

## STATEMENT REGARDING DEER HUNTING AND USE OF LONG BOWS

On August 19, 2020, the Appellate Division, Second Department, invalidated a Town of Smithtown ordinance that prohibited the discharge of firearms, including a bow and arrow, within 500 feet from a dwelling, school or occupied structure, or a park, beach, playground or any other place of outdoor activities. The court concluded that, to the extent that the Town's ordinance purported to regulate the discharge setback of a bow and arrow, it is preempted by New York State Environmental Conservation Law (ECL) § 11-0931(4)(a)(2), which prohibits the use of a long bow within 150 feet of a dwelling house, farm building or farm structure actually occupied or used, school building, school playground, public structure, or occupied factory or church. The Court also noted that the definition of "firearm," for the purposes of the ECL, "plainly does not encompass a bow and arrow."

The appellate court's court decision has implications for the Village of Head of the Harbor. A reading of that decision calls into question the validity of Village Code, Chapter 123, which prohibits the discharge of firearms, including the use of a bow and arrow, anywhere within in the Village and regardless of the setback from an occupied structure. The decision also identifies the need for an amendment of Village Code, Chapter 109, which incorrectly references the ECL's discharge setback for a weapon as being 500 feet from any dwelling house or farm structure. While the Village Board may ultimately be required to amend its laws to comport with State law, it does not plan to take any actions with respect to its laws until the Town has exhausted all of the appeals.

On October 15, 2020, the Town moved before the State's highest court, the Court of Appeals, for leave to appeal and for a stay of enforcement of the Appellate Division's decision. On October 19, 2020, Judge Paul G. Feinman signed an Order staying enforcement of the appellate court's decision pending the Court of Appeals' decision on the Town's motion. In light of the Appellate Division's decision, and because the stay of enforcement is applicable only to the Town of Smithtown, the Village will not enforce the provisions of Chapters 109 or 123 that prohibit the use of a bow and arrow within the Village. It will, however, continue to enforce all other provisions of the Village Code that regulate the discharge of firearms, as well as the provisions of the ECL, which regulate hunting and the discharge setbacks for the use of long bows.