

MEETING ITEM COMMENTARY

- AGENDA ITEM:** (One Reading) Emergency Ordinance to Establish a Temporary Prohibition on Data Centers
- COUNCIL RESOURCE:** Councilor Jeffrey Onnen, Ward 4
- STAFF RESOURCES:** Emily Cole-Prescott, Deputy City Administrator
- BACKGROUND:** The City Council is asked to enact an Emergency Ordinance to establish a 61-day temporary prohibition on Data Centers throughout the City of Saco. The purpose of this Emergency Ordinance is to provide time to update City Code relative to Data Centers.
- EXHIBITS:** 1. Emergency Ordinance to Establish a Temporary Prohibition on Data Centers
- RECOMMENDATION:** Staff recommend the City Council review, ask any questions, and make a decision.
- MOTION:** *“Be it found by the Saco City Council that an emergency exists, and therefore be it Ordered, that the City of Saco adopt the Emergency Ordinance to Establish a Temporary Prohibition on Data Centers.”*
- “I move to approve the Order.”*

**EMERGENCY ORDINANCE
TO ESTABLISH A
TEMPORARY PROHIBITION ON DATA CENTERS**

WHEREAS, Section 2.10 of the City of Saco Charter (the “City Charter”) provides that “[t]o meet a public emergency, affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances”;

WHEREAS, the Charter further provides that “[a]n emergency ordinance may be adopted with or without amendment, or rejected, at the meeting at which it is introduced”;

WHEREAS, the City of Saco Code (the “City Code”) Chapter 230 establishes the City of Saco’s zoning regulations;

WHEREAS, the City Code, and the zoning regulations contained therein, do not establish regulations adequately addressing several significant potential impacts from data center development and projects, such unaddressed impacts include but are not limited to energy usage; significant water usage; and significant burden on the city’s sewer system; the adverse environmental and visual impacts from development of large scale data centers without appropriate regulations; the need for certain site inspections and permitting considerations, and the complexity posed by decommissioning such facilities; and

WHEREAS, the impacts of data center development pose a severe risk of harm to the City, to its residents, to project abutters, to the environment, and to the operations of any proposed project; and

WHEREAS, the City Code’s existing regulations do not adequately address, mitigate or abate the risks and harms posed by data center development; and

WHEREAS, the risks posed by unregulated data center development constitute a public emergency affecting the life and health of Saco’s citizens, neighbors to such projects, and to the environment; and

WHEREAS, the City requires time to amend the City Code to create adequate Life Safety, Zoning, and Site Plan Review provisions mitigating and addressing the adverse impacts such developments pose to the City and its residents;

NOW THEREFORE, pursuant to the authority vested in the City Council by Section 2.10 of the City Charter, the City enacts and ordains the following Emergency Ordinance;

Section 1. Findings.

A. The City Council declares that a public emergency affecting life, health, property and the public peace exists for the following reasons:

1. The City Council finds that the City Code does not adequately protect the public, abutters, utility ratepayers and the environment from the adverse impacts that arise

from the installation and operation of Data Center projects, as defined by Section 2 of this Emergency Ordinance. The Council concludes that it is necessary to amend the City Code to address these harms. The City Council finds that amendments to the City Code are required, and that such process should commence before the Saco Planning Board in a reasonable timeline. Further and finally, the City Council finds that risks of injury from significant energy consumption, significant water consumption, environmental and pretreatment permitting requirements, and the lack of local regulation warrants the enactment of Life Safety Codes, zoning, and Site Plan Review standards developed by and with the help of the City's Electrical Inspector, City Code Enforcement Department, Fire Department, Central Maine Power representatives, Maine Water Company representatives, Water Resource Recovery Department, and Planning Department.

2. There is increasing interest within or surrounding the City of Saco in the siting and development of Data Center facilities used for the processing, storage, and transmission of vast amounts of digital data, which rely on extensive equipment, systems, and environmental controls to maintain suitable conditions for their operations.
3. The City of Saco's Comprehensive Plan, ordinances, regulations, and policies are inadequate to prevent serious public harm that could result from the siting, installation, operation, and decommissioning of Data Centers within the City.
4. In particular, without appropriate local regulation, the siting, installation, operation, and decommissioning of Data Centers within the City raise legitimate and substantial questions about the impact of such facilities on the City, including but not limited to:
 - i. Whether Data Centers are compatible with existing and permitted land uses within the City of Saco;
 - ii. Whether Data Centers can be appropriately located and regulated to avoid or minimize potential adverse impacts from the noise, heat, emissions, and other nuisance conditions that may be associated with Data Centers and their extensive machinery, systems, and environmental controls;
 - iii. Whether Data Centers can be located to avoid or minimize adverse environmental effects and visual impacts;
 - iv. Whether Data Centers will result in a shortage or overburdening of public facilities including local water supplies, roads, waste management systems, and other public infrastructure;
 - v. Whether existing regulatory and financial assurances, if any, are adequate to ensure that such development will be properly sited, constructed, operated, and decommissioned; and
 - vi. Whether excessive land and water resources will be devoted to this emerging use to the detriment of surrounding properties, natural resources, and other existing and permitted uses.

5. As a result, the siting, installation, operation, and decommissioning of Data Centers within the City of Saco has the potential to overburden public facilities and poses a serious threat to the health, safety, and welfare of Saco and its residents and visitors.
6. The City of Saco needs time to evaluate the impacts of and prepare reasonable ordinances and regulations governing the siting, installation, operation, and decommissioning of Data Centers.
7. The City of Saco intends to study its plans, ordinances, regulations, and policies to determine the effects of siting, installing, operating, and decommissioning Data Centers within the City and to consider what additional or different ordinance provisions and regulations are appropriate for such development.

Section 2. Definitions.

As used in this Emergency Ordinance, the following terms have the following meanings:

- A. “Data Center” means any building, structure, facility, equipment, or portion or combination thereof, that is primarily designed, constructed, operated, or occupied for the processing, storage, management, mining, hosting, or distribution of large loads of digital data, artificial intelligence operations, blockchain operations, cryptocurrency mining, cloud computing, colocation services, enterprise services, or similar high-intensity computational activities.
- B. “Data Center Area” means the gross floor area occupied by (1) any building, structure, facility, equipment, or portion or combination thereof, that contains the physical computing equipment comprising a Data Center, including but not limited to routers, graphics processing units (GPUs), switches, servers, high-density computing systems, storage systems, and other electronic and computing equipment; the physical infrastructure housing such equipment, such as data center racks and server cabinets; and any inter-equipment space and corridors used for cooling and maintenance of the physical computing equipment; and (2) any other impervious surfaces associated with a Data Center, including but not limited to access ways, parking lots, transmission corridors, and any accessory buildings or structures.

Section 3. Prohibition on Data Center Development and Siting.

The City of Saco does hereby prohibit (i) the siting, installation, construction, establishment, or operation of any Data Center, or the expansion of any existing facility or operation so as to render it a Data Center; (ii) the acceptance of, processing of, or acting upon any application, proposal, petition, or request pending on or after the Effective Date of this Ordinance for any new or expanded Data Center; and (iii) the issuance of any development permit, license, or other regulatory approval or any other action or decision of a board, officer, official, employee, agent or department of the City (including but not limited to a building permit, certificate of occupancy, site plan review permit, conditional use permit, or business license) related to any new or expanded Data Center.

Section 4. Duration.

This Emergency Ordinance shall expire on the sixty-first (61) day after the date on which the Ordinance was enacted, however, the City Council reserves its right to re-enact the Emergency Ordinance for an additional sixty (60) day time periods prior to its termination.

Section 5. Enforcement, Violations and Penalties.

This Emergency Ordinance shall be enforced by the Code Enforcement Officer of the City of Saco. Any person who violates any provision of this Emergency Ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S.A. § 4452 and Section 1-18 of Saco City Code of Ordinances.

Section 6. Conflicts; Severability.

Any provisions of the City Code that are inconsistent with or conflict with the provisions of this Emergency Ordinance are hereby repealed to the extent applicable for the duration of the Emergency Ordinance. Should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a decision shall not invalidate any other section or provision.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon enactment by the City Council, per Section 2.10 of City Charter.