

LOCAL LAW #3 OF THE YEAR 2026 OF THE TOWN OF EAST GREENBUSH

LOCAL LAW TO ESTABLISH A TEMPORARY MORATORIUM ON THE DEVELOPMENT, CONSTRUCTION, AND OPERATION OF DATA CENTERS WITHIN THE TOWN OF EAST GREENBUSH

Be it enacted by the Town Board of the Town of East Greenbush as follows:

Section 1. Title and Authority

This Local Law shall be referred to as, “Moratorium on the Development, Construction, and Operation of Data Centers”. This Local Law is adopted pursuant to New York State Municipal Home Rule Law § 10, New York State Municipal Home Rule Law § 20 through § 27, New York State Town Law, and the State Environmental Quality Review Act.

Section 2. Purpose and Legislative Intent

The purpose of this Local Law is to enable the Town of East Greenbush to temporarily halt the construction, operation, and establishment of, and the submission and processing of applications for building permits, zoning permits, special use permits, zoning variances, site plan approvals, subdivision approvals, certificates of occupancy, and other Town-level land use approvals and reviews attributed to the activities prohibited by Section 4 of this Local Law, as to allow the Town reasonable duration to study potential impacts associated with such land use activities and consider the establishment of potential controls over such activities through the amendment of applicable Town laws regulating land use activities.

The Town of East Greenbush Town Board’s intent with the establishment of this Local Law is to protect the residents of the Town of East Greenbush in the interest of public health, safety, and welfare. To accomplish this goal, the Town requires a reasonable period of time to study the potential impacts on land, the environment, and the public presented by the activities prohibited in Section 4 of this Local Law, and consider the establishment of appropriate land use regulations necessary to mitigate potential adverse impacts associated with the development, construction, and/or operation of Data Centers and related activities as defined in Section 4 of this Local Law.

Section 3. Definitions

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

Data Centers – Facilities, or the combination of facilities under common ownership or control that are used for the primary purposes of storing, managing, processing, and/or transmitting digital data for computing infrastructure, data processing services, web hosting services, streaming support services, cryptocurrency mining, and/or other related services and functions as defined by the New York State Public Service Commission, not to include existing facilities operated by public research institutions for research purposes and not to include existing facilities operated to facilitate an associated manufacturing use or purpose.

Town – The Town of East Greenbush, Rensselaer County, New York.

Town Board – The Town Board of the Town of East Greenbush.

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.

Principal Use – The main or primary purpose or purposes for which land and/or structure(s) is designed, arranged, or intended or for which such land or structure(s) may be occupied or maintained.

Accessory Use – A use or occupancy which is customarily incidental and subordinate to the principal use, occupancy or tenancy, and located on the same lot or premises, whether such accessory use is conducted in a principal or accessory building.

Section 4. Moratorium and Prohibition of Regulated Activities

- A. From the effective date of this Local Law, no application for a building permit, zoning permit, special use permit, zoning variance, site plan approval, subdivision approval, certificate of occupancy, and/or any other Town-level land use approval and/or review shall be accepted, processed, approved, conditionally approved, or issued for the purposes of construction, establishment, use or operation of any data center upon any land, body of water, building, or other structure located within the Town, whether proposed as a principal or accessory use, as defined herein.
- B. From 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 Town for a data center.
- C. This moratorium and prohibition of regulated activities shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier date of (i) the date which is six (6) months after said effective date, should the Town Board choose not to consider or fail to pass, through Town Board resolution, an extension of the moratorium and prohibition of regulated activities prior to the expiration of the moratorium and prohibition of regulated activities, (ii) the date which is not to exceed (1) year after said effective date, should the Town Board pass, through Town Board resolution, an extension of the moratorium and prohibition of regulated activated for an additional period of not to exceed six (6) months from the expiration date, prior to the expiration of the moratorium and prohibition of regulated activities, or (iii) the effective date of a duly enacted repeal of this Local Law.
- D. This moratorium and prohibition of regulated activities shall apply to all real property within Town.
- E. Under no circumstances shall the failure of the Town Board, Town Planning Board, Town Zoning Board of Appeals, or the Town Code Enforcement Officer to take any action upon any application for a building permit, zoning permit, special use permit, zoning variance, site plan approval, subdivision approval, certificate of occupancy, and/or any other Town-level

land use approval and/or review constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 5. Exceptions

Notwithstanding to any provision hereof to the contrary, any data centers within the Town that have been duly approved, whether as a principal use or accessory use, 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 as required to be issued by the New York State Department of Environmental Conservation and/or any 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, to the provisions of this Section.

Any expansion of a lawful, pre-existing nonconforming use and/or structure, as defined herein, shall not be permitted, and are prohibited in accordance with the provisions set forth in Section 4 of this Local Law from the effective date of this Local Law until the expiration or duly enacted repeal of this Local Law.

Any activities for lawful, pre-existing nonconforming uses and/or structures which are constituted by the Code Enforcement Officer as ordinary repairs, rehabilitation, maintenance, or interior renovation shall be permitted as long as the degree or extent of the nonconformity is not increased and no new nonconformity is created.

Section 6. Administrative Relief

The Town Board is authorized to grant limited relief from the provisions of this Local Law pursuant to the standards set forth herein, upon application for the request of administrative relief via hardship variance by any Person aggrieved hereby.

No such application for hardship variance shall be granted without a proper demonstration by the applicant that the 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 pursuant to the Town's Comprehensive Zoning Law for the particular district where the property is located that (i) the applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by reasonable financial evidence; (ii) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) that the requested hardship variance, if granted, will not alter the character of the neighborhood and location where it is proposed; and (iv) that the alleged hardship has not been self-created.

In the event that a hardship variance from applicable provisions of this Local Law is granted to the applicant, the applicant shall be required to comply with all provisions of the Town's applicable land use regulations which are in effect at the time of approval of the variance. The Town Board, in the granting of a hardship variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.

Section 7. State Environmental Quality Review Act

This Local Law has been classified as a Type II Action pursuant to the State Environmental Quality

Review Act (SEQR), 6 NYCRR Part 617.5(c)(36). All requirements of the State Environmental Quality Review Act have been met.

8. Supersession of Other Law

All existing local laws that conflict with the provisions of this Moratorium are hereby superseded and suspended for the duration of this Moratorium, from the effective date of this Local Law, until such time that the Moratorium expires in accordance with the provisions set herein, or until the effective date of a duly enacted repeal of this Local Law.

Section 9. Severability

The invalidity of any clause, sentence, paragraph, part or provision of this Local Law shall not invalidate any other clause, sentence, paragraph, part or provision thereof.

Section 10. Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with § 27 of New York State Municipal Home Rule Law.