

**Legistar File No. 91135 Body**

**DRAFTER'S ANALYSIS:** This proposed ordinance creates a temporary moratorium on issuance of zoning certificates for data centers and telecommunications centers of more than 10,000 square feet of floor area. Data centers are facilities, contained within a single building or in a collection of buildings, used primarily for the storage, management, processing, and transmission of digital data, which primarily houses computer or network equipment, systems, servers, appliances and other associated components related to digital data operations. The facility may also include utility infrastructure to support sustained operations at the data center. Currently, Madison's zoning code (MGO Chapter 28) does not include a definition or specific standards for 'data centers' as a use category. In MGO Chapter 28, 'telecommunications centers' is a category that has historically encompassed this type of business but is outdated.

A moratorium is a planning tool that will give the City time to set responsible rules for a new use category. While our community and economy benefit from data storage, research studies and observations in other communities show that certain large-scale data centers may pose a significant strain on energy, water use, emergency services, traffic, noise, air quality and urban development challenges that require planning and consideration. Without a zoning regulation that reflects current best practices to responsibly manage this use, the construction of new data centers may affect property values, the implementation of the City's long-range land use plans, and be detrimental to the public health, safety and general welfare. Therefore, a twelve (12) month moratorium is necessary to research and establish well-informed, consistent zoning and/or regulatory standards applied to data centers and telecommunications centers.

The moratorium will allow the City of Madison agencies, including the Office of the City Attorney ("OCA") and the Department of Planning and Economic Development ("DPCED"), to research best practices and safeguards, including creating a definition of data centers, and other use types if needed; identify the specific planning and development considerations relevant to our community for the responsible operation of data centers in the future; and propose potential standards. Agencies may assess fiscal impacts, including long-term City of Madison service and infrastructure costs for policymakers' considerations. Additionally, a twelve (12) month moratorium will allow the City of Madison to gain insights from the newly created Dane County Advisory Committee on Data Centers for the purposes of regional coordination.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 28.140 entitled "Temporary Moratorium on Data Centers and Telecommunications Centers" of the Madison General Ordinances is created as follows:

**"28.140 TEMPORARY MORATORIUM ON DATA CENTERS AND TELECOMMUNICATIONS CENTERS.**

- (1) **Declaration of Moratorium.** A temporary moratorium is hereby declared with respect to the issuance of zoning certificates for data centers and telecommunications centers, as a principal and primary use, when they have a floor area greater than 10,000 square feet contained within a single building or collection of buildings.
- (2) **Statement of Purpose.** The purpose of the moratorium is to provide the City of Madison with adequate time to assess the impacts and secondary effects of data centers and telecommunications centers and promote meaningful development and implementation of Madison General Ordinances with regard to both. The moratorium is necessary to protect the health, safety and general welfare of the City of Madison residents, businesses and visitors.

- (3) **Authority**. The City of Madison relies on the authority granted pursuant to Wis. Stat. § 62.23(7)(am) and all other sources of authority that authorize the adoption of this ordinance.
- (4) **Duration of Moratorium**. This moratorium shall be in effect for twelve (12) months following the effective date of this ordinance or until an amendment to this chapter related to data centers and/or telecommunications centers is adopted and takes effect, whichever is earlier.
- (5) **Direction to Develop Data Centers Ordinance**. During the period of this moratorium, the Office of the City Attorney ("OCA") and the Department of Planning, Community and Economic Development ("DPCED"), in consultation with relevant City agencies, are directed to draft an ordinance providing comprehensive and appropriate regulations of data centers and telecommunications centers to protect the public health, safety and general welfare of City of Madison residents, businesses, visitors and the public. It is the intention of the City of Madison Common Council to amend Chapter 28 of the Madison General Ordinances to adopt an ordinance pertaining to data centers and telecommunications centers before the expiration of this moratorium.
- (6) **Subjects of Consideration**. In preparing an amendment to this chapter or a separate ordinance related to data centers and/or telecommunications centers, the OCA and DPCED shall review the possible impacts that these uses may have on the health, safety and general welfare of the residents, businesses, visitors and general public in the City of Madison. The OCA, DPCED and relevant agencies shall also consult with other municipalities, experts, stakeholders, and relevant available studies and research pertaining to effective municipal regulation of data centers.
- (7) **Definitions**. For the purposes of this moratorium only, the following definition shall be established for data centers. Additionally, for the purposes of this moratorium, the previously adopted telecommunications center definition (below) in Sec. 28.211 shall be utilized.
  - (a) **Data Center**. A facility whose primary and principal use is for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, servers, appliances and other associated components related to digital data operations. The facility may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support sustained operations at the data center. Data centers may also contain accessory office uses necessary to monitor and manage sustained operations at the data center.
  - (b) **Telecommunications Center**. An office facility that is responsible for transmission, receipt, acceptance, processing, and distribution of incoming and outgoing communications.
- (8) **Nonconformities**. During the duration of the temporary moratorium, existing telecommunications centers greater than 10,000 square feet in floor area shall be nonconforming uses in accordance with Sec. 28.191 and therefore may undergo structural repairs or structural alterations to the building or structure provided they do not exceed fifty percent (50%) of the total assessed value of the building or structure.
- (9) **Exceptions**. The Temporary Moratorium established in this ordinance shall not apply in the following circumstances and the City may accept, process and, if appropriate, approve zoning certificates for the following type of work:
  - (a) Data centers or telecommunications centers that serve another principal use allowed on the zoning lot.

2. Table 28D-2 entitled "Mixed-Use and Commercial Districts" of Section 28.061 entitled "Mixed-Use and Commercial Districts Uses" of the Madison General Ordinances is amended by amending therein the following:

"Table 28D-2.

Mixed-Use and Commercial Districts								
	LMX	NMX	TSS	MXC	CC-T	CC	RMX	THV
<b>Retail Sales and Services</b>								
Sporting goods store, bait shop	P	P	P	P	P	P	P	
Telecommunications center				P	P			Y
Tobacco retailer		P	P	P	P	P	P	Y"

3. Table 28F-1 entitled "Employment Districts" of Section 28.082 entitled "Employment District Uses" of the Madison General Ordinances is amended by amending therein the following:

"Table 28F-1.

Employment Districts							
	TE	SE	SEC	EC	IL	IG	Supplemental Regulations Sec 28.151
<b>Limited Production, Processing and Storage</b>							
Storage facility, personal indoor storage				C	C		Y
Telecommunications center	C	C	P	P	P	P	Y
Warehousing and storage	C	C			P	P"	

4. Section 28.151 entitled "Applicability" of the Madison General Ordinances is amended by creating therein the following:

"Telecommunications Center. Shall comply with Sec. 28.140, MGO."

**EDITOR'S NOTE:**

Title:

Creating Section 28.140 to establish a temporary Temporary moratorium on the consideration and/or issuance of zoning certificates for data centers and telecommunications centers pending enactment of a zoning ordinance to address these uses and protect the public health, safety and welfare of City of Madison residents and amending 28.061, 28.082, and 28.151 to accommodate the temporary moratorium.