TEMPORARY MORATORIUM ON LARGE RESOURCE-CONSUMING USES ORDINANCE

Pursuant to RSA 674:23

I. Title

This ordinance shall be known as the "Temporary Moratorium on Large Resource-Consuming Uses Ordinance." This Ordinance shall be referenced herein as "the Ordinance."

II. Authority

This ordinance is adopted under the authority of RSA 674:23, which permits municipalities to adopt temporary interim zoning ordinances to preserve the status quo pending the development and adoption of permanent zoning ordinance or other land use regulations when unusual circumstances may affect a municipality's ability to provide adequate services and requires prompt attention to develop a zoning ordinance.

III. Determination of Unusual Circumstances

In adopting this Ordinance, the voters of the Town of Bow hereby determine as follows:

A. WHEREAS, the Town of Bow was previously the host community to the Merrimack Station Coal-Fired Power Plant;

B. WHEREAS, in 2024, the Merrimack Station Coal-Fired Power Plant retired and is no longer in operation;

C. WHEREAS, the retirement of the Merrimack Station Coal-Fired Power Plant has called into question potential uses for the former site of the power plant, the use of electric utility infrastructure and other resources in the Town previously utilized by the Merrimack Station Coal-Fired Power Plant, and the potential for certain Large Resource-Consuming Uses to be proposed in the Town;

D. WHEREAS, Large Resource-Consuming Uses ("LRCUs"), including, but not limited to data centers, represent a new and rapidly expanding form of industrial land use that is not specifically addressed in the Town's current Zoning Ordinance;

E. THEREFORE, unusual circumstances exist in the Town of Bow that may affect the ability of the Town of Bow to provide adequate services and, due to the potential for a Large Resource-Consuming Use to enter the Town of Bow, prompt attention is needed to develop a zoning ordinance and other land use regulations regarding such uses.

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IV. Purpose and Intent

The purpose of this Ordinance is to:

A. Protect the public health, safety, and welfare of the residents of Bow, protect against adverse regional impacts, ensure the availability and reliability of electrical supply, ensure adequate access to potable drinking water, safeguard the regional watershed, and protect against adverse ecological impacts that may be presented by LRCUs;

B. Allow the Town adequate time to study the potential land use, environmental, infrastructure, and fiscal impacts associated with LRCUs, including but not limited to:
   1. Energy consumption and electrical grid demand
   2. Water usage, cooling water treatment, water quality and wastewater impacts
   3. Noise, structural and bedrock vibration, heat, and visual impacts
   4. Air and dust pollution
   5. Light emissions and light trespass
   6. Emergency services and potential security risks
   7. Communication infrastructure
   8. Traffic and construction impacts
   9. Effects on property values, recreation, tourism and community character
   10. Long-term health impacts

C. Enable the Town to develop thoughtful and appropriate zoning ordinance and/or land use regulations governing LRCUs; and

D. Prevent development that could conflict with or undermine future zoning amendments under consideration.

V. Definition

For purposes of this Ordinance:

A. "Large Resource-Consuming Uses" or "LRCUs" shall be defined as commercial and/or industrial uses that, in the aggregate, (a) draws or is supplied electrical power, averaged over a period of one hour, in amount of 1 Megawatt or more, (b) use, consume, or require the allocation of water from any source, in a treated or untreated state, in an amount that exceeds 10,000 ccf in any calendar month. In determining whether a proposal meets the definition of "Large Resource-Consuming Uses," the Town shall consider all parcels associated with the project, including, but not limited to, parcels in common ownership, parcels leased from unrelated parties for the project, or parcels owned by affiliated entities; the Town shall further consider parcels located in other municipalities related to such project. Such uses may include, but shall not be limited to, data centers, heavy manufacturing facilities, electric generating facilities, oil or gas refineries, natural gas storage facilities, and regional warehouse distribution centers.

B. "Data Center" shall be defined as any facility, structure or site used primarily to house computer systems, servers, data storage, networking equipment, high performance computing, cloud computing systems or cryptocurrency mining infrastructure, including all associated onsite power substations, backup generators, cooling systems and battery

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storage. The term “data center” does not include incidental server or information technology (IT) equipment areas that are subordinate to a primary commercial, educational, governmental, healthcare, or residential use.

VI. Temporary Moratorium

A. Prohibition

Effective upon adoption of this ordinance, no applications submitted to the Town or any of the Town’s departments, boards, or commissions shall be noticed, accepted, considered, processed, approved (conditionally or unconditionally), and no building permits or other authorizations issued for:

1. Site plan approval
2. Subdivision approval
3. Building permits
4. Conditional use permits
5. Special exceptions
6. Variances (to the extent applicable)
7. Waivers
8. Any other development approval required by law

for the establishment, construction, expansion, or operation of any LRCUs, in any zoning district within the Town of Bow.

B. Scope

This moratorium shall apply to all parcels in the Town of Bow, shall be in effect in all zoning districts, and shall be in effect with regard to both principal and accessory uses.

VII. Duration

This moratorium shall remain in effect for a period of twelve (12) months from the date of adoption.

VIII. Study Requirement

Within the first ten months of the moratorium period, the Planning Board shall:

A. Conduct a review of LRCUs;
B. Evaluate appropriate zoning districts, performance standards, and permitting frameworks, if any, for LRCUs;
C. Consider human health, environmental, infrastructure, and fiscal impacts implicated by LRCUs;
D. Solicit comment from the Town’s Department Heads, state agencies, and subject matter experts;
E. Establish subcommittees as deemed appropriate to assist in the study to be performed under this Ordinance;
F. Make public a report of their findings;
G. Draft specific zoning ordinance amendments, land use regulations, and, if permitted, approval and review criteria and performance standards to regulate LRCUs;
H. Hold public hearings to review the draft amendments and gather public input;
I. Develop and recommend appropriate zoning amendments to the Town; and

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J. Recommend updates to the Master Plan related to LRCU development.

IX. Severability

If any provision of this ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining provisions, which shall remain in full force and effect.

X. Effective Date

This ordinance shall take effect upon adoption by the legislative body in accordance with RSA 674:23.

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Appendix: Planning Board Findings

Justification
The Planning Board makes the following findings in support of the proposed ordinance:

A. Emerging and Rapidly Evolving Land Use

Large Resource-Consuming Uses ("LRCUs"), including, but not limited to, data centers represent a rapidly expanding type of industrial land use that is not specifically addressed in the Town's current Zoning Ordinance or Master Plan.

B. Bow's Present Circumstances

The Town of Bow was previously the host community to the Merrimack Station Coal-Fired Power Plant, which retired and is no longer in operation. Merrimack Station was located on the Merrimack River and contained transmission interconnections and other infrastructure improvements, all of which present the possibility that the site of Merrimack Station will be redeveloped, or another parcel in the Town may be developed, to host an LRCU in the Town of Bow.

C. Inadequacy of Existing Regulations

The current zoning framework:
- Does not define or regulate LRCUs;
- Does not include approval criteria or performance standards tailored to LRCUs' unique impacts;
- Does not address LRCUs' scale or intensity.

Without a moratorium, development could occur in a manner inconsistent with community goals, adverse to the public health, safety, and welfare, and available public services or infrastructure sufficient to accommodate or address LRCUs.

D. Potential Impacts Require Further Consideration

The Planning Board has identified several areas requiring consideration related to LRCUs:

1. Water Resources
    - Significant water consumption for cooling[5, 4]
    - The impacts on the Merrimack River, water quality and water quantity[3]
    - Potential effects on groundwater and aquifers[3]
    - Ecological impacts related to water intake, discharge of cooling water, and impact on aquatic flora and fauna
2. Human Health and Environmental Impacts
    - Waste heat generation
    - Noise from cooling equipment and backup generators[5, 6]
    - Air, soil, and water pollution[1, 3]
3. Energy Infrastructure

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- Extremely high electricity demand, with the total power demand of data centers in the US being estimated in 2028 to be between 74 and 132 Gigawatts, representing between 6.7% and 12.0% of total projected U.S. electricity consumption[4]
- Potential need for new substations or transmission upgrades
- Potential impact to the local electric utility grid and potential need for further upgrades and the impact of such impacts on the Town
- Adequate supply and infrastructure to accommodate the LRCU without disruption or impact on service to residents and businesses in the Town

4. Fiscal Impacts
   - Uncertain balance between tax revenue and infrastructure costs[5]
   - Impacts to emergency services[2]
   - The need for specialized equipment for the provision of security or fire suppression services[2]
5. Traffic and Construction
   - Heavy construction-related traffic
   - Long-term limited employment relative to site size[5]
6. Community Character
   - Large-scale industrial building footprints
   - Visual and aesthetic impacts in rural areas

E. Risk of Premature Development

Absent a temporary moratorium, there is a substantial risk that:

- An LRCU may be proposed or approved under existing regulations;
- Such approvals could vest development rights inconsistent with future zoning;
- The Town's ability to implement thoughtful, long-term planning would be compromised; and
- The Town would be unable to accommodate such uses without adverse impact to the Town's residents and businesses, the environment, and public health, safety, and welfare;
- The Town would have no meaningful mechanism by which to analyse and assess such proposals in a manner to provide assurance that such proposals would not pose an adverse impact to public health, safety, and welfare.

F. Consistency with Master Plan Goals

The proposed moratorium is consistent with general Master Plan goals to:

- Ensure development is compatible with infrastructure capacity;
- Safeguard public health and environmental resources;
- Promote orderly and planned growth;
- Protect rural character.

Purpose of the Moratorium

The moratorium will allow the Town sufficient time to:

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- Define LRCUs as a land use and determine what LRCUs, if any, should be permitted within the Town and the conditions and/or standards under which LRCUs should be permitted;
- Determine appropriate zoning districts (if any) where such use may be allowed;
- If to be permitted, establish evaluation criteria and performance standards including but not limited to:
    - Noise
    - Water usage
    - Energy consumption
    - Light
    - Vibration
    - Waste disposal
    - Ecological impacts
    - Setbacks and buffering
- Evaluate permitting processes (e.g., site plan review, special exception, conditional use permit);
- Conduct public outreach and stakeholder input;
- Solicit input from consultants, subject matter experts, and Town Department Heads; and
- Coordinate with regional and state agencies as needed.

Duration

The Planning Board finds that a 12-month duration is reasonable and necessary to:

- Conduct research;
- Solicit input;
- Draft ordinance amendments and/or land use regulations;
- Hold public hearings;
- Present proposed regulations to the legislative body via Town Meeting.

Alternatives Considered

The Planning Board considered the following alternatives:

- Immediate regulation without study: rejected as inferior due to the complexity of the issues to be studied;
- Allowing development under existing zoning: rejected due to risk of incompatible uses and uncertainty as to the ability to accommodate such uses with existing resources and infrastructure;
- Partial moratorium limited to certain districts: rejected because impacts may occur town-wide.

The Planning Board determined that a temporary, town-wide moratorium is the most prudent approach.

Public Interest

The Planning Board finds that the moratorium:

- Serves a clear public purpose;
- Is temporary and limited in scope;
- Is necessary to ensure informed decision-making;
- Protects the community from potentially irreversible land use impacts.

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Recommendation

The Bow Planning Board recommends that the legislative body adopt the proposed Temporary Moratorium on Large Resource-Consuming Uses Ordinance pursuant to RSA 674:23.

As part of the adoption of said Ordinance, the Bow Planning Board further recommends the following course of action, which is incorporated into the Ordinance:

Within the first ten months of the moratorium period, the Planning Board shall commission a study to assess whether to permit LRCUs in the Town of Bow and the circumstances under which such uses would be permitted. As part of that study, the Planning Board, either as a board or through subcommittee(s), would conduct a review of the types of LRCUs and the impacts of such LRCUs on water quality and quantity, electric utility infrastructure and energy supply, ecological resources, waste disposal and generation, public health and safety, municipal resources, property values, and traffic. In performing that study, the Planning Board, or a designated subcommittee, would solicit comment from the Town's Department Heads, state agencies, and subject matter experts on such potential impacts and the manner in which, if at all, those impacts can be mitigated or addressed through regulation. The Planning Board would report its findings in a written report that would be made available to and presented to the public for review.

Using that study, the Planning Board would then evaluate appropriate zoning districts, performance standards, and permitting frameworks, if any, for LRCUs in the Town of Bow. The Planning would draft specific zoning ordinance amendments, land use regulations, and, if permitted, approval and review criteria and performance standards to regulate LRCUs based on its findings. The Planning Board would further identify whether updates need to be made to the Town's Master Plan to account for LRCUs.

The Planning Board's draft zoning ordinance amendments and land use regulations would be subject to the public approval process set forth in RSA chapter 675. This would require the Planning Board to hold one or more public hearings to review the draft amendments to the zoning ordinance and/or land use regulations and gather public input. Any proposed zoning ordinance amendment would be presented to the Town Meeting for approval.

Works Cited

[1]American Lung Association. (2026). *State of the Air 2026 Report.*

[2]Kareck, T. L., Li, C.-Y., Wang, J., Gollner, M. J., & Wang, Q. (2026). From incident to insight: Fire risk in modern data centers. *Journal of Loss Prevention in the Process Industries*.

[3]Saha, U. K. (2026). *Understanding How Data Centers Impact Surface and Ground Waters.* University of Georgia Extension.

[4]Shehabi, A., Newkirk, A., Smith, S. J., & al., e. (2024). *2024 United States Data Center Energy Usage Report.* Berkeley Lab Energy Analysis & Environmental Impacts Division. Retrieved from https://escholarship.org/uc/item/32d6m0d1

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[5]Walker, C. D., & Goldsmith, I. (2026, February 17). *From Energy Use to Air Quality, the Many Ways Data Centers Affect US Communities.* Retrieved from World Resources Institute: https://www.wri.org/insights/us-data-center-growth-impacts

[6]Yanez-Barnuevo, M. (2026, March 23). *Communities Are Raising Noise Pollution Concerns About Data Centers.* Retrieved from Environmental and Energy Study Institute: https://www.eesi.org/articles/view/communities-are-raising-noise-pollution-concernsabout-data-centers

Planning Board Vote

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