

REGULATIONS GOVERNING DATA CENTERS

§ 156.125 PURPOSE.

- (A) The intent and purpose of the data center regulations is to protect the health, safety, and general welfare of the residents of the city while ensuring that these facilities are situated in a predictable and compatible manner with existing and planned development and not located in areas where they may conflict with the character of the city's special places and ensure compatibility with surrounding areas and community goals.
- (B) These data center regulations are intended to protect the character of residential areas of the community and maintain the operation of relatively clean and generally unobtrusive industrial uses that are not considered obnoxious to adjacent land uses.

§ 156.126 DEFINITIONS.

- (A) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DATA CENTER. A facility, building, structure, or engineered modular unit whose primary use is to store, manage, process, and transmit digital data that houses computer and network equipment, systems, servers, appliances, and other components related to digital data operations. The use may provide services to authorized users or individuals other than the company operating the data center, including but not limited to, collocation, cloud computing, cryptocurrency or digital asset mining, artificial intelligence training or processing, machine learning, or enterprise-scale server operations. The development may also include, but is not limited to, other associated infrastructure support equipment, such as electric substations or power, backup power generation equipment, cooling systems, water treatment facilities, accessory structures, security facilities, loading areas, office space incidental to operations, or wireless transmission facilities required for continuous operations.

DATA CENTER, LARGE. A data center occupying 100,000 square feet or more of gross floor area and/or consuming more than 20 megawatts (MW) of power.

DATA CENTER, MEDIUM. A data center occupying at least 10,000 square feet of gross floor area but not more than 99,999 square feet of gross floor area and/or consuming no more than 20 mega-watts (MW) of power.

DATA CENTER, SMALL. A data center occupying no more than 10,000 square feet of gross floor area and/or consuming between one (1) megawatt (MW) to five (5) megawatts (MW) of power.

FIBER OPTIC NODE. A localized, passive distribution point consuming less than 1 megawatt (MW) of power that is typically ground-mounted or located on a telecommunications box or structure that serves as an aggregation or distribution point for fiber optic cables and houses optical and electronic equipment used to transmit, route, and receive telecommunication or broadband data signals between a network and end-users. This does not include data processing, central hosting services, or server storage.

§ 156.127 DATA CENTER LAND USE CLASSIFICATIONS, SUPPLEMENTAL STANDARDS AND SPECIAL EXCEPTION PROCEDURE.

(A) A data center may be located only within designated zoning districts as specified in this code.

(B) Special exception eligibility for data centers shall be limited to the following:

(1) A small data center shall be allowed within an L-I Light Industrial District, provided:

- a. All buildings and associated equipment are at least 660 feet (one-quarter mile) from any lot zoned R-HZ, R-1, R-4, R-5, RM-1, RMS, MHP, or R-O-I; or are within an H-I Heavy Industrial District.

(2) A medium or a large data center shall be allowed only within the H-I Heavy Industrial District.

(C) Special exception application submittals.

(1) As outlined in § 156.213(B), the Board of Adjustment shall conduct a public hearing to determine if a data center may be permitted under a special exception and that the use is not offensive or incompatible in keeping with the character of the respective zone district.

(2) Applicants seeking special exception approval for a data center shall provide the following to the Board of Adjustment for consideration:

a. Sufficient copies of a proposed development plan, drawn at a scale no greater than 100 feet to the inch that shows:

- i. North arrow;
- ii. Boundaries of the property to be developed;
- iii. Dimensions and arrangement of all proposed and existing buildings and structures on the site, including sufficient screening to be provided for rooftop and ground-mounted mechanical equipment, cooling towers, and generators to conceal all equipment from public view through the use of architectural features;

- iv. Required and provided off-street parking spaces and loading areas, internal circulation routes, ingress and egress from adjoining streets, service areas and facilities;
 - v. Fire lanes and emergency vehicle parking areas;
 - vi. Conceptual grading and drainage plan when considered appropriate by the Raton Public Works Department;
 - vii. Existing and proposed public and private streets, alleys and easements, with proper names and dimensions;
 - viii. Traffic Impact Analysis (TIA) signed and sealed by a Professional Engineer (PE) registered with the State of New Mexico that specifically considers projected employees and visitors, daily and peak-hour trip generation estimates, business hours, and expected delivery truck traffic and other pertinent factors;
 - ix. Conceptual plan for landscaping with the site and buffering along all perimeter property lines, including the height and location of all fences and walls;
 - x. Size, location, orientation and type of all signs proposed; and
 - xi. Location, height, and orientation of all proposed lighting for the premises. Unless required by state or federal law, all exterior lighting shall be fully shielded and directed downward to prevent light from crossing over to adjacent properties and/or the public right-of-way.
- b. Written availability statement from, or individualized contract to be negotiated with, the Raton Public Service (RPS) Company if the site will be using a public grid connection. Such statement or contract shall specify the requested power and how RPS plans to deliver it. The individualized contract(s) shall account for the costs of generation, transmission, and other infrastructure costs related to data center operations.
- c. Written availability statement from Raton Water Works (RWW) based on a proposed water reclamation and water reuse plan that specifies:
- i. Water needs of the project defined as the total amount of water consumed annually by the project for cooling, on-site power generation, landscaping, general plumbing, and any other uses.
 - ii. Water needs shall be estimated by the developer initially, and annual reporting of actual water consumed shall be required.

- iii. Regular water use shall be limited to employee-related services (restrooms, kitchens, cleaning, fire protection) and not industrial cooling or other large-scale water-intensive functions.
- iv. Clarification about the process and associated details deemed necessary by RWW regarding how the data center will purify wastewater, if any.
- v. Cooling shall be accomplished via a closed loop, recapture, or refrigeration; no evaporative system shall be permitted.
- d. List of fiber optic node locations associated with the data center using precise surveying coordinates, station, and offsets.
- e. Written statement from the developer that generator use and testing shall be limited to daytime hours between 8:00 am and 6:00 pm, except in emergency situations.
- f. Written noise study completed by a licensed professional engineer, specializing in acoustics or an engineer Board Certified by the Institute of Noise Control Engineers, demonstrating that the operation of the data center will comply with the following standards:
 - i. Continuous noise from mechanical equipment, including cooling systems and generators, shall not exceed 65 dB(A) and 70 dB(Z) at the property line between the hours of 7:00 am to 9:00 pm and 55 dB(A) and 55dB(z) between the hours of 9:01 pm to 6:59 am at the property line, measured in accordance with American National Standards Institute (ANSI) guidelines.
- g. The study shall use best practices and predictive acoustical modeling, including, among other factors, sound source location and directivity, and barrier effects of buildings and topography and shall include all proposed development on a lot or site plan. If the development will be completed in phases, the study must address both the proposed phase and the ultimate buildout at full occupancy of the proposed development.
- h. Written decommissioning plan prepared by a qualified professional.
 - i. The plan shall outline the procedures for safe shutdown, removal of equipment, disposal or recycling of materials, and site restoration.
 - ii. The plan shall acknowledge that:

1. The owner shall submit written notification of closure to the City Manager if operations are permanently ceased.
 2. Decommissioning work shall begin within 12 months of cessation of data center operations, or upon notice of abandonment by the operator, whichever occurs first. An extension of 12 months may be granted by the Board of Adjustment if the property owner can demonstrate that they are actively marketing the site for a compatible replacement use. Decommissioning shall be completed within 18 months thereafter, unless extended by the municipality for good cause.
 3. All above-ground structures, equipment, and accessory facilities shall be removed.
 4. Hazardous materials, including batteries, fuel, or refrigerants, shall be disposed of in compliance with state and federal law.
 5. Disturbed soils shall be stabilized and re-vegetated.
 6. Any utility connections shall be safely disconnected and capped.
 7. The site shall be restored to a condition compatible with surrounding land uses or consistent with the most restrictive adjacent zoning district.
- iii. The plan shall include financial assurance for 125% of the estimated third-party decommissioning costs. Such assurance shall be in the form of an irrevocable letter of credit, a performance bond from a surety company licensed to do business in the State of New Mexico, or an equivalent cash or escrow account. The form, terms, and issuer of the financial assurance shall be subject to approval by the City Manager and City Attorney prior to Board approval.
 - i. Proposed community benefits agreement on forms provided by the Planning & Zoning Department that addresses public concerns of the job opportunities, tax revenue, workforce training programs, health and well-being contributions, and other community benefits of the proposed data center.

(D) Procedure.

- (1) The Board of Adjustment shall make its decision on each proposed special exception for a data center, and in the event of approval shall impose minimum development

requirements as required by this chapter with such additional requirements as the Board of Adjustment deems necessary to safeguard the public welfare, safety, health, convenience, and best interest of adjoining property, the neighborhood, and the community. Unless approval specifies to the contrary, the special exception so granted will continue for the life of the use.

- a. Pursuant to § 156.214, the City Commission shall hear and decide any appeal of a final decision made by the Board of Adjustment.

(2) No building or occupancy permits shall be issued for any building or structure that is not in accordance with the development plan approved associated with the special exception. Proposed changes, modifications, or differences to the approved development plan shall require consideration of the Board of Adjustment during a public hearing as outlined in § 156.213(B).

(3) Within 90 days of occupancy, a post-construction noise study completed by a licensed professional engineer, specializing in acoustics or an engineer Board Certified by the Institute of Noise Control Engineers, must be submitted to the Planning and Zoning Department, including field measurements of all installed equipment to confirm that the built condition at full operational load meets the Noise Ordinance. If future equipment is planned to be installed in the building, the field measurements shall be used to calibrate the model, and an analysis should be completed to include the existing and planned equipment.

(4) Any requirement imposed by the Board of Adjustment shall become effective and shall be strictly complied with immediately upon execution of utilization of any portion of the rights and privileges authorized by approval of the special exception.

§ 156.128 PENALTIES.

Any violation of this ordinance shall be subject to penalties as provided in the City Code, including suspension or revocation of business license, fines, and/or legal action.

§ 156.129 SEVERABILITY.

If any section, subsection, sentence, clause, phrase, term, provision, condition, or portion of this ordinance is for any reason held invalid, unenforceable or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity or enforceability of the remaining portions of this ordinance.