

ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH A TEMPORARY EIGHTEEN-(18) MONTH MORATORIUM ON THE PERMITTING AND APPROVAL OF HYPERSCALE DATA CENTERS WITHIN THE CITY OF LITTLE ROCK; ARKANSAS TO REQUIRE COMPREHENSIVE MUNICIPAL IMPACT STUDIES AND PUBLIC DISCLOSURES REGARDING MUNICIPAL WATER, WASTEWATER, NOISE, EMERGENCY INFRASTRUCTURE, ZONING REGULATIONS, AND MONITORING PRACTICES; TO ESTALBISH AN ADMINISTRATIVE RELIEF PROCEDURE; TO DELCARE AN EMERGENCY; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF LITTLE ROCK, ARKANSAS:

Section 1. Title. This Ordinance shall be known and cited as the "City of Little Rock, Arkansas Temporary Hyperscale Data Center Moratorium & Public Review Ordinance."

Section 2. Authority. This Ordinance is adopted pursuant to the municipal planning, zoning, and police powers granted under Arkansas Code § 14-56-401 *et seq.*, and the Municipal Home Rule Statutory Authority under Arkansas Code § 14-43-601. It is intended to establish a temporary, reasonable administrative pause to enable the City of Little Rock to engage affected residents, conduct rigorous impact studies, and evaluate zoning and land-use regulations. It is intended to preserve public health, safety, and welfare.

Section 3. Findings. The Board of Directors of the City of Little Rock finds:

- a) Hyperscale data centers are industrial land uses with infrastructure demands significantly different from traditional commercial, office, warehouse, agricultural, and other industrial land uses with respect to utility demand, infrastructure requirements, environmental impacts, emergency response requirements, and fiscal impacts.
- b) The City recognizes that these facilities may impose substantial, unprecedented demands upon public water systems, wastewater systems, transportation infrastructure, stormwater management networks, emergency response services, and land-use resources.
- c) Proactive regulation of such facilities is absolutely necessary to preserve reliable utility service and affordability, protect residential neighborhoods, reduce continuous-operation noise,

- 1 manage water resource allocation, prepare emergency response protocols, and promote orderly
2 economic development.
- 3 d) Large-scale utility infrastructure necessary to support these hyperscale data centers requires
4 coordination with complex public and environmental entities, including but not limited to:
5 Entergy Arkansas capacity studies overseen by the Arkansas Public Service Commission;
6 Central Arkansas Water Systems regulated by the Arkansas Department of Health; the Little
7 Rock Water Reclamation Authority; and Arkansas Department of Energy and Environment.
- 8 e) The City has a compelling governmental interest in protecting the public health, safety, welfare,
9 environmental quality, utility reliability, and long-term sustainability of municipal
10 infrastructure and natural resources, and ensuring that hyperscale developments do not degrade
11 Central Arkansas Water resources or groundwater and local aquifers, overload emergency
12 response infrastructure or Little Rock Water Reclamation Authority infrastructure, negatively
13 impact community health, or shift infrastructure costs onto local residential and commercial
14 ratepayers.
- 15 f) Recent unexpected operational disruptions, indefinite closures, and abandoned facilities within
16 the City at the Port of Little Rock - including a multi-million-square-foot distribution complex
17 due to structural engineering flaws and building code non-compliance, and a wind turbine
18 manufacturing plant due to technology and market shifts highlight the risks that ultra-large,
19 specialized developments pose to public safety, municipal emergency response, regional
20 economic stability, and local workforce welfare.
- 21 g) Chapter 36 (Zoning) of the Little Rock Revised Code of Ordinances does not currently contain
22 adequate performance standards, conditional use, review, monitoring, noise mitigation, public
23 benefit requirements, or community protection parameters required to handle hyperscale data
24 center operations safely.
- 25 h) Public welfare, economic opportunity, and environmental stewardship require that residents
26 living near proposed high-impact facilities have timely notice, transparent access to impact
27 studies, and structured opportunities to provide public comment before land-use approvals are
28 granted.
- 29 i) Approval of hyperscale data center facilities before the inclusion of the public and completion
30 of a thorough evaluation of municipal impacts and regulations will result in irreversible
31 infrastructure commitments, inadequate mitigation of local neighborhood impacts, and
32 inconsistent municipal land-use decisions.

33 **Section 4. Definitions & Scope.**

1 (a) As defined in the Little Rock Revised Code of Ordinances Chapter 36 Article I, Subsection
2 36-2, as currently enacted or as subsequently amended:

- 3 1. *Data center*. A facility used primarily for the storage, management, processing, and
4 transmission of digital data, which houses computer or network equipment, including
5 servers, switches, routers, and associated infrastructure such as air handling, cooling
6 equipment, backup power generation, fuel storage, water storage, electrical
7 substations, and other utility infrastructure necessary to support sustained operations.
- 8 2. *Hyperscale data center*. A data center occupying more than 250,000 gross square
9 feet, or drawing more than 75 megawatts of grid power, or developed across more
10 than one principal building under common ownership or control on a single parcel.

11 (b) *Tonal noise*. Continuous, prominent sound generated by industrial equipment—including
12 cooling fans, chillers, and transformers—characterized by a distinct, single frequency or narrow
13 frequency band that causes localized disturbance to adjacent residential or commercial properties.

14 (c) *Non-Proprietary System Impact Summary*. Any high-level grid reliability, capacity, or
15 infrastructure load document, study, or communication prepared by an electric utility or state utility
16 commission that does not contain protected trade secrets, proprietary customer financial terms, or
17 critical energy infrastructure information (CEII) restricted under federal or state law.

18 (d) *Moratorium*. A temporary administrative suspension on the processing, review, approval, or
19 issuance of permits, variances, rezoning, and site plan approvals for specified projects.

20 (e) Exemptions. The temporary moratorium established herein shall not apply to:

- 21 (1) Expansion, modernization, replacement, redevelopment, upgrading, maintenance, or
22 improvement of existing commercial, industrial, educational, agricultural,
23 manufacturing, distribution, or healthcare facilities that do not convert the facility into a
24 hyperscale data center.
- 25 (2) Public schools, colleges and universities, hospitals, medical facilities, public safety
26 facilities, and agricultural operations engaged in production, processing, storage, or
27 distribution of agricultural commodities.
- 28 (3) Essential public utility infrastructure, water and wastewater facilities, electric
29 generation facilities, and renewable energy facilities, with purposes not primarily
30 intended to support a hyperscale data center subject to this Ordinance.
- 31 (4) Projects that demonstrate legally vested property rights under Arkansas common law
32 prior to the effective date of this Ordinance, established by providing competent and
33 substantial evidence through the procedure set forth in Article 7 showing that the
34 applicant has:

1 (A) Obtained a final, unappealable municipal permit or discretionary land-use approval from
2 the City of Little Rock (for which all applicable administrative and judicial appeal periods
3 have fully expired without an appeal being filed, or for which any filed appeal has been fully
4 and finally resolved in favor of the applicant); and

5 (B) In good-faith reliance upon such valid permit or land-use approval, the applicant made a
6 substantial change in position, incurred substantial liabilities, or made substantial
7 unrecoverable capital expenditures directly related to the authorized development.

8 In evaluating whether an applicant has made a "substantial change in position" under Arkansas
9 common law, the decision-making body shall consider the totality of the circumstances,
10 including but not limited to:

11 (i) The proportion of actual on-site construction and development costs incurred relative
12 to the total estimated cost of the overall project;

13 (ii) The execution of binding, non-cancelable third-party utility interconnection
14 agreements, environmental permits, and service contracts; and

15 (iii) The extent of actual on-site physical improvements, utility installation, or vertical
16 construction completed prior to the effective date of this Ordinance.

17 Consistent with Arkansas' common law, "substantial unrecoverable capital expenditures" shall
18 emphasize direct investments toward actual, on-site physical construction and dedicated infrastructure, and
19 shall generally exclude preliminary site acquisition costs, speculative option payments, general legal or
20 organizational fees, or preliminary feasibility studies.

21 The exemptions contained in this Ordinance are intended to preserve existing lawful business
22 activities, essential public services, and projects that have achieved legally vested rights prior to the
23 effective date of this Ordinance. The exemptions contained herein shall be construed narrowly. Any person
24 or entity claiming entitlement to an exemption under this Article shall bear the sole burden of demonstrating
25 eligibility through competent and substantial evidence pursuant to the administrative procedures set forth
26 in Article 7.

27 **Section 5. Imposition of Moratorium.**

28 a) For a period of eighteen (18) months from the effective date of this Ordinance, no city department,
29 board, commission, official, employee, or agent shall approve, issue, grant, or authorize:

- 30 1) Conditional use permits;
- 31 2) Building and development permits;
- 32 3) Grading, land disturbance, and stormwater permits;
- 33 4) Site plan approvals; or
- 34 5) Other discretionary municipal approvals

1 for construction, development, redevelopment, or expansion of hyperscale data centers within
2 the corporate boundaries of the City of Little Rock.

3 b) To ensure administrative reasonableness and diligent progress:

4 i) The Board of Directors shall hold a public hearing every six (6) months during the
5 moratorium period. The City Manager shall organize the public hearing at a regularly
6 scheduled Board of Directors meeting, providing public notice a minimum of fifteen (15)
7 days in advance. A representative from the Department of Planning and Development,
8 Planning Commission, Sustainability Commission, Central Arkansas Water (CAW), and
9 Little Rock Water Reclamation Authority (LRWRA) must be present to answer questions
10 from the Board of Directors. The City Manager shall notify and invite representatives from
11 Entergy Arkansas and applicants or developers of affected projects to participate in the
12 hearing, present progress updates, and respond to inquiries from the Board of Directors. The
13 Department of Planning and Development shall compile all available records from Article
14 6 into the public record prior to each hearing.

15 ii) The Board shall evaluate the status of ongoing studies and regulatory drafting, and may
16 terminate or shorten the moratorium period early upon the completion of studies and formal
17 enactment of comprehensive hyperscale data center zoning regulations.

18 **Section 6. Public Impact Studies, Transparency, & Regulations**

19 a) Within sixty (60) calendar days of the effective date of this Ordinance, the City Manager is
20 authorized and directed to request, coordinate, and collaborate with all internal City
21 departments, municipal boards, commissions, the Little Rock Port Authority, Central
22 Arkansas Water (CAW), and the Little Rock Water Reclamation Authority (LRWRA) to
23 assemble and make publicly available on a dedicated City webpage all existing, non-exempt
24 agreements, Memoranda of Understanding (MOUs), Letters of Intent (LOIs), service letters,
25 infrastructure reservation letters, capacity commitment agreements, municipal development
26 agreements, and documents related to tax incentives, tax abatements, and industrial
27 development bonds, executed prior to the effective date of this Ordinance between the City,
28 municipal utilities, and any developer or representative of a hyperscale data center subject
29 to this Ordinance. Non-exempt records shall include all public records governed by the
30 Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.).

31 b) During the moratorium period, the City Manager in conjunction with the Department of
32 Planning and Development is authorized and directed to request, coordinate, and collaborate
33 with relevant municipal entities, public bodies, regional water entities, and utility authorities to
34 complete and publicly release the following predictive planning and infrastructure capacity

assessments relevant to hyperscale data center projects subject to this Ordinance, designed to evaluate operational impacts and establish zoning performance standards.

- 1) Municipal Water, Groundwater, & Wastewater Impact Analysis conducted in coordination and collaboration with Central Arkansas Water (CAW), the Little Rock Water Reclamation Authority (LRWRA), and the Arkansas Department of Energy and Environment (ADEE), to evaluate:
 - A. Peak daily, weekly, and seasonal municipal water consumption and cooling technology draw;
 - B. Groundwater aquifer withdrawal impacts, localized drawdown, potential interference with surrounding private or public municipal wells, and long-term aquifer recharge capacity;
 - C. Industrial discharge effluent volume, chemical treatment additives, temperature thresholds, and municipal collection/treatment system capacity; and
 - D. Ratepayer cost-protection mechanisms and infrastructure fee structures.
 - 2) Acoustic & Environmental Standards Study evaluating continuous-operation tonal noise, low-frequency sound propagation, property line decibel limits, visual screening and setbacks, air emissions from emergency backup diesel generators, and urban heat island effects, specifically for the purpose of drafting local municipal zoning performance standards.
 - 3) Public Safety & Emergency Preparedness Assessment conducted by the Little Rock Fire Department and Emergency Management Office regarding hazardous material storage, high-voltage electrical fire suppression, battery energy storage system (BESS) hazmat safety, and emergency response capabilities.
 - 4) Regional Electric Grid Coordination Analysis conducted by requesting non-proprietary system impact summaries from Entergy Arkansas and the Arkansas Public Service Commission regarding local transmission capacity, regional grid reliability within the municipal boundaries, and ratepayer fee structures.
- c) All completed technical impact studies, grid coordination summaries, and historical record disclosures required under this Article shall be published on a dedicated City webpage and made available to the public upon the earliest of the following triggers:
1. Within thirty (30) calendar days following the completion and finalization of each respective study or assessment; or
 2. At least fourteen (14) days prior to any formal vote or action by the Planning Commission or Board of Directors regarding permanent zoning regulations, conditional use

1 parameters, or municipal code amendments concerning Hyperscale data centers.
2 Redactions shall be narrowly construed and limited strictly to the minimum extent
3 necessary to protect information specifically exempted from disclosure by applicable
4 local, state, and federal laws. The existence of exempt or confidential information within
5 a record shall not justify withholding the entire record. All city departments and
6 municipal utility entities releasing records pursuant to this Article shall segregate and
7 release all non-exempt portions of such records.

- 8 d) Upon completion of any technical study required under this Article, the Department of Planning
9 and Development shall provide such study to the Little Rock Sustainability Commission for
10 review and comment. The Sustainability Commission may conduct public meetings, receive
11 stakeholder input, and submit written findings and recommendations regarding environmental
12 sustainability, natural resource impacts, resilience, utility demands, and community impacts
13 associated with hyperscale data center development. Any written recommendations of the
14 Sustainability Commission shall be included in the public record and transmitted to the Planning
15 Commission and Board of Directors prior to consideration of any permanent zoning regulations,
16 code amendments, conditional use standards, or other policies related to hyperscale data centers.
- 17 e) In conjunction with the six-month moratorium review public hearings established under Article
18 5b, the Department of Planning and Development shall submit formal written progress reports
19 and present oral recommendations to the Planning Commission, the Sustainability Commission,
20 and Board of Directors. These reports and presentations shall include:
- 21 1. Status updates on all ongoing technical studies and public utility consultations outlined in
22 this Article;
 - 23 2. Draft zoning amendments, changes to definitions, impact assessment requirements, noise
24 performance standards, conditional use criteria, monitoring procedures, and fee structures
25 under consideration;
 - 26 3. Preliminary recommendations on whether the moratorium should be maintained,
27 modified, or terminated early based on study findings; and
 - 28 4. Additional recommendations are necessary to protect public health, safety, and welfare.

29 **Section 7. Administrative Relief Procedure.**

30 (a) This Article provides a streamlined administrative pathway to verify routine, non-data-center
31 project exemptions and establishes a formal legislative process to evaluate petitions for moratorium
32 relief based on vested rights or constitutional claims.

33 (b) Streamlined Administrative Exemption Determination

1. The streamlined administrative determination under this subsection is strictly limited to entities and projects claiming exemption under Article 4(e)(1) (routine non-data-center business modernizations), Article 4(e)(2) (schools, healthcare, public safety, and agriculture), or Article 4(e)(3) (essential public utility infrastructure).
2. Any eligible entity seeking formal written confirmation of exemption may submit a one-page Exemption Request Form to the Department of Planning and Development.
3. Within ten (10) business days of receipt, the Planning Director shall issue a written determination confirming or denying the exemption. Confirmed exempt projects may proceed immediately through standard administrative permitting channels without further Board action.

(c) Formal Petition for Moratorium Relief

- i. Any applicant or property owner claiming exemption based on vested property rights under Article 4(e)(4) or claiming that application of this moratorium constitutes an unconstitutional temporary taking, shall not be eligible for administrative exemption under subsection (b) and must file a formal Petition for Moratorium Relief with the City Clerk.
- ii. Upon receipt of a complete petition, the City Clerk shall transmit the filing to the Department of Planning and Development. The petition shall be docketed for a public hearing before the Little Rock Planning Commission at its next regularly scheduled meeting for which all statutory and municipal public notice requirements including newspaper publication, certified mailings, and physical site sign postings can be fully satisfied. The Planning Commission shall conduct an evidentiary public hearing and, at the conclusion of the hearing, vote to issue a formal written recommendation of approval or denial to the Board of Directors.
- iii. The recommendation of the Planning Commission shall be forwarded to the Board of Directors and docketed for final consideration at the next regularly scheduled meeting of the Board of Directors. The Board of Directors shall render its decision granting or denying the Petition at the conclusion of said meeting.
- iv. Relief shall be granted only if the petitioner demonstrates through competent and substantial evidence that:
 - A. The petitioner has established legally vested property rights under Arkansas common law and as defined under Article 4(e)(4) prior to the effective date of this Ordinance; or

1 B. Application of the moratorium deprives the subject property of all economically viable use
2 without advancing a legitimate municipal police power objective regarding public health,
3 safety, or welfare.

4 (d) Judicial Review

- 5 1. Any applicant, property owner, or aggrieved party directly affected by a final
6 administrative decision of the Board of Directors regarding a Petition for Moratorium
7 Relief under subsection (c), or a final administrative exemption determination under
8 subsection (b), shall have the right to seek judicial review in a court of competent
9 jurisdiction.
- 10 2. Judicial review shall be instituted by filing a petition or notice of appeal in the Circuit
11 Court of Pulaski County, Arkansas, within thirty (30) calendar days after the written
12 final decision of the Board of Directors or Planning Director is officially filed with
13 the City Clerk, pursuant to Ark. Code Ann. § 14-56-425 and applicable Arkansas
14 Rules of Civil Procedure.
- 15 3. Submission of a formal request or petition and completion of the administrative
16 proceedings set forth in this Article shall constitute a mandatory prerequisite to seek
17 judicial review in Pulaski County Circuit Court.
- 18 4. The filing of a judicial action shall not automatically stay or suspend the operation of
19 this moratorium unless specifically ordered by a court of competent jurisdiction.
- 20 5. Nothing in this Section shall be construed to enlarge, diminish, or impair any
21 constitutional right or statutory remedy otherwise guaranteed under the Constitution
22 or laws of the State of Arkansas.

23 **Section 3. Severability.** In the event any title, section, paragraph, item, sentence, clause,
24 phrase, or word of this resolution is declared or adjudged to be invalid or unconstitutional, such
25 declaration or adjudication shall not affect the remaining portions of this resolution, which shall
26 remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional
27 were not originally a part of the resolution.

28 **Section 4. Repealer.** All laws, ordinances and resolutions that are inconsistent with the
29 provisions of this resolution are hereby repealed to the extent of such inconsistency.

30 **Section 5. Emergency Clause.** *The Board of Directors of the City of Little Rock finds that active,*
31 *proposed, and anticipated land-use applications and utility commitments for hyperscale data centers pose*
32 *an immediate threat of irreversible allocation of municipal water reserves, wastewater capacities, and grid*
33 *reliability before the City can enact adequate regulatory performance standards. Approval or processing*
34 *of such ultra-large industrial facilities without comprehensive studies and standards will lead to*

1 *unmitigated continuous-operation noise, heightened emergency response risks, potential groundwater*
2 *degradation, and permanent infrastructure strain, directly threatening the public health, safety, and*
3 *general welfare of the residents of Little Rock. Therefore, an emergency is hereby declared to exist, and*
4 *this Ordinance, being necessary for the immediate preservation of public peace, health, safety, and welfare,*
5 *shall take effect and be in full force immediately upon its passage and approval.*

6 **PASSED: August 4, 2026**

7 **ATTEST:**

APPROVED:

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10 **Allison Segars, City Clerk**

Frank Scott, Jr., Mayor

11 **APPROVED AS TO LEGAL FORM:**

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15 **Thomas M. Carpenter, City Attorney**

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