

DRAFT

ORDINANCE OF THE DURHAM COUNTY BOARD OF COMMISSIONERS IMPOSING A TEMPORARY MORATORIUM ON THE PERMITTING OF LARGE- SCALE DATA CENTERS, DATA PROCESSING FACILITIES, CRYPTOCURRENCY MINING OPERATIONS, AND ANY USE ASSOCIATED WITH DATA PROCESSING FACILITIES WITHIN DURHAM COUNTY, NORTH CAROLINA PURSUANT TO N.C. GEN. STAT. § 160D-107

WHEREAS, pursuant to N.C. Gen. Stat. § 160D-107, local governments may adopt an ordinance authorizing a temporary moratorium on any development approval required by law to protect public health, safety, welfare, infrastructure capacity, and land-use integrity; and

WHEREAS, the Durham Unified Development Ordinance does not define large-scale data centers, data processing facilities, or cryptocurrency mining operations as distinct land uses, and contains no performance standards addressing the impacts particular to such facilities; and

WHEREAS, the Durham County Board of Commissioners has observed the rapid expansion of large-scale data center development across North Carolina and anticipates that applications for such facilities may be submitted in Durham County in advance of the adoption of appropriate regulations; and

WHEREAS, the Durham County Board of Commissioners finds that rapid expansion of large-scale data centers pose unique planning, environmental, and infrastructure challenges; and

WHEREAS, these facilities present potential impacts on the Durham County community not adequately addressed by the Durham Unified Development Ordinance; such potential impacts include substantial electricity and water consumption, noise pollution, air emissions, hazardous material storage and electronic waste disposal, infrastructure cost allocation, and land use compatibility concerns; and

WHEREAS, the Board held a legislative hearing on this moratorium on _____, 2026, in accordance with N.C. Gen. Stat. § 160D-601; and

WHEREAS, the Board finds that a temporary moratorium will protect the public interest and welfare of the residents of Durham County until such regulations regarding the aforementioned uses are adopted; and

WHEREAS, the Board finds that such temporary moratorium is a reasonable and necessary measure to allow County staff sufficient time to study these uses, engage with stakeholders, and draft appropriate amendments to the Durham Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Durham County Board of Commissioners as follows:

Section 1. Moratorium Imposed.

A temporary moratorium is hereby imposed on the acceptance, processing, review, and approval of any development approval for any Covered Use defined in Section 2. The moratorium applies to site plan approvals, special use permits, building permits, and certificates of occupancy. The moratorium applies throughout the unincorporated territory of Durham County and within any portion of the County's planning and zoning.

Section 2. Covered Uses Defined.

For purposes of this ordinance, a 'Covered Use' is a building, a dedicated space within a building, or group of buildings housing computer systems and associated components, including telecommunications and data processing systems, used for the remote storage, processing, or distribution of data. Covered Uses include data centers, data processing facilities, cryptocurrency mining operations, artificial intelligence computing facilities, and any other use associated with data processing facilities. Covered Uses may include accessory air handlers, power generators, water cooling and storage facilities, utility substations, and other infrastructure supporting operations.

Section 3. Statutory Findings under N.C. Gen. Stat. § 160D-107(d).

In compliance with N.C. Gen. Stat. § 160D-107(d), the Board makes the following statements:

- 1) The problems warranting this moratorium are set forth in the recitals above and in the staff materials accompanying this ordinance. The Board has considered alternatives, including taking no action, permitting on a case-by-case basis, proceeding through existing general zoning procedures, and relying on voluntary commitments from developers. The Board finds these alternatives inadequate because they do not provide the County with the time or the standards needed to evaluate applications in a manner consistent with the public interest.
- 2) The development approvals subject to this moratorium are those set forth in Section 1. This moratorium addresses the conditions described in the recitals by preventing the vesting of development rights under outdated regulations that do not address the impacts of Covered Uses.

- 3) The duration of this moratorium and the reasons for that duration are set forth in Section 5. The Board finds that nine months is reasonable and does not exceed the time necessary to address the conditions warranting the moratorium.
- 4) The actions to be taken during the moratorium are set forth in Section 6.

Section 4. Exemptions

This moratorium does not apply to:

- (a) data centers covered under section 2 with a maximum size of _____ square feet that utilizes a closed-loop cooling system or other cooling technology to achieve equivalent or greater reduction in potable water consumption and relies exclusively on non-diesel backup generation;
- (b) any development/project subject to exemption pursuant to N.C. Gen. Stat. §160D-107(c);
- (c) office-scale server rooms and information technology equipment clearly incidental to a primary permitted commercial, institutional, or governmental use that is not itself a Covered Use and are intended solely to support the on-site operations permitted use; Such primary uses may include, but is not limited to, hospitals, medical facilities, financial institutions, offices, governmental institutions, educational institutions, or similar uses, as long as such data processing activities are not conducted as a primary service to off-site users;
- (d) any expansion of an existing data center in the County that does not exceed _____ square feet.

This moratorium is not adopted for the purpose of developing or adopting regulations governing residential uses and is consistent with N.C. Gen. Stat. § 160D-107(a).

Section 5. Duration.

This moratorium shall begin on August 18, 2026 and shall last until May 18, 2027, or upon adoption by the Board of amendments to the Durham Unified Development Ordinance establishing standards for Covered Uses, whichever occurs first. If the Board determines before expiration that the conditions warranting the moratorium have not been resolved, the Board may adopt an extension ordinance in accordance with N.C. Gen. Stat. § 160D-107(e).

Section 6. Plan of Action.

During the moratorium, County staff shall:

- (a) study the environmental, community, and infrastructure impacts of Covered Uses;
- (b) review how other local governments in North Carolina regulate Covered Uses;

- (c) develop proposed zoning definitions, performance standards, and mitigation measures; and
- (d) seek public input throughout the process.

Proposed amendments shall be presented to the Durham Planning Commission and then to the Board for consideration at a legislative hearing in accordance with N.C. Gen. Stat. § 160D-601.

Section 7. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is held invalid or unenforceable, the remaining portions remain in effect. The Board declares that it would have adopted this ordinance and each provision, independently of the validity of any other provision.

Section 8. Repeal of Conflicting Provisions.

All ordinances and portions of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Adopted, this the _____ day of _____, 2026.