

PROPOSED REVISIONS

Section 1. Chapter 44. Zoning of the Municipal Code of the City of Kirksville are hereby amended as follows and shown with additional text in **bold** letters for new language, ~~striketrough~~ for deleted language, and the use of the letter S to refer to Special Use Permit, and the letter P to refer to Permitted.

Section 2. Chapter 44. Sec. 44-1. - Definitions shall be amended as follows:

Data center or data warehousing facility means a secure 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, bitcoin mining, crypto processing, virtual private networks, virtual servers, artificial intelligence training or processing, image processing, cloud computing, email servicing, a telecom hotel, telehouse co-location, or any other term applicable to facilities which are used for such purposes shall be deemed to be a data center.

Data Center Accessory Use: Ancillary uses or structures secondary and incidental to a Data Center use, including but not limited to: administrative, logistical, fiber optic, storage, and security buildings or structures; sources of electrical power such as generators used to provide temporary power when the main source of power is interrupted; electrical substations; utility lines, domestic and non-contact cooling water and wastewater treatment facilities; water holding facilities; pump stations; water towers; environmental controls (air conditioning or cooling towers, fire suppression, and related equipment), and security features, provided such Data Center Accessory Uses/structures are located on the same tract or assemblage of adjacent parcels developed as a unified development with a Data Center. The use shall not include energy generation systems used or intended to supply power to the Data Center during normal operations.

Decibel (dB) means a decibel (dB) is ten (10) times the common logarithm of the ratio of two power terms expressed in the same units of power. This is a mathematical tool used to measure sound and vibration.

Manufactured Engineered Non-Residential Unit (MENU) means an engineered structure, non-residential in use designed for data centers. MENUs must meet the same Special Use Permit requirements as data centers.

Maximum Power Demand: The facility's highest level of connected electricity load for critical IT and building systems and equipment, as set by a single contract with an electric service provider.

Noise Disturbance means any sound which: (a.) Endangers or injures the safety or health of humans or animals; or (b.) Annoys or disturbs a reasonable person of normal sensitivities; or (c.) Endangers or injures persons or real property.

Public Impact Agreement: A binding contract for the purpose of protecting the health, safety, and welfare of the residents of the City.

Renewable Energy: Energy derived from wind, solar, geothermal, or other non-depleting sources of renewable energy.

Server room: An accessory facility with less than 1 megawatt in Maximum Power Demand that supports routine functions of the primary use. Server rooms are not subject to the requirements of this Article.

Sound Pressure Level (SPL) means the sound pressure levels stated in dB units referenced to 20 micropascals, with a C frequency weighting and measured as Leq (equivalent continuous sound level) over a 15-minute measurement period (reference ANSI S1.4/IEC 61672 and IEC 801-22-16). This refers to the strength of the soundwave.

Section 3. Chapter 44. ARTICLE IV. – PERMITTED USES shall be amended as follows:

1. Sec. 44-126. - Permitted Use Table shall be amended as follows:

USES	DISTRICTS																	Additional Conditions								
	R-1	R-2	R-2.5	R-3	R-3.5	R-4	R-4.5	RP-5	OP-1	C-1	CBD	C-3	M-1	M-2		CMD-SQ			CMD-G		CMD-C		CMD-MF		CMD-SF	
INDUSTRIAL, RESEARCH, AND TECHNOLOGY USES																										
Data center or data warehousing facility < 250,000 sf														S												Sec. 44-145

2. **Sec. 44-145. – Data Centers**

- a. **Data centers and Manufactured Engineered Non-Residential Units (MENUs) may be permitted in the Heavy Industrial (M-2) zoning district only with a Special Use Permit. Sec. 44-461**
- b. **Special Use Permit (SUP). The special use permit shall be issued in the name of the property owner, and is nontransferable.**
- c. **Height. The maximum building height, including rooftop accoutrements, shall not exceed 75 feet.**
- d. **Setback. Minimum depth for front, side and rear yards shall be 50 feet. All other provisions of Sec. 44-219 apply.**

3. **Secs. 44-145 44-146--44-169. - Reserved.**

Section 4. ARTICLE XIII. – SPECIAL USE PERMITS. shall be amended as follows:

1. 44-459. – Exceptions by special use permits
(f) (24) – Data Centers
2. **Sec. 44-461 – Exceptions by special use permits for data centers**
In addition to all other provisions of the zoning code of the City of Kirksville, the following restrictions and conditions shall be followed when granting a special use permit to data centers.
 - a. **Site Plan.** The developer shall submit a site plan, prepared and sealed by a professional engineer licensed by the State of Missouri, with the application for a Special Use Permit.
 - i. **Minimum distance from residential.**
 - 1) Data warehousing facilities shall be located a minimum of 500 feet from any residential district or residential use.
 - 2) Data mechanical equipment shall be placed at a minimum of 500 feet from any residential district or residential use.
 - b. **Architectural and Site Design Standards.**
 - i. Data warehousing facilities shall include a main entrance that is differentiated from the remainder of the building façade by a change in building material, pattern, texture, or adjacent material.
 - ii. The entrance feature must either project or recess from the adjoining building plane.
 - iii. Data warehousing facilities shall include architectural elevations of each building face on the plan.
 - iv. **Security, Fencing, and Screening**
 - 1) Every data center site shall be enclosed by security fencing and controlled access measures sufficient to protect critical infrastructure and prevent unauthorized entry.
 - 2) All perimeter fencing shall be at least eight (8) feet in height and shall be constructed of durable commercial-grade materials.
 - 3) The applicant shall submit a security plan describing proposed access controls, gates, surveillance, emergency access provisions, and coordination with public safety officials. The City may treat portions of the security plan as confidential to the extent permitted by law.
 - 4) The City may require landscaping, screening, berms, walls, decorative fencing materials, opacity treatments, or similar measures to reduce adverse visual impacts from fencing, equipment yards, generators, substations, and related facilities.
 - c. **Environmental Performance Standards.**
 - i. **Energy Efficiency.** The Data Center shall minimize the impact on energy consumption and the electric grid. The applicant shall demonstrate through an energy consumption and electric grid

impact study demonstrating compliance with the requirements of this section.

- 1) The application for a Special Use Permit for a data warehousing facility shall include written verification from the power provider that the applicant has calculated the maximum potential electrical consumption of the proposed use and has verified that the utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed use during the power provider's peak consumption hours. Known impacts on electric rates or availability for other uses directly attributable to the data center project shall be noted.
 - 2) Any alternative energy generation system designed or used to supply power directly to a data center during normal operations shall not be considered part of the data center use. Such systems shall be considered a separate use and shall be approved according to the zoning regulations applicable to such use.
- ii. **Water Resource Protection.** The Data Center shall minimize the impact on water consumption, wastewater, and stormwater. The applicant shall submit a water usage and conservation plan detailing all water uses and identifying anticipated daily and peak water demand.
- 1) Only closed-loop cooling systems, or comparably water-efficient systems, shall be allowed.
 - 2) Applicant shall submit a letter of intent from the municipal water supplier indicating sufficient supply is available.
 - 3) Applicant shall submit a letter of approval from the municipal utility provider and the Missouri Department of Natural Resources (DNR) regarding management of waste, wastewater, and stormwater for the project.
 - 4) Data centers are prohibited from obtaining water from on-site wells or any surface water source.
- iii. **Air Quality and Emissions.** The data center shall minimize the impact on air quality and emissions. The applicant shall submit an air quality impact report with the application for Special Use Permit.
- 1) Emergency generators shall be Tier IV-certified at minimum and comply with all applicable federal and state air quality standards.
 - 2) Routine generator testing shall be limited in frequency and duration to the minimum required for safe operation. Generator testing is limited to between 7:00 a.m. and 5:00 p.m.
 - 3) The City may require additional emissions mitigation measures where necessary to protect nearby areas.
- iv. **Noise and vibration.** The data center shall minimize the noise impact to surrounding areas. The applicant shall submit a Sound

and Vibration Study, supported by a supervised and wet-stamped report prepared by a qualified Missouri-licensed professional engineer at the following phases:

- 1) Preliminary Study to be submitted with the Special Use Permit Application
- 2) Interim Study to be submitted during the building permit approval process based upon the building plans. Any sound reducing materials or systems recommended by this interim sound study shall be incorporated into the construction plans for the use.
- 3) Completion Study to be conducted and submitted prior to issuance of the Certificate of Occupancy.
- 4) As-built Study to be conducted and submitted six months after issuance of the Certificate of Occupancy.
- 5) Acoustic screening or sound attenuation measures shall be required to not exceed 55 decibels at the property line.
- 6) Audible noise caused by data centers, not including existing ambient noise, shall not exceed fifty-five (55) dB continuously during daytime hours or a nighttime continuous sound level of forty (40) dB.
- 7) Ambient noise levels shall be measured at the potentially affected property line or right-of-way line. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of generated noise. If audible noise contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth shall be reduced by five (5) dB.
- 8) Emergency Power. The maximum decibel levels specified in this section shall not apply during a power outage. However, the required sound studies shall evaluate and report the anticipated decibel levels when all emergency power generation equipment, including backup generators, is operating.

v. Heat and Microclimate Impacts.

- 1) Applicants shall demonstrate measures to mitigate excessive heat generation, including heat recovery, vegetative buffering, or other design solutions.

vi. Lighting. A photometric plan that shows all exterior lighting, including any security lighting, shall be submitted to the City with the application for a Special Use Permit for a data warehousing facility.

- 1) All exterior lighting must be aimed downward and inward to direct light towards the interior of the property.
- 2) All lighting restrictions established for each individual facility, will be required to be in place prior to operation of the facility being approved by the City

- d. **Infrastructure Impact Analysis.** Applicant shall submit documentation demonstrating that adequate electric, water, sewer, and transportation infrastructure capacity exists or will be provided without adverse impact to existing users.
 - i. Applicant shall bear the cost of any required analysis and subsequent upgrades or modifications to infrastructure both on and off site.
 - ii. Prior to issuance of any building permit, the applicant shall enter into one or more written agreements with the City, in form approved by the City Attorney, providing for payment, reimbursement, escrow, bonding, letter of credit, or such other financial assurances as the City deems necessary to secure required infrastructure improvements, repairs, and restoration.
- a. **Emergency Management Plan.** Applicant shall submit an emergency management plan for review and approval. This plan must clearly detail all fuel and battery storage.
- b. **Reporting. Transparent Operation Requirements** to ensure the facility continues to meet all special use provisions. All reports shall be considered Public Record.
 - i. The following reports shall be submitted annually to the City of Kirksville Community and Economic Development Department.
 - 1) Annual energy consumption report
 - 2) Annual water use report
 - 3) Annual lighting report
 - 4) Annual noise testing report
 - 5) Annual generator testing report
 - 6) Annual biometric data protection compliance certificate report
 - 7) Annual continuous vibration monitoring report
- c. **Ownership Change, Material Changes and Expansion.** Any changes of ownership, material changes, or expansion will require application for a new Special Use Permit.
- d. **Inspections and Access.** As a condition of approval, the owner and operator shall permit the City and its consultants reasonable access, upon reasonable notice and in accordance with law, for inspection of site improvements, verification of compliance, and performance of any monitoring or testing authorized by the City of Kirksville Municipal Code or by the Special Use Permit.
- e. **Decommissioning Plan.** The applicant shall submit a comprehensive Decommissioning Plan for review and approval.
 - i. The plan shall be prepared by a licensed professional engineer at the applicant's expense and must include:
 - 1) Detailed schedule for dismantling and removal
 - 2) Mitigation plan of the safe evacuation, containment, and disposal of all hazardous materials.

- 3) Detail site restoration plan including concrete removal, soil remediation, regrading, and re-vegetation using native Missouri plantings.
 - 4) Cost estimate.
- ii. Prior to issuance of the special use permit, a financial guarantee in the form of a performance bond, irrevocable letter of credit, or escrow account in favor of the City of Kirksville shall be posted equal to 125% of the total estimated decommissioning cost. This amount shall be updated every three (3) years.
- iii. A data center facility shall be deemed abandoned if it fails to operate or actively process/store data for a continuous period of six (6) consecutive months. Upon determination of abandonment by City officials, decommissioning must commence within sixty (60) days and restoration work must be fully complete with twelve (12) months.
- iv. If the Operator fails to remove the facility within the required period, the City of Kirksville may draw upon the posted financial assurance to complete the decommissioning, and any excess costs shall constitute a lien against the property.
- f. Violations, Fines, and Permit Revocation. Any data center found to be out of compliance with this Ordinance, its Special Use Permit, or its Development Agreement shall be notified in writing. The operator has fourteen (14) calendar days from the date of the violation notice to correct the violation.
 - i. Daily fine after the 14-day cure period, with each day constituting a separate violation, shall be the maximum allowed by Missouri Statute.
 - ii. Special Use Permit suspension or revocation: Thirty (30) calendar days after the violation notice, if uncorrected, the special use permit will be suspended or revoked and a Cease-and-Desist order issued. All operations must cease except work necessary to restore compliance. The Special Use Permit will not be reinstated or reissued until a compliance inspection confirms all conditions are met. Continued operation after special use permit revocation or suspension incurs daily fines in the maximum amount allowed by Missouri Statute.
 - iii. Probationary period: A facility returned to compliance and issued a reinstated or new special use permit shall operate under a 180-day probationary period. Any violation during probation results in immediate special use permit revocation and imposition of the maximum fines under Item ii. Above.
- g. Tax Incentives, Abatements, Ownership
 - i. Applications must disclose all parties with ownership and/or ownership interest.
 - ii. No data center is eligible for any City-led tax incentive.

- iii. No data center is eligible for property tax abatement, rate freezing, or any other reduction from the full assessed property tax calculated under standard County formulas, that is owed to the City of Kirksville.
 - iv. No data center may be included in any special taxing district, including Transportation Development Districts (TDD), Neighborhood Improvement Districts (NID), or Community Improvement Districts (CID).
- h. **Community Outreach Requirements for Major Data Centers.** Prior to submitting an application for a Major Data Center, the applicant shall:
 - i. Conduct at least one public meeting to present the proposed project and receive public comment. Said meeting shall be held after 5:00 pm to accommodate citizens who work standard office hours.
 - ii. Provide notice of the meeting at least fifteen (15) days prior to the date of the meeting to:
 - 1) Property owners within the notification area established by the City;
 - 2) Adjacent neighborhood organizations, if any;
 - 3) Relevant public agencies; and
 - 4) Other parties as required by the City.
 - iii. Provide a summary of public comments received and any proposed responses or mitigation measures.
 - iii. Allow a public comment period of at least thirty (30) days following the meeting before submitting an application.
 - iv. In the event that a majority of fee holders of interest of property within 185 feet of the property requesting a special use permit for a data center, sign a verified petition against the request for said special use permit, the Planning & Zoning Commission and City Council shall be required to approve the request by a two-thirds majority of the members present at the respective meeting of said Commission and Council.
- i. The City of Kirksville reserves the right to hire independent professionals that specialize in the disciplines needed to review the studies, plans, and other information required by this section. If the City deems it necessary to hire an independent professional, the applicant shall submit a deposit of 125% of the review estimate that will be used to pay for the professionals' services. Any funds remaining after completion shall be returned to the developer. No interest shall be paid.
- j. As a condition of approval, the City Council may require the applicant to enter into a Public Impact Agreement addressing mitigation measures, infrastructure improvements, utility impacts, emergency services coordination, and other public welfare concerns.