

Fountain County Zoning Ordinance

Article 11: AI Data Centers

Section 11.1: Purpose

The purpose of this Article is to regulate the siting, installation, operation, and decommissioning of AI Data Centers within Fountain County to promote the health, safety, and general welfare of residents, while balancing the need for advanced computing infrastructure with local agricultural, environmental, and community concerns. This Article is adopted pursuant to Indiana Code (IC) 36-7-4 and incorporates relevant national guidelines for data center safety, energy efficiency, and environmental protection.

Section 11.2: Definitions

For the purposes of this Article, the following terms shall have the meanings set forth below:

1. **AI Data Center:** A facility or system designed to house computing infrastructure, including servers, storage, and networking equipment, primarily for artificial intelligence processing, data storage, and related high-performance computing activities. This includes facilities with a nameplate power capacity of 500 kW or greater.
2. **Participating Property:** Real property that is subject to a lease, easement, or other agreement allowing the installation and operation of an AI Data Center, including leased farmland typical in Fountain County's agricultural areas.
3. **Non-Participating Property:** Any real property adjacent to or within 5,280 feet of an AI Data Center site that is not subject to such an agreement.
4. **Special Use Permit:** A permit issued by the Fountain County Board of Zoning Appeals for uses that require additional review due to potential impacts on surrounding areas.
5. **Board of Zoning Appeals (BZA):** The Fountain County Board of Zoning Appeals, responsible for hearing variance requests and special use permits.
6. **Interested Persons:** Any resident or landowner in Fountain County, Indiana, as defined for the purposes of this Article.

Section 11.3: Applicability and Prohibition

1. **Applicability:** This Article applies to all AI Data Centers with a nameplate power capacity of 500 kW or greater. AI Data Centers are designated as a special use in all

zoning districts within Fountain County, requiring a Special Use Permit prior to construction or operation. Any solar panels associated with an AI Data Center shall be considered Commercial Solar Energy Systems (CSES) and subject to the requirements of Article 9.

2. Prohibition: No AI Data Center subject to this Article shall be constructed, installed, or operated without a valid Special Use Permit. Violations shall be enforced through the penalty provisions in Section 11.9 and Section 5.14. This clause acknowledges technological advancement but prioritizes local compliance and safety. Notice of the Special Use Permit hearing shall meet all State of Indiana requirements for Public Notice.

Section 11.4: Application Requirements

1. Application Process: Applications for AI Data Centers shall be submitted to the Fountain County Zoning and Planning Department. The permit, once issued, shall be valid for one (1) year from issuance, with construction commencing prior to one (1) year. Application fees shall be set by the Commission to cover administrative costs, balancing efficiency with the County's limited staff resources. Applications for a Special Use Permit shall be submitted to the Fountain County Board of Zoning Appeals.
2. Required Submissions: In addition to standard zoning application materials, applicants must provide at the time of application:
 - A site plan showing proposed layout, access roads, and setbacks.
 - A safety plan approved by the nearest two fire chiefs and the EMA Director.
 - A description of the cooling system, demonstrating compliance with zero water use for cooling purposes.
 - A decommissioning plan as detailed in Section 11.8, including restoration to current conditions.
 - Soil samples taken at depths of 4, 8, 12, 24, 36, and 48 inches, with analysis to establish baseline soil health.
 - A road use plan approved by the Fountain County Highway Supervisor.
3. Public Notice and Meetings:

- Public notice shall be provided by notifying all adjacent property owners and residents within 5,280 feet (1 mile) via certified mail. This is at the cost of the developer.
- Notices shall also be sent to all landowners and residents within Fountain County of the proposed site via mail at the cost of the developer.
- At least three public meetings shall be held at three different locations across Fountain County, hosted by the Fountain County Advisory Planning Commission, at the expense of the developer/contractor. All interested persons, defined as any resident or landowner in Fountain County, Indiana, shall be mailed an invitation to each of the three meetings at the developer/contractor's expense. The meetings shall include stakeholders such as the AI Data Center Developer, Emergency Services (e.g., fire chiefs), landowners, Fountain County Council Member(s), Fountain County Commissioner(s), Fountain County Emergency Management, Non-participating landowners, Fountain County Advisory Planning Commission Attorney, and Fountain County Zoning Administrator. The meetings shall allow for input on potential impacts, including safety, agriculture, and aesthetics. These meetings shall be held prior to the Special Use Permit hearing. All staff costs shall be paid by the developer and/or permit applicant.

Section 11.5: Design and Installation

1. Standards: All AI Data Centers shall comply with relevant ANSI, NEC, and other applicable national standards for data centers. Third-party audits (approved by the Fountain County Advisory Planning Commission) shall be required at the applicant's expense to verify compliance.
2. Height, Lighting, and Screening: Structures shall not exceed 20 feet in height. Lighting shall be minimized to prevent light pollution, using motion-activated systems where necessary. Screening, such as berms or vegetative barriers, shall be required to preserve scenic views. Barriers must be approved by the Fountain County Advisory Planning Commission.
3. Vegetation and Erosion Control: Vegetation clearance shall be limited to the minimum necessary. Measures to prevent erosion in clay-heavy soils, such as retaining native vegetation buffers, shall be implemented in accordance with Indiana Department of Natural Resources (DNR) guidelines.

4. **Water Use Restriction:** Water use for cooling purposes is restricted to zero. Cooling systems must utilize air cooling, immersion cooling, or other non-water-based technologies. Compliance must be demonstrated in the application and verified through third party audits approved by the Fountain County Zoning Administrator and Fountain County Advisory Planning Commission on a Biennial Basis at the expense of the Owner/Operator.
5. **Noise Restriction:** Maximum sound levels association with any component of an AI Data Center may not exceed 30 decibels as measured at the property line.

Section 11.6: Setbacks

1. **Minimum Setbacks:** All AI Data Center components shall maintain a setback of at least 5,280 feet (1 mile) from:
 - Non-Participating Property lines.
 - Residential dwellings, schools, hospitals, and other occupied structures.
 - Cities, villages, towns.
 - Public roads, rights-of-way (ROW), and private roads.

Section 11.7: Operation

1. **Road Use Agreements:** Applicants shall enter into road use agreements for County roads, including escrow funds for repairs, particularly on gravel roads prevalent in Fountain County. The road use plan must be approved by the Fountain County Highway Supervisor.
2. **Insurance and Training:** Operators shall maintain at least \$5 million per incident and \$100 million aggregate in liability insurance with a \$5,000 deductible. Training mandates for local emergency responders shall be provided at the operator's expense, aligning with Fountain County Emergency Management's capacity.
3. **Monitoring:** Operations shall include air quality monitoring for potential emissions. Annual reports shall be submitted to the Commission, addressing any environmental or safety issues.

Section 11.8: Decommissioning Plan

1. **Financial Assurance:** A decommissioning plan shall include financial assurance mechanisms, such as an escrow account payable to Fountain County, Indiana,

upon demand, to ensure removal without taxpayer burden. The amount shall cover full site restoration, including removal of all equipment and restoration to current conditions. The escrow amount is determined by receipt of three separate bids from licensed, bonded, and qualified removal experts, of which the sum is averaged. The escrow amount shall be redetermined yearly. Any and all fees associated with bidding shall be incurred by the developer or operator.

2. Restoration Standards: Upon decommissioning, the site shall be restored to its pre-installation condition, including soil testing post-removal to depths of at least 4, 8, 12, 24, 36, and 48 inches, with extensions as needed for agricultural land to ensure viability for farming and restoration to current levels of soil health.
3. Updates and Triggers: Financial assurances shall be updated every five (5) years, including inflation adjustments. County-led decommissioning may be triggered by events such as operator bankruptcy or abandonment for more than six (6) months.

Section 11.9: Transfer, Penalty, and Severability

1. Transfer: Within 30 days, any transfer of ownership or operation shall be reported to the County Commissioners and Fountain County Advisory Planning Commission and subject to an approval process by both bodies within 30 days of receipt. Successor liability clauses shall be required to prevent "orphan" sites.
2. Penalties: Violations of this Article shall be enforced pursuant to Section 5.04. The Landowner is responsible for \$50 per day of the violation and the Developer and/or operator is responsible for the remainder.
3. Severability: If any provision of this Article is held invalid, the remainder shall remain in full effect.

Section 11.10: Effective Date and Waivers

1. Effective Date: This Article shall become effective upon adoption by the Fountain County Commissioners.
2. Reviews: The ordinance shall be reviewed every three (3) years to adapt to technological advances, such as improved cooling systems or energy-efficient designs.