

RESOLUTION 26 - 218

A RESOLUTION ESTABLISHING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR DATA CENTER DEVELOPMENT IN THE CITY OF COUNCIL BLUFFS, IOWA

WHEREAS, the City of Council Bluffs, Iowa (the “City”) is authorized pursuant to Iowa Code Chapter 414, as well as the City’s home rule powers under Iowa Code Chapter 364, to regulate land use and temporarily impose moratoria on development pending adoption of comprehensive regulations; and

WHEREAS, the legislative powers of the City are vested in the City Council (“City Council”); and

WHEREAS, the City Council is charged with protecting the health, safety, and general welfare of the residents of the City; and

WHEREAS, the City Council is also charged with overseeing the operation, maintenance, and expansion of City utilities and infrastructure, including how to budget and finance the same; and

WHEREAS, the City Council, through its legislative powers, is the ultimate policy-maker for the City when it comes to land use, planning, zoning, economic development, growth, budgets, finances, and taxing; and

WHEREAS, the City Council first defined “Data Centers” in 2007 in Ordinance 5956 § 2; and

WHEREAS, the development of Data Centers is currently allowed as a principal use for the I-2/General Industrial District zones; and

WHEREAS, since 2007, the data center industry has made substantial investments within the City of Council Bluffs, including the building of both small-scale and large-scale Data Centers; and

WHEREAS, the Data Centers in Council Bluffs have required significant amounts of power, water usage, waste water treatment, and land requirements; and

WHEREAS, since 2007, new research across the United States has shed light on how Data Centers may impact utility usage rates and costs for nearby citizens; and

WHEREAS, since 2007, new research across the United States has begun to highlight the potential environmental harms caused by Data Centers, which in some cases, has resulted in direct harm to the health and well-being of nearby residents; and

WHEREAS, multiple county and municipal governments across Iowa have already recognized the need to pause data center development to allow their

governments to study Data Center operations, infrastructure, and environmental impacts before developing comprehensive ordinance and regulations specific to the development of Data Centers; and

WHEREAS, on May 19, 2026, Iowa Governor Kim Reynolds signed Senate File 2472 into law, which included sweeping legislative changes to Iowa's property tax laws, as well as additional rules and limits for municipal property tax revenue; and

WHEREAS, the City has not yet had an opportunity to evaluate how its future property tax revenue will be impacted under current Data Center economic development agreements, nor evaluate any corresponding possible changes to the City's future levy rate; and

WHEREAS, the City Council needs to understand the probable financial impact of its current economic development agreements to sufficiently understand how to prioritize future land use growth and economic development incentives to act in accordance therewith; and

WHEREAS, neither the City Council nor City staff are able to ascertain the full financial costs, health and safety issues for citizens, and/or any benefits provided to the City by Data Centers without comprehensive studies; and

WHEREAS, a temporary moratorium is necessary to allow the City time to conduct relevant studies, synthesize the information through formal fact-finding, and ultimately determine what, if any, additional comprehensive Data Center laws, rules, or regulations the City could implement; and

WHEREAS, the City Council has determined that twelve (12) months is the minimum time reasonably necessary to conduct the studies and fact-finding contemplated herein.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1: MORATORIUM IMPOSED

A temporary moratorium is hereby imposed on the acceptance, processing, and approval of any zoning amendments, site plans, or building permits related to the construction or expansion of data centers, as currently defined in the Council Bluffs Municipal Code Section 15.03.176 – Data Centers.

SECTION 2: TERM OF MORATORIUM

This moratorium shall be in full force and effect for a period of twelve (12) months from the date of passage, or until the City Council formally adopts a comprehensive ordinance

addressing data center development, whichever occurs first. Nothing in this section shall prevent the City Council from exercising any lawful legislative authority to extend this moratorium or provide for an earlier termination of this moratorium.

SECTION 3: PURPOSE

This temporary moratorium shall require City staff, as well as the City Planning Commission, to research and draft comprehensive planning and/or zoning regulations concerning Data Centers. Topics to be studied may include, but are not limited to:

- A. Water usage and impact on local wells, aquifers, or any other relevant water source.
- B. Electrical grid capacity, potential strain on local utilities, and any increased cost potential to citizens of the City.
- C. The capacity and impact for the City's waste water and sewer treatment infrastructure, which should include any material limitations to future commercial or industrial growth, as well as any estimated costs to upgrade, expand, or replace City infrastructure to accommodate current or future Data Centers.
- D. Noise, heat, and visual or light pollution.
- E. Appropriate comprehensive plan(s), zoning districts, setbacks, or any other regulations recommended for Data Centers.
- F. Any City budget or financial forecasting available to assist the City Council in understanding the fiscal benefits or drawbacks of Data Centers.

SECTION 4: STUDY AND CONSULTATION AUTHORIZATIONS

- A. The Director of Community Development is hereby authorized and directed to:
 - 1. Immediately determine the exact type(s) of any land use, economic development, planning, zoning, or any other relevant studies which need to be conducted to carry out the intent of this Resolution; and
 - 2. Assess the City's resources, including identifying the number of employees and estimated hours of work it will take to execute this Resolution; and
 - 3. Determine whether any necessary studies can be immediately pursued under pre-existing purchasing policies or report back to City Council the estimated cost(s) for any studies above the purchasing thresholds; and
 - 4. Assist the Planning Commission with understanding and implementing this Resolution; and
 - 5. Consult with the Chief Building Officer and the Fire Marshall to determine if they believe any studies should be conducted within their respective purviews, and if so, report back to the City Council; and

6. Any duties assigned under this Section may be delegated to and among the employees of the Community Development Department.

B. The Planning Commission is hereby authorized and directed to:

1. Per Iowa State Code and the Council Bluffs Municipal Code, the Planning Commission shall ultimately be responsible for producing and recommending a comprehensive data center amendment or amendments to the Council Bluffs Municipal Code which shall aim to more thoroughly define and regulate the zoning and development of data centers within Council Bluffs; and
2. The Planning Commission may request or direct city staff to assist the Commission in carrying out its duties as delineated in this Resolution; and
3. The Planning Commission may request any studies which, in the opinion of the Commission, are necessary to assist with making an informed recommendation to the City Council, so long as such study is under the authorized purchasing threshold of the Director of Community Development or may recommend the City Council approve such study if above the purchasing threshold; and
4. May create one or more sub-committees, if in the opinion of the Commission such sub-committee is warranted, so long as any such sub-committee fully understands and complies with Iowa's open meeting and open record laws.

C. The Director of Public Works is hereby authorized and directed to:

1. Immediately determine the exact type(s) of any infrastructure study, which may include a study of the operational limits of our current infrastructure and utility plants, whether data centers are likely to contribute to any accelerated degradation of our infrastructure and utility plants, or any other such study of the City's infrastructure or natural resources which would assist the City Council with carrying out the intent of this Resolution; and
2. Assess the City's resources, including identifying the number of employees and estimated hours of work it will take to execute this Resolution; and
3. Determine whether any necessary studies can be immediately pursued under pre-existing purchasing policies or report back to City Council the estimated cost(s) for any studies above the purchasing thresholds; and
4. Consult with the City Engineer on the above criteria, if warranted; and
5. Any duties assigned under this Section may be delegated to and among employees of the Public Works Department.

D. The City Attorney is hereby authorized and directed to:

1. Assist City staff with carrying out any duty or directive necessary to implement the intent of this Resolution; and

2. Assess the City Attorney's resources, including identifying the number of employees and estimated hours of work it will take to execute this Resolution; and
3. Determine whether the City Attorney's Office would recommend the assistance of outside counsel or an outside agency in drafting the comprehensive data center amendment(s) contemplated in this Resolution; and
4. Provide ongoing oversight of the moratorium process to ensure the process remains legally compliant.

E. The Director of Finance is hereby authorized and directed to:

1. Work with the above-authorized individuals to establish an overall estimated cost to conduct the studies necessary to carry out the intent of this Resolution and determine an overall estimated budget to fully carry out this Resolution; and
2. Assist the Mayor and/or any above-authorized individuals with determining the options to finance studies, while remaining compliant with any necessary budgeting, finance plans, or similar government finance laws.

F. The Mayor is hereby authorized and directed to:

1. Be responsible for the overall coordination between the various city departments and employees in order to implement this Resolution; and
2. Ensure the City Council and the public receive consistent updates from the above-authorized City staff or as otherwise authorized and directed in this Resolution; and
3. Shall place, on the City Council agenda, any requests for funding, resources, or similar requests if necessary to execute the intent of this Resolution.

SECTION 5: REPORTING AND FACT FINDING

A. The City Clerk is hereby directed to add a standing "Data Center Moratorium" section to the agenda for City Council study sessions. All resolutions, requests, or updates, whether written or oral, and which are specifically related to the data center moratorium shall be listed under this section for the study session, to assist with the organization and transparency of information for the public.

B. Every ninety (90) days, or as close thereto as the City Council agenda will allow, the Mayor or the Mayor's designee shall provide a public update to the City Council through either a written or oral report. Such report(s) shall inform the City Council and the public of the progress and status of any studies and consultations authorized in Section 4 of this Resolution. The intent of these reports is not to provide the full or conclusive results, but rather to assist with keeping track of the progress and timelines as the moratorium process continues. The first required report to the City Council shall be at the September 14, 2026 City Council meeting, where the Mayor shall provide the City Council with a

comprehensive list of studies, along with their estimated costs, necessary to fully carry out the intent of this Resolution.

C. Upon receipt of the written results of any study or consultation conducted by an individual or entity authorized in Section 4 of this Resolution, the Mayor or the Mayor's designee shall consult with the City Attorney or their designee to determine whether the completed study or consultation will allow City Council a sufficient opportunity to debate and conduct the formal fact-finding necessary to determine whether the moratorium's scope should be expanded or limited, or whether to continue or end the moratorium authorized in this Resolution.

SECTION 6: EXEMPTIONS

The exemptions set forth in this Section reflect the City Council's determination that the moratorium imposed by this Resolution is intended to apply to new and as-yet-unauthorized data center development, and is not intended to disturb development that has received prior governmental authorization upon which a developer has reasonably relied. Nothing in this Section shall be construed to limit the City's authority to enforce all applicable codes, ordinances, and regulations with respect to any exempt development.

A. Issued Building Permits

This moratorium shall not apply to any developer who has already been issued a valid building permit for a data center or data center expansion by the City prior to the effective date of this Resolution. A validly issued building permit constitutes the highest level of prior governmental authorization and reflects the City's prior determination that the proposed development meets all applicable requirements. For purposes of this subsection, a building permit issued prior to the effective date of this Resolution shall be deemed to authorize only the specific structure or structures expressly identified therein.

B. Pending Building Permit Applications

This moratorium shall not apply to any developer who has submitted a complete building permit application for a data center or data center expansion that was accepted for processing by the City prior to the effective date of this Resolution and which remains pending as of that date. A pending building permit application represents a developer's formal initiation of the City's permitting process, and procedural fairness requires that such applications be processed to completion under the regulations in effect at the time of submission. No independent showing of reliance is required under this subsection.

C. Grading Permits with Substantial Reliance

This moratorium shall not apply to any developer who has been issued a valid grading permit for a data center or data center expansion by the City, provided that:

1. The grading permit was issued prior to the effective date of this Resolution;
2. The developer has made substantial expenditures in reasonable reliance on the grading permit prior to the effective date of this Resolution, which may include but is not limited to grading, excavation, tree clearing, erosion control installation, or other material site preparation work undertaken pursuant to and consistent with the scope of the grading permit; and
3. The developer has not voluntarily abandoned the project for which the grading permit was issued, as evidenced by the developer's cessation of all development activity on the site for a continuous period of twelve (12) months or more prior to the effective date of this Resolution.

The substantial expenditure and non-abandonment requirements under this subsection ensure that this protection extends only to active, good-faith development efforts and not to speculative or dormant projects.

D. Existing Economic Development Agreements

This moratorium shall not apply to any developer who has entered into a currently operative economic development agreement with the City of Council Bluffs prior to the effective date of this Resolution, where such agreement expressly contemplates the development of a data center on a specifically identified parcel within the City. For purposes of this subsection:

1. An economic development agreement shall be deemed "currently operative" if it has not expired by its own terms, has not been formally terminated by either party, and has not been superseded in its entirety by a subsequent agreement between the same parties with respect to the same parcel;
2. The protection afforded by this subsection shall apply only to the specific parcel or parcels expressly identified in the operative economic development agreement, and shall not be construed to extend to any parcel not so identified; and
3. Where a developer holds economic development agreements with the City with respect to multiple parcels, the operative status of any one such agreement shall be determined independently with respect to each parcel, and the operative status of an agreement with respect to one parcel shall not be construed to establish the operative status of any agreement with respect to any other parcel.

An operative economic development agreement represents a contractual commitment by the City to support specified development on identified property. The protection afforded by this subsection derives from the City's contractual obligations and the developer's reasonable expectations arising therefrom, and is

independent of whether the developer has obtained any particular permit or made any particular expenditure. The independent parcel-by-parcel determination required in Paragraph 3 of this subsection reflects the City Council's finding that development rights and contractual commitments with respect to distinct parcels are legally and factually distinct, and shall be evaluated as such.

E. Local Utility and Communications Infrastructure

This moratorium shall not apply to local utility providers, communication providers, or any property owner installing minor information technology infrastructure necessary solely to facilitate the provision of local commercial or residential internet, telecommunications, or utility services. This exemption is limited to infrastructure whose primary purpose is the provision of such local services and does not extend to data centers or data center expansions as defined in Council Bluffs Municipal Code Section 15.03.176, regardless of whether such facilities are owned or operated by a utility or communications provider.

SECTION 7: SEVERABILITY

If any section, provision, or part of this Resolution is held unconstitutional or invalid through judicial proceedings, such determination shall be severable and shall not affect the validity of the Resolution as a whole.

SECTION 8: EFFECTIVE DATE

This Resolution shall be in full force and effect immediately upon its passage and publication as required by law.

ADOPTED
AND
APPROVED

June 15, 2026.

JILL K. ALMONTE

Mayor

Attest:

JODI QUAKENBUSH

City Clerk