

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY GEORGIA, WITH RESPECT TO REGULATING DATA CENTERS AS AN INDUSTRIAL USE; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia, hereby ordains as follows:

SECTION 1. Section 9-2-1 of the Code of Athens-Clarke County, Georgia, entitled "General," is hereby amended by adding definitions for "data center," "closed-loop system," "open-loop system," "onsite power generation," "renewable energy," and "server room" so that these defined terms now read as follows:

Data Center: A specialized facility that hosts information technology infrastructure for building, managing, running, processing, delivering, or transmitting applications and services, or for storing and managing the data associated with those applications, network or telecommunication services. These facilities may also include supporting infrastructure such as cooling equipment, uninterruptible power supply systems, standby generators, associated fuel storage, etc. These facilities may be stationary or mobile and can vary in size. This definition includes, but is not limited to, enterprise, colocation, hyperscale, and edge data centers. Data Centers may be primary or auxiliary uses. This definition is intended to exclude "Server Rooms" as defined elsewhere in this Code section.

Closed-loop system: A cooling system that constantly reuses and recycles an initial load of water and/or coolant within its operation. A closed loop system does not rely on evaporative cooling. The fluid in the closed loop does not directly mix with the atmosphere or the domestic water supply, preventing contamination and the loss of water. These systems also include any secondary system to bring the water and/or coolant back to its origin, not just the system around the interior machinery. Closed-Loop Systems may consist of methods that include, but are not limited to, air-cooled (dry) cooling, rear-door heat exchanger cooling, hybrid dry economizer cooling, direct-to-chip cooling, or immersion cooling.

Open-loop system: A cooling system that circulates air through the entire facility, using intake vents from external sources while also releasing air out of the facility. Open-Loop Systems can be cooled with or without water, external temperature, air circulation, underground facilities, etc.

Onsite power generation: The production of electricity at the location where it is consumed. This infrastructure may include, but is not limited to, gas or diesel generators, solar panels, combined heat and power (CHP) systems, geothermal energy, etc.

Renewable energy: Power produced from power from natural sources that replenish constantly, like sunlight, wind, water, and underground heat, making them virtually inexhaustible and a cleaner alternative to fossil fuels. These sources are naturally replenished faster than they are used, offer low-to-zero carbon

Adopted the 7th day of April 2024
Christine Howard
Clerk of Commission

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Approved the 8th day of April 2024
Kelly J. [Signature]
Mayor

emissions, and reduce environmental impact. Key types include solar, wind, hydropower, and geothermal sources, and typically require associated energy storage systems, energy management systems, and other facility improvements to ensure sustained and reliable use.

Server room: A designated area within a building, typically on-premises, where an entity or organization houses its information technology equipment for its own use, including servers, networking devices, and storage systems.

All the defined terms described in Section 1 of this ordinance shall be arranged alphabetically in the codified version of Section 9-2-1 of the Code of Athens-Clarke County, Georgia, with the other terms defined therein.

SECTION 2. Section 9-5-2 of the Code of Athens-Clarke County, Georgia, entitled “*Permitted uses,*” is hereby amended by adding “Data Centers” in the use table for the Agricultural Residential (AR) District in a new row under “*Industrial Categories,*” and adding the notation “N” under the column “AR” for the same, so that the pertinent portions of the use table for the Agricultural Residential (AR) District now read as follows:

Zoning Districts	AR
<i>Industrial Categories</i>	
Printing/Publishing	N
Bakeries	N
Bottling Plants	N
Manufacture of Non-Odiferous Foods	P
Feed Lots or Slaughterhouses	S
Food Processing	N
Light Manufacturing	N
Heavy Manufacturing	N
Wholesale Sales	N
Wholesale Nurseries	P
Data Center	N
Distribution Center	N
Outdoor Storage	N
Wholesale Storage	N
Terminal (Materials)	N
Warehouse	N
Self-Service Storage	N
Construction Materials Sales	N
Junk Yards and Auto Wrecking	N
Kennels	S
Veterinary Clinics	S
Transfer Stations	N
Sanitary Landfills, Landfills, Commercial Incinerators	N
Asphalt Plants	N

Mines, mining, surface mining, quarries, gravel pits, sand pits	N
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SECTION 3. Section 9-6-2 of the Code of Athens-Clarke County, Georgia, entitled “Permitted uses,” is hereby amended by adding “Data Center” in the use table for the Institutional (IN) District in a new row under “Industrial Categories,” and adding the notation “L(1)” under the column “IN” for the same, so that the pertinent portions of the use table for the Industrial (IN) District now read as follows:

Zoning Districts	IN
<i>Industrial Categories</i>	
Printing/Publishing	N
Bakeries	N
Bottling Plants	N
Manufacture of Non-Odiferous Foods	N
Feedlots or Slaughterhouses	N
Food Processing	N
Light Manufacturing	N
Heavy Manufacturing	N
Wholesale Sales	N
Wholesale Nurseries	N
Data Center	L(1)
Distribution Center	N
Outdoor Storage	L(1)
Wholesale Storage	N
Self-Service Storage	N
Terminal (Materials)	N
Warehouse	N
Construction Material Sales	N
Junk Yards and Auto Wrecking	N
Kennels	S
Veterinary Clinics	S
Landfills, Commercial Incinerators, Transfer Stations	L(1)
Transfer Stations	L(1)
Sanitary Landfills, Commercial Incinerators	L(1)
Asphalt Plants	N
Mines, mining, surface mining, quarries, gravel pits, sand pits	N

SECTION 4. Section 9-7-2 of the Code of Athens-Clarke County, Georgia, entitled “Permitted uses,” is hereby amended by adding “Data Center” under “Industrial Categories,” and adding the notation “N” under the columns “RS-40,” “RS-25,” “RS-15,” “RS-8,” and “RS-5” for the same, so that the pertinent portions of the use table for the Single-Family Residential (RS) Districts now read as follows:

Zoning Districts	RS-40	RS-25	RS-15	RS-8	RS-5
<i>Industrial Categories</i>					
Printing/Publishing	N	N	N	N	N
Bakeries	N	N	N	N	N
Bottling Plants	N	N	N	N	N
Manufacture of Non-Odiferous Foods	N	N	N	N	N
Feed Lots or Slaughterhouses	N	N	N	N	N
Food Processing	N	N	N	N	N
Light Manufacturing	N	N	N	N	N
Heavy Manufacturing	N	N	N	N	N
Wholesale Sales	N	N	N	N	N
Wholesale Nurseries	N	N	N	N	N
Data Center	N	N	N	N	N
Distribution Center	N	N	N	N	N
Outdoor Storage	N	N	N	N	N
Wholesale Storage	N	N	N	N	N
Self-Service Storage	N	N	N	N	N
Terminal (Materials)	N	N	N	N	N
Warehouse	N	N	N	N	N
Construction Materials Sales	N	N	N	N	N
Junk Yards and Auto Wrecking	N	N	N	N	N
Kennels	N	N	N	N	N
Veterinary Clinics	N	N	N	N	N
Transfer Stations	N	N	N	N	N
Sanitary Landfills, Landfills, Commercial Incinerators	N	N	N	N	N
Asphalt Plants	N	N	N	N	N
Mines, mining, surface mining, quarries, gravel pits, sand pits	N	N	N	N	N

SECTION 5. Section 9-8-2 of the Code of Athens-Clarke County, Georgia, entitled “Permitted uses,” is hereby amended by adding “Data Center” in the use table for the Mixed Density Residential (RM) Districts in a new row under “*Industrial Categories*,” and adding the notation “N” under the columns “RM-1,” “RM-2,” and “RM-3” for the same, so that the pertinent portions of the use table for the Mixed Density Residential (RM) Districts now read as follows:

Zoning Districts	RM-1	RM-2	RM-3
<i>Industrial Categories</i>			
Printing/Publishing	N	N	N
Bakeries	L(5)	L(5)	L(5)
Bottling Plants	N	N	N

Manufacture of Non-Odiferous Foods	N	N	N
Feed Lots or Slaughterhouses	N	N	N
Food Processing	N	N	N
Light Manufacturing	N	N	N
Heavy Manufacturing	N	N	N
Wholesale Sales	N	N	N
Wholesale Nurseries	N	N	N
Data Center	N	N	N
Distribution Center	N	N	N
Outdoor Storage	N	N	N
Wholesale Storage	N	N	N
Self-Service Storage	N	N	N
Terminal (Materials)	N	N	N
Warehouse	N	N	N
Construction Materials Sales	N	N	N
Junk Yards and Auto Wrecking	N	N	N
Kennels	N	N	N
Veterinary Clinics	N	N	N
Transfer Stations	N	N	N
Sanitary Landfills, Landfills, Commercial Incinerators	N	N	N
Asphalt Plants	N	N	N
Mines, mining, surface mining, quarries, gravel pits, sand pits	N	N	N

SECTION 6. Section 9-10-2 of the Code of Athens-Clarke County, Georgia, entitled “Permitted uses,” is hereby amended by adding “Data Center” in the use table for the Commercial (C) Districts in a new row under “Industrial Categories,” and adding the notation “N” under the columns “C-G,” “C-D,” “C-O,” “C-N,” and “C-R” for the same, so that the pertinent portions of the use table for the Commercial (C) Districts now read as follows:

Commercial Zoning Districts	C-G General	C-D Downtown	C-O Office	C-N Neighborhood	C-R Rural
<i>Industrial Categories</i>					
Printing/Publishing	P	P	N	N	N
Bakeries	P	P	N	L(2)	L(2)
Bottling Plants	P	P	N	L(2)	L(2)
Manufacture of Non-Odiferous Foods	N	N	N	N	N
Feed Lots and Slaughterhouses	N	N	N	N	N
Food Processing	L(6)	N	N	N	N

Light Manufacturing	L(6)	L(6)	N	N	L(6)
Heavy Manufacturing	N	N	N	N	N
Wholesale Sales	P	P	N	N	P
Wholesale Nurseries	N	N	N	N	P
Data Center	N	N	N	N	N
Distribution Center	N	N	N	N	P
Outdoor Storage	N	N	N	N	P
Wholesale Storage	N	N	N	N	P
Self-Service Storage	N	N	N	N	P
Terminal (Materials)	N	N	N	N	P
Warehouse	N	N	N	N	P
Construction Materials Sales	P	N	N	N	N
Junk Yards and Auto Wrecking	N	N	N	N	N
Kennels	P	N	N	N	P
Veterinary Clinics	P	N	S	S	P
Transfer Stations	N	N	N	N	N
Science Research and Development	L(3)	L(4)	L(3)	L(4)	P
Sanitary Landfills, Landfills, Commercial Incinerators	N	N	N	N	N
Asphalt Plants	N	N	N	N	N
Mines, mining, surface mining, quarries, gravel pits, sand pits	N	N	N	N	N

SECTION 7. Section 9-11-2 of the Code of Athens-Clarke County, Georgia, entitled “Permitted uses,” is hereby amended by adding “Data Center” in the use table for the Employment-Office (E-O), Employment-Industrial (E-I), and Industrial (I) Districts in a new row under “Industrial Categories,” and adding the notation “N” under the columns “E-O,” and “E-I” for the same, and adding the notation “S” under the column “I” for the same, so that the pertinent portions of the use table for the Employment-Office (E-O), Employment-Industrial (E-I), and Industrial (I) Districts now read as follows:

Zoning Categories	E-O Employment Office	E-I Employment Industrial	I Industrial
<i>Industrial Categories</i>			
Printing/Publishing	L(2)	L(2)	P
Bakeries	L(2)	L(2)	P
Bottling Plants	P	P	P

Manufacture of Non-Odiferous Foods	N	L(2)	P
Food Processing	N	L(2)	P
Light Manufacturing	N	P	P
Heavy Manufacturing	N	N	P
Wholesale Sales	P	P	P
Wholesale Nurseries	P	P	P
Distribution Center	S	L(2)	P
Data Center	N	N	S
Outdoor Storage	N	L(2)	P
Wholesale Storage	N	L(2)	P
Self-Service Storage	S	P	P
Terminal (Materials)	N	L(2)	P
Warehouse	N	L(2)	P
Construction Materials Sales	N	P	P
Kennels	S	S	P
Veterinary Clinics	P	P	P
Feed Lots or Slaughterhouses	N	N	S
Junk Yards and Auto Wrecking	N	N	S
Transfer Stations	N	N	P

SECTION 8. Section 9-11-5 of the Code of Athens-Clarke County, Georgia, entitled “*E-I (Employment-Industrial) and I (Industrial) performance standards for industrial category uses,*” is hereby amended by deleting sub-section (A) thereof in its entirety and replacing it so that said sub-section (A) of Section 9-11-5 now reads as follows:

A. *Industrial uses.* Performance standards for uses in the E-I (Employment-Industrial) and the I (Industrial) zones are designed to accomplish the intent of these districts. That intent protects both the community and proposed uses from abuse and negative impacts, while encouraging appropriate development to occur. To that end, industrial uses in the E-I (Employment-Industrial) and the I (Industrial) zones are determined to be permitted through several thresholds. Three threshold levels exist that will be reviewed either as a site review or special use permit. Level I uses are those that do not exceed specified criteria and do not require governmental funded infrastructure improvements; these are reviewed as site reviews. Level II uses are those that have exceeded the minimum thresholds for Level I or require local governmental funding of infrastructure improvements; this is a site review decision. Level III uses are those that are specifically listed within this section or uses that exceed Level II requirements, and will be reviewed through the special use permit procedure in chapter 9-20. Uses which exceed any of the thresholds listed elsewhere in this code section related to Level I, Level II, and Level III are not automatically

prohibited, but instead require additional review by the Planning Director or his or her designee in consultation with the appropriate Director or their respective designee of the pertinent departments or offices of the Unified Government of Athens-Clarke County, according to level.

1. *Level I.* All uses are permitted, provided that they do not exceed the following criteria, do not require governmental funded infrastructure improvements and are not defined in Level III. If any of the following thresholds are exceeded, the use shall be reviewed as a Level II use.

a. *Water.* (Excluding measurements for fire protection flow rates):

- (1) Peak demand total of 200 GPM (gallons per minute); or
- (2) 250,000 GPD (gallons per day); or
- (3) 250,000 Gallon holding tank

b. *Wastewater.*

- (1) Site specific allocations;
- (2) Per requirements of the Unified Government of Athens-Clarke County Sewer Use Ordinance; or
- (3) Demand exceeding 100,000 GPD (gallons per day).

c. *Vibration (ground or air transmitted):*

(1) Adjacent to nonresidential properties:

Frequency

Peak Particle Velocity

>40 hz

3/4" per sec.*

>40 hz

2" per sec.*

*Measured at the property line

(2) Adjacent to residential properties: Peak particle velocity 0.25" per second or 115 dbL (decibel peak linear), measured outside at ground level at closest residential structure. It is the intent of this section to regulate ground or air vibration in such a manner as to prohibit structural damage to adjacent uses.

d. *Hazardous materials use and storage.* The applicant must demonstrate compliance with all applicable requirements of current local and state fire regulations.

e. *Traffic.* The applicant must demonstrate compliance with the following using traffic generation rates based on the Institute of Traffic Engineers Trip Generation Manual (current edition).

(1) Site allocation, as denoted on the traffic volume inventory located in the Athens-Clarke County Planning Department. All allocations are based on roadway capacity at level of service "D" for the road or street; or, lacking any site-specific information, the following standards will be used:

- i. 100 peak hour trip ends; or
- ii. Truck traffic comprising fifty percent or more of the site generated average weekday trip ends.

f. *Solid waste generation.* Site specific criteria or 2,000 pounds per day of solid waste transported to landfill(s) under management of Athens-Clarke County.

g. *Odor.* No use shall be operated so as to produce the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point along the lot line of the property on which the use is located. It is the intent of this section to regulate odor in a manner to prohibit it from exceeding levels that would become a nuisance or hazard to adjacent property.

h. *Noise.* Noise levels shall comply with the following:

Noise Levels (db) Measured at Property Line

	Adjacent to Residential or Agricultural Property Line	Adjacent to Nonresidential Property Line
7:00 a.m.—10:00 p.m.	70	80
10:00 p.m.—7:00 a.m.	55	80

Noise levels are measured as constant, consistent sounds and not intermittent noise. All measurements shall be taken at property lines. It is the intent of this section to regulate noise in a manner to prohibit it from exceeding levels of sound that could become a nuisance or hazard to adjacent property.

i. *Glare.* Glare or light from any operation and all lighting for parking areas or for the external illumination of buildings or grounds shall be directed

or located in a manner such that direct or indirect illumination from the source of light shall not exceed one-half foot-candle measured at any residential lot line. Outside lights for nonresidential properties/uses must be made up of a light source and reflector so that the combined light beam is controlled and not directed across an adjacent property. It is the intent of this section to prevent light from spilling over to adjacent properties in amounts that can create negative impacts. All requirements or standards contained within Chapter 9-19 of this Code shall also apply.

j. *Stormwater*. Stormwater shall be Regulated by Chapter 5-4 of this Code and any associated policies of the Athens-Clarke County Transportation and Public Works Department.

k. *Phasing*. Each applicant, as part of an application, must demonstrate the impacts of each phase of the project relating to the thresholds listed as a. through j. above.

2. *Level II*. Level II uses are all uses, except those outlined in Level III, that exceed one of the locally specified thresholds listed as a. through j. for Level I above or that require local government-funded infrastructure improvements. The decision as to whether it is an allowable use will be based on one of the following:

a. Review by staff to determine if proposed use is within capacity ranges and does not necessitate additional local governmental expenditure or use reserve capacity; or

b. Reviewed by staff and does exceed capacities or use reserves and is forwarded to local government officials for decision and an agreed upon financing plan between the government and the potential industry.

c. All Level II uses shall provide a Pre- and Post- Construction Report that provides anticipated performance data for each of the criteria listed in Section 9-11-5.A.1. regarding Level I uses. This report must be prepared by a licensed professional engineer.

(1) Pre-Construction Report – Must show the existing conditions of the site at the time of Site Plan review.

(2) Post-Construction Report – Must show the existing site conditions and actual Level I threshold data measurements at the time that operations commence, submitted within 12 months following issuance of the initial Certificate of Occupancy.

3. *Level III*.

a. *Uses*. Uses in Level III will be those uses not covered by Levels I or II

plus those principle uses listed below. These uses shall only be permitted by review through the special use procedure in chapter 9-20:

- (1) Airports and landing fields;
- (2) Data Center;
- (3) Reserved;
- (4) Explosives, including fireworks or munitions manufacture or storage in bulk quantities;
- (5) Garbage, offal, dead animal reduction or dumping;
- (6) Reserved;
- (7) Reserved;
- (8) Reserved;
- (9) Stock yards, commercial;
- (10) Conversion of energy by nuclear fusion or fission;
- (11) Reserved.

- b. *Level III Submittal requirements.* The following information is required for any Level III use that is a new application or that is submitting an application in accordance with Sec 9-25-2 of this Code. The Planning Director is authorized to develop and issue standard forms and instructions for the purposes of this code section.

Annual Reporting of Performance Measurement Data:

- (1) After a Certificate of Occupancy is issued, an annual report shall be submitted to the Planning Department on or before the 2nd Monday of January of each calendar year. The annual report shall account for all actual Level I threshold performance measurement data for each of the criteria listed in Section 9-11-5.A.1. associated with the operation of the project for which the Certificate of Occupancy was issued.
- (2) If, based upon the annual report required in this code section for Level III uses, there is a demonstrated failure to comply with the approved requirements of the ordinance granting the special use, the Owner of the project (or the owner's authorized designee) must submit to the Planning Department a verified report sealed by a licensed professional engineer stating what actions the owner must take to comply with the approved requirements of the ordinance granting the special use. This verified report must be submitted within six (6) months of the submission of the annual report. Within six (6) months after the submission of the verified report, plans must be submitted for the Plans Review process addressing the demonstrated failure(s) to comply with the approved requirements of the ordinance granting the special use. For good cause shown,

the owner of the project (or the owner's authorized designee) may request an extension of the deadline for submitting the verified report or the plans required herein. The Planning Director, upon a finding of good cause shown, may extend the deadline for submission for up to 60 calendar days.

- (3) Upon the issuance of a certificate of completion for any permitted work associated with the approved plans submitted as required under b.2. above, the next required annual report after the certificate of completion will be reviewed to ensure compliance with the approved requirements of the ordinance granting the special use. If the annual report demonstrates the same categorical failure, then there shall be renewed review of the special use permit through the special use procedure in chapter 9-20.

SECTION 9. Section 9-11-6 of the Code of Athens-Clarke County, Georgia, entitled "*E-I (Employment-Industrial) and I (Industrial) design standards,*" is hereby amended by deleting sub-section (D) thereof in its entirety and replacing such sub-section and by adding new sub-sections (F), (G), (H), and (I), so that sub-sections (D), (F), (G), (H), and (I) of Section 9-11-6 now read as follows:

D. Front yard landscaping. A minimum of 25 percent of the designated front yard setback shall be landscaped with a combination of trees, shrubs, and ground cover. The remainder of the front yard setback areas not paved with driveways or sidewalk shall be vegetated, which may be grass or other ground cover.

* * *

F. When within 400 feet of a property line associated with a residential or agricultural zoned property, mechanical equipment located on the property, whether on a roof top, on the ground level, or elsewhere on the subject property, must be screened on all four sides by an acoustical barrier. For purposes of this section, acoustical barrier is defined as an exterior solid or louvered wall containing sound-proofing materials designed to absorb noise.

G. When within 400 feet of a property line associated with a residential or agricultural zoned property, applicants are required to have a buffer wall per the requirements of Section 9-15-3 of this Code and the required buffering must also have an earthen berm that has a minimum height of 6 feet and a grade lower than 2:1. Use of natural topography and preservation of existing vegetation, supplemented by new vegetation, if needed, may be substituted if determined by the Planning Director.

H. Generator testing is limited to 9:00 a.m. – 5:00 p.m. Except for generator testing or commissioning activities, generator use is limited to backup/emergency use only.

I. *Data Centers*. Data Centers shall use a true closed-loop cooling system.

SECTION 10. Section 9-30-2 of the Code of Athens-Clarke County, Georgia, entitled "*Spaces required*," is hereby amended by deleting the phrase "except warehousing," in sub-section (C), paragraph (1) thereof and by adding a new sub-section (C), paragraph (4) thereto so that said paragraphs (1) and (4) of sub-section (C) of Section 9-30-2 now read as follows:

1. Industrial uses. One space for each 700 square feet of gross floor area, plus one space per company vehicle.

* * *

2. Data centers. One space per employee during largest shift, plus one space per company vehicle.

SECTION 11. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 12. The provisions of this ordinance are severable, and should any part of this ordinance be deemed by the final decision of a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of the ordinance as a whole, or any part thereof other than the part declared to be invalid.

SECTION 13. The Clerk of Commission is authorized, in consultation with the Athens-Clarke County Attorney, to correct any scrivener's errors that may be found herein after the adoption and approval hereof.

SECTION 14. This ordinance shall become effective once approved by the Mayor or as otherwise set forth in Section 2-204 of the Charter of the Unified Government of Athens-Clarke County, Georgia.