Town of Newport Local Law No. 4 of 2026

A Local Law Establishing a Temporary Moratorium on the Development, Construction, and Operation of Data Centers and Commercial Cryptocurrency Mining Operations within the Town of Newport

BE IT ENACTED by the Town Board of the Town of Newport, County of Herkimer, State of New York, as follows:

Section 1. Authority.

A. This local law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Newport under the New York State Constitution and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, § 2 (c); Municipal Home Rule Law §§ 10 and 20 through 27; Statute of Local Governments § 10; New York State Town Law; and the State Environmental Quality Review Act and its implementing regulations.

Section 2. Findings.

A. The Town Board hereby finds that it is in the interest of public health, safety, and welfare to address, in a careful and thorough manner, the activities prohibited by Section 5 of this local law. In order to accomplish this, the Town requires a reasonable period of time to further study the potential impacts and effects on land, the environment, and the public in general caused by such activities, and to consider possible amendments to the Town's laws to address the same.

Section 3. Legislative purpose and intent.

A. The purpose of the local law is to enable the Town of Newport to stay the construction, operation, and establishment of, and the submission and processing of applications for permits, zoning permits, special use permits, zoning variances, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary certificates, and other Town-level land use approvals respecting the activities prohibited by Section 5 of this local law, for a reasonable time, so as to allow the Town time to study the potential impacts, effects, and possible controls over such activities and to consider possible amendments to the Town's laws to address the same.

B. The Town Board finds that a moratorium of one (1) year duration, coupled with an "unnecessary hardship" variance procedure and a provision for the "grandfathering" of legal, pre-existing non-conforming uses, will achieve an appropriate balance of interests between:

    1. the need to safeguard public health, safety and welfare, as well as the character and other resources of the Town of Newport; and

2. the rights of individual property owners.

C. This law is a land use regulation, which is intended to act as and is hereby declared to exercise the permissive "incidental control" of zoning and land use law that is concerned with the broad area of land use planning and the physical uses of land within the Town.

Section 4. Definitions.

A. Unless specifically defined, words or phrases used in this local law shall be interpreted so as to give them meanings they have in common usage, and to give this local law its most reasonable application.

B. As used in this local law, the following terms shall have the meanings indicated:

COMMERCIAL CRYPTOCURRENCY MINING – The commercial process by which cryptocurrency transactions are verified and added to the public ledger, known as the blockchain, and also the means through which new units of cryptocurrencies are released, through the use of Data Centers employing data processing equipment.

CRYPTOCURRENCY – A digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

DATA CENTERS – A facility that is primarily used for the storage, management, processing, and transmission of digital data, including but not limited to non-artificial intelligence workloads and artificial intelligence workloads, and which houses computer or network equipment, systems, servers, appliances, and other associated components related to the digital data storage and processing as a principal land use on a parcel. Equipment and accessories customary to data centers including but not limited to air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure shall also be considered part of a data center. Data centers operating solely for the following purposes shall be exempt from this local law: (1) health and medical services operating pursuant to a municipal certificate of need; (2) educational services for a municipality or a political subdivision; and (3) functions of government for a municipality or political subdivision.

PERSON – Any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

TOWN – The Town of Newport, New York.

TOWN BOARD – The Town Board of the Town of Newport.

Section 5. Moratorium and prohibition.

A. From and after the effective date of this local law, no application for a permit, zoning permit, special use permit, zoning variance (except as contemplated by Section 8 of this local law), building permit, site plan approval, subdivision approval or any other Town-level approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, use, or operation upon any land, body of water, building, or other structure located within the Town for a Data Center or a Commercial Cryptocurrency Mining operation.

B. From and after the effective date of this local law, no Person shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town for a Data Center or a Commercial Cryptocurrency Mining operation.

C. This moratorium and prohibition shall be in effect beginning on the effective date of this local law and shall expire on the earlier of:

    1. that date which is one (1) year after said effective date, or

    2. the effective date of a duly enacted repeal of this local law.

D. This moratorium and prohibition shall apply to all real property within the Town.

E. Under no circumstances shall the failure of the Town Board, the Town Planning Board, the Town Zoning Board of Appeals, or the Town Code Enforcement Officer to take any action upon any application for a permit, zoning permit, special use permit, zoning variance, building permit, site plan approval, subdivision approval, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 6. Penalties.

A. Compliance Orders. The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in violation of this local law. If the condition or activity is not remedied after the issuance of a compliance order, then an appearance ticket may be issued as provided hereinafter.

B. Appearance Tickets. The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this local law. Any person who violates any provision of this local law shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than $250.00 or to imprisonment for not more than 15 days, or both. Each week's continued violation shall constitute a separate, additional violation.

C. Civil Penalty. In addition to those penalties prescribed herein, any person who violates any provision of this local law shall be liable to a civil penalty of not more than $2,500.00 for

each day or part thereof during which such violation continues. The civil penalties provided by this section shall be recoverable in a civil action instituted in the name of the Town.

D. Injunctive Relief. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this local law. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board.

E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation of this local law. Any remedy or penalty specified in this section and/or any other remedy or penalty provided by law, may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section. In addition to the above-provided remedies, the Town Board may also seek reimbursement to the Town for costs incurred by the Town in identifying and remedying each violation, including but not limited to, reasonable attorney's fees.

Section 7. Grandfathering of legal, pre-existing non-conforming use.

A. Notwithstanding any provision hereof to the contrary, any Data Centers or Commercial Cryptocurrency Mining operations in the Town that are lawfully existing as of the effective date of this local law, which are being operated in accordance with all applicable laws and regulations and in compliance with all valid permits required to be issued by the New York State Department of Environmental Conservation ("DEC") and all other federal, state and local regulating agencies, shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of this section.

B. Any expansion of a lawful, pre-existing nonconforming use shall not be grandfathered under this section, and instead shall in all respects be prohibited as contemplated by Section 5 hereof. "Grandfathered" and lawful pre-existing uses neither have nor possess any right to expand such non-conforming use, whether above or below ground, and no such right shall be deemed, construed, or implied to exist.

Section 8. Hardship use variance.

A. The Zoning Board of Appeals is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this local law) requests for a hardship use variance from application of the provisions of this local law by any Person aggrieved hereby.

B. No such use variance shall be granted without a showing by the applicant that applicable regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular zone(s) where the property is located:

1. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the zone(s) or neighborhood;

3. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

4. that the alleged hardship has not been self-created.

C. In the event a hardship use variance from the provisions of this local law is granted to the applicant, the applicant shall be required to comply with all provisions of the Town's then applicable land use laws and other laws and regulations. The Zoning Board of Appeals, in the granting of a hardship use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

Section 9. Severability.

A. If any word, phrase, sentence, part, section, subsection, or other portion of this local law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this local law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this local law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board of the Town of Newport hereby declares that it would have enacted this local law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

Section 10. General provisions.

A. The Code Enforcement Officer is hereby designated as the enforcement officer for purposes of interpreting and enforcing this local law.

B. The section and other headings and titles to clauses and phrases in this local law are for convenience only, and shall not be used or construed to limit or define the scope or application of the clauses and phrases so following such headings or titles. Each section of this local law, whether in the nature of a preamble or otherwise, is a material part of this local law.

C. The Town Board may, by resolution adopted at a duly noticed public meeting, extend this moratorium period for one or more additional periods not to 6 months each, upon a finding that the studies and review activities described in Section 4 have not been completed and that extension is necessary to protect the public health, safety, and welfare of the residents of the Town.

Section 11. Effective date.

A. This local law shall take effect immediately upon its filing with the Secretary of State of New York.