CLACKAMAS
COUNTY

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MEMORANDUM

TO: Clackamas County Board of Commissioners
FROM: Dan Johnson, Director and Caleb Huegel, Assistant County Counsel
RE: Data Center Potential Policy Options
DATE: August 11, 2026

REQUEST: Board direction on potential adjustments to programs related to data center construction.

BACKGROUND: On July 7, 2026 the Board heard an informational only Policy Session regarding data centers and the County's role as related to these facilities. In that Session, and at Issues on August 4, 2026, the Board directed staff to return with options for Board consideration to mitigate the impacts of potential data centers in Clackamas County.

County's Role In Data Centers

Development Review

A data center is a facility that contains an organization's centralized informational technology systems supporting their digital environment. Data centers house computers, servers, routers and other networking equipment that supports various technological needs of an organization such as cloud-based software, search engines, AI generation and digital data storage.

Data centers are primarily housed in warehouse/industrial facilities of various sizes. Though no data centers have been built to date in unincorporated Clackamas County, they are allowed in the General Industrial (GI), Light Industrial (LI) and Business Park (BP) zones. In addition, there are several commercial zones that likely would allow the use.

As with any structure of this nature, land use entitlements are required. If locating in a zone in which this particular use is allowed outright, land use review would be limited to review of structural design, site circulation, landscaping and associated development standards found in the Clackamas County Zoning and Development Ordinance (ZDO).

Submittal requirements for a land use application of this nature include preliminary statements of feasibility from water, sanitary sewer and surface water management service providers. These statements are provided by the applicant from the provider to ensure a sufficient level of services is available from the provider to support the development as proposed. Additional conditions of approval from the providers may be included in the final land use decision.

Development review would also include any needed surveying, site development (development engineering), and building permits. These reviews would follow standard practices, as there are no special considerations for data centers.

Economic Development Incentives

Enterprise zones are designed to encourage business investment through property tax exemptions in designated areas of the county. Businesses locating or expanding in these enterprise zones may be eligible for a 3-year property tax abatement on new construction and equipment (capital assets).

Currently there are five enterprise zones within the county, including: North Urban Clackamas County, Oregon City, Estacada, Molalla and Sandy.

For the standard 3-year enterprise zone exemption, a business shall:

- Increase full-time, permanent employees by 10%,
- Maintain minimum employment level during exemption period,
- Enter in a first-source agreement with local job training providers, and
- Pay an application fee of 0.1% of the proposed total investment.

State Activity Related to Data Centers

Data Centers and their place in Oregon is a topic being discussed widely across the state. Three key state actions are important to note when considering data centers, and the next actions for the County.

Enterprise Zone Pause: During the 2025 State Legislative Session, the Oregon Legislature passed House Bill 4084, that effectively institutes a one-year pause on new data center tax exemptions in urban and suburban enterprise zones. On June 6, 2026, the moratorium took effect, essentially giving time for additional analysis and policy recommendations ahead of the 2027 legislative session.

POWER Act: In the 2025 Legislative Session, House Bill 3546 (known as the POWER Act) was approved. This bill creates a new classification for data centers, cryptocurrency and other large industrial energy users who use more than 20 megawatts, or 20 million watts, of power. By creating a new classification, it allows utilities to set rates for data centers, so they pay their share of electricity use and costs.

On July 7, 2026, the Oregon Public Utility Commission approved Portland General Electric's request to raise rates for data centers by 29.7%, and enact small rate cuts for residential and small business customers. PGE's actions are believed to be the first in further upcoming rate adjustments to be proposed by utility providers in alignment with the new authority established in the POWER Act.

Data Center Advisory Committee: In January 2026 Governor Kotek convened the Data Center Advisory Committee to develop recommendations for a comprehensive regulatory framework to strategically pursue the economic development opportunities that come from data centers while ensuring utility costs, infrastructure investments and environmental impacts remain sustainable and equitable for residents.

Next Steps

At the conclusion of the July 7th Policy Session, and at Issues on August 4th, the Board directed staff to assess options for adjustments to applicable County codes and programs to address a variety of concerns related to data centers. Based on Board discussions to date, the primary concerns related to data center siting are ensuring impacts (noise) to adjoining property owners are reduced, and development of design standards to assist in reducing impact on the local electrical system, if feasible. Though concerns regarding water usage were raised, those services are provided by local water districts. Any capacity issues for a particular district would be identified through the land use entitlement process.

It should be recognized that if legislation is advanced in the 2027 Session to make statewide changes to land use rules regarding data centers, the County will need to review and amend our Ordinance to be in compliance with state law. An important consideration when exploring potential County ZDO changes for data centers is that any amendments that are in process when new statewide legislation is approved could be overridden or need further amendments to comply with state law. If this situation occurs, it would result in duplicate staff efforts and overlapping public engagement and outreach.

Zoning and Development Ordinance (ZDO) Amendments

County-proposed amendments to the ZDO are vetted on a bi-annual (every two years) basis through the Long-Range Planning Work Program. This work program informs the community and local elected officials of planned amendments over a two-year period. This program is curtailed to current funding levels so available staffing and financial resources can meet program needs, and to ensure reasonable delivery of proposed amendments. Should the Board request staff to advance amendments to address concerns with data centers in the community, that work could not begin until 2028 or another land use project will need to be removed from the work plan and rescheduled.

It's important to note that postponing projects that are currently in progress has consequences for development review and for the county's compliance with state law. One project underway is the next Minor and Time-Sensitive ZDO Amendments package focusing on changes required by State law that are required to be implemented by local jurisdictions by January 1, 2027.

Much of the other long-range planning work currently underway is in response to state mandates, including a requirement to make our housing standards "clear and objective." Part of the clear and objective standards project is grant-funded, and is proceeding on a schedule agreed to with the consultants and the Department of Land Conservation and Development (DLCD). The other major project planned for 2027 is implementation of the ZDO Diagnostic Report, which comprehensively evaluated the zoning code and recommended substantial amendments to the code's structure and content. These changes are aligned with the Board's goal to review development regulatory processes to minimize burden, and are intended to streamline development review, improve consistency, and create efficiencies for customers and staff. An overhaul of the ZDO is long overdue and should be prioritized over the next 18 months.

As a reminder, implementing a project that results in changes to the ZDO takes at least six months. It can take six to nine months to complete a project because it requires scheduling additional discussion on specific changes, time to develop the language and then the time for the hearing process. If direction was given right now to initiate a ZDO amendment project, it would be early 2027 before the changes would take effect.

Enterprise Zone Program Amendments

Currently the Office of Economic Development assists, or facilitates in conjunction with city partners, five enterprise zones within the county, including: North Urban Clackamas County (including parts of Milwaukie and Gladstone), Oregon City, Estacada, Molalla and Sandy. Of these five zoned areas, Clackamas County is only a joint sponsor to one, the North Urban Clackamas County zone.

As previously noted in the report, these zones provide for a 3-year property tax abatement on new construction and equipment (capital assets) for qualifying improvements. Should the Board desire, the criteria for this program could be revisited, for example to establish industry specific criteria and abatement provisions, concurrence from partnering entities, cities of Milwaukie and Gladstone, would be required.

Any program revisions will need to be consistent with any requirements from the State, which are currently under consideration as part of the Data Center Advisory Committee's work.

Moratorium

State law allows local governments to adopt moratoria on certain land uses. Those statutes require a public hearing on the proposed moratorium, notice to DLCD 45 days before the public hearing, and findings justifying the moratorium. The findings must include a demonstration of "compelling need" due, in part, to "public harm" that would occur without the moratorium, and a determination that resources are available to develop a permanent solution during the moratorium period. Moratoria adopted by local governments may be appealed to LUBA.

Within 60 days of the moratorium taking effect, and after holding another public hearing, the county must adopt a program to correct the problem, such as by initiating a ZDO amendment project.

The initial moratorium period may not exceed 120 days. However, after holding another public hearing, the county may extend the moratorium by up to six months if the problem continues to exist and the county is making reasonable progress towards alleviating it.

The Board may not direct staff not to process data center applications without first complying with the statutory requirements for moratoria.

As with ZDO amendments, should the Board request staff to initiate the process to adopt a moratorium on data centers and a correction program, other land use projects will need to be removed from the work plan and rescheduled.

OPTIONS:

Option 1: Initiate amendments to the Zoning and Development Ordinance to limit the location of data centers and adopt development standards to mitigate the negative impacts of data centers.

Option 2: Direct staff to advance amendments to the Enterprise Zone program to assess limiting incentives for data centers.

Option 3: Direct staff to initiate the process to adopt a moratorium on data centers and a correction program.

Option 4: Some combination of Options 1, 2, and/or 3.

Option 5: Direct staff to delay amendments to current codes and programs at this time and report back to the Board following the 2027 legislative session to discuss any adjustments to State requirements.

RECOMMENDATION:

Option 5: Direct staff to delay amendments to current codes and programs at this time and report back to the Board following the 2027 legislative session to discuss any adjustments to State requirements.