
ARTICLE XI. DATA CENTER FACILITIES

Sec. 18-501. Findings, purpose and intent.

The City of Conroe is open to data center development that is compatible with our community and infrastructure. Data centers are welcome to locate in Conroe, provided they demonstrate adequate and sustainable water, sewer, streets, drainage, signal and electrical capacity, back-up power, comply with enforceable noise standards, and fully mitigate the impacts of their development. Growth should occur in a manner that protects existing residents and businesses, ensuring that the costs of new infrastructure or operational impacts are borne by the owner and not by the citizens of Conroe.

Sec. 18-502. Definitions.

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them by this section, except where the context clearly indicates a different meaning:

Child-care facility means a facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers

City dispatcher means any representative situated at the city police station.

Construction means causing or carrying out any building, bulkhead, filling, clearing, excavation or substantial improvement to land or to the size of any structure.

Curbline means the line established by the city for any particular street.

Data Center means a facility of one or more buildings:

- (1) designed, constructed, or operated primarily for the housing, processing, storage, management, transmission, or distribution of electronic data through computer systems, servers, networking equipment, telecommunications equipment, and associated information technology infrastructure; and
- (2) having an aggregate designed critical information technology (IT) electrical load or capacity of seventy-five (75) megawatts (MW) or greater, as certified by the Engineer of Record responsible for the electrical design.

The term includes all accessory structures, equipment, and systems necessary for the operation of the facility, including but not limited to backup and emergency power generation, electrical substations and switchgear, energy storage systems, cooling and water infrastructure, fuel storage, mechanical equipment, security systems, and telecommunications infrastructure.

Daytime means the period from 7:00 a.m. to 7:00 p.m.

Director means the person performing the duties of city engineer for the City of Conroe or a person appointed by the city administrator or city council unless otherwise specified herein.

ERCOT means the Electric Reliability Council of Texas.

Excavation means any movement or alteration of the surface of the ground by machinery in conjunction with or anticipation of construction of a data center including, but not limited to, scraping or grading a site.

Floodplain means any land area susceptible to a general and temporary condition of partial or complete inundation of normally dry land areas in a base flood from overflow of inland waters or from the unusual and

rapid accumulation or runoff of surface waters from any source, as designated by the city, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, or other regulatory authority.

Habitable structures means structures suitable for human habitation or occupation including, but not limited to, single-family or multi-family residences, hotels, condominium buildings, public buildings, buildings for commercial or industrial purposes and enclosed spaces in which individuals congregate for education, worship, amusement, or similar purposes, or in which occupants are engaged in labor, which is equipped with means of egress, light and ventilation facilities. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartments, is considered a single habitable structure. A habitable structure shall not include accessory buildings, garages and sheds. Any structure for which a certificate of occupancy is required shall be deemed to be a habitable structure.

Historical site means an historic structure, as defined by V.T.C.A., Government Code § 442.001, as effective from September 1, 2013, or a structure or property that is designated as historic by a political subdivision of the state, the state, or the federal government.

Nighttime means that period not included in the definition of "daytime," above.

Operator means any person owning, operating or responsible for operating a data center.

Person means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, other noncorporeal legal entity, the U.S. Government, a state, a municipality, commission, political subdivision or any international or interstate body or any other governmental entity.

Public park means any land area dedicated to and/or maintained by tire city for traditional park-like recreational purposes, but shall not include privately-owned amusement parks or privately-owned or privately-managed golf courses.

Religious institution means any building in which people regularly assemble for religious worship and participate in activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Residence means a building used or intended to be used as a place of general abode or dwelling place.

Residential subdivision means any platted subdivision of land of single-family or garden home residential use.

Right-of-way is expressly limited to all public rights-of-way or streets or other public property within the city.

School means any public and private, primary and secondary educational facilities providing education up through and including the 12th grade level, college or any institution of higher education, and any licensed day care centers, meaning a facility licensed by the State of Texas or by the City of Conroe that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day.

Street means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

Structure means, without limitation, any building, or combination of related components constructed in an ordered scheme that constitutes a work or improvement constructed on or affixed to land, including but not limited to, habitable structures, partially enclosed structures and enclosed tanks.

- (b) All technical or industry words or phrases used in this article and not specifically defined in this section shall have that meaning customarily attributable thereto by prudent operators in the industry.
- (c) Distances required by any provision in this article shall be measured from property line to property line unless otherwise specified herein.

Sec. 18-503. Proximity and setbacks.

- (a) No data center property shall be permitted within 300 feet of a property that is the site of a residence, commercial property, child-care facility, religious institution, public building, hospital building, school, cemetery, historical site, public park or other habitable structure.
- (b) No data center property may be located within 200 feet of a railroad right-of-way.
- (c) No data center property may be located within 200 feet of an interstate or its feeder road, state highway, evacuation route, or major thoroughfare.
- (d) No residential, commercial or industrial structure shall be permitted to be built nearer than 500 feet from any existing data center, or related facility, other than structures necessary to operate the data center or facility.
- (e) All equipment or buildings associated with the operation of the data center shall not be located within 200 feet of an adjacent property line or public right-of-way.

Sec. 18-504. General requirements for data centers.

- (a) The requirements of this article are in addition to and is not in lieu of any requirement or regulation by any other provision contained within the City's Code of Ordinances or by any other governmental agency. Where there is conflict between the code adopted in this article and any city, state, or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.
- (b) Unless otherwise specified herein, data centers shall comply with all requirements applicable to Industrial developments in the following chapters of the City's Code of Ordinances:
 - (1) Chapter 14, "Building and Building Regulations".
 - (2) Chapter 26, "Environmental".
 - (3) Chapter 58, "Streets and Sidewalks".
 - (4) Chapter 70, "Utilities".
 - (5) Chapter 78, "Floods".
 - (6) Chapter 86, "Off-Street Parking and Loading".
 - (7) Chapter 90, "Signs".
 - (8) Chapter 94, "Subdivisions".
 - (9) Chapter 102, "Vegetation".
- (c) Permit required. Data centers shall require a permit approved by the city council and shall be subject to the following requirements:
 - (1) All development permits, site permits, MS4, and building permits and inspections shall be required for the data center and the site.
 - (2) The data center shall be situated on a platted lot approved by the city and recorded in the county records and shall be held to all platting requirements.
- (d) Facility Study Required. Prior to the approval of any application for a Data Center, the owner or operator shall, at its sole cost and expense, prepare and submit a Facility Study demonstrating the infrastructure necessary for operation of the data center. Any required upsizing or extension of water, wastewater, street, traffic signal, storm drainage, or other public infrastructure necessary to serve the proposed development shall be designed, constructed, and funded solely at the Owner's expense. Such improvements shall be subject to the City's approval through an executed Improvement Agreement and shall comply with all applicable City ordinances, engineering standards, and specifications.

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- (e) Water source. Water capacity is required for permit approval. A data center shall utilize a closed-loop cooling system or similar cooling technology that eliminates the need for the data center to continuously draw water from a public water supply source. A water and sewer capacity availability request shall be submitted with the permit application and shall include the total water use to start the system, the average water use once the system is charged, and the amount and typical waste generated, if any, that will be sent to a wastewater treatment plant.
- (f) Water Capacity Analysis Required. Prior to the approval of any application for a Data Center, the owner or operator shall, at its sole cost and expense, prepare and submit a comprehensive Water Capacity Analysis prepared by a Professional Engineer licensed in the State of Texas and acceptable to the City. The analysis shall evaluate the proposed facility's anticipated water demand and its impact on the City's existing and planned water system.
- (g) Electricity. Electricity capacity is required for a data center permit approval. An electricity capacity availability letter shall be submitted with the data center permit application. Data centers shall be designed with redundant electrical service and on-site emergency generation sufficient to maintain continuous operation for minimum 72- hours of critical systems during utility interruptions. The City shall require submission of a licensed professional engineer's certification demonstrating that the backup power system is appropriately sized for the proposed facility.
- (h) Noise standards and mitigation.
- (1) Noise standards. Noise generated by the operation of a data center shall not exceed 5 dBA above the ambient sound level, as measured at any point along the property line of the subject property. Prior to issuance of a building permit, the applicant shall submit a Noise Mitigation Plan prepared by a qualified acoustical engineer demonstrating compliance with this standard. The plan shall establish operational monitoring procedures and require implementation of corrective mitigation measures whenever operational noise reaches 3.5 dBA above the ambient sound level, ensuring that the maximum allowable noise level of 5 dBA above ambient is not exceeded.
 - (2) Mitigation. Sites or buildings associated with the operation of the data center shall:
 - a. be designed employing best available technologies, including acoustic enclosures, barrier walls, lined air intakes, low-noise fans, vibration isolation, and optimized equipment layout with elements that specifically manage the sound attenuation, emissions, vibrations, or any other collateral factors that may be of concern for the health, safety, or enjoyment of surrounding properties;
 - b. sequence cooling plant operations to minimize nighttime noise;
 - c. locate generators the maximum practical distance from any residence, child-care facility, religious institution, hospital building, school or other habitable structure and shall be equipped with hospital-grade or better silencers and enclosure; and
 - d. otherwise comply with Chapter 26, Article IV, of this Code, as amended.
 - (3) Ongoing Compliance. The owner and operator shall continuously maintain compliance with the noise standards established in this section. The cost of all monitoring, testing, reporting, and corrective measures shall be borne solely by the owner/operator. Failure to maintain compliance with this section shall constitute a violation of this article and may result in enforcement actions, including suspension or revocation of applicable permits, issuance of citations, or any other remedies authorized by law.
- (i) Screening. All equipment or buildings associated with the operation of the data center shall be screened from public view by landscaping, berm, structure or wall constructed of metal, masonry or other structurally sound material as approved by the city's chief building official in agreement with the city engineer, and shall be approved in writing by each official, such that it significantly screens the equipment or buildings.
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- (j) **Preservation.** The owner shall comply with all applicable requirements in Chapter 102, Article I, Division 2, of the Code of Ordinances
 - (k) **Landscaping.** The data center site shall be landscaped in a manner that is compatible with the environment, and existing surrounding area, considering the project and shall be approved in writing by the city engineer. The data center site shall have landscaping maintained in a healthy, growing condition at all times and in compliance with all applicable ordinances, deed restrictions and regulations.
 - (l) **Security.** On-site security is required 24 hours a day, seven (7) days a week, with at least one (1) trained security personnel on site at all times.
 - (m) **Decommissioning and restoration.** All data center technology equipment, generators, fuel tanks, hazardous materials, aboveground piping, switchgear not required by the utility, and ancillary structures shall be removed within 120 days unless the city approves retention. The property owner shall abate and remediate contamination, remove impervious surface areas not needed for future uses, regrade, and revegetate decommissioned data center property. Within 30 days of decommissioning completion, the operator shall submit a professional engineer's certification of completion and a final report to the city.
 - (n) **Responsibility for release, discharge, fire, hazardous condition, utility disruption, environmental impact, or emergency response.** The owner and operator of a Data Center shall be financially responsible for all costs incurred by the City as a result of any release or discharge into the sanitary sewer system, fire, hazardous condition, utility disruption, environmental impact, or emergency response arising from the construction, operation, maintenance, malfunction, or decommissioning of the facility. The owner or operator shall reimburse the City for all reasonable costs associated with emergency response, fire suppression, hazardous materials mitigation, environmental remediation, utility system repairs, inspections, monitoring, restoration of public infrastructure, refurbishment or replacement of City equipment, and any other expenses necessary to restore public services and public property to their condition existing prior to the incident. These obligations shall apply regardless of whether the incident was accidental or unintentional.
 - (o) **Annual compliance registration.** A registration form shall be submitted to the city annually to verify compliance with this Article.

Sec. 18-505. Cooling system requirements.

- (a) **Cooling System Water Allowances.** Use of potable water from the City's public water supply for cooling system purposes shall be limited to the following categories:
 - (1) ***Initial Fill.*** Initial cooling system fill shall not exceed 8.0 gallons per square foot of Gross Building Area (as defined in the approved building permit) for each data center building. Initial fill shall occur within 12 months of the building receiving a Certificate of Occupancy.
 - (2) ***Scheduled Maintenance Refill.*** A full cooling system drain and refill, not to exceed the initial fill volume, may occur for each data center building at intervals no more frequent than once every three (3) years. The operator shall provide the director with 30 days' written notice prior to a scheduled maintenance refill. To minimize impacts on the City's water system during periods of peak demand, any scheduled drain and refill shall occur only during the City's off-peak water demand season, between October 1 and May 31, unless the Director of Public Works authorizes an alternative schedule due to an emergency or other demonstrated necessity. Draining shall comply with all TCEQ requirements, City ordinances, and other applicable laws or regulations.
 - (3) ***Annual Makeup Water.*** Routine cooling system makeup water (to replace minor losses from valve packing, gasket webpage, and maintenance drain-downs) shall not exceed six percent (6%) of the total installed cooling loop volume per data center building per calendar year.
 - (4) Cooling water usage shall be metered separately from other water usage at data center facilities.
 - (b) **Additional Exempt Water Uses.** The following water uses are not subject to the limits described in subsection (b):
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- (1) Fire suppression system fill, testing, and maintenance per NFPA 13, NFPA 75, NFPA 76 and all applicable data center fire code requirements.
 - (2) Construction-phase temporary water service for dust control, concrete curing, and hydrostatic testing.
 - (3) Site landscaping limited to drought-tolerant (Xeriscape) plantings consistent with the City's Water Conservation Plan.
- (c) Exceedance Protocol. If a data center operator anticipates that cooling water usage will exceed the allowances in subsection (b) due to equipment failure, emergency repair, or other operational necessity: Docusign Envelope ID:
- (1) *Notification*. The operator shall notify the Director of Public Works in writing immediately, but not later than 24 hours of identifying the anticipated exceedance, stating the cause, estimated additional volume, and expected duration.
 - (2) *Approval*. The City Administrator (or designee) shall approve or deny the request within five (5) business days. Approval shall not be unreasonably withheld when the exceedance results from equipment failure, manufacturer-recommended maintenance, or system safety requirements documented by the operator.
 - (3) *Emergency Exception*. In the event of an equipment failure or coolant leak posing an imminent risk to facility equipment or personnel safety, the operator is authorized to draw water as needed to stabilize the facility without prior approval, provided that written notice and documentation are submitted to the Director of Public Works no later than 24 hours of identifying the need for the emergency exceedance.
 - (4) All approved and emergency exceedances shall be reported in writing to the City Council within five (5) business days following the City Administrator's approval of the exceedance, or within (5) business days following the emergency exception report to the Director of Public Works.

Sec. 18-506. Data center discharges.

- (a) For purposes of this section, a discharge event means any intentional release of treated cooling fluid to the sanitary sewer system. A planned discharge event means an intentional release associated with scheduled maintenance, loop replacement, or repair activity.
 - (b) An emergency discharge event means an unplanned release caused by equipment failure, system rupture, or a safety-related incident.
 - (c) Sampling and laboratory verification of treated discharge must be completed prior to each discharge event. Records of discharge volumes, analytical results, and discharge dates must be maintained for at least three years and provided to the Director of Public Works upon request.
 - (d) Planned discharge events require written notification to the Director of Public Works at least 72 hours prior to discharge.
 - (e) Emergency discharge events must be reported to the Director of Public Works within 4 hours of occurrence, and a written incident report must be submitted within 7 days detailing the discharge volume, analytical results, and corrective actions taken.
 - (f) The Director of Public Works retains authority to establish discharge flow limits and additional operational requirements necessary to protect the City's sanitary sewer infrastructure and ensure compliance with applicable industrial pretreatment standards.
 - (g) In addition to the above, must comply with all industrial discharge requirements within Chapter 70 "Utilities", Article IV "Discharge of Industrial Wastes" of the City's Code of Ordinances, as amended.
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- (h) The City has the right to refuse discharge based on the health, safety, and well-being of the Citizens. The City also has the right to request a Pre-Treatment Plan based on available discharge information which will be evaluated during the Pre-Development meeting and the permit application process.

Sec. 18-507. Stormwater pollution prevention plan.

A stormwater pollution prevention plan (SWPPP) shall be required complying with all federal, state and local stormwater quality regulations, including any notice of intent (NOI) and notice of termination (NOT) requirements. A copy of the NOI shall be submitted to the city's Engineering office seven business days prior to the commencement of any on-site activity.

Sec. 18-508. Hazardous materials management plan.

- (a) The hazardous materials management plan shall be filed with the city's fire marshal. The hazardous materials plan shall be kept current with any additions, modifications and amendments concerning all construction related activities and data center operations. The plan shall include HAZMAT and fire department response times and updated hazardous materials plans shall be submitted to the fire marshal within two business days of any additions, modifications, and/or amendments.
- (b) All current material safety data sheets (MSDS) detailing each of the hazardous and nonhazardous materials that will be located, stored, transported and/or used at the data center site.

Sec. 18-509. Emergency response plan.

- (a) An emergency response plan shall be required and shall use industry best practices and any existing guidelines established by state and federal agencies. The emergency response plan shall be kept current with any additions, modifications and amendments concerning all construction related activities and data center operations. Updated plans shall be submitted to the fire marshal and the Director of Public Works within two business days after any additions, modifications and amendments are made. A copy of the emergency response plan shall be kept on-site. The emergency response plan shall, at a minimum, provide for all of the following:
 - (1) Prompt and effective response to emergencies regarding:
 - a. Leaks or releases that can impact public health, safety and welfare;
 - b. Fire, explosions, loss of operational control of the data center; and
 - c. Natural disasters.
 - (2) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency, including a detailed plan that should address contacting city officials responsible for implementing city policy regarding notification and evacuation of residents, where necessary.
 - (3) The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency.
 - (4) Measures to be taken to reduce public exposure to injury and the probability of accidental death or dismemberment.
 - (5) Fire department and HAZMAT response times.
 - (6) An emergency shutdown of the data center site.
 - (7) The safe restoration of service and operations following an emergency or incident.

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- (8) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
 - (b) An annual certification and update of the emergency response plan shall be performed by the operator and submitted to the City's Director of Public Works and fire marshal.

Sec. 18-510. Grid plan.

A detailed grid plan shall be required and shall, at a minimum, provide for all of the following:

- (1) A grid coordination plan addressing coordination with the local transmission and distribution utility and regional grid operator, including interconnection status, load profile, ramp rates, redundancy configuration, and curtailment capabilities.
- (2) An ERCOT grid study demonstrating the regional power grid can handle the draw and operation once constructed

Sec. 18-511. Lighting plan.

A site lighting plan shall be required and designed to promote the safety of nighttime operations while not unreasonably illuminating neighboring property. The plan should include a photometric plan, indicating the type and color of light(s) to be used at the data center site.

Sec. 18-512. Periodic reports.

- (a) The operator shall notify the Director of Public Works and the Fire Marshall's Office of any change to the following information within one business day after the change occurs:
 - (1) The name, address or phone number of the operator;
 - (2) The name, address or 24-hour phone number of the person(s) with supervisory authority over operations activities;
 - (3) The name, address or phone number of the person designated to receive notices from the city, which person must be a resident of Texas that can be served in person or by registered or certified mail; or
 - (4) The operator's emergency response plan.
- (b) The operator shall provide a copy of any "incident reports" or written complaints submitted to any state or federal agency within 30 days after the operator has notice of the existence of such reports or complaints.

Sec. 18-513. Data center permit required.

- (a) A person wanting to construct and operate a data center shall apply for and must obtain a data center permit under this article. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to construct and operate a data center, assist in any way in the site preparation, reworking, operation of any such data center or to conduct any activity related to a data center without first obtaining a data center permit issued by the city in accordance with this article.
- (b) A data center permit shall automatically terminate, if construction is not commenced within 180 days after the date of the permit's issuance and operation of the data center has not commenced within 720 days after the date of the permit's issuance, unless an extension is granted by city council.
- (c) A data center permit required by this article is in addition to and is not in lieu of any permit or approval that may be required by any other provision contained within the City's Code of Ordinances or by any other governmental agency.

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- (d) By acceptance of any data center permit issued pursuant to this article, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this article. The terms of this article shall be deemed to be incorporated in any data center permit issued pursuant to this article with the same force and effect as if this article was set forth verbatim in such data center permit. It is the applicant's or operator's duty to acquire, read and understand this article.

Sec. 18-514. Data center permit application contents.

- (a) Every application for a data center permit shall be in writing, signed by the operator or person duly authorized to sign on the operator's behalf, and filed with the director. The city may engage a third-party consultant or engineer to review information submitted by the applicant for compliance with this article and verification of the submittal information and the actual cost of such third-party review shall be charged to the operator/applicant. An application fee shall be charged for each application and each additional review, in the amounts set forth in appendix A.
- (b) All applications for a data center permit shall be accompanied by an application fee in the amount set forth in appendix A. No permit shall be issued pursuant of this article except upon application accompanied by the fee set forth in Appendix A.
- (c) Each data center permit application shall contain the following information:
- (1) The date of the application.
 - (2) An accurate legal description by metes and bounds of the property to be used for the data center operation. Property recorded by plat should be referenced by subdivision, block and lot numbers, as applicable.
 - (3) A map showing the proposed transportation route identifying all public and private roads/routes intended for use within the territorial limits of the city.
 - (4) The proposed data center name.
 - (5) The property owner name(s), phone number(s), address(es), and, if available to the operator, email address(es).
 - (6) The operator name(s), phone number(s), facsimile transmission number(s), address(es), and primary e-mail address(es).
 - (7) If the operator is a corporation or other noncorporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names and addresses of the general partners.
 - (8) Name, phone number, address, and email address of the individual designated to receive notice on behalf of the operator.
 - (9) Name of representative with supervisory authority over all data center site activities and a 24-hour phone number the representative may be contacted at.
 - (10) Owner and address of each parcel of property within 2,000 feet of the parcel(s) on which the proposed data center site is located, as indicated in the most recently approved municipal tax roll.
 - (11) A site plan of the proposed data center site depicting the color, height, size, and location of all structures and equipment specific to the proposed site, including, but not limited to, all screening, landscaping, lighting, utilities and floodplain designation; and the location and description of all improvements, structures, utilities and floodplain areas within 2,000 feet of the data center site.
 - (12) The name, address and 24-hour phone number of the person to be notified in case of an emergency.
 - (13) Copies of all reports, permits, or approvals required by ERCOT including attachments and survey plats that are applicable to the data center site.
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- (14) A description of all fuel sources to be used at the proposed data center, including but not limited to all public utilities needed during construction and operation.
 - (15) A description of the water source to be used during data center operations. If city water will be sought for operations, a copy of the completed "utility capacity request" must be included.
 - (17) A stormwater pollution prevention plan (SWPPP) complying with all federal, state, and local stormwater quality regulations, including any notice of intent (NOI) and notice of termination (NOT) requirements.
 - (18) A tree protection/ preservation plan complying with all requirements of the city's tree preservation ordinance and any additional requirement for a data center as required by this article.
 - (19) An erosion control plan complying with all requirements of the city.
 - (20) A hazardous materials management plan.
 - (21) All current material safety data sheets (MSDS) detailing each of the hazardous and nonhazardous materials that will be located, stored, transported and/or used at the data center site.
 - (22) An emergency response plan.
 - (23) A noise impact assessment, including a description of anticipated noise that may emanate from the proposed data center and proposed mitigation measures
 - (24) A vibration attenuation plan.
 - (25) A grid coordination plan, ERCOT grid study, and electricity capacity availability letter.
 - (26) A screening, fencing and landscape plan, including a line of site analysis, detailing compliance with all landscape and screening requirements required by this article, including a proposed schedule detailing the timing of all landscaping, screening and fencing to be installed.
 - (27) A landscape irrigation plan as designed by a State of Texas licensed landscape architect or licensed irrigator detailing the appropriate type of irrigation for the site; measures to be taken to adequately irrigate all landscaping, including indicating the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation.
 - (28) A water and sewer capacity availability request, accompanied by a Water Capacity Analysis study prepared by a Professional Engineer licensed in the State of Texas.
 - (29) A waste management plan that addresses collection and removal of human and solid waste and waste related to operation of the data center.
 - (30) A traffic impact analysis study.
 - (31) Decommissioning plan covering triggers for decommissioning (including cessation of operations for 120 consecutive days), schedule, equipment removal, hazardous material disposition, utility de-energization, and site restoration to conditions compatible with adjacent property.
 - (32) A Facility Study
 - (33) Detailed design drawings certified by a registered professional engineer licensed in the State of Texas along with all basic design criteria for the infrastructure intended to serve the data center.
 - (34) Location of safety devices with an explanation of the operating characteristics of each.
 - (35) Tree Survey prepared by a registered City urban forest professional.
 - (36) Texas Department of Licensing and Registration information.
 - (37) Certification from a licensed professional engineer's demonstrating that the backup power system is appropriately sized for the proposed facility.
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Sec. 18-515. Data center permit.

- (a) An application for a data center permit shall include all of the requirements of section 18-514. The permitting procedure for a data center permit shall be as follows:
- (1) At least ten days prior to the date of filing of an application for a data center permit the operator shall notify, at the operator's expense, each surface owner of property, as shown by the current tax roll, within 2,000 feet of the proposed data center not owned by or under lease to the operator. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States Mail. The operator shall file with the application an affidavit showing the name and last known address, as identified by the current tax roll, of each owner of property to whom notice was mailed and the names of each owner of property to whom notice is required to be given, but whose address is unknown. Notice shall be sent to all registered neighborhood associations within 3,000 feet of the proposed data center.
 - (2) At least ten days prior to the date of filing of an application for a data center permit the operator, at the operator's expense, shall publish a copy of the notice as outlined below in a daily newspaper of the city for three consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. The notice shall read as follows:

"Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Conroe, Texas, on the _____ day of, _____ 20____, 20____ will file with the City of Conroe, an application to construct and operate a data center upon property located at _____, Conroe, Montgomery County, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of Montgomery County, Texas or per Tax Tract Number _____, Montgomery County, Texas."
 - (3) At least ten days, but not more than 30 days prior to the date of filing of an application for a data center permit the operator, at the operator's expense, shall erect at least one sign, no less than three feet by three feet, upon the premises upon which a data center permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.
 - a. The sign(s) shall substantially indicate that a data center permit to construct and operate has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign.
 - b. Any sign(s) shall be removed subsequent to final action by the city council.
 - (4) All notice provisions contained herein shall be deemed sufficient upon compliance with this section.
- (b) It is the responsibility of the Director of Engineering or designee to review and accept or reject all applications for data center permits based on the criteria established by this article. The director, within 30 days after the filing of a completed application and remittance of all fees, insurance and security pursuant to the requirements of this article for a data center permit, shall determine whether or not the application complies in all respects with the provisions of this article and determine if the proposed data center to be constructed or the facility to be installed is in compliance with the distance requirements for the requested data center permit on the date the completed application is received by the director. Failure of the director to complete the review of the data center permit within the time limits specified above shall not cause the application for the data center permit to be deemed approved.
- (c) Within 45 days of receipt of a complete application, the director shall place the matter on the city council agenda for a public hearing and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The 45-day period shall not begin to run until the applicant/operator has provided the director with a complete application package. No partial applications will be accepted.
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- (d) At least 20 days and no more than 30 days prior to the date of the public hearing before the city council for a data center permit the operator shall notify, at the operator's expense each owner of property, as shown by the current tax roll, within 2,000 feet of the proposed data center; and (2) each owner and/or operator of a residence, commercial property, child-care facility, religious institution, hospital building, school, cemetery and historic site, as shown on the current tax roll, within 3,000 feet of the proposed data center, of the hearing date and time. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States Mail. The operator shall file an affidavit with the director showing the name and last known address, as identified by the current tax roll, of each owner of property to whom notice was mailed and the names of each owner of property to whom notice is required to be given, but whose address is unknown. Notice shall be sent to all registered neighborhood associations within 3,000 feet of the proposed data center site.
- (e) At least 15 days and no more than 20 days prior to the date of the public hearing before city council for a data center permit the operator, at the operator's expense, shall publish a copy of the notice as outlined below in one issue of a daily newspaper of the city for three consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. The notice shall read as follows:
- "Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Conroe, Texas, on the _____ day of, _____ 20____, _____ filed with the City of Conroe, an application for a data center permit to construct and operate a data center upon property located at _____, Montgomery County, Conroe, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of Montgomery County, Texas or per Tax Tract Number _____, Montgomery County, Texas. The City Council will conduct a public hearing on the request for said permit on the _____ day of, _____ 20____ at _____ o'clock in the City Council Chambers located at 300 West Davis Street, Conroe, Texas."
- (f) At least 20 days, but not more than 30 days, prior to the date of the public hearing before the city council for a data center permit the operator shall, at the operator's expense, erect at least one sign, no less than three feet by three feet, upon the premises upon which a data center permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.
- (1) The sign(s) shall substantially indicate that a data center permit to construct and operate a data center has been requested and state the date, time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/operator at the number indicated on the sign.
 - (2) Any sign(s) shall be removed by the applicant/ owner subsequent to final action by the city council.
- (g) After a data center permit application is submitted, the Director of Engineering or designee shall evaluate the public impact of the proposed activity. The director shall consider the proposed site and the proposed operation and shall draft recommended restrictions or conditions, including minimum separation distance for operation of the data center, special safety equipment and procedures, recommended noise reduction levels, screening and any other requirements the director deems appropriate. The recommendation shall be submitted to the city council for consideration prior to the public hearing along with evidence that timely actual notice of the hearing was given to all persons as required by this article.
- (h) The burden of proof on all matters considered at the hearing shall be upon the applicant/ operator.
- (i) The city council shall review the application and any other related information. The city council shall consider the following in deciding whether to grant a data center permit:
- (1) Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;
 - (2) Whether the presence of a data center would conflict with the orderly growth and development of the city;
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- (3) Whether there are other alternative data center site locations;
 - (4) Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the data center permit conditions to be imposed;
 - (5) Whether there is acceptable access for the city fire personnel and firefighting equipment; and
 - (6) Whether the impact upon adjacent property and the general public by operations conducted in compliance with the data center permit conditions are reasonable and justified, balancing the availability of alternate data center sites.
 - (7) The recommendations of the director.
- (j) The city council may require an increase in the distance the data center is setback from any residence, commercial property, child-care facility, religious institution, public building, hospital building, school, cemetery, historical site or public park, or require any change in operation, plan, design, layout or any change in the on-site and technical regulations of this article, including fencing, screening, lighting, delivery times, noise levels, or any other matters reasonably required by public interest.
 - (k) The city council may accept, reject or modify the application in the interest of securing compliance with this article, the city code and/or to protect the health, safety and welfare of the community.
 - (l) Except when an application for a permit seeks a variance to this article, it shall take a vote of a simple majority of the voting members of city council to approve an application for a data center permit application that complies with this article.
 - (m) Variances.
 - (1) A variance may not be granted to an application for a data center permit that seeks a data center within 2,000 feet of residence, commercial property, child-care facility, religious institution, public building, hospital building, school, cemetery, historical site or public park when measured from the property line that will contain the data center to the nearest property line of residence, commercial property, child-care facility, religious institution, public building, hospital building, school, cemetery, historical site or public park property line.
 - (2) An operator seeking a permit or other approval required by this article may apply for a variance from the requirements of this article by submitting to the director a written request for a variance and all applicable fees with the data center permit application. The request must include the following, where applicable, provided however, that the provision of the information below will not automatically result in the approval of the variance request:
 - a. Description of the requested variance and an explanation of hardship why it should be granted;
 - b. Description of alternatives considered and why each is not the preferred alternative;
 - c. Description of the economic consequences to the applicant if the variance is not granted;
 - d. Description of how the public health, safety and general welfare will be protected if the variance is granted; and
 - e. A site plan of the site visually depicting the requested variance, if the request for the variance involves the location or orientation of persons or property.
 - (3) The director shall review the application and shall place each variance request on the city council agenda for consideration.
 - (4) In considering the variance the city council may take into account the following:

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- a. Whether the operations proposed are safe and reasonable under the circumstances and conditions prevailing in the area, considering the particular location and the character of the improvements located there;
 - b. How the operations proposed compare to available alternatives;
 - c. Whether the operations proposed would conflict with the orderly growth and development of the city;
 - d. Whether the operations proposed adequately protect the health, safety and general welfare of the public;
 - e. Whether the operations proposed provide acceptable access for fire and EMS personnel and firefighting equipment; and
 - f. The recommendations of the director.
- (5) In order to approve an application for a data center permit that also seeks a variance to this article, such an application must receive the affirmative vote of three-fourths of all voting members of the city council, whether present or not.