

# 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. 2 of the year 2019

A local law establishing a six (6) month moratorium on the submission and processing of applications

(Insert Title)

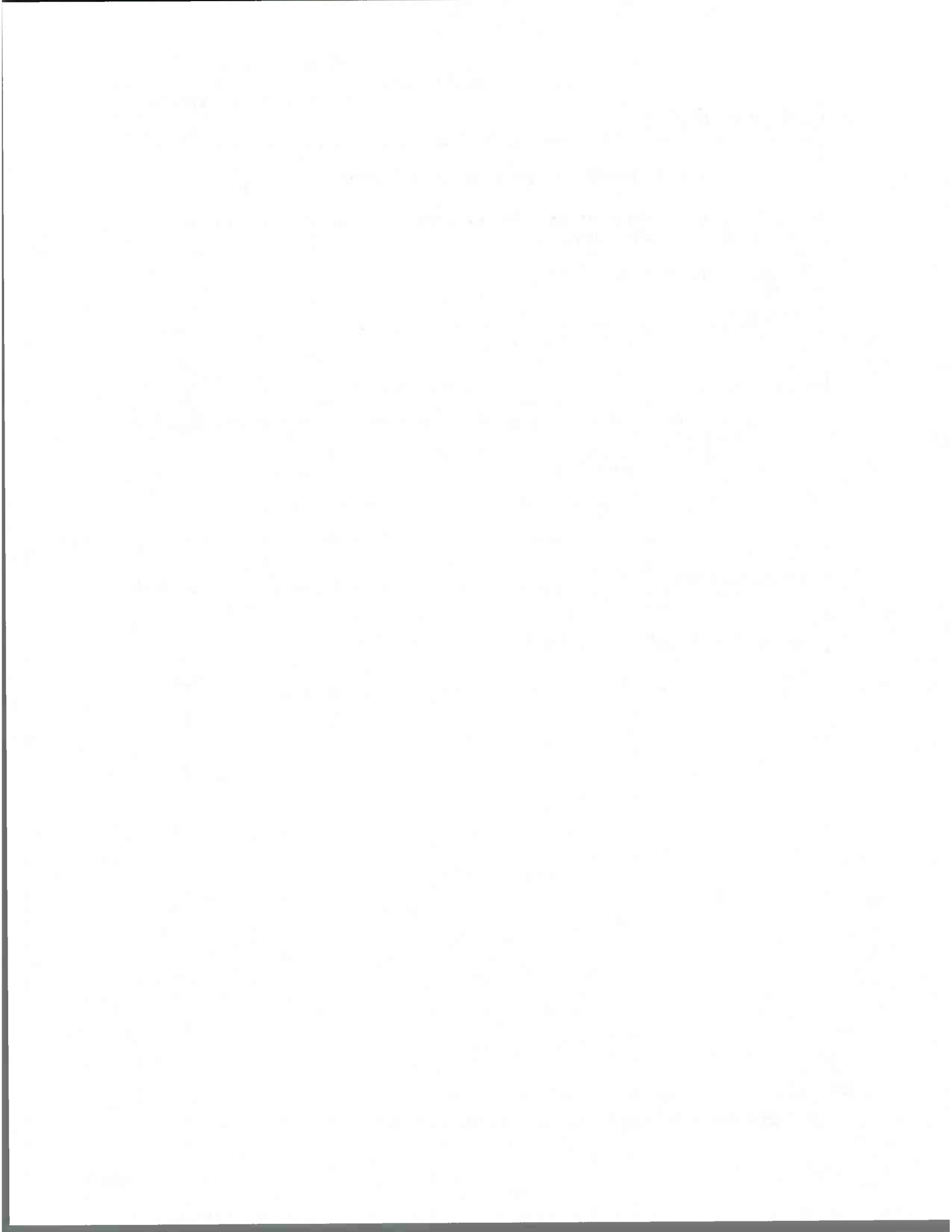
Land Use Approvals for "Vape Shops" within the Town of Philipstown.

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, County of Putnam, State of New York

Proposed Law No. 2 of the year 2019

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 1. Short Title**

This Local Law shall be known as: “The Town of Philipstown Vape Shop Moratorium Law of 2019.

**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.

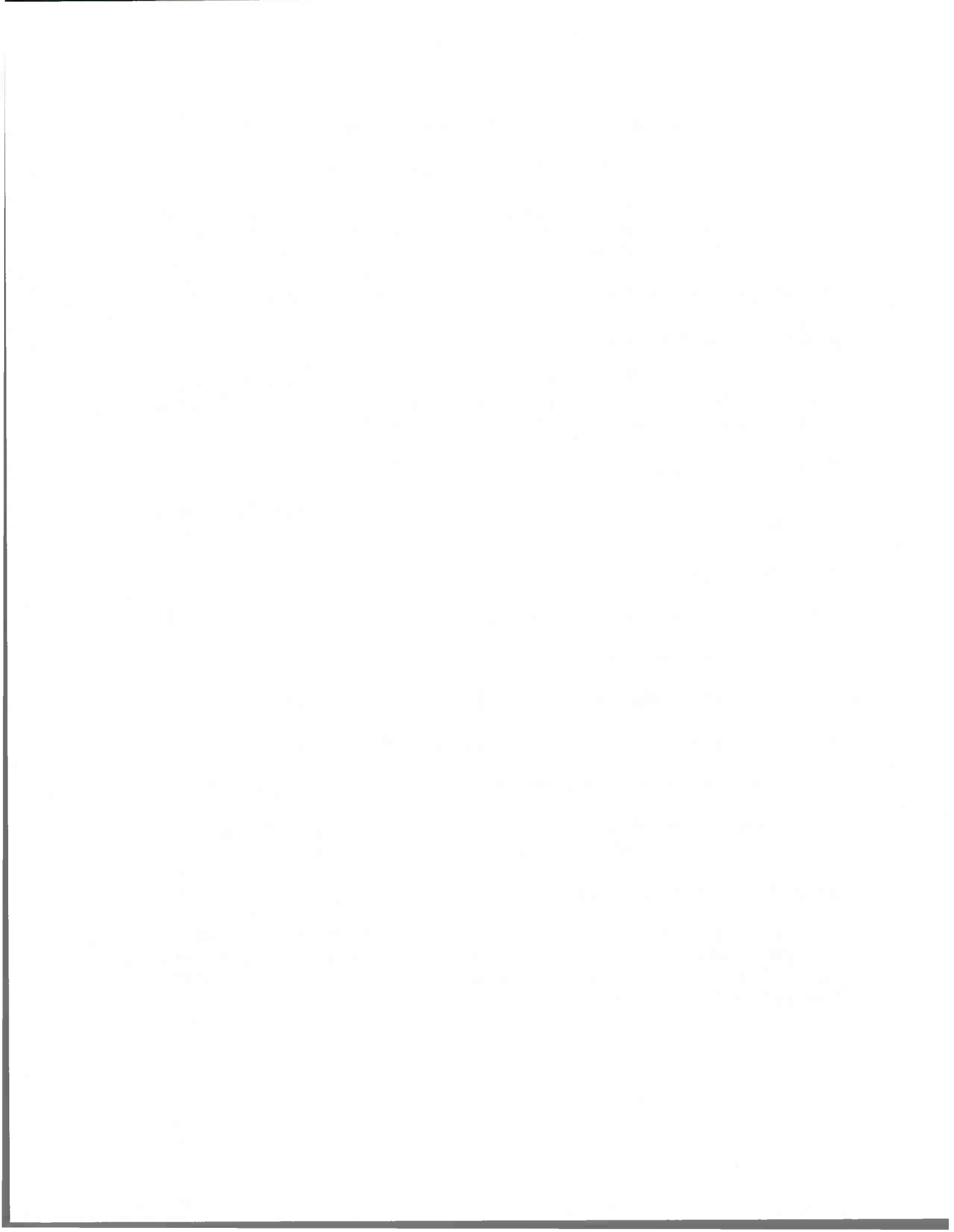
“Town Clerk” means the Town Clerk of the Town of Philipstown.

“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.

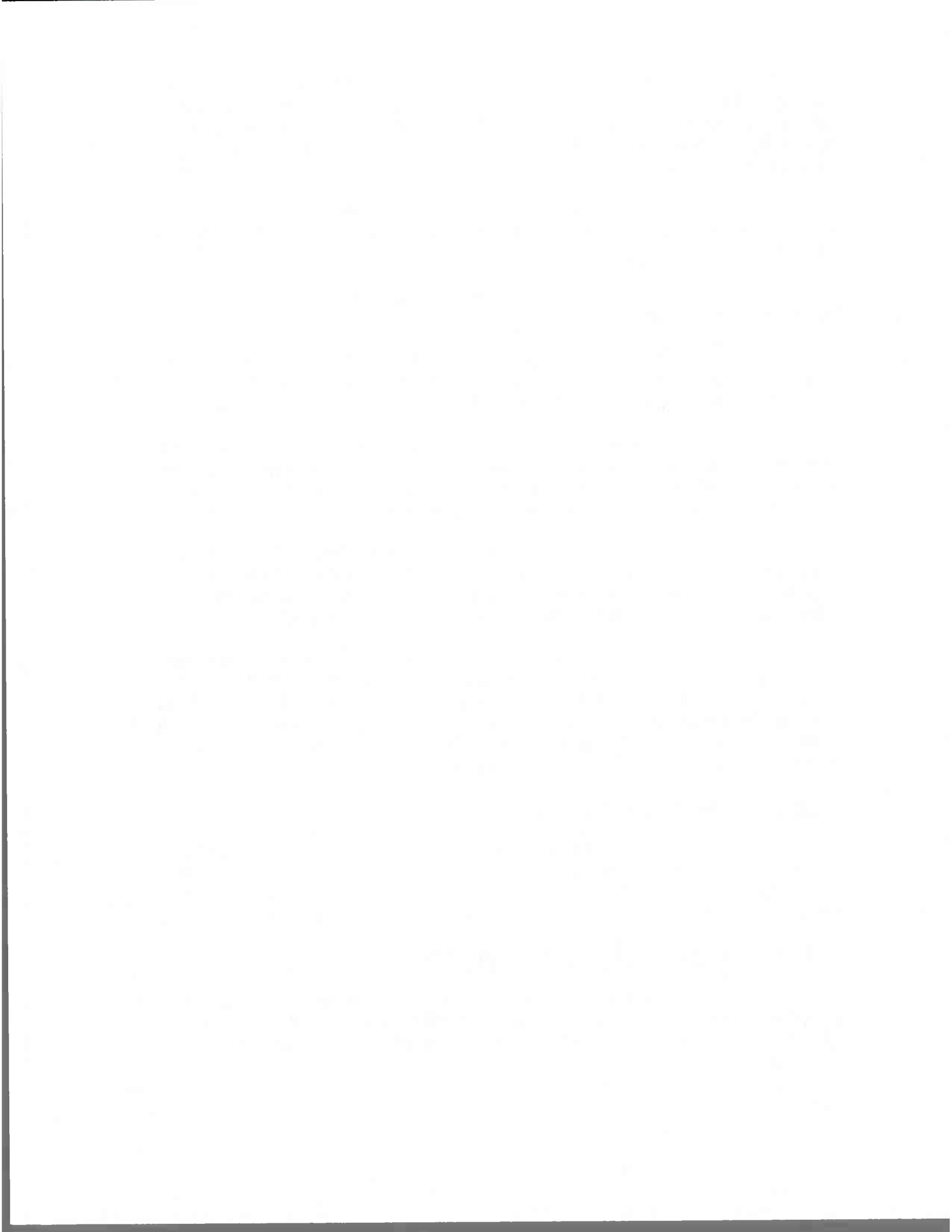
F. The Town Board hereby finds that a moratorium of six (6) months duration, coupled with a hardship waiver procedure and mechanism for persons seeking Land Use Approvals for Vape Shops within the Town, will achieve the balancing of interests between the public need to safeguard the resources and character 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.

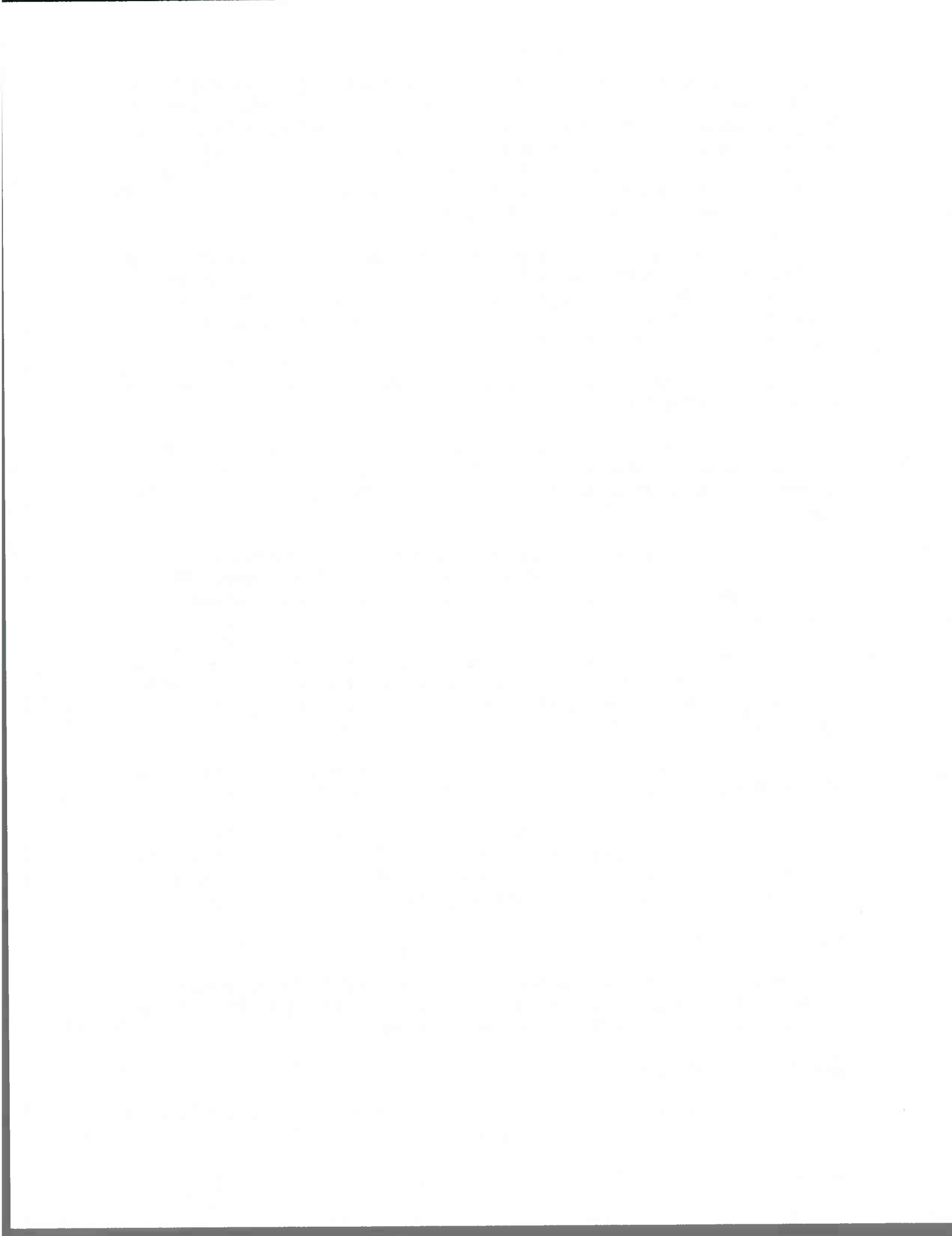
F. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Town Board shall, in its sole discretion, act upon the application for an exception based upon extraordinary hardship. The Town Board may approve, deny or approve in part and deny in part the 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 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. 2 of 2019 of the (County)(City)(Town)(Village) of Philipstown was duly passed by the Town Board on May 2 2019, 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.)**

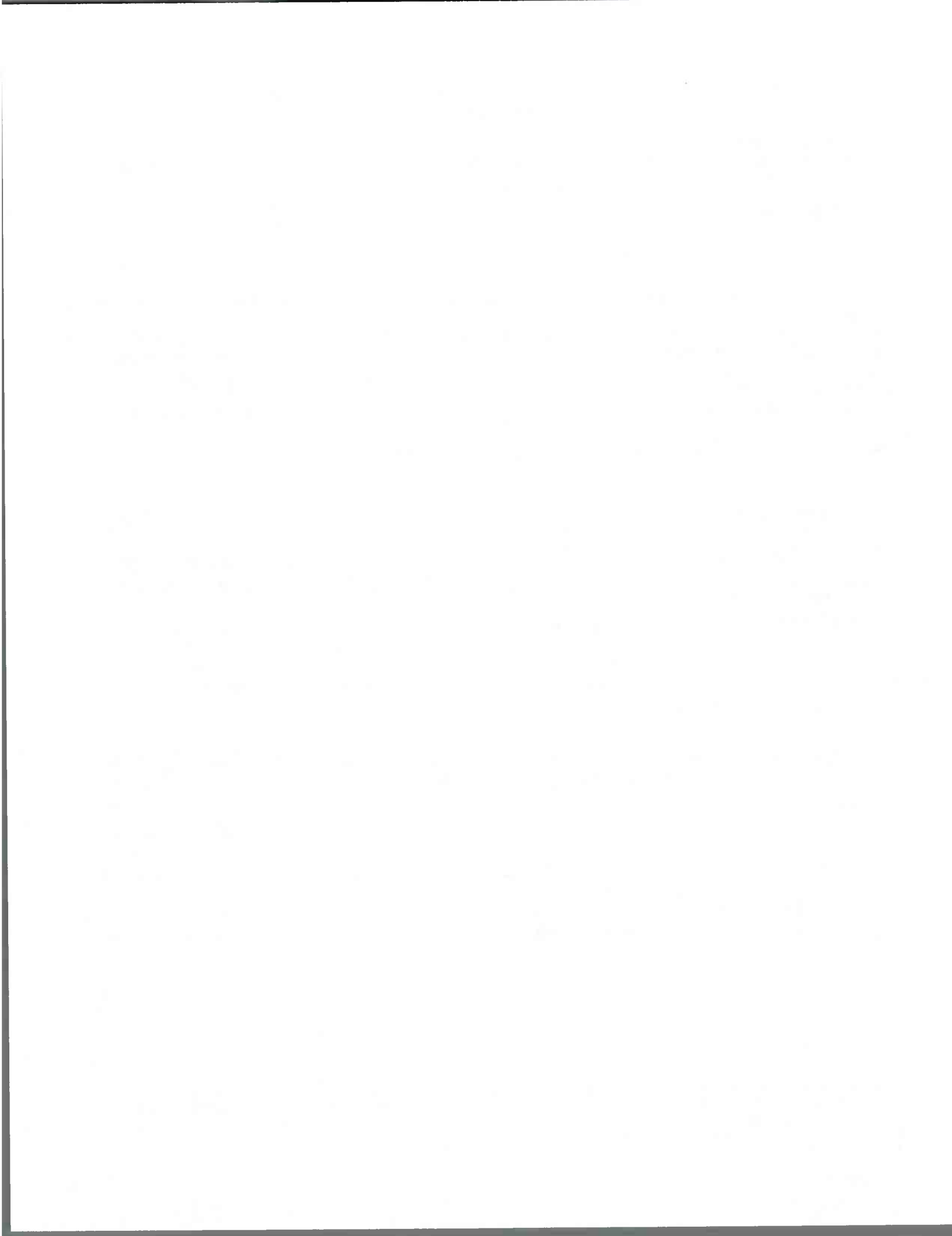
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) 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.

*Meresa Crawley*

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

Date: May 2, 2019

(Seal)

