



ENVIRONMENTAL COMMISSION AGENDA

3RD FLOOR CONFERENCE
ROOM

MONDAY, AUGUST 24, 2026

6:00 PM

1. Call to Order
2. Approval of the Monday, August 24, 2026 Agenda
3. Approval of the Monday, June 22, 2026 Minutes
4. Items for Discussion
 - A. Tree Board and Environmental Commission Merger
 - B. Data Center Development Standards
5. Routine Business
 - A. Grant Updates
6. Commissioner Reports and Updates
7. Adjournment



Environmental Commission Memorandum

TO: Environmental Commission
THROUGH:
FROM:
MEETING DATE: August 24, 2026
SUBJECT: Approval of the Monday, August 24, 2026 Agenda

Background:

Recommendation:

Attachments:



ENVIRONMENTAL COMMISSION MINUTES

3RD FLOOR CONFERENCE
ROOM

MONDAY, JUNE 22, 2026

6:00 PM

Call to Order

The City of Faribault Environmental Commission meeting was called to order by Commissioner DeMars at 6:19 pm. Commissioners in attendance include Teresa DeMars, Yvette Marthaler, Miranda Lamb, and Ann Schultz. Commissioners absent include Lee Nordmeyer, and Kevin Theis. Others in attendance include Adam King – Environmental and Water Resource Coordinator, John Rowan – City Council Member, Mandy Barnes – City Council Member, Brad Carberry – Rice County Resident, and Susan Winkelmann – Rice County Resident.

Approval of the Monday, June 22, 2026, Agenda

There were no additions or corrections to the Monday, June 22, 2026 Agenda. Motion by Marthaler, seconded by Lamb to approve the agenda as presented and carried unanimously.

Approval of the Tuesday, May 26, 2026, Environmental Commission Meeting Minutes

King presented the Tuesday, May 26, 2026 Environmental Commission Meeting Minutes. The Commissioners discussed the minutes. There were no corrections to the Tuesday, May 26, 2026 Environmental Commission Meeting Minutes. Motion by Marthaler, seconded by Schultz to approve the Tuesday, May 26, 2026 Environmental Commission Meeting minutes as presented and carried unanimously.

Items for Discussion

Faribault Heritage Days Recap

King provided a recap of the Faribault Heritage Days festival held June 11-13th 2026. The commissioners discussed the booth and the displays that drew people in, including the historical documents, photos and well display.

Routine Business

Grant Updates

King provided an update on submitted grants, including the Minnesota Department of Natural Resources (MN DNR) ReLeaf grant, and the Clean Energy Resource Teams (CERTs) grant to produce video vignettes on home energy conservation practices. The Minnesota Board of Water and Soil Resources (BWSR) Projects and Practices Clean Water Fund (CWF) grant for a raingarden at the Golden Meadows Apartments is not being recommended for funding at the Wednesday, June 24, 2026 board meeting.

Data Center Updates

King provided the MN Court of Appeals ruling that reversed the negative declaration on the Archer Data Center, finding the record fell short on air quality, noise, greenhouse-gas emissions, and cumulative effects. The commissioners discussed the ruling. Motion by Lamb, seconded by Schultz to recommend the Faribault City Council make a positive declaration and require an Environmental Impact Statement (EIS) that includes studies to develop

information regarding air quality, noise, greenhouse-gas emission, and cumulative effects, and carried unanimously.

Commissioner Reports and Updates

The commissioners provided reports and updates to projects they are working on. Miranda Lamb suggested the Environmental Commission could do some outreach on environmental issues and provide a platform of somewhere for residents to go and be able to ask questions providing community engagement. King shared that Brad Phenow is the Communications Manager for the City and is in charge of reviewing and posting any response regarding any issues from the City. King said he would check in with Phenow on community engagement from the Environmental Commission. Teresa DeMars reported that the Rice Soil and Water Conservation District held their native plant sale and sold approximately 70 native plant kits, and that a native prairie planting event was held at Jefferson Elementary School this afternoon with 2,200 native prairie pugs planted. Yvette Marthaler and Ann Schultz did not provide a report.

Adjournment

Motion by Marthaler, seconded by Lamb, to adjourn the Environmental Commission meeting and carried unanimously.

The meeting was adjourned at 7:01 p.m.

Approved:	Date:	Recorder:
	07/27/2026	Adam King, Environmental and Water Resources Coordinator



Environmental Commission Memorandum

TO: Environmental Commission
THROUGH: David Wanberg, Community & Economic Development Director
FROM: Adam King, Environmental and Water Resources Coordinator
MEETING DATE: August 24, 2026
SUBJECT: Tree Board and Environmental Commission Merger

Background:

Tree Board: The Tree Board advises the Parks and Recreation Board on issues related to trees. The Board meets as needed.

Faribault is a Tree City USA member through the Arbor Day Foundation. Requirements for Tree City USA members is:

1. A tree board or department
2. A tree care ordinance (Chapter 26)
3. A community forestry program with an annual budget of at least \$2 per capita
4. An Arbor Day observance and proclamation

Currently, there are 10 Tree Board members.

Environmental Commission: Chapter 9 Article I. establishes the Environmental Commission

Currently there are 7 Environmental Commissioners.

Recommendation:

Modify Chapter 9 to incorporate the tree board's duties.

Attachments:

1. Enabling Ordinance
2. treecity-checklist-2023

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Chapter 9 - ENVIRONMENTAL PROTECTION

Footnotes:

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Cross reference— *Planning, Ch. 20; trees, Ch. 26; water and sewers, Ch. 28; flood and storm drainage, App. B, Subd. 17.*

State Law reference— *Minnesota pollution control agency, M.S. Ch. 116; Minnesota environmental rights act, M.S. Ch. 116B; Minnesota environmental quality board, M.S. § 116C.01 et seq.; Minnesota environmental coordination procedures act, M.S. §§ 116C.22—116C.34; state environmental policy, M.S. Ch. 116D; critical areas act of 1973, M.S. §§ 116G.01—116G.14.*

ARTICLE I. - ENVIRONMENTAL COMMISSION

Sec. 9-1. - Established.

There is hereby established an environmental commission of the city.

(Ord. No. 2020-3, § 1, 2-25-20)

Sec. 9-2. - Purpose.

The purpose of the environmental commission is to advise the city council on environmental issues and opportunities affecting the city while respecting the city's economic and social environments.

(Ord. No. 2020-3, § 1, 2-25-20)

Sec. 9-3. - Organization.

- (a) *Appointment and residency.* The environmental commission shall consist of seven (7) voting members, all of whom the city council shall appoint by resolution. At least four (4) members shall be residents of the City of Faribault. Up to three (3) members may be residents of a bordering township.
- (b) *Terms of office.* All members of the environmental commission shall have terms of three (3) years expiring on January 31, except, of those members appointed in 2020, two (2) shall have an initial appointment of one year, two (2) shall have an initial appointment of two (2) years, and three (3) shall have an initial appointment of three (3) years.
- (c) *Oath of office.* Every appointed member of the environmental commission shall, before entering upon the discharge of his or her duties, take an oath that he or she will faithfully discharge the duties of the office.
- (d) *Chair and vice chair.* The environmental commission shall elect a chair and vice chair among

its appointed members for a term of one year.

- (e) *Removal.* The city council may remove any member of the environmental commission by a majority vote of the city council.
- (f) *Vacancies.* Any vacancy on the environmental commission during a term of office shall be filled by the city council for the unexpired portion of the term.
- (g) *Compensation.* The members of the environmental commission shall serve without compensation.

(Ord. No. 2020-3, § 1, 2-25-20; Ord. No. 2022-6, § 1, 4-26-22)

Sec. 9-4. - Meetings.

- (a) *Schedule.* The environmental commission shall meet at such intervals as its business may reasonably require.
- (b) *Quorum.* Four (4) members of the environmental commission shall constitute a quorum.
- (c) *Record of proceedings.* The environmental commission shall keep an accurate record of its proceedings, which shall be a public record.

(Ord. No. 2020-3, § 1, 2-25-20)

Sec. 9-5. - Advisory duties.

The environmental commission shall create, for city council review, an annual work plan outlining planned projects and tasks for the year. General duties of the environmental commission include the following:

- (1) *Environmental review.* Review and provide recommendations on projects that involve an environmental assessment worksheet or an environmental impact statement.
- (2) *Creation of plans.* In consultation with the city council, participate in the development of city plans that have a significant environmental component, such as a natural resource protection plan, an energy plan, or a climate action plan. Make recommendations to the city council on the adoption and updating of said plans.
- (3) *Other duties as directed by the city council.* Advise the city council on other environmental matters as directed by the city council. Such other duties may include making recommendations on environmental ordinances and promoting public awareness and understanding of environmental matters affecting the city.

(Ord. No. 2020-3, § 1, 2-25-20)

Sec. 9-6—9-15. - Reserved.

ARTICLE II. - ENVIRONMENTAL REVIEW OPERATING PROCEDURES

Footnotes:

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Cross reference— *Planning, Ch. 20.*

Sec. 9-16. - Definitions.

For the purposes of this article, the following words, terms and phrases shall have the meanings respectively ascribed to them by this section:

EAW: The term "EAW" shall mean the environmental assessment worksheet described in section 9-18 of this article.

EIS: The term "EIS" shall mean the environmental impact statement described in section 9-18 of this article.

Sec. 9-17. - Rules for environmental review program adopted.

The provisions of the rules for the environmental review program, 6MCAR 3.021 to 3.047, one copy of which is on file in the office of the city administrator, are hereby adopted, together with the other provisions of this article, as the environmental review operating procedures the city will follow in implementing the provisions of Minnesota Statutes, Chapter 116D, relating to the environmental review program and any rules adopted thereunder by the Minnesota environmental quality board. All terms used in this article shall have the same meaning as the terms used in Minnesota Statutes, Chapter 116D and the rules adopted thereunder.

(Code 1971, § 8-36)

State Law reference— Authority for above section, M.S. § 471.62.

Sec. 9-18. - Required environmental documents; information to be provided; environmental assessment worksheet (EAW); environmental impact statement (EIS).

- (a) *Information to be provided.* The application for a city permit for any action for which environmental documents are required either by state law or rules by the city council shall supply in the manner prescribed by the city administrator all unprivileged data or information reasonably requested by the city that the applicant has in his possession or to which he has reasonable access.

- (b) *Environmental assessment worksheet.* The application for a city permit for any action for which an environmental assessment worksheet (EAW) is required either by state law or rules or by the city council shall pay all costs of preparation and review of the EAW, and, upon the request of and in the manner prescribed by the city administrator shall prepare a draft EAW and supply all information necessary to complete that document.
- (c) *Environmental impact statement.* The city and the applicant for a city permit for any action for which an environmental impact statement (EIS) is required shall comply with the provisions of the rules governing assessment of costs for environmental impact statements, one copy of which is on file in the office of the city administrator, unless the applicant and the city council provide otherwise by a written agreement.

(Code 1971, § 8-37(a)—(c))

Sec. 9-19. - Costs.

- (a) *Payment of costs.* No city permit for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied, and until the environmental review process has been completed as provided in this article and the rules adopted by reference by this article, and pursuant to any written agreement entered into by the applicant for the permit or permits and the city council under the provision of subsection (e).
- (b) *Agreements concerning cost of preparation and review.* The applicant for a city permit for any action for which an EAW or EIS is required and the city council may, in writing, agree as to a different division of the cost of preparation and review of any EAW or EIS as provided in 6MCAR 3.042.

(Code 1971, § 8-37(d), (e))

Sec. 9-20. - Administration.

- (a) The city administrator shall be the person responsible for the administration of the environmental review program, this article and the rules adopted by reference by this article.
- (b) The city administrator shall be responsible for determining whether an action for which a city permit is required is an action for which an EAW is mandatory under 6MCAR 3.024. The city administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this article and shall notify the planning commission and the city council of these proposed actions.
- (c) All EAW's and EIS's shall be prepared under the supervision of the city administrator, reviewed by the planning commission and reviewed and approved by the city council.

- (d) When reviewing an EAW or EIS, the city administrator and the planning commission may suggest design alterations which would lessen the environmental impact of the action. The city council may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.
- (e) After an EAW is prepared, the planning commission shall review the EAW and recommend to the city council whether or not it should require the preparation of an EIS. The city council shall require an EIS when it finds under 6MCAR 3.025 that an action is major and has potential for significant environmental effects.

(Code 1971, § 8-38)

Cross reference— Planning commission, § 20-1 et seq.

Sec. 9-21. - Optional EAW.

The city council may, upon recommendation by the city administrator, require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:

- (1) Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?
- (2) Is the action likely to have disruptive effects, such as generating traffic and noise?
- (3) Are there public questions or controversy concerning the environmental effects of the proposed actions?

(Code 1971, § 8-39)

Sec. 9-22. - Enforcement and penalty.

- (a) No city permit shall be issued for a project for which environmental documents are required under this article until the entire environmental review procedures established by this article are completed.
- (b) Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for ninety (90) days or both. Each day that the violation is permitted to exist constitutes a separate offense.
- (c) No work shall commence and any work in progress shall cease on any project for which environmental documents are required under this article, until the environmental review

procedures established by this article are fully complied with.

(Code 1971, § 8-40)



Tree City USA® Application Checklist

- This checklist will help you organize everything you need for your application before you apply online
- You can save your application and come back
- Application deadline varies by state; check arborday.org/treecity for the official deadline in your state.
- If your community is having difficulty meeting a specific standard, reach out to your state coordinator to learn more.

COMMUNITY INFORMATION

Information Required for Application

Contact Information for:

- ☐ Mayor
- ☐ City Forestry Contact

STANDARD 1: A Tree Board or Department

Do you have an entity responsible for your community's trees?

- ☐ Yes ☐ No

Do you have a Tree Board?*

Check out <https://treeboardu.org/>

- ☐ Yes ☐ No

Information Required for Application

- ☐ Information on Tree Board/Department Meetings
- ☐ Names/Emails for Tree Board Members of Staff

STANDARD 2: A Tree Care Ordinance

Does your city have a tree ordinance that:

- Establishes a tree board, forestry department, or both, that assigns one of these entities responsibility over public trees?

— AND —

- Provides clear guidance about the planting, removal, and/or maintenance of public trees?

- ☐ Yes ☐ No

Information Required for Application

- ☐ Date Tree Ordinance was Adopted
- ☐ Upload current ordinance

**Having a Tree Board is optional if your community has a city department responsible for public trees.*





STANDARD 3: A Community Forestry Program With an Annual Budget of at Least \$2 Per Capita

Does your community spend \$2 or more per capita?

☐ Yes ☐ No

Information Required for Application

Expenditures on:

- ☐ Tree Planting and Initial Care, Tree Maintenance, Tree Removal, Management, Utility Line Clearance, Volunteer Time (in hours), Hours Other (please explain), and Total Community Forestry Expenditures
- ☐ Annual Work Plan*
- ☐ Supporting Budget Documents*

Number of:

- ☐ Total Trees Planted, Trees Pruned, and Trees Removed

STANDARD 4: An Arbor Day Observance and Proclamation

Did your community celebrate Arbor Day this year?

☐ Yes ☐ No

Does your community have a signed Arbor Day Proclamation this year?

☐ Yes ☐ No

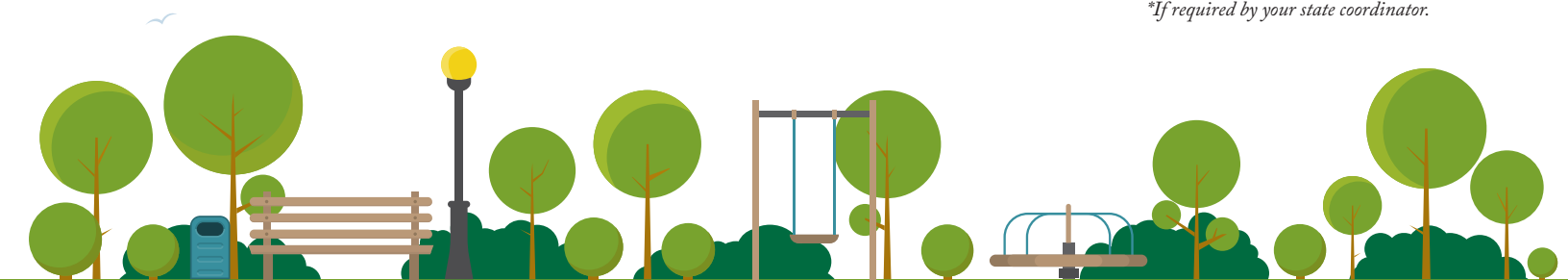
Information Required for Application

- ☐ Date of Observation
- ☐ Evidence of Arbor Day Event activities, photos, and/or news coverage
- ☐ Signed Arbor Day Proclamation

Verification Information

- ☐ Mayor or Equivalent's Signature

**If required by your state coordinator.*





Environmental Commission Memorandum

TO: Environmental Commission
THROUGH: David Wanberg, Community & Economic Development Director
FROM: Adam King, Environmental and Water Resources Coordinator
MEETING DATE: August 24, 2026
SUBJECT: Data Center Development Standards

Background:

Part of the Environmental Commission's Enabling Ordinance is reviewing and making recommendations on any Environmental Assessment Worksheets (EAW) that come to the City. MN State Statute 4410.1200 defines what the EAW shall address, including:

A. identification including project name, project proposer, and project location;

B. procedural details including identification of the RGU, EAW contact person, and instructions for interested persons wishing to submit comments;

C. description of the project, the purpose of the project, methods of construction, quantification of physical characteristics and impacts, project site description, and land use and physical features of the surrounding area;

D. resource protection measures that have been incorporated into the project design;

E. major issues sections identifying potential environmental impacts and issues that may require further investigation before the project is commenced, including identification of cumulative potential effects;

F. known governmental approvals, reviews, or financing required, applied for, or anticipated and the status of any applications made, including permit conditions that may have been ordered or are being considered;

G. if the project will be carried out by a governmental unit, a brief explanation of the need for the project and an identification of those who will benefit from the project; and

H. an assessment of the compatibility of the project with approved plans of local units of government.

EAW guidance from the EQB says the EAW should contain the project title, proposer, responsible government unit (RGU), the reason for the EAW preparation, project location, project description, climate adaption and resilience, cover types, permits and approvals required, land use, geology, soils and topography/landforms, water resources, contamination/hazardous materials/wastes, fish, wildlife, plant communities and sensitive ecological resources and rare features, historic properties, visual, air, greenhouse gas (GHG) emissions/carbon footprint, noise, transportation, cumulative potential effects, and other potential environmental effects.

It would be reasonable to address some of the environmental concerns published in EAWs through ordinances and standards, including water resources, contamination/hazardous materials/wastes, visual (light/screening), air, GHG emissions/carbon footprint, noise and energy.

Attached are ordinances to consider from other communities on data centers.

Recommendation:

Continue to work on and address ordinances and standards regarding water resources, contamination/hazardous materials/wastes, visual (light/screening), air, GHG emissions/carbon footprint, noise and energy.

Attachments:

1. Bloomington Data Center Ordinance
2. BRAINERD Data Center Ordinance
3. Chandler AZ ordinance
4. City of Monticello Ordinance 865
5. Tempe AZ ordinance
6. Fairfax County VA Ordinance
7. Linn County IA Ordinance

Bloomington, MN

§ 21.302.35 DATA CENTERS.

(a) *Purpose.* The following standards are intended to regulate data centers in the interest of the public health, safety, and general welfare of the community.

(b) *Standards.* The following standards are applicable to data centers.

(1) *Location.* No data center may be located within 500 feet of sites zoned and used residentially, as measured in a straight line without regard to intervening structures or objects from the data center's site boundaries, to the nearest residential property line.

(2) *Outdoor equipment.* Outdoor equipment that serves the data center, including but not limited to mechanical equipment and generators, must not be located closer to a property line along a public street than the principal building and must be fully screened from view of adjacent public rights-of-way and properties.

(3) *Noise.* Commercial grade mechanical equipment and similar noise sources, including but not limited to generators and air heating or cooling equipment, must comply with the requirements of §§ [10.29.02](#), [10.29.04](#), [10.29.05](#), and [21.301.12](#)(e) of the City Code.

BRAINERD, MN

Chapter 515 ZONING SECTION 515 ZONING

Adopted 07.05.2022 515-3-19

Data Centers

A. Data Centers are not permitted to operate in the City of Brainerd unless explicitly approved by a Conditional Use Permit. Data Centers that are ancillary to another primary use are permitted if they:

1. Occupy no more than ten percent of the building footprint
2. Are used to serve the enterprise functions of the on-site property owner and are not used to lease data storage and processing services to third parties.
3. Are not housed in a separate stand-alone structure on the parcel.

B. Noise. Commercial grade mechanical equipment and similar noise sources, including but not limited to generators and air heating or cooling equipment, shall comply with the requirements of MPCA noise rules (Minn. Rules Ch. 7030).

1. The Data Center shall be designed and built to incorporate sound mitigation methods to reduce sound levels emanating from the Data Center to adjacent residential structures within 1,000 feet of the facility.

2. Prior to approval, a noise study shall be submitted by a third-party engineer demonstrating to the City that the operation of the data center will comply with MPCA noise rules.

- a. The operator shall conduct a sound study performed by a third-party acoustic engineer to document baseline sound levels in the area of the proposed Data Center, including noise levels measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator.

3. Upon operation of the Data Center, the operator must conduct an additional noise study, as measured at the property line of the nearest property to the Data Center or other noise sensitive use as reasonably determined by the Zoning Administrator.

4. The City may order an additional sound study once per year during peak operation of the Data Center mechanical equipment. The Data Center operator must provide the results of the noise study, conducted by a third-party engineer, to the City

within 30 days of the request by the City or show proof that they have contracted with a third-party engineer and the results will be available in a reasonable amount of time.

5. Unless backup generators are supplying backup electrical supply during a power outage, backup generators may operate between the hours of 9:00 am and 5:00 pm, Monday through Friday, excluding holidays.

a. Curtailment of power supply or voluntary shutdown of power is not considered to be a power outage.

6. Upon request by City staff after issuance of a certificate of occupancy and commencement of the operation of the Data Center, the operator of a Data Center must provide a liaison between the hours of 8:00 am and 10:00 pm CST each day to respond to complaints about noise emanating from the Data Center.

a. Contact information shall be posted on the City of Brainerd website.

b. Upon operation of the Data Center, the City shall notify and provide contact information for the facility liaison to property owners within 500 feet of the facility.

C. Hazardous Waste Plan. Prior to operating, the operator shall submit a hazardous waste plan for review by the Community Development Department, Public Works Department, Public Utilities Department, and the Fire Department.

1. Verification must be provided that all electronic waste generated by the operation will be handled by a licensed electronic waste recycling firm.

2. Changes to the operation of the facility that affects hazardous waste material must be approved by the City.

D. Water and Wastewater Plan. Prior to approval, the developer shall apply for a sewer extension permit with the MPCA and submit a water and wastewater plan for review by the Public Works Department and Public Utilities Department.

E. Screening. Outdoor equipment that serves the data center, including but not limited to mechanical equipment and generators, must not be located closer to a property line along a public street than the principal building and must be fully screened from view of adjacent public rights-of-way and properties.

F. Energy Plan. Prior to approval, loads over one megawatt in capacity will be responsible for having a system impact study completed by the appropriate power transmitter owner operator in the area. (Added ORD. NO. 1581 – 2025)

ORDINANCE NO. 5033

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING ARTICLES II. DEFINITIONS, AND XXII. ADDITIONAL HEIGHT AND AREA REGULATIONS OF CHAPTER 35 OF THE CITY CODE OF THE CITY OF CHANDLER, RELATING TO DATA CENTERS.

WHEREAS, in accordance with A.R.S. 9-462, the legislative body may adopt by ordinance, any change or amendment to the regulations and provisions as set forth in the Chandler Zoning Code; and

WHEREAS, this amendment, including the draft text, has been published as an 1/8-page display ad in a local newspaper with general circulation in the City of Chandler, giving fifteen (15) days' notice of time, date and place of public hearing; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission as required by the Zoning Code, on October 19, 2022.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. Section 35-200, of Article II. Definitions, of Chapter 35 of the City Code of the City of Chandler, is hereby amended by adding the following definition:

Data Center: A facility or portion of a facility housing networked computer systems and telecommunications equipment used for remote storage, processing, and distribution of data.

Section 2. Section 35-2214, of Article XXII. ADDITIONAL HEIGHT AND AREA REGULATIONS, of Chapter 35, of the City Code of the City of Chandler, is hereby added to read as follows:

35-2214. Data Centers.

- (1) Data Centers are not permitted to operate in the City of Chandler unless explicitly approved as part of a Planned Area Development zoning district. Data Centers that are ancillary to another primary use are permitted if they a) occupy no more than ten percent of the building footprint, b) are used to serve the enterprise functions of the on-site property owner and are not used to lease data storage and processing services to third parties, and c) are not housed in a separate stand-alone structure on the parcel.
- (2) Before a Data Center is constructed within a Planned Area Development zoning district, the property owner proposing to build a Data Center must comply with the following:

- a. The Data Center operator or property owner must notify residents within a half-mile radius of the parcel, including any affiliated homeowners' association operating within the half-mile radius, that the property owner intends to build and operate a Data Center on the property. The notice required in this section must be mailed to all postal addresses and homeowners' association addresses contained within a half-mile radius extending from the property line where the proposed Data Center will be built.
 - b. The Data Center operator must schedule and attend two neighborhood meetings with residents to describe the project and the proposed sound-mitigation aspects of the project design. Notice of the neighborhood meetings must be mailed to all residents and homeowners associations within a half-mile radius of the parcel. A representative of the developer or owner with decision-making authority on the design of the Data Center must attend the neighborhood meetings. The Data Center operator or property owner must also post a sign on the subject property, at least fifteen days before each neighborhood meeting, in accordance with design standards specified in Section 35-2601.1. The sign must be located along an arterial street or other high-visibility location as reasonably determined by the Zoning Administrator. The content of the sign shall (i) be consistent with the City's generally applicable sign guidelines for posting signs for notification of neighborhood meetings, (ii) include the applicant name and contact information, a brief description of the Data Center project, and the date, time, and location of the neighborhood meeting, and (iii) must be reviewed and approved by the Zoning Administrator before installation. The applicant must remove the sign at the conclusion of the citizen review process.
- (3) Upon request by City staff after issuance of a certificate of occupancy and commencement of the operation of the Data Center, the operator of a Data Center must provide an on-site neighborhood liaison between the hours of 8:00 am and 10:00 pm MST each day to respond to complaints about noise emanating from the Data Center.
 - (4) Before the first neighborhood meeting is held, the property owner proposing to build a Data Center must conduct a sound study performed by a third-party acoustic engineer to document baseline sound levels in the area of the proposed Data Center, including noise levels measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator. The property owner must provide a copy of the results of the study to the City before the first neighborhood meeting.
 - (5) The Data Center must be designed and built to incorporate sound mitigation methods sufficient to prevent the sound levels emanating from the Data Center (as determined by a third-party acoustic

engineer) from exceeding the ambient noise levels that were observed in the baseline study. Design specifications for such sound mitigation must be provided to the City before building permit approval.

- (6) Upon issuance of a certificate of occupancy or certificate of completion, whichever occurs first, the Data Center operator must conduct a noise study performed by a third-party acoustical engineer to document noise levels emanating from the Data Center measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator during peak operation of the Data Center mechanical equipment. The Data Center operator must also conduct an additional noise study, as measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator, annually during peak operation of the Data Center mechanical equipment for five years after completion of the initial post-construction noise study. The Data Center operator must provide the results of the noise study to the City within thirty days of the anniversary of the date on which the certificate of occupancy or certificate of completion was issued by the City.
- (7) If the Data Center operator intends to use backup power generators on the parcel, the operator must maintain a public website announcing the times when the generators will be in operation. Any routine operation of the backup generators, including for testing purposes, must be announced on the website at least twenty-four hours in advance. The operator shall also notify the City of Chandler Communications and Public Affairs Department at least 24 hours in advance of a test. Unless the generators are supplying backup electrical supply during a power outage, backup generators may operate between the hours of 9:00 am and 5:00 pm, Monday through Friday, excluding holidays. Upon request by City staff, the Data Center operator must provide the address of the website where the notices required by this section are published.

Section 3. Providing for Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance, or any parts hereof, are hereby repealed.

Section 4. Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this 5 day of December, 2022.

ATTEST:

Dana R. D'Long
CITY CLERK

Kevin Harbke
MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this 8 day of December, 2022.

ATTEST:

Dana R. D'Long
CITY CLERK

Kevin Harbke
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 5033 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 8 day of December, 2022, and that a quorum was present thereat.

Dana R. D'Long
CITY CLERK

APPROVED AS TO FORM:

Thom Allen
CITY ATTORNEY

TA



Published in the Arizona Republic on: December 16, and December 23, 2022.

REFERENCED EXHIBIT(S) AND/OR ATTACHMENT(S) ON FILE AT THE CITY CLERK'S OFFICE.

ORDINANCE 865

CITY OF MONTICELLO WRIGHT COUNTY, MINNESOTA

AN ORDINANCE AMENDING THE MONTICELLO CITY CODE, TITLE XV, LAND USAGE, CHAPTER 153: ZONING ORDINANCE, SECTIONS 153.012 DEFINITIONS, 153.045 INDUSTRIAL BASE ZONING DISTRICTS, 153.046 OVERLAY ZONING DISTRICTS, 153.090 USE TABLE, 153.091 USE- SPECIFIC STANDARDS, 153.092 ACCESSORY USE STANDARDS TO ESTABLISH A DATA CENTER PLANNED UNIT DEVELOPMENT ZONING DISTRICT

THE CITY COUNCIL OF THE CITY OF MONTICELLO HEREBY ORDAINS:

Section 1. Section §153.012, Definitions, is hereby amended to add or amend the following:

Data center, accessory. A use which is incidental and subordinate in both area and extent to a principal use of property and which serves the principal use for the purpose of storage, management, processing, and transmission of digital data, which houses computer or network equipment. Such accessory use shall not include any mechanical equipment not fully shielded by building walls and shall not include any external power generation equipment.

Data center. A facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, services, appliances, and other associated components related to digital data storage and operations, together with its accessory and appurtenant facilities, which may also include offices, air handlers, back-up power generators, water cooling systems and water storage facilities, utility substations, and other associated infrastructure necessary to support sustained operations at a data center. The term Data Center shall not include accessory digital data computing facilities as defined by this ordinance which are not the principal use of a property in extent or area but which perform similar functions. The term Data Center shall not include data mining as defined by this ordinance.

Data center campus. A facility comprised of more than one principal data center building, but otherwise interconnected by power supply, communication systems, power generation or other operational systems to form a unified Data Center facility. This definition may include, but shall not be limited to, “Technology Campus”, “Cloud Computing Center”, “Information Technology Campus”, and similar phrases and terms. May include accessory and appurtenant facilities as defined by this ordinance for “data center”. The term data center campus shall not include data mining as defined by this ordinance.

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Data center floor area ratio (DCFAR). The floor area ratio for a data center or data center campus facility shall be defined as the ratio obtained by dividing the total gross floor area of the principal and accessory data center building(s) within the Data Center Planned Unit Development by the total net land area of the proposed Data Center Planned Unit Development, where net land area is defined as the gross land area of the Data Center Planned Unit Development less the square footage of stormwater ponding or public waters (measured from ordinary high water level), wetlands (measured from the delineation line), easements necessary for public improvements, right of way required to be platted for any purpose, and land area for required setbacks and perimeter buffer yards established per this ordinance. Accessory uses or structures which are not buildings such as electrical substations, parking areas, etc. shall not be considered eligible floor area. All measurements shall be to the nearest 1/10th of an acre.

Data mining. A temporary or portable structure used primarily for the storage, management, processing, and transmission of digital data, specifically including but not limited to cryptocurrency, which houses computer or network equipment, systems, services, appliances, and other associated components related to digital data storage and operations. Such facilities are less than 20,000 square feet individually or when assembled in multiple temporary or portable structures and are not constructed of customary industrial building materials such as concrete panels, masonry block, brick or other similar materials. These facilities include no permanent employment on-site.

Section 2. Section §153.045, Industrial Base Zoning Districts, is hereby amended to add the following:

(F) Data Center Planned Unit Development (DCPUD) Zoning District

(1) *Purpose.* The City Council finds that data center uses are highly variable in size, scope, impact, and potential issues, and all such variables may have differential impacts on existing and future land uses, or on the City's land use plans and regulations. The purpose of the Data Center Planned Unit Development (DCPUD) Zoning District is to provide for, and regulate, Data Center development in appropriate locations, specifically within areas that are otherwise designated for Light Industrial Park land uses in the Monticello Comprehensive Plan (2040 Vision + Plan), as it may be amended. It is the intent of this ordinance that all costs of development and infrastructure attributable to data center development, if approved, shall be borne by the data center developers, owners, and/or operators, and that approvals, if granted, shall

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provide for financial guarantees in this regard as a condition of any such approvals. There shall be no inherent right to rezoning to DCPUD.

(2) *Applicability.* All data center or data center campus development within the City of Monticello shall be regulated by this section.

(3) *Approval Criteria, Rezoning.* No land shall be zoned as DCPUD unless the application is found consistent with all of the following factors, or if inconsistent, where the City Council specifically finds that the facility as proposed has mitigated any inconsistent factor.

- (a) Land is guided as Light Industrial Park in the City's applicable Comprehensive Plan.
- (b) Land is zoned I-1 (Light Industrial District) in the City's applicable zoning ordinance if within the municipal boundary of the City of Monticello at the time of application for rezoning.
- (c) The applicant will demonstrate that the project will be served with and connected to City sanitary sewer and water supplies for specified data center demands and is able to demonstrate to the satisfaction of the City that the DCPUD will not create shortages in the capacity of the City's sanitary sewer and water supplies or create an inability to provide adequate utility service in other existing or planned areas of the City, including the Monticello Orderly Annexation Area.
- (d) The applicant will provide financial guarantees for the installation of all municipal utilities, transportation, and any other public services or infrastructure necessary to support the DCPUD, and for any infrastructure improvements or mitigation for the expected public infrastructure impact or capacity increase created or required by the DCPUD, and will identify a timeline satisfactory to the City for the submission of payments and securities for such infrastructure.
- (e) The applicant will provide the necessary financial guarantees to extend necessary municipal utilities to the DCPUD site, and if developed in phases will avoid the stranding or incomplete extension of municipal infrastructure resources to the furthest extent of the DCPUD or other extension point as determined by the City. Except where expressly approved by the City Council, all public rights of way or easements shall be dedicated and/or extended to limits of the property zoned DCPUD to facilitate extension to adjoining property as a part of first-phase of development.

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- (f) The applicant will demonstrate that the project will be adequately served with electricity supplies for the specified data center demands from the local electric power supplier as required by phase if applicable and demonstrates power supply capacity to existing property owners in the City and planned areas of the City, including the Monticello Orderly Annexation Area.
 - (g) The applicant demonstrates that the project will provide adequate vehicular and non-vehicular transportation facilities, such as roadways, pathways, sidewalks or similar, to serve the project and will adequately extend such facilities to serve adjoining future development areas.
 - (h) The DCPUD will not displace other land uses the City deems important for the stable, long-term growth of the community, including other industrial lands or other lands critical to the achievement of the City's long-range development goals, and the City determines that absorption of land area for data center development is appropriate based on the City's industrial and other long-range land use development goals as described in the Monticello 2040 Plan and other adopted City planning documents.
 - (i) The DCPUD will provide identifiable public benefits, including the creation and maintenance of tax base, and will avoid negative impacts such as those identified in this section, over the long term.
 - (j) The DCPUD identifies and demonstrates adequate compliance with the provisions of this section and State law for exterior impacts perceptible from the boundaries of the facility, including but not limited to those for noise and lighting impacts.
 - (k) The DCPUD will demonstrate compliance with all other applicable sections of this chapter.
 - (l) All applicable State Pollution Control Agency, Department of Natural Resources, Department of Health, and Department of Transportation requirements are met to the City's satisfaction.
 - (m) The DCPUD will not conflict with other elements of the City's Comprehensive Plan.
- (4) *Approval Criteria, Conditional Use Permit.* No Conditional Use Permit within the DCPUD shall be approved unless the land has been zoned DCPUD. No permit for work within the DCPUD as approved by the DCPUD Conditional Use Permit may be issued until the applicant has demonstrated compliance with all

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of the DCPUD Minimum District Performance Standards and has met the assigned conditions of approval to the satisfaction of the City

(5) *Principal uses.* Principal uses allowed in the DCPUD are as follows, subject to an approved DCPUD Conditional Use Permit meeting the procedural and performance standards of this section, and all generally applicable standards of the Monticello Zoning Ordinance:

- (a) Data Center.
- (b) Data Center Campus.

(6) *Accessory uses.* The following accessory uses are permitted uses in the DCPUD, subject to the procedural and Minimum District Performance Standards of this section, and all generally applicable standards of the Monticello Zoning Ordinance.

- (a) Offices and office buildings.
- (b) Security buildings.
- (c) Support facilities such as outdoor generators, mechanical or electrical equipment, electrical substations and transmission structures, or similar elements which are necessary to support the principal use.
- (d) Off-Street Parking, subject to the requirements of the Monticello Zoning Ordinance Section §153.067 per Parking Schedule #2.
- (e) Signs, Fencing, and Off-Street Loading subject to the provisions of this chapter, except as otherwise prohibited or regulated by this section.
- (f) Roof-mounted solar-energy systems or green-roof installations.
- (g) EV charging stations.
- (h) Wireless telecommunication service antenna and support structure(s) necessary to the function of the DCPUD, subject to the requirements of this section for setback and height.
- (i) Any other use that is subordinate to and serving the principal use and customarily incidental to the principal use. Such use shall be authorized by DCPUD Conditional Use Permit.

(7) *Prohibited uses.* The following uses are specifically prohibited in the DCPUD:

- (a) The use of cargo or shipping containers, railroad containers, semi-trailer containers, and other similar storage containers, or any building that does not meet the building standards of this section, except that metal

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post-frame buildings for the purpose of construction activities may be authorized under the temporary use requirements of this section.

- (b) Commercial wind energy systems.
- (c) Commercial telecommunication towers as defined by this chapter.
- (d) Ground-mounted solar energy systems.
- (e) Outdoor storage as defined by this chapter.
- (f) Data mining as defined by this ordinance.

(8) *Temporary uses.* Temporary uses shall be permitted uses within the DCPUD subject to the Minimum District Performance Standards of this section. Such uses are limited to:

- (a) Temporary construction staging areas and construction activities directly related to the applicable phase of development.
- (b) Temporary buildings intended solely for the storage of construction materials and construction offices directly related to the applicable development phase, or to the replacement of materials and equipment for the DCPUD.

(9) *Environmental Review.* If an EAW, EIS or AUAR is applicable for the proposed DCPUD project under State law, such review must be completed prior to application. Individual components of a DCPUD development which may require separate environmental review as regulated by State law may be completed after application. Such review is subject to the applicable provisions of this chapter.

(10) *Minimum district performance standards.* Any development within the DCPUD shall comply with the standards as follows and such standards shall be adopted as part of the DCPUD ordinance. Any deviation from these standards requires approval of a variance, which shall be reviewed in accordance with §153.028.

- (a) The minimum data center floor area ratio (DCFAR) for the DCPUD and any individual phase of the DCPUD shall be as follows. At no time shall any individual developed phase of the DCPUD be constructed at an FAR of less than these standards, exclusive of the extent of approved site grading limits.

<100 acres	0.25
100-199 acres	0.24
200-299 acres	0.23

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300-399 acres	0.22
400-499 acres	0.21
500+ acres	0.20

(b) The minimum setback for all principal and accessory structures and/or uses shall be as follows. Any appurtenant elements shall be subject to the principal use setbacks as follows.

Table X-X					
Structure or Use	Setback from DCPUD Property Line to Structure or Use within DCPUD (Setbacks also applicable for parcels adjacent to the DCPUD boundary but for intervening street easement or ROW) The greater applicable setback for an adjacent parcel shall apply.				
	Parcels used for principal agricultural uses only	Parcels used, guided or zoned for residential, civic/institutional or mixed-uses	Parcels owned by a government entity for public parkland or public recreational purposes	Parcels guided or zoned commercial	Parcels guided or zoned industrial
Principal building structure(s) when any mechanical equipment and support facilities such as generators and cooling systems are: - fully screened by principal building(s), or - surrounded by a solid wall structure from all points of the	100'	200', except that for sites over 300 gross acres, setback shall be 300'	200'	100'	100'

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DCPUD boundary, or - located within a principal building(s), or - ground mounted on or along an interior façade of the site's principal structure(s)					
Principal building structure(s) when any mechanical equipment and support facilities including generators or cooling systems is oriented to any exterior portion of the principal building structure(s) and is not: - fully screened by principal building(s), or - surrounded by a solid wall structure from all points of the DCPUD boundary, or - located within a principal building(s), or - ground mounted on or along an interior façade of the site's principal structure(s)	200'	500', except that for sites over 300 gross acres, setback shall be 700'	500'	200'	100'

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In such case, the applicable setback for such accessory use equipment shall be as follows:					
	200'	500', except that for sites over 300 gross acres, setback shall be 700'	500'	200'	100'
Off-Street Parking (including drive aisles)	100'	150'	150'	50'	50'
Off-Street Loading Facilities	100'	150'	150'	100'	100'
Fences or Walls	May be placed at any location, except such fences or walls may not be located within a drainage and utility easement without an approved license agreement or within a designated wetland buffer area.				
Other Accessory Buildings and Structures (exceptions: lighting)	50'	100'	100'	50'	50'

(c) The maximum height for principal and accessory structures shall be 50'.

Accessory and temporary structures shall not exceed 25' in height.

- i. Appurtenant structures may not exceed the maximum height for principal or accessory structures as set above.
- ii. Private telecommunication antenna within the DCPUD may exceed this height up to a maximum of 100'.
- iii. Electrical substation equipment within the DCPUD are exempt from this height requirement.

(d) Principal building exterior finishes shall consist of materials compatible in grade and quality to the following:

- i. Decorative rock face block.

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- ii. Glass.
 - iii. Cast in place concrete or pre-cast concrete panels.
 - iv. Brick.
- (e) Accessory building exterior finishes shall consist of materials compatible in grade and quality to the following:
- i. Decorative rock face block.
 - ii. Glass.
 - iii. Cast in place concrete or pre-cast concrete panels.
 - iv. Brick.
 - v. Exterior insulated finish systems.
- (f) Temporary uses within the DCPUD shall be subject to the following standards:
- i. Setbacks shall be established by the City within the adopted DCPUD ordinance.
 - ii. All temporary construction staging areas must be fully paved.
 - iii. Temporary buildings or uses, specifically including construction staging areas must be fully screened in accordance with the standards of this section.
 - iv. The maximum height of temporary buildings or structures shall be 25'.
 - v. Construction offices shall be consistent with building materials requirements of this section for accessory uses.
 - vi. Temporary construction activities within the DCPUD shall be subject to operational hours of 8 AM – 7 PM, Monday-Saturday and shall be subject to the lighting standards of this chapter.
- (g) The DCPUD shall be designed and built to incorporate sound mitigation methods to reduce sound levels emanating from the DCPUD. Sound emanating from the facility, or from any appurtenant or accessory use or element of the facility shall be in compliance with and regulated by the State of Minnesota pollution control standards and rules.
- i. Prior to approval, an Ambient Noise Study shall be submitted by a third-party engineer identifying current noise sources and determining whether existing levels meet or exceed MPCA levels, and which provides calculations which can be compared to future

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proposed equipment levels to evaluate changes to ambient conditions.

- ii. Prior to commencement of operation of the DCPUD principal use facilities, the operator must conduct an additional noise study, preparing calculations for proposed equipment to determine noise levels as measured at the property line of neighboring property to the DCPUD or other noise sensitive uses as reasonably determined by the City. Where results exceed limits, the operator of the DCPUD shall be required to submit plans which detail the installation of sound mitigation measures within the DCPUD boundary which are necessary to compliance with MPCA noise rules.
 - iii. Upon commencement of the operation of the DCPUD, the operator of a DCPUD must provide a liaison to respond to complaints about noise emanating from the DCPUD.
 - iv. An additional sound study shall be completed once per year during peak operation of the DCPUD mechanical equipment upon commencement of operation of the DCPUD principal use facilities. Such study shall utilize similar locations and methods used in the Ambient Noise Study for comparison purposes. The DCPUD operator must provide the results of the noise study, conducted by a third-party engineer, to the City within 30 days of the request by the City or show proof that they have contracted with a third-party engineer and the results will be available in a reasonable amount of time.
 - v. Pursuant to City Code 130.09(D), the City may require a Noise Impact Statement for low-frequency sound emissions and demonstrate mitigation plans consistent with the recommendations of the Statement.
- (h) Back-up power generators within the DCPUD may only be used for back-up electrical supply during a power outage. Curtailment of power supply or voluntary shutdown of power is not considered a power outage.
- i. Testing of generators may only occur between the hours of 8 AM and 5 PM, Monday through Friday. A testing schedule must be filed and approved annually with the City no later than January 15 of each year.
 - ii. On-site fuel storage for back-up power generators shall be subject to the accessory structure setback, height limitations, and screening requirements of this section. Such storage shall comply with all MPCA and State Fire Marshal requirements, all other permit, testing and

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listing requirements, and all applicable codes and standards such as NFPA 58.

- (i) All site lighting must meet the requirements of §153.063. Lighting, and is subject to the following additional requirements:
 - i. Illumination must be 0.0 footcandles at the property line abutting properties used, zoned or guided for residential, civic or institutional, recreational, or parkland uses.
 - ii. No external light source shall be located closer than 50' from any property line of a parcel used, zoned or guided for residential, parkland or recreational uses.
 - iii. Security plan exemption provisions of §153.063(G) are not eligible for areas zoned DCPUD.
- (j) Any outdoor facilities or equipment such as back-up generators, parking and private circulation areas, temporary construction staging areas and temporary buildings or structures, other mechanical equipment regardless of location, security or chain link fencing when located within 200' of the DCPUD property line, or any other similar outdoor facilities shall be fully screened to 100% opacity when viewed at comparable grade from abutting property used, zoned, or guided for residential or recreational uses, and from the public right of way, with the exception of designated entrance points. Screening is subject to the following additional requirements and exceptions:
 - i. Landscaping materials used for screening may be counted toward the minimum site landscaping requirements of this chapter.
 - ii. Landscaping utilized for screening must be designed by a qualified landscape architect to meet the opacity requirements within 3 years of planting.
 - iii. Screening may be accomplished through individual or combination use of fencing or walls which meet the materials requirements of this section, landscaping, and/or berming.
 - iv. Landscaping materials and berming used for screening may be located within the required structure setback; fences and walls are subject to the structure setback above.
 - v. In all cases, fences or walls used for screening purposes must install the required perimeter buffer landscaping materials of this section on the exterior side of the wall.

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- vi. Chain link fence with slats shall not be used for screening purposes.
- (k) All trash enclosures and storage must be located within a building meeting the materials requirements of this section.
- (l) Rooftop and wall-mounted mechanical equipment shall be fully screened when viewed at comparable grade from adjoining properties, and from the public right of way via screening walls or parapets which match the building materials of the building on which they are located.
- (m) Site landscaping shall meet the required minimum site landscaping standards of this chapter, with the additional requirements or exceptions follows:
 - i. The DCPUD shall provide for established sodding or seeding in all ground cover areas not otherwise used for tree or shrub plantings except as exempted for approved native plantings.
 - ii. The DCPUD shall provide irrigation systems for all landscaped areas except as exempted for approved native plantings.
 - iii. The DCPUD shall not be required to install island delineation landscaping as required by this Chapter.
 - iv. The use of native species is encouraged.
- (n) A perimeter buffer shall be installed around the entire perimeter of the DCPUD District and maintained for the duration of DCPUD facility operation as follows:
 - i. Installation of such buffer shall be required regardless of any intervening or abutting roadway or public right of way.
 - ii. The required perimeter buffer for the DCPUD perimeter boundary shall be installed and completed with the first phase of development and prior to any other construction within the DCPUD, within the exception of the location of designated construction entrance(s).
 - iii. Such buffer must include a berm of a minimum height of 10' above the adjacent roadway centerline elevation or property line elevation directly adjacent (whichever is higher).
 - iv. Evergreen canopy tree species meeting the size requirements of this chapter shall be planted in two rows of 6' on-center staggered intervals along the entire buffer and located on the exterior down-slope of the required berm.

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- v. The perimeter buffer may be located within the applicable structure setback and shall be located at the exterior side of any screening wall.
 - vi. The perimeter buffer shall not be required where the DCPUD property boundary directly abuts a property used for existing industrial uses but shall be required when adjacent to or abutting all other property uses, including vacant land, public right of way or public street easement.
 - vii. The use of native species and variation in species planting is encouraged.
- (o) Fencing or walls shall be constructed of maintenance-free vinyl fencing or ornamental metal such as wrought iron or comparable, brick, stone, masonry or decorative stamped and colored concrete which mimic brick, stone or masonry.
- (p) Chain link fencing may be used for security purposes and shall be black or black coated vinyl and shall not include slats.
- (q) The facility shall provide parking for employees or service personnel at a rate per §153.067, Parking Schedule #2.
- (r) Electrical substations directly serving the DCPUD shall be exempt from the minimum district performance standard requirements of this section, but shall be subject to the following requirements:
- i. Must be located within the DCPUD boundary.
 - ii. Must comply with the accessory setbacks as established herein.
 - iii. Must comply with the lighting standards established herein.
 - iv. Must comply with the perimeter buffer requirements of this section.
 - v. Electrical transmission lines extended to the substation are not subject to §153.065 Underground Utilities.
- (s) In addition to the standards of this section, all other provisions of the City's ordinance, including zoning and subdivision regulations, shall apply to the facility, unless otherwise exempted. Except for regulations of applicable zoning overlay districts, where the terms of this section vary from the zoning and subdivision regulations, the requirements of this section shall apply.
- (11) *DCPUD Initiation of Proceedings.* Requests for DCPUD concept plan , rezoning to DCPUD, and DCPUD conditional use permit shall be initiated by

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application of the property owner or other person having authority to file an application pursuant to § [153.027](#)(B), Authority to File Applications.

(12) *DCPUD Application.*

- (a) Submission of a DCPUD Concept Plan Submittal is at the option of the DCPUD proposer and is specifically not a formal land use application. Submissions shall be in accordance with this section and are not subject to the Specific Review Procedures and Requirements of this Chapter for Planned Unit Development.
- (b) Application for rezoning to DCPUD shall be noticed in accordance with the public notification requirements for Planned Unit Development as found in §153.027 Common Review Procedures and Requirements.
- (c) Application for DCPUD Conditional Use Permit shall be noticed in accordance with the public notification requirements for Conditional Use Permit as found in §153.027 Common Review Procedures and Requirements.
- (d) Application for rezoning to DCPUD and DCPUD Conditional Use Permit may run concurrently.
- (e) Applications for Preliminary and Final Plat as applicable for a DCPUD site shall be submitted in accordance with § 152: Subdivisions.
- (f) All required applications are subject to the adopted fee and escrows established by City ordinance.
- (g) Rezoning to DCPUD does not revoke, rescind or otherwise render as not applicable the requirements of this ordinance for any applicable overlay district effective at the time of annexation and as required by State law.
- (h) All other requirements or provisions not specifically provided for by this section or otherwise exempted shall be as per City Code.

(13) *DCPUD Concept Plan Submittal.* Prior to submitting application for rezoning for the proposed DCPUD, the applicant is encouraged, at its option, to prepare an informal concept and present it to the Planning Commission and City Council at a concurrent workshop, as scheduled by the Community Development Department. The purpose of the concept plan review submittal is to:

- (a) Provide preliminary feedback on the concept in collaboration between the applicant, City staff, Planning Commission, and City Council.
- (b) Provide a forum for public engagement and information on the DCPUD prior to a requirement for extensive engineering and other plans.

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- (c) Provide a forum to identify potential issues and benefits of the proposal which can be addressed at succeeding stages of PUD design and review.

(14) *DCPUD Concept Plan Submittal Requirements.* Proposals for a DCPUD Concept Plan Submittal shall include at least the information below to be considered complete (except as exempted by the Community Development Department based on a written request submitted by the proposer).

- (a) A listing of contact information including name(s), address(es), email(s) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates.
- (b) A listing of the following site data: Address, current land use guidance, current zoning, parcel size in gross acres and square feet, and current legal description(s).
- (c) A narrative explaining the applicant's proposed objectives for the DCPUD, and public values that the concept submitter believes may be achieved by the project.
- (d) A narrative description of proposed DCPUD uses and systems, including anticipated or known accessory or temporary uses.
- (e) A narrative description of the public infrastructure requirements of the DCPUD as known, including the timing for the extension of municipal utilities to the DCPUD and to adjacent properties, if applicable.
- (f) Conceptual information on proposed power transmission routing within the city and to the boundary of the DCPUD, if known.
- (g) Calculation of the estimated DCPUD FAR at full site build-out.
- (h) Outline a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed phasing of construction of public improvements and recreational and common space areas).
- (i) For sites over 20 acres, a stakeholder engagement plan detailing how the DCPUD operator will engage and communicate with residents, property owners, local utilities and the City throughout the DCPUD application and development process.
- (j) A concept plan proposal illustrating:
 - i. Proposed DCPUD District boundary.

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- ii. Layout of proposed lots and proposed uses. Denote outlots planned for public dedication and/or open space (schools, parks, etc.).
- iii. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel.
- iv. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel.
- v. Proposed sidewalks and trails.
- vi. Proposed location of any electrical substation(s).
- vii. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel.
- viii. Location of municipal utility systems and connection points that will serve the property including the proposing routing to demonstrate service to the furthest extent or boundary of the DCPUD.
- ix. Location of proposed access points to public right of way.

(15) *DCPUD Concept Plan Submission Review.* Upon receiving a PUD concept plan proposal, the Community Development Department shall:

- (a) Schedule a joint workshop of the Planning Commission and City Council and shall provide notice of the meeting to all property owners within 350 feet of the property boundary of the proposal. During the joint workshop, the Planning Commission and City Council may make comment on the merit, needed changes, and suggested conditions which may assist the proposer in future application for proposed rezoning and PUD development plan.
- (b) The Planning Commission and City Council will also take comment from the public as part of the joint workshop. The comment is explicitly not a public hearing on the concept and the public comments are intended to represent preliminary feedback related to the DCPUD concept information.
- (c) The Council and Planning Commission shall make no formal decision as part of the consideration. The City Council and Planning Commission's comments are explicitly not an approval or decision on the project and are intended to represent preliminary feedback on the DCPUD concept information and its relationship to the comprehensive plan and this DCPUD ordinance.

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(16) *Neighborhood Meeting.* The DCPUD concept proposer is encouraged to host a neighborhood meeting prior to submission of a formal application for rezoning to DCPUD.

(17) *DCPUD Rezoning Application Submittal Requirements.* Proposals for Rezoning to DCPUD shall include at least the information below to be considered complete (except as exempted by the City Council based on a written request submitted by the proposer, in which case the application shall be considered incomplete until decision of the Council has been made on the requirement). All costs of application and preparation of submission materials, including required studies, are borne by the applicant.

- (a) Proof of title in a form approved by the City Attorney.
- (b) Legal description and graphic exhibit of the property for which the DCPUD is requested.
- (c) Certificate of survey for the full DCPUD property boundary signed by a registered land surveyor and current within three months of application to include legal description, all public utilities, and detail of private utilities and easements, rights of way, and any other easements of record.
- (d) Project narrative, including:
 - i. Existing zoning district(s) and comprehensive plan land use designation of subject DCPUD property area and all adjacent lands within 350' of the subject DCPUD property boundary.
 - ii. Statement explaining the applicant's proposed objectives for the DCPUD, and public values that will be achieved by the project by phase (if applicable) including general projections for tax base, building valuation, sustainability in operations and site design, employment creation or other community benefit.
 - iii. Statement of how the project will meet each of the Approval Criteria and Minimum District Performance Standards as required by this section.
 - iv. A narrative description of proposed DCPUD uses and operations, including anticipated or known accessory or temporary uses, such description shall include any information on transmission line corridors or routes within the city.
 - v. For sites over 20 acres, a stakeholder engagement plan detailing how the DCPUD operator will engage and communicate with residents,

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property owners, local utilities, and the City throughout the DCPUD application and development process.

- vi. If the DCPUD is to be developed in phases, a proposed phasing of full DCPUD site development, including number of phases, development timeline for each phase and for the full DCPUD.
 - vii. Calculation detailing the gross area calculation of the full DCUD, and the proposed DCPUD FAR at full build-out.
 - viii. Maximum building coverage within the DCPUD site improvement boundary.
- (e) Ambient Noise Study meeting the Minimum district performance standards requirements of this section.
 - (f) A conceptual utility study that identifies both City and private utility supply and demand on the relevant system, including water and wastewater system information. Such study shall illustrate the phasing for construction of municipal water and wastewater systems, and shall demonstrate to the satisfaction of the City that the proposed municipal facility can both (1) be adequately served by the existing or planned capacity of the utility, and (2) will not impede access or limit service capacity to those utilities by other future users in the City's planning and service territory; (3) is designed to provide adequate service to the furthest extent of the DCPUD, and (4) that the applicant has provided sufficient information regarding the financial capacity and ability to secure performance to support the required improvements or system upgrades.
 - (g) To the extent it is known, the location of all electrical substation and transmission equipment proposed to be located within the DCPUD.
 - (h) Listing and status of all required federal and state permitting as known at the time of application.
 - (i) A fiscal summary statement, including:
 - i. An analysis of the projected cost of any public infrastructure necessary to adequately serve the project as identified above by phase.
 - ii. Statement identifying the applicant's proposed contribution to provide such public infrastructure and service demand.

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- (j) The proposed location, area and duration of any accessory or temporary uses within the DCPUD.
 - (k) DCPUD sites shall be responsible for completion of the electric utility provider's required studies and shall provide a statement indicating completion of the required study and summarize power capacity for the DCPUD, the proposed routing plan, and required electrical infrastructure improvements.
 - (l) General statement of telecommunication system improvements so as to avoid any local service interruption during normal operations.
- (18) *DCPUD Conditional Permit Application Submittal Requirements.* Proposals for DCPUD Conditional Use Permit shall include at least the information below to be considered complete (except as exempted by the City Council based on a written request submitted by the proposer, in which case the application shall be considered incomplete until decision of the Council has been made on the requirement). All costs of application and preparation of submission materials, including required studies, are borne by the applicant.
- (a) DCPUD project narrative meeting the requirements as provided for DCPUD rezoning submittal.
 - (b) DCPUD site improvement plan(s), illustrating:
 - i. Citation of the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and true north arrow.
 - ii. Depiction of the DCPUD site area illustrating minimum setbacks lines for the DCPUD site as required by this section.
 - iii. Estimated square footage calculation of full usable/buildable area within the DCPUD.
 - iv. Total maximum impervious surface coverage within the DCPUD.
 - v. Outlots planned for public dedication and/or open space.
 - vi. Easements and rights-of-way within or adjacent to the subject DCPUD property boundary, including detail on ingress and egress from the subject site to abutting or adjacent public right of way.
 - vii. Location, width, and names of existing and proposed streets and rights of way within and immediately adjacent to the subject DCPUD property boundary and all connection points to public right of way.

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- viii. Proposed sidewalks and trail connection points to public rights of way and any planned public sidewalk and pathways.
 - ix. Area calculations for gross land area, wetland areas, wetland buffers, right-of-way dedications, conservation areas, and proposed public parks. Proposed public utility easement corridors and/or rights of way necessary to serve the DCPUD and to extend municipal utilities to the further extent of the DCPUD boundary.
- (c) All data required for Preliminary Plat as provided in § 152.040(A) and (B).
 - (d) Delineation and functional assessment of wetlands and/or watercourses over the DCPUD property and within 200 feet of the perimeter of the subdivision parcel dated within the last five years.
 - (e) Delineation of the ordinary high-water levels of all water bodies.
 - (f) Preliminary grading, drainage and erosion control plan prepared by a registered professional engineer providing for stormwater management planning based on the maximum impervious surface area of the site. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question.
 - (g) Preliminary landscaping plan illustrating the proposed location for the required perimeter buffer demonstrating to the extent practical the required width and placement necessary to meet the requirements of this section, and detailing the location, species and count for landscaping materials required by the Minimum District Performance Standards for the perimeter buffer.
 - (h) Traffic study which shall include adjacent local roadways where access is provided and nearest collector roadways, as well as the collector roadways intersections with the nearest arterial roadway, which shall be required for all sites over 20 acres and at the discretion of the City Engineer for sites under 20 acres, evaluating:
 - i. Average Daily Traffic and Peak Hour traffic volumes for passenger vehicles during normal operations.
 - ii. Average Daily Traffic and Peak Hour traffic volumes and routes for construction traffic during each phase of site development.
 - iii. Project volume, routes and frequency for commercial vehicles supporting routine operations.

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- iv. Proposed location of right of way and pathway connections, including sidewalks and trails, through or along the site perimeter to ensure system connectivity to the furthest extent of the DCPUD boundary.
- v. Any insufficient street or intersection design pursuant to project construction, projected by phase.
- vi. Proposed improvements to mitigate insufficient design, including an analysis of the projected cost of any public infrastructure necessary to adequately serve the project as identified above, by phase. Necessary roadway and pedestrian improvements shall be designed in accordance with City standards.
- vii. Sufficient information regarding the applicant's financial capacity to support the required improvements and system upgrades.
- (i) A utility study that identifies both City and private utility supply and demand on the relevant system, including water and wastewater system information, and shall demonstrate to the satisfaction of the City that the proposed municipal facility can both (1) be adequately served by the existing or planned capacity of the utility, and (2) will not impede access or limit service capacity to those utilities by other future users in the City's planning and service territory; (3) is designed to provide adequate service to the furthest extent of the DCPUD, and (4) that the applicant has provided sufficient information regarding the financial capacity and ability to secure performance to support the required improvements or system upgrades. Such study shall include:
 - i. Provide a municipal utility phasing plan which demonstrates alignment with the proposed development phasing and timing.
 - ii. Provide preliminary plans for extension of all public facilities, including the connection points, sizing and alignment of all utility lines, roadways, pedestrian facilities, and other such public infrastructure to the furthest extent of the DCPUD boundary with phasing plan as determined by the City Engineer and approved by City Council.
 - iii. Identify deficiencies in the public system pursuant to the project and provide a mitigation plan for identified deficiencies.
 - iv. Updates or additional system plans or studies for public utilities reflecting the impact of increased demands and infrastructure

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required by the DCPUD; to be prepared to the specification of the City Engineer.

- v. Include an analysis of the projected cost of any public infrastructure necessary to adequately serve the project as identified above by phase, and to ensure that the infrastructure required by this section is adequately accounted for.
 - vi. Sufficient information regarding the applicant's financial capacity to support the required system studies, public improvements and system upgrades.
 - vii. The applicant may request that the City complete such utility studies, at the applicant's cost.
 - (j) If an environmental review was required for the DCPUD development proposal, the final approved mitigation plan shall be provided with a detailed narrative on how the proposed DCPUD Conditional Use Permit submissions address components of the mitigation plan and timeline for implementation or completion of each mitigation plan requirement, including detail on the financial participation of the applicant.
 - (k) For sites over 20 acres and for any DCPUD site to be developed in phases, a construction impact plan including designated construction traffic routes and mitigation plans for lighting, noise, vibration and dust.
 - (l) Any other information as directed by the Community Development Department required to evaluate the specific DCPUD proposal.
- (19) *DCPUD Rezoning Review.*
- (a) Application for rezoning to DCPUD shall be reviewed in accordance with this section.
 - (b) The hearing for rezoning may run concurrently with the hearing for the DCPUD Conditional Use Permit.
 - (c) As part of the review process for the DCPUD rezoning application, the Community Development Department shall generate an analysis of the proposal against the Approval Criteria of this section to formulate a recommendation regarding the rezoning to the Planning Commission and City Council.
 - (d) The Planning Commission shall hold a public hearing on the DCPUD rezoning application and consider the application's consistency with the intent and purpose of the DCPUD and comprehensive plan goals. The

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Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions of the proposed DCPUD rezoning. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review, and the City Council will hold any required public hearing. The City Council may hold a public hearing on the request for DCPUD rezoning if they deem such necessary.

- (e) After consideration of the Planning Commission recommendation and hearing, the City Council may approve the DCPUD rezoning. The City Council's decision will include the required conditions of the proposed rezoning. Approval of the amendment to rezone to DCPUD shall require the approval of the majority of all the members of the City Council, except where state law may specifically require a super majority.
- (f) Approval of the rezoning to DCPUD shall occur by adoption of a rezoning ordinance for the subject property specifying the uses, standards, and other requirements of said DCPUD zoning district. Such ordinance shall create a zoning district that is specific to the property for which the PUD was applied and shall be designated in such a way as to be able to mark the official zoning map to identify the DCPUD ordinance. The DCPUD ordinance shall also designate that such property is thereby rezoned to the DCPUD district as adopted. Such ordinance shall include an effective date clause which may delay the effective date of the ordinance until such time as the applicant has met each of the conditions of approval required by the City Council, and in addition to other requirements including publication. No approvals are valid, and no permits may be issued, until the ordinance takes effect. If the applicant fails to meet the conditions as described, the ordinance shall not take effect, will not be published, and the subject property shall retain its previous zoning designation.
- (g) After consideration of the Planning Commission recommendation and/or hearing, the City Council may, in its sole discretion, deny the DCPUD rezoning. Such denial shall be based on findings of fact that specify the conditions where the application fails to meet the required terms of the DCPUD zoning process, standards, or other requirements therein. The City shall be under no obligation to approve any DCPUD rezoning and no

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DCPUD applicant shall have any expectation or right of approval of any such rezoning.

(20) *DCPUD Conditional Use Permit Review.*

- (a) Application for DCPUD Conditional Use Permit shall be reviewed in accordance with this section.
- (b) The hearing for DCPUD Conditional Use Permit may run concurrently with the hearing for the DCPUD rezoning.
- (c) As part of the review process for the DCPUD Conditional Use Permit application, the Community Development Department shall generate an analysis of the proposal against the Approval Criteria of this section to formulate a recommendation regarding the permit to the Planning Commission and City Council.
- (d) The Planning Commission shall hold a public hearing on the DCPUD Conditional Use Permit application and consider the application's consistency with the intent and purpose of the DCPUD and comprehensive plan goals. The Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions of the proposed DCPUD Conditional Use Permit. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review, and the City Council will hold any required public hearing.
- (e) The City may assign conditions as part of its review relating to the Minimum District Performance Standards, the required public improvements and completion dates for improvements, the fiscal requirements, guarantees and securities necessary for the construction of all required public improvements and timing of their submission, required site development fees and escrows and timing of their submission, specification of required public improvement warranties, and any other conditions deemed necessary to support the DCPUD and to mitigate the impact created or required by the DCPUD.
- (f) The Conditional Use Permit shall require ongoing compliance with approved landscaping and screening plans for the full extent and operation of the effective DCPUD.

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- (g) After consideration of the Planning Commission recommendation and/or hearing, the City Council may, in its sole discretion, deny the DCPUD Conditional Use Permit. Such denial shall be based on findings of fact that specify the conditions where the application fails to meet the required terms of the DCPUD Conditional Use Permit process, standards, or other requirements therein. The City shall be under no obligation to approve any DCPUD Conditional Use Permit and no DCPUD applicant shall have any expectation or right of approval of any such Conditional Use Permit.
 - (h) For any DCPUD which includes subdivision of parcels which have no direct frontage on a public street, the Conditional Use Permit shall require common maintenance and easement agreement.
 - (i) The Conditional Use Permit shall require submission of a Site Plan review per this chapter.
 - (j) No permit for work within the DCPUD as approved by the DCPUD Conditional Use Permit may be issued until the applicant has demonstrated compliance with all of the DCPUD Minimum District Performance Standards and has met the assigned conditions of approval to the satisfaction of the City.
- (21) *Site Plan review.* Following approval of the DCPUD rezoning and Conditional Use Permit, development within the DCPUD shall be subject to the Site Plan review process of this chapter. Site plans shall be consistent with the approved DCPUD ordinance, DCPUD Conditional Use Permit and all other applicable provisions of this section.
- (22) *Timeline for performance.*
- (a) A building permit for a principal structure within the first phase of development on site shall be filed within 5 years of the City Council approval date of the DCPUD Conditional Use Permit. One extension from this requirement may be granted by the Council upon request for extension by a person having authority to file an application. An extension shall be requested in writing and filed with the city at least 14 days before the five year date. The request for extension shall specify the desired timeline of extension and shall state facts showing a good faith attempt was made to meet the building permit submission requirement. Such request shall be presented to the Council for a decision. The City Council may deny or modify the extension timeline at its sole discretion and there shall be no inherent right to extension. The City Council may act after the 5-year period to revoke the DCPUD rezoning and any

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approved Conditional Use Permit, and rezone the land to any other zoning district, following a public hearing to be held by the City Council.

- (b) If there is a lapse of more than 5 years between completion of any individual phase and proceeding to any subsequent and successive phase of development, notwithstanding on-going construction within an active phase of development, the City Council may act after the 5 year period to revoke the DCPUD rezoning and Conditional Use Permit for the undeveloped portions of the DCPUD and require amendment to the DCPUD ordinance and Conditional Use Permit , and rezone the undeveloped land to any other zoning district, following a public hearing to be held by the City Council. Extensions from this requirement for each phase may be granted by the Council upon request for extension by a person having authority to file an application. An extension shall be requested in writing and filed with the city at least 14 days before the expiration of the 5-year period, which shall be based on the certificate of occupancy last principal building completed for the prior phase. The request for extension shall specify the desired timeline of extension and shall state facts showing a good faith attempt was made to meet the building permit submission requirement. Such request shall be presented to the Council for a decision. The City Council may deny or modify the extension timeline at its sole discretion and there shall be no inherent right to extension.

(23) *Amendment to DCPUD.* Approved DCPUDs may be amended upon request by those who have authority to submit an application per this section. At such time, the applicant shall make an application to the city for a DCPUD amendment which shall follow the same process as defined in this section for Conditional Use Permit. Such amendment shall not:

1. Introduce any other principal use inconsistent with this section. In such case, the application shall request revocation of the DCPUD for that portion of the land proposed for the amended principal use(s) and shall be subject to the application requirements of this chapter, as applicable.
2. Eliminate, diminish, or vary from the minimum performance standards of this section.

(24) *Revocation.* If at any time the facility is in violation of the conditions of approval, the City Council may revoke the DCPUD and DCPUD ordinance, revoke the governing DCPUD Conditional Use Permit approval, and rezone the land to

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any other zoning district, following a public hearing to be held by the City Council.

Section 3. Section §153.090, Use Table – Base Zoning Districts, Industrial Uses, is hereby amended as follows:

- (1) Insert column: DCPUD
- (2) Insert row: Data center/Data center campus
- (3) Data center/Data center campus DCPUD Conditional Use Permit
- (4) Prohibited in all other zoning districts.
- (5) Additional Requirements: §153.045.

Section 4. Section §153.092, Accessory Use Standards, Table 5-4, is hereby amended as follows:

- (1) Insert row: Data center, accessory.
- (2) Data center, accessory shall be Conditionally permitted in I-1 and I-2 districts only.
- (3) Additional Requirements: May be allowed within previously approved Planned Unit Development Districts by amendment to PUD.

Section 5. The City Clerk is hereby directed to make the changes required by this Ordinance as part of the Official Monticello City Code, Title XV, Zoning Ordinance, and to renumber the tables and chapters accordingly as necessary to provide the intended effect of this Ordinance. The City Clerk is further directed to make necessary corrections to any internal citations that result from said renumbering process, provided that such changes retain the purpose and intent of the Zoning Ordinance as has been adopted.

Section 7. This Ordinance shall take effect and be in full force from and after its passage and publication. The ordinance in its entirety and map shall be posted on the City website after publication. Copies of the complete Ordinance and map are available online and at Monticello City Hall for examination upon request.

ADOPTED BY the Monticello City Council this 27th day of April, 2026.

Lloyd Hilgart, Mayor

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ATTEST:

Jennifer Schreiber, City Clerk

AYES:

NAYS:

ORDINANCE NO. O2025.23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY OF TEMPE ZONING AND DEVELOPMENT CODE PART 1 – VIOLATIONS AND PENALTIES, PART 3 – LAND USE, PART 6 – APPLICATIONS AND REVIEW PROCEDURES, AND PART 7 – DEFINITIONS RELATED TO NEW LAND USES, CLARIFICATION OF LAND USES, UPDATES TO SECURITY PLANS AMENDING THE TEMPE CITY CODE, SECTION 26-70, AND RELATED NEW AND MODIFIED DEFINITIONS.

WHEREAS, the City of Tempe has considered changes to the zoning map text in relation to properties in various classes and zones throughout the City; and

WHEREAS, the Community Development Director has reviewed the text amendments and determined this ordinance to be administratively complete; and

WHEREAS, the Council has received a recommendation of approval from the Development Review Commission; and

WHEREAS, the Council finds that:

- 1) The proposed zoning text amendment is in the public interest;
- 2) The proposed zoning text amendment conforms with the general plan land use and residential density map, and implements certain goals and objectives of the general plan;
- 3) The proposed zoning text amendment is compatible with the surrounding land uses, zoning designations and development standards; and
- 4) The proposed zoning text amendment mitigates impacts on land use, water infrastructure, utilities or transportation.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, that the Zoning Ordinance of the City of Tempe is amended as follows:

Section 1. That Section 1-201A of the Zoning and Development Code is hereby modified to reference violations to recorded plats or land divisions as follows:

Section 1-201 Violations and Penalties.

A. **Violations.** It is a violation to construct, erect, install, alter, change, maintain, use or to permit the construction, erection, installation, *alteration*, change, *maintenance* or use of any house, *building*, *structure*, *sign*, *landscape area*, *parking lot*, or fence, or to use or permit the use of any *lot* or other land contrary to, or in violation of any of the provisions of this Code OR CONTRARY TO, OR IN VIOLATION OF ANY PLAT OR OTHER LAND DIVISION DOCUMENT APPROVED BY THE CITY AND RECORDED WITH THE COUNTY RECORDER. Any land use that is specifically prohibited by this Code, or is unspecified and not classified by the Zoning Administrator, is prohibited in any district.

Section 2. That Section 3-102 of the Zoning and Development Code, is hereby amended to add agritainment to the use table for clarification to read as follows:

Section 3-102 Permitted Uses in Residential Districts.

Table 3-102 identifies land uses according to permit status. See key below the table:

Table 3-102 - Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)				
Uses	Status of Use in District			
	AG	SFR	MF	MH/RMH/TP
Accessory Buildings [Section 3-401]	S	S	S	S
Accessory Uses and Structures - except accessory dwelling units [Section 3-401]	S	S	S	S
Accessory Dwelling Units [Section 3-402]	S	S	S	S
AGRITAINMENT [SECTION 3-404]	U(S)	N	N	N
Assisted Living Facilities [Section 3-413]	U(S)	N	U(S)	N
...				

Section 3. That Section 3-202 of the Zoning and Development Code, is hereby amended to add data centers and smoking establishments to the use table for clarification to read as follows:

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts

Table 3-202A identifies land uses according to permit status. See key below the table:

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)						
Uses	Status of Use District					
	R/O	CSS	CC	PCC-1	PCC-2	RCC
...						
Construction Offices and Sheds, Appurtenant Signs and Storage; Temporary - incidental to a construction project only for the duration of such project; not to exceed 24 months	P	P	P	P	P	P
DATA CENTERS	N	N	N	N	N	N
Entertainment	N	U	U	U	U	P
Amusement businesses (a)	N	U	U	U	U	P
Outdoor (permanent use)	N	U	U	U	U	U
Theater or similar use	N	P	P	P	P	P
...						
Retail Sales [See Appendix M.]	N	P	P	P	P	P
Gun shop	N	U	U	U	U	U
Convenience Store (a)	N	P	P	P	P	P
Gas/fuel sales (a)	N	U	U	U	U	U
Drive-through or drive-in [Section 3-408]	N	U(S)	S	S	S	S
Liquor store	N	U	U	U	U	U
Outdoor retailing [Section 3-417]	N	U(S)/S	S	U(S)/S	U(S)/S	U(S)/S
Tire store	N	U	U	U	U	U
Tobacco retailer [Section 3-423]	N	U(S)	U(S)	U(S)	U(S)	U(S)
Schools						
...						

...						
Similar Uses [Section 6-301]	S	S	S	S	S	S
<u>SMOKING ESTABLISHMENT [SECTION 3-423]</u>	<u>N</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>
Vehicle						
Auto Body Repair	N	N	N	N	N	N
...						

Table 3-202B - Permitted Land Uses (MU-1, MU-2, MU-3, MU-4 and MU-Ed)					
Uses	Districts				
	MU-1	MU-2	MU-3	MU-4	MU-Ed
...					
Conference/Assembly (Convention Center)	P	P	P	P	P
Construction Offices and Sheds, Appurtenant Signs and Storage; Temporary - incidental to a construction project only for the duration of such project, not to exceed 24 months	P	P	P	P	P
<u>DATA CENTERS [SECTION 3-429]</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>U(S)</u>
Entertainment	U	U	P	P	P
Amusement businesses (arcade) (a)	N	U	U	P	P
Outdoor/permanent use	N	N U	N U	N U	P
Theater or similar use	U	U	U	P	P
Fitness Centers: e.g. Health Club, Fitness Studio	P	P	P	P	P
...					
<u>INDUSTRIAL, SCIENTIFIC, BIO-TECHNOLOGY OR BUSINESS RESEARCH, DEVELOPMENT AND TESTING LABORATORIES</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>
<u>Live-Work [Section 3-414]</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
...					
Mini-Warehouse/Rental Storage Facilities [Section 3-415]	N	N	N	N	N
<u>MOTION PICTURE/RECORDING STUDIOS</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>
Offices	P	P	P	P	P
...					
<u>SMOKING ESTABLISHMENT [SECTION 3-423]</u>	<u>N</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>
Tattoo, body piercing establishment [Section 3-424]	N	N	U(S)	U(S)	N
Tutoring/After school learning center	P	P	P	P	P
With drive through (e.g. dry cleaner) [Section 3-408]	N	S	S	S	U(S)
...					

Section 4. That Section 3-302 of the Zoning and Development Code, is hereby amended to re-organize all uses related to manufacturing and to add a requirement for a use permit for computer/data centers to read as follows:

Section 3-302 Permitted Uses in Office/Industrial Districts.

Table 3-302A identifies land uses according to permit status. See key below the table:

Table 3-302A Permitted Land Uses (LID, GID, HID)			
Uses	Districts		
	LID	GID	HID

Accessory Use	P	P	P
Adult Businesses [Section 3-403]	N	S	S
Amateur Radio Antennas [Section 3-422]			
35 feet in height or less	S	S	S
Over 35 feet in height	U(S)	U(S)	U(S)
Animal Kennels, and Animal Hospitals	N	P	P
Ball Bearing, Boxes or Cabinets Manufacturing	N	U	P
Cement and Paving Material Mixing Plant	N	N	P
Cemetery, Crematorium, Mausoleum	N	U	U
Childcare, center: nursery school, daycare center, similar	N	U	U
Chocolate, Cocoa or Coffee Roasting or Manufacturing	N	U	P
Clinics: Medical, Dental and Veterinary	P	P	P
Computer Centers, including Computer Hotels and Similar Technology Facilities	P	P	P
Commercial Uses - and all other uses under Table 3-202A "Permitted land Uses", unless otherwise specified in this table (except outdoor display)	U	U	U
Construction Offices and Sheds, Appurtenant Signs and Storage; Temporary - incidental to a construction project only for the duration of such project, not to exceed 24 months	P	P	P
<u>DATA CENTERS [SECTION 3-429]</u>	<u>N</u>	<u>U (S)</u>	<u>U (S)</u>
Dispatching, Weighing Station	N	P	P
Electronic Instruments and Devices, Computers, Assembling and Manufacturing	P	P	P
Entertainment	N	U	U
Amusement businesses (a)	N	U	U
Outdoor (permanent use)	N	U	U
Theater or similar use	P	P	P
Exterminator and Insect Poison Manufacturing	N	N	P
EXTERMINATOR INSECT POISON Storage, Wholesale and Distribution	N	P	P
Extraction of Sand, Gravel and Other Natural Resources	N	N	U
Farming, Landscaping and Agricultural Supplies and Equipment, Wholesaling and Storage	N	P	P
Foundry Casting Light-Weight, Nonferrous Metal, not Causing Noxious Odors or Fumes	N	U	P
Fuel Distributing Station, Gasoline (bulk plant)	N	U	P
Gasoline and Petroleum Bulk Storage Tanks	N	N	P
Hospitals, Sanitariums, Nursing Homes: e.g. Orphanages, Institutions [Section 3-413]	U(S)	U(S)	U(S)
House-Movers, Equipment Storage or Wrecking Yards	N	N	P
Ice Manufacturing and Cold Storage	N	U	P
Industrial Hemp Program [Section 3-426]	N	P	P
Industrial, Scientific, Bio-Technology or Business Research, Development and Testing Laboratories, and Offices	P	P	P
Junkyards	N	N	P
Machine shops	N	P	P
MANUFACTURING			
Manufacturing, not causing noxious odors, fumes, noise, dust or vibration	N	P	P
<u>BALL BEARING, BOXES OR CABINETS MANUFACTURING</u>	<u>N</u>	<u>U</u>	<u>P</u>
<u>CHOCOLATE, COCOA OR COFFEE ROASTING OR MANUFACTURING</u>	<u>N</u>	<u>U</u>	<u>P</u>
<u>ELECTRONIC INSTRUMENTS AND DEVICES, COMPUTERS,</u>	<u>P</u>	<u>P</u>	<u>P</u>

ASSEMBLING AND MANUFACTURING			
EXTERMINATOR AND INSECT POISON MANUFACTURING	N	N	P
EXTREME-WATER USE [TEMPE CITY CODE SEC.33-142]	N	U	U
ICE MANUFACTURING AND COLD STORAGE	N	U	P
METAL FABRICATION INCLUDING WELDING	N	U	P
STONE MANUFACTURING, INCLUDING NATURAL AND MANMADE	N	U	P
WOOD PRODUCTS, MANUFACTURING INCLUDING TRUSSES	N	U	P
Marijuana cultivation facility [Section 3-426]	N	S	S
Marijuana Establishment (Without Cultivation) [Section 3-426]	S	S	S
Marijuana infusion facility [Section 3-426]	N	S	S
Marijuana Testing Facility [Section 3-426]	N	S	S
Marijuana Testing Facility (Accessory to Medical Marijuana Dispensary or Marijuana Establishment) [Section 3-426]	S	S	S
Medical Marijuana dispensary [Section 3-426]	S	S	S
Mini-Warehouse/Rental Storage Facilities [Section 3-415]	N	U(S)	S
Motion Picture/Recording Studios	P	P	P
Offices	P	P	P
Outdoor			
Retailing [Section 3-417]	N	U(S)	U(S)
Storage of equipment, goods, or materials [Section 4-706(F)]	N	S	S
Places of Worship (except tents and other temporary structures or buildings not permitted) including childcare, Sunday school uses which are ancillary to main use	P	P	P
Childcare center, private school or charter school not ancillary to main use	U	U	U
Public Uses			
Civic Facilities (e.g., post office, library, city office, customer serving)	P	P	P
Municipal Facilities (maintenance, repair and storage)	N	P	P
Open space, parks, similar uses (See also, Schools)	P	P	P
Recycling centers			
Large	N	U	P
Small	P	P	P
Residence - of a caretaker or operator employed on the premises; such residence may include the family of the caretaker	P	P	P
Mobile Home or Trailer	U	U	U
Single- or Multi-Family Dwelling	N	N	N
Retail uses - directly related to the primary industrial use, not to exceed 15% of the total building area's primary industrial use.	P	P	P
Retail and Restaurant Uses - and all other uses under Table 3-202A, "Permitted Land Uses", unless otherwise specified in this table (except outdoor display)	U	U	U
Rock Crushing, Sand Blasting Yard	N	N	P
Schools			
Charter	P	P	P
Instructional	N	U	U
Private	N	U	U
Public	P	P	P
Vocational	N	U	U
Similar Uses [Section 6-301]	S	S	S
Stadium, Arena	N	U	P
Vehicle			
Auto Body Repair	N	P	P
Auto Salvage, parts, supplies or wrecking	N	N	P

Car Wash	N	U	U
Repair	N	P	P
Sales/Rental (indoor or outdoor)	N	U	U
Service Station	N	U	U
Towed Vehicle Storage	N	P	P
Vehicle service	U	U	U
Warehouse, including distribution centers	N	P	P
Wholesaling, Repairing, Storage, and Rental Activities - in conjunction with a permitted use	N	P	P
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)
Wood Products, Manufacturing	N	U	P

Section 5. That Section 3-404 of the Zoning and Development Code, is hereby amended to read as follows:

Section 3-404 - Agricultural Uses.

Agricultural uses, as provided in subsections below, are permitted in the AG district and shall conform to the following standards:

...

J. AGRITAINMENT. SUCH USE IS ALLOWED WITHIN THE AG DISTRICT, SUBJECT TO THE FOLLOWING:

1. AGRITAINMENT USES INCLUDE, BUT ARE NOT LIMITED TO, FITNESS, EDUCATION, SPECIAL EVENTS, FESTIVALS AND MARKETS, ART EXHIBITS, AGRICULTURAL FOOD PROCESSING, PETTING ZOO, CAMPING, SHORT TERM RENTALS AND SIMILAR ENTERTAINMENT ATTRACTIONS.

2. USES SHALL HAVE A MINIMUM SEPARATION OF TWENTY (20) FEET TO ANY RESIDENTIAL PROPERTY LINE. ADDITIONAL SEPARATION REQUIREMENTS MAY BE REQUIRED TO ADDRESS USES AND COMPATIBILITY; AND

3. AN AGRITAINMENT USE IS SUBJECT TO AN APPROVAL OF A USE PERMIT, PURSUANT TO SECTION 6-308.

Section 6. That Section 3-413 of the Zoning and Development Code, is hereby amended to read as follows:

Section 3-413 - Hospitals, Sanitariums, and Nursing Homes.

Any building used for ~~one (1) or more~~ ANY of the following uses shall be not less than fifty (50) feet from the lot line of any adjoining property: Hospitals or sanitariums for the treatment of human ailments, nursing or convalescent homes, orphanages, and institutions for the mentally disabled, epileptic, drug or alcoholic patients; homes for the aged AND SHELTERS, without cooking facilities in individual dwelling units; and related institutions of an educational, religious, or philanthropic nature. MEMORY CARE UNITS, WHEN ACCESSORY TO AN ASSISTED LIVING FACILITY OR OTHER ALLOWED RESIDENTIAL USES, SHALL NOT REQUIRE A USE PERMIT AND COMPLIANCE WITH THIS SECTION'S BUILDING USE SETBACK.

Section 7. That Section 3-423 of the Zoning and Development Code, is hereby amended to read as follows:

Section 3-423 B. Tobacco Retailer, SMOKING ESTABLISHMENT. ~~Tobacco Retailers~~ SUCH USE shall not be located on a lot within one thousand three hundred twenty (1,320) feet, measured by a straight line in any direction, from the lot line of a charter school, private school, or public school, which provides elementary or secondary education. Instructional or vocational schools are excluded from the separation

requirement.

Section 8. That Section 3-429 of the Zoning and Development Code, is hereby added to read as follows:

SECTION 3-429 - DATA CENTERS.

- A. PURPOSE AND APPLICABILITY. THE PURPOSE OF THIS SECTION IS TO ALLOW DATA CENTERS IN AREAS THAT LIMIT THE IMPACT OF IDENTIFIED INNOVATION HUBS AND RAIL CORRIDORS WHERE JOB EMPLOYMENT GROWTH AND COMMERCE ARE DESIRED. SUSTAINABILITY MEASURES ARE ADDRESSED THROUGH APPROPRIATE LAND PLANNING, ENERGY AND WATER CONSUMPTION ARE MITIGATED THROUGH INFRASTRUCTURE EVALUATION, AND DESIGN STANDARDS ADOPTED TO MITIGATE NOISE LEVELS. DATA CENTERS ARE ALLOWED IN THE MU-ED, GID AND HID ZONING DISTRICTS ONLY, SUBJECT TO APPROVAL OF A USE PERMIT, PURSUANT TO SECTION 6-308.
- B. LOCATION REQUIREMENTS.
 - 1. DATA CENTER BUILDINGS SHALL NOT BE LOCATED WITHIN 500 FEET OF THE PROPERTY LINE OF A SITE CONTAINING A RESIDENTIAL USE OR A RESIDENTIAL DISTRICT.
 - 2. GENERATORS FOR DATA CENTERS SHALL BE LOCATED WITHIN AN ENCLOSED BUILDING WITH NECESSARY VENTILATION TO REDUCE IMPACTS ON NOISE TO SURROUNDING AREA.
- C. APPROVAL CRITERIA. IN ADDITION TO SUCH USE COMPLYING WITH USE PERMIT APPROVAL CRITERIA, SECTION 6-308 (E), AN ECONOMIC IMPACT STUDY SHALL BE SUBMITTED, FOR REVIEW BY THE ECONOMIC DEVELOPMENT DIRECTOR, OR DESIGNEE, TO EVALUATE ANY POTENTIAL IMPACTS THAT LIMIT LOCATING A DATA CENTER IN EITHER AN INNOVATION HUB OR RAIL CORRIDOR INTENDED TO ATTRACT A HIGH CONCENTRATION OF PERMANENT EMPLOYMENT JOBS AND PUBLIC CONSUMERS. DATA CENTERS THAT ARE DEFINED AS AN "EXTREME-WATER USE" SHALL ALSO SUBMIT FOR REVIEW WITH THE PUBLIC WORKS DEPARTMENT, A WATER USE PLAN, PURSUANT TO THE TEMPE CITY CODE, SECTION 33-142.

Section 9. That Section 6-313 of the Zoning and Development Code, along with Section 26-70(c) – Security Plans, of the Tempe City Code is hereby amended, to provide clarity and consistency for uses that require security plans, to read as follows:

Section 6-313 - Security Plan.

- A. Purpose. The purpose of approving a security plan is to protect the public health, safety, and welfare through crime prevention measures that are tailored to proposed land uses.
- B. Applicability and Procedure. Security plans are required for the following uses subject to the standards contained in Chapter 26, Article V, Security Plans, of the Tempe City Code:
 - 1. Bars, cocktail lounges, taverns, ~~discotheques~~ DANCE CLUBS, nightclubs and similar businesses;
 - 2. Adult-oriented businesses;
 - 3. Recreational or amusement businesses, including both indoor and outdoor activities, including pool halls and video arcades with a liquor license;
 - 4. Entertainment as a primary use of the business, or as an accessory use to a business with a liquor license and a planned primary use for the sale or service of spirituous liquor;
 - 5. Hotels and motels;
 - 6. Tobacco retail OR SMOKING establishments with onsite consumption;
 - 7. Medical marijuana dispensary, marijuana establishment, marijuana testing facility, or cultivation facility;

8. Upon determination by the Chief of Police, based on documented calls for service, reported crimes, complaints, or any other factual information that demonstrates a disregard for public safety. Upon a determination made pursuant to this subsection, the property owner or designee of the use subject to the determination shall submit a complete security plan application within ten (10) days of the receipt of the determination in accordance with subsection (e) of Tempe City Code Section 26-70. Failure to submit a security plan application within ten (10) days shall be a violation of this Article and punishable as set forth in Section 1-7 of the Tempe City Code;

9. Multi-unit dwellings as defined in Tempe City Code, Section 26-70(a) AND SHELTERS; or

10. Any structure or development with five (5) or more dwelling units where documented calls for service, reported crimes, complaints, or other factual information, has occurred demonstrating a disregard for public safety. This determination shall be made by the Police Department.

Sec. 26-70. – Security Plans.

(c) *Uses requiring security plans.* A security plan shall be required upon the commencement, assumption, or continuation of any of the following uses:

- (1) Bars, cocktail lounges, taverns, dance clubs, nightclubs and similar businesses;
- (2) Adult-oriented businesses;
- (3) Recreational or amusement business, both indoor and outdoor activities, including pool halls and video arcades with a liquor license;
- (4) Entertainment as a primary use of the business, or as an accessory use to a business with a liquor license and a planned primary use for the sale or service of spirituous liquor;
- (5) Hotels and motels;
- (6) Tobacco retail OR SMOKING establishments with onsite consumption;
- (7) Medical marijuana dispensary, marijuana establishment, marijuana testing facility, or cultivation facility;
- (8) Upon a determination by the Chief of Police, based on documented calls for service, reported crimes, complaints, or any other factual information that demonstrates a disregard for public safety. Upon a determination made pursuant to this subsection, the property owner or designee of the use subject to the determination shall submit a complete security plan application within ten (10) days of the receipt of the determination in accordance with subsection (e) of this section. Failure to submit a security plan application within ten (10) days shall be a violation of this article and punishable as set forth in Section 1-7;
- (9) Multi-unit dwellings as defined in subsection (a) AND SHELTERS; or
- (10) Any structure or development with five (5) or more dwelling units where documented calls for service, reported crimes, complaints, or other factual information, has occurred demonstrating a disregard for public safety. This determination shall be made by the Police Department.

...

Section 10. That Section 7-102 of the Zoning and Development Code, is hereby amended to add a definition of agritainment to read as follows:

Section 7-102 - "A" Definitions.

...

AFDPA Residential Use means a residential use developed by a private entity and open to the general public for rent or for sale. Residential properties operated by or for ASU, or uses otherwise constituting an ASU use shall not be considered a residential use.

AGRITAINMENT MEANS AN AGRICULTURALLY ZONED LAND THAT IS USED FOR ENTERTAINMENT PURPOSES BASED AROUND OUTDOOR USES IN A NATURAL ENVIRONMENT, INCLUSIVE OF ACTIVITIES WHICH MAY INCLUDE COMMUNITY GARDEN, OUTDOOR RECREATION, CLASSES, MUSIC PERFORMANCES, FARMERS MARKETS, OUTDOOR RETAIL OF

SEASONAL MERCHANDISE, SMALL GROUP CAMPING, PETTING ZOOS AND OTHER RELATED ATTRACTIONS.

Alley means a dedicated right-of-way, other than a street, that provides rear property access or service needs.

...

Section 11. That Section 7-104 of the Zoning and Development Code, is hereby amended to add a definition of carport to read as follows:

Section 7-104 - "C" Definitions.

... *Card room/poker room* means a function that exclusively offers card games for play by the public. The players compete against each other, instead of against "the house", for monetary value.

Caretaker residence means one (1) permanent residential dwelling unit that is ancillary to the principal use on a commercial or industrial zoned parcel(s) of land and is needed for security purposes or housing for the owner or operator of a business.

CARPORT MEANS A STRUCTURE THAT IS OPEN ON AT LEAST TWO SIDES WITH A FLOOR SURFACE OF APPROVED NON-COMBUSTIBLE MATERIAL USED FOR PARKING VEHICLES. CARPORTS THAT ARE NOT OPEN ON AT LEAST TWO SIDES SHALL BE CONSIDERED A GARAGE AS AN ENCLOSED BUILDING.

Chicken, domestic means a female chicken or hen, excluding roosters or cocks.

...

Section 12. That Section 7-105 of the Zoning and Development Code, is hereby amended to add a definition of data center to read as follows:

Section 7-105 - "D" Definitions.

DATA CENTER MEANS A FACILITY WHOSE PRIMARY SERVICE IS DATA PROCESSING OR DATA STORAGE, AND IS USED TO HOUSE COMPUTER SYSTEMS AND ASSOCIATED COMPONENTS, SUCH AS CENTRAL PROCESSING UNITS, GRAPHICAL PROCESSING UNITS, NEURAL NETWORKS, QUANTUM BITS, QUANTUM PROCESSORS, MEMORY, DATA ROUTING, DATA STORAGE, SERVER FARM, CRYPTO CURRENCY MINING/PROCESSING, VIRTUAL PRIVATE NETWORKS, VIRTUAL SERVERS, ARTIFICIAL INTELLIGENCE TRAINING OR PROCESSING, IMAGE PROCESSING, CLOUD COMPUTING, EMAIL SERVICING, A TELECOMMUNICATIONS HOTEL, OR ANY OTHER TERM APPLICABLE TO FACILITIES WHICH ARE USED FOR SUCH PURPOSES SHALL BE DEEMED TO BE A DATA CENTER.

Deferred presentment company means a business that engages in a transaction pursuant to a written agreement in which the licensee accepts a check and agrees to hold the check for at least five (5) calendar days before presentment for payment or deposit. These services are commonly known as pay day loans. See also, financial institution, non-chartered.

...

Section 13. That Section 7-109 of the Zoning and Development Code, is hereby amended to update the definition of hardscape to read as follows:

Section 7-109 - "H" Definitions.

Hardscape means brick, concrete, wood, tile, paver, STONE, WOOD CHIPS, DECOMPOSED GRANITE

or other decorative hard surfaces used outside ~~in lieu of or in conjunction with landscape materials such as trees, shrubs, turf, AND VEGETATIVE ground cover wood chips, or gravel.~~

Home occupation means a business activity that is carried out on the same site as a dwelling unit, and which is accessory to the household living use on the site.

...

Section 14. That Section 7-113 of the Zoning and Development Code, is hereby amended to update the definition of landscape to read as follows:

Section 7-113 – “L” Definitions

Laboratory means a building, or portion thereof, used or intended to be used for experimentation, observation, testing or analysis.

Landfill means the use of a site for the permanent disposal or storage of rubble, construction debris, waste, miscellaneous by-products and any other materials not naturally found on the site.

Landscape, landscapes mean any combination of living plant material such as trees, shrubs, cacti, vegetative ground cover or turf; and structural features such as walkways, fences, walls, pergolas, arbors, gates, benches, plazas, works of art, water features (e.g., reflective pools, fountains, ~~or the like~~), and similar features. Landscapes also include irrigation systems and any mulches, rock, topsoil, revegetation or the preservation, protection and replacement of existing landscape material.

Landscape, low water use OR XERISCAPE ~~means non-plant materials,~~ plant materials native to the Sonoran, Chihuahuan and Mojave deserts, and plant materials with water consumption similar to the native plants.

Landscape, water intensive means bodies of water, water features, turf and non-native plants that require substantial water to survive.

Landscape plan means a plan prepared to scale showing elements such as trees, shrubs, ground cover, vines, sculpture, all walls, lighting, other organic and inorganic materials and an automatic irrigation system. The plan shall include a plant list, indicating the size and name, both botanical and "common", of all plant material to be used.

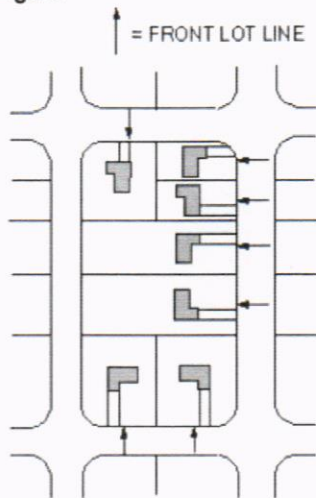
Laundry facility, self-service means a laundromat or similar business where customers wash their clothes.

1. *Front.* The front lot line of a lot shall be determined as follows:

a. *Corner lot.* The front lot line of a corner lot shall be the shorter of the two (2) lines adjacent to the streets. Where lines are equal, the front line shall be that line which is obviously the front by reason of the prevailing frontage of the other lots on the block. If such front is not evident, then either may be considered the front of the lot but not both;

b. *Interior lot.* The front lot line of an interior lot shall be the line coterminous with the street frontage; and

c. *Through lot (reverse frontage).* The front lot line of a through lot shall be that line which is the front by reason of the prevailing frontage of the other buildings on the block. Where such front lot line is neither evident nor established by a recorded plat, the Zoning Administrator shall determine the front lot line. Such a lot over two hundred (200) feet deep may be considered, for the purposes of this definition, as two (2) lots each with its own frontage, but this definition does not constitute a lot split.

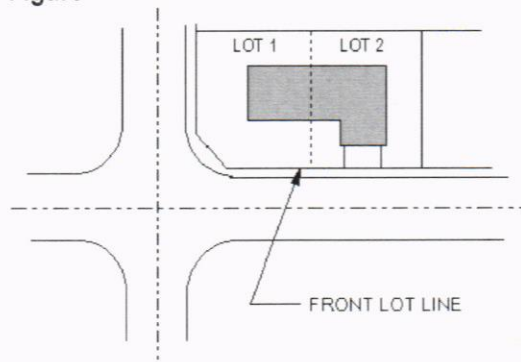


d. *Two (2) or more lots.* Where two (2) or more lots are used as a building site and where the main building crosses lot lines, then the entire area is considered as one (1) lot, except that the front of the parcel is determined to be the front of the individual lots as originally platted or laid out. Exception: the lots are considered as separate lots when the applicable building code standards are met (i.e., as in the case of uses with common walls).

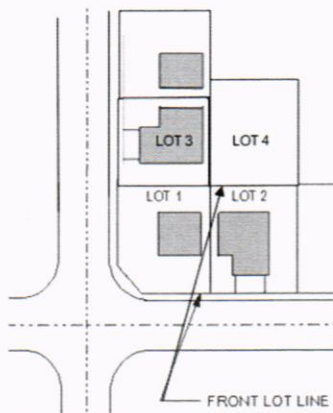
Figure

7-113

E.



E. LOT THAT DOES NOT ABUT A STREET. THE FRONT LOT LINE OF A LOT THAT DOES NOT ABUT A STREET SHALL BE THE LOT LINE ADJACENT TO A LOT THAT DOES ABUT A STREET FRONTAGE. WHERE AN INTERIOR LOT IS ADJACENT TO TWO OR MORE LOTS WITH STREET FRONTAGE, THE FRONT SHALL BE THAT LOT LINE WHICH IS THE SHORTER OF THE TWO (2) SIDES.

Figure 7-114 E

Section 15. That Section 7-120 of the Zoning and Development Code, is hereby amended to add a definition of shelter and studio unit and to update the definition of smoking establishment to read as follows:

Section 7-120 – “S” Definitions

Shade structure means a constructed form designed to protect an area from direct sunlight.

SHELTER MEANS ANY ESTABLISHMENT DEDICATED IN WHOLE OR IN PART TO PROVIDING TEMPORARY HOUSING FOR LESS THAN A YEAR FOR INDIVIDUALS OR FAMILIES FOR EMERGENCY OR TRANSITIONAL PURPOSES, UNTIL PERMANENT HOUSING MAY BE OBTAINED. FACILITIES MAY OFFER COUNSELING SUPPORT BUT DO NOT OFFER ON-SITE DRUG TREATMENT OR MEDICAL SERVICES. ROOMS OR SLEEPING AREAS DO NOT HAVE COOKING FACILITIES IN INDIVIDUAL DWELLING UNITS AND ARE SERVED BY A COMMUNAL KITCHEN OR DINING FACILITIES.

...

Smoking establishment means any business or location that is dedicated, in whole or in part, to the use of tobacco or other substances emitting smoke OR ALLOWING INHALATION OF SMOKE OR VAPE, including but not limited to establishments also referred TO as cigar bars or lounges, hookah bars or lounges, and tobacco clubs or bars.

...

Structure means any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.

STUDIO UNIT MEANS A COMPACT UNIT WHICH COMBINES THE SLEEPING SPACE WITH THE LIVING ROOM AND KITCHEN IN A SINGLE ROOM WITH A SEPARATE BATHROOM, NO SEPARATE BEDROOM IS PERMITTED.

Subdivision means the land divided into two (2) or more lots, tracts or parcels of land, or, if a new street is involved, any such property which is divided into two (2) or more lots, tracts or parcels of land, or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into more than two (2) parts. Subdivision also includes any condominium, community apartment, townhouse or similar project containing two (2) or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon.

Section 16. That Section 7-121 of the Zoning and Development Code, is hereby amended update the definitions of tattoo and telecommunications hotel and tobacco retailer to read as follows:

Section 7-121 - "T" Definitions.

Tattoo, body piercing establishment means any ~~establishment~~ BODY MODIFICATION BUSINESS offering INDELIBLE designs, letters, scrolls, figures, symbols, FINE LINE TATTOOS or other marks ~~that are placed~~ on or under the skin with ink or ~~colors by~~ OTHER SUBSTANCES ~~the aid of needles or other instruments~~ THAT RESULT IN THE PERMANENT COLORATION OF SKIN BY MEANS OF THE USE OF NEEDLES OR OTHER INSTRUMENT DESIGNED TO CONTACT OR PUNCTURE SKIN; OR CREATING AN OPENING IN THE BODY OF A PERSON FOR THE PURPOSE OF INSERTING JEWELRY OR OTHER DECORATIONS ~~and that cannot be removed without a surgical procedure; any establishment offering designs, letters, scrolls, figures or symbols or other marks done~~ OR by scarring/branding on or under the skin; any establishment where decorations or other devices are inserted into the skin; any establishment using techniques such as

penetrating, perforating, boring or creating a hole in the skin or another human body part; or any establishment whose primary function is permanent body alteration for non-surgical purposes. The following establishments shall be exempt from this definition: those where offering permanent facial make-up/cosmetics ancillary to the primary business; those where procedures are performed by a person authorized by the laws of this state to practice medicine, osteopathy, chiropractic, podiatry, naturopathy or acupuncture and the procedures are performed in conformity with the standards of that profession; those where procedures are performed by registered nurses, licensed practical nurses or technicians, when acting under the supervision of a licensed physician or osteopath; those where the only type of piercing offered is ear, FACIAL OR NAVEL piercingS.

Telecommunications hotel means a windowless controlled environment buildings—which allow for businesses to lease computer server space for connection to local exchange carriers, interexchange carriers, internet service providers, competitive access providers and telephone services. In addition to voice and data connectivity, the amenities include controlled temperature and humidity, 24-hour security, fire detection/suppression systems and generator power backup. These facilities have no pedestrian activity associated with the use.

Tobacco retailer means any ~~person or~~ LICENSED business who primarily sells or offers for sale, tobacco, tobacco products, or tobacco paraphernalia, VAPE PRODUCTS, HOOKAH or who distributes samples of tobacco OR VAPE products or paraphernalia. These businesses include but are not limited to, tobacco shops, cigars and pipe retailer, cigarette or electronic cigarette, VAPE, OR HOOKAH retailer, and smoking establishments.

...

Section 17. Pursuant to A.R.S. § 9-462.01(J), the City Council has considered a housing impact statement regarding the impact of the zoning ordinance text amendment.

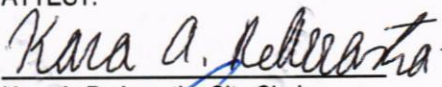
Section 18. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 1st day of July, 2025.



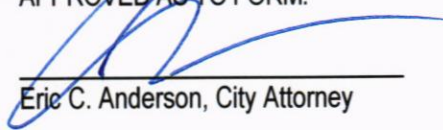
Corey D. Woods, Mayor

ATTEST:



Kara A. DeArrastia, City Clerk

APPROVED AS TO FORM:



Eric C. Anderson, City Attorney

ZO 112.1-2024-9
ZO 112.2-2024-8

ADOPTION OF AN AMENDMENT TO CHAPTERS 112.1 and 112.2
(ZONING)
OF THE 1976 CODE OF THE COUNTY OF
FAIRFAX, VIRGINIA

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, September 10, 2024, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapters 112.1 and 112.2 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA:

Amend Chapters 112.1 and 112.2 (Zoning Ordinance), as follows

In Table 4101.1, revise the permissions for Data Center from P to P or SE in I-4, I-5, I-6. In Table 4101.2, remove the permission for a data center in the PRC District, and change the PDC and PTC permissions to SE.

3. Use Table for Residential, Commercial, and Industrial Districts

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; blank cell = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

Use	Residential Districts														Commercial Districts								Industrial Districts						Use-Specific Standards NOTE: General Standards also apply	
	R-A	R-C	R-E	R-1	R-2	R-3	R-4	R-5	R-8	R-12	R-16	R-20	R-30	R-MHP	C-1	C-2	C-3	C-4	C-5	C-6	C-7	C-8	I-1	I-2	I-3	I-4	I-5	I-6		
Industrial Uses																														
Freight Movement, Warehousing, and Wholesale Distribution: uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer.																														
Data Center																	P SE	P SE							P SE	P SE	P SE	P SE	P SE	4102.6.A

4. Use Table for Planned Development Districts

TABLE 4101.2: Use Table for Planned Development Districts

✓ = permitted if shown on final development plan/PRC development plan and PRC plan;

✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)

SE = special exception; SP = special permit; blank cell = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use;

AP = allowed with approval of administrative permit

Use	PDH		PRC					PDC		PRM		PTC	PCC		Use-Specific Standards NOTE: General Standards also apply
	Principal	Secondary	Residential	Neighborhood Convenience Center	Village Center	Town Center	Convention/Conference Center	Principal	Secondary	Principal	Secondary		Principal	Secondary	
Industrial Uses															
Freight Movement, Warehousing, and Wholesale Distribution: uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer.															
Data Center								SE				SE			4102.6.A

Revise the data center standards in subsection 4102.6.A as shown below.

6. Industrial Uses

Freight Movement, Warehousing, and Wholesale Distribution

A. Data Center

Standards applicable to all data centers:

- (1)** To provide visual screening and reduce noise levels, any equipment necessary for cooling, ventilating, or otherwise operating the facility, including power generators or other power supply equipment, must be fully enclosed, except where determined by the Director not to be mechanically feasible based on the manufacturer specifications. If the Director determines it is not mechanically feasible to fully enclose the equipment, it must be screened by a wall or similar barrier. In addition, any equipment as referenced above that is located on the ground and any accessory electrical substation must be screened from view from abutting lots and from rights-of-way by a visually solid wall or a building. This standard does not apply to solar panels.
- (2)** In the C-3 and C-4 Districts, the maximum building size is 40,000 square feet of gross floor area. However, this size limit may be exceeded with special exception approval in accordance with subsection 8100.3.
- (3)** In the I-2, I-3, and I-4 Districts, the maximum building size is 80,000 square feet of gross floor area. However, this size limit may be exceeded with special exception approval in accordance with subsection 8100.3.
- (4) Minimum Distance from Residential**
 - (a)** Any data center building must be located at least 200 feet from the lot line of an R district or a property developed with a residential use.
 - (b)** If located on the ground, any equipment for cooling, ventilating, or otherwise operating the facility, including any power generator or other power supply equipment, must be either:
 - 1.** Located at least 300 feet from the lot line of an R district or a property developed with a residential use; or
 - 2.** Separated from the lot line of an R district or a property developed with a residential use by the principal data center building.
 - (c)** Lesser distances may be allowed with special exception approval in accordance with subsection 8100.3.
 - (d)** For the purpose of this provision, an R district does not include an area within a public street right-of-way.
- (5)** A data center building must be located at least one mile from a Metro station entrance. A lesser distance may be allowed with special exception approval in accordance with subsection 8100.3.
- (6)** Prior to site plan approval, a noise study must be submitted demonstrating to the Zoning Administrator's satisfaction that the operation of the data center will comply with the Noise Ordinance, Chapter 108.1 of the County Code. In addition, prior to issuance of a

Nonresidential Use Permit, a post-construction noise study must be submitted demonstrating to the Zoning Administrator's satisfaction that the operation complies with the Noise Ordinance.

Standards when permitted by right:

- (7)** A data center building must include a main entrance feature that is differentiated from the remainder of the building façade by a change in building material, pattern, texture, color, or accent material. The entrance feature must also either project or recess from the adjoining building plane.
- (8)** All building façades must include:
 - (a)** A change in the façade surface for every 150 horizontal feet of at least one of the following: building material, pattern, texture, color, or accent material; and
 - (b)** Windows, doors, or similar fenestration design features such as faux windows, must be distributed horizontally and vertically across the façade and comprise a minimum of 30 percent of the individual façade.

Standards when permitted by development plan or special exception:

- (9)** A data center building must be designed to minimize adverse visual impacts on surrounding development as demonstrated by the submission of elevations, architectural sketches, or sight line studies. The building should have a high-quality design as evidenced by the use of materials, color, and texture. If the building is located less than 200 feet from an R district or a property developed with a residential use, it should include changes in building height or other design techniques to provide variation in building mass as viewed from the nearby residential district.

Add rezoning and special exception submission requirements for a data center. Renumber as needed.

8101. Submission Requirements

2. Zoning Map Amendments (Rezoning)

E. Supporting Reports and Studies

The following additional information must be submitted:

(12) Data Center

For a rezoning to allow a data center, the application requires the following additional information:

- (a)** A noise study demonstrating that the operation of the data center will comply with the Noise Ordinance, Chapter 108.1 of the County Code.
- (b)** Architectural depictions of the proposed building and associated equipment as viewed from all lot lines and street lines.

3. Special Exceptions, Special Permits, and Variances

D. Additional or Modified Submission Requirements for Specific Special Exception Applications

The following are additional or modified submission requirements for special exception applications for:

(8) Data Center

- (a) A noise study demonstrating that the operation of the data center will comply with the Noise Ordinance, Chapter 108.1 of the County Code.
- (b) Architectural depictions of the proposed building and associated equipment as viewed from all lot lines and street lines.

Add provisions for the Data Centers Zoning Ordinance Amendment to subsection 2.B of Appendix 1, Provisions Relating to Previous Approvals.

Data Centers

- (a) Any site plan for a data center accepted for review on or before July 16, 2024, will be reviewed based on the provisions of the Zoning Ordinance in effect on July 16, 2024, if:

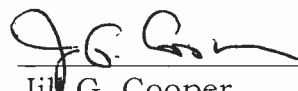
- 1. The site plan is approved by July 16, 2025;
- 2. The approval remains valid; and
- 3. The uses, features, and structures are established or constructed in accordance with approved plans and permits.

An approved plan may be revised notwithstanding this amendment if it does not aggravate conflicts with the amendment. Building permits and other related subsequent plan and permit submissions may be accepted and new approvals may be granted, consistent with the approved site plan. The applicant/owner may elect to have the above applications reviewed in their entirety under the provisions of this amendment.

- (b) For all applications for rezonings and related development plans, special exceptions, site plans, or building permits that include a data center approved on or before July 16, 2024, the applicant/owner may continue under their previous approval. Subsequent plan and permit submissions may be accepted and new approvals may be granted, consistent with those prior approvals. Revisions to such prior approvals may be approved if they do not aggravate conflicts with this amendment.

These amendments shall become effective on September 11, 2024, at 12:01 a.m.

GIVEN under my hand this 10th day of September, 2024.



Jill G. Cooper
Clerk for the Board of Supervisors

Prepared by Linn County Planning & Development
935 2nd Street S.W., Cedar Rapids, Iowa 52404-2100
(319) 892-5130
Return to Amanda Brown, Auditor's Office

LINN COUNTY ORDINANCE # _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, LINN COUNTY, IOWA
BY MODIFYING PROVISIONS IN CHAPTER 107: ARTICLE VII SECTION 107-131 REGARDING
DISTRICTS AND DISTRICT BOUNDARIES, ARTICLE VII SECTION 107-151 REGARDING EU-3
EXCLUSIVE USE THREE LARGE-SCALE DATA CENTERS DISTRICT, ARTICLE VIII SECTION 107-
147-1 USE TABLE, AND ARTICLE IX SECTION 107-180 REGARDING DEFINITIONS RELATED TO
DATA CENTERS

BE IT ORDAINED by the Board of Supervisors, Linn County, Iowa as follows:

SECTION 1. SUBSECTION ADDED. Chapter 107, Article VI, Section 107-116 Standards for Industrial Uses § (e) is hereby added to read as follows:

- (e) *Small-Scale Data Center and other similar uses.* Small-scale data centers and other similar uses shall meet the requirements found in Section 107-151 § (d) through (m) of this chapter.

SECTION 2. SUBSECTION MODIFIED. Chapter 107, Article VII, Section 107-131 Districts and District Boundaries § (b) is hereby amended to include the EU-3 Exclusive Use District as follows:

- (19) EU-3 Exclusive Use Three, Large-Scale Data Center District

SECTION 3. SECTION ADDED. Chapter 107, Article VII, Section 107-151 **EU-3 Exclusive Use Three, Large-Scale Data Center District** is hereby added to read as follows:

- (a) *Purpose.* The purpose of the EU-3 Exclusive Use Three, Large-Scale Data Center District is to provide a clear, comprehensive, and predictable regulatory framework for the siting and operation of large-scale data centers within unincorporated Linn County. Large-scale data

centers are characterized by substantial long-term demands on public infrastructure, including electrical power, water supply, transportation systems, and emergency services, as well as potential impacts on surrounding land uses and environmental resources. This district is intended to ensure that such facilities are evaluated, located, and developed in a manner consistent with the Comprehensive Plan; that their infrastructure and operational impacts are appropriately reviewed and mitigated; and that the County can fulfill its long-term fiscal, infrastructure, and community responsibilities associated with hosting generational infrastructure facilities.

(b) Principal permitted use.

- (1) Large-scale Data Centers.

(c) Accessory Uses.

- (1) Battery energy storage systems (BESS).
- (2) Solar arrays and other similar on-site renewable power generation systems.
- (3) On-site standby or backup power generation.
- (4) Electrical substations, switchyards, or power distribution equipment.
- (5) District energy or microgrid infrastructure.
- (6) Water treatment and recycling facilities.
- (7) Office, maintenance, and employee support facilities incidental to the data center.

(d) *Major site plan required.* A major site plan shall be submitted and reviewed prior to the approval of a large-scale data center. A large-scale data center shall require rezoning to the EU-3 zoning district, unless already located within such EU-3 zoning district.

(e) *Additional information.*

- (1) The following information shall be submitted on the major site plan, or in narrative form, supplied by the applicant with any application for rezoning to the EU-3 zoning district:
 - a. Legal description of all properties leased and/or owned, that are identified to be part of the project area;
 - b. A description of the project including development timeline, location of buildings, parking, approximate number of employees;
 - c. *Water Study.* A water study shall be submitted demonstrating that sufficient water resources are available to support the proposed use as described in Section 107-151 § (n)(1) below.
 - d. *Economic Development Agreement.* The applicant shall enter into an Economic Development Agreement ("EDA") with the County, approved by the Board of Supervisors as described in Section 107-151 § (o) below.
- (2) The following information shall be submitted prior to issuance of the first building permit for the data center:
 - a. Planned location of underground or overhead electric lines, grid interconnection points, project entrances, staging areas, and access roads required during construction and post construction;
 - b. *Waste Management Plan.* A Waste Management Plan detailing how construction waste will be handled during the construction period. The plan shall include:

- i. Estimated volumes and types of materials to be generated.
 - ii. Identification of materials proposed for recycling, salvage, or reuse.
 - iii. Designated recycling and disposals facilities.
 - iv. Procedures for on-site material separation and storage.
 - v. Documentation requirements demonstrating final disposal or diversion;
 - c. Written verification from their proposed power provider that the applicant has calculated the maximum planned electrical consumption of the proposed use and has verified the utility supply and related electrical infrastructure is sufficient to accommodate the applicant's proposed use;
 - d. *Lighting Plan*. A lighting plan shall be submitted providing details of the light spread and intensity diagrams, fixture specifications and mounting height details. Any lighting used for outdoor illumination on the property shall be full-cutoff fixtures so that light does not shine upward nor adversely impact adjoining property.
 - e. A description of a backup power plan describing the fuel source and expected usage of any standby, backup, or temporary power generation systems. The plan shall identify the anticipated number and size of generators or other power units, anticipated testing frequency and duration, anticipated noise and emission control measures, and anticipated fuel storage or delivery methods. The plan shall demonstrate the data center will comply with all applicable local, state and federal permitting requirements.
 - f. *Road use agreement*. An approved Road Use Agreement containing the information and conditions specified in section 107-151§ (k) below is required before the start of construction.
 - g. *Pre-construction noise analysis*. Completed analysis shall be submitted in accordance with 107-151§ (l) below.
 - h. *Water Use Agreement*. The applicant shall submit a water use agreement to govern ongoing coordination between the applicant and the County regarding water use during operation of the facility as described in Section 107-151 § (n)(2) below.
 - i. *Emergency Response Plan*. The applicant shall submit an emergency response plan as described in Section 107-151 § (p) below.
 - j. Site and structure requirements, including:
 - i. Stormwater management plan;
 - ii. Stormwater pollution prevention plan;
 - iii. Erosion and sediment control plan;
 - iv. All Data Center production equipment (computers, servers, etc.) shall comply with Building Code requirements. Said structure(s) shall be placed on a permanent foundation.
- (3) For any data center facility consisting of one or more buildings (whether constructed simultaneously or in separate phases), the applicant shall not be required to submit or resubmit the items referenced in sections 107-151 §(e)(2)(a)-(i) as to any building

or phase of buildings constructed after the initial building permit is issued, if such building or phase of buildings were contemplated on the relevant submission delivered under said sections 107-151 §(e)(2)(a)-(i) in connection with the first building permit issued for the data center and the scope and footprint of the project has not substantially changed from the time of initial submission.

(f) *Required setbacks.*

(1) 200 feet to property lines.

(2) 1,000 feet (measured from the closest outer wall of the closest building on the data center property) to the closest outer wall of a place of public assembly and to the property line of any residentially zoned property, including residentially zoned properties within city limits. The Board of Supervisors, in consultation with any impacted city, may reduce this setback with a majority vote. Impacted city means any city with residentially zoned property within 1,000 feet of the closest outer wall of the closest building on the data center property. "Residentially owned property" does not include properties in the agricultural, critical natural resources, commercial, or industrial zoning districts.

(g) *Street access.* The site shall have access to a hard surfaced road of sufficient capacity to accommodate the traffic that the use will generate, with continuous hard surfaced connection to a county arterial, or state or federal highway.

(h) *Access.* Vehicular access points shall create a minimum of conflict with through traffic movement.

(i) *Parking.* Parking and loading shall meet the standards in section 107-93 §(e).

(j) *Buffers.* Buffers shall be installed meeting the standards in section 107-93 § (d). In addition, lot frontage on a public street shall be separated from the edge of sidewalk or pavement by a landscaped yard of at least 20 feet in width, except where driveway accesses occur.

(k) *Avoidance and mitigation of damages to public infrastructure.*

(1) *Roads.* Applicants shall identify all roads planned to be used for the purpose of transporting equipment for construction, operation or maintenance of the data center and obtain applicable weight and size permits from the impacted road authority prior to construction.

(2) *Existing road conditions.* Applicant shall conduct and provide evidence of a pre-construction roadway conditions survey, in coordination with the Linn County Secondary Road Department, to determine baseline road conditions and authority. The survey shall adequately document all road, road right of way, and public drainage infrastructure conditions requested for use during all phases of construction. Applicants shall enter into a Road Use Agreement with Linn County Secondary Road Department that clearly details responsibilities for on-going road maintenance and dust control measures for all identified Linn County jurisdictional roads during all phases of construction. The Road Use Agreement may require certain applicant and county undertakings, including but not limited to providing financial assurance in the form of an irrevocable letter of credit, bond, cash, escrow, parent guarantee or other form of security or guaranty acceptable to Linn County. At construction completion, Applicant shall, unless otherwise provided in the applicable Road Use Agreement, conduct and provide evidence of a post construction roadway conditions survey, in accordance with the Road Use Agreement and in coordination with the Linn County

Secondary Road Department, to verify that road conditions, to the extent impacted by applicant's use in the construction of its data center, have been restored, as far as reasonably practical, to pre-construction conditions or as otherwise required by the Road Use Agreement.

- (3) *Drainage system.* The applicant shall be responsible for repair of damage to public drainage systems stemming from construction, operation or maintenance of the data center. Applicant shall acknowledge any damage to public drainage systems and the responsibility for repair in a timely manner within 72 hours of damage discovery.
- (4) *Road Use Agreement.* An approved Road Use Agreement containing the information and conditions specified in this section is required before the start of construction.
- (l) *Noise Analysis.* No operating data center equipment shall produce decibel levels exceeding any of the following limitations, with the exception of initial construction and routine maintenance. Adequate setbacks and effective sound mitigating equipment shall be used to comply with these limitations:
 - (1) The average hourly noise level shall not exceed fifty-five (55) dBA or sixty-five (65) dBC as measured from the outer wall of any occupied structure within residentially zoned property adjacent to the proposed development. For property adjacent to the proposed development that is not residentially zoned, the average hourly noise level shall not exceed sixty-five (65) dBA or seventy-five (75) dBC as measured from the outer wall of any occupied structure. The average decibel limit is specific to source of the sound and does not count against cumulative ambient decibel levels as established in a baseline acoustic evaluation.
 - (2) Equipment testing, maintenance activities, and construction activities that generate elevated noise, including generator testing, shall be limited to the hours of 8:00 a.m. to 6:00 p.m., Monday through Friday, unless otherwise approved by the Zoning Administrator. County approval for excessive noise generation shall not be unreasonably withheld.
 - (3) The average hourly decibel level may be exceeded during short-term events such as severe windstorms.
 - (4) A pre- and post-construction noise evaluation shall be completed by a certified professional by the Institute of Noise Control Engineering (INCE), or a licensed Professional Engineer (PE) to verify compliance with the County's standards. The post-construction noise evaluation shall be completed after completion of all planned data center buildings at the end of construction (as defined in section 107-151(l)(5)).
 - (5) Commencing on the fifth anniversary of the end of construction, as defined hereafter, and continuing every five years thereafter, for so long as the data center operates, a noise evaluation shall be completed at the operators expense by a certified professional by the Institute of Noise Control Engineering (INCE), or a licensed professional engineer (PE) to verify compliance with the county's standards in section 107-151(l)(1). Completion of all data center buildings, or end of construction, means the date on which all of the following have occurred: completion of construction of the data center or, in the case of a phased or multi-building campus, all buildings of the multi-building data center campus, and issuance of a certificate of occupancy for all related buildings; and the data center operator has communicated, in writing, to the Zoning Administrator that it has completed the data center campus; provided, that, if all construction has stopped on the property for more than six (6) consecutive calendar months, other than due to delays by the

County in processing related permits or approvals, then “end of construction” as used herein shall be deemed to have occurred as of the last day of such calendar month. This six-month time frame may be extended by the Zoning Administrator.

- (6) The owner(s) of adjacent property may voluntarily agree, by written and recorded waiver, to a higher average hourly decibel level than those allowed within this subsection.
- (m) *Confidentiality and Open Records Compliance.* If an applicant submits information it believes to be a trade secret or otherwise confidential under Iowa Code Section 22.7 the applicant shall clearly identify such information at the time of submittal and provide the County with a written basis under Iowa Code Section 22.7 of why any and all information provided to the County is marked confidential. The County will treat such information in accordance with the Iowa Open Records Act, including the exemptions provided under Iowa Code Section 22.7, as amended. The County may disclose such information to staff or contracted reviewers solely for the purpose of evaluating compliance with this ordinance, subject to applicable confidentiality obligations. Notwithstanding this subsection, applicant acknowledges and understands that the County may only legally keep information confidential pursuant to Iowa Code Section 22.7.
- (n) *Water Supply and Sustainability Review.* Approval for large-scale data center projects shall be conditioned on the applicant demonstrating there is sufficient reliable water supply to meet all projected water demands without undue adverse impacts on existing users, aquifers, or watersheds. To demonstrate this, the applicant must comply with the following requirements:
 - (1) As part of any application for rezoning, special use permit, or other discretionary land use approval for a data center, the applicant shall submit a Water Study. The purpose of this plan is to demonstrate, at a planning-level, that sufficient water resources are available to support the proposed use without causing undue adverse impacts to existing water users, groundwater resources, or surface water systems. The plan shall describe the proposed water source(s), anticipated ranges of water demand, assumptions regarding cooling technologies, efficiency measures, system reliability considerations, and general contingency approaches for water supply interruptions or emergencies. The plan shall be prepared by a qualified professional and shall contain sufficient information to allow the County, reviewing bodies, and the public to understand and evaluate the potential water impacts of the proposed use.
 - (2) Prior to issuance of any building permit for a data center, the applicant shall enter into a Water Use Agreement with Linn County. The purpose of the Water Use Agreement is to govern ongoing coordination between the applicant and the County regarding water use during operation of the facility. The agreement shall address, at a minimum, water use monitoring, reporting frequency, data sharing protocols, and verification of compliance with applicable permits and approvals. The agreement may also include provisions addressing response procedures during periods of water supply constraint, drought, emergency conditions, or other circumstances in which water use reductions or operational adjustments may be necessary to protect public health, safety, or existing water users. The Water Use Agreement may include additional terms related to adaptive management, mitigation measures, and enforcement as determined appropriate by the County and Applicant. The Water Use Agreement shall also require the Applicant to demonstrate coordination with the Iowa Department of Natural Resources (IDNR) regarding applicable water use

permits, interference mitigation procedures, monitoring obligations, and compliance procedures.

- (o) *Economic Development Agreement.* Prior to or contemporaneously with the rezoning to the EU-3 zoning district, the applicant of a large-scale data center shall enter into an Economic Development Agreement (“EDA”) with the County, approved by the Board of Supervisors. The purpose of the EDA is to establish ongoing cooperation between the County and the project operator, a description of any incentives that the project operator will receive (subject to the terms of the EDA), and to provide ongoing contributions that advance the County’s fiscal, infrastructure, and community goals related to hosting large-scale data center facilities. The County shall retain full reasonable discretion to determine the form, structure, and use of funds or benefits provided under any EDA. At a minimum, the agreement shall provide for the creation of a Community Betterment Fund or similar mechanism to support public infrastructure, services, environmental protection, workforce development, or other community benefits, as determined by the Board of Supervisors. Additionally, as part of the EDA, the applicant shall consider implementing a Property Value Protection Plan. The purpose of the Property Value Protection Plan is to address potential impacts to nearby residential property values associated with the development and operation of the data center. Nothing in this section shall limit the County’s authority to negotiate terms appropriate to the scale, location, and nature of a specific project, or to enter into separate agreements addressing road use, infrastructure improvements, or other matters related to the development of the large-scale data center.
- (p) *Emergency Response Plan.* The applicant shall submit an emergency response plan prior to any ground disturbance at the project site detailing the planned response actions that will be taken by facility representatives in the event of an emergency. These actions are intended to minimize health risks to personnel and people in the surrounding community, as well as minimize adverse impacts to the environment.
 - 1. The plan shall include, but is not limited to, a detailed narrative of response procedures and the facility representatives responsible for management of the following plausible contingencies that could occur at the facility: natural disaster/severe weather, fire, security incident, capacity/transmission, environmental, chemical, pipeline (if applicable), and medical. It shall include procedures for a site evacuation, designated egress routes and emergency staging areas.
 - 2. The plan shall include a stand-alone section detailing the emergency response protocols specific to battery energy storage areas (if applicable).
 - 3. The plan shall be developed in coordination with local first responders, Linn County Emergency Management & Linn County Public Health personnel.
 - 4. Notwithstanding anything in this section to the contrary, the applicant may redact confidential or proprietary information from any submission hereunder.
- (q) *Notification Requirements.* To assist in providing adequate notice to interested parties, the applicant for a rezoning to the EU-3 District shall:
 - (1) Within 14 days of filing the rezoning application with the planning and development department, mail a notice via first class mail to property owners and tenants within 1,000 feet of the subject site explaining the request and identifying the subject property.

- (2) Prior to the application being heard at the planning and zoning commission meeting, the applicant shall host a public informational meeting held at a location reasonably accessible to all identified property owners. Applicants must mail a notice of the public informational meeting via first class mail to property owners and tenants within 1,000 feet of the subject site.
- a. Applicants must submit a list of the property owners and tenants contacted, a copy of the notice sent, and a notarized affidavit stipulating to the mailing to the planning and development department.

SECTION 4. SECTION MODIFIED Chapter 107, Article VII, Section 107-147-1 Use Table is hereby amended to read as follows:

Transportation and Utility Uses		STD	AG	RR 1/2/3	VR	VM	USR	USR- MF	HC	GC	I	CNR	MH
Utilities	Utility generating plants and facilities (except wind farms, utility scale solar, gas-fired electric generating facilities, and nuclear energy generating facilities)		C						C	C	C		
	Gas-fired electric generating facilities, nuclear energy generating facilities and nuclear waste storage	See article VII, EU-2 Gas-Fired Electric Generating Facilities, Nuclear Energy Generating Facilities and Nuclear Waste Storage District											
Industrial		STD	AG	RR 1/2/3	VR	VM	USR	USR- MF	HC	GC	I	CNR	MH
Data Centers	Small-scale data center	107-116 (e)	C							C	C		
	Large-scale data center	See article VII, EU-3 Large-Scale Data Center District											

SECTION 5. SECTION MODIFIED. Chapter 107, Article IX, Section 107-180 Definitions is hereby amended to add the following definitions:

Data center means a facility consisting of one or more buildings (whether constructed simultaneously or in separate phases) used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, servers, appliances, and other associated components related to digital data

storage and operations. Data center includes commercial cryptocurrency mining operations and processing.

Small-scale data center means a data center that has an electrical design capacity of 20 MW or less, and that uses less than 50 gallons per minute of water or less on an annualized basis. For the purposes of determining compliance with power and water usage thresholds in this ordinance, all data center buildings that are part of a phased or multi-building campus shall be evaluated in the aggregate, regardless of whether such buildings are constructed simultaneously or in separate phases.

Large-scale data center means a data center that has an electrical design capacity greater than 20 MW or that uses more than 50 gallons per minute of water on an annualized basis. For the purposes of determining compliance with power and water usage thresholds in this ordinance, all data center buildings that are part of a phased or multi-building campus shall be evaluated in the aggregate, regardless of whether such buildings are constructed simultaneously or in separate phases.

Places of Public Assembly means buildings or facilities where people gather for civic, educational, religious, or cultural purposes, including, but not limited to retirement and nursing homes, schools, childcare homes and centers, group homes, hospitals, detention facilities, or human service facilities, not including facilities allowed as an accessory use to the principal use in question.

SECTION 6. REPEALER. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 7. SEVERABILITY. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. SAVING. The Code of Ordinances, Linn County, Iowa, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 9. EFFECTIVE DATE. This ordinance shall be in effect after its final passage, approval and publication as provided by law.

LINN COUNTY BOARD OF SUPERVISORS

Kirsten Running-Marquardt, Chair

Sami Scheetz, Vice Chair

Brandy Z. Meisheid, Supervisor

I, Linn County Auditor, hereby certify that the above and foregoing is a true copy of an ordinance passed by the Linn County Board of Supervisors.

Todd Taylor, Linn County Auditor

STATE OF IOWA
COUNTY OF LINN

This instrument was acknowledged before me on the ____ day of _____, 2026, by Todd Taylor as Linn County Auditor.

Notary Public, State of Iowa

Planning & Zoning Commission on the 20TH day of JANUARY, 2026.

Public hearing and First consideration on the 4TH day of FEBRUARY, 2026.

Second consideration on the 16TH day of FEBRUARY, 2026.

Third consideration and final passage on the 18TH day of FEBRUARY, 2026.

Published in the Gazette on the ____ day of _____, 2026.



Environmental Commission Memorandum

TO: Environmental Commission
THROUGH: David Wanberg, Community & Economic Development Director
FROM: Adam King, Environmental and Water Resources Coordinator
MEETING DATE: August 24, 2026
SUBJECT: Grant Updates

Background:

Adam King, Environmental and Water Resources Coordinator, continues to work on the following grants:

- The MN DNR ReLeaf Grant – The voluntary dead tree removal program deadline was July 15th, with 73 landowners signing up to remove 157 trees. The project went out for bid after the July 28, 2026, council meeting, and closed Wednesday, August 19, 2026. The City received 3 bids, and the City Council will award the bid at their August 25, 2026, meeting. The grant-funded low-income ReLeaf program was first come, first served until funds were exhausted, or until September 30, 2026, whichever occurs sooner. The estimated amount of funds were exhausted by the July 15, 2026, voluntary tree removal sign-up deadline, with 40 landowners signing up to remove 118 trees. To keep the programs separate, the project went out to bid after the August 11, 2026, council meeting, and will close Wednesday, September 2, 2026.

In total 113 landowners signed up to remove 275 trees.

- The Clean Energy Resource Team (CERTs) grant - King has worked with Cassie Steeves, Housing and Redevelopment Authority, and Troy Temple on the energy efficiency video vignettes. Troy continues to edit the audio and video portions.

Recommendation:

Attachments: