

ORDINANCE NO. _____

AN ORDINANCE DECLARING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING, APPROVAL, AND ISSUANCE OF ZONING, LAND USE, BUILDING, AND OTHER ASSOCIATED INFRASTRUCTURE PERMITS FOR DATA CENTER DEVELOPMENTS WITHIN THE CITY OF MEMPHIS

WHEREAS, pursuant to Tennessee Code Annotated § 13-7-201, the Memphis City Council possesses the authority to regulate land use, zoning, and development to protect the public health, safety, and welfare of its citizens; and

WHEREAS, there has been substantial growth nationwide and throughout Tennessee in the development of large-scale data centers and high-density computing facilities supporting cloud computing, artificial intelligence, digital storage, cryptocurrency operations, and other advanced computing technologies; and

WHEREAS, modern data centers differ significantly from traditional commercial and industrial developments because they require exceptionally high electrical loads, extensive backup generation systems, electrical substations, battery storage systems, mechanical cooling equipment, water resources, telecommunications infrastructure, and continuous twenty-four-hour operations; and

WHEREAS, these facilities may generate impacts relating to electrical infrastructure capacity, water consumption, wastewater management, stormwater runoff, emergency services, traffic, lighting, vibration, noise, air quality, fuel storage, public utilities, and surrounding neighborhoods; and

WHEREAS, the Memphis and Shelby County Unified Development Code's current zoning regulations do not specifically classify or comprehensively regulate data center developments as a distinct land use and therefore do not adequately address their unique operational characteristics or community impacts; and

WHEREAS, the Memphis City Council finds that additional study is necessary before permitting additional data center developments to ensure that appropriate zoning classifications, siting standards, buffering requirements, operational standards, utility protections, and environmental safeguards are established; and

WHEREAS, the Memphis City Council further finds that a temporary moratorium is necessary to prevent applications from vesting under existing regulations while permanent zoning amendments are developed.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MEMPHIS:

SECTION 1. DEFINITIONS

Data Center means any building, structure, campus, or facility primarily designed for housing, operating, or maintaining computer servers, data storage equipment, networking equipment, telecommunications infrastructure, or other electronic systems used for processing, transmitting, or storing digital information, together with all associated cooling systems, backup generators, substations, battery storage, mechanical equipment, and supporting infrastructure.

High-Density Computing Facility means any facility engaged primarily in artificial intelligence processing, cryptocurrency mining, commercial server farming, or other computing activities requiring substantial electrical demand or specialized computing equipment.

SECTION 2. TEMPORARY MORATORIUM

Beginning on the effective date of this Ordinance, the City of Memphis shall continue to accept applications for the limited purpose of docketing and completeness review, but shall not process, schedule, hear, approve, or issue any approval identified below during the moratorium. All review deadlines otherwise applicable under state law, the Memphis and Shelby County Unified Development Code, or administrative rule are tolled for the duration of this moratorium. The Memphis and Shelby County Division of Planning and Development shall not process the following for any new Data Center or High-Density Computing Facility located within the city limits of the City of Memphis for the duration of the temporary moratorium:

- Rezoning applications;
- Planned development applications;
- Special use permits;
- Conditional use permits;
- Site plan approvals;
- Building permits;
- Grading permits;
- Land disturbance permits; or
- Any other discretionary land use approval

No City department, board, commission, agency, or official shall accept or approve such applications during the duration of this moratorium.

SECTION 3. EXEMPTIONS

This Ordinance shall not apply to:

1. Existing lawfully operating data centers that do not expand their building footprint, electrical demand, utility capacity, or operational intensity; and
2. Applications that were legally vested pursuant to applicable local and state laws prior to the introduction of this Ordinance;
3. Routine maintenance, repair, replacement, or modernization of existing facilities that does not materially increase operational impacts.
4. Accessory Computing Use Exclusion: A data center or high-density computing facility does not include computer servers, data storage equipment, networking equipment, telecommunications equipment, or related computing infrastructure that is accessory or incidental to another lawful principal use of the property and primarily serves the operational needs of that principal use. This exclusion includes, without limitation, computing infrastructure accessory to hospitals and healthcare facilities, financial institutions, educational institutions, governmental facilities, offices, retail establishments, manufacturing facilities, telecommunications facilities, and similar principal uses.
5. The Memphis City Council may grant a waiver upon written findings that strict application would deny the applicant of all economically viable uses of the property. The applicant may initiate the waiver process through the Memphis and Shelby County Division of Planning and Development by utilizing the case appeal process to the Council.

SECTION 4. STUDY

During the moratorium period, the Memphis and Shelby County Division of Planning and Development, working in conjunction with a study committee consisting of a Chair and Vice Chair who are members of the Memphis City Council, Memphis Light, Gas and Water (MLGW), and other industry experts, shall prepare recommendations regarding permanent zoning regulations governing Data Centers and High-Density Computing Facilities.

The study committee should evaluate, at minimum:

1. Appropriate zoning districts and permitted locations;
2. Classification of data centers by size, electrical demand, and operational intensity;
3. Minimum separation distances and buffering from residential neighborhoods, schools, parks, hospitals, greenways, and other sensitive land uses;
4. Noise mitigation standards, including operational sound limits and acoustic studies;
5. Water consumption, cooling technologies, and conservation measures;
6. Wastewater discharge requirements;

7. Stormwater management standards;
8. Lighting and visual screening requirements;
9. Emergency access and fire protection requirements;
10. Backup generator operations and fuel storage;
11. Electrical infrastructure impacts, including substations and transmission improvements;
12. Allocation of infrastructure costs to developers to ensure public utility customers are not responsible for costs attributable to new high-demand facilities;
13. Traffic impacts during construction and operation;
14. Environmental sustainability measures;
15. Public notification and community engagement requirements;
16. Potential capital expenditure fund for the benefit of the City of Memphis;
17. Any additional development standards necessary to ensure compatibility with surrounding land uses.

SECTION 5. DURATION

This moratorium shall remain in effect until the earlier of:

- A. Twelve (12) months following the effective date of this Ordinance;
- B. Adoption of comprehensive zoning regulations governing Data Centers and High-Density Computing Facilities by the Memphis City Council; or
- C. Repeal or amendment by subsequent ordinance of the Memphis City Council.

The City Council may extend the moratorium if additional time is reasonably necessary to complete the study and adopt permanent regulations in the Memphis and Shelby County Unified Development Code. The Memphis City Council requests a progress report from the Division of Planning and Development on the proposed permanent zoning regulations within six months of the passage of this ordinance.

SECTION 6. SEVERABILITY

The provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chair of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

Sponsors:
JB Smiley, Jr.
Jana Swearengen-Washington
Jerri Green

Chairwoman
Jana Swearengen-Washington