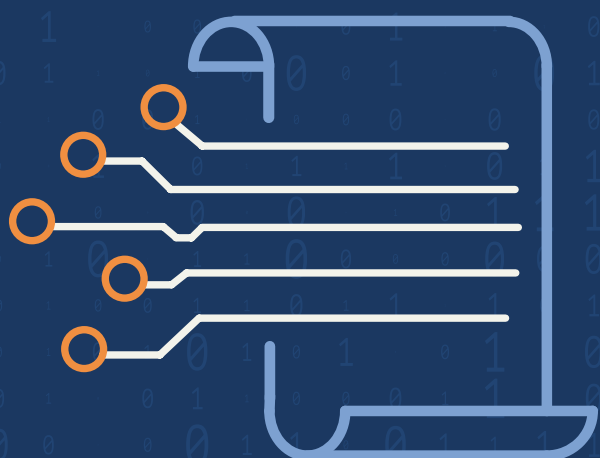


October 2026



Model Local Law

A Framework for Responsible Data Center Development



Model
Climate Laws
Initiative

Sabin Center
for Climate
Change Law



CLIMATE XCHANGE

Introduction and Background

Data center development is accelerating rapidly across the United States, driven largely by the growth of cloud computing and artificial intelligence. These projects require large capital investments but also place outsized demands on local electricity systems, water resources, and land. They can also bring tax revenue, construction jobs, and infrastructure investment, and communities are weighing those potential benefits against the costs. For mayors, data centers highlight the broader challenge of managing growth while meeting climate and sustainability goals.

As the level of government closest to residents, mayors have the trust and authority to shape if, how, and where data centers are built. In response to requests for example laws aligned with local goals, Climate Mayors, in partnership with the Model Climate Laws Initiative, the Sabin Center for Climate Change Law at Columbia Law School, and Climate XChange, developed this model law.

Summary

This model local law gives mayors an example policy for responsible data center development and helps inform local leaders as they address data center impacts in siting, design, and environmental realms. This model law highlights legal and regulatory levers local governments can use when grappling with data centers. It is intended as a resource for mayors, local staff, and partner organizations, whether their communities expect new data centers, are engaging with developers, are watching new facilities come to neighboring areas, or simply want to understand the landscape.

The model law is organized around four sets of local tools:

- **Siting and permitting:** Data centers may be built only in designated zoning districts and only with a special permit. Applicants must notify nearby residents, appear at a public hearing, submit water, energy, and noise plans, and show that the electric and water utilities can serve the project. Developers must also demonstrate compliance with the law's operational, transparency, and community benefit requirements before receiving a special permit.
- **Operational standards:** Permitted facilities must match 100% of their electricity use with renewable energy, storage, or distributed resources. The section also caps potable water use, bars private groundwater wells for cooling, keeps noise at nearby properties to pre-construction ambient levels, sets landscaping, setback, and design standards, requires cool roofs and walls, low-carbon concrete, and bird-friendly glass, and limits fossil-fuel backup generators to emergencies and limited testing.
- **Transparency:** Local agencies may not sign nondisclosure agreements with data center developers. Developers must disclose water, stormwater, tree, noise, and energy plans; power purchase agreements; and grid impacts, and post submissions publicly.

- **Community benefits:** Before approval, a developer must enter into a community benefits agreement that meets minimum standards and covers measurable local benefits, workforce and community investment, environmental mitigation, decommissioning, and enforcement. The jurisdiction can waive this requirement.

Using the model. This model is a template that jurisdictions can tailor. Bracketed text marks choices each community could make, such as zoning districts, water limits, setbacks, and generator hours. It could be adopted as a standalone law or as a new chapter of an existing code. Mayors could add provisions to address issues unique to their community or omit those already addressed by other forms of local governance. Communities are also taking other approaches, from moratoria to negotiated development agreements, that this model law may supplement. By design, this model is one reference point among many.

Disclaimer

This model law is a product developed in response to member mayors' requests for information on how local governments can address the impacts of data center development. It is provided for educational and informational purposes only. Climate Mayors is not advocating for the adoption of this model law, or any part of it, by any jurisdiction.

This model law was principally drafted by the Model Climate Laws Initiative, a project of the Sabin Center for Climate Change Law at Columbia University and Environmental Advocates NY. Support in research, outlining, drafting, and peer review of the model law was provided by:

- Climate XChange, a nonprofit dedicated to advancing state-level climate policy;
- Climate Mayors, a bipartisan network of over 350 mayors demonstrating climate leadership; and
- The Cities Climate Law Initiative, a project of the Sabin Center for Climate Change Law at Columbia University

This model law is provided as a product of the project team's nonpartisan research and education efforts for policymakers on regulatory solutions for the data center industry. The model does not constitute a recommendation that any specific jurisdiction adopt particular terms.

Model Local Law: A Framework for Responsible Data Center Development

WHEREAS, the [JURISDICTION] is committed to maintaining a safe and healthy environment in which residents and visitors can live, work, and recreate;

WHEREAS, the [JURISDICTION] is committed to preserving and protecting the environment and its resources, as well as the character of the [JURISDICTION] and the economic interests of its residents;

WHEREAS, the [JURISDICTION] finds that creating that safe and healthy environment requires minimizing its environmental footprint, conserving its water resources, and maintaining its role as a sustainable and resilient [city/town/municipality] amidst climate change and increasing urban development;

WHEREAS, the [JURISDICTION] seeks to encourage growth through new construction and redevelopment in a manner that balances its benefits and the potential impacts it causes in a way that serves the entire population of the [JURISDICTION];

WHEREAS, data centers typically require vast amounts of electricity, placing additional strain on the [JURISDICTION'S] energy infrastructure and power generation facilities, which in turn can increase emissions of greenhouse gases and other harmful air pollution, both from generation facilities separate from a data center itself and from generating equipment operated at the site of a data center;

WHEREAS, the strain on the electricity grid can also increase costs for electricity ratepayers, which residential customers disproportionately bear;

WHEREAS, data centers typically rely on diesel-powered or other fossil fuel-fired sources of secondary backup energy generation, which release harmful particulate matter, greenhouse gases, and other air pollutants, and generate damaging levels of noise pollution, imposing threats to public health, the environment, and community welfare;

WHEREAS, the operation of data centers typically requires significant water consumption, primarily for cooling purposes, exacerbating water demand within the [JURISDICTION] and surrounding metropolitan region, especially during periods of drought or when the region faces water scarcity challenges;

WHEREAS, data centers are typically large structures that generate significant amounts of heat through their operations and are comprised of surfaces that can retain solar radiation at a greater rate than vegetated areas and undisturbed land;

WHEREAS, data centers can generate consistent, disruptive noise that is a nuisance or danger to residents of nearby homes and can be damaging to wildlife;

WHEREAS, by establishing clear zoning, permitting, and approval requirements for data center construction and operation in the [JURISDICTION], this ordinance will mitigate the impacts of data center development and operations and safeguard the environment, health, and general welfare of the [JURISDICTION] and its residents from the potentially destructive impacts of these facilities;

WHEREAS, data center developers have relied on the use of contractual agreements, such as non-disclosure agreements (“NDAs”), with private individuals and local government officials for the purposes of preventing public disclosure of these and other important impacts of data centers, as well as of basic aspects of a proposed data center’s location or operation;

WHEREAS, to ensure public confidence and participation in governmental decision-making, decisions by the [JURISDICTION] regarding proposed data centers require transparency in negotiations, contracts, incentive agreements, and potential impacts;

WHEREAS, data centers may affect public revenues and economic development, including through tax incentives and job creation;

WHEREAS, the [JURISDICTION] is committed to increasing the public benefits of all large-scale development projects, including data centers, for the communities that host them, and is committed to using all available means to protect residents from the adverse environmental, public health, and economic impacts of such development;

WHEREAS, data centers could have a variety of economic, tax revenue, or other benefits for residents of communities in which they are located, provided that there is an appropriate legal mechanism for ensuring such benefits accrue to the [JURISDICTION] and affected communities;

WHEREAS, if not properly mitigated or addressed by a project developer, development and operation of data centers can also have a variety of adverse impacts on the [JURISDICTION] and its ability to provide municipal services, as well as on the residents of the [JURISDICTION];

WHEREAS, securing enforceable community benefits agreements (“CBAs”) between developers and the [JURISDICTION] before final approval, such that the adverse impacts of data centers are mitigated to the extent possible, and its benefits are redistributed to residents, is essential to the public interest;

WHEREAS, CBAs are freely negotiated binding legal contracts between the [JURISDICTION], community coalition, or local organization and a project developer, which address particular local issues and needs and are intended to ensure that the host community receives certain benefits from project development, certain adverse impacts from project development are mitigated or addressed, and the local community has a meaningful role in the development process;

WHEREAS, the establishment of CBAs that contain certain minimum components, before any approval of a data center, will help ensure any data centers are responsibly developed, that local communities and residents receive benefits of such projects, and that localized impacts are mitigated to the extent possible, all while preserving the parties’ ability to agree on additional or increased components that suit particular projects as needed;

WHEREAS, in light of the foregoing impacts and potential benefits, and because protecting the public health, safety, and welfare of its residents and visitors is a paramount concern to [JURISDICTION], establishing clear standards and requirements for data centers is necessary;

WHEREAS, operational standards designed to minimize data center impacts will further ensure that [JURISDICTION] can access the potential benefits of large-scale development projects while protecting residents from the adverse environmental and public health impacts of such development;

WHEREAS, disclosure requirements will provide [JURISDICTION] and its residents with an opportunity to review the environmental, air, water, noise, and energy impacts of data center developments, ensuring these operations align with [JURISDICTION’S] goals for sustainability, resource conservation, and public health, and will provide [JURISDICTION] with an opportunity to disclose this information to the public to enable meaningful public input regarding data center projects; and

WHEREAS, prohibiting the use of non-disclosure agreements would ensure that residents of [JURISDICTION] retain relevant knowledge of local data center developments and their impacts.

NOW, THEREFORE, the [JURISDICTION] hereby ordains as follows [NOTE – SOME STATES AND MUNICIPALITIES REQUIRE SPECIFIC LANGUAGE FOR THIS ENACTING CLAUSE]:

[DEPENDING ON LEGAL REQUIREMENTS OR PRACTICE/CONVENTION OF RELEVANT JURISDICTION, THIS MAY BE ADOPTED AS A STANDALONE LOCAL LAW/ORDINANCE, OR ADDED AS A NEW CHAPTER OF THE RELEVANT CODE.]

1) Section 1 - Purpose

The purpose of this ordinance is to provide for the responsible development of data centers, including by establishing siting and operational requirements for data centers, requiring CBAs for all data center projects, prohibiting nondisclosure agreements, requiring disclosure of certain information by developers, mitigating environmental impacts, and establishing other requirements to protect public health and welfare.

2) Section 2 - Definitions

Notwithstanding any local law or provision of [RELEVANT CODE] to the contrary, for the purposes of this ordinance, the following definitions apply:

- a) “3-Year Aged” means, with respect to solar reflectance or thermal emittance of a roof product, the solar reflectance or thermal emittance that is tested after completing 3 years of field exposure, or tested after laboratory exposure that has replicated the effects of 3 years of natural exposure if the eligible cool roof product has begun but not yet completed field exposure, in accordance with the most recent standard issued by the American National Standards Institute and the Cool Roof Rating Council, S100–2025: Standard Test Methods for Determining Radiative Properties of Materials.
- b) “Affected Community” or “Host Community” means the geographic area, as determined by the [JURISDICTION] on a case-by-case basis, to be materially affected by a proposed data center, including the residents and businesses located in such geographical area. Depending on the location and size of a proposed data center, the affected or host community may be coterminous with the boundaries of the [JURISDICTION].
- c) “Agency” means any of the following:
 - i) The [JURISDICTION] or any division, department, or agency of [THE JURISDICTION], including any unit thereof;

- ii) An employee, officer, or elected or appointed official of any entity described in subparagraph (i) of this paragraph, while acting in their official capacity; or
 - iii) Anyone acting on behalf of any entity described in subparagraphs (i), or (ii) of this paragraph, including contractors.
- d) “Approved” or “Approval” means any special permit or other permitting, siting, special use, land use, zoning, variance, or other approval granted by the [JURISDICTION], including any unit thereof.
- e) “Clean energy” means electricity generated by wind, solar, existing hydropower, geothermal, wave or tidal action, [nuclear], or fuel cells which do not utilize a fossil fuel resource, or another resource that does not result in emissions from generation [OR CROSS-REFERENCE TO EXISTING STATE STATUTORY DEFINITION, IF APPLICABLE].
- f) “Clean Energy Power Purchase Agreement” means an agreement between a developer and a utility, an authority, or an independent power producer wherein the utility, authority, or independent power producer agrees to provide the data center a specified amount of clean energy over a defined time period of at least ten years.
- g) “Community benefit agreement” or “CBA” means a written, legally enforceable agreement between a developer and one or more community parties that sets forth mitigation measures and community benefits associated with the development of a given project.
- h) “Community party” means the [JURISDICTION] or another authorized party or parties representing the affected community in the negotiation and execution of a Community Benefit Agreement. A community party shall have sufficient representational legitimacy to act on behalf of the affected community, as determined by the [RELEVANT JURISDICTIONAL ENTITY] based on the party’s history, purpose, scope of membership, and other similar factors.
- i) “Covered Electrical Load” means the total electric demand of a data center, expressed in megawatts, including but not limited to the electric demand for processing, storing, managing, and transmitting digital data or information; electric demand for servers,

network equipment and appliances, and related systems; and electric demand for cooling, backup power, infrastructure performance management, environmental controls, and any ancillary systems necessary for data center operation.

- j) “Data Center” means a building, facility, campus, or group of facilities that has a projected or actual covered electrical load of at least [one/5/10] megawatt[s] and meets the conditions of either subparagraph (i) or (ii) of this paragraph.
 - i) Meets all of the following components:
 - (1) is primarily used to house, process, store, manage, or transmit digital data or information;
 - (2) is used to house computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, or data storage systems; and
 - (3) may incorporate additional supporting components, including but not limited to systems for monitoring and managing infrastructure performance, network equipment and services, data connections, environmental controls, fire protection systems, and security systems and services.
 - ii) Is otherwise engaged in providing data processing, hosting, and related services as described under code 518210 of the 2022 North American Industry Classification System.
- k) “Developer” means any individual, corporation, limited liability company, joint venture, partnership, affiliate, or other entity that proposes, owns, operates, or seeks approval for a data center, including any agent or other individual acting on their behalf.
- l) “Distributed capacity” means any combination of energy resources on the distribution grid that can be aggregated to meet a utility energy capacity requirement or electricity load, including energy storage, distributed generation, retail demand response programs, managed electric vehicle charging, smart thermostats and appliances, energy efficiency, hourly matching mechanisms, dynamic load management, virtual power plants that combine the resources listed in this paragraph, or other similar distributed energy resources.

- m) “Electronic Waste” or “E-Waste” means any electronic or electrically powered equipment, device, component, or accessory utilized or generated at a data center that is discarded, abandoned, no longer wanted for its intended use, is designated for removal from service without a documented plan for continued use, or otherwise enters the waste collection, recovery, treatment, processing, or recycling system. E-waste includes, but is not limited to, servers, mainframes, and other computing hardware, data-storage equipment, networking hardware, batteries, circuit boards, telecommunications equipment, processors, computers, and other similar materials.
- n) “Nondisclosure agreement” or “NDA” means any agreement, provision, clause, or contractual term that has the purpose or effect of any of the following:
- i) Restricting an agency from disclosing information about a potential data center to members of the public, including but not limited to information about the proposed data center’s location, siting, construction, energy demand and type, water usage, utility interconnection, and other potential community and environmental impacts from the data center;
 - ii) Deeming that the construction of a data center or other information about a data center is confidential;
 - iii) Prohibiting a party to the agreement from disclosing, discussing, describing, or commenting on the proposed construction, modification, or expansion of a data center; or
 - iv) Requiring the developer's advance approval before an agency discloses information about a data center.
- o) “Qualifying Backup Generation” means electricity generation located on-site at a data center intended to be used only for emergency or backup purposes, and which meets the requirements of Section 6 of this ordinance.
- p) “Qualifying CBA” means a CBA regarding a data center that the [JURISDICTION] determines satisfies the requirements of this ordinance and of any rules and regulations promulgated pursuant thereto.
- q) “Smart surfaces” mean technologies, design strategies, or other measures that increase reflectivity, porosity, or vegetated area to mitigate the adverse impacts of dark and impervious surfaces and increase urban resilience. Smart surfaces may include, without limitation, green infrastructure such as trees, rain gardens, and green roofs, reflective

cool roofs and pavements, porous or permeable pavements or other surfaces, solar photovoltaic installations, or any combination of these surfaces.

- r) “Solar Reflectance” means the ratio of the solar power per unit area reflected from a surface to the solar power that strikes that surface in the same unit area.
- s) “Solar Reflectance Index” means a calculated value that combines solar reflectance with thermal emittance into a single metric, in accordance with section 2.2.9 of the manual titled “CRRC–1 Roof 22 Product Rating Program Manual” of the Cool Roof Rating Council.
- t) “Thermal Emittance” means the ratio of the radiant power per unit area emitted by a material tested at a temperature near 300 Kelvin to that emitted by a perfect absorber and emitter of radiation at the same temperature.
- u) “Water Usage Effectiveness” or “WUE” means the quantitative ratio of a data center’s total potable water consumption, as measured in liters, during a given period of time, per the total electrical energy consumption by the information technology equipment located within the data center, as measured in kilowatt hours during the same period of time.

3) Section 3 - Applicability

- a) Except as provided in paragraph (b) of this Section, the requirements of this ordinance apply to all data centers proposed to be located in [JURISDICTION] for which a developer, as of the effective date of this ordinance, has not received all necessary approvals from the [JURISDICTION].
- b) The prohibition on nondisclosure agreements contained in Section 7 of this ordinance applies to any agreements entered into, amended, extended, or renewed on or after the effective date of this ordinance.

4) Section 4 - Siting of Data Centers by Special Permit

- a) A data center may only be sited within the [JURISDICTION] by special permit and only in [specified industrial zoning districts] pursuant to [relevant zoning code/chart if applicable].
- b) A data center cannot be constructed or operated within the [JURISDICTION], unless explicitly approved by Special Permit from [RELEVANT JURISDICTIONAL BODY], pursuant to the requirements of this ordinance, for construction and operation in [specified industrial zoning districts].
- c) A developer or other person seeking to obtain a Special Permit for a data center project shall be required to comply with any additional stipulations, operational requirements, conditions, study requirements, and other measures as determined by the [RELEVANT JURISDICTIONAL BODY] pursuant to this ordinance, to address welfare, environmental, health, and safety concerns, which may include but are not limited to operational requirements related to water consumption, water source, electricity consumption, electricity source, on-site electricity generation, and noise, as well as requirements to mitigate adverse impact to existing uses.
- d) A developer or other person's failure to comply with the requirements of any Special Permit issued for a data center, or with the requirements of this ordinance, may be grounds for revocation of any such Special Permit.

5) Section 5 - Requirements for Obtaining a Special Permit for a Data Center

- a) An applicant for a Special Permit for a data center must comply, at a minimum, with each of the following requirements:
 - i) The developer of the data center, or relevant property owner, must file an application with the [Relevant Permitting Body]. At a minimum, the application shall be accompanied by detailed plans showing exact lot size, location, and size of the buildings, structures, or improvements to be placed on-site; the specific use of each building, structure, property, or part thereof; detailed arrangement of required parking spaces, and location and means of ingress and egress. The same detailed information shall be required where existing structures are to be used or retained. Plans shall be prepared, signed, and sealed by a registered

architect, engineer, or landscape architect. The [RELEVANT PERMITTING BODY] may require additional information, as it deems necessary and appropriate, to be submitted as part of the application for a Special Permit.

- ii) The developer or property owner must notify residents within a [XX distance] radius of the parcel, including any affiliated homeowners' association operating within the radius, that the developer or property owner intends to build and operate a Data Center on the property.
 - iii) The developer or property owner must attend at least one public hearing before the [Relevant Permitting Body] to address water consumption, power consumption, and noise, and to address input from the community regarding the proposed construction and operation of the data center.
 - iv) The developer or property owner must hold at least one public consultation meeting open to residents, to obtain and respond to public input regarding the proposed data center, and must provide public notice to the community in advance of such public consultation meetings and in advance of the public hearing required pursuant to subparagraph (iii) of this paragraph.
- b) As part of any application for a Special Permit, the developer must demonstrate that the data center will comply with all requirements of this ordinance, including but not limited to the operational requirements of section 6 of this ordinance, the disclosure requirements of section 8 of this ordinance, and the qualifying CBA requirements of sections 9 and 10 of this ordinance.
- c) In addition to the other requirements of this ordinance, any application for a Special Permit shall be accompanied by the following items:
- i) A contract or statement from the electric utility purveyor affirming sufficient proximity to and availability of a substation and transmission lines and commitment to serve the proposed data center for its proposed covered electrical load.
 - ii) A contract or statement from the public water purveyor affirming sufficient capacity and commitment to serve the proposed data center's water consumption requirements.
- d) In addition to the requirements of this ordinance, the [RELEVANT JURISDICTIONAL ENTITY] may establish additional requirements for

developers or other applicants for a Special Permit, as the [ENTITY] deems appropriate to mitigate the impacts of a data center on residents or to ensure the benefits of a data center are realized by a host community.

6) Section 6 - Operational Requirements for Data Centers

- a) Notwithstanding any local law or provision of [RELEVANT ZONING CODE] to the contrary, data centers shall be designed to meet the standards of this section. In order to issue any Special Permit to a developer for a proposed data center, the [RELEVANT JURISDICTIONAL ENTITY] must determine that the data center is designed to operate in compliance with all operational requirements of this section, and with all other requirements of this ordinance.
- b) *Energy Requirements* - As a condition of its Special Permit, each developer of a data center shall demonstrate that it is not passing on any energy-related costs from the data center's construction or operation, or the cost of interconnection or grid upgrades for the data center, to residents of [JURISDICTION] and that 100% of the data center's covered electrical load, as measured on an hourly basis, is supplied by energy that meets one or more of the following requirements:
 - i) Is clean energy that is either generated on-site at the data center or directly owned by the developer of the data center;
 - ii) Is derived from on-site behind-the-meter energy storage served by clean energy;
 - iii) Is distributed capacity paid for by the data center;
 - iv) Is qualifying backup generation; or
 - v) Is incremental clean energy procured pursuant to one or more of the following mechanisms:
 - (1) Clean energy power purchase agreements for electricity generation from clean energy sources, which must remain in effect for the duration of the data center's operation
 - (2) renewable energy credits for specific facilities that are retired specifically on behalf of the data center that are retired specifically on behalf of the data center, or
 - (3) another comparable legal mechanism that the [RELEVANT JURISDICTIONAL ENTITY] determines is sufficient for ensuring the new clean energy is directly attributable to all or part of the data center's covered electrical load commitment.

- c) *Water Consumption Limits:* As a condition of a special permit, each developer of a data center shall be subject to the following:
 - i) Evaporative cooling utilizing potable water is prohibited;
 - ii) The data center shall operate in a manner that maintains a WUE of no more than two tenths (0.2); and
 - iii) The data center shall not withdraw more than [X] gallons of potable water annually from any municipal water system nor withdraw any groundwater from a privately drilled well for the purpose of operating or cooling the facility.
- d) *Noise Limits:* Noise generated by a data center shall not exceed the ambient levels at any [specified receiving property or protected area], as established through baseline A-weighted and C-weighted noise measurements conducted before construction of the data center in accordance with a generally accepted standard such as IEC 61672:2013 or ANSI S1.4.
- e) *Landscaped Setback Requirements:*
 - i) A minimum [X]-foot perimeter landscaped setback shall be provided for all data centers, including: two staggered rows of large canopy shade trees; five, five-gallon shrubs per tree; ground covers to supplement the trees and shrubs so that a minimum 75 percent live coverage is attained, unless the [RELEVANT JURISDICTIONAL ENTITY] determines that such landscaping requirements are not feasible in light of local conditions.
 - ii) For each street frontage for a data center site, a minimum six-foot-wide detached sidewalk separated from the curb by a minimum eight-foot-wide landscape strip including: single-trunk, large canopy shade trees on both sides of the sidewalk providing a minimum of 75 percent shade; a mixture of shrubs, accents, and vegetative ground covers with a maximum mature height of two feet distributed throughout the landscape areas to achieve a minimum of 75 percent live coverage.
- f) *Mechanical Equipment Setback Requirements* - All mechanical equipment associated with a data center, including but not limited to electrical transformers and generators, shall be set back a minimum of [X] feet from abutting right-of-way or property border. The equipment must be fully screened by a building that is visually integrated with the design of the overall development or by a decorative screen wall having variations in colors, materials, patterns, textures, and/or an art installation such as a mural.

g) *Architectural Design Requirements* - All sides of a building/structure as part of a data center should provide an enhanced design including a variation in colors, materials, patterns, textures, height, windows (including faux windows), articulation, and/or art installations. Each main entrance should include a feature that differentiates it from the remainder of the building facade by a change in building material, pattern, texture, color, and/or accent material, and that projects or is recessed from the adjoining building plane.

h) *Smart Surfaces Requirements:*

i) Roof coverings on all data centers shall be:

- (1) Equipped with a solar photovoltaic electricity generating system, if such system would accommodate at least 4 kilowatts of solar photovoltaic electric generating capacity; and
- (2) Constructed of materials that achieve either a minimum 3-year aged solar reflectance of 0.75 and a minimum 3-year aged thermal emittance of 0.75; or a minimum solar reflectance index not less than 90.

ii) Above-ground walls facing east, south, and west shall meet the following standards:

- (1) An initial solar reflectance of 0.30 (when tested either in accordance with CRRC S100, ASTM C1549 with AM1.5GV output, ASTM E903 with the AM1.5GV output, or determined in accordance with generally accepted engineering standards);
- (2) A minimum thermal emittance of 0.75 (when tested in accordance with CRRC S100, ASTM C835, C1371, E408, or determined in accordance with generally accepted engineering standards); and
- (3) For any portion of the opaque wall that is glass spandrel area, a minimum solar reflectance of 0.29 (determined in accordance with NFRC 300 or ISO 9050).

iii) The total embodied carbon dioxide equivalent (CO₂e) of the concrete mixes used in the project, as measured by the CarbonStar® Standard (CSA/ANSI R118:24), shall not exceed the following values:

	Maximum embodied carbon kg CO2e/m ³		
Minimum specified compressive strength f'_c , psi	Standard Mix	High Early Strength	Lightweight
up to 2,499	242	314	462
2500-3499	306	398	462
3500-4499	346	450	501
4500-5499	385	500	540
5500-6499	404	526	N/A
6500 and up	414	524	N/A

(1) Other mixes may be used for portions of a project provided an applicant demonstrates that across a whole project the total embodied carbon of all concrete remains equal to or less than the embodied carbon that would result from using only mixes in accordance with the values listed in this ordinance.

iv) Data centers shall be designed to comply with Addendum “o” to ANSI/ASHRAE/USGBC/IES Standard 189.1-2009 or a comparable standard promulgated by a nationally recognized organization for bird-friendly glazing design in buildings.

v) To the extent these standards conflict with any provision of [RELEVANT ZONING OR LANDSCAPING CODE] or any other local law, ordinance, or other applicable legal requirement, the requirements of each shall be harmonized to the extent possible; to the extent a conflict remains, the provisions of this ordinance shall prevail.

i) *Qualifying Backup Generation* - Except as provided in this paragraph, on-site combustion of fossil fuels, for purposes of primary or backup power generation to support a data center’s covered electrical load, is prohibited. In addition, qualifying backup generation is subject to the following requirements:

i) To the maximum extent technically and economically feasible, any on-site backup power serving a data center shall rely on clean energy or energy storage as the first option;

- ii) Notwithstanding any other provision of this ordinance, an on-site backup power source for a data center may rely on combustion-based backup power generation sources for limited purposes, if and only if the following requirements are met:
 - (1) the developer has evaluated and deployed noncombustion alternatives to the maximum extent practicable;
 - (2) the developer has provided public notice of its intention to utilize a combustion-based backup power generation source, along with a written explanation;
 - (3) A 30-day public comment period has been provided regarding the developer's intent;
 - (4) Following at least 15-days after the end of the public comment period, the [RELEVANT JURISDICTIONAL ENTITY] has approved the data center's plan to utilize combustion-based backup power generation sources for limited purposes.
- iii) In the event a developer demonstrates that a generator utilizing combustion is required for on-site backup power at a data center, then the combustion generator must meet all the following conditions:
 - (1) operate only during an emergency, or for required testing and maintenance;
 - (2) operate for no more than [50/XX] hours per calendar year for required testing and maintenance;
 - (3) not be located in a nonattainment zone for any criteria pollutant;
 - (4) not be used for routine peak shaving, economic dispatch, capacity or ancillary service markets, or any nonemergency eclectic grid support;
 - (5) If utilizing diesel, utilize only ultra-low sulfur diesel, and not exceed the emission rates for particulate matter and nitrogen oxides required for backup diesel generation by Tier 4 EPA emissions standards, or by other applicable emission standards established by the [STATE ENVIRONMENTAL REGULATORY AGENCY] pursuant to state law;
 - (6) If utilizing natural gas, meet all applicable emission standards as established by EPA as well as any other applicable emission standards established by the [STATE ENVIRONMENTAL REGULATORY AGENCY] pursuant to state law;
 - (7) Coal and lignite may not be used; and

(8) Employ best available control technology, as determined by the [STATE ENVIRONMENTAL REGULATORY AGENCY].

j) Decommissioning and Financial Security

- i) It is the developer's responsibility to ensure that, within [twelve (12)/xx] months after the end of the project's useful life or active use of the facility as a data center, the site be restored to a condition that existed prior to the project, or the facility altered in a manner that will allow for a beneficial reuse of the property.
- ii) A decommissioning agreement shall be executed between the [RELEVANT JURISDICTIONAL ENTITY] and the developer or property owner, as part of the special permit approval process, to ensure the requirements of this paragraph are met.
- iii) The decommissioning agreement shall, at a minimum, provide that the following requirements will be met within [12/XX] months of the project's useful life or active use of the facility as a data center:
 - (1) Removal of all equipment, structures, containment ponds, or similar infrastructure that are no longer in use or cannot be reasonably reused;
 - (2) Removal of all hazardous materials and contents, including cabling, electrical components, and any other associated facilities; and
 - (3) Grading and re-seeding of distributed lands, unless the property owner requests in writing that the access roads or other land surface areas not be restored.
- iv) The decommissioning agreement shall also include, at a minimum, the following components:
 - (1) A description of all buildings, equipment, structures, infrastructure, and other components of the data center, and the anticipated methods of decommissioning and removal of reach;
 - (2) An inventory or reasonable estimate of electronic equipment and other materials anticipated to be generated during decommissioning, and plans for the proposed reuse, recycling, or disposal of any electronic waste; and

(3) An estimate of the cost of decommissioning, provided by an independent and certified professional engineer.

- v) The decommissioning agreement required pursuant to this paragraph shall include financial security, in the form of a bond, letter of credit, or another form deemed acceptable by the [RELEVANT JURISDICTIONAL ENTITY], that demonstrates adequate financing is in place to cover the estimated cost of decommissioning, and to ensure that decommissioning meets the requirements of this paragraph and of the decommissioning agreement.

k) Electronic Waste Requirements

- i) As a condition of its Special Permit, each developer of a data center shall provide an initial plan for disposal of all e-waste from the data center, and shall maintain a summary of how disposal occurs throughout operation of the data center.
- ii) E-waste from a data center shall not be placed in a landfill or in the ordinary waste stream.
- iii) E-waste shall be segregated from and not be mixed with other types of waste generated by the data center.
- iv) To the extent practicable, a developer shall ensure and document that e-waste generated at a data center is recycled by a qualified recycler.

7) Section 7 - Prohibition on NDAs for Data Centers

- a) Notwithstanding any provision of law to the contrary, an agency shall not enter into a nondisclosure agreement with a developer regarding a data center, including but not limited to a potential data center, a data center for which the developer is seeking approval from the agency, or a data center under construction or in operation.
- b) Any nondisclosure agreement, or other agreement, contract, clause, or provision, entered into in violation of this ordinance subsequent to the effective date of this ordinance is against public policy and is void and unenforceable. For purposes of this paragraph, severability shall apply, such that any portion of the agreement that is not in violation of this ordinance shall remain in effect and enforceable.

- c) No agency shall approve, issue, or grant any license, permit, certification, zoning approval, tax incentive, site plan, subdivision, or other approval for a data center if the developer or applicant has entered into an NDA prohibited by this ordinance, unless said NDA has been rescinded.
- d) An applicant to develop a data center or obtain any approval for a data center shall, as part of the application, attest that at no time did the buyer of the real property proposed for development or the developer enter into any NDA with an agency, or into any or other agreement that had the purpose or effect of concealing the details, or preventing public review, of the development plans for the property.

8) Section 8 - Transparency and Disclosure Requirements for Developers

- a) As part of an application for a special permit or other [relevant jurisdictional approval to develop, construct, or operate a data center], in addition to any other applicable application requirements, the applicant or developer shall provide the following information:
 - i) A *water consumption plan*, including but not limited to:
 - (1) an outline of the total water requirements of the data center, the cooling needs or processes intended to be utilized by the data center, and the maximum amount of water, expressed in total amount and rate in gallons per day, to be consumed by the data center;
 - (2) the source of the water supply, including whether it is groundwater, surface water, or public water supplies intended to be used for cooling or to otherwise support data center operations;
 - (3) strategies to reduce or mitigate water usage; and
 - (4) a demonstration that the water usage will not significantly strain the [JURISDICTION'S] water supply.
 - ii) A *water conservation and sustainability plan*, including but not limited to measures to minimize the data center's impact on [JURISDICTIONAL] and regional water resources, such as the use of water-efficient cooling technologies, closed-loop cooling systems, or other similar measures;
 - iii) A *tree preservation and reforestation plan*, outlining efforts to minimize tree removal and enhance urban forestry efforts, including whether any

transmission lines cross public land or park areas, or, if the immediate ecosystem is not forested, restoration of the site to the ecosystem type most appropriate for the geographic and climatic location;

- iv) A *stormwater management plan*, which shall address how the data center site's development, construction, and operation will manage stormwater runoff, as well as any mitigation measures to prevent or minimize adverse impacts on surface water, groundwater, or local water systems;
- v) A *noise pollution assessment and noise management plan*, which must include a sound study prepared by a professionally licensed engineer in accordance with ISO 9612 acoustics standards, and must outline how the site's operation will ensure compliance with maximum allowable noise levels and mitigation measures; and
- vi) Any other appropriate information, disclosures, plans, or assessments as determined by the [RELEVANT JURISDICTIONAL ENTITY].

b) *Energy Disclosure Report* - As part of an application for a special permit or other [relevant jurisdictional approval to develop, construct, or operate] a data center, in addition to any other applicable application requirements, the applicant or developer shall provide an energy disclosure report to the [RELEVANT JURISDICTIONAL ENTITY]. Such energy disclosure report shall, at a minimum, contain the following information with respect to the proposed data center:

- i) Relevant energy and electricity usage figures calculated on an hourly, daily, monthly, and annual basis, including but not limited to:
 - (1) Projected average and maximum electricity demand as measured in megawatts or gigawatts, as appropriate, and projected coincident peak demand if readily feasible to calculate;
 - (2) Projected average and maximum electricity consumption, as measured in megawatt-hours or gigawatt-hours, as appropriate; and
 - (3) Projected average and maximum consumption of fuels used to power qualifying backup generation, if applicable.
- ii) The types of energy supply sources or distributed capacity intended to be utilized by the proposed data center, including the relative portion of the data center's covered electrical load that is anticipated to be met by clean energy, behind-the meter energy storage that is co-located on-site, distributed capacity or other types of electricity;

- iii) The forms and sources of any clean energy intended to be utilized by the proposed data center, including the relative portion of the clean energy that is behind-the-meter and/or co-located on-site of the data center, derived from generation resources directly owned by the developer, or secured through a clean energy power purchase agreement, renewable energy credit, or other comparable legal mechanism;
 - iv) A copy of any clean energy power purchase agreement with appropriate redaction of any proprietary information, along with at a minimum a summary of the nature of any clean energy power purchase agreement, including the term of the agreement, the counterparty to the agreement, and the amount of electricity subject to the agreement;
 - v) An energy efficiency plan, describing the measures utilized to minimize the amount of electricity consumed by the data center;
 - vi) A copy of a letter from the relevant utility or electricity supplier, confirming that adequate electric capacity is available to supply the data center without impact to the electricity grid.
 - vii) Strategies implemented for mitigation of the impact to the local electric system and infrastructure, including proposed improvements or alternatives to minimize the need for additional electric infrastructure; and
 - viii) A transmission line and infrastructure impact assessment, identifying the need for upgraded electric transmission lines, distribution lines, substations, or other electrical infrastructure needed to meet the data center's covered electrical load, which shall include an assessment of the potential environmental impact on any public lands and from any tree removal on [JURISDICTION]-owned land or rights-of-way;
- c) As a condition of any special permit, a developer shall be required to submit ongoing and periodic updates, on an annual or monthly basis as determined by the [RELEVANT JURISDICTIONAL ENTITY], regarding each of the relevant submittals pursuant to paragraph (a), as well as the energy disclosure report required by paragraph (b). Such periodic updates shall include actual data from the data center's operation sufficient to allow for comparison against the original plans and projections provided as part of the original submittals pursuant to paragraphs (a) and (b), including at a minimum actual energy and electricity usage figures, water consumption data, and other relevant data as determined by the [RELEVANT JURISDICTIONAL ENTITY].

- d) All submittals pursuant to paragraph (a) of this section, all energy disclosure reports required by paragraph (b) of this section, and all periodic updates provided pursuant to paragraph (c) of this section shall be made available to the public as soon as practicable on the [JURISDICTION'S] website, or on a website furnished by the developer or applicant, unless any information contained in the submittals be withheld from public disclosure pursuant to [INSERT RELEVANT FOIA/PUBLIC RECORDS EXCEPTION FOR PROPRIETARY INFORMATION, IF APPLICABLE], in which case the [JURISIDICIION] may redact only those portions of the submittals covered by the exception.

9) Section 9 - Community Benefit Agreement Requirements for Data Centers

- a) Notwithstanding any provision of law to the contrary, the [JURISDICTION], including [RELEVANT JURISDICTIONAL ENTITY], shall not issue any special permit pursuant to this ordinance or any other approval for the construction or operation of a data center, unless and until:
 - i) The developer enters into a valid qualifying CBA regarding the data center project; or
 - ii) The [JURISDICTION] has waived the requirements of this section pursuant to local law or ordinance.
- b) If a data center for which the [JURISDICTION] has previously issued an approval based on the existence of a valid qualifying CBA is no longer subject to a legally valid qualifying CBA, then:
 - i) Upon written notice and due process to the developer, the [JURISDICTION] may provide the developer with an opportunity to enter into a new qualifying CBA, or suspend or revoke the prior approval for the data center; and
 - ii) The developer assumes the risk that any subsequent process may necessitate changes to or conditions on the construction or operation of the data center.
- c) Notwithstanding any other provision of this section, the [JURISDICTION] may, pursuant to local law or ordinance, elect to waive the requirement for a developer to enter into a qualifying CBA with a community party for a particular data center, provided that, prior to waiving the requirement, the [JURISDICTION] provides

public notice of and opportunity to comment on its intent to waive, and considers all relevant public comments received during the comment period.

- d) *Public Notice* - At least 30 days prior to issuing any approval for a data center project, the [RELEVANT JURISDICTIONAL ENTITY] shall, on the [JURISDICTION'S] website and through issuance of a press release:
 - i) Make publicly available a copy of the relevant qualifying CBA for the data center project, subject to appropriate redactions or exemptions for proprietary or other information pursuant to [STATE'S PUBLIC RECORDS LAW EXEMPTIONS CITATION]; and
 - ii) Provide a summary of the qualifying CBA, including the parties to the agreement, the length of the agreement, key terms of the agreement, and how the qualifying CBA includes each of the required components established pursuant to Section 8 of this ordinance and any rules and regulations promulgated pursuant to this ordinance.
- e) Nothing in this ordinance limits the ability of a developer or community party to negotiate and enter into any agreement, including a CBA, with additional or more stringent conditions than those described in this ordinance or in any rules and regulations promulgated pursuant thereto.

10) **Section 10 - Requirements for Qualifying CBAs**

The [RELEVANT JURISDICTIONAL ENTITY] may establish minimum requirements for qualifying CBAs, which may be made available on the [RELEVANT ENTITY's] website. Such requirements for qualifying CBAs may include measures that exceed the minimum operational requirements for a data center, as established in Section 6 of this ordinance. Nothing in any qualifying CBA shall be read to allow a developer to operate in a manner that violates any requirements of this ordinance. In all cases, in order to be a qualifying CBA, a CBA for a data center shall include, at a minimum, the following components:

- a) Specific and measurable benefits for the host community, with an implementation schedule establishing milestones and reporting requirements for specific actions;
- b) An express statement that the CBA represents an intent to be bound and is enforceable as a contract by identified parties with specified remedies;

- c) Workforce and economic development actions, which may include hiring objectives, workforce training, labor or wage requirements, requirements for local purchasing, and contracting opportunities for local or disadvantaged businesses;
- d) Community investments, including establishment of a local fund or funds which may be used for purposes such as residential energy efficiency projects, residential energy savings, or to enhance local infrastructure of public services, provided that payments made as part of community investments may also include compensation regarding property value, infrastructure damage, improvement to local roads, first-responder training, and other investments;
- e) Environmental and public health mitigation measures, which may include environmental monitoring, measures to limit air and water pollution from the data center, measures to limit any noise or visual impacts on the community from the data center, measures related to surrounding land uses, other measures to limit the impact of the construction or operation of the data center, and the same information regarding environmental and public health mitigation measures for any power source co-located at the data center or built at another location to serve the data center;
- f) Specific and quantifiable clean energy requirements, which may include a timeline for ensuring all electricity supplied to or utilized by the data center for its covered electrical load, as measured on an hourly basis, be derived from clean energy, including whether compliance with such clean energy requirements will be demonstrated through clean energy power purchase agreements, renewable energy credits, or another legal mechanism;
- g) Specific and quantifiable limits on water consumption, which may include limits on water withdrawal expressed in gallons per day, or requirements for closed-loop cooling systems to serve the data center;
- h) Specific and quantifiable limits on noise, which may include a maximum decibel threshold that will be applied at the data center project's property line during all phases of construction and operation of the project, noise study or monitoring requirements, or the establishment of a noise mitigation plan;

- i) A requirement for a decommissioning plan, outlining the developer's provision of financial security to ensure its ability to decommission and specifying the developer's obligations regarding decommissioning of the data center, which may include timelines for equipment removal or requirements regarding site remediation;
- j) Community engagement, which may include processes for ongoing communication with the public, a filing of complaints, providing notice about specific construction or operation actions, dispute resolution, and public education regarding the data center;
- k) Equity and disadvantaged community measures, which may include provisions for ensuring that disadvantaged communities receive benefits from the data center and are not disproportionately impacted by the data center;
- l) Successors in interest clauses, which may require that all terms and conditions of the CBA shall be binding upon any successors in interests or assigns of the parties, or otherwise address how the CBA will be enforceable against successors in interest of the data center developer;
- m) Severability clause, which may provide that each provision of the CBA is severable, and that if any provision of the CBA is determined to be illegal, invalid, or unenforceable, then the remaining provisions of the CBA shall survive and continue to be in full force and effect;
- n) Specification of what entities or categories of persons may bring an action to enforce the agreement;
- o) Designation of which court has jurisdiction to enforce the CBA, and consent to the jurisdiction of that court;
- p) Monitoring and compliance, which may include requirements related to oversight and public reporting of compliance with the provisions of the CBA; and
- q) Any other components required by the [JURISDICTION].

11) Section 11 - Administration of Qualifying CBA Requirements

- a) The [JURISDICTION] may promulgate rules and regulations as appropriate to implement the CBA provisions of this ordinance.
- b) The [RELEVANT JURISDICTIONAL ENTITY] may establish a voluntary process for dispute resolution regarding qualifying CBAs, pursuant to which developers or community parties may raise complaints or issues regarding the performance of a qualifying CBA; provided, however, that such process is not required and is not intended to impact the availability of contractual remedies enforceable through law or equity.
- c) *Default Remedy of Specific Performance* - In any action for breach of a qualifying CBA, specific performance shall be the default remedy.
 - i) To the extent that the parties to a qualifying CBA wish to establish a remedy other than specific performance, the qualifying CBA shall expressly state what constitutes adequate performance of relevant provisions and how damages for breach would be calculated.
- d) *Third Party Beneficiaries* - Any individual or entity that resides, works, or is a community organization in the affected community and stands to benefit from performance of a qualifying CBA shall be deemed an intended third-party beneficiary of such agreement, unless the contracting parties expressly exclude such individual or entity from third-party beneficiary status in the terms of such agreement.

12) Section 12 - Effective Date and Validity

- a) This ordinance shall take effect immediately.
- b) Nothing in this ordinance shall be construed to waive or diminish any requirements regarding the supply of electricity to participating customers of the relevant utility or other relevant electricity supplier.
- c) Nothing in this ordinance limits any rights or remedies available to any person under any other applicable law.

- d) To the extent this ordinance conflicts with any existing local law, ordinance, or other applicable legal requirement, the requirements of each shall be harmonized to the extent possible; to the extent a conflict remains, the provisions of this ordinance shall prevail.
- e) If any portion, clause, section, or provision of this ordinance is determined by a court of competent jurisdiction to be unlawful or unenforceable, the remaining provisions are severable and shall continue to be in full force and effect.