

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
HTTPS://DOS.NY.GOV

KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

RECEIVED JUN 26 2023

June 22, 2023

DONALD C. ARMSTRONG
POMEROY ARMSTRONG & CASULLO LLP
16 TOMPKINS ST - P.O. BOX 828
CORTLAND NY 13045-0828

RE: TOWN of CUYLER, Local Law 1 2023, filed on 6/13/2023

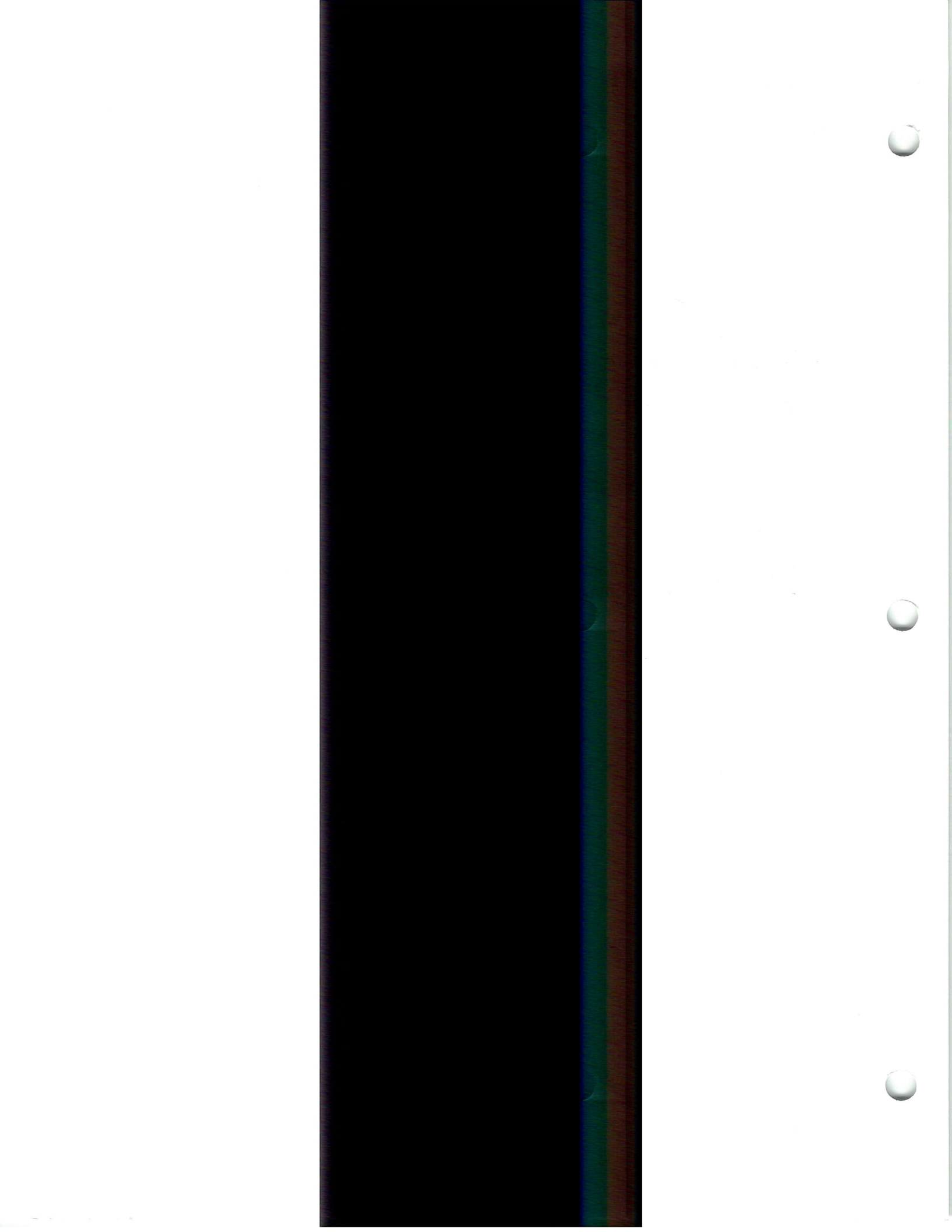
Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**



POMEROY, ARMSTRONG & CASULLO, LLP
Attorneys and Counselors at Law

WILLIAM J. POMEROY
DONALD C. ARMSTRONG
FRANCIS J. CASULLO

16 TOMPKINS STREET
P.O. BOX 828
CORTLAND, NEW YORK 13045-0828

KAREN M. KNAUERHASE,
Legal Assistant

(607) 756-7501
FAX (607) 753-8913
Service by fax not accepted

e-mail: darmstrong@cortlandattorneys.com

May 24, 2023

Wendy Custer, Town Clerk
Town of Cuyler
P.O. Box 363
DeRuyter, NY 13052

Re: Local Law 1 of 2023
Moratorium on Wind Energy Conversion System Installation

Dear Wendy:

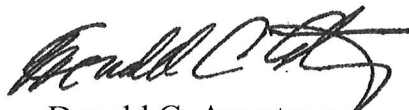
Enclosed are three copies of the Department of State filing form for Local Law 1 of 2023 regarding temporary moratorium of wind energy conversion systems. Rather than you sending this to the Department of State for filing, I would appreciate it if you would sign these, affix the town seal and then return two copies to me in the enclosed self-addressed, stamped envelope so that I can keep an original and send one copy to the Department of State for filing. I will provide you with confirmation of its filing once I receive the same.

Also enclosed is one copy of just the law (not on the filing form) for your signature and to be filed in the town's permanent file. Please call if you have any questions.

Very truly yours,

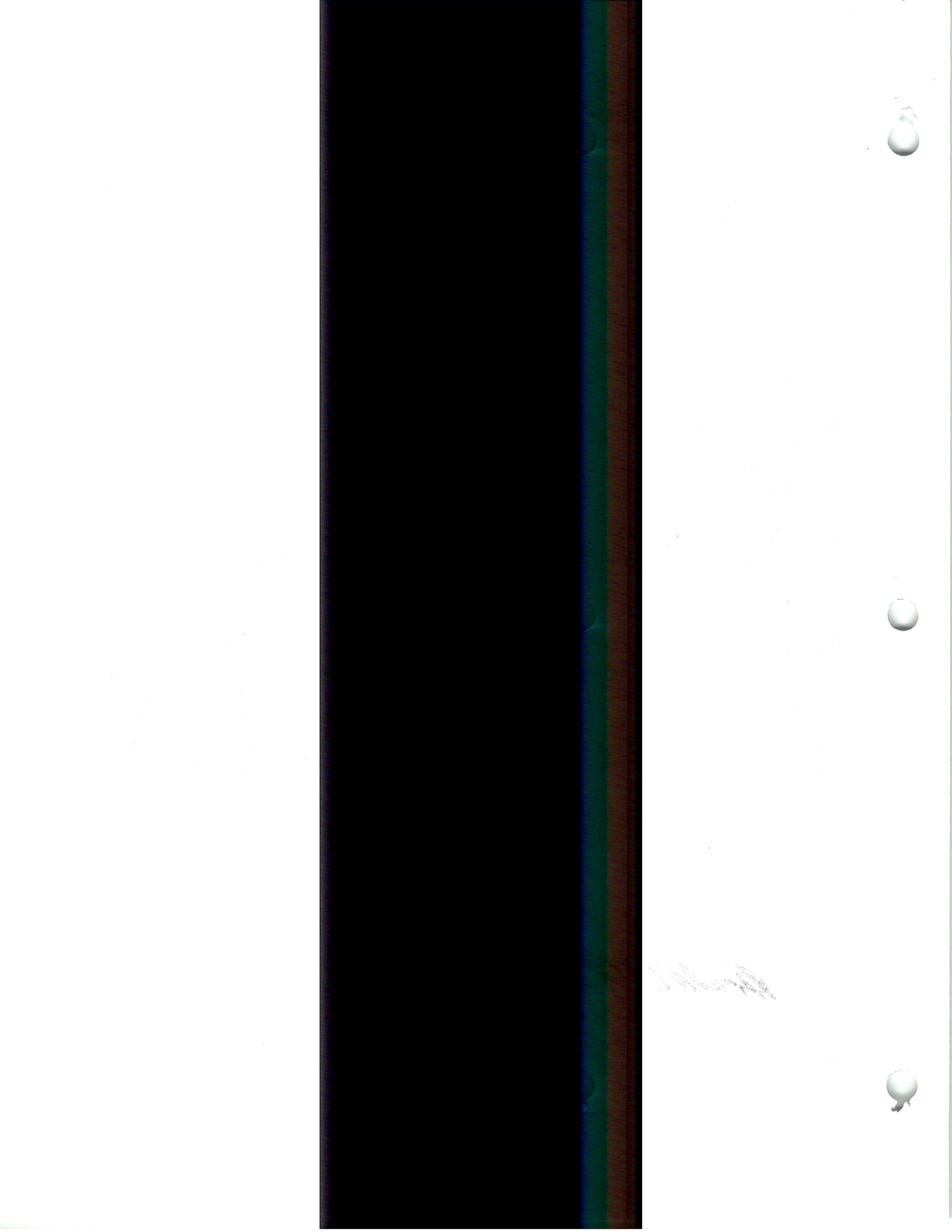
POMEROY, ARMSTRONG & CASULLO, LLP

By:


Donald C. Armstrong

DCA/nk

Enclosures



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 Cuyler

Local Law No. 1 of the year 2023

A local law Establishing A Temporary Town-Wide Moratorium on the Installation of Wind Energy Conversion Systems.
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Cuyler

as follows:

Section-I: This Local Law shall be known and cited as Town of Cuyler Local Law 1 of 2023, Entitled "A Temporary Town-Wide Moratorium on the Installation of Wind Energy Conversion Systems".

Section-II:

A. It is the intention of the Town Board of the Town of Cuyler in enacting this Local Law to temporarily suspend the installation of Wind Energy Conversion Systems, as defined in Section IV herein, by the imposition of a temporary moratorium on the issuance of permits and approvals for such installations for a period of two hundred seventy (270) days from the effective date of this Local Law.

B. The purpose of this temporary moratorium is to enable the Town of Cuyler to temporarily halt the installation of Wind Energy Conversion Systems, for a reasonable period of time to enable the Town to adopt appropriate regulations of Wind Energy Conversion Systems panels which are not currently regulated by the Town of Cuyler.

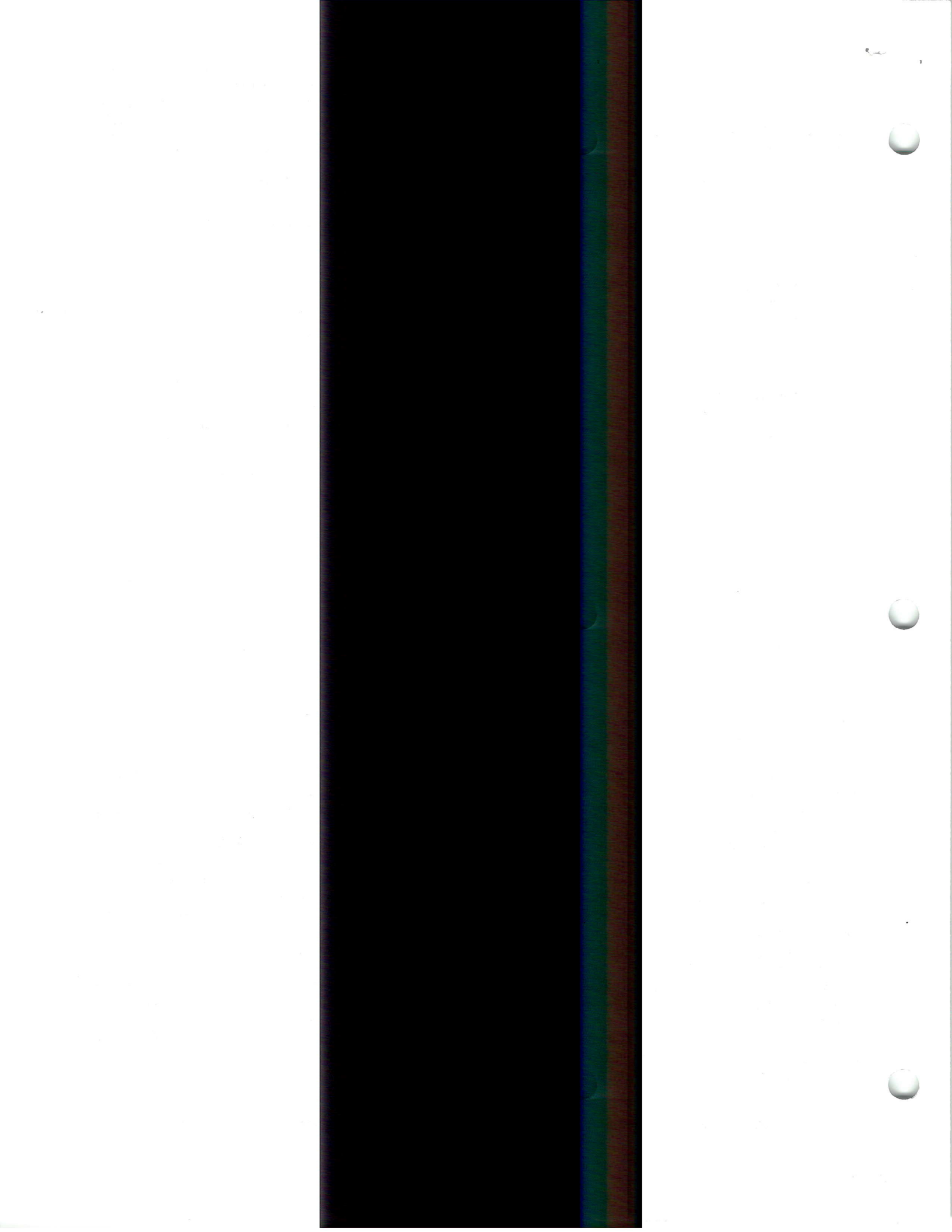
C. In recent years, the installation of Wind Energy Conversion Systems has become widespread due to various tax incentives and leasing options. Wind Energy Conversion Systems are promoted by New York State and the Federal Government as sustainable energy sources that reduce dependence on fossil fuels.

D. Wind Energy Conversion Systems have become, or will become, more and more prevalent but they are not specifically regulated by the Town.

E. The Town of Cuyler recognizes that Wind Energy Conversion Systems have many benefits for the property owner and the community in general but wise regulation regarding the placement of Wind Energy Conversion Systems is required.

F. The installation of Wind Energy Conversion Systems have impacts on neighboring properties. Due to their height and size these systems are highly visible and they can require the clearing of trees and structures for their construction and maintenance as well as roadways for the same.

(If additional space is needed, attach pages the same size as this sheet, and number each.)



G. This temporary moratorium shall apply to all current pending applications and all future applications during the course of this moratorium on Wind Energy Conversion Systems.

Section-III:

A. The Town Board hereby finds that, pending the completion of the necessary studies, meetings, hearings, environmental review and other actions necessary and incident to proper consideration and adoption of a Local Law regulating the installation of Wind Energy Conversion Systems, and any revisions and amendments of the land use regulations of the Town, reasonable measures must be taken to maintain the status quo in order to protect the public interest and ensure that future solar energy system installations will be regulated in a consistent and rational manner.

B. The Town Board finds that it is in the long-term interest of the public and its welfare to prevent the premature and inappropriate installation of Wind Energy Conversion Systems that would cause impacts to properties in the Town of Cuyler.

Section-IV:

A. WIND ENERGY CONVERSION SYSTEM.

A machine that converts the kinetic energy in the wind into a usable form, commonly known as wind turbines or wind mills, and is intended for commercial or residential use.

Section-V:

A. During the effective period of this Local Law, the Town Board or the Code Enforcement Officer shall not permit, accept, process, interpret, deliberate upon, decide or approve any application for the installation of Wind Energy Conversion Systems except as set forth in Section VI below.

B. This moratorium shall apply to all currently pending and future applications for the installation of Wind Energy Conversion Systems.

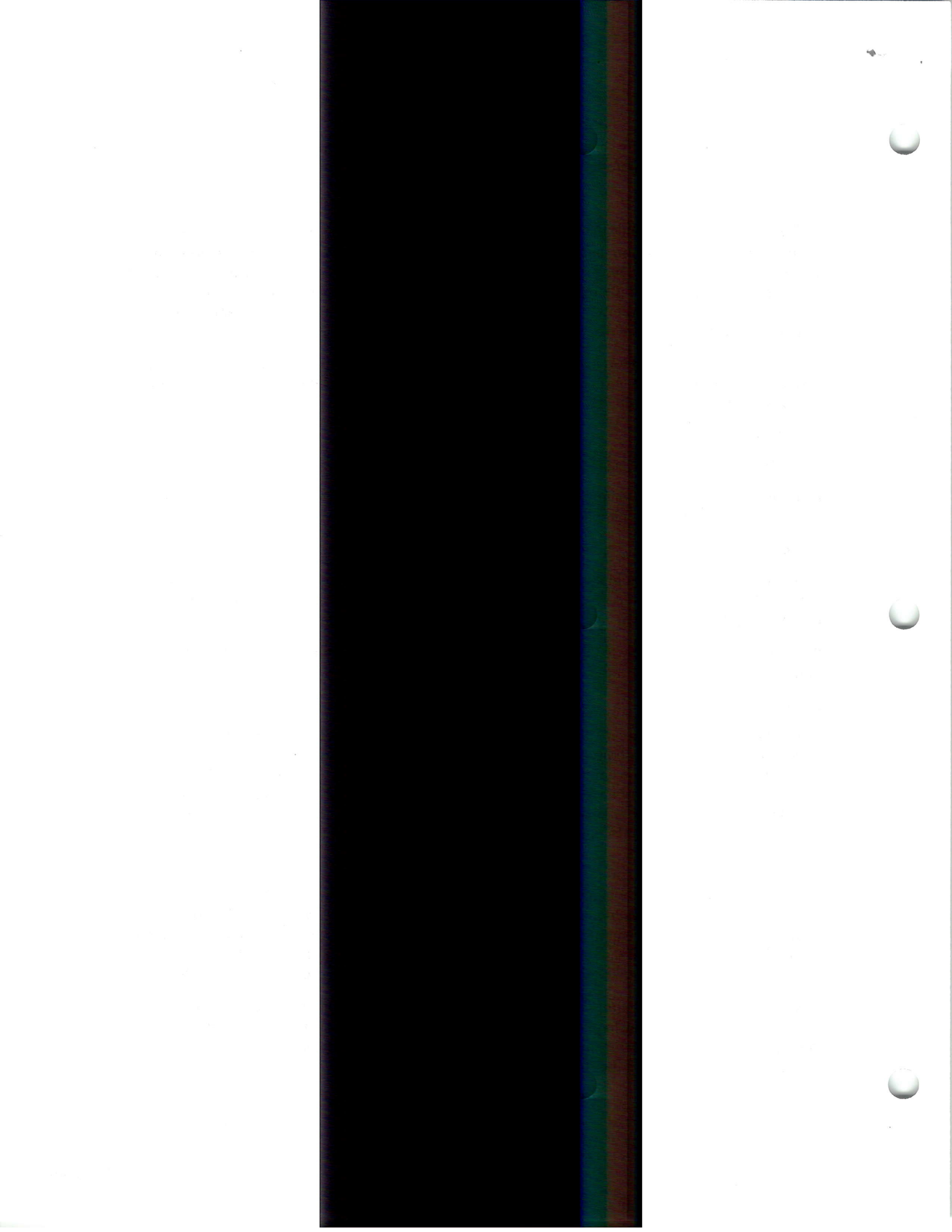
Section-VI:

A. Should any owner of property affected by this Local Law suffer any unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town of Cuyler in writing for a waiver from strict compliance with the Local Law upon submission of proof of such unnecessary hardship. For the purposes of this local law, unnecessary hardship shall not be the mere delay in being permitted to install a Wind Energy Conversion System during the period of the moratorium imposed by this Local Law.

B. Procedure.

1. Upon submission of a written application, along with the appropriate environmental assessment form to the Town Clerk by the property owner seeking a waiver from this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town. Notice of said public hearing by regular mail, shall be provided to abutting property owners at the address shown on the tax rolls.

2. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for variation from the strict requirements of this Local Law.



3. If the Town Board determines that a property owner will suffer an unnecessary hardship, if this Local Law is strictly applied to a particular property, then the Town Board shall waive the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section-VII: Any person, firm, entity or corporation that shall construct, erect, enlarge or alter any building or structure, in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be guilty of a violation and subject to a fine of not less than \$100.00 nor more than \$500.00. Each day that the violation continues shall be a separate offense.

Section-VIII: All local laws, ordinances, or parts of local laws and ordinances, of the Town of Cuyler that are in conflict with the provisions of this Local Law are hereby suspended to the extent necessary to give this Local Law full force and effect during the effective period of the moratorium.

Section IX: This Local Law is hereby adopted pursuant to Municipal Home Rules Law §10(1)(i) and §10(1)(ii)(a)(14) and Statute of Local Governments §10(6) of the State of New York. It is the intention of the Town Board, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3) to supersede any applicable provisions of the New York State Town Law relating to time limits for land use applications.

Section X:

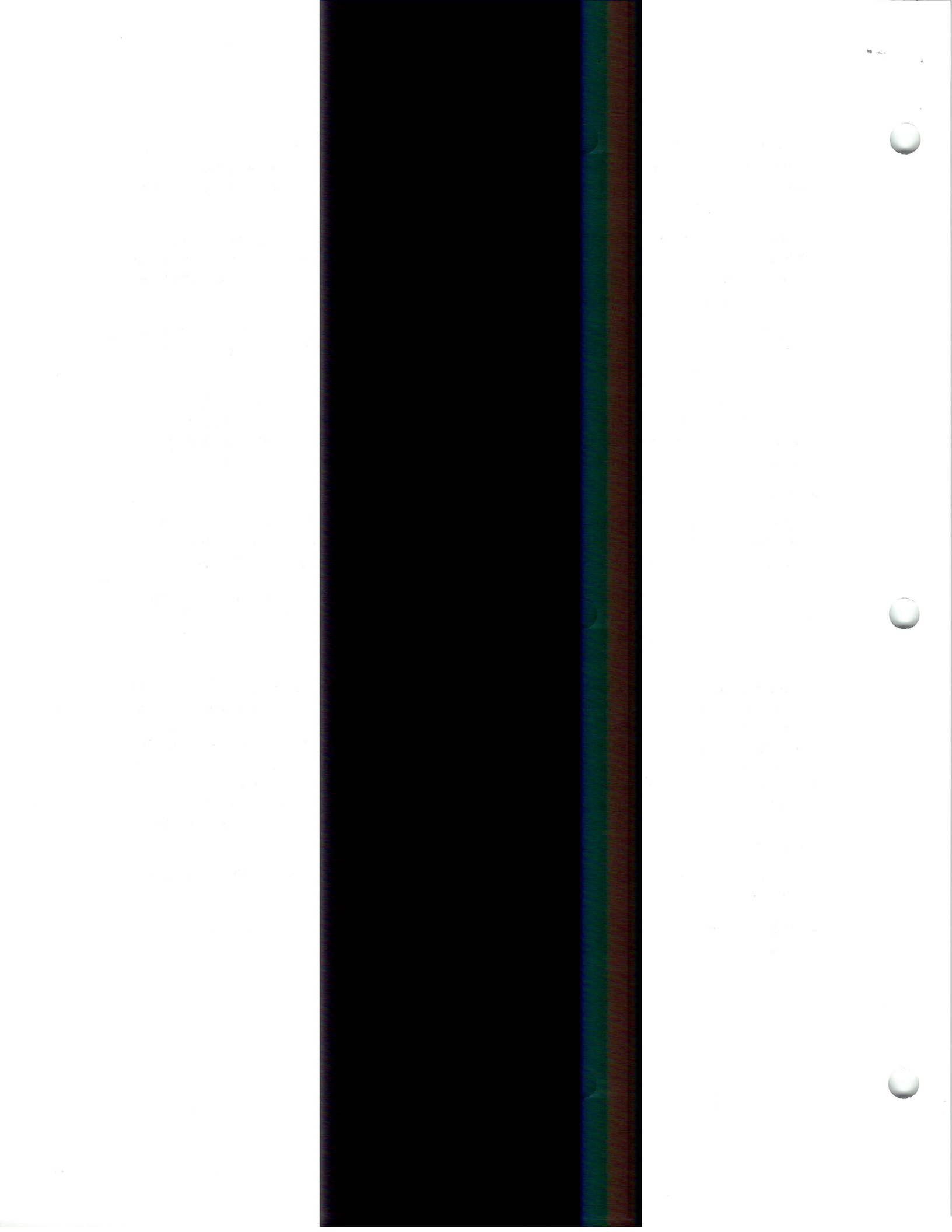
A. If a court of competent jurisdiction finds any provision(s) of this law invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of the law shall continue to be separately and fully effective.

B. If a court of competent jurisdiction finds the application of any provision of this law to any building, other structure or tract of land to be invalid, in whole or in part, the effect of such decisions shall be limited to the person, property or situation involved in the controversy, and the application of any such provision to any other person, property or situation shall not be affected.

C. The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provision, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Cuyler that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

Section XI: This Local Law shall remain in force for a period of two hundred seventy (270) days from its effective date.

Section XII: This Local Law shall take effect upon its adoption and filing with the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.



(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 2023 of the (County)(City)(Town)(Village) of Cuyler was duly passed by the Town Board on May 11 20 23, 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) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 , in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

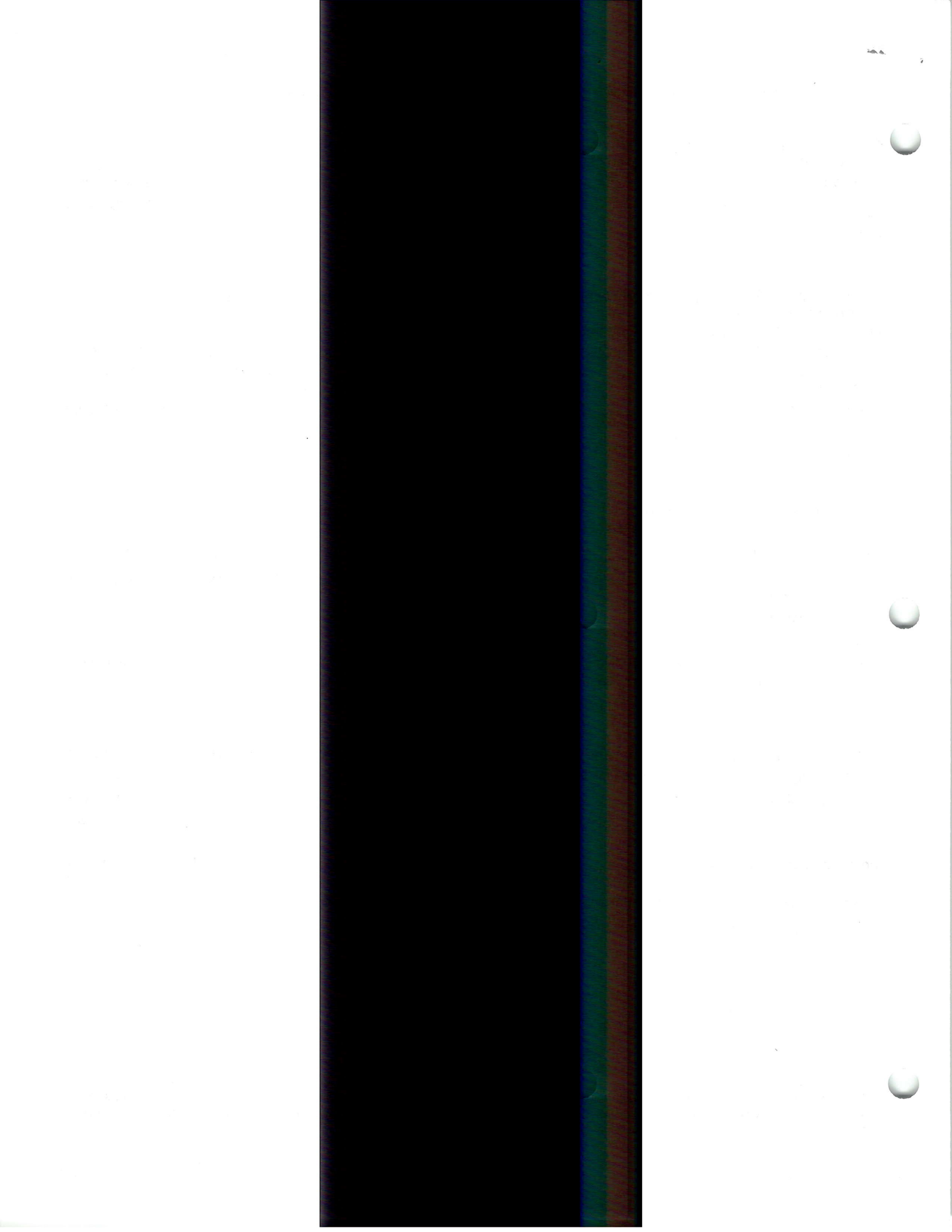
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative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

* 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.

Wendy J. Carter
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 10/13/2023

(Seal)

