

ORDINANCE NO. 26-1048

AN ORDINANCE of the City of Federal Way, Washington, imposing a 12-month moratorium on the siting, creation, or expansion of data centers, including without limitation the City's acceptance, processing, and approval of land use and building permit applications in the City regarding data centers, setting forth preliminary supportive findings, establishing a work plan, declaring an emergency, and providing for an immediate effective date.

WHEREAS, people throughout the world, including in the City of Federal Way ("City"), have become increasingly dependent on rapidly expanding digital computing and storage capacity, creating significant economic interest in the development of data centers; and

WHEREAS, as of March, 2026, more than an estimated 3,000 data centers are currently operating in the United States, with nearly an estimated 1,500 additional data centers planned or under construction; and

WHEREAS, the proliferation of data centers has the potential to significantly affect the City public health, environment, jobs and economic development; and

WHEREAS, for the purposes of this Ordinance, "data center" means a facility used primarily for the housing, operation, or co-location of computer and networking equipment and the handling, storing, managing, processing, retrieving, and backing up of digital data, with a planned capacity in excess of 1 megawatt (mW) or exceeding 4,000 square feet of gross floor area; and

WHEREAS, data centers are power-intensive and require significant water supplies for cooling equipment; and

WHEREAS, a majority of the City's water supply is provided by Lakehaven Water and Sewer District, which relies in large part on active wells in four principal aquifers, which have a limited total pumping capacity in order to ensure the sustainable usage of the aquifers; and

WHEREAS, data centers may also be emissions-intensive if using fossil fuels; and

WHEREAS, Chapter 13 of the City Comprehensive Plan is entitled Climate Change & Resiliency, and contains a goal to “[p]romote efficient use patterns that minimize GHG emissions and air pollution,” and a policy to “support...regulation of activities that emit air pollutants;” and

WHEREAS, data centers can produce a significant amount of noise and heat that can negatively impact the health and wellbeing of surrounding communities; and

WHEREAS, the combined and cumulative impacts of large electrical loads, emissions, and water use associated with new or expanded data centers may exceed available infrastructure capacity and resource supply, require substantial unplanned capital investments, affect environmental quality, impair the City’s ability to meet climate and resource management goals, and affect the health and wellbeing of residents from air pollution, noise, and heat emissions; and

WHEREAS, the Federal Way Revised Code (“FWRC”) does not contain a definition for data centers, nor contain regulations specific to data centers; and

WHEREAS, while the FWRC does not list data centers as a permitted use in the City, an applicant could contend that a data center use is permitted in the City under a more generic land use category that arguably encompasses data centers, such as an office or commercial use; and

WHEREAS, the regulations applicable to office and commercial uses in FWRC do not contain development regulations that sufficiently account for the potential negative effects of data centers on public health and the environment; and

WHEREAS, Council desires to review the potential impact of allowing data centers in the City of Federal Way, and to review existing development regulations to determine whether current zoning and development regulations related to data centers are adequate to implement the vision, goals, and policies within the adopted Comprehensive Plan; and

WHEREAS, the City desires to maintain the status quo while these development regulations are reviewed; and

WHEREAS, this Ordinance is not intended to affect the legal status of any legally established data centers currently operating in the City; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City Council to adopt a moratorium for a period of up to 12 months without notice and public hearing provided that the City holds a public hearing within 60 days after the adoption of this Ordinance and establishes a work plan for related studies; and

WHEREAS, the adoption of this moratorium is exempt from the requirements of a threshold determination under the State Environmental Policy Act; and

WHEREAS, the desire to maintain the status quo and the potential adverse impacts on the public health, property, safety, and welfare of the City and its citizens if this Ordinance does not take effect immediately, justify the declaration of an emergency and the designation of this ordinance as a public emergency ordinance necessary for the protection of public health, public safety, public property, or the public peace by the City Council; and

WHEREAS, Council finds that the enactment of this Ordinance constitutes an emergency due to the need to immediately prevent the community detriment that would occur from potential applications for data centers under the current land use regulations that do not directly regulate the use; and

WHEREAS, Council finds that conditions exist to warrant a finding of a state of emergency in order to have the moratorium take effect immediately upon a single reading and passage of this ordinance; and

WHEREAS, RCW 35A.12.130 permits an ordinance to become effective immediately but

requires that it must be passed by a majority plus one of the whole membership of the Council to have such an effect.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FEDERAL WAY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council of the City of Federal Way makes the following findings of fact:

- (a) The forgoing whereas provisions are adopted as findings of fact.
- (b) The potential establishment of data centers may not fulfill the vision, goals, and policies of the Comprehensive Plan adopted by the City.
- (c) A moratorium is necessary to provide the City with sufficient time to review development regulations and design guidelines regarding data centers to ensure that they meet the intent of the Comprehensive Plan, are in the public interest, and protect public safety and the environment.
- (d) A moratorium is necessary to preserve the status quo while the City reviews these regulations.

Section 2. Moratorium Established. A temporary development moratorium is hereby imposed upon data centers throughout the City. No creation of data centers shall be allowed in the City for the duration of this moratorium; however, nothing herein shall be construed as applying to or otherwise interfering with, in contravention of state law, any vested rights that have accrued from specific, complete project permit applications that were submitted to the City prior to the effective date of this moratorium. This moratorium also applies to the City's acceptance, processing, or approval of any applications for building permits and land use permits, including without limitation, development permits, special use permits, variances, and other development permits or approvals

for data centers in the City received after the effective date of this moratorium.

Section 3. Duration of Moratorium. This moratorium shall be in effect for 12 months from the effective date of this ordinance.

Section 4. Public Hearing. A public hearing for this moratorium will be held on September 1, 2026, at the regularly scheduled City Council Meeting.

Section 5. Work Plan. Staff is directed to develop a work plan for studies related to this moratorium and potential amendments to the Federal Way Revised Code.

Section 6. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Federal Way hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clauses, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 7. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 9. Effective Date. This ordinance shall take effect immediately, as provided by law.

PASSED by the City Council of the City of Federal Way this 7th day of July, 2026.

CITY OF FEDERAL WAY:



JIM FERRELL, MAYOR

ATTEST:



HEATHER DUMLAO, CMC, CPRO, CITY CLERK

APPROVED AS TO FORM:



J. RYAN CALL, CITY ATTORNEY

FILED WITH THE CITY CLERK:	<u>07/07/2026</u>
PASSED BY THE CITY COUNCIL:	<u>07/07/2026</u>
PUBLISHED:	<u>07/10/2026</u>
EFFECTIVE DATE:	<u>07/07/2026</u>
ORDINANCE NO.:	<u>26-1048</u>

CITY OF FEDERAL WAY
MEMORANDUM

DATE: July 7, 2026

TO: City Council Members

VIA: Jim Ferrell, Mayor

FROM: J. Ryan Call, City Attorney
Kent van Alstyne, Assistant City Attorney

SUBJECT: Approve Ordinance – Data Center Moratorium

Financial Impacts:

There is no financial impact to the City as a result of the proposed ordinance.

Background Information:

A. Legal Authority for Development Moratoriums and Emergency Ordinances.

RCW 35A.63.220 and RCW 36.70A.390 authorize the City Council to adopt a moratorium or interim zoning regulations that prohibit the location and siting of certain uses in the City for a period of time. Such moratoriums may be effective for a period of up to 12 months without notice and a public hearing on the moratorium provided that the City thereafter holds a public hearing within 60 days of adoption and establishes a work plan for related studies. Moratoria are often used to preserve the status quo while a City develops regulations on the specific use.

In general, ordinances in the City become effective either five or 30 days after passage and publication. However, under RCW 35A.12.130, an ordinance may become effective immediately if the City Council determines there is an emergency requiring the ordinance to be effective immediately and the ordinance is passed by a majority plus one vote.

B. Data Centers.

People throughout the world, including in the City, have become increasingly dependent on rapidly expanding digital computing and storage capacity, creating significant economic interest in the development of data centers. As of March, 2026, more than an estimated 3,000 data centers are currently operating in the United States, with nearly an estimated 1,500 additional data centers planned or under construction.

The proliferation of data centers has the potential to significantly affect the City public health, environment, jobs and economic development, as these uses are power-intensive, require significant water supplies for cooling equipment, may be emissions-intensive if using fossil fuels, and produce a significant amount of noise and heat that can negatively impact the health and wellbeing of surrounding communities.

Federal Way Revised Code (“FWRC”) does not contain a definition for data centers, nor contain regulations specific to data centers. The Code also does not list data centers as a permitted use anywhere in the City; however, a project applicant could contend that a data center use is permitted in the City under a more generic land use category that arguably encompasses data centers, such as an office or commercial use.

While the City does not believe that data centers are a permitted use anywhere in the City, if a hearing examiner or the Superior Court disagreed and required the City to approve such an application, the regulations applicable to office and commercial uses in FWRC fall woefully short of sufficiently accounting for the potential negative effects of data centers on public health and the environment.

C. Proposed Action.

As a result, the Mayor is recommending that City Council implement a 12-month moratorium on data centers, which for the purposes of the moratorium shall be defined as “*a facility used primarily for the housing, operation, or co-location of computer and networking equipment and the handling, storing, managing, processing, retrieving, and backing up of digital data, with a planned capacity in excess of 1 megawatt (mW) or exceeding 4,000 square feet of gross floor area.*”

This moratorium directs adoption of a work plan to allow City staff to review the potential impact of allowing data centers in the City of Federal Way, and to review existing development regulations to determine whether current zoning and development regulations related to data centers are adequate to implement the vision, goals, and policies within the adopted Comprehensive Plan, and to protect public health and the environment. As part of this review, staff will study whether, and to what extent, data centers should be allowed in the City and return to Council with recommendations for implementation after the moratorium has ended.

The Ordinance also sets a public hearing on the moratorium for September 1, 2026, in accordance with RCW 35A.63.220 and RCW 36.70A.390.