structure intended or used for human habitation.
- (K) "Starter gun" or "blank gun." As used in the Chapter, "starter gun" or "blank gun" means any gun on which the barrel has been constructed or modified so that no projectile can pass through it and/or which has been configured so it cannot accept any standard ammunition except blank cartridges.

§ 140-3 Prohibited Acts.

No owner or custodian of a firearm shall leave such firearm out of his or her possession or control in a residence when he or she knows or has reason to know that a person under eighteen (18) years of age is present in the residence unless either:

- (1) Such owner or custodian is present in the residence; or

- (2) Such owner or custodian physically delivers the firearm to a lawful custodian; or
- (3) Such owner or custodian places the firearm in a locked container; or
- (4) Such owner or custodian disables the firearm with a safety locking device appropriate to the firearm.

§ 140-4 Lost or Stolen Handguns.

In order to encourage reports to law enforcement agencies of lost or stolen handguns pursuant to New York State Penal Law Section 400.10, a person who files a report with a law enforcement agency notifying the agency that a handgun has been lost or stolen shall not be subject to prosecution for violation of this Chapter.

§ 140-5 Penalty.

Every violation of this Chapter shall constitute a misdemeanor and upon conviction may be punished by a fine not to exceed \$1,000.00 or by imprisonment in the county jail not to exceed one year, or by both.

Section 4. 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 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. 1 of 2018 of the (County)(City)(Town)(Village) of Town of Philipstown was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

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

Date: _____

(Seal)

RESOLUTION ADOPTING LOCAL LAW NO. ___ OF 2018

WHEREAS, the Town Board has before it proposed Local Law No. ___ of the year 2018 to amend the Town Code by enacting a new Chapter 140 entitled "Safe Storage of Firearms", and

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

WHEREAS, as a result of comments received at the public hearing and subsequent deliberations of the Town Board it appears that it is necessary to correct the text of §140-5 of the proposed Local Law by changing the word "shall" to "may", such that the said section reads: "Every violation of this Chapter shall constitute a misdemeanor and upon conviction may be punished by a fine not to exceed \$1,000.00 or by imprisonment in the county jail not to exceed one year, or by both."

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Town Board determines that the adoption of this local law is a Type II Action under SEQRA; and
2. That the Town Board does hereby adopt Local Law No. ___ of the year 2018 with the above-noted correction, a copy of which is attached, which said local law shall be effective upon publication, posting and filing in the Office of the Secretary of State in Albany.

_____ presented the foregoing resolution which was seconded by _____,

The vote on the foregoing resolution was as follows

Nancy Montgomery, Councilwoman, voting _____

John VanTassel, Councilman, voting _____

Robert Flaherty, Councilman, voting _____

Michael Leonard, Councilman, voting _____

Richard Shea, Supervisor, voting _____