

CHARTER TOWNSHIP OF MONITOR
COUNTY OF BAY, MICHIGAN
ORDINANCE NO. 67-U

**ORDINANCE DECLARING A MORATORIUM ON DATA CENTER
CONSTRUCTION AND APPROVAL FOR A PERIOD OF ONE YEAR
WITHIN THE CHARTER TOWNSHIP OF MONITOR**

This is an Ordinance to protect the public health, safety and general welfare of the public by amending the Zoning Ordinance to regulate data centers within the township. Data center is a large warehouse or series of warehouses that house computer systems, servers and associated components. They form the backbone of the internet. All information that is seen on the internet, like websites, emails, news articles, has to be kept somewhere and it is usually at a data center. Data centers also run artificial intelligence. Due to the federal government and private companies now heavily promoting AI development, this has caused developers across the country to look for areas to construct data centers. Data centers can be small modules that can fit in a building, or larger warehouses that can be expanded on.

The Charter Township of Monitor hereby ordains:

SECTION I

Data Centers have become a topic of consideration in local governmental units throughout the state; and

SECTION II

Data Centers are a relatively new invention for zoning, planning and approval processes; and

SECTION III

The Charter Township of Monitor’s zoning ordinance does not have any provisions for Data Centers; and

SECTION IV

It has become apparent that Data Centers consume large volumes of utilities, such as water, sewer, and electrical capacity; and

SECTION V

Data Centers are generally a large building utilizing either agricultural, commercial, or industrial zoned property, which prohibits the township’s ability to allow other growth as has been planned in its Master Plan; and

SECTION VI

The legislature for the State of Michigan has considered introducing some type of regulations that require Data Centers to provide their own potable water, pay the cost of transmitting the water, pay the cost of electrical facilities to operate the Data Center, and enter into an agreement that have guaranteed payments for a certain number of years; and

SECTION VII

The Charter Township of Monitor does not have any of those regulations, nor does it have a decommissioning plan to require the restoration of property if the Data Center is no longer viable nor usable to decommission the property back to either vacant agricultural, industrial, or commercial property; and

SECTION VIII

Pursuant to Supreme Court Opinions, it states, “the Fifth Amendment forbids the taking of private property for public use without just compensation”; and

SECTION IX

It is not the intention of the township by this moratorium to take property from private property owners; and

SECTION X

Pursuant to Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, found at 535 U.S. 302 (2002), the U.S. Supreme Court has stated and cited other previous cases for the proposition that “{t}hese cases stand for the important principle that a land owner may not establish a taking before a Land Use Authority has the opportunity, using its own reasonable procedures, to decide and explain the reach of a challenged regulation”; and

SECTION XI

The Planning Commission has recently completed a Master Plan review within the past year for the Charter Township of Monitor; and

SECTION XII

The Planning Commission review did not include the regulation, zoning requirements, and utility service plans for Data Centers to consume such large parcels of property, and services; and

SECTION XIII

It is necessary for the township Planning Commission to review and evaluate the zone within which Data Centers shall be located, how they are regulated, how a decommissioning program is guaranteed, how the public service is being dedicated to the use, and a Data Center will be preserved and paid for over a long period of time to allow the township to recoup any investment, or the Road Commission for the County of Bay, Department of Water Sewer to recoup any investment if one is required for the distribution of Bay County water supply. Therefore, this moratorium will prohibit application, review, and approval of Data Centers for a period of one year unless modified or repealed.

SECTION XIV - REPEAL

That any Ordinance in conflict with all or part of this Ordinance are hereby repealed.

SECTION XV - PUBLICATION

That this Ordinance shall be published in a newspaper of general circulation and becomes effective thirty (30) days after adoption and publication in a newspaper of circulation within the Charter Township of Monitor.

SECTION XVI - SEVERABILITY

Should any court of competent jurisdiction declare any part of this Ordinance to be invalid and unenforceable, the remainder shall remain valid and enforceable unless specifically determined by court to not be otherwise enforceable.

TOWNSHIP OF MONITOR, BAY COUNTY, MI
Terry M. Spencer, Supervisor