

YANKTON COUNTY ARTICLE 30 ORDINANCE PETITION

WE, THE UNDERSIGNED qualified voters of Yankton County in the state of South Dakota, petition that the following (ordinance) be submitted to the voters of that county for their approval or rejection pursuant to law. The proposed ordinance in proper form is as follows: Shown verbatim (below & continued attached pages) the proposed Yankton County, South Dakota; Article 30 Data Center Ordinance

The purpose and intent:

A NEW ORDINANCE ENTITLED, ARTICLE 30 DATA CENTERS
TO BE ADDED TO YANKTON COUNTY ZONING, YANKTON COUNTY, SOUTH DAKOTA
ARTICLE 30 DEFINITIONS.

Data Processing Center or Data Center. A building, or group of structures primarily used to house and maintain electronic hardware, computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, management, processing or distribution of electronic data. Examples of such data include, but are not limited to, computationally intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, genome sequencing, etc. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, battery storage facilities and other associated utility infrastructure to support operations.

DATA CENTERS

Section 30.01 Purpose and Intent

The purpose of this chapter is to guide the siting and operation of data centers in Yankton County in a manner that balances the benefits they bring with the need to protect public health, safety, and the overall quality of life for residents. [Continued after signature-circulator attestation page, *infra*.]

Section 30.02 Permitting

The installation or construction of a data center, or any modification to a lawfully existing data center beyond routine maintenance, requires a Conditional Use Permit in permitted use areas, to only include commercial use or industrial use. Installation or construction of a data center, or any modifications to a lawfully existing data center beyond routine maintenance, also requires a Yankton County Building Permit obtained from the Yankton County Planning & Zoning.

Section 30.03 Siting Requirements

1. Data Processing centers shall comply with the following requirements
 - a. All electrical generators shall be enclosed behind a solid wall made of concrete or another equivalent sound absorbing material a minimum of four (4) feet higher than the highest point on the generator. This requirement may be reduced or eliminated if a noise mitigation plan is submitted in accordance with all other requirements of the County Zoning Ordinance demonstrating that peak sound levels do not exceed those allowed in this Section
 - b. Security fencing. A secured chain link or solid wood or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility.
Such fence shall comply with all other requirements of Yankton County Zoning Ordinance c. Yard Requirements - The entire perimeter of the facility shall be screened from adjoining properties by a buffer yard. The side, rear, and front buffer yards shall meet the minimum distance required according to the district they are located in.
2. Data centers and all the equipment and structures shall be set back at least one 1/2 mile (2,640 feet) from all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institutions or structures, and public parks as measured from the nearest property line.
 - a. Waiver from distance/Variance. When an engineered stamped design shows that the noise levels of the proposed data center will be less than 75 dBA at the data centers nearest property line that is adjacent to single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institutions or structures, and public parks property lines, the engineered stamped design may be submitted to the P&Z Board requesting a waiver from distance/Variance from setback. *See*, Section 30.05 for Noise requirements.
3. No part of or share of a Data Center purchase of land, construction, or rental of data processing services be owned by, operated by, managed by or leased to or by any Prohibited entity, as defined in SDCL 43-2A-1(5), including any foreign nation or any natural person(s) who is not a United States Citizen. Any violation of this siting requirement shall be deemed to be a violation of any Conditional Use Permit previously authorized or issued and cause an immediate stay of operations under of any such Conditional Use Permit.
4. Based on national security concerns as well as safety concerns in and for Yankton County residents, the State of South Dakota and this nation, all technical, electrical and digital parts, components and/or contracts for any Data Center in Yankton County shall not be purchased from or made with an entity or government or foreign person who is not a Resident, as defined by SDCL 43-2A-1(6), or from a Prohibited entity pursuant to SDCL 43-2A-1(5). Any violation of this siting requirement shall be deemed to be a violation of any Conditional Use Permit previously authorized or issued and cause an immediate stay of operations under of any such Conditional Use Permit.

Section 30.04 Utility Notifications

1. No grid-connected data processing center shall be issued a permit until evidence has been provided by the operator that installation of the system has been approved by the electrical utility provider. Off-grid systems shall be exempt from this requirement. Written verification from the Electric Utility provider shall state the following: a. Adequate capacity is available on the applicable supply lines and substation to ensure that the capacity available to serve the other needs of the planning area is consistent with the normal projected load growth envisioned by the data center. b. Utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed use. c. The use will not cause electrical interference or fluctuations in line voltage on and off the operating premises.

Section 30.05 Noise

1. All proposed data centers shall submit a noise mitigation plan in accordance with the following:
 - a. Name and qualifications of the person who measured the decibel levels.
 - b. Equipment used that established the noise levels.
 - c. Location of the noise measurements depicted on a scaled site plan. The points of measurement shall be at all property lines and other noise receptors (residences, etc.).
 - d. A list of all sound sources that contribute to the overall sound emissions from the site and the following for each source:
 - i. Peak sound levels, in decibels, emitted by each source; and,
 - ii. Sound levels, in decibels, for sound continuously emitted by each source for a duration exceeding thirty (30) minutes; and,
 - iii. The frequencies of the sound emissions from each source;
 - iv. A site diagram showing the location of each sound source.
 - e. A description of any and all methods, systems, devices or structures intended to be used to mitigate sound emissions, including technical specifications, descriptions of materials and/or engineering specifications.
 - f. A certification, signed by the preparer of the document, certifying the accuracy of the materials contained within the noise mitigation plan and that the plan will effectively reduce sound emissions to levels required by the County.
 - g. The county reserves the right to require independent verification of noise measurements and/or to request additional measurements at different points on the property.
 - h. The maximum sound level allowed from the physical structure of any occupied residence, church, or government building is fifty-five (55) dBA after any applicable adjustments provided for herein are applied.
 - i. Between the hours of 10:00 p.m. and 7:00 a.m. the maximum sound **level** allowed from the physical structure of any occupied residence, church, or government building is forty-five (45) dBA after any applicable adjustments provided for herein are applied.
 - ii. At any hour of the day or night the applicable noise limitations in (h) and (i) above may be exceeded for any receiving property by no more than:
 - 1) 5 dBA for a total of 15 minutes in any one-hour period; or
 - 2) 10 dBA for a total of 5 minutes in any one-hour period; or 3) 15 dBA for a total of 1.5 minutes in any one-hour period.

Section 30.06 Signage

1. No signage shall be permitted on the perimeter fence, with the exception of one (1) sign not to exceed thirty-two (32) square feet that displays the name, address and emergency contact information of the facility as well as appropriate warning signs.

Section 30.07 Structural Requirements

1. The facility shall meet all requirements of the most current edition of the International Building Code (IBC). Any electric wiring shall be located underground, except where wiring is brought together for interconnection to system components and/or the local utility power grid.
2. The use of cargo containers, railroad cars, semi-truck trailers and other similar storage containers for any component of the operation is strictly prohibited.

Section 30.08 Access

1. All roads shall be of sufficient width to accommodate emergency vehicle access as determined by the County Emergency Management Director.

Section 30.09 Decommissioning/Restoration/Abandonment

1. Decommissioning and Site Restoration Plan.
 - a. Within 120 days of completion of construction, the permittees shall submit to the County decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees shall ensure that it carries out its obligation to provide for the resources necessary to fulfill these requirements. The County may at any time request the permittees to file a report with the County describing how the permittees are fulfilling this obligation.

b. Site Restoration. The decommissioning of the Data Center shall begin within six (6) months of the expiration of this permit, or earlier termination of operation of the Data Center and be completed within eighteen (18) months of the expiration of this permit or earlier termination of operation of the Data Center. The permittees shall have the obligation to dismantle and remove from the site all generators, transformers, overhead and underground cables, foundations, buildings, and ancillary equipment to a depth of four (4) feet. To the extent possible the permittees shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the County and shall show the locations of all such foundations. All such agreements between the permittees and the affected landowner shall be submitted to the County prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen (18) months after expiration.

c. Cost Responsibility. The owner or operator of a Data Center is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities.

d. Financial Assurance. After the tenth (10th) fifth (5th) year of operation of a Data Center facility, the Board may require a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance that is acceptable to the Board to cover the anticipated costs of decommissioning the Data Center facility.

e. Failure to Decommission. If the Data Center facility owner or operator does not complete decommissioning, the Board may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the Board may take such action as may be necessary to decommission a Data Center facility.

f. The Board of Adjustment may defer to the State of South Dakota if the State imposes decommissioning requirements.

2. Abandoned Data Centers. The permittees shall advise Yankton County of any Data Centers that are abandoned prior to termination of operation of the Data Center. The County may require the permittees to decommission any abandoned Data Centers.

Section 30.10 Submittal Requirements

The application for the installation or construction of a Data Center, or for modifications to a lawfully existing Data Center beyond routine maintenance, shall follow the application procedures for Conditional Use Permits and any other procedures as may be required by this Ordinance for Data Centers, such as, but not limited to, zoning map amendments, platting or required variances. In addition, all Applications shall include the following:

1. Applicant name(s) and contact information. Applicant(s) must also identify on the application, if different than the applicant(s), the recorded owner of the property and his or her Resident status in light of the requirement provisions of SDCL 43-2A-1(6), the occupant or lessee of the property and his or her Resident status in light of the requirement provisions of SDCL 43-2A-1(6), and the operator of the Data Center and his or her Resident status in light of the requirement provisions of SDCL 43-2A-1(6). And with no Applications being approved if such application(s) include a Prohibited Entity as defined in SDCL 43-2A-1(5) or any person(s) who is not a Resident as defined by SDCL 43-2A-1(6).

2. A narrative describing the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs by and through an engineer's certified on-site study or report following an on-site review and analysis.

3. A study prepared by an acoustical engineer describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.

4. A plan provided by a certified engineer describing the anticipated water runoff and the mitigation efforts to prevent pooling of and/or contamination of the ground.

5. A site plan, drawn to scale, showing in detail the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.

6. A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institutions or structures, and public parks located within one-half (1/2) mile of the exterior boundaries of the property where the data center will be located.

7. A detailed decommissioning plan specifying the length of time to decommission the Data Center operations and site and how the remaining infrastructure, if any, will be removed or destroyed and a detailed impact analysis and corresponding Application-related report that specifically outlines and describes the level and extent that such future decommissioning will have on the local or regional landfill as well as on landfill operations, as prepared in coordination with and with direct detailed input and approval by local or regional landfill authorities as part of the pre-Application submittal process.

8. Other relevant studies, reports, certifications and approvals may be reasonably requested by Yankton County to ensure compliance with Article 30.10.

PETITION
Yankton County Board of Commissioners
JULIE ST. REEDER
Petition for Ordinance

WE THE PEOPLE

OF YANKTON COUNTY

**PETITION AN ORDINANCE TO
REGULATE DATA CENTERS BE SUBMITTED TO A VOTE**



**USE OF NATURAL RESOURCES:
AG LAND, WATER**



**USE VAST AMOUNTS
OF ELECTRICITY**



**EFFECT PROPERTY VALUE
FOR SURROUNDING
BUSINESSES AND HOMES**



**ORDINANCES ARE PUT IN PLACE TO
PRESERVE:
PEACE, HEALTH AND SAFETY
OF THE COUNTY**

**— LET THE —
PEOPLE DECIDE.**

*Our County.
Our Future.*



PLEASE CALL OR TEXT
605 660 7166
TO REQUEST A PETITION
TO PARTICIPATE OR SIGN.

YOUR YANKTON COUNTY COMMISSIONER ELECT:

Julie Auch