

ORDINANCE 2026 - ____

AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING, REVIEW, AND ISSUANCE OF DEVELOPMENT APPLICATIONS, DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, BUILDING PERMITS, AND OTHER COUNTY APPROVALS FOR LARGE-SCALE DATA CENTERS AND LARGE LOAD CUSTOMER FACILITIES WITHIN THE UNINCORPORATED AREA OF FLAGLER COUNTY; PROVIDING FOR FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR EXCEPTIONS; PROVIDING FOR VESTED RIGHTS AND HARDSHIP RELIEF; DIRECTING COUNTY STAFF TO REVIEW AND PREPARE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS; PROVIDING THAT THE ORDINANCE DOES NOT REGULATE MATTERS WITHIN THE JURISDICTION OF THE FLORIDA PUBLIC SERVICE COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Flagler County Board of County Commissioners is authorized by Chapter 125, Florida Statutes, to establish and administer land development regulations and to protect the health, safety, and welfare of the citizens of Flagler County;

WHEREAS, the Flagler County Board of County Commissioners recognizes the importance of maintaining current regulations that reflect state law and promote orderly land development within the County;

WHEREAS, Chapter 2026-65, Laws of Florida, created Section 163.326, Florida Statutes, relating to large load customer considerations;

WHEREAS, Section 163.326, Florida Statutes, recognizes that certain land uses, including facilities with substantial electric or other utility demands, such as data centers and other large load customers, may present unique planning, infrastructure, and compatibility considerations;

WHEREAS, Section 163.326, Florida Statutes, provides that such considerations are to be addressed through local comprehensive planning and land development regulations adopted pursuant to Chapter 163, Florida Statutes, including provisions related to infrastructure capacity, land use compatibility, environmental impacts, and the efficient provision of public facilities and services;

WHEREAS, Section 163.326, Florida Statutes, further provides that local governments maintain the authority to exercise the powers and responsibilities for comprehensive planning and land development regulation granted by law with respect to large load customers;

WHEREAS, large-scale data centers and large load customer facilities may require significant and continuous electrical demand, water supply, cooling infrastructure, wastewater capacity, stormwater infrastructure, backup generation, fuel storage, fire protection, emergency response planning, security infrastructure, and related public facilities and services;

WHEREAS, Flagler County presently lacks specific comprehensive plan policies and land development regulations addressing the siting, compatibility, infrastructure capacity, water demand, environmental impacts, emergency service impacts, and public facility impacts of large-scale data centers and large load customer facilities;

WHEREAS, the Board of County Commissioners finds that a temporary moratorium is necessary and appropriate to allow County staff to study these issues and prepare proposed amendments to the Comprehensive Plan and Land Development Code;

WHEREAS, the Board of County Commissioners finds that a [one-year] moratorium is reasonable in duration and necessary to allow for staff review, public input, drafting, notice, hearings, transmittal if required, adoption, and implementation of appropriate regulations; and

WHEREAS, the Board of County Commissioners has conducted the necessary public hearings and has determined that adoption of this Ordinance is in the best interests of the citizens of Flagler County, Florida;

NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Flagler County, Florida:

Section 1. Findings and Intent

The foregoing recitals are true and correct and are incorporated herein by reference as findings of the Board of County Commissioners. The purpose of this Ordinance is to establish a temporary, countywide pause on new applications and approvals for large-scale data centers and large load customer facilities in order to allow the County to review and, if appropriate, amend its Comprehensive Plan and Land Development Code to address the impacts of such uses.

Section 2. Definitions.

For the purposes of this Ordinance, the following terms shall have the meanings set forth below:

Data center shall mean a facility that primarily contains electronic equipment used to process, store, and transmit digital information, which may be a free-standing structure or a facility within a larger structure, and which uses environmental control equipment to maintain proper conditions for the operation of electronic equipment.

Development approval shall mean any rezoning, special exception, conditional use, variance, site plan approval, development order, development permit, building permit, construction plan approval, certificate of concurrency, capacity reservation, comprehensive plan amendment, or other County approval necessary to establish, construct, expand, or intensify a covered facility.

Large load customer facility shall mean a facility or use with an anticipated monthly peak electrical load of fifty (50) megawatts or more, calculated as the highest average load over a fifteen (15) minute interval at a single location. A customer, applicant, owner, operator, or other entity may not separate electrical load into multiple smaller connections, meters, accounts, parcels, phases, tenants, or related facilities at a single location for the purpose of avoiding this definition. The term includes customers or other entities that have entered into a colocation or similar agreement at a single location where the aggregate monthly peak load at that location meets or exceeds fifty (50) megawatts.

Large-scale data center shall mean a single location, with a data center onsite, that has an anticipated monthly peak electrical load of fifty (50) megawatts or more, calculated as the highest average load over a fifteen (15) minute interval. The term includes customers or other entities that have entered into a colocation or similar agreement at a single location where the aggregate anticipated monthly peak load at that location meets or exceeds fifty (50) megawatts.

Moratorium period shall mean the period beginning on the effective date of this Ordinance and ending [one (1) year] thereafter, unless earlier terminated or extended by action of the Board of County Commissioners as provided herein.

Section 3. Temporary Moratorium Established.

A temporary moratorium is hereby imposed on the acceptance, processing, review, approval, or issuance of any application, development approval, development order, development permit, building permit, construction plan approval, certificate of concurrency, capacity reservation, or other County approval for the establishment, construction, expansion, or intensification of any large-scale data center or large load customer facility within the unincorporated area of Flagler County.

During the moratorium period, County staff shall not accept, process, review, approve, or issue any such application or approval, except as expressly provided in this Ordinance.

Section 4. Duration.

The moratorium shall commence on the effective date of this Ordinance and shall remain in effect for [one (1) year], unless earlier terminated by the Board of County Commissioners. The Board may extend the moratorium by ordinance after public hearing upon finding that additional time is necessary to complete the study, drafting, public review, transmittal, adoption, implementation, or legal review of Comprehensive Plan or Land Development Code amendments addressing large-scale data centers or large load customer facilities.

Section 5. Applicability and Pending Applications.

This Ordinance applies to all new applications submitted on or after the effective date of this Ordinance and to any pending application that has not been deemed complete by the County prior to the effective date of this Ordinance.

Applications deemed complete by the County prior to the effective date of this Ordinance may continue to be processed under the regulations in effect at the time of completeness determination, unless the Board determines, after notice and hearing, that continued processing would create a substantial risk to the public health, safety, or welfare.

Section 6. Exceptions.

The moratorium shall not apply to:

- a. Ordinary repair, maintenance, or replacement of existing lawful equipment, structures, or facilities, provided such work does not increase electric load, water demand, cooling capacity, floor area, generator capacity, battery storage capacity, or fuel storage capacity so as to establish, expand, or intensify a large-scale data center or large load customer facility;

- b. Interior alterations to an existing lawful facility that do not establish, expand, or intensify a large-scale data center or large load customer facility;
- c. Emergency work necessary to protect public health, safety, or welfare;
- d. Permits necessary to correct unsafe conditions or code violations;
- e. Government-owned public safety, emergency management, emergency communications, or critical public infrastructure facilities;
- f. Development authorized by a final, unexpired development order and building permit issued before the effective date of this Ordinance, provided the proposed work is consistent with such approvals and does not require a material modification; and
- g. Any application or approval expressly exempted by the Board after a finding that application of the moratorium is not necessary to protect the public health, safety, or welfare and would not impair the purposes of this Ordinance.

Section 7. Vested Rights and Hardship Relief.

Any person claiming vested rights or seeking relief from the moratorium may file a written petition with the County Administrator or designee. The petition shall identify the property, the proposed development, the approvals obtained, the expenditures made in good-faith reliance on valid governmental approvals, and the specific relief requested.

The Board may grant relief only upon finding competent substantial evidence that application of the moratorium would unlawfully impair vested rights or would result in an unconstitutional taking. Any relief granted shall be limited to the minimum necessary to avoid such unlawful impairment.

Section 8. Staff Direction.

The Board, through the County Administrator, directs County staff to review the Comprehensive Plan and Land Development Code and prepare proposed amendments addressing the siting, design, review, compatibility, infrastructure capacity, environmental, water resource, emergency service, and public facility impact of large-scale data centers and large load customer facilities.

The review shall include, at minimum, appropriate zoning districts; conditional use or special exception criteria; minimum parcel size; setbacks; buffers; screening; landscaping; noise; vibration; lighting; thermal impacts; water supply; reclaimed water; wastewater; stormwater; cooling systems; water conservation; electric infrastructure coordination; backup generators; fuel storage; battery storage; fire suppression; traffic and road impacts; emergency response and public safety capacity; environmental resources; wetlands; floodplain impacts; habitat impacts; security; fencing; access control; compatibility with residential, rural, agricultural, conservation, and public uses; decommissioning or adaptive reuse standards; and application submittal requirements, including technical studies.

County staff shall present proposed amendments or a written status report to the Board within [one hundred eighty (180) days] after the Effective Date of this Ordinance.

Section 9. No Regulation of Public Service Commission Matters.

Nothing in this Ordinance shall be construed to regulate electric utility rates, tariffs, rate classifications, cost allocation, service agreements, interconnection requirements, electric service curtailment, or any matter within the jurisdiction of the Florida Public Service Commission or any other state or federal agency.

Section 10. Conflicts.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 11. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is held, for any reason, to be unconstitutional, void, or invalid, the validity of the remaining portion of the Ordinance shall not be affected thereby.

Section 12. Effective Date.

This Ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

ADOPTED this ____ day of _____ 2026.

FLAGLER COUNTY BOARD OF COUNTY
COMMISSIONERS

ATTEST:

Tom Bexley, Clerk of the Circuit
Court and Comptroller

Leann Pennington, Chair

APPROVED AS TO FORM:

Michael A. Rodríguez, County Attorney

**NOTICE OF ADOPTION OF
ORDINANCE**

Pursuant to Section 125.66, Florida Statutes, the Flagler County Board of County Commissioners hereby gives notice of a proposal to adopt an Ordinance titled similar to:

AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING, REVIEW, AND ISSUANCE OF DEVELOPMENT APPLICATIONS, DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, BUILDING PERMITS, AND OTHER COUNTY APPROVALS FOR LARGE-SCALE DATA CENTERS AND LARGE LOAD CUSTOMER FACILITIES WITHIN THE UNINCORPORATED AREA OF FLAGLER COUNTY; PROVIDING FOR FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR EXCEPTIONS; PROVIDING FOR VESTED RIGHTS AND HARDSHIP RELIEF; DIRECTING COUNTY STAFF TO REVIEW AND PREPARE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS; PROVIDING THAT THE ORDINANCE DOES NOT REGULATE MATTERS WITHIN THE JURISDICTION OF THE FLORIDA PUBLIC SERVICE COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Public hearings on the ordinance will be held in the location listed below at the dates and times provided:

B O A R D O F C O U N T Y COMMISSIONERS – First Reading – Monday, July 13, 2026 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, 32110.

B O A R D O F C O U N T Y COMMISSIONERS – Second Reading and Adoption – Monday, August 3, 2026 at 9:30 a.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, 32110.

All interested persons are urged to attend the public hearing and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-4009 or write to: Flagler County Planning and Zoning Department, 1769 E. Moody Blvd., Building 2, Bunnell, FL 32110 or email to

planningdept@flaglercounty.gov. Copies of the proposed ordinance, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning and Zoning Department, 1769 East Moody Boulevard, Building 2, Bunnell, Florida 32110, Monday through Friday (except holidays) from 8:00 am to 5:00 pm.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE B O A R D O F C O U N T Y COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON WILL NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES

ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE COUNTY ADMINISTRATION AT (386) 313-4001 AT LEAST 48 HOURS PRIOR TO THE MEETING.

7763-349394

Jun. 25, 2026