

reposed
Town of Thompson

Local Law No. 04 of the year 2026

A local law entitled: A local law imposing a Temporary Moratorium on Local Land Use approvals for so-called “Package Plant” and Decentralized Water and Wastewater Infrastructure Facilities within the Town of Thompson, pending development of Comprehensive Land Use Regulations.

Be it enacted by the Town Board of the Town of Thompson as follows:

SECTION 1. TITLE This Local Law shall be known and may be cited as the “Town of Thompson Package Plant and Decentralized Infrastructure Land Use Moratorium Law of 2026.”

SECTION 2. AUTHORITY This Local Law is enacted pursuant to the authority granted to the Town of Thompson by:

- (a) Article IX of the New York State Constitution;
- (b) The Municipal Home Rule Law of the State of New York, including Sections 10 and 22 thereof;
- (c) The Statute of Local Governments of the State of New York;
- (d) Town Law of the State of New York, including Sections 261 through 265 (Zoning Authority); and
- (e) The State Environmental Quality Review Act (SEQRA), Environmental Conservation Law, Article 8, and its implementing regulations at 6 NYCRR Part 617.

SECTION 3. FINDINGS AND PURPOSE

The Town Board of the Town of Thompson hereby finds and declares as follows:

(a) Nature of Package Plant and Decentralized Infrastructure. So-called “package plants” – more broadly referred to as “decentralized infrastructure” – are pre-manufactured, modular, compact water supply or wastewater treatment systems assembled in a factory and transported to a site. They are commonly proposed for use in small communities, residential subdivisions, and rural areas. Such systems are privately owned and operated, located near the point of demand for water or the point of generation of wastewater, and serve multiple customers through a defined service area. Examples include package wastewater treatment plants, modular sewerage treatment facilities, private community water supply systems, and associated collection, distribution, and treatment infrastructure.

(b) Scope of this Moratorium. The Town Board recognizes that decentralized infrastructure is subject to the regulatory jurisdiction of multiple state and federal agencies, including New York State Department of Environmental Conservation (NYSDEC), the New York State Department of Health (NYSDOH), the New York State Public Service Commission (PSC), and, in applicable areas, the Delaware River Basin Commission (DRBC), and that these

agencies exercise authority over the permitting, design, construction and operation of such systems. This Local Law does not purport to ban, prohibit, or supersede such state or federal regulatory authority. Rather, this Local Law is directed solely at the Town's own local land use and zoning approval processes, which are squarely within the Town's jurisdiction and which present an independent layer of review distinct from state and federal permitting.

(c) Local Law Use Authority. The New York State training materials on so-called package plants presented to Sullivan County municipalities in January 2026 by Delaware Engineering, D.P.C. confirm that, while municipalities cannot ban decentralized infrastructure as a matter of utility regulation, municipalities CAN and SHOULD treat these systems as land uses within their zoning codes, require special use permits, impose dimensional and performance standards, require creation of special utility districts to facilitate future public ownership, and use the authority of the Transportation Corporations Law (TCL) and local law to protect against abandonment and disinvestment. The moratorium imposed by this Local Law is designed to create the time and space for the Town to implement precisely such a regulatory framework.

(d) Identified Problems. The Town Board finds that decentralized infrastructure, when not properly regulated as a land use, creates significant potential risks, including: (i) inadequate treatment quality that may not meet regulatory requirements in practice; (ii) improper maintenance, operational failures, and flow variability sensitivity; (iii) limited capacity and inflexibility in the face of variable demands; (iv) poor siting relative to residences, waterbodies, wetlands, floodplains, and community character; (v) noise, odor, and visual impacts on neighboring properties; (vi) disinvestment and abandonment by private owners, which can leave the Town and its residents responsible for failing systems; and (vii) inadequately constructed or installed facilities that may degrade groundwater and surface water quality.

(e) Absence of Adequate Local Regulations. The Town of Thompson's current zoning regulations do not adequately address community water supply systems, package wastewater treatment plans, or other decentralized infrastructure as distinct land uses. The Town has not adopted: (i) a use classification for such facilities; (ii) dimensional standards (setbacks from property lines, waterbodies, wetlands, floodplains, and residences; (iii) performance standards (noise, odor, treatment quality, operations plans); (iv) requirements for creation of water or sewer districts to overlay service areas; (v) bonding and financial security requirements to protect against abandonment; (vi) decommissioning and restoration requirements. The absence of such regulations exposes the Town and its residents to significant risk.

(f) Growth Pressure. Sullivan County, including the Town of Thompson, has experienced and continues to experience pressure from residential subdivision and development proposals. Such proposals, particularly in areas without access to municipal water or sewer service, may propose the use of decentralized infrastructure to serve multiple lots or structures. Without adequate local land use regulations, the Town lacks the tools to ensure that such infrastructure is sited, designed, constructed, operated, and financially secured in a manner that is protective of public health, community character, and the environment.

(g) Consultation with Experts. The Town Board notes that Sullivan County and its municipalities have engaged in educational efforts regarding decentralized infrastructure, including the Sullivan County training session of January 27, 2026, and recognizes the expertise and recommendations of Delaware Engineering, D.P.C. and other professionals that local regulations should: treat package plants as land uses; require special permits; impose siting, dimensional, and performance standards; require special district overlays; use the TCL; and always consider private infrastructure as future public infrastructure.

(h) Purpose. The purpose of this Local Law is to protect the public health, safety and welfare of the residents of the Town of Thompson by imposing a temporary Moratorium on the acceptance, processing, and approval of local land use applications for new package plant and decentralized water or wastewater infrastructure facilities, while the Town develops, reviews, and adopts comprehensive land use regulations addressing such facilities as land uses, including appropriate special use permit requirements, dimensional and performance standards, and financial security provisions.

SECTION 4. DEFINITIONS

As used in this Local Law, the following terms shall have the following meanings set forth below:

(a) “Package Plant” or Decentralized Infrastructure” means any privately owned, pre-manufactured, modular, or otherwise privately constructed and operated water supply system or wastewater collection, treatment, or disposal system – other than an individual on-site septic system serving a single residential or commercial structure – that is designed, intended, or used to serve more than one lot, structure, unit, or customer through a defined or anticipated service area. The term includes, without limitations:

(i) Package wastewater treatment plants, modular sewage treatment facilities, and any associated collection systems, pump stations, force mains, gravity sewers, or lateral connections serving more than one structure or lot;

(ii) Private community water supply systems, water-works facilities, and any associated distribution mains, storage tanks, booster pumps, treatment facilities, and service connections serving more than one structure or lot;

(iii) Sewage-works corporations formed under Article 10 of the Transportation Corporations Law and water-works corporations formed under Article 4 of the Transportation Corporations Law; and

(iv) Any other decentralized or distributed water supply or wastewater infrastructure serving multiple customers, regardless of ownership structure.

(b) The term “Package Plant” or “Decentralized Infrastructure does NOT include:

(i) An individual on-site septic system serving a single residential or commercial structure on a single lot, where such system does not serve any other lot, structure, or customer;

(ii) A publicly owned and operated water supply or wastewater system owned and operated by the Town of Thompson, a Town special district, Sullivan County, or another governmental entity;

(iii) The repair, routine maintenance, or like-for-like replacement of a lawfully existing Package Plan or Decentralized Infrastructure facility, provided such repair or replacement does not expand capacity, extend the service area, or add new connections; or

(iv) Facilities that are exempt from this Local Law pursuant to Section 6 hereof.

(c) "Local Land Use Approval" means any zoning amendment, rezoning, variance, special use permit, site plan approval, subdivision approval, building permit, certificate of occupancy, or any other municipal permit, license, authorization, or approval required under the Town Code, the Town's Zoning Law, or any applicable local law, including not limited to any consent required under Article 4 or Article 10 of the Transportation Corporations Law by action of the Town Board.

(d) "Moratorium Period" means the period during which this Local Law is in effect, as set forth in Section 7 hereof.

(e) "Pending Application" has the meaning set forth in Section 6 hereof.

SECTION 5. MORATORIUM ON LOCAL LAW USE APPROVALS

(a) Moratorium Imposed. During the Moratorium Period, no Town officer, board, agency, department, or employee shall:

(i) Accept, process, refer, or act upon any new application for a Local Land Use Approval for the siting, construction, installation, establishment, or expansion of any Package Plant or Decentralized Infrastructure facility within the Town of Thompson;

(ii) Issue any building permit or certificate of occupancy for any building or structure associated with a new Package Plant or Decentralized Infrastructure facility;

(iii) Approve any site plan, subdivision, or special use permit that contemplates the use of a Package Plant or Decentralized Infrastructure facility to serve proposed lots, structures, or units, where such facility has not already received all required Local Land Use Approvals prior to the effective date of this Local Law;

(iv) Grant consent under Article 4 or Article 10 of the Transportation Corporations Law to the formation of a new water-works corporation or sewage-works corporation within the Town; or

(v) Approve any application to amend the Town's Zoning Map or Zoning Law to permit or accommodate new Packet Plant or Decentralized Infrastructure uses not currently permitted, where such amendment is sought to facilitate a specific pending project.

(b) Scope. The moratorium imposed by this Section applies only to the Town's Local Land Use approval process. Nothing in this Local Law shall be construed to affect, delay, or modify any proceedings before the NYSDEC, NYSDOH, the PSC, the DRBC, or any other state or federal regulatory agency with jurisdiction over the permitting, design, construction, or operation of water supply or wastewater systems. An applicant may continue to pursue state and

federal permits during the Moratorium Period; however, the Town shall not issue any Local Law Use Approval during the Moratorium Period except as provided in Section 6 hereof.

SECTION 6. EXEMPTION FOR PENDING APPLICATIONS

(a) Exemption. Notwithstanding the moratorium imposed by Section 5, any application for a Local Land Use Approval that was duly filed and accepted by the applicable Town Board, officer, or department prior to the effective date of this Local Law, and that proposes to use a Package Plant or Decentralized Infrastructure facility to serve the subject project, shall be exempt from the moratorium and may continue to be processed, reviewed, and acted upon in the ordinary course.

(b) Definition of Pending Application. For purposes of this Section, a "Pending Application" means an application that: (i) was submitted in writing to the Town Clerk, the Planning Board, the Zoning Board of Appeals, the Code Enforcement Officer, or any other Town Board or official prior to the effective date of Local Law; (ii) was accepted by the Town as a complete submission, or was acknowledged in writing as received and under review, prior to the effective date of this Local Law. An application that was submitted but not yet accepted as complete as of the effective date, or that was submitted in anticipation of this moratorium without prior substantive review, shall not qualify as a Pending Application.

(c) No Acceleration. The exemption provided by this Section does not accelerate, limit, or modify the substantive review process applicable to any Pending Application. Pending Applications shall continue to be subject to all applicable provisions of the Town Code, the Zoning Law, SEQRA, and any other applicable law or regulation, including any requirements that may be adopted by the Town during the Moratorium Period as conditions of approval.

(d) Register of Pending Applications. Within thirty (30) days of the effective date of this Local Law, the Town Clerk, in consultation with the Planning Board Chair, the Zoning Board of Appeals Chair, and the Code Enforcement Officer, shall complete and maintain a register of all Pending Applications as of the effective date. The register shall be available for public inspection at the Town Clerk's Office. Inclusion in or omission from the register shall not be dispositive of whether an application qualifies as a Pending Application; such determination shall be made by the Town Attorney in the event of a dispute.

(e) Conditions of Pending Applications. The Town Board reserves the right to impose, as a condition of any Local Land Use Approval granted for a Pending Application during or after the Moratorium Period, such requirements as the Town determines are necessary to protect the public health, safety, and welfare, including but not limited to: (i) performance bonds and financial security; (ii) creation of a special water or sewer district overlaying the service area; (iii) operations and maintenance plans; (iv) decommissioning plans; (v) monitoring and reporting requirements; and (vi) an irrevocable offer of cession to the Town or applicable district.

SECTION 7. DURATION AND TERMINATION

(a) **Effective Date.** This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York in accordance with Municipal Home Rule Law Section 27.

(b) **Duration.** This Local Law shall remain in effect for a period of twelve (12) months from its effective date, unless sooner terminated or extended by Resolution or local law of the Town Board adopted at a duly noticed public meeting.

(c) **Extension.** The Town Board may, by Resolution adopted at a duly noticed public meeting, extend the Moratorium Period for one or more additional periods not to exceed six (6) months each, upon a finding that additional time is necessary to complete the zoning review described in Section 8 hereof; provided, however, that the total Moratorium Period, including any extensions, shall not exceed twenty-four (24) months from the initial effective date without re-enactment.

(d) **Early Termination.** The Town Board may, by Resolution, terminate this Moratorium prior to the expiration of the Moratorium Period upon a finding that the Town has completed the review described in Section 8 and has adopted comprehensive land use regulations for Package Plant and Decentralized Infrastructure facilities.

SECTION 8. TOWN REVIEW OBLIGATIONS During the Moratorium Period During the Moratorium Period, the Town Board, in consultation with the Planning Board, the Town Attorney, and such engineering, planning, legal, and environmental consultants as the Town Board may retain, shall undertake a comprehensive land use review that shall include, without limitation:

(a) **Classification as a Land Use.** Develop and adopt definitions and use classifications for Package Plant and Decentralized Infrastructure facilities as land uses in the Town's Zoning Law, including: (i) classification as a special use permit (Type II) requiring Planning Board approval; (ii) separate use classifications for wastewater treatment facilities and water supply systems; and (iii) applicability across all Zoning districts, with specific provisions regarding where such uses may or may not be permitted.

(b) **Dimensional and Siting Standards.** Develop site-specific dimensional and siting requirements, including minimum setbacks from: (i) property lines; (ii) residences and occupied structures; (iii) watercourses, streams, rivers, lakes and ponds; (iv) wetlands and their buffers; (v) floodplains; (vi) private wells and groundwater supply area; and (vii) public roads and rights-of-way.

(c) **Performance Standards.** Develop performance standards addressing: (i) noise and vibration; (ii) odor control and enclosure of offensive components; (iii) visual screening and landscaping; (iv) stormwater management; (v) groundwater and surface water quality protection; (vi) treatment quality monitoring and reporting; and (vii) operations plans for normal, seasonal, high-flow, and low-flow conditions.

(d) Financial Security and Abandonment Protection. Develop requirements designed to protect the Town and its residents against disinvestment and abandonment, including: (i) performance bonds for construction completion; (ii) operations and maintenance escrow or guarantee for a minimum of five (5) years; (iii) escrow of corporate stock and/or an irrevocable offer of cession of the facility to the Town or applicable special district; (iv) decommissioning security; and (v) requirements consistent with the mandatory provisions of Article 10 of the Transportation Corporations Law for sewage-works corporations and equivalent locally-imposed requirements for water-works corporations.

(e) Special District Overlay. Evaluate and develop requirements for applicants proposing Package Plant or Decentralized Infrastructure facilities to establish, or petition the Town to establish, a water or sewer district under Town Law Article 12 or 12-A, overlaying the proposed service area, so as to facilitate future public ownership and cost recovery in the event of abandonment or failure.

(f) Transportation Corporations Law Compliance. Review the mandatory requirements of Transportation Corporations Law Article 10 applicable to sewage-works corporations and develop: (i) a checklist and application requirements to ensure all such requirements are satisfied; (ii) a local law extending equivalent requirements to water-works corporations, as the existing law's mandatory protections apply only to sewage-works; and (iii) a standard form of irrevocable offer of cession.

(g) Comprehensive Plan Review. Review the Town's Comprehensive Plan to determine whether it addresses, or should be amended to address the siting and regulation of Package Plant and Decentralized Infrastructure facilities.

(h) Public Engagement. Conduct at least one public hearing or workshop to receive comment from residents, property owners, developers, engineers, and other interested parties regarding the appropriate regulation of Package Plant and Decentralized Infrastructure facilities within the Town.

(i) Agency Consultation. Consult with NYSDEC, NYSDOH, the PSC, the DRBC, the Sullivan County Planning Department, the Sullivan County Department of Public Works, and neighboring municipalities regarding the impacts and appropriate regulation of decentralized water and wastewater infrastructure.

SECTION 9. HARDSHIP WAIVER

(a) Any person or entity adversely affected by this Local Law may apply to the Town Board for a waiver from the requirements of Section 5 hereof on the grounds of undue hardship.

(b) A waiver shall be granted only upon a written finding by the Town Board that: (i) the applicant will suffer an unnecessary hardship if the waiver is denied; (ii) the proposed Package Plant or Decentralized Infrastructure facility will not cause significant adverse impacts on public health, the environment, neighboring properties, or community character; (iii) granting the waiver is consistent with the propose of this Local Law; and (iv) the applicant agrees to be

bound by such conditions as the Town Board deems necessary to protect the public interest, which shall include at minimum the requirements described in Section 8(d) hereof.

(c) An application for a waiver shall be submitted in writing to the Town Clerk and shall include: (i) a description of the proposed project and facility; (ii) a detailed statement of the hardship claimed; (iii) engineering documentation from a licensed New York State professional engineer describing the proposed facility and its design, capacity, service area, treatment

performance, and operations and maintenance plan; (iv) a financial security plan; and (v) such other information as the Town Board may require. The Town Board shall schedule a Public Hearing on any complete waiver application within sixty (60) days of receipt.

SECTION 10. SEQRA DETERMINATION. The Town Board has determined that this Local Law is a Type II action pursuant to 6 NYCRR Part 617.5(c)(33) of the State Environmental Quality Review Act regulations as the promulgation of a regulation, policy, or local law in connection with continuing agency administration and management, and therefore is not subject to environmental review under SEQRA. In the alternative, if the Town Board determines this is an Unlisted Action, the Town Board finds that, as a temporary protective land use regulation that authorizes no physical alteration of the environment, there will be no significant adverse environmental impact, and adopts a Negative Declaration pursuant to SEQRA.

SECTION 11. PENALTIES AND ENFORCEMENT

(a) Any person, corporation, partnership, limited liability company, or other entity that violates any provision of this Local Law or causes or assists another to do so shall be subject to a fine of not less than Two Hundred Fifty Dollars (\$250) nor more than Two Thousand Five Hundred Dollars (\$2,500) for each offense. Each day on which a violation continues shall constitute a separate and distinct offense.

(b) In addition to such penalties, the Town may seek injunctive relief in any court of competent jurisdiction to restrain or enjoin any violation of this Local Law.

(c) Nothing in this Section shall be construed to limit any other remedy available to the Town under law or equity.

SECTION 12. SEVERABILITY If any provision of this Local Law or its application to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application, and the provisions of this Local Law are declared to be severable.

SECTION 13. SUPERSESSON To the extent that any provision of this Local Law is inconsistent with any provision of the Town Law of the State of New York or any other state statute, this Local Law is intended, pursuant to Municipal Home Rule Law Section 10, to supersede such inconsistent provisions solely with respect to the Town's local land use and zoning authority, and not with respect to any state or federal regulatory authority over water or wastewater systems.

SECTION 14. EFFECTIVE DATE This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York pursuant to Municipal Home Rule Law Section 27.