

O-26-74
8/12/26

CITY OF BAYONNE

AN ORDINANCE AMENDING CHAPTER 33 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF BAYONNE TO DEFINE "DATA CENTER" AND TO PROHIBIT DATA CENTERS AS A PERMITTED USE IN ALL ZONING DISTRICTS

WHEREAS, the Mayor and City Council of the City of Bayonne are authorized by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., to regulate land uses in order to promote the public health, safety, morals, and general welfare; and

WHEREAS, the City of Bayonne is a mature, densely developed municipality with limited developable land and finite electrical, water, sewer, transportation, and emergency service infrastructure; and

WHEREAS, the Mayor and City Council find that modern data centers are unique land uses characterized by substantial electrical demand, extensive cooling systems, redundant utility infrastructure, emergency power generation, battery energy storage systems, telecommunications infrastructure, and mechanical equipment that distinguish them from ordinary office, commercial, manufacturing, warehouse, research, or institutional uses; and

WHEREAS, the Mayor and City Council further find that data centers generally provide comparatively limited permanent employment opportunities relative to their land consumption and infrastructure demands; and

WHEREAS, the Mayor and City Council determine that the City's limited land resources are more appropriately reserved for residential, commercial, mixed-use, maritime, industrial, manufacturing, research, logistics, and other employment-generating development consistent with the City's Master Plan and redevelopment objectives; and

WHEREAS, the City Council has determined that data centers have the potential to create an intense and unique form of land use and development, which poses development challenges related to electricity consumption, noise, air quality, water use, and community character; and

WHEREAS, the City Council is conscious of the community concern regarding the land use challenges posed by large-scale commercial data center operations; and

WHEREAS, the City Council has determined that in the interest of the health, safety, and welfare of the residents of the City of Bayonne, it is appropriate at this time to amend the City Code to include data centers as a non-permitted use within the geographic boundaries of the City of Bayonne;

WHEREAS, it is the express intent of the Municipal Council that this Ordinance constitute a legislative determination regarding the appropriate land use regulation of Data Centers within the City of Bayonne.

WHEREAS, the City Council finds that this Ordinance is adopted based upon current planning, infrastructure, public safety, utility capacity, economic development, and land use considerations and is not directed toward any specific property owner, parcel, applicant, or proposed development.

WHEREAS, the Municipal Council recognizes that property owners may have relied upon prior zoning regulations and intends that this Ordinance operate prospectively and consistently with vested rights recognized under applicable law, while preserving the City's authority to establish prospective land use policy in furtherance of the public health, safety, and welfare; and

WHEREAS, the City Council finds that prohibiting data centers throughout the City advances the purposes of the Municipal Land Use Law and promotes the public health, safety, and general welfare.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Bayonne, County of Hudson, State of New Jersey, as follows:

SECTION 1.

Chapter 33, Article II, Section 33-2.2 (Definitions) is hereby amended to add the following definition:

DATA CENTER

Shall mean any building, structure, facility, campus, or portion thereof, the principal use of which is the housing, operation, storage, management, processing, transmission, routing, hosting, distribution, maintenance, security, or exchange of digital or electronic data through computer servers, server racks, networking equipment, telecommunications equipment, electronic data storage systems, cloud computing infrastructure, artificial intelligence infrastructure, or other high-density digital information technology infrastructure, regardless of the terminology, trade name, ownership structure, or business model used to describe the facility.

A “**Data Center**” shall include, but is not limited to, facilities designed or operated primarily for enterprise computing; cloud computing; colocation

services; hyperscale computing; artificial intelligence processing; machine learning; high-performance computing; quantum computing; edge computing; internet hosting; digital hosting services; content delivery networks (CDNs); software-as-a-Service (SaaS); Platform-as-a-Service (PaaS); Infrastructure-as-a-Service (IaaS); data storage, backup, and disaster recovery; artificial intelligence processing, training, inference, and model development; blockchain processing; cryptocurrency mining or digital asset validation; video streaming; digital communications; any substantially similar present or future digital infrastructure technology or use and any substantially similar use employing high-density digital computing infrastructure regardless of how such use is described.

Typical accessory components of a “**Data Center**” include, but are not limited to: computer servers and server racks; network switches, routers, and telecommunications equipment; fiber optic infrastructure; electrical substations; transformers; switchgear; battery Energy Storage Systems (BESS); Uninterruptible Power Supply (UPS) systems; emergency generators; fuel storage systems; cooling towers; chillers; dedicated HVAC systems; cooling water systems, water treatment equipment, exhaust systems, emissions control equipment, fuel delivery systems, and similar supporting infrastructure; environmental monitoring systems; fire detection and suppression systems; mechanical equipment; utility infrastructure; security systems; control rooms; loading and maintenance facilities; and any other equipment, structures, or improvements necessary to support continuous or near-continuous digital operations.

A “**Data Center**” is generally characterized by one or more of the following operational characteristics: Continuous or near-continuous operation; high-density computing or electronic processing equipment; extraordinary electrical demand; redundant electrical service; backup power generation systems; extensive cooling infrastructure; large-scale mechanical equipment; significant utility infrastructure; or the provision of computing, storage, hosting, processing, networking, or digital services to off-site users, customers, affiliated entities, or the public.

The term “**Data Center**” shall not include computer servers, server rooms, telecommunications equipment, network closets, or information technology facilities that are clearly accessory, incidental, and subordinate to the lawful principal use of a building or site, including, but not limited to, hospitals, healthcare facilities, schools, colleges, universities, municipal, county, state, and federal government buildings, police, fire, and emergency service facilities, office buildings, retail establishments, film and television studios, manufacturing facilities, warehouses, laboratories, research facilities, financial institutions, public utility facilities, hotels, residential buildings, or similar facilities where the information technology infrastructure is maintained solely to support the principal use of the premises or used exclusively or predominantly to support

the principal lawful use of the premises and not operated as a separate commercial or industrial enterprise.

The principal use of a building, structure, facility, campus, or site shall control whether a use constitutes a Data Center. The existence of offices, research activities, warehousing, manufacturing, telecommunications facilities, or other ancillary uses shall not exclude a facility from this definition where the principal use of the premises is the operation of digital infrastructure.

In determining whether a proposed or existing use constitutes a “**Data Center**”, the Zoning Officer, Planning Board, or Zoning Board of Adjustment shall consider the totality of the circumstances, including, but not limited to: the principal purpose of the facility; the percentage of floor area devoted to digital infrastructure; the facility's electrical demand; cooling requirements; backup power infrastructure; utility infrastructure; the nature and intensity of computing operations; whether computing, storage, hosting, processing, or networking services are provided primarily to off-site users or affiliated entities; and any other objective factor demonstrating that the principal use of the premises is the operation of a Data Center rather than an accessory information technology function. For purposes of this Chapter, this definition shall be liberally construed to include facilities whose principal purpose is the operation of large-scale digital infrastructure, regardless of the name or description used by the owner, operator, tenant, or applicant.

SECTION 2.

Chapter 33, Article II, Section 33-2.2 (Definitions) is hereby amended to delete the following definition:

~~CYBERHOTELS/TECHOTEL/SERVERFARMS/TELECOMMUNICATION CENTERS~~

~~Shall mean businesses that are equipment oriented generating relatively low employment often located in high security windowless buildings. These uses are infrastructure dependent with high electricity and telecommunications infrastructure requirements.~~

SECTION 3.

Chapter 35, Section 35-4.2 is amended to add the following prohibited use:

c. Data Centers, as defined in Section 33-2.2, are prohibited as principal uses, conditional uses, accessory uses, and temporary uses in every zoning district within the City of Bayonne.

SECTION 4.

Existing Uses; Pending Applications; No Creation of New Rights

A. Nothing contained in this Ordinance shall be construed to impair or extinguish any vested right, legal nonconforming use, or other right that has accrued under applicable law prior to the effective date of this Ordinance.

B. This Ordinance is intended to apply prospectively and shall not affect any development approval, permit, or authorization that has become final and vested under applicable law prior to the effective date of this Ordinance.

C. Nothing contained herein shall be construed to create, recognize, or expand any vested right, development right, or nonconforming use where none otherwise exists under the Municipal Land Use Law or other applicable law.

D. Except as otherwise required by applicable law, no application for development, zoning permit, construction permit, certificate of occupancy, variance, conditional use approval, site plan approval, subdivision approval, redevelopment approval, or other land use approval submitted after the effective date of this Ordinance shall authorize the establishment, construction, expansion, or operation of a Data Center.

E. Nothing contained herein shall be construed to legalize any use that was unlawful prior to the effective date of this Ordinance

SECTION 5.

Planning Board Review

Pursuant to N.J.S.A. 40:55D-26, this Ordinance shall be referred to the Bayonne Planning Board for review and recommendation as to its consistency with the City's Master Plan.

SECTION 6.

Repealer

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 7.

Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall remain in full force and effect.

SECTION 8.

This Ordinance may be renumbered for codification purposes.

SECTION 9.

Effective Date

This Ordinance shall take effect upon final passage, approval, and publication according to law, and filing as required by law.