

SUBSTITUTE ORDINANCE NO. 5986

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE, AMENDING ORDINANCE NO. 5367, KNOWN AS THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, TO ESTABLISH REGULATIONS FOR THE SITING, INITIAL DEVELOPMENT, CONSTRUCTION, EXPANSION, ALTERATION, AND OPERATION OF LARGE-SCALE DATA CENTERS; ESTABLISHING DATA CENTER DEVELOPMENT STANDARDS; PROHIBITING ROUTINE EVAPORATIVE AND ONCE-THROUGH COOLING; REQUIRING CLOSED-LOOP WATER-CIRCULATION SYSTEMS; PROHIBITING MAJOR WITHDRAWALS OF LOCAL WATER RESOURCES FOR DATA CENTER COOLING; REQUIRING WATER CONSERVATION AND MONITORING; REQUIRING PROGRESSIVE USE OF RENEWABLE AND NON-CARBON ELECTRICITY; ESTABLISHING A SCHEDULE FOR THE PHASE-OUT OF CARBON-BASED ELECTRICITY; ESTABLISHING REQUIREMENTS FOR EXPANSION OF EXISTING DATA CENTERS; PROVIDING FOR PUBLIC DISCLOSURE, REPORTING, ENFORCEMENT, PENALTIES, AND OTHER MATTERS RELATED THERETO.

WHEREAS, Ordinance No. 5987 is presently being considered on second reading which proposes Amendments to the Memphis and Shelby County Unified Development Code to establish Permanent Land-Use and Siting Framework for review and approval of Data Centers within the City of Memphis;

WHEREAS, Ordinance No. 5987 is related to the intent of this Ordinance and will effectuate its purposes;

WHEREAS, a temporary pause on new data-center development applications and approvals, to the extent authorized by law, is necessary while permanent land-use and siting standards are prepared and considered through Ordinance No. 5987;

WHEREAS, the Memphis and Shelby County Unified Development Code (“UDC”) establishes zoning and subdivision regulations applicable within the City of Memphis; and

WHEREAS, the Memphis City Council is authorized to initiate consideration of amendments to the Unified Development Code in accordance with applicable law and the procedures established by the UDC; and

WHEREAS, the City is presently undertaking a comprehensive update of the Unified Development Code; and

WHEREAS, the Mayor of the City of Memphis, by Executive Order No. 3-2026, established a ninety-day period for the study of data-center development, including its impacts on neighborhoods, infrastructure, public health, and natural resources, together with expert consultation and community engagement; and

WHEREAS, this Ordinance is intended to complement the Mayor's Executive Order and shall be construed consistently with that Order, with the Council's legislative actions and the administration's study and engagement efforts proceeding in coordination;

WHEREAS, technological and economic development has resulted in new and evolving land uses, including large-scale data centers and high-density computing facilities, whose electrical demand, water demand, infrastructure requirements, noise, cooling systems, backup generation, physical scale, and other development characteristics may differ substantially from conventional office, commercial, and industrial development; and

WHEREAS, the existing Unified Development Code does not contain a comprehensive land-use and siting framework specifically addressing the location and development characteristics of modern large-scale data centers; and

WHEREAS, clear land-use classifications, application requirements, development standards, and siting criteria provide greater predictability to residents, neighborhoods, developers, property owners, utilities, public agencies, and public officials before individual development applications are submitted or approved; and

WHEREAS, the City Council finds that appropriate regulation of data centers should begin with determining where such uses are compatible with the City's neighborhoods, natural resources, public infrastructure, existing development patterns, and long-range development objectives; and

WHEREAS, the Council further finds that the appropriate level of land-use review should take into consideration the scale and intensity of a proposed facility and its reasonably anticipated demands upon land, infrastructure, utilities, and surrounding property; and

WHEREAS, state environmental, utility, and other regulatory requirements may address particular aspects of data-center development, but such requirements do not eliminate the City's responsibility to evaluate land-use compatibility, siting, development standards, and information necessary to make informed local land-use decisions; and

WHEREAS, the Council finds that allowing additional new data-center development approvals to be completed before the City has evaluated its existing zoning framework and developed proposed permanent standards could result in additional facilities becoming established under regulations not specifically designed for the scale and characteristics of modern data centers; and

WHEREAS, a limited one-hundred-thirty-five-day period will permit the City Council and the Division of Planning and Development to conduct the analysis required herein, prepare proposed UDC language within ninety (90) days, and complete the legally required consideration of permanent regulations, while minimizing unnecessary delay to future development; and

WHEREAS, the temporary provisions of this Ordinance are intended to be narrowly tailored, time-limited, and protective of vested property rights and previously granted lawful entitlements as required by Tennessee law;

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

The Council requests that its staff and the Division of Planning and Development (“DPD”) shall prepare for consideration through Ordinance No. 5987 text-amendments to the Unified Development Code for a distinct principal-use classification for Data Centers and a process for review of new applications for approval or issuance of land use permits for Data Centers. The Council requests its Staff and DPD consider the following in any proposed text- amendments to the maximum extent allowable under applicable law, namely:

SECTION 1. DATA CENTER USE CLASSIFICATION

The Division of Planning and Development (“DPD”) shall prepare for consideration through the Unified Development Code text-amendment for a distinct principal-use classification for Data Centers.

DPD shall develop objective criteria for distinguishing data centers according to scale and land-use intensity and shall recommend whether separate classifications are warranted for facilities of differing size or intensity, including a “Large-Scale Data Center”, “Hyperscale Data Center”, or other appropriate classification.

Such criteria shall evaluate, as applicable:

1. projected peak electrical demand;
2. projected water demand;
3. building square footage and site acreage;
4. cooling methodology and associated equipment;
5. backup-generation capacity;
6. associated substations, transformers, transmission facilities, or other utility infrastructure;
7. development phasing and anticipated ultimate buildout; and
8. other measurable characteristics affecting land-use compatibility or infrastructure demand.

In developing such classifications, DPD shall evaluate applicable federal and state definitions and thresholds, including classifications based upon electrical demand, while retaining the ability to recommend different or additional thresholds where appropriate for local land-use purposes.

SECTION 2. LOCATION AND SITING STANDARDS

The proposed UDC amendment shall establish the zoning districts and circumstances in which each data-center classification shall be:

- (a) prohibited;
- (b) permitted subject to specific development standards; or
- (c) permitted only following Special Use Approval or another legally authorized non-discretionary land-use review.

The proposed amendment shall evaluate and, where appropriate, establish standards addressing:

1. proximity and separation from residential zoning districts and residential uses;
2. schools and childcare facilities;
3. parks and public recreational facilities;
4. waterways, floodplains, wetlands, groundwater resources, and environmentally sensitive areas;
5. setbacks and landscape buffers;

6. noise-producing equipment and mitigation;
7. backup generators and associated fuel storage;
8. substations, transformers, transmission facilities, and other electrical infrastructure;
9. cooling towers and mechanical equipment;
10. lighting, screening, fencing, landscaping, and site design;
11. access, circulation, emergency access, and service areas;
12. development phasing and ultimate site buildout; and
13. such additional conditions as are reasonably related to compatibility with surrounding land uses and the purposes of the Unified Development Code.

SECTION 3. INFRASTRUCTURE AND NATURAL-RESOURCE INFORMATION

To the extent information has not already been provided to or evaluated by another public entity with jurisdiction over the proposed activity, the proposed UDC amendment shall establish disclosure requirements sufficient to permit DPD, the Land Use Control Board, the City Council, and other reviewing agencies, as applicable, to understand the infrastructure, utility, site-development, and natural-resource characteristics relevant to a proposed location. DPD may coordinate with such entities to obtain and consider information already submitted, consistent with applicable law.

DPD shall evaluate disclosure requirements addressing, at a minimum, if permitted by applicable law:

- (a) projected peak electrical demand and anticipated annual electrical consumption where reasonably available;
- (b) proposed source or sources of electrical service;
- (c) projected peak and annual water demand;
- (d) proposed sources of potable and non-potable water;
- (e) cooling methodology and associated water requirements;
- (f) projected wastewater generation and proposed disposition;
- (g) stormwater-management characteristics;
- (h) number, type, capacity, and fuel source of backup generators;
- (i) associated fuel-storage facilities;
- (j) required substations, transformers, transmission facilities, or other utility infrastructure;
- (k) anticipated noise-producing equipment and proposed mitigation;
- (l) proposed phases of development and anticipated ultimate buildout;
- (m) reasonably anticipated future expansion;

- (n) infrastructure improvements required to serve the site; and
- (o) other information reasonably necessary to evaluate land-use compatibility.

Information required pursuant to this Section shall be used to inform land-use and siting decisions and shall not be construed as replacing permits or approvals issued by agencies possessing separate environmental, utility, safety, or regulatory jurisdiction.

SECTION 4. FUTURE RESOURCE-INTENSIVE USE FRAMEWORK

As part of the broader Unified Development Code update, DPD shall evaluate whether a general planning or classification framework is appropriate for identifying emerging land uses characterized by extraordinary demands upon public infrastructure, utilities, land, or natural resources.

Nothing in this Section shall delay the preparation, processing, or consideration of the data-center text amendment required by this Ordinance.

SECTION 5. EXISTING CODE AND SITING ANALYSIS — 45-DAY DELIVERABLE

Within forty-five (45) days following the effective date of this Ordinance, DPD shall present to the Planning and Zoning Committee an analysis identifying:

1. the existing UDC classifications or interpretations under which a data center could presently be permitted, accessory, conditional, special, or otherwise allowable;
2. the zoning districts associated with those classifications or interpretations;
3. areas within the City of Memphis containing substantial concentrations of such zoning;
4. the relationship of those areas to residential neighborhoods, schools, childcare facilities, parks, waterways, floodplains, wetlands, groundwater resources, and other sensitive land uses or natural resources;
5. existing UDC provisions potentially applicable to noise, screening, generators, mechanical equipment, substations, utility facilities, buffering, and site design;
6. material regulatory gaps identified by DPD; and
7. DPD's preliminary recommendations concerning appropriate and inappropriate zoning districts and land-use review mechanisms for data-center development.

To the extent reasonably practicable, the analysis shall include maps illustrating potential siting areas and their relationship to residential areas, public facilities, infrastructure, and sensitive natural resources.

SECTION 6. PROPOSED UDC TEXT AMENDMENT — 90-DAY DELIVERABLE

Within ninety (90) days following the effective date of this Ordinance, DPD shall complete proposed UDC text-amendment language implementing the requirements of this Ordinance and shall initiate the process necessary for consideration of the amendment by the Memphis and Shelby County Land Use Control Board.

The proposed text amendment shall include, at a minimum:

1. proposed definitions;
2. proposed data-center use classifications;
3. applicable zoning districts;
4. applicable land-use approval mechanisms;
5. development and siting standards;
6. setbacks and buffering provisions;
7. infrastructure and application-disclosure requirements;
8. natural-resource and environmentally sensitive-area considerations;
9. provisions addressing development phasing;
10. provisions addressing material expansion or modification of existing facilities; and
11. such additional provisions as DPD determines necessary to establish a comprehensive and enforceable land-use framework.

Completion of the broader Unified Development Code update shall not be a prerequisite to preparation, initiation, consideration, or adoption of the targeted data-center amendment required by this Ordinance.

The ninety-day requirement shall not be satisfied solely through delivery of a report, presentation, study, or preliminary recommendations. DPD shall produce proposed text sufficient to initiate the formal UDC amendment process.

SECTION 7. INTERAGENCY CONSULTATION AND PUBLIC ENGAGEMENT

In preparing the analysis and proposed UDC amendment required herein, DPD shall consult and request written input, as appropriate, with Memphis Light, Gas and Water Division; Public Works; City Engineering; the City Attorney or Law Division; applicable environmental, health, fire, emergency-management, and public-safety agencies; other appropriate governmental or utility entities; developers; property owners; industry representatives; and natural-resource stakeholders.

Such consultation shall inform the City's land-use framework but shall not transfer, expand, diminish, or duplicate the legal jurisdiction of any participating agency.

SECTION 8. EXISTING FACILITIES AND MATERIAL EXPANSION

DPD shall evaluate the treatment of lawfully established existing data centers consistent with applicable law, vested rights, previously granted entitlements, and applicable nonconforming-use provisions.

DPD shall develop objective criteria for determining when expansion, intensification, or modification of an existing data center constitutes a “material expansion or material change” requiring additional land-use review.

Such criteria shall evaluate, as applicable:

- (a) expansion of building square footage or developed site area;
- (b) material increases in electrical demand;
- (c) material increases in water demand;
- (d) installation or expansion of backup-generation capacity;
- (e) significant changes in cooling technology or cooling infrastructure;
- (f) new or expanded substations, transformers, transmission facilities, fuel-storage facilities, or other supporting infrastructure;
- (g) additional development phases not previously reviewed or approved;
- (h) material increases in noise, mechanical activity, or other impacts upon surrounding property; and
- (i) other changes materially affecting land-use compatibility or infrastructure demand.

SECTION 9. COUNCIL OVERSIGHT AND CONTINUING DISCLOSURE REVIEW

DPD shall report to the Planning and Zoning Committee regarding implementation of this Ordinance, including:

- (a) proposed definitions and classifications;
- (b) proposed zoning districts;
- (c) proposed approval mechanisms;
- (d) siting, setback, and buffering recommendations;
- (e) natural-resource considerations;
- (f) infrastructure considerations;
- (g) application and infrastructure-disclosure requirements;
- (h) treatment of existing facilities and material-expansion triggers;
- (i) stakeholder and public engagement;
- (j) interagency consultation;
- (k) status of preparation and processing of the proposed text amendment; and
- (l) anticipated Land Use Control Board consideration.

DPD, in consultation with the Law Division and other appropriate agencies, shall further advise Council regarding the appropriate legal mechanism for continuing disclosure of material changes in electrical demand, water demand, cooling systems, backup generation, supporting infrastructure, or facility expansion following initial approval.

SECTION 10. TEMPORARY ONE HUNDRED THIRTY-FIVE (135) DAY PAUSE ON NEW DATA-CENTER APPLICATIONS AND DEVELOPMENT APPROVALS

A. Purpose

To preserve the effectiveness of the permanent land-use standards required by this Ordinance while DPD completes the expedited analysis and drafting process, a temporary pause is hereby established on new applications and specified City approvals for the establishment or construction of new data centers.

The pause is intended solely to provide a limited period for development of permanent standards and shall not be interpreted as a permanent prohibition upon data-center development within the City of Memphis.

B. Duration

The temporary pause shall commence upon the effective date of this Ordinance and shall terminate at 11:59 p.m. on the one-hundred-thirty-fifth (135th) calendar day thereafter, or earlier upon the date comprehensive permanent data-center land-use and siting ordinances are lawfully adopted and become effective and enforceable, whichever first occurs.

The pause shall not be administratively extended beyond the 135-day period.

Any extension shall require separate legislative action by the Memphis City Council in accordance with applicable law.

C. New Applications, Review, Hearings, and Covered Approvals

During the 135-day temporary pause, no City department, division, board, commission, officer, or employee shall accept for formal filing, process, schedule for hearing, hear, approve, issue, or grant any new application, permit, or City land-use or development approval authorizing the establishment or construction of a new Data Center where such approval is within the regulatory jurisdiction of the City of Memphis.

Covered applications and approvals include, to the extent lawfully subject to this temporary pause:

1. applications for zoning changes or other land-use approvals for a covered facility;
2. applications for Special Use Permits or other discretionary land-use approvals for a covered facility;
3. applications for site-plan, development-plan, grading, or other City development approvals for a covered facility;
4. applications for building permits authorizing construction of a covered facility; and
5. other City development applications or approvals determined by the Law Division to be legally subject to the temporary pause.

D. Exemptions and Vested Rights

The temporary pause shall not apply to the extent application of the pause would unlawfully impair a vested property right, previously granted entitlement, a legally protected application

submitted before the effective date of this Ordinance, or other right protected by Tennessee or federal law.

The pause shall not prohibit:

1. work authorized by a valid permit or development approval issued before the effective date of this Ordinance for projects commenced prior to the effective date of this ordinance and only to the extent protected by law;
2. ordinary repair or maintenance of a lawfully established existing data center;
3. permits required solely to correct an immediate health, life-safety, fire, structural, environmental, or emergency condition;
4. work necessary to comply with a lawful governmental order; or
5. other activity the Law Division determines must be allowed pursuant to applicable law.

Nothing in this Ordinance shall require an applicant or property owner to waive a vested property right.

E. Existing Data Centers

The temporary pause established by this Section applies to the establishment or construction of “new data centers”.

Lawfully established existing data centers may continue operating subject to applicable law.

DPD shall evaluate material expansions and intensifications of existing data centers, including increases in building area, developed site area, electrical and water demand, onsite generation, cooling systems, and associated infrastructure, and recommend objective criteria and appropriate standards for their future review and approval as part of the permanent UDC amendments required by Section 8.

F. Interim Definition

For purposes of this Section only, and until permanent definitions are adopted through the UDC process, “Data Center” means a building, facility, or principal use whose primary purpose is the housing and operation of networked computer servers, data-storage systems, data-processing equipment, or similar digital computing infrastructure, together with associated cooling, electrical, backup-generation, and mechanical systems.

The term shall not include an ordinary server room, telecommunications equipment room, network closet, or similar computing equipment that is accessory and incidental to another lawful principal use.

DPD, in consultation with the Law Division, may issue written administrative guidance reasonably necessary to apply this interim definition consistently during the 135-day period.

G. Administration

Within ten (10) days of the effective date of this Ordinance, DPD and the Law Division shall provide the Planning and Zoning Committee with written guidance identifying:

1. the new applications and City approvals subject to the temporary pause;
2. lawful procedures for identifying new applications, handling submissions that must be accepted under law, and implementing the pause;
3. the treatment of pending applications;
4. the process for determining whether vested rights exist; and
5. any additional administrative measures necessary to implement this Section consistently with Tennessee law.

SECTION 11. RELATIONSHIP BETWEEN TEMPORARY PAUSE AND PERMANENT REGULATION

The temporary pause established by Section 10 is independent of the permanent UDC amendment required by this Ordinance.

The pause shall terminate on the earlier of the two dates specified in Section 10(B).

DPD shall nevertheless complete the proposed UDC text and initiate the Land Use Control Board process within the separate ninety-day deadline established by Section 6.

Nothing herein shall be construed to cause proposed permanent development standards to become effective before their lawful adoption.

SECTION 12. SEVERABILITY

BE IT FURTHER ORDAINED that the provisions of this Ordinance are severable. If any section, subsection, provision, sentence, clause, phrase, or part is held unconstitutional, unlawful, or otherwise invalid, such determination shall not affect the validity of the remaining provisions.

Without limiting the foregoing, if the temporary pause established by Section 10 is determined to be unlawful or unenforceable in whole or in part, the remaining provisions requiring development of permanent data-center land-use standards shall remain in full force and effect.

SECTION 13. EFFECTIVE DATE

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after the date it has been passed by the Council and becomes effective as otherwise provided by applicable law, the public welfare requiring it.

SPONSORS:
RHONDA LOGAN
DR. JEFF WARREN

JANA SWEARENGEN-WASHINGTON
CHAIRMAN