

**SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS**

ORDINANCE NO. 2026- 06

**AN ORDINANCE IMPOSING AN EIGHTEEN-MONTH MORATORIUM ON
DEVELOPMENT APPROVALS OR THE ISSUANCE OF DEVELOPMENT PERMITS
FOR DATA CENTER FACILITIES**

Introduced by: Commissioner Lisa Cacari Stone and Commissioner Hank Hughes

**BE IT ORDAINED BY THE SANTA FE COUNTY BOARD OF COUNTY
COMMISSIONERS:**

SECTION 1. SHORT TITLE.

This Ordinance shall be known as the “Center Moratorium Ordinance.”

SECTION 2. DEFINITIONS.

As used in the Data Center Moratorium Ordinance, the following terms have the following meanings:

- A. “Board” means the Board of County Commissioners of Santa Fe County.
- B. “County” means Santa Fe County.
- C. “Development,” “Development Approval,” “Development Order,” and “Development Permit” have the same meanings given those terms in the SLDC. In addition, “Development Permit” expressly includes master plan approvals, development plan approvals, zoning or rezoning approvals, conditional use permit approvals, and special use permit approvals.
- D. “IT Load Capacity” means the aggregate maximum designed electrical power demand, measured in megawatts (MW), required to operate the information technology equipment housed within a facility, including servers, networking equipment, storage systems, and associated power distribution and cooling infrastructure.
- E. “Data Center” means a facility, or a proposed expansion of an existing facility, that is designed or used primarily for housing, managing, operating, or transmitting data by means of computer systems and associated components, including servers, networking equipment, and data storage systems; and has a proposed aggregate IT Load Capacity of 1 megawatt(s) or greater.

The term includes hyperscale data centers, artificial intelligence computing facilities, cloud computing facilities, colocation facilities, and cryptocurrency mining operations meeting the foregoing threshold.

The term does not include ordinary computer rooms, server closets, telecommunications rooms, or information technology equipment that is clearly incidental and accessory to a principal lawful use, such as an office, school, hospital, public building, agricultural operation, retail establishment, or small business, provided that such incidental

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equipment does not require separate high-capacity energy, water, cooling, utility, or direct supporting infrastructure beyond that ordinarily required for that principal use.

F. “SGMP” means the Santa Fe County Sustainable Growth Management Plan, adopted by the Board by Resolution Nos. 2015-155, as amended.

G. “SLDC” means the Sustainable Land Development Code, Ordinance No. 2016-09, as amended.

SECTION 3. FINDINGS.

A. The Board finds that Data Centers have the potential for far-reaching effects on the community. Data Centers are developments that place major demands on public infrastructure, water resources, and the regional electrical grid, and have the potential to affect the environment and public health, safety, and welfare beyond the impacts on immediately neighboring properties. Therefore, special regulation of Data Centers is necessary:

- (1) to protect the health, safety, and welfare of the citizens, residents, and businesses of the County from the potentially harmful or hazardous impacts of Centers;
- (2) to ensure short- and long-term compatibility of Data Centers with surrounding land uses and the County at large;
- (3) to preserve the quality and sustainability of life, the economy, infrastructure, environment, natural and cultural resources, and natural landscapes; and
- (4) to protect air quality, surface water, groundwater, acequia systems, environmentally sensitive lands, and the visual and scenic qualities of Santa Fe County.

B. **Water Resources.** The Board finds that Data Centers present significant risks to the finite and essential water resources of Santa Fe County:

- (1) Data Centers commonly use evaporative or wet-cooling systems that require substantial water withdrawals from groundwater aquifers and surface water systems. A single hyperscale facility may consume millions of gallons of water per day.
- (2) Santa Fe County is located in an arid, drought-prone region subject to chronic water scarcity. The Pojoaque Basin, the Santa Fe Basin, and other aquifer systems underlying the County are under significant and increasing stress from existing demands.
- (3) Without targeted regulation, Data Center development poses a material risk of irreversible harm to the groundwater supplies, acequia networks, and surface water resources upon which communities, agricultural operations, and natural ecosystems depend.
- (4) The SLDC does not currently contain performance-based or other standards governing water consumption, cooling technology requirements, or water-use reporting for Data Centers.

C. **Energy and Grid Capacity.** The Board finds that Data Centers present significant risks to regional energy infrastructure and grid reliability:

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- (1) Data Centers are among the most energy-intensive land uses, with individual hyperscale facilities capable of drawing hundreds of megawatts of electricity—a demand that can equal or exceed that of an entire municipality.
- (2) Data Centers have the potential to strain regional transmission infrastructure, increase energy costs for residents and businesses, impair grid reliability, and undermine the County’s renewable energy and climate resilience goals.
- (3) The SLDC does not currently contain standards governing the assessment of electrical demand, grid capacity, or energy infrastructure requirements as conditions of Development Approval, potentially a loophole for Data Centers.

D. Inadequacy of Existing SLDC Regulations. The Board finds that:

- (1) The SLDC does not contain specific provisions defining, classifying, or establishing permitting standards for Data Centers as a distinct land use category.
- (2) Existing general commercial and industrial zoning and development standards in the SLDC are not tailored to address the unique scale, intensity, and impact profile of Data Centers, including their water consumption, energy demand, noise, heat emissions, and infrastructure requirements.
- (3) The absence of specific SLDC standards creates a risk that Data Center applications will be evaluated under general standards that may be unsuited to the assessment of their cumulative and long-term impacts.

E. Need for Public Input and Study. The Board finds that development of appropriate Regulations governing Data Centers will require:

- (1) the identification and allocation of monetary and staff resources;
- (2) engagement of planning, water, environmental, energy, fiscal, and engineering consultants;
- (3) coordination with state agencies, utility providers, and regional water authorities; and
- (4) public hearings and workshops to solicit community input, evaluation, and recommendations from diverse residents including Pueblos and tribal governments, acequia associations and other agricultural operators, rural landowners, historical and traditional villages and community and residential organizations.

F. Necessity of Moratorium. An eighteen-month moratorium on Development Approvals and Development Permits for Data Centers is necessary, essential, and reasonable:

- (1) to avoid a race of diligence, whereby applicants submit Data Center development applications during the formulation and public discussion of regulations;
- (2) to avoid the establishment of nonconforming uses or the need to respond in an ad hoc fashion to Data Center proposals in the absence of applicable standards;
- (3) to eliminate the need for hasty adoption of permanent controls;
- (4) to allow the planning and implementation process to run its full and natural course with widespread community input and involvement, public debate, and full consideration of all issues and points of view; and

(5) to allow for the creation of legally and technically sound plans, policies, and regulations.

- G.** This Data Center Moratorium Ordinance constitutes a valid exercise of the County's express and implied zoning authority and police power, consistent with NMSA 1978, § 3-21-1 (granting counties zoning authority, including the power to "regulate and restrict within its jurisdiction" the "location and use of buildings, structures and land for trade, industry, residence or other purposes") and NMSA 1978, § 4-37-1 (granting counties "those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants"). *See also Brazos Land, Inc. v. Board of County Commissioners of Rio Arriba County*, 1993-NMCA-013, ¶ 30, 115 N.M. 168 (holding that a county development moratorium enacted to allow time for promulgating more stringent regulatory standards was a valid exercise of its police power and express and implied authority).

SECTION 4. DATA CENTERS EXEMPT FROM MORATORIUM.

The following are exempt from the moratorium imposed by Section 5:

- A.** Data centers or data processing facilities that do not meet either threshold set forth in Section 2(G)(1) or (2);
- B.** County-owned or County-operated facilities used solely for governmental data processing purposes; and
- C.** Facilities for which a complete application for Development Approval or a Development Permit was accepted by the County prior to the effective date of this Data Center Moratorium Ordinance.

As land uses and impacts are further defined during the moratorium period, the Board may amend this Data Center Moratorium Ordinance to modify the scope of land uses subject to or exempt from the moratorium imposed by Section 5.

SECTION 5. MORATORIUM.

During the effective period of the Data Center Moratorium Ordinance and except as provided in Section 6:

- A.** No new applications for Development Approval or a Development Permit for a Data Center shall be accepted by the County;
- B.** No applications for Development Approval for a Data Center shall be accepted, further processed or acted upon by the Board or any other County committee, commission, department, or official; and
- C.** No Development Approval or Development Permit for a Data Center shall be issued.

SECTION 6. DATA CENTERS WITH VESTED RIGHTS ARE EXEMPT FROM MORATORIUM.

- A.** Section 5 shall not apply to Development Permits necessary to implement Data Centers with vested rights as of the effective date of this Data Center Moratorium Ordinance, as

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determined by the County Land Use Administrator in accordance with New Mexico law. To have vested rights, generally (i) there must be prior approval by the County for the use of buildings or land for a Data Center, and (ii) there must be a substantial change in position in reliance on such approval.

- B.** Any person aggrieved by the Land Use Administrator's determination with respect to vested rights may appeal that decision in accordance with the appeal provisions of the SLDC. Any person aggrieved by the Board's decision on appeal may appeal the Board's decision to District Court pursuant to NMSA 1978, § 3-21-9 and § 39-3-1.1.

SECTION 7. PRIORITIZATION OF REGULATIONS FOR DATA CENTERS.

The County Manager is directed to require County staff to immediately develop regulations for Data Centers and to take such other action as is necessary to expeditiously develop such regulations, any necessary amendments to the SLDC or SGMP, and any other ordinances or documents necessary to implement regulations for Data Centers or to carry out the purposes of this Data Center Moratorium Ordinance. In developing the regulations required by this Section, staff shall define study area boundaries appropriate to each category of impact, rather than applying a uniform radial buffer. At minimum, staff shall use: airsheds as the geographic unit for air quality, heat emission, and heat waste impacts; watersheds and aquifer recharge zones as the geographic unit for water consumption and groundwater impacts; and viewsheds as the geographic unit for light and visual impacts.

In carrying out the directives of this Section, the County Manager shall ensure that the regulatory development process includes the public hearings and workshops required by Section 3.E.4 of this Ordinance, and shall convene a community working group comprising residents, affected community members, subject matter experts, and relevant agency representatives to inform the development of regulations. The working group shall provide recommendations regarding future regulations governing Data Centers. The County Manager shall ensure that industry stakeholders do not dominate decision-making.

Regulations shall expand existing land use regulations to address specific conditions, at a minimum:

- A.** water consumption limits, cooling technology standards, and water-use reporting requirements;
- B.** energy demand assessments, grid capacity analysis, and renewable energy integration requirements, which may be based on relevant codes or other written standards;
- C.** siting criteria and land use compatibility standards, including equity-centered siting standards, cumulative burden assessments for environmental justice communities, and enhanced opportunities for community participation;
- D.** noise, heat, and other environmental impact mitigation standards;
- E.** cumulative impact assessment standards that consider aggregate water consumption, groundwater and aquifer impacts, wastewater generation, electricity demand, diesel emissions, air quality, noise, and stormwater impacts of the proposed facility, and threats to acequia systems, in combination with any other data center facilities located nearby, regardless of ownership;
- F.** fiscal impact analysis and infrastructure adequacy requirements;

- G. ratepayer cost-shifting risk analysis and standards regulating on-site diesel or other backup generators, including emissions and noise limits;
- H. solid waste, wastewater, sludge, and electronic waste (e-waste) management standards, and facility decommissioning requirements, including financial assurance or liability bonding for site restoration;
- I. public disclosure requirements for projected water use, energy use, infrastructure upgrades and any taxpayer-funded incentives or subsidies associated with a proposed facility;
- J. limitations on confidentiality or non-disclosure agreements that would restrict public participation in, or governmental transparency regarding, the review of Data Center applications; and
- K. Light and glare impact standards, including standards governing exterior lighting, luminance levels, and cumulative sky glow effects, assessed at the viewshed scale and developed in coordination with the New Mexico Environment Department, the New Mexico Night Sky Protection Act program, and affected community stakeholders

SECTION 8. REPEAL OF INCONSISTENT ORDINANCES.

All ordinances or parts of any ordinances that irreconcilably conflict with this Data Center Moratorium Ordinance are hereby repealed to the extent of such conflict. This Data Center Ordinance shall not be construed to loosen the requirements of the SLDC concerning development approvals.

SECTION 9. SEVERABILITY.

If a provision of this Data Center Moratorium Ordinance or its application to any person or circumstance is held by a court of competent jurisdiction to be invalid, the invalidity does not affect other provisions or applications of the Data Center Moratorium Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of the Data Center Moratorium Ordinance are severable.

SECTION 10. EFFECTIVE DATE.

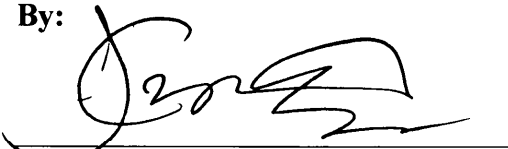
- A. Due to the emergency declared in Section 3, it is necessary for the protection of the public health and safety of the County that this Data Center Moratorium Ordinance take effect immediately upon recordation. Should a court of competent jurisdiction determine that it has the authority to question the Board's declaration of emergency and that emergency conditions did not exist justifying the immediate efficacy of this Data Center Moratorium Ordinance, this Data Center Moratorium Ordinance shall take effect on the first date otherwise allowed by law.
- B. This Data Center Moratorium Ordinance is repealed eighteen (18) months from its effective date; provided that the Board may extend the effective period for additional reasonable periods of time if, in its legislative discretion, such extension is warranted.

PASSED, APPROVED AND ADOPTED THIS 30th DAY OF June, 2026.

SANTA FE COUNTY

THE BOARD OF COUNTY COMMISSIONERS

By:


Justin S. Greene, Chair

ATTEST:


Katharine E. Clark
Santa Fe County Clerk

APPROVED AS TO FORM:

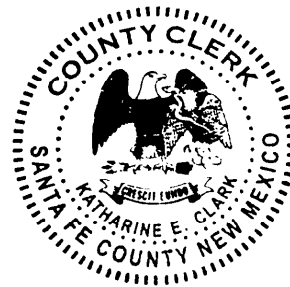

Walker Boyd
Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 9TH Day Of July, 2026 at 01:28:48 PM
And Was Duly Recorded as Instrument # 2087239
Of The Records Of Santa Fe County

Deputy  _____
Witness My Hand And Seal Of Office
Katharine E. Clark
County Clerk, Santa Fe, NM



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