

**ORDINANCE NO. 2026-0302**  
**AN ORDINANCE REGULATING SITING OF**  
**DATA CENTERS**  
**IN WARREN COUNTY, INDIANA**

WHEREAS, Warren County, Indiana is committed to preserving the overall beauty, nature and character of the County, to promoting the economic development, and to protecting the health, safety, and general welfare of the citizens of the County;

WHEREAS, the Warren County Commissioners previously adopted the Zoning Ordinance pertaining to county zoning and land use controls (the "Ordinance"); and

WHEREAS, the County may lawfully regulate and restrict the use of land for trade, industry, residence or other purposes in accordance with a comprehensive plan and in designs to further the health, safety, convenience and welfare of its citizens as set forth in Indiana Code §36-7-4-201; and

WHEREAS, pursuant to Indiana Code § 36-1-3, et. seq. a government unit has all powers necessary and desirable in the conduct of its affairs, though not granted by statute, for the effective operation of government as to its local affairs; and

WHEREAS, the County intends to establish a process for permitting and approving the use of land in the County for data centers that is not inconsistent with federal and state law;

WHEREAS, Data Centers warrant special consideration related to energy and water utilization as well as noise and air pollution;

WHEREAS, the adoption of an ordinance regulating Data Centers is necessary and appropriate to achieve and secure the benefits of these projects and to avoid and/or minimize the risks, dangers, and inconvenience to health, safety and general welfare of the citizens of the County;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Warren County that the following standards are required for the approval and permitting of a Data Center project in Warren County, Indiana.

**I. DEFINITIONS**

A. "Applicant" means the entity or person who submits to the County an application for the siting of any Data Center.

B. "Data Center" means a facility used to house computer systems and associated components, such as telecommunications and storage systems and which may include redundant or backup power supplies, redundant data communications, connections, environmental controls such as air conditioning or fire suppression, and security devices. A Data Center may include Data Center Accessory Uses.

C. "Data Center Accessory Use" means 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; and/or security features, provided that such data center accessory uses/structures are located on the same tract or assemblage of adjacent parcels developed with the Data Center.

D. "Occupied Community Building" means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Data Center is filed with the County: a school, place of worship, day care facility, public library or community center.

E. "Operator" means the entity responsible for the day-to-day operation and maintenance of the Data Center, including any third-party subcontractors.

F. "Owner" means the entity or entities with an equity interest in the Data Center, including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the Data Center (unless the property owner has an equity interest in the Data Center); or (ii) any person holding a security interest in the Data Center solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the Data Center within one year of such event.

G. "Participating Property" means real property that is the subject of a written agreement a Data Center Owner and the owner of the real property that provides the Data Center owner with an easement, option, lease, license or any interest to use the real property for the purpose of constructing a Data Center. Participating property also includes real property that is owned by a Data Center Owner for the purpose of constructing a Data Center.

H. "Warren County Zoning Ordinance" or "Zoning Ordinance" means the Warren County Zoning Ordinance, as amended.

## II. APPLICABILITY

This Ordinance governs the siting of all Data Centers regardless of size.

## III. PROHIBITION

No entity shall construct, install, locate or operate a Data Center without having fully complied with the provisions of this Ordinance.

#### IV. APPLICATION REQUIREMENTS

Prior to the construction of a Data Center, the Applicant shall obtain approval for the following: (1) a Conditional Use Permit, also known as a Special Exception Permit, from the Warren County Board of Zoning Appeals (“BZA”) to permit a Data Center in an Industrial zone, as described below and in §101 of the Warren County Zoning Code (the “Code”), (2) a Request for Variance for any variances anticipated on the Data Center Project, as described below and in § 134.02 of the Code, and (3) an Improvement Location Permit from the Warren County Building Commissioner, as described below and in § 161 of the Code. A Data Center may not be located in any zoning district other than an Industrial zoning district.

##### A. The Application for a Special Exception Permit

1. The application shall be filed with the Building Commissioner’s Office for the BZA and include the following items:

a. A Data Center Project summary, including, to the extent available: (1) a general description of the project; the potential equipment manufacturer(s), type(s) of Data Center (s), number of Data Center (s), the general location of the project; and (2) a description of the Applicant, Owner, and Operator, including their respective business structures;

b. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with Data Centers on their properties, if known;

c. Written consent from the proposed property owners where Data Centers may be located;

d. A survey performed by a licensed surveyor within one (1) year prior to the date of application;

e. Waivers from the setback requirements executed by the Occupied Community Building owners and/or the Non-Participating Property owners;

f. A site plan at an appropriate scale showing the planned location of the Data Center and all related components, Substations, ancillary equipment, operations and maintenance buildings, Participating and Non-Participating Residences, Occupied Community Buildings, parcel boundary lines (including identification of adjoining properties), setbacks lines, public access roads and turnout locations, recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines, and the location of any construction staging area including concrete batch plants;

g. Proof of review and approval from the Wabash River Heritage Corridor Commission;

h. Assurance that no portion of the Data Center will contain or be used to display advertisements;

i. Assurance that the site has sufficient electricity service, pursuant to Subsection V. D.1. below. Known impacts on electric rates should be noted.

j. A Drainage Plan approved by the Drainage Board;

- k. Assurance that the site has sufficient water access, pursuant to Subsection V. D.2. below;
- l. A noise study pursuant to Subsection V.C. below;
- m. A landscape design plan that complies with Subsection V.B.4. below;
- n. A Transportation Plan approved by the Warren County Commissioners and the Warren County Highway Superintendent;
- o. An Emergency Response Plan approved by the Warren County Commissioners and Warren County Emergency Management;
- p. An Economic Development Agreement approved by the Warren County Commissioners; and
- q. A proposed Decommissioning Plan for the Data Center.

2. In determining whether to approve the Application for Conditional Use, the BZA shall determine whether the Application satisfies each of the criteria set forth in § 102 of the Code, and make written findings thereof.

3. The Conditional Use Permit granted by the BZA for a Data Center Project shall be valid for a period of one (1) year, after which the Conditional Use shall terminate and be of no further force or effect if construction in earnest of the approved Data Center has not commenced. The Applicant shall be granted a one (1) year extension to two (2) years from the date of the BZA approval if the Applicant presents its request for an extension to the BZA and provides a report to the BZA which shows the progress made on the Data Center Project. Thereafter, an additional extension shall be at the BZA's discretion.

4. The fee for the Special Exception shall be payable at the time of submission of the Application. The fee shall be \$20,000.00. The Application fee shall be used to defray the costs associated with the Application for a Conditional Use, including professional fees and expenses.

**B. The Application for Variance and Request for Rezoning**

1. Contemporaneously with the Application for a Special Exception, the Applicant shall submit an Application for Variance for any variances sought as part of the Data Center Project. A single Application for Variance may be submitted for all variances sought.

2. Contemporaneously with the Application for a Special Exception, the Applicant shall submit any Requests for Rezoning sought as part of the Data Center Project.

3. In determining whether to approve the Application for Variance, the BZA shall determine whether the Application satisfies each of the five (5) criteria set forth in § 134.024 of the Code, and make written findings thereof.

4. The fee for any variances and rezoning is included in the Application fee.

C. The Application for Improvement Location Permit

1. The Applicant shall apply to the Zoning Administrator for an Improvement Location Permit, as described in § 161.01 of the Code. In addition to the information required on the Improvement Location Permit Application, the Applicant shall provide the following information to the Zoning Administrator prior to the issuance of an Improvement Location Permit:

- a. Location of all underground utility lines associated with the Data Center site.
- b. Dimensional representation of the structural components of the Data Center site, including accessory buildings or structures.
- c. Schematic of electrical systems associated with the Data Center including all existing and proposed electrical connections.
- d. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Warren County Building Commissioner.
- e. Any other item reasonably requested by the BZA.

D. Community Outreach

1. The Applicant must schedule two (2) community meetings at least two (2) weeks apart to describe the project, including site plans and building elevations. Proof of same must be filed contemporaneously with the Application for Special Exception.

2. The meetings must occur after the Application for Special Exception has been filed and not less than thirty (30) days prior to the public hearing associated with the special exception.

3. The meetings must be conducted within the geographic boundaries of Warren County, Indiana between the hours of 5 pm and 8 pm EST.

4. Notice of the community meetings must comply with the following:

a. The content of the notice and signage defined in this paragraph shall include the Applicant's name and contact information, a brief description of the Project, including the parcel number and road frontage, dates, times and locations of the community meetings, and must be approved by the Zoning Director or their designee.

b. Letters to the owners of real property within 1,000 feet of the property lines shall be mailed at least fourteen (14) days prior to the first community meeting.

c. Advertise in a newspaper of general circulation in Warren County, Indiana. The advertisement shall appear at least one (1) week prior to the first community meeting, be prominently displayed, and not placed in the legal section of the newspaper.

d. Post signage on the subject property along road frontage at least fourteen (14) days prior to the first community meeting. The sign must be at least twenty (20) square feet in size and legible at least twenty-five (25) feet from the sign. Signage shall remain until the conclusion of the second community meeting.

5. A representative of the Applicant with decision-making authority on the design of the Data Center must attend each community meeting in person.

## V. DESIGN AND INSTALLATION

### A. Height

The height of any data center may not exceed 60 feet, which shall include roof-mounted equipment such as cooling and ventilation systems, HVAC units or cooling towers. The height may be increased to 80 feet provided that an additional setback of 5 feet is provided for every foot of building height over 60 feet.

### B. Aesthetics and Lighting

#### 1. Building Design.

a. Any building façade visible from public streets or property abutting the data center, must incorporate a differentiation that breaks the mass of the façade every 100 horizontal linear feet by including at least one of the following changes in form and one of the following design elements:

- i. Change in building height, or
- ii. Building step-backs or recesses, or
- iii. Fenestration, or
- iv. Design elements that are either (i) change in building materials or (ii) change in pattern, texture or color

b. The building design must include a main entrance that is differentiated from the rest of the façade.

c. The following materials are not permitted on building facades: aluminum siding, unfinished or untreated wood siding, plywood, vinyl siding, scored stucco, or foam based products.

2. Exterior Lighting of the Data Center shall be limited to that minimally required for safety and operational purposes and shall be shielded and downcast so as to minimize light pollution on adjacent parcels. This provision shall apply both during construction and operation of the Data Center.

3. Fencing

a. Fencing is permitted, provided, however that fencing along public and private roadways is not chain-link, with or without slatted inserts. Preference shall be given to aesthetically pleasing metal fencing or solid walls or parapets.

b. Fencing may not be placed in front of landscaping adjacent to roads. There must be landscaping in front of any fence adjacent to a public road, as described in Section 4 below.

c: Razor/barbed wire is prohibited on all fences.

4. Landscape Buffer

a. A landscape buffer is required between Data Centers/Data Center Accessory Uses and any adjoining roadways or residential real estate.

b. The landscape buffer shall be at least 25 feet in width and shall be a part of the minimum setback distance.

c. Buffer plantings shall consist of native species of plants.

d. Buffer plantings shall be maintained throughout the life of the Data Center. Dead plantings shall be replaced in a timely manner.

C. Noise

1. The Owner/Applicant shall demonstrate through a sound study conducted by a professional acoustical expert, approved by the County, that the sound generated by the Data Center and its Accessory Uses during normal operations shall be limited to a maximum daytime (7:00 a.m. to 8:00 p.m.) decibel level of 67 dB(A) and a maximum nighttime (8:00 p.m. to 7:00 a.m.) decibel level of 57 dB(A) as measured from the property line of such Data Center. Such Sound Study shall be conducted using industry standard measures.

2. Sound studies shall be conducted at the following phases:

a. A preliminary study shall be conducted as part of the Special Exception application.

b. An as-built study shall be conducted six months after operations commence. If it is determined by this study that there is a violation of aforesaid noise limits, it shall be considered a violation of this Ordinance.

3. Use of backup generators that exceed maximum sound levels is permitted during emergency power outages.

D. Utilities

1. Electric

a. If existing capacity and/or supply lines are not adequate at the time of the special exception application, the Applicant/Owner shall provide written

verification of the necessary infrastructure upgrades that will be required to serve the proposed use, including any property acquisitions.

b. Substations are considered accessory uses to Data Centers and shall not be located within 300 feet of an adjacent public road.

c. The Applicant/Owner is encouraged to utilize green alternatives such as solar to offset the burden on the electric grid within the project. Solar fields are considered an accessory use, however any production of solar power for sale to a third party shall be considered a commercial use and shall require a separate Special Exception.

## 2. Water

a. If a Project is to rely on nonpublic sources of water, a water feasibility study will be provided with the Application, and every two (2) years after operations commence, which expert shall be approved by the County, and which studies shall be filed with the Building Commissioner. No Data Center shall be approved without sufficient water and/or a use that poses adverse impact on existing wells in the vicinity. The water feasibility study shall include the following minimum information:

- i. Calculations of the projected water needs
- ii. A geologic map of the area with a radius of at least one mile from the site
- iii. The location of all existing and proposed wells within 1000 feet of the site, with a notation of the capacity of such wells
- iv. The location of all streams within 1000 feet of the site and all known point sources of pollution
- v. Based on underlying geological formations, the long-term safe yield
- vi. Identification of how water will be recycled or released into surrounding water bodies
- vii. A statement of the qualifications and signatures of the person(s) preparing the study.

## E. Parking

Data Centers are to be provided with at least one parking space per 8,000 square feet of floor area designed and intended to be accessible regularly by employees, or one parking space for every one employee, based on the maximum number of employees on site during the largest shift, whichever is lesser.

## F. Compliance with Additional Regulations

Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

## VI. SETBACKS

A. Data Centers shall meet the minimum zoning setbacks for the zoning district in which located.

B. Occupied Community Buildings and Dwellings on Non-Participating Properties must be set back a minimum of five hundred (500) feet from the nearest edge of any component of the Data Center, to the property line.

C. Non-Participating Properties must be set back five hundred (500) feet from the nearest edge of any component of the Data Center, to the nearest point on the property line of the Non-Participating Property.

D. Public Road Rights-of-Way (ROW) must be set back two hundred (200) feet from the nearest edge of any component of the Data Center to the nearest edge of the public road right of way.

E. These setbacks may be waived in writing by property owners adjacent to the Data Center.

## VII. OPERATION

### A. Maintenance / Inspection

1. The Owner or Operator of the Data Center must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests.

2. The owner or operator of any Data Center shall maintain a current general liability policy covering pollution, bodily injury and property damage and naming Warren County as an additional insured with dollar amount limits per occurrence in the aggregate, and a deductible which is suitable to the County Commissioners. Proof of such insurance shall be provided annually to the Warren County Surveyor and Auditor.

### B. Road Use

1. Prior to the commencement of construction, the Applicant shall be requested to provide a Road Use Agreement to the County. Additionally, the County may require a surety bond to cover costs related to potential damage to public roads and rights of way.

2. The Road Use Agreement shall:
- a. Provide for a pre-construction and/or pre-maintenance baseline survey to determine existing road conditions and right of way conditions and assess for potential future damage;

- b. Identify necessary heavy and oversized equipment and materials that may use the roads which may in certain cases be in excess of the design limits of the roads;
- c. Identify any modifications or improvements needed to permit such equipment and materials to use such roads;
- d. Outline exact routes intended for construction or maintenance use;
- e. Detail the maintenance responsibility and method of reimbursement;
- f. Outline expectations of the County when road reconstruction is needed;
- g. Outline the time schedule including any and all provisions during seasonal road postings;
- h. Identify any special issues which may affect the public health, safety and welfare.

3. Any necessary, temporary closures and proposed detours shall be made known to the Highway Department and the County Emergency Management Agency at least twenty-four (24) hours prior to the temporary closure or as otherwise agreed.

C. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the Data Center shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

2. An Electronic Waste Plan shall be developed and produced upon request outlining procedures for safe removal and recycling or disposal of server infrastructure, hazardous materials, batteries, electronic waste, and related products, which will apply in cases when the Data Center is updated or decommissioned.

3. A Water Management Plan detailing how the facility will meet the anticipated cooling needs while minimizing impacts on the local water supply shall be developed and produced upon request. In the event the facility plans to discharge water used within the facility to local watershed, such plan shall also contain (1) a list of landowners prepared by the County Surveyor that own land within the watershed and (2) proof that such landowners were notified of the water discharge from the facility. Any water discharged shall be tested at a frequency to be determined by the Drainage Board and shall be tested by an outside laboratory agreed upon by the Owner/Operator and the County.

D. Public Notifications

If the Data Center operator intends to use backup power generators within the Project, the operator must maintain a public website announcing times when the generators will be in operation. Any routine operation of the backup generators, including for testing purposes, must be announced on the website at least twenty-four hours in advance.

E. Coordination with Emergency Responders

1. The Owner shall submit to the local emergency responders a copy of the site plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), for the Data Center so that local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over each Data Center site may evaluate and coordinate their emergency response plans with the Owner. The Owner/Operator shall coordinate with County Emergency Management to ensure that the Project has adequate fire suppression systems, radio coverage and any other specialized equipment determined by the Owner/Operator and the County.

2. The Owner, at its expense, shall provide annual training for, and the necessary/specialized equipment to, the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the Data Center facility. In the event any specialized equipment or materials are used or expired, Owner shall replace such equipment and materials at its expense. Such equipment and materials shall be donated to local emergency response agencies at no cost to the County or other local government agencies.

3. The Owner and the Operator shall cooperate with all local emergency responders to develop an Emergency Response Plan. The Plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Owner and the Operator and two (2) designated Data Center representatives (a primary and an alternate who are always on call). Any change in the designated representative or his/her contact information shall be promptly communicated to the County. The content of the Emergency Response Plan shall be reviewed and updated on an annual basis.

4. Nothing in this section shall alleviate the need to comply with all other applicable safety, fire and emergency laws and regulations.

VIII. DECOMMISSIONING PLAN

Prior to receiving siting approval under this Ordinance, the County and the Applicant, Owner, and/or Operator must formulate a Decommissioning Plan to ensure that the Data Center Project is properly decommissioned. The Decommissioning Plan shall include:

A. Decommissioning of the Data Center site must occur in the event it is not in use for twelve (12) consecutive months.

B. Assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. Applicant's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements

to as near as practicable to the same condition that existed immediately before construction of such improvements. Prior to issuance of a building permit, the Applicant shall provide a contractor cost estimate for demolition and removal of the facility and will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the County, for the cost of decommissioning each Data Center to be constructed under that building permit, which security shall be released when such Data Center is properly decommissioned as determined by the Warren County Building Commissioner.

1. In the event of abandonment by the owner or operator, the Applicant will provide an affidavit to the Warren County Building Commissioner representing that all easements shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.

2. Every five years after the start of construction, updated proof of acceptable financial assurance must be submitted to the Warren County Commissioners for review.

3. If the owner fails to dismantle and/or remove the Data Center within the established timeframes, the County may complete the decommissioning at the owners' expense.

C. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance.

D. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).

E. If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provisions addressing the resolution of such default(s) shall govern.

## IX. TRANSFER

The Applicant shall provide written notification to the Zoning Director at least thirty (30) days prior to any change in ownership of a Data Center. The phrase "change in ownership" includes any kind of assignment, sale, lease, transfer or other conveyance of ownership or operating control of the Applicant, the Data Center or any portion thereof. The Applicant or successors-in-interest or assignees, as applicable, shall remain liable for compliance with all conditions, restrictions, and obligations contained in the Conditional Use Permit, the provisions of this Ordinance and applicable County, state and federal laws.

X. PENALTY

Any person, persona, firms, partnerships or corporations, whether acting alone or in concert with any other, who violates this Ordinance shall be subject to a fine of \$2,500.00 per day, each day the violation occurs, and the costs of enforcement, until such violation is corrected.

XI. SEVERABILITY

Should any section or provision of this Ordinance be declared to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

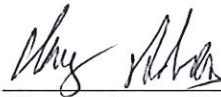
XII. EFFECTIVE DATE

This Ordinance shall be in effect after its final passage, approval and publication as required by law.

Requirements of this ordinance may be waived by the Warren County Board of Zoning Appeals upon application and after public hearings.

SO ORDAINED, this <sup>3rd</sup>~~11~~ day of <sup>March</sup>~~February~~, 2026.

BOARD OF COMMISSIONERS OF  
WARREN COUNTY, INDIANA



Clay Andrews, President



Craig Greenwood



John Comer

ATTEST:



Robin Weston-Hubner, Warren County Auditor