

ORDINANCE OF THE TOWN OF APEX TOWN COUNCIL INSTITUTING A TEMPORARY MORATORIUM ON THE PERMITTING OF DATA CENTERS, DATA PROCESSING FACILITIES, CRYPTOCURRENCY MINING OPERATIONS AND ANY USE ASSOCIATED WITH DATA PROCESSING FACILITIES WITHIN THE TOWN OF APEX, NORTH CAROLINA PURSUANT TO NORTH CAROLINA GENERAL STATUTE §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;

WHEREAS, the Town of Apex Unified Development Ordinance (UDO) does not define data centers, data processing facilities, cryptocurrency mining, and other uses associated with data processing facility as specific uses;

WHEREAS, the Town of Apex Town Council at its April 14, 2026 regular meeting held a legislative hearing regarding this moratorium in accordance with N.C. Gen. Stat. §160D-601; and

WHEREAS, the Town of Apex Town Council believe such a moratorium will protect the public interest and welfare of the residents of the Town of Apex until such regulations regarding the aforementioned uses are adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX

Section 1: A temporary moratorium is hereby imposed commencing on April 28, 2026, and expiring no later than April 27, 2027, or upon approval of Unified Development Ordinance amendments regarding data centers, data processing facilities, cryptocurrency mining operations, and uses associated with data processing facilities not yet defined in the Town of Apex's Unified Development Ordinance. This moratorium specifically includes the corporate limits and extraterritorial jurisdiction of Apex as well as any future Apex planning area as depicted on the Town of Apex 2045 Land Use Map. For the purposes of this moratorium, a data center, data processing facility, or cryptocurrency mining operation is a building, a dedicated space within a building, or group of buildings housing computer systems and associated components, such as telecommunication and data processing systems, to be used for remote storage, processing, or distribution of large amounts of data. Examples of such data include, but are not limited to, computationally intensive applications such as cryptocurrency mining, artificial intelligence (A.I.) computing, weather modeling, genome sequencing, application hosting, cloud storage, video and technical streaming services, etc.

This moratorium shall not apply to data processing equipment or server rooms that are clearly incidental and subordinate to a permitted principal use and are intended solely to support the on-site operations of such principal use, provided that such equipment or server rooms comply with all applicable provisions of Section 4.5, *Accessory Uses and Structures*, of the Town of Apex's Unified Development Ordinance. Such principal use may include, but is not limited to, hospitals, medical facilities, financial institutions, offices, educational institutions, or similar uses, as long as such data processing activities are not offered as a primary service to off-site users.

Section 2: In compliance with the requirements of N.C. Gen. Stat. §160D-107, the Town of Apex makes the following statements:

(1) Data centers, data processing facilities, cryptocurrency mining operations, and any other uses associated with data processing facilities require considerable amounts of electricity and water usage, which can result in greenhouse gas emissions, as well as additional pollution, e-waste, noise, and other local impacts to residents and communities living near the facilities. The Town of Apex Planning Department and Environmental Advisory Board (EAB) are in the process of developing zoning standards and mitigation methods to address these intensive land use types that may cause detrimental harm to the natural environment and the quality of life of Town residents. The Town seeks time to develop such standards. The Town has looked at alternative solutions to a moratorium but found none. The Town has determined that to simply allow this intensive land use to be permitted without regard to location, height, size, density, population, industry, residence or other purposes would be counter to the stated goals of the Advance Apex 2045 Plan.

(2) The moratorium shall begin on April 28, 2026, and shall last until April 27, 2027, or upon a UDO amendment addressing the land uses of data centers, data processing facilities, cryptocurrency mining, and other uses associated with data processing facilities, whichever comes first. This twelve (12) month moratorium is necessary to allow Apex Planning staff and the EAB sufficient time to study these uses and their impacts, to consider zoning standards and mitigation methods, and to prepare an amendment to the UDO to address data centers, data processing facilities, cryptocurrency mining, and other uses associated with data processing facilities prior to the expiration of the moratorium.

(3) The Town of Apex Planning Staff and the EAB will study the impacts of data centers, data processing facilities, cryptocurrency mining, and any other uses associated with data processing facilities on communities. Planning Staff and the EAB will also investigate how other communities in North Carolina and across the United States have addressed these impacts through zoning regulations. Planning Staff and the EAB will develop the land use regulations required to mitigate the negative impacts associated with land uses described as data centers, data processing facilities, cryptocurrency mining, and any other uses associated with data processing facilities. Subsequently, UDO amendments will be proposed which will then follow the legislative process for adoption. Public input will be sought throughout the process. The research, policy development, and legislative processes necessitate an adequate moratorium time limit of twelve (12) months.

Section 3: If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: This Ordinance shall be in full force and effect beginning on April 28, 2026.

Adopted, this the 14th day of April, 2026.

Motion by Council Member _____

Seconded by Council Member _____

With ____ Council Member(s) voting "aye."

With ____ Council Member(s) voting "no."

This the ____ day of _____ 2026.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney