

COMMUNITY USE GUIDE

USING THE DRAFT DATA CENTER ORDINANCE

A COMPANION TO THE NC DATA CENTER UNIFIED DEVELOPMENT ORDINANCE
AMENDMENT DRAFT



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Using the Draft Data Center Ordinance

This guide explains how a community can adapt the draft model ordinance for its own Unified Development Ordinance (UDO). It walks through each section of the ordinance: what the section does, what your community needs to decide, and the notes and advisory notes to keep in mind.

The ordinance is a starting point for local deliberation. It is not legal advice or a ready-to-adopt ordinance. Bracketed text, such as [MUNICIPALITY], marks a field your community must complete.

Five steps to adapt the ordinance

Step	What to do
1. Compare with your UDO	Read the draft alongside your existing UDO. Where your code already addresses an issue (noise, lighting, enforcement, utility infrastructure, traffic), reference it instead of adding a duplicate or conflicting standard.
2. Choose your approval path	Decide which zoning districts allow data centers and whether each tier goes through conditional zoning or a special use permit (Section 3.2). The model does not recommend by-right approval for any tier.
3. Fill in the brackets	Complete every bracketed field and numerical standard using local conditions. A checklist is at the end of this guide.
4. Bring in partners	Involve planning staff, the town engineer, Public Works, the Fire Marshal, water, wastewater and electric providers, NCDOT and an acoustic consultant where needed.
5. Attorney review and adoption	Have your local government attorney review every provision, then adopt through your normal text amendment process (Section 8).

North Carolina Legal Considerations

Down-zoning. Consider N.C.G.S. § 160D-601(d), enacted through S.L. 2024-57 (S.B. 382). Down-zoning can include reducing the range of permitted uses or development density, or making an existing use, structure or site element nonconforming. Review provisions with your attorney to see whether they could be a down-zoning or raise other questions of local authority.

Local authority. Each standard should fall within local authority under N.C.G.S. Chapter 160D, including §§ 160D-701 and 160D-702, address legitimate land use impacts, and be applied consistently with similarly situated uses.

Negotiated conditions. Some project-specific measures may be better handled as mutually agreed conditions in a conditional zoning than as general ordinance requirements.

Section by Section

Use this part while you work through the ordinance. Each section lists what it does, the decisions your community needs to make, and the notes and advisory notes from the ordinance.

Front Matter: How to Use and Abbreviations

WHAT IT DOES

- Explains the purpose of the draft, North Carolina legal considerations and the abbreviations used.

WHAT YOU DECIDE

- Replace the district names (CB, I-1, I-2) with the equivalent districts in your UDO.

KEEP IN MIND

Bracketed text marks fields your community must complete. The document should be reviewed by your attorney, planning staff and relevant subject matter professionals before adoption.

Section 1 Authority, Purpose, Intent, and Decommissioning

WHAT IT DOES

- Adopts the ordinance under N.C.G.S. Chapter 160D and states its purpose.
- Treats data centers as a distinct use. Where there is a conflict, the more restrictive provision applies.
- 1.4** sends growth into a higher tier to review under the standards and approval process for the new tier. It cannot be treated as a minor modification.
- 1.5** requires a decommissioning and reuse plan with every application.

WHAT YOU DECIDE

- Insert your community name, ordinance name(s) and comprehensive or land use plan name.
- Confirm how your UDO defines minor and major modifications (1.4).
- Decide whether and how to address financial assurance for decommissioning (1.5).

KEEP IN MIND

Some jurisdictions outside North Carolina require bonds or other financial assurance for decommissioning. Consult your attorney before requiring financial assurance. Depending on the approval mechanism, decommissioning commitments may instead be handled through mutually agreed conditions in a conditional zoning.

Section 2 Definitions

WHAT IT DOES

- Defines key terms, including the three tiers based on Ultimate Electrical Demand: Tier 1 under 50 MW, Tier 2 from 50 to under 100 MW, and Tier 3 at 100 MW or more.
- Definitions in this ordinance control over conflicting definitions elsewhere in your UDO.

WHAT YOU DECIDE

- Insert your ordinance name(s).
- Check each definition against your UDO for overlaps or conflicts, and confirm the tier thresholds fit your community.

Section 3 Applicability and Use Classification

WHAT IT DOES

- **3.1** applies the ordinance within your jurisdiction, including the ETJ where applicable (N.C.G.S. § 160D-202).
- **3.2** states the position of the model ordinance: by-right approval is not recommended for any tier, and no legal recommendation is made between conditional zoning and a special use permit.
- Walks through three approval scenarios (by-right, conditional zoning and special use permit) with the risks of each, and compares the approval pathways side by side.
- Provides an example classification table, shown below.

Classification Table

Use Type	Permitted By-Right	Conditional Zoning or Special Use Permit (select one locally)
Tier 1 (Standard) Data Center	<i>Not recommended</i>	I-1
Tier 2 (Large) Data Center	<i>Not recommended</i>	I-2
Tier 3 (Hyperscale) Data Center	<i>Not recommended</i>	I-2

WHAT YOU DECIDE

- Which zoning districts allow data centers in each tier.
- Whether each tier goes through conditional zoning or a special use permit. Make this choice with your local government attorney.
- Review existing districts, permitted uses and procedures with legal counsel before adopting these classifications.

KEEP IN MIND

The districts and approval processes shown are examples, not requirements. Adjust them to your existing zoning districts, review processes and the tier definitions in Section 2. All data centers remain subject to the supplemental use standards in Section 5.

By-right (not recommended). There is no public hearing and no discretion to address site-specific impacts. Once approved, a project may obtain vested rights, and tightening standards afterward may raise down-zoning concerns under N.C.G.S. § 160D-601(d).

Conditional zoning. A legislative decision under N.C.G.S. § 160D-703. Conditions must be mutually agreed by the applicant and the board, and a rezoning inconsistent with adopted plans may be challenged as spot or contract zoning.

Special use permit. A quasi-judicial decision under N.C.G.S. § 160D-705. Decisions must rest on competent, material and substantial evidence and follow strict procedures, including sworn testimony and written findings of fact.

Section 4 Application Requirements

WHAT IT DOES

- **4.1** requires a pre-application conference with planning staff, Public Works, Fire, the Building Inspector and the Town Engineer.
- **4.2** requires an Environmental Impact Statement (EIS) where your community has adopted one under G.S. 113A-8, plus minimum submissions: water and wastewater information, a site plan and existing conditions information.
- **4.3** processes applications under your UDO and Chapter 160D. Conditions in a conditional rezoning must be mutually agreed (G.S. 160D-703).

WHAT YOU DECIDE

- Whether to adopt an EIS ordinance under G.S. 113A-8, and its minimum criteria.
- Which departments attend the pre-application conference.

KEEP IN MIND

EIS. An EIS under G.S. 113A-8 must be established by ordinance, applied consistently rather than to a single project, and may not apply to projects already required to prepare one. Projects listed in G.S. 113A-12 are exempt. See the UNC School of Government post “Data Centers and Zoning in North Carolina,” and consult your attorney on how the EIS will be used in your approval process.

State law and pending legislation. Review these requirements against S.L. 2024-57 and G.S. 160D-601. The Ratepayer Protection Act was proposed in the 2025–2026 session but is not law. If enacted, it could require a sound assessment for homes and schools within 500 feet and a closed-loop cooling attestation. Monitor it, and do not treat it as a current requirement.

Section 5 Supplemental Use Standards

WHAT IT DOES

- Sets site standards that apply to all data centers unless a standard is tied to a tier. Where they conflict with other UDO provisions, the more restrictive standard applies.
- 5.0** summarizes how standards scale by tier. The numbered subsections, not the summary table, are the operative standards.

WHAT YOU DECIDE

- Work through each subsection below.

Subsection	What you decide	Keep in mind
5.1 Site Area	Whether to add any site area requirement.	The model does not recommend a minimum lot size. If you consider one, evaluate local conditions and consult your attorney about existing development rights.
5.2 Setbacks	Setback distances by tier.	Review against your existing UDO and local conditions. Where your UDO already sets a setback, decide whether a data center-specific standard is needed.
5.3 Buffers	Buffer type [B/C].	Buffers are installed in the first phase of construction. 5.3.C sets planting rates for canopy trees, evergreen understory trees and shrubs, with an evergreen option along security fences.
5.4 Noise	Day, evening and night dBA/dBC limits (pending an acoustic consultant), generator testing hours [10:00 a.m. to 4:00 p.m.], and your UDO height section [].	Compare with noise rules for other industrial uses. Added study requirements should be supported by the characteristics of the use and applied consistently. Review each standard with your attorney under §§ 160D-701 and 160D-702.
5.5 Energy	Coordination with your electric utility.	Requires an electrical load study with the application and utility verification of capacity before a Certificate of Occupancy.
5.6 Water and Wastewater	Your providers, local sewer use limits, and the state or delegated stormwater and erosion control program.	This section is completed by the applicant: provider verification, flows, pretreatment, stormwater, permits and required improvements.
5.7 Substations	Screening wall height [8] ft.	Review existing standards for utility infrastructure and accessory uses. Reference them where they already apply to avoid duplication or conflict.
5.8 Traffic	Your local TIA threshold, or how to set one if none exists.	Not meant to create a second TIA where your UDO or NCDOT already requires one. Coordinate scope with NCDOT on state-maintained roads, and consult your attorney on preemption.

Subsection	What you decide	Keep in mind
5.9 Design	Your design standards article [9], and whether to keep the materials list.	Item C is marked “(May not need)” in the draft.
5.10 Hazardous Materials	Battery storage setback [500] ft.	The Fire Marshal reviews the hazard analysis and hazardous materials plan.
5.11 Environmental	Which environmental impacts need local standards: air quality, ground contamination, stormwater and process wastewater, and water supply watersheds.	Avoid duplicating state law or existing ordinances. Tier 3 adds an air quality assessment and optional independent third-party review.

Section 6 Monitoring and Reporting

WHAT IT DOES

- **6.1** requires annual operational reports from Tier 2 and Tier 3 facilities on water use and wastewater discharge.
- **6.2** handles noise complaints and allows an independent noise assessment.
- **6.3** allows staff compliance inspections on reasonable notice.

WHAT YOU DECIDE

- The reporting threshold [50] MW and the annual due date [DECIDE ON DATE].
- The staff member or department that reviews annual reports.
- The department that receives noise complaints, and the assessment timeframe [60] days.

KEEP IN MIND

Identify who reviews annual reports and decides on follow-up, including coordination with the utility or department involved.

Before adopting data center-specific noise monitoring or enforcement, review your existing noise ordinance, complaint procedures and enforcement provisions. If they already work and fit data center noise, separate procedures may be unnecessary.

Consult your attorney on the zoning, noise, nuisance or other authority used to require assessments and corrective measures.

Section 7 Enforcement

WHAT IT DOES

- Sets out notices of violation, corrective action, stop work orders, civil penalties and other remedies under N.C.G.S. § 160D-404.

WHAT YOU DECIDE

- Whether your UDO already covers these remedies.

KEEP IN MIND

Review this section against your existing UDO or zoning code. If remedies, penalties or revocation procedures already exist, cross-reference them rather than duplicating them or creating inconsistent requirements.

Section 8 Amendments, Effective Date, and Severability

WHAT IT DOES

- Sets the amendment process (Planning Board recommendation and a Town Council public hearing), the effective date and severability.

WHAT YOU DECIDE

- Your UDO amendment section [2.3.2].
- Severability language that matches your existing UDO or code.

Fill-In Checklist

Every bracketed field and numerical standard needs local determination and legal and technical review before adoption. These are the main ones.

Field	Section	What to enter
[MUNICIPALITY], [MUNICIPALITY NAME]	Throughout	Your community's name
[APPLICABLE DEVELOPMENT ORDINANCE NAME]	1.3, 2	Your UDO or development ordinance name(s)
{insert specific community plan name here}	1.2	Your comprehensive or land use plan
District designations	Abbreviations, 3.2	Your equivalent districts for CB, I-1 and I-2
[B/C]	5.3	Landscape buffer type
[Pending – see Advisory Note below]	5.4.1	Noise limits by receiving property and time of day
UDO Section []	5.4.3	Maximum building height section
[10:00 a.m. to 4:00 p.m.]	5.4.4	Generator testing hours
[8]	5.7	Substation screening wall height (feet)
[9]	5.9	Design standards article
[500]	5.10	Battery storage setback (feet)
[50]	6.1	Annual reporting threshold (MW)
[DECIDE ON DATE]	6.1	Annual report due date
[60]	6.2	Days to submit a noise assessment
[2.3.2]	8.1	UDO amendment procedures section
Section 5.6 fields	5.6	Completed by the applicant, not the community

Who to Involve

- **Local government attorney:** every provision, especially down-zoning, the choice between conditional zoning and special use permits, EIS, preemption and enforcement

- **Planning staff and Planning Board:** districts, approval path, UDO consistency and the amendment process
- **Town engineer and Public Works:** pre-application review, infrastructure and traffic
- **Fire Marshal and Police:** hazardous materials, battery storage and pre-incident planning
- **Water, wastewater and electric providers:** capacity verification and pretreatment
- **NCDOT:** traffic on state-maintained roads
- **Acoustic consultant:** noise limits and study review