

**City Council Memorandum    Development Services    Memo No. 22-057FA**

**Date:** December 8, 2022  
**To:** Mayor and Council  
**Thru:** Joshua H. Wright, City Manager  
Andy Bass, Deputy City Manager  
Derek D. Horn, Development Services Director  
**From:** Kevin Mayo, Planning Senior Manager  
**Subject:** PLH22-0053 Data Centers  
Final Adoption of Ordinance No. 5033

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**Proposed Motion:**

Move City Council adopt Ordinance No. 5033 approving Zoning Code Amendment PLH22-0053 Data Centers, as recommended by Planning and Zoning Commission.

**Background/Discussion**

At its November 10, 2022, regular meeting, City Council voted to continue this item to the December 5, 2022, regular meeting in response to concerns expressed by an attorney representing a local data center operator. Since that time, City staff and the data center attorney have worked together to adjust the proposed zoning code amendment language. The changes are minor and focus primarily on providing clarity for sign posting requirements and identifying where the required sound study noise measuring equipment shall be located. Staff is in support of the proposed changes.

At the November 4, 2021, City Council work session on sustainable development initiatives, staff requested direction from City Council on regulations relating to data centers, which are often large consumers of public and private utility resources. Discussion occurred regarding the impacts data centers have on the City of Chandler, and staff received direction from City Council to proceed with a Zoning Code amendment regarding data centers. The subject request is a City initiative to amend the Zoning Code by adding a section regulating data centers. Proposed amendments include clarifying permitted uses, regulations for sound attenuation and acoustic testing, and regulations for backup power generation.

Within the City of Chandler Zoning Code, data centers as a primary use are not permitted by right anywhere in Chandler, as they are not defined within 35-200. - Definitions, nor within Article XXI. - TABLE OF PERMITTED USES FOR NONRESIDENTIAL DISTRICTS. The Zoning Code is entirely silent when it comes to data centers, and as such, data centers represent what is termed an 'unlisted use'. This situation has caused confusion for both the data center industry and Chandler residents. Historically, data centers as a primary use have only been permitted through a site-specific Planned Area Development (PAD) custom zoning designation specifically calling out the data center use, along with a corresponding Preliminary Development Plan (PDP) for site design and building architecture.

Over time as data centers have evolved from single-user facilities to larger multi-tenant facilities, coupled with an industry migration from water-cooled to electrically-cooled facilities, there has been an increase in potential impacts to the surrounding community, primarily from unwanted noise. As these data centers have developed closer to the urbanized area of Chandler, including residential areas, the potential for noise compatibility issues has increased. Over time, the City has required increased levels of noise study/mitigation efforts, public outreach, and regulations regarding backup power generators.

## **Discussion:**

### Proposed Code Amendment

The attached proposed Zoning Code Amendment simply sets to codify Chandler's administration and regulations surrounding data centers as a primary use. The following is a summary of the proposed code amendment.

- Establish Section 35-2214, Data Centers
- Clarify Data Centers as a Primary Use only permitted in PAD zoning designations
- Clarify Data Centers as an Ancillary Use, including size limitations, purpose, and location on site
- Establish public notification protocol for pre- and post-construction, including neighborhood meetings and an on-site liaison
- Require pre-construction sound study to establish noise baseline
- Require the incorporation of sound mitigation measures to ensure noise levels from Data Center do not exceed levels observed during baseline study
- Require the Data Center to conduct an annual noise study during peak operation times for 5 years upon Data Center construction completion
- Establish backup generator routine maintenance and testing time limitations, including notification protocol

## **Public Notification**

- This request was noticed in accordance with the requirements of the Chandler Zoning Code
- This request was noticed within the City's social media
- The public hearing schedule was posted on the City's website and advertised in the newspaper
- At the November 10, 2022, City Council meeting an attorney representing a local Data Center operator spoke with concerns regarding aspects of the proposed code amendment. City Council continued the item to the December 5th meeting to allow time for the attorney and staff to discuss possible adjustments to the language. The legal representative and staff have worked together adjusting the language. The changes are minor and focus primarily on providing further clarity of sign posting requirements, as well as more clearly identifying where the required sound study noise measuring equipment shall be located.
- As of the writing of this memo, City staff is unaware of any opposition to this proposed Code Amendment

## **Planning and Zoning Commission Vote Report**

Planning and Zoning Commission meeting October 19, 2022

Motion to Approve

In Favor: 7    Opposed: 0

**Ordinance was introduced and tentatively adopted on December 5, 2022.**

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Attachments



## ORDINANCE NO. 5033

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING ARTICLES II. DEFINITIONS, AND XXII. ADDITIONAL HEIGHT AND AREA REGULATIONS OF CHAPTER 35 OF THE CITY CODE OF THE CITY OF CHANDLER, RELATING TO DATA CENTERS.

WHEREAS, in accordance with A.R.S. 9-462, the legislative body may adopt by ordinance, any change or amendment to the regulations and provisions as set forth in the Chandler Zoning Code; and

WHEREAS, this amendment, including the draft text, has been published as an 1/8-page display ad in a local newspaper with general circulation in the City of Chandler, giving fifteen (15) days' notice of time, date and place of public hearing; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission as required by the Zoning Code, on October 19, 2022.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. Section 35-200, of Article II. Definitions, of Chapter 35 of the City Code of the City of Chandler, is hereby amended by adding the following definition:

*Data Center:* A facility or portion of a facility housing networked computer systems and telecommunications equipment used for remote storage, processing, and distribution of data.

Section 2. Section 35-2214, of Article XXII. ADDITIONAL HEIGHT AND AREA REGULATIONS, of Chapter 35, of the City Code of the City of Chandler, is hereby added to read as follows:

**35-2214. Data Centers.**

- (1) Data Centers are not permitted to operate in the City of Chandler unless explicitly approved as part of a Planned Area Development zoning district. Data Centers that are ancillary to another primary use are permitted if they a) occupy no more than ten percent of the building footprint, b) are used to serve the enterprise functions of the on-site property owner and are not used to lease data storage and processing services to third parties, and c) are not housed in a separate stand-alone structure on the parcel.
- (2) Before a Data Center is constructed within a Planned Area Development zoning district, the property owner proposing to build a Data Center must comply with the following:

- a. The Data Center operator or property owner must notify residents within a half-mile radius of the parcel, including any affiliated homeowners' association operating within the half-mile radius, that the property owner intends to build and operate a Data Center on the property. The notice required in this section must be mailed to all postal addresses and homeowners' association addresses contained within a half-mile radius extending from the property line where the proposed Data Center will be built.
  - b. The Data Center operator must schedule and attend two neighborhood meetings with residents to describe the project and the proposed sound-mitigation aspects of the project design. Notice of the neighborhood meetings must be mailed to all residents and homeowners associations within a half-mile radius of the parcel. A representative of the developer or owner with decision-making authority on the design of the Data Center must attend the neighborhood meetings. The Data Center operator or property owner must also post a sign on the subject property, at least fifteen days before each neighborhood meeting, in accordance with design standards specified in Section 35-2601.1. The sign must be located along an arterial street or other high-visibility location as reasonably determined by the Zoning Administrator. The content of the sign shall (i) be consistent with the City's generally applicable sign guidelines for posting signs for notification of neighborhood meetings, (ii) include the applicant name and contact information, a brief description of the Data Center project, and the date, time, and location of the neighborhood meeting, and (iii) must be reviewed and approved by the Zoning Administrator before installation. The applicant must remove the sign at the conclusion of the citizen review process.
- (3) Upon request by City staff after issuance of a certificate of occupancy and commencement of the operation of the Data Center, the operator of a Data Center must provide an on-site neighborhood liaison between the hours of 8:00 am and 10:00 pm MST each day to respond to complaints about noise emanating from the Data Center.
  - (4) Before the first neighborhood meeting is held, the property owner proposing to build a Data Center must conduct a sound study performed by a third-party acoustic engineer to document baseline sound levels in the area of the proposed Data Center, including noise levels measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator. The property owner must provide a copy of the results of the study to the City before the first neighborhood meeting.
  - (5) The Data Center must be designed and built to incorporate sound mitigation methods sufficient to prevent the sound levels emanating from the Data Center (as determined by a third-party acoustic

engineer) from exceeding the ambient noise levels that were observed in the baseline study. Design specifications for such sound mitigation must be provided to the City before building permit approval.

- (6) Upon issuance of a certificate of occupancy or certificate of completion, whichever occurs first, the Data Center operator must conduct a noise study performed by a third-party acoustical engineer to document noise levels emanating from the Data Center measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator during peak operation of the Data Center mechanical equipment. The Data Center operator must also conduct an additional noise study, as measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator, annually during peak operation of the Data Center mechanical equipment for five years after completion of the initial post-construction noise study. The Data Center operator must provide the results of the noise study to the City within thirty days of the anniversary of the date on which the certificate of occupancy or certificate of completion was issued by the City.
- (7) If the Data Center operator intends to use backup power generators on the parcel, the operator must maintain a public website announcing the 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. The operator shall also notify the City of Chandler Communications and Public Affairs Department at least 24 hours in advance of a test. Unless the generators are supplying backup electrical supply during a power outage, backup generators may operate between the hours of 9:00 am and 5:00 pm, Monday through Friday, excluding holidays. Upon request by City staff, the Data Center operator must provide the address of the website where the notices required by this section are published.

Section 3. Providing for Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance, or any parts hereof, are hereby repealed.

Section 4. Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 5033 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and that a quorum was present thereat.

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

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Published in the Arizona Republic on: