

## **ORDINANCE NO. 3929**

**AN ORDINANCE AMENDING APPENDIX A - ZONING ORDINANCE, CHAPTER 6 – CODE ADMINISTRATION, BY ADDING A NEW DIVISION 6-4, DATA CENTER MORATORIUM; DECLARING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING, AND ISSUANCE OF REZONING REQUESTS, SPECIFIC USE PERMITS, CONDITIONAL USE PERMITS, SITE PLAN REVIEWS, BUILDING PERMITS, AND OTHER DEVELOPMENT APPROVALS FOR DATA CENTER USES WITHIN THE CORPORATE LIMITS OF THE CITY OF BROKEN ARROW, OKLAHOMA; PROVIDING A DEFINITION OF “DATA CENTER”; PROVIDING EXCEPTIONS, GRANDFATHERING PROVISIONS, AND A HARDSHIP RELIEF MECHANISM; PROVIDING FOR APPEALS; ESTABLISHING THE DURATION AND AUTOMATIC SUNSET OF THE MORATORIUM; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE AND EXPIRATION DATE; AND DECLARING AN EMERGENCY**

WHEREAS, the City of Broken Arrow (the "City") is a statutory city operating under the general laws of the State of Oklahoma as codified in Title 11 of the Oklahoma Statutes and possesses clear legal authority under 11 O.S. §§ 43-101 et seq. to adopt, amend, and enforce zoning regulations "for the purpose of promoting health, safety, morals, or the general welfare of the community," including the regulation of the location, height, bulk, size of buildings and structures, density of population, and the use of land and buildings; and the City also possesses general police power under 11 O.S. § 22-101 et seq. to enact ordinances for the good government of the City and the preservation of the public health, safety, peace, and welfare; and

WHEREAS, the City's Zoning Ordinance currently lacks a specific use classification, definition, or dedicated performance standards for data centers, creating regulatory uncertainty and the potential for inconsistent or inadequate review of proposals for this unique and resource-intensive land use; and

WHEREAS, data centers possess unique land-use characteristics that distinguish them from typical commercial, office, or light industrial uses, including but not limited to: exceptionally high electricity consumption, often tens or hundreds of megawatts, that may impact electrical grid reliability, utility rates, and infrastructure planning; substantial water demand for evaporative cooling systems; potential noise generation from mechanical equipment, chillers, and backup diesel generators; increased heavy truck traffic during both construction and ongoing operations for equipment delivery and maintenance; and significant demands on stormwater management, wastewater, transportation networks, and other public infrastructure; and

WHEREAS, there has been significant recent interest in data center development throughout the Tulsa metropolitan region, including specific inquiries and proposals regarding sites within or in close proximity to the City of Broken Arrow, raising the prospect of one or more large-scale data center projects being proposed in the near term; and

WHEREAS, the City requires a reasonable period of time to: (a) conduct or commission comprehensive studies on existing and planned infrastructure capacity, including electric utility coordination with Public Service Company of Oklahoma (PSO), water and wastewater treatment capacity, traffic and transportation impacts, and stormwater/drainage systems; (b) evaluate potential fiscal impacts (including tax base effects, public service costs, and economic development benefits), environmental impacts, noise, visual, and quality-of-life effects on surrounding residential and commercial areas; (c) review best practices, regulatory approaches, and lessons learned from peer jurisdictions in Oklahoma and nationwide that have addressed data center siting and regulation; (d) assess the consistency of potential data center development with the vision, goals, and policies of the Broken Arrow Comprehensive Plan; and (e) develop, consider, and adopt appropriate permanent zoning amendments, such as a new use unit classification, an overlay district, performance standards addressing siting, design, buffering, utility coordination, noise mitigation, and emergency response requirements; and

WHEREAS, a temporary moratorium on the acceptance and processing of new data center development applications is a legitimate, necessary, and narrowly tailored exercise of the City's zoning and police powers that will protect the public health, safety, and general welfare by preventing the establishment of potentially incompatible or inadequately regulated uses while the City completes the necessary planning, study, and regulatory development work; and such a measure is consistent with the approach recently and unanimously adopted by the Oklahoma City Council on April 21, 2026, and with accepted municipal planning practices in Oklahoma and across the United States for managing emerging land uses with significant infrastructure implications; and

WHEREAS, the City Council finds and determines that an emergency exists that requires the immediate adoption and effectiveness of this Ordinance in order to prevent a potential rush of new applications that could be submitted and vested prior to the completion of the City's planning process, thereby undermining the purpose of the study period and prejudicing the public's interest in orderly, well-planned development; and it is immediately necessary for the preservation of the public peace, health, safety, and welfare that this Ordinance become effective upon passage and approval.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:**

**SECTION I.** That Chapter 6, Division 6-4 Data Center Moratorium is created to read as follows.

**Sec. 6-4-1. - Moratorium Declared.**

A temporary moratorium is hereby declared and imposed on all new applications for rezoning, specific use permits (or conditional use permits), site plan review, building permits, certificates of occupancy, or any other development approval or permit that would authorize, permit, or facilitate the construction, establishment, expansion, enlargement, or change of use of any property or structure to a Data Center use within the corporate limits of the City of Broken Arrow, Oklahoma.

During the term of this moratorium, no such new applications shall be accepted, processed, reviewed, or approved by any City department, official, board, or commission.

**Section 6-4-2. - Definition of Data Center.**

For purposes of this Ordinance, the term "Data Center" shall mean any building, facility, structure, or any portion thereof, the primary purpose of which is the storage, processing, management, transmission, hosting, or colocation of digital data or information, including but not limited to server farms, colocation facilities, hyperscale data centers, enterprise data centers, edge data centers, or any similar use characterized by high-density computing equipment (such as servers, storage arrays, and networking hardware) and specialized power and cooling infrastructure requirements that significantly exceed those of typical commercial, office, or light industrial uses. The term expressly includes any associated or appurtenant equipment, backup power generators, uninterruptible power supply (UPS) systems, cooling systems (including chillers, cooling towers, and evaporative coolers), fuel storage, switchgear, transformers, and other support facilities or infrastructure. The City Council reserves the authority to refine or establish specific intensity thresholds (for example, anticipated connected electrical load in megawatts) by subsequent resolution or ordinance for purposes of tiered regulation or exemption.

**Section 6-4-3. - Scope and Limitations.**

This moratorium shall apply only to applications submitted on or after the effective date of this Ordinance. Nothing in this Ordinance shall be construed to prohibit or restrict:

- (a) The continued lawful operation, maintenance, repair, or replacement-in-kind of any existing data center or data processing use that was lawfully established and operating prior to the effective date of this Ordinance, provided such activities do not constitute an expansion or intensification of the use beyond what was previously approved;
- (b) Interior renovations, equipment upgrades, or minor modifications to existing facilities that do not increase the building footprint, electrical demand, water usage, or noise impacts beyond previously approved levels; or
- (c) Any application for a use that is clearly accessory or ancillary to a primary permitted use (e.g., on-site data processing equipment serving a hospital, university, or manufacturing facility) and that does not meet the primary-purpose definition of a Data Center under Section 2.

**Section 6-4-4. - Exemptions and Grandfathering.**

The following are exempt from the moratorium imposed by this Ordinance:

- (a) Vested Projects. Any project for which all required final development approvals, including but not limited to final plat, site plan approval, or specific use permit, have been granted by the appropriate City body, and/or for which a building permit has been issued and substantial construction has commenced or vested rights have attached under applicable Oklahoma law prior to the effective date of this Ordinance.

- (b) Pending Applications. The City Council may, in its sole discretion and by affirmative vote or resolution adopted at a public meeting, exempt one or more specific pending applications that were submitted to the City and deemed complete by the appropriate City staff prior to the effective date of this Ordinance, upon a finding that such exemption is consistent with the public interest, that substantial good-faith investment or reliance has occurred, or that other unique circumstances warrant relief. Any such exemption shall be documented in the Council minutes and shall not constitute a precedent for future applications.
- (c) Small-Scale or Low-Impact Facilities. Data center facilities or uses with an anticipated connected electrical load of five (5) megawatts or less, or such other threshold as the City Council may establish by resolution, provided the use otherwise complies with all applicable zoning, building, and utility requirements. This exemption is intended to accommodate smaller edge or enterprise facilities while focusing the moratorium on larger, resource-intensive hyperscale projects.
- (d) Accessory Uses. Data processing or server equipment that is clearly incidental and subordinate to a primary permitted use on the same property and that does not independently qualify as a Data Center under the definition in Section 2.

**Section 6-4-5. - Hardship Relief and Appeals.**

- (a) Hardship Relief. Any person or entity claiming that the application of this moratorium to a particular property or proposal would result in unique or undue hardship, or that strict application would not serve the public health, safety, or welfare, may apply to the Board of Adjustment for relief from the moratorium. The Board of Adjustment is hereby authorized to grant such relief, in whole or in part, upon a showing by clear and convincing evidence of unique circumstances not generally applicable to other properties, that the hardship is not self-created, and that the relief requested is the minimum necessary to alleviate the hardship while still protecting the public interest. The procedures for such applications shall, to the extent practicable, follow the variance procedures set forth in the Broken Arrow Zoning Ordinance.
- (b) Appeals. Any denial of a permit, application, or request for exemption under this Ordinance may be appealed to the City Council or such other appellate body as designated by the City Manager, in accordance with the appeal procedures generally applicable to land use decisions under the City Code and Zoning Ordinance. Such appeal must be filed within the time periods prescribed by applicable code provisions.

**Section 6-4-6. - Duration, Sunset, and Extension.**

This Ordinance and the moratorium imposed hereby shall remain in full force and effect until the earlier of: (a) December 31, 2026; or (b) the date on which the City Council adopts one or more ordinances or amendments to the Zoning Ordinance or other City codes that specifically and comprehensively address the regulation of data centers, including use classifications, siting standards, performance standards, and permitting procedures. Upon the occurrence of either event, this Ordinance shall automatically expire and be of no further force or effect, without further action by the City Council, unless extended as provided herein.

The City Council may, by resolution adopted prior to the expiration date and upon updated legislative findings demonstrating the continued need for study or regulatory development, extend

the duration of this moratorium for one or more additional periods not to exceed a total of six (6) months beyond the original expiration date. Any extension resolution shall be published in the same manner as this Ordinance.

**Section 6-4-7. - Severability.**

If any section, subsection, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, paragraph, sentence, clause, phrase, and word thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, phrases, or words might be declared invalid, illegal, or unconstitutional.

**Section 6-4-8. - Repeal of Conflicting Ordinances.**

All ordinances, resolutions, or parts of ordinances or resolutions of the City of Broken Arrow in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict. Provided, however, that nothing herein shall be construed to repeal or affect any vested rights or any approvals granted prior to the effective date of this Ordinance.

**Section 6-4-9. - Effective Date and Automatic Expiration.**

This Ordinance shall take effect and be in full force and effect immediately upon its passage, approval, and publication as required by law, by virtue of the emergency declaration contained herein. This Ordinance shall automatically expire and be repealed, without further action, on the date specified in Section 6, unless extended by the City Council in accordance with that section.

**Section 6-4-10. - Emergency.**

It being immediately necessary for the preservation of the public peace, health, safety, and welfare of the inhabitants of the City of Broken Arrow that this Ordinance become effective immediately to establish a temporary pause on new data center applications while the City conducts essential planning and regulatory work, and to prevent the submission and potential vesting of applications that could undermine or render ineffective the City's study and regulatory development efforts, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

**PASSED AND APPROVED** and the emergency clause ruled upon separately this 15th day of June 2026.

ATTEST:

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MAYOR

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(Seal) CITY CLERK

APPROVED:

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CITY ATTORNEY