TOWN OF AVON LOCAL LAW NO. 1 of 2026

A Local Law Imposing a Temporary Moratorium on the Issuance of Land Use Approvals and Building Permits for Data Centers

Be it enacted by the Town Board of the Town of Avon, County of Livingston, State of New York, as follows:

Section 1. Title

This Local Law shall be known as "A Local Law Imposing a Temporary Moratorium on Data Centers in the Town of Avon."

Section 2. Authority and Intent; Findings; Purpose.

a. **Authority and Intent.** This Local Law is intended to be consistent with and is adopted pursuant to the authority to enact zoning laws granted to the Town of Avon ("Town") 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)(ii)(10); New York State Town Law §130 (15), New York State Municipal Home Rule Law §10; New York State Statute of Local Governments §10; and New York State Town Law §§ 264 and 265.

   This Local Law is a land use regulation. This Local Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive "incidental control" of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the physical externalities associated with certain land uses, such as potential negative impacts of such uses on a community.

   This Local Law shall supersede and suspend those provisions of the Zoning Ordinance of the Town of Avon and New York state law which require the Planning Board and/or the Town Code Enforcement officer to accept, process, review and approve land use applications within certain statutory time periods.

b. **Findings of Fact.** The Town Board makes the following Findings of Fact relating to this Local Law:

   (1) Recent developments in the fields of cloud computing, telecommunications, digital content delivery, cryptocurrency, blockchain technology, and large language models (so-called "generative artificial intelligence" or "AI") have led to an increased demand for data storage and processing facilities, defined in Section 3. below as "Data Centers."

(2) Data Center developers have targeted rural communities throughout the country as an ideal location for the construction of these facilities, given the availability of land, comparatively low construction costs, and ease of access to the power grid.

(3) As discussed at its regular meeting on August 13, 2026, the Avon Town Board is aware of several academic studies and investigative reports which show that Data Centers:

i. Impose a substantial burden on the power grid in the regions where they are located, operating as a continuous baseload and drawing significant amounts of power from the grid when compared to traditional industrial, commercial and residential uses;

ii. Have led to higher energy prices for ratepayers in their surrounding area, given the increased energy demand;

iii. Require substantial amounts of water for cooling the processing units and energy generation systems powering the use;

iv. Generate significant amounts of mineral-contaminated "blowdown" water from the cooling process, the disposal of which requires regulation to prevent environmental hazards and degradation to public infrastructure; and

v. Are associated with negative externalities, in addition to the above, including noise, heat, vibration, thermal discharge, electromagnetic interference and air emissions resulting from the use and any appurtenant energy generation systems.

(4) That the Town of Avon Comprehensive Plan (last updated in 2025) does not specifically contemplate Data Centers or similar types of industry in the Town of Avon. However, the Comprehensive Plan includes the following themes and goals, which support adoption of this Local Law and the intent underlying the imposition of a temporary moratorium:

i. Theme 1 "Avon Thrives": with the goals of adopting "land use regulations that are responsive to recent trends in development" and ensuring "the provision of adequate and efficient public infrastructure, facilities, and services."

ii. Theme 4 "Avon Conserves": with the goals of "[preserving] and [protecting] our natural resources, with special emphasis on clean air, water, prime farmland, and soils of statewide importance" and "[maintaining] the long-term viability of Avon's agricultural and rural character."

iii. Theme 5 "Avon Innovates": with the goals of "[promoting] resiliency, energy efficiency, and sustainable development"; "fostering a vibrant, thriving community that remains adaptable and sustainable"; and "[improving] the quality of life for all residents."

(5) The Code of the Town of Avon does not adequately address the unique siting, scale, intensity, resiliency, and environmental externalities associated with Data Centers, some of which are noted above.

(6) Without a temporary moratorium, applications for Data Centers could proceed under existing regulations that may be insufficient to protect public health, safety, and welfare, the environment, and neighborhood character, potentially resulting in irreversible impacts and undermining the orderly and well-planned development of the Town.

(7) The Code of the Town of Avon does not currently include any provisions relating to Data Centers and, if the Avon Town Board desires to permit such use in any form, substantive revisions to the Zoning Ordinance of the Town of Avon which is found in Chapter 130 of the Code of the Town of Avon (hereafter "Zoning Code "), would be required to ensure that such uses are properly regulated and sited to reflect the Town's planning and development goals, and to minimize the possibility of negative consequences to the health, safety and welfare of the residents, property owners and business owners within the Town.

(8) While New York State has adopted a twelve-month, statewide moratorium on certain large-scale data centers with the signing of Executive Order No. 62 (effective July 14, 2026), the Avon Town Board finds that said Order includes broad exemptions which necessitates the adoption of this Local Law.

c. **Purpose.** The purpose of this Local Law is to enable the Town of Avon to stay any and all of the activities prohibited by Section 4 of this Local Law, and all Town-level application acceptance, review and approval relating to those activities, for a period of twelve (12) months in order to provide the Town time to study the impacts, effects, and possible zoning controls over such activities, and to consider amendments to the Town's zoning laws to appropriately address the same within the confines of New York State law. The Town Board believes that a twelve-month moratorium after the effective date of this Local Law, coupled with the mechanism for use variances already contained in the Zoning Ordinance of the Town of Avon, will achieve an appropriate balancing of interests between the need to safeguard the character and other resources of the Town and the health, safety and general welfare of its residents, and the rights of individual property owners or businesses desiring to conduct such activities during the moratorium period.

Section 3. Definitions

For purposes of this Local Law, the following terms shall have the meanings set forth below:

a. "Data Center" shall mean any facility, in whole or in part, primarily used to house and operate computer servers, networking equipment, data storage equipment, and related infrastructure, together with backup power systems (including generators and battery systems), cooling and humidity control systems, electrical switching and substation equipment, security systems, office or support areas, and other appurtenant uses, whether for private, commercial, or institutional purposes. For

the avoidance of doubt, a "Data Center" includes but is not limited to facilities used for cloud computing, colocation services, blockchain or cryptocurrency mining, artificial intelligence model training or inference, content delivery networks, and enterprise data processing.

b. "Minor Server Room" shall mean a room or area that is accessory to a primary use on the same premises, serving only that primary use, without dedicated backup generation or external cooling equipment beyond typical commercial HVAC for the principal use. A Minor Server Room is not a Data Center.

c. "Existing Data Center" shall mean a Data Center that has received all required land use approvals and a valid building permit prior to the Effective Date, and that remains in continuous lawful operation thereafter.

Section 4. Moratorium and Prohibitions

a. For a period of twelve (12) months from and after the effective date of this Local Law, no application for a zoning permit, special permit under §130-18 H. of the Zoning Code, special use permit, zoning variance (excepting as provided for in Section 5. d. below), building permit, operating permit, site plan approval, subdivision plat approval, certificate of occupancy, certificate of compliance, temporary certificate, or other permit of any nature shall be accepted, processed, entertained, reviewed, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of Avon for the construction of a Data Center, establishment of a Data Center, or use or operation of any land, body of water, building, or other structure located within the Town of Avon for a Data Center.

b. Any application submitted prior to the Effective Date that has not received all final discretionary approvals shall be stayed and held in abeyance for the duration of the moratorium, except as otherwise provided in Section 5, and the staying or abeyance of the same shall not give rise to any default approvals associated with otherwise applicable review and approval timelines.

c. This moratorium shall apply to all real property within the Town of Avon.

Section 5. Exceptions

a. Existing Data Centers. Ordinary repair, maintenance, or like-kind replacement for Existing Data Centers may proceed if such work does not: (a) increase the gross floor area devoted to the Data Center use; (b) increase connected electrical load beyond the pre-moratorium level; (c) install new or larger backup generation or battery energy storage systems; or (d) materially increase noise, water usage, traffic, or other off-site impacts. The Code Enforcement Officer shall determine eligibility under this subsection.

b. Minor Server Rooms. Installation or maintenance of a Minor Server Room accessory to an existing principal use may proceed upon certification to the Code Officer that the limitations in Section 3(b) are met.

c. Emergency Repairs. Immediate repairs necessary to address an imminent threat to public health or safety or to prevent significant property damage may proceed

with authorization from the Code Enforcement Officer, limited to the minimum work necessary to abate the emergency.

d. The prohibitions set forth in Section 4 shall not prevent or prohibit property owners from applying for a use variance pursuant to §130-49 of the Zoning Ordinance of the Town of Avon and New York State Town law §267 B. 2.

Section 6. Study; Planning and Zoning Action

a. During the moratorium, the Town Board, with assistance from Town staff, the Planning Board, and such consultants as the Town may retain, shall undertake a comprehensive study of Data Centers, including but not limited to: appropriate siting locations; dimensional, intensity, and performance standards; environmental concerns and environmental review protocols; energy, water, and infrastructure considerations; decommissioning; financial surety; and monitoring and enforcement mechanisms.

b. The Avon Town Board may consider and adopt amendments to the Zoning Ordinance of the Town of Avon to address Data Centers, and may establish application requirements, special use criteria, setbacks, screening, noise limits, hours of operation, energy and water efficiency standards, backup power and storage system standards, traffic management plans, environmental monitoring, emergency response plans, and decommissioning and site restoration requirements.

Section 7. Extension; Early Termination

a. The Avon Town Board may, by local law after notice and public hearing, extend this moratorium as permitted by law if it determines that (a) the study referenced in Section 6 is ongoing and additional time is reasonably necessary to complete and implement appropriate legislative measures, and (b) the extension continues to be necessary to protect the public health, safety, and welfare.

b. The Avon Town Board may, by resolution, terminate this moratorium prior to its scheduled expiration if it determines that the purposes of this Local Law have been satisfied or superseded by adopted amendments to the Zoning Ordinance of the Town of Avon.

Section 8. Administration and Enforcement

a. Code Enforcement Officer. The provisions of this Local Law shall be administered and enforced by the Code Enforcement Officer and his or her Deputies and staff. The Code Enforcement Officer and his or her Deputies are authorized to issue appearance tickets for violations of this law requiring appearance by the alleged violator in the Town of Avon Town Justice Court.

b. Criminal Penalties. Any person, firm or corporation who violates, disobeys, neglects, refuses to comply with or resists the enforcement of any provision of this Local law or any written order of the Code Enforcement Officer or his or her Deputies directing compliance with this Local Law shall be guilty of an offense, and upon conviction thereof shall be subject to a fine of not more than one thousand dollars, or imprisonment for a period of not more than fifteen days, or

both such fine and imprisonment for each offense. However, a person, firm or corporation convicted of a second or other repeated violation of this Local Law shall be guilty of a misdemeanor, and shall be subject to a fine of not more than two thousand dollars, or imprisonment for not more than six months, or both such fine and imprisonment for each offense.

c. **Civil Penalties.** Any person, firm or corporation who violates, disobeys, neglects, refuses to comply with or resists the enforcement of any provision of this local law or any written order of the Code Enforcement Officer or their Deputy directing compliance with this Local Law shall be deemed to have violated this Local Law, and shall be liable to pay the Town a civil penalty of up to one thousand dollars for each such violation. Such a civil penalty may be assessed in any action or proceeding brought by the Town or its taxpayers, pursuant to Town Law §268(2), or by the Town, to enforce the provisions of this local law.

d. **Continuous Violations.** Each day a violation or offense is continued or not corrected shall be deemed a separate violation or offense.

e. **Injunction.** Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town.

f. **Costs and Attorneys' Fees.** In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs incurred by the Town relative to such action, including attorneys' fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property or properties within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

Section 9. Superseding Intent and Effect.

This Local Law shall supersede any inconsistent provisions of the Zoning Ordinance of the Town of Avon, or any and all other local ordinances, laws or resolutions of the Town of Avon.

Section 10. Severability.

If any provision of this Local Law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder shall not be affected. The Town 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 11. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.