

ORDINANCE NO. 37-26

**AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON FUTURE
DEVELOPMENT OF DATA CENTERS IN THE CITY OF AVON
AND DECLARING AN EMERGENCY**

WHEREAS, pursuant to the power vested in City Council through the Avon City Charter and the Ohio Constitution, Council has the inherent power to enact planning, zoning and business regulation laws that further the health, safety, welfare, comfort and peace of its citizens, including restricting or prohibiting certain business and land uses; and

WHEREAS, over the past few years, interest has increased in developing and constructing data centers in municipalities; and

WHEREAS, the City's Administration, Planning Commission and City Council have all expressed concerns about data centers and will need time to undertake a thorough review of all applicable state codes, regulations and local ordinances in order to formulate a proper local response to future development or construction of these facilities in the City of Avon; and

WHEREAS, Council finds that a one-year moratorium on data centers will provide city officials with a sufficient amount of time to study, plan for, formulate, and draft reasonable and comprehensive regulations with respect to data centers and that these regulations will further the health, safety and general welfare of the citizens of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 – That for the reasons stated in the preamble above, City Council imposes a moratorium beginning with the effective date of this Ordinance and running through April 14, 2027, on the consideration, approval or authorization of any Permitted Use, Special Use or Accessory Use, i.e., any development of data centers. This would include the granting of zoning permits, building permits or certificates of occupancy for any building, structure, use or change of use that would enable said development within the City. Said Moratorium extends to the submission, consideration, or approval of all applications for general development plans, final development plans, special or accessory use permits, occupancy permits, building permits zoning permits or the like.

Section 2 – That this Moratorium shall become effective on the date that this Ordinance, following its passage by the Council, is approved by the Mayor, and shall remain in effect through April 14, 2027 following the date upon which it became effective unless extended by Council for a period of no more than an additional Six (6) months, if the Council finds such continuance is required to allow sufficient time for the Administration to complete its study and recommend what action, if any, the City of Avon should take to safeguard the public health, safety, and welfare through the provision of adequate planning, zoning, land- use, or other regulatory controls applicable to activities covered under Avon Codified Ordinances.

Section 3 - That this Moratorium suspends and tolls any time periods, prescribed by law, within which the Planning Commission or any other official or official body of the City of Avon, is required to take action upon an application for a special use permit, building permit, site plan approval, rezoning or the like, for the development of a Data Center. No such application shall be deemed to be approved by the failure of the Planning Commission, or any other public official or official body to approve or deny said application during the time when this Moratorium shall be in effect.

Section 4 - That the Planning Commission, at its next regular meeting, is hereby directed to begin a study to recommend what action, if any, the City of Avon should take to preserve the public health, safety, and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to data centers in the City.

Section 5 - If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6 - That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 7 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, and welfare of the City of Avon, the immediate emergency being the necessity to impose a temporary Moratorium at the earliest possible date so as to enable the City to responsibly begin to study, analyze, and review regulations related to future development of data centers in the city and for the reasons set forth in the recitals of this Ordinance; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

DATE SIGNED: _____

By: _____
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Barbara Brooks, Clerk of Council

Posted: _____
Electronically and at City Hall as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director