

**ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON DATA
CENTER, CRYPTOMINING, AND SIMILAR FACILITIES**

WHEREAS, North Carolina General Statute 160D-107 outlines the legal conditions under which local governments can declare moratoria on development approvals; and

WHEREAS, data centers, cryptomining facilities and similar facilities typically involve significant demands on electrical and water infrastructure, generate noise and heat, and may have land use impacts that are not adequately addressed by the City of Hendersonville's Zoning Ordinance ("Zoning Ordinance"); and

WHEREAS, western North Carolina is already home to three large data centers-Apple in Maiden, Meta in Forest City, and Google in Lenoir; and

WHEREAS, at their August 26, 2026 meeting, Hendersonville City Council set a public hearing to consider the possibility of adopting a moratorium on development approvals for data centers and cryptomining facilities; and

WHEREAS, City staff recommend that Hendersonville Planning Board and City Council consider text amendments to clarify the conditions under which data centers, cryptomining facilities, and similar facilities can locate within the City's zoning jurisdiction; and

WHEREAS, City staff also recommend that City Council declare a temporary pause on new data center development, per the provisions of NCGS 160D-107, to protect the public health, safety, and welfare while the City evaluates appropriate zoning and regulatory updates; and

WHEREAS, the NCGS 160D-107 requires that "any development regulation establishing a development moratorium must include, at the time of adoption," the statements proclaimed below.

NOW, THEREFORE, THE CITY COUNCIL OF BREVARD, NORTH CAROLINA FINDS THE FOLLOWING:

Statement 1. Data centers, crypto mining facilities, AI data centers, and other data processing facilities can have significant adverse impacts on the neighboring properties and the community as a whole, depending upon their size, infrastructure, electric use, cooling system methodology, back-up power supplies including by not limited to large generators, on-site electricity generation, and other operational aspects that may not be compatible with residential, mixed use development, small scale commercial development, office and institutional uses, and agricultural uses. Such adverse impacts may include noise, large scale energy generation and consumption, large water consumption, and size and scaling of the facilities to name a few.

Statement 2. Data centers/cryptomining facilities are not specifically addressed in Hendersonville's Zoning Ordinance, but similar facilities, business services, are permitted by right in all districts, and without the imposition of a moratorium, a court could potentially interpret this use to include data centers without the City having adequate land use standards in place to regulate data centers and cryptomining facilities. City Council therefore finds that the Zoning Ordinance as written does not adequately evaluate and regulate such high-intensity land uses.

Statement 3. Prior to the start of the public hearing, City staff presented City Council with the following options to consider as an alternative to adopting a moratorium:

Option 1. Do nothing. City Council finds that this is not a viable alternative as there exists the possibility of a data center qualifying as a business service, a use allowed by right in all districts, and doing nothing leaves the City and its residents vulnerable to a data center coming into the City by right, without adequate regulations in place in the Zoning Ordinance.

Option 2. Adopt an ordinance under the police powers found in N.C.G.S. § 160A-174 as a single use police power ordinance. The City finds that such an ordinance would be subject to the requirements for adopting a Zoning Ordinance and therefore a stand-alone single use police power gives no benefit to the City.

Option 3. Do not adopt a moratorium, but direct staff and the Planning Board to study the issue of data centers and cryptomining regulation across the state and propose an amendment to the Zoning Ordinance that regulates the placement of such facilities within the City and its extraterritorial jurisdiction. City Council finds that such an approach is not a viable alternative for the same reasons expressed in Option 1.

Statement 4. The moratorium applies to the acceptance, processing, and approval of development approvals for data centers, cryptomining facilities, server farms, and other high-impact digital infrastructure facilities, including but not limited to zoning permits, special use permits, site plan approvals, building permits, conditional zoning approvals, and other any other development approvals under the City of Hendersonville's Zoning Ordinance. Temporarily suspending these approvals will prevent the establishment or expansion of such facilities under regulatory provisions that do not adequately address their infrastructure demands, noise, heat generation, and utility consumption while the City evaluates and adopts appropriate zoning and development standards.

Statement 5. The moratorium should be effective upon the adoption of an ordinance and should expire 12 months after the adoption unless earlier ended by act of City Council. This date gives the City of Hendersonville adequate time to consider text amendments to its Zoning Ordinance, have them approved by its Planning Board and City Council, and comply with the notice and public hearing requirements that text amendments before those two boards must follow.

Statement 6. The implementation plan to be followed during the moratorium should be as follows:

- a) On or before November 30, 2026, staff will conduct the following:
 - a. State and Federal law review
 - b. data center characteristics (typical/hyperscale)
 - c. statutory authority
 - d. land use & environmental analysis
- b) On or before April 30, 2027, the following will occur:
 - a. Draft ordinance
 - b. Public outreach & sub-committee review
 - c. Legal Review & Administrative Review
 - d. Utility Engagement & Review
 - e. Revise draft as per a-d.
- c) The City of Hendersonville community development staff will present text amendment options to the City's Planning Board on or before May 31, 2027;
- d) The Planning Board will approve a recommendation as to any Zoning Ordinance changes within 60 days of being presented with staff's text amendment options;
- e) City Council will hold a Public Hearing on any proposed changes to the Zoning Ordinance within 60 days of the Planning Board's meeting at which their recommendation to City Council is approved; and
- f) City Council will adopt or decide not to adopt proposed changes on or

before August 30, 2027. City Council may refer the proposed changes back to the Planning Board as needed for further comment or recommendations, between the date of the public hearing and August 30, 2027. Further if required, City Council may hold a second public hearing during this same time period.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HENERSONVILLE, NORTH CAROLINA, as follows:

1. The City hereby imposes a temporary moratorium on the acceptance, processing, and approval of any application for and the issuance of any development approval for data centers, cryptomining facilities, AI data centers, server farms, or any other similar facility. Nothing herein shall be deemed to prevent the issuance of a development approval for a data center as an accessory use to a facility whose primary operation is not the storage and/or processing of data, and provided such accessory use is for the facility’s own internal purposes. Such accessory use shall not exceed a total of 1000 square feet of space dedicated to, and used directly for or in support of, the storage and/or processing of data, whether in one or more stand-alone buildings or as part of other buildings.
2. The moratorium shall be effective upon the adoption of this ordinance and shall expire at 11:59 p.m. on September 2, 2027 unless earlier ended by act of City Council, after due compliance with the notice and public hearing requirements that text amendments must follow.
3. The implementation plan as set out in Statement 6 above is hereby approved.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 3rd day of September, 2026.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney