CITY OF CHEYENNE – PROPOSED AMENDMENT: Amendment No. 1 to the Agenda Item No. 15 - "PLTA-26-5"

Page 1-line 1 To the entitlement, after "ORDINANCE CREATING SECTIONS 1.1.8, 1.1.9," insert "5.7.1,".

Page 5-line 1 Before "Section 8. That Section 5.8.9 of the UDC" insert:

"Section 8. That Section 5.7.1 of the UDC is created to read as follows:

5.7.1 Data Centers

In districts where data centers are allowed, they shall meet the following standards in addition to all other lot and building standards for the district. The standards in this section are adopted to protect the public health, safety, and welfare from impacts common to high-intensity industrial and energy-consuming uses, including noise, water consumption, fire and hazardous-materials risk, and infrastructure demand; they apply on generally-applicable, objective criteria and are not intended to, and shall not be construed to, single out or inequitably burden any particular project, property owner, or industry. This section is subject to subsection m (Applicability and Transition) and does not impair vested rights or rights under a development agreement except to the extent the City lawfully exercises its police power for the public health, safety, and welfare.

a. ***Noise.*** All data center uses shall comply with the "discernable noise at the property line" thresholds and measurement methodology for industrial and machinery uses established in the definition of "Discernable Noise" in Section 1.4.3 of this code, or shall receive appropriate approvals for an Industrial use, with the following modifications:
    1. *Rooftop fans.* Rooftop fans are prohibited unless fully enclosed within an acoustically attenuated mechanical penthouse that satisfies property line dBA/dBC limits.
    2. *Sound study required.* Every data center shall submit a sound study showing, at a minimum, the plan view of the site and sound power levels in dBA and dBC in all directions and any potentially affected properties. The sound study shall also include sound levels under emergency operating conditions.
    3. *Exempt Activities.* The following shall not be considered activities which produce noise discernable at the property line:
        (a) Sound, including data center operation, that is discernable at interior property lines between developments under common ownership or located within a common site plan.

(b) Emergency generator testing, provided testing does not exceed annual limits set by the Wyoming Department of Environmental Quality for the testing of emergency generators. Planned maintenance and testing of generators shall occur between the hours of 9:00 a.m. and 4:00 p.m.

(c) Emergency generator operation during periods when there is either an involuntary interruption of service caused by physical disruption to the electrical transmission or distribution system (whether regionally or on-site) or a request of the energy provider (for example, to stave off a demand- induced regional outage)

b. ***Water.*** Pursuant to section 4.5.3 of this code, water usage for cooling or any other site use shall be approved by the Cheyenne Board of Public Utilities (BOPU). Sites using water for cooling shall use closed-loop water cooling systems unless an alternative cooling system is approved by the BOPU. The BOPU may approve an evaporative cooling system if it determines that the system (i) provides greater overall water-use efficiency than a closed-loop system or (ii) uses an alternative water source, including nonpotable or recycled water, without adversely affecting the City's existing or reasonably anticipated water needs. In making its determination, the BOPU shall consider direct and indirect water consumption, the source and availability of the proposed water supply, competing uses for that water, and potential impacts on the City's water resources and long-term water needs. The BOPU shall base its determination on reasonably available technical data, may impose conditions necessary to protect the City's water supply, and shall document the basis for any approval. Direct evaporative cooling systems using water from the City's potable water system are prohibited.

c. ***Sanitary sewer.*** All data centers shall be approved by the Cheyenne Board of Public Utilities (BOPU) and its Industrial Pre-treatment Program (IPP) for both sanitary sewer systems and sanitary sewer usage pursuant to section 4.5.3 of this code. Capacity and safe operations must be verified by the BOPU. A Significant Industrial User (SIU) application may be required to be submitted by the property owner.

d. ***Surface discharge.*** All sites shall meet requirements for stormwater and stormwater pollution prevention (including all applicable regulations of UDC 3.2). Sites shall also meet all requirements of environmental health. In no case shall water used by data center operations be discharged onto the surface of the property unless approved through the section 2.3.1, Subdivision Standards Waiver, of this code.

e. ***Electricity*.** All data centers shall demonstrate access to adequate electricity capacity, pursuant to section 4.5.4 of this code. Any proposed facility on or near a data center campus proposed to provide continual on-site power shall comply with all applicable state and federal requirements, including those of the Wyoming Public Service Commission and the Wyoming Industrial Siting Council where applicable.

f. ***Natural Gas*.** If any large-scale natural gas facility is proposed on a data center site, that facility shall demonstrate access to adequate natural gas capacity, pursuant to section 4.5.4 of this code.

g. ***Construction Activities*.** All data center construction activities shall meet the requirements of section 5.8.9 of this code.

h. ***Lighting*.** All properties shall meet the lighting requirements of UDC 6.4 (or section 5.8.9 of this code when under construction).

i. ***Public Records***. Records relating to data center development are subject to the public records provisions of section 1.1.8 of this code.

j. ***Building and Fire Safety.*** Data centers shall be designed, constructed, installed, and maintained in accordance with all applicable building and fire codes. The requirements of this subsection are adopted as site-plan and land-use design and submittal standards and, where applicable, pursuant to the City's local enforcement authority under Wyo. Stat. § 35-9-121. All sites shall meet the following requirements:

    1. Compliance with NFPA 75, Standard for the Fire Protection of Information Technology Equipment, current edition.
    2. Compliance with Battery Energy Storage Systems; NFPA 855, Standard for the Installation of Stationary Energy Storage Systems and International Fire Code Occupancy Group H.
    3. Provision of a Fire Protection Engineering Risk Assessment: a fire and life safety risk assessment for high-density server areas, specialized cooling systems (including refrigerants and liquid or immersion cooling fluids), and emergency or standby generators shall be submitted to the City.
    4. Provision of an Interior Fire Protection Mapping: a digital interior map or three- dimensional model of the facility identifying all fire protection and life safety features shall be submitted to the City. The map or model shall be provided at no cost to the City and shall be updated within thirty (30) days of any modification that changes the location or configuration. The Fire Protection Engineering Risk Assessment and Interior Fire Protection

Mapping constitute critical infrastructure security information and proprietary operational detail, shall be maintained as confidential to the fullest extent permitted by law, and are exempt from disclosure under section 1.1.8 of this code.

k. ***Fees and Required Improvements Applicable.*** Any fees applicable to development generally, including but not limited to impact fees, application fees, utility fees, and penalty or enforcement fees are applicable to data center development. Any improvements required for the development of sites or subdivisions are applicable to data center development.

l. ***State and Federal Laws Applicable.*** All applicable federal and state regulations apply to data centers. The City is authorized to request evidence of compliance with state or federal regulations.

m. ***Applicability and Transition.***

1. A data center use lawfully established, or for which substantial construction has occurred in reliance on a valid permit, before January 1, 2027, is a legal use and may continue, subject to the nonconforming-use provisions of Article 1 and to generally-applicable health-and-safety standards.
2. This section does not impair vested rights recognized under Wyoming law or rights under a development agreement approved by the City Council before January 1, 2027, except to the extent the City lawfully exercises its police power for the public health, safety, and welfare. A development agreement approved on or after that effective date is governed by section 1.1.9 and does not exempt a development from this section except as this Code expressly authorizes.
3. Nothing in this section surrenders or limits the City's legislative or police power."

To the extent required by this amendment renumber as necessary. RINNE