

CITY ATTORNEY / CITY STAFF MEMORANDUM

To: Clinton Planning Commission / Jim Bruhn, Counsel

From: Patrick J. O'Connell, City Attorney, and City Staff

Date: July 17, 2026

Re: Proposed Data Center Ordinance (Chapter 159 Amendment) – Staff Recommendation
Following Public Comment Review

Executive Summary

City staff recommends that the Planning Commission forward the proposed data center ordinance to the City Council with a recommendation for approval while simultaneously providing a detailed list of potential amendments raised by members of the public for City Council consideration. For completeness, staff believes it is advisable to forward all the documents submitted by citizens to the Council as attachments.

The proposed ordinance already establishes one of the more comprehensive data center regulatory frameworks currently used by Iowa municipalities. It creates extensive requirements addressing setbacks, noise, lighting, water use, electrical infrastructure, traffic impacts, emergency response, decommissioning, financial assurance, FAA compliance, public complaint procedures, and ongoing operational oversight.

The public comments submitted by citizens, including the citizen group letter, testimony concerning water usage, the letter submitted by attorney Michael J. Meloy, and the berm proposal submitted by Randy Heppner, generally focus on five principal concerns:

1. Water use and groundwater protection.
2. Setbacks and buffering from residential uses.
3. Noise and vibration impacts.
4. Long-term accountability and enforcement.
5. Transparency and public oversight.

Staff believes these concerns can be divided into two categories:

Category A – Recommended Additions Consistent with Iowa Best Practices

These amendments are legally defensible, commonly used elsewhere, and likely to strengthen the ordinance.

Category B – Policy Choices for City Council

These amendments are significantly more restrictive than typical data center regulations and may affect the City's ability to attract projects. They are legally available policy choices, but the Council should weigh them against economic development objectives.

Staff Recommendation

Staff recommends approval of the ordinance as drafted because it:

1. Establishes a citywide, generally applicable zoning framework rather than approving any specific project.
2. Creates objective standards applicable to all future applicants.
3. Requires individualized review through a Data Center Development Plan process.
4. Preserves City authority to require development agreements, road use agreements, water use agreements, utility agreements, and financial assurances.
5. Provides enforcement authority, annual certification requirements, decommissioning obligations, and financial guarantees.

At the same time, staff recommends transmitting the following public concerns and optional amendments to City Council.

Recommended Amendments for Council Consideration

1. Independent Third-Party Peer Review of Technical Studies

Public Concern: Citizens expressed concern that studies could be prepared by consultants selected by the developer.

Recommended Addition

Add:

"The City may retain independent engineering, environmental, hydrogeologic, acoustical, electrical, traffic, planning, legal, or other consultants to review any study or report submitted by the applicant. The applicant shall reimburse the City for reasonable peer review costs."

Legal Assessment

Strongly recommended.

This language is routinely used throughout Iowa and significantly improves defensibility.

2. Enhanced Groundwater Monitoring Program

Public Concern: Water availability, Jordan Aquifer impacts, and potential impacts to private wells.

Recommended Addition

Add to Section H:

Prior to construction, the City may require baseline testing of nearby private wells, water quality, and groundwater conditions. The City may require periodic monitoring reports throughout operation and for a reasonable period thereafter.

Legal Assessment

Recommended.

This provision directly addresses private property concerns and is common for large industrial users.

3. Mandatory Water Use Agreement for Hyperscale Facilities

Current ordinance:

"The City may require a Water Use Agreement."

Option

For hyperscale facilities:

"The City shall require a Water Use Agreement prior to issuance of the first building permit."

Legal Assessment

Recommended.

Provides certainty and accountability without banning specific technologies.

4. Community Advisory Committee

A repeated request from public comments.

Proposed Language

"For any hyperscale data center exceeding 20 MW, the City Council may establish a Data Center Community Advisory Committee consisting of City representatives, nearby property owners, and members of the public. The committee shall receive periodic operational reports and review community concerns."

Legal Assessment

Recommended as advisory only.

Avoid giving the committee regulatory authority.

5. Quarterly Public Reporting

Proposed Addition

Require annual reporting at minimum, with Council authority to require additional reporting.

Reports may include:

1. Water usage.
2. Electric consumption.
3. Noise complaints.
4. Major maintenance events.

5. Generator testing events.
6. Emergency incidents.

This directly addresses citizen transparency concerns.

6. Berm and Enhanced Buffer Standards

Randy Heppner submitted a detailed buffering proposal.

Recommended Amendment

Add:

“Where a data center adjoins residential property, the City Council may require earthen berms, additional landscaping, evergreen screening, fencing, or combinations thereof where reasonably necessary to mitigate visual, lighting, noise, or construction impacts.”

Legal Assessment

Recommended.

Provides flexibility while avoiding a one-size-fits-all mandate.

Optional Restrictive Standards for Council Consideration

These are legally available but represent a major policy decision.

Option 1 – Hyperscale Facilities Only in M-3

Public commenters suggested restricting hyperscale facilities to M-3 only.

Staff Assessment

Legally permissible and, practically speaking, probably Clinton’s only option for hyperscale facilities, due to the typical size of these facilities. However, this may reduce available development sites, if smaller hyperscale proposals are received, which might benefit from the option to locate in M-1 or M-2 locations.

Option 2 – Increased Setbacks

Citizen recommendations include:

- 1,000-foot building setback.
- 1,500-2,000-foot equipment setbacks.

Staff Assessment

Permissible but quite restrictive.

Current draft already includes:

- 500-foot setback from residential uses.

- 1,000-foot setback for hyperscale facilities.

Council could increase setbacks, but should recognize that such distances may effectively eliminate many otherwise suitable industrial sites.

Option 3 – Mandatory Closed-Loop Cooling

Several comments request a prohibition on evaporative cooling.

Staff Assessment

This is a significant policy choice.

Instead of prohibition, staff recommends:

"For hyperscale data centers, applicants shall demonstrate that no reasonably feasible lower-water-use cooling alternative exists before approval of evaporative cooling systems."

This is more defensible than an outright ban.

Option 4 – Lower Noise Limits

Citizens requested noise limits below those contained in the draft ordinance.

Staff Assessment

Possible but should be evaluated by an acoustical consultant.

Overly restrictive limits could unintentionally prohibit routine facilities that otherwise pose minimal impacts.

Additional Best-Practice Language Staff Recommends

A. Private Well Protection

Add: "Any applicant whose project may affect groundwater resources shall reimburse the reasonable cost of investigating credible claims of project-related well interference and shall restore affected wells if causation is established."

B. Infrastructure Cost Protection

Add: "No public infrastructure improvement required solely as a result of the project shall be financed through City utility ratepayers unless expressly approved by the City Council following public hearing."

This reflects concerns repeatedly raised by citizens.

C. Complaint Response Deadlines

Current complaint procedures could be strengthened.

Add:

The operator shall acknowledge complaints within forty-eight (48) hours and provide a substantive response within thirty (30) days unless additional investigation is required.

D. Successor Liability

Add: All obligations imposed by this Section, including reporting, water use, decommissioning, monitoring, mitigation, and financial assurance requirements, shall run with the land and be binding upon successors and assigns.

E. Compliance with Comprehensive Plan

Add: “All applicants shall submit to the Plan Commission a statement explaining how the proposed data center comports with the City’s Comprehensive Plan.”

F. Possibly Changing the word “may” to “must” throughout the Ordinance.

This would satisfy many citizens who are adamant about having a strict ordinance. On the other hand, it will make the application process very expensive, even for minimally invasive data centers with very small water and power requirements. The Council will need to balance the needs of community protection against its development goals.

Conclusion:

Staff recommends that the Planning Commission:

Recommendation No. 1

Recommend approval of the ordinance because it establishes a comprehensive regulatory framework and permits data centers only within industrial zoning districts subject to extensive review and performance standards.

Recommendation No. 2

Forward to the City Council a separate list of citizen-requested amendments, including:

- Mandatory independent peer review.
- Mandatory water use agreements for hyperscale facilities.
- Groundwater monitoring and private well protections.
- Community advisory committee.
- Enhanced berm and screening standards.
- Additional reporting requirements.
- Review of setback distances.
- Review of cooling technology requirements.
- Review of enhanced noise standards.

Recommendation No. 3

Advise City Council that the ordinance already contains substantial protections but that the foregoing amendments represent legally defensible options available if the Council wishes to adopt one of the most restrictive and protective data center ordinances currently found in Iowa.

Bottom Line: Staff can legitimately recommend approval while simultaneously advising the Council that multiple additional restrictions are available should the Council determine that maximum environmental, infrastructure, and neighborhood protection is its preferred policy choice.