

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.

Town of Thompson

Local Law No. 09 of the year 2021

A local law to amend a portion of Chapter 206 entitled "Solid Waste", by replacing Article I Collection and Disposal, Section 206-8 Dumpsters of Chapter 206 of the Town of Thompson Code relating to Dumpsters and Enclosures

Be it enacted by the Town Board of the Town of Thompson

1. Chapter 206, Article 1 Collection and Disposal, Section 206-8 is hereby replaced as follows:

§ 206-8 Dumpsters and Enclosures.

Anything herein to the contrary notwithstanding, dumpsters and enclosures may be used in the Town of Thompson pursuant to the guidelines set out herein.

§ 206-8.1 Requirements; permit application and procedures.

Dumpsters or large garbage or refuse containers for use on private land shall be inconspicuous and obscured from public view on all four sides and shall be kept in a clean and neat condition, and the surrounding area must be free of litter. All dumpsters must be designed and sized to accommodate any and all waste types produced by the user(s), including and not limited to recycling, cardboard and grease.

A. Enclosures

- (1) Dumpster enclosures are required for all dumpsters Town wide.
- (2) Enclosures shall not be permitted in the front yard setback. Consideration shall then be given to side yards.
- (3) Placement of enclosures shall be planned and constructed in a manner that allows unobstructed access to each dumpster and the opening of gates for pickup and disposal.
- (4) Enclosures shall not be located as to have any service vehicle block any street intersection, driveway entrance or fire access lane.
- (5) Enclosures adjacent to residentially zoned properties shall be placed as far as possible from the residential property line.
- (6) Enclosures with swing gates shall be set back from the property line a distance equal to the width of the gate.

- (7) All enclosures shall have service access gates. Gates cannot swing over the property line or into the public-right-of-way when open. Where possible, gate access to the enclosure should be located out of direct view from parking areas and principal building entrances, and shall be maintained in a closed position other than times of refuse pickup or delivery.
 - (8) For serving multiple commercial or residential tenants, a separate thirty-six-inch access gate shall be constructed for use by the tenants.
 - (9) Enclosures shall have a visible sign with the contact information of the Owner or property maintenance company or leasee.
- B. A building permit shall be required and approved prior to the construction of any enclosure.
 - (1) A copy of the property survey or approved site plan showing, including but not limited to the proposed dumpster enclosure, location, setback from the property lines, location of gate openings (including swing), dimensions, material, height and landscaping shall be submitted to the Building Department along with the building permit application.
 - (2) Building permit fees will be based upon the cost of construction.
- C. The approval authority, with respect to applications hereunder, shall be as follows:
 - (1) The Planning Board shall be the approval authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws and ordinances of the Town of Thompson, including any application which also requires the issuance of any permit or approval by the Zoning Board.
 - (2) The Code Enforcement Officer or deputy/designee in absence shall be the approval authority with respect to all other regulated activities, and no public hearing shall be required.

§ 206-8.2 Construction standards.

Property owners shall maintain enclosures in good repair and in a safe and structurally sound condition. Property owners must maintain the effectiveness of vegetation screens by properly caring for and replacing, as necessary, the plantings that serve as screening devices.

- A. Enclosures can be constructed of wood lumber, composite lumber, masonry, concrete or a suitable sturdy material conditioned to withstand the weather.
- B. Landscape screening shall be considered when space permits.

- C. Enclosure height shall be 12 inches greater than the highest part of the dumpster.
- D. Enclosures and approach aprons must be constructed on a surface capable of withstanding vehicular loading and surfaces must allow access for placement and removal of containers.
- E. Service access gates must:
 - (1) Be constructed with a sturdy metal frame and hinges.
 - (2) Contain hinge assemblies that withstand the weight and movement of the gates as to not sag.
 - (3) Be opaque, non-see-through material.
 - (4) Have gate stops and latches that are functional in the full open and close position.
 - (5) To protect gates, bollards may be required. Bollards shall not interfere with access to the dumpster.

§206-8.3 Hardship and exemptions.

- A. Hardship and reasonable modifications shall be considered for properties with previous approved site plans, the Planning Board may administratively vary the requirements based on the recommendations of the Code Enforcement Officer. For all other applications the Zoning Board, after a public hearing in accordance with the Town Code, may grant an exemption or modify the requirements with conditions.
- B. Enclosures may not be required for dumpsters that are stored on private property that is screened by fencing and is not visible off site.

§206-8.4 Implementation.

- A. All new commercial and multifamily property dumpsters and enclosures shall be in compliance with this code. Any existing dumpsters and enclosures that fall in disrepair and require replacement shall comply with these regulations.

§206.8.5 Penalties for offenses.

- A. Any person who violates any provision of this chapter shall be guilty of a violation pursuant to the Penal Law, punishable by a fine of not more than \$500. For a second and each subsequent offense, the violator shall be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or a term of imprisonment up to 30 days, or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

- B. In lieu of the criminal penalties above, any person who violates, disobeys or disregards any provision of this chapter shall also be liable to the people of the Town of Thompson for a civil penalty not to exceed \$3,000 for each offense and violation thereafter. Each week's continuation of a condition violating this chapter shall be deemed a separate violation.
 - C. In addition to the above civil and criminal penalties, the Town Board or the Code Enforcement, with the advice and consent of the Town Attorney, shall have the right to seek equitable relief to restrain and/or remedy any violation of any provisions of this chapter.
- 2. Except as herein specifically amended, the remainder of Chapter 194 of such code shall remain in full force and effect.
 - 3. If any clause, sentence, paragraph, subdivision, section or part thereof this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment, decree or order shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment, decree or order shall have been rendered and the remainder of this local law shall not be affected thereby and shall remain in full force and effect.
 - 4. Except as herein otherwise provided penalties for the violation of this local law, any person committing an offense against any provision of the chapter of the Code of the Town of Thompson shall, upon conviction thereof, be punishable as provided in Chapter 1, General Provisions, Article II, of such Code.
 - 5. This local law shall take effect immediately.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out the matter therein 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. ____ of 2021 of the Town of Thompson was duly passed by the Town Board on _____, 2021 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by 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/Town/Village of _____ was duly passed by the _____ on _____ 20__ and was (approved) (not approved) (repassed after disapproval) by the _____ on _____ 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/Town/Village of _____ was duly passed by the _____ on _____ 20__ and was (approved) (not approved) (repassed after disapproval) by the _____ on _____. 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 filed requesting referendum)

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

~~Clerk of the county legislative body, city, Town,~~
~~village clerk or officer designated by local legislative~~
~~body~~

Date: _____, 2021

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality)

STATE OF NEW YORK
COUNTY OF SULLIVAN

I, the undersigned, do hereby certify that the foregoing local law contains the correct text and that all proper proceeding have been had or taken for the enactment of the local law annexed hereto.

Date: _____, 2021

Attorney for Town of Thompson