



CITY OF COMMERCE AGENDA REPORT

TO: Honorable Mayor and City Council **Item No.** _____

FROM: Ernie Hernandez, City Manager

SUBJECT: Urgency Ordinance Establishing a Temporary (45-Day) Moratorium on Data Center Development Pursuant to California Government Code Section 65858

MEETING DATE: August 11, 2026

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting the proposed Urgency Ordinance, by a four-fifths (4/5) vote, establishing a temporary 45-day moratorium on the acceptance, processing, and approval of any applications, permits, entitlements, or other approvals for data center development within the City of Commerce, pursuant to California Government Code, Section 65858, effective immediately upon adoption; and
2. Directing the City Manager to return to the City Council within 35 days with a written report describing the measures taken to alleviate the conditions that led to the adoption of this Urgency Ordinance, and to schedule a duly noticed public hearing to consider extension of the moratorium for an additional period of up to 10 months and 15 days.

EXECUTIVE SUMMARY:

Pursuant to the authority granted the City of Commerce ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare and safety. Adoption and enforcement of comprehensive zoning regulations and other land use regulations lies within the City's police power.

Data centers may require extraordinary electrical demand, substation or transmission improvements, substantial cooling systems, backup generators, water and wastewater capacity, and 24-hour operations, and may thereby create or exacerbate land use compatibility, safety, public health, greenhouse gas, air and an increase in noise and heat/temperature around the data center, low human job/work generation, and infrastructure

capacity concerns. Such concerns may be especially significant when these uses are proposed in proximity to residential neighborhoods, schools, parks, community facilities, and other sensitive land uses.

The Commerce Municipal Code and zoning regulations do not currently define a “data center,” let alone regulate them with respect to their permissible locations, size and intensity, utility demand, water consumption, cooling systems, backup generation, buffering, noise, environmental performance, decommissioning, and community benefits.

The City Council intends within a reasonable time to study, consider, and potentially adopt amendment to the City’s General Plan, Municipal Code, zoning ordinance, specific plans, development standards, and/or other applicable regulations to address whether, and under what conditions data centers should be permitted within the City.

ANALYSIS:

Data center developments are known to create significant impacts to communities. These impacts include rising electricity demand and potential ratepayer costs. A modern artificial intelligence (“AI”) data center can use as much power as roughly 100,000 homes and some projections suggest data centers could account for up to 13.5% of U.S. electricity consumption by 2030. Utilities may need substantial investments in generation, transmission, and substations. Data centers also require significant amounts of water with projected estimates of AI-related data centers requiring up to 32 billion gallons of direct water consumption annually in the U.S. by 2028. Long-term groundwater depletion, imported water supply constraints, and ongoing drought conditions are major concerns.

Additionally, many data centers rely on fossil-fuel generation and diesel backup systems that emit high levels of pollutants such as nitrogen oxides and fine particulate matter, contributing to air pollution and climate impacts. Further, noise impacts from construction activity, cooling equipment, and backup generators have been known to lead to reported sleep disruption, headaches, and reduced quality of life by residents living near data centers.

Finally, it should be noted that the City’s existing zoning code and development standards were adopted before the emergence of data centers and, therefore, do not adequately regulate the intensity, utility demand, operational characteristics, environmental impacts, or cumulative impacts associated with such facilities.

Given these characteristics, consideration of any data center project, especially large-scale data center projects, would create a current and immediate threat to the public health, safety, or welfare in the absence of reasonable zoning and other regulations.

PROPOSED URGENCY ORDINANCE

If approved, the proposed Ordinance would cause a temporary suspension of data centers and the like in all areas of the City. Further, no use permit, variance, building permit, or any other entitlement for use would be accepted, processed, approved or issued for the

establishment or operation of data centers. Adopting such proposed Urgency Ordinance would allow adequate time for the City to consider, study, and enact regulations for same.

If passed, the proposed Urgency Ordinance would take effect immediately. In order to adopt such an urgency ordinance, the following must be done:

1. Adoption requires a four-fifths vote of the city council;
2. The proposed Urgency Ordinance must contain findings, which are included with the proposed Urgency Ordinance, stating why the proposed Urgency Ordinance is needed to address a current and immediate threat to public health, safety, or welfare;
3. Ten (10) days prior to the expiration of the proposed Urgency Ordinance or any extension thereof, the City Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the proposed Urgency Ordinance; and
4. Such an extension would be for a maximum period of time up to ten (10) months and fifteen (15) days.

The City may extend for another 12-month period for a total of 2 years. The City is not required to use the entire 2 years, but can adopt new regulations any time during that moratorium period.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The proposed Urgency Ordinance is exempt from the California Environmental Quality Act ("CEQA") because the instant Urgency Ordinance involves continuing administrative activities and thus is not a project, as CEQA defines, pursuant to Section 15378(b)(2) of the CEQA Guidelines. To the extent the adoption of this Urgency Ordinance constitutes a project, the adoption of the Urgency Ordinance is exempt from environmental review because it can be seen with certainty that the adoption of the Urgency Ordinance would not have any significant impact on the environment pursuant to CEQA Guideline Section 15061(b)(3).

FISCAL IMPACT:

Adoption of this Urgency Ordinance is not expected to have a significant direct fiscal impact on the City.

RELATIONSHIP TO STRATEGIC GOALS:

This item relates to the 2016 Strategic Action Plan's goal of: Economic growth – Guiding Principles 1 to "Create and strengthen our identity, as a community that promotes opportunity and success for business that meets the strategic focus for economic growth, will have a positive impact on the quality of life and the City's financial sustainability," and 3 "Support a long-range planning vision through the City's General Plan, zoning ordinance,

and related land use planning documents that incorporate community and stakeholder input and provide a compass for strategic economic growth, infrastructure investments and city fiscal planning.”

Prepared by:	Mark Murray, City Attorney
Recommended by:	Jessica Serrano, Director of Community Development
Reviewed by:	Alvaro Castellon, Director of Finance
Approved as to form:	Noel Tapia, City Attorney
Respectfully submitted:	Ernie Hernandez, City Manager

ATTACHMENTS:

1. Urgency Ordinance No. XXXX - Establishing a Temporary (45-Day) Moratorium on Data Center Development Pursuant to California Government Code Section 65858