EL DORADO CITY COMMISSION - WORK SESSION AGENDA
CITY HALL – 220 E. FIRST AVENUE
April 1, 2026 - 5:00 PM

Work Session Discussion Items:

a. Data Center Discussion
b. Speculative Building Policy
c. Implementation of SB 244 ("Bathroom" Law)

Regular Agenda Preview:

a. Items to be Placed on the Consent Agenda
    i. Meeting Minutes
b. Items to be Placed on the Regular Agenda

Reports:

a. City Commission Reports
b. City Manager Report

EL DORADO
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TO:	City Commission
FROM:	David Dillner, City Manager
SUBJ:	Data Center Discussion
DATE:	April 1, 2026

Background:

Data centers have emerged as a rapidly growing segment of the global economy, driven by increased demand for cloud computing, artificial intelligence, digital storage, and real-time data processing. These facilities, which range from smaller edge data centers to large-scale hyperscale campuses, serve as the physical backbone of the digital services used by businesses, governments, and residents every day. Communities across the United States, including those in secondary and rural markets, have begun to position themselves to attract this form of investment. Site selection for data centers is highly competitive and is typically driven by several key factors, including **access to reliable and scalable electric power**, **availability of water for cooling**, **proximity to high-capacity fiber networks**, **land availability**, and a **supportive regulatory environment**.

The City of El Dorado possesses several characteristics that may warrant further exploration of this industry. These include access to significant water capacity, proximity to regional transmission infrastructure, available land suitable for large-scale development, and access to regional transportation networks. At the same time, data center development can raise important considerations related to utility demand, land use compatibility, environmental impacts, and long-term economic return.

No formal proposal or development application has been submitted to the City at this time. Instead, this agenda item is intended to provide the City Commission with an introductory overview of data center development as a potential economic development opportunity. The discussion will outline general industry characteristics, common site selection criteria, potential community benefits, and known challenges observed in other jurisdictions. The Kansas Department of Commerce recently started a discussion throughout the state to inform citizens of the opportunities for data center development and to address common misunderstandings of these projects.

Paul Hughes, from the Kansas Department of Commerce, will provide an overview of data centers from the department's perspective and address any questions or concerns the governing body may have on this topic. This initial briefing is designed to inform future policy discussions and to help the City Commission determine whether, and under what conditions, the City should proactively position itself to attract data center investment.

Attachments:

1. KDOC Data Center Mythbuster Summary
2. KDOC Data Center Resource
3. Paul Data Center Slides

Advisory Board Recommendation:

Not Applicable

Policy Issue:

Should the City pursue data center development as part of its economic development strategy? Data centers have become a point of discussion for cities throughout the nation. Many communities are considering the potential of data center development as an opportunity for an economic development strategy. Such developments, however, must be weighed against public resources (i.e., electrical capacity, water supply, workforce, etc.) and public sentiment needed to support data centers. Data centers may be a good fit for some communities' economic development strategy. The purpose of this discussion is to learn more about data centers and to explore whether the City Commission would support this type of development in the City's industrial growth area.

Fiscal Impact:
Not Applicable

Trade-Offs:
A **trade-off** in policy development refers to when decision-makers must balance competing interests or priorities. Decisions often require choosing between certain interests or priorities. Municipal governments face limited resources—like budget, time, public support, or capacity—so strategic choices are necessary to make the most transformative investments with public resources. For example, allocating funds or staff time to one priority means that another priority will receive less resources. The decision to pursue data center development means resources allocated to facilitate this type of development may not be readily available for other industrial development opportunities. The City Commission should carefully consider the impact of allocating public resources to such development opportunities to ensure that it serves community interests and does not overwhelm existing or future resource needs.

Staff Recommendation:
Not Applicable

Commission Action:
This item is for informational purposes only; there is no action to be taken on this item at this time.

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Data Center Development: Legislative Fact Sheet

Condensed from the Kansas "Commerce Data Center Myth-Busting Guide" for quick use.

KANSAS POLICY AND RATEPAYER PROTECTIONS

- The Kansas Corporation Commission approved a Large Load Power Service tariff for customers with forecast peak demand of 75 MW or greater.
- That tariff requires a minimum 12-year service commitment, with an optional ramp-up period of up to five (5) additional years.
- Large-load customers must pay at least 80% of contracted demand through minimum bill provisions.
- Large-load customers must provide collateral equal to approximately two (2) years of minimum bill obligations.
- Large-load customers are responsible for transmission or other infrastructure upgrades required to serve the facility.
- Kansas SB 98 (2025) bars qualifying data centers from receiving an economic development discounted electricity rate.

Bottom line: Kansas policy is designed to reduce direct cost shifting from large-load data center customers onto residential ratepayers, while still allowing projects to compete for investment.

Sources: Kansas Corporation Commission Large Load Tariff Order (Nov. 6, 2025); Kansas Reflector (Nov. 6, 2025); Utility Dive (Nov. 10, 2025); Kansas SB 98 (2025).

MYTH 1: "A DATA CENTER WILL DRAIN ALL THE WATER IN OUR COMMUNITY."

- Water use depends heavily on cooling technology rather than being fixed or inevitable.
- Air-cooled systems can operate with zero water use for cooling (WUE of 0).
- Closed-loop liquid cooling systems circulate water internally and can materially reduce freshwater consumption compared with older designs.
- Evaporative cooling is the most water-intensive design, but developers and regulators can require different technology choices in water-stressed areas.

Bottom line: Water impacts are real but are driven by engineering design, siting, and contractual requirements.

Sources: International Energy Agency / Network World (Feb. 2026); Environmental and Energy Study Institute (2025); Microsoft Cloud Blog (Dec. 2024); Equinix water use materials (2024).

MYTH 2: "RESIDENTS WILL PAY HIGHER UTILITY BILLS TO SUBSIDIZE THE DATA CENTER."

- Kansas law and KCC tariff rules require large-load customers to enter long-term service arrangements, pay minimum demand charges, and cover required upgrades.
- Those protections are stronger than in many states and are intended to reduce direct subsidization by households.

Bottom line: In Kansas, residents are better protected than in many states, but oversight of future rate cases still matters.

Sources: Kansas Corporation Commission Order (Nov. 2025); Kansas SB 98 (2025); Belfer Center / Harvard Kennedy School (2026); Time (Feb. 2026); NPR (Feb. 2026).

MYTH 3: "DATA CENTERS ARE DEAFENING. THE NOISE WILL DESTROY OUR QUALITY OF LIFE."

- Mechanical equipment can create noise, especially cooling systems and backup generators. This noise is comparable to other industrial cooling equipment at non-DC locations.
- Typical exterior cooling equipment is generally cited in the roughly 55-75 dBA range at the source, while generator testing can be louder.

Bottom line: Noise is a legitimate siting issue, but it is typically managed through local zoning, engineering design, and permitting conditions.

Sources: TechTarget (2024); C&C Technology Group (2024); Ramboll Engineering (Dec. 2024); Larson Davis Noise Monitoring Systems (2025); Fairfax County materials.

MYTH 4: "THEY ARE BUYING UP ALL THE LAND WITH NO BUFFERS AND BUILDING MASSIVE COMPLEXES."

- Hyperscale data centers do require large parcels, sometimes hundreds of acres.
- That makes local land-use policy critical: setbacks, landscaping, screening, height limits, and campus density controls do not happen automatically.

Bottom line: Large footprints are real, but buffer zones and site compatibility are planning and zoning questions that local governments can control.

Sources: Reuters (Dec. 2025); Data Center Knowledge (2024); Dgtl Infra (2024).

MYTH 5: "IF WE ALLOW ONE, WE WILL BE OVERRUN WITH DATA CENTERS."

- Data centers do cluster where fiber, transmission capacity, and latency advantages already exist.
- Local governments still control development patterns through zoning, conditional use permits, and site plan review.
- Several jurisdictions around the country have adopted acreage limits, spacing rules, or designated technology districts to guide growth.

Bottom line: Clustering can happen, but communities retain control over where and how development occurs.*Sources: Kansas Sources: LandApp Northern Virginia Case Study (Jan. 2025); local zoning and land-use authorities as summarized in the guide.*

MYTH 6: "ALL OF THESE INQUIRIES MUST BE REAL PROJECTS THAT ARE DEFINITELY COMING."

- Large technology companies commonly evaluate multiple locations at the same time under confidential project code names.
- Many inquiries represent early-stage market screening rather than a committed project.
- In Kansas, SB 98 adds review steps before certain projects receiving public incentives can move forward.

Bottom line: Early inquiries are normal in site selection and should not be confused with a fully committed and financed project.

Sources: Kansas SB 98 (2025); site selection process summary in the reference guide.

MYTH 7: "DATA CENTERS WILL TURN OUR WATER INTO BLACK SLUDGE OR SEVERELY POLLUTE OUR WATER

- There is no documented basis for the claim that data centers discharge 'black sludge' into drinking water systems.
- Where cooling water is used, blowdown or wastewater may contain dissolved solids, treatment chemicals, or elevated temperature - all of which are regulated through existing environmental and wastewater permitting frameworks.
- Modern designs increasingly use closed-loop, direct-to-chip, or air-cooled systems that reduce or eliminate discharge.

Bottom line: Extreme contamination claims are false. Water quality issues, where relevant, are governed through standard permitting, utility standards, and site-specific engineering controls.

Sources: KETOS Water Intelligence (2024); American Society of Civil Engineers (2024); Data Center Knowledge (Nov. 2025); standard NPDES and local wastewater permitting frameworks.

MYTH 8: "DATA CENTERS WILL DESTROY THE ELECTRICAL GRID AND CAUSE BLACKOUTS."

- Data centers are predictable large loads and can support grid planning, demand response, battery storage integration, and other grid services when properly designed.
- The key issue is design, interconnection standards, and operational flexibility.

Bottom line: Data centers are not inherently grid destroyers. Grid outcomes depend on siting, system design, and regulatory requirements such as fault ride-through capability.

Sources: Grid Strategies LLC (2025); ITIF (Nov. 2025); Schneider Electric Blog (Feb. 2026); Renewable Energy World (Dec. 2025).

MYTH 9: "A DATA CENTER IS A DEAD END ECONOMICALLY AND WILL NOT ATTRACT ANY OTHER BUSINESS DEVELOPMENT."

- Data centers generally are not large permanent employers compared with manufacturing projects, but they are major capital investments and infrastructure anchors.
- The guide cites research estimating multiple ancillary jobs for each direct job across construction, telecommunications, cybersecurity, maintenance, and related services.
- Broader spillover benefits depend on whether integrate the project into a larger economic development strategy.

Bottom line: Data centers are not labor-intensive in the traditional sense, but they can support broader technology, fiber, and supplier ecosystem growth when structured well.

Sources: Brookings Institution (Feb. 2026); WYEDC citing CBRE Research (2025); Wisconsin Public Radio (2025).

MYTH 10: "THE TAX REVENUE FROM A DATA CENTER IS NOT WORTH THE TRADE-OFFS."

- Where state and local policy captures the taxable value of real property, personal property, and equipment, data centers can generate substantial local revenue.
- The guide cites Loudoun County, Virginia at roughly $663 million in local tax revenue in 2022 and Prince William County at roughly $166.4 million in 2023.

Bottom line: The tax impact can be significant, but it depends on how the deal is structured.

Sources: LandApp / Olney Enterprise (2025); Tax Foundation (Dec. 2025); Wisconsin Public Radio (2025); Kansas SB 98 (2025).

DATA CENTER

Myth-Busting Reference Guide

Evidence-Based Responses to Common Misconceptions & Disinformation

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HOW TO USE THIS DOCUMENT

Each section addresses a specific myth or misconception about data centers. The structure is consistent:

- THE MYTH — The claim heard in the community, often stated verbatim
- THE FACTS — Ground-level, verifiable truth with source citations
- NUANCE / CAUTION (where applicable) — Areas where partial truth exists and honest qualification is needed
- BOTTOM LINE — A plain-language summary for direct communication

Color coding:

- "**MYTH**" labels appear in red — the claim being contested
- "**FACT**" labels appear in green — confirmed, citable truth
- "**CAUTION**" labels appear in amber — areas requiring nuanced handling

MYTH #1 "A data center will drain all the water in our community."

THE MYTH

Data centers consume enormous, uncontrollable quantities of water and will deplete local water supplies, dry up rivers, and leave residents without drinking water.

THE FACTS

Water use in data centers is highly technology-dependent. There are fundamentally three classes of cooling:

- **Air-cooled (dry cooling):** Uses zero water for cooling. A facility using only air cooling has a Water Usage Effectiveness (WUE) of 0. This is the industry's gold standard in water-stressed areas.
- **Closed-loop liquid cooling:** Water circulates internally in a sealed system. Once filled at construction, can reduce freshwater consumption by up to 70%. These systems are now the standard for new high-density AI facilities.
- **Evaporative cooling towers:** The most water-intensive method, used historically because it is energy-efficient and cheaper. A 100 MW hyperscale data center using evaporative cooling can consume roughly 530,000 gallons per day.

  Source: International Energy Agency (IEA), cited in Network World, Feb. 2026; EESI (Environmental and Energy Study Institute), 2025

The industry is actively transitioning away from evaporative cooling in water-stressed regions. Major examples include:

- **Microsoft:** Beginning August 2024, all new Microsoft data center designs use zero-water evaporation closed-loop chip-level cooling, avoiding over 125 million liters of water per year per facility. Pilot sites in Phoenix, AZ and Mt. Pleasant, WI are operational.

  Source: Microsoft Cloud Blog, December 2024
- **Equinix:** Formally committed in 2023 to avoid evaporative cooling in all high water-stress areas.

  Source: Equinix Blog, September 2024
- **Google:** Committed to replenish more water than it consumes by 2030. Its Pflugerville, TX facility (air-cooled) used only about 10,000 gallons in all of 2024 — roughly two months of a single household's use.

  Source: The Invading Sea, September 2025; Google Sustainability Reports

MYTH 1 CONTINUED ON NEXT PAGE

MYTH #1 "A data center will drain all the water in our community."

WUE (Water Usage Effectiveness) is the industry's standard measurement metric, developed by The Green Grid. The industry average WUE is 1.9 liters per kWh consumed, but this number varies dramatically by technology choice and climate. Regulators and developers are expected to negotiate and disclose WUE targets.

Source: EESI, 2025; Equinix WUE Analysis, November 2024

CAUTION – PARTIAL TRUTH

Older-design, evaporative-cooled data centers in water-scarce regions do pose real water depletion risks. Not all developers default to sustainable choices without contractual requirements. Communities should negotiate WUE commitments and cooling technology requirements as part of development agreements, not assume best practices will be followed automatically.

BOTTOM LINE

The "data center will drain our water" claim assumes 1970s technology. Modern engineering choices — and contractual requirements communities should demand — can reduce on-site water consumption to near zero. Water concerns are real for poorly designed or poorly sited facilities. They are addressable by engineering design, not inevitable.

MYTH #2 "Residents will pay higher utility bills to subsidize the data center."

THE MYTH

A data center will cause our electric bills to skyrocket as utilities pass infrastructure costs to residential customers to serve this massive industrial power user.

THE FACTS - KANSAS LAW SPECIFICALLY PROTECTS TAXPAYERS

In Kansas, the Kansas Corporation Commission (KCC) unanimously approved new large-load tariff rules in November 2025 that directly address this concern:

- Large-load users (data centers drawing 75 MW or more) must sign energy contracts of 12 to 17 years.
- Large-load users must pay a minimum of 80% of their contracted demand even in months they use less, protecting other ratepayers from stranded costs.
- Large-load users must post collateral equal to two years of minimum bills — meaning the financial risk of non-payment sits with the data center, not residents.
- Large-load users must pay for any transmission upgrades required to serve their facilities. The KCC estimates these customers will pay 7–10% more than existing industrial customers, on a $200M+ annual power bill, shifting costs that would otherwise fall on the general rate base.

Source:Kansas Corporation Commission Order, November 6, 2025; Utility Dive, November 10, 2025; Kansas Reflector, November 6, 2025

Additionally, Kansas SB 98 (enacted 2025) explicitly prohibits public utilities from granting data centers the standard 40%/20% economic development discounted rate that other large industrial customers can access. Data centers in Kansas are barred by law from receiving this incentive.

Source: Kansas SB 98; Ankura Analysis, 2025; Lexology Analysis, 2025

CAUTION - IMPORTANT NUANCE

The above protections are real and specific to Kansas — but they do not tell the whole story. There is a documented national pattern of concern:

- In Virginia, Dominion Energy proposed its first base-rate increase since 1992 in February 2025, adding ~$8.51/month for a typical household. Data center infrastructure buildout was among the contributing drivers.

MYTH 2 CONTINUED ON NEXT PAGE

MYTH #2 "Residents will pay higher utility bills to subsidize the data center."

- In Georgia, electricity costs have surged in recent years, partly due to the rapid expansion of data centers.
- The key legal distinction: Kansas law prohibits direct subsidization of data center electricity costs. But utilities can still seek rate increases to recover infrastructure investments (new power lines, transformers, substations) that serve growing load — including data centers — if a regulator approves such recovery.

Source: Belfer Center, Harvard Kennedy School, February 2026; Time, February 2026; NPR, February 2026

BOTTOM LINE

In Kansas, residents are legally shielded from directly subsidizing data center power usage. The data center must finance its own infrastructure and pay market-rate or above-market rates. However, community members are right to watch utility rate cases involving infrastructure expansion, and regulators should require proportional cost recovery from large load customers rather than spreading costs across the residential base.

MYTH #3 "Data centers are deafening. The noise will destroy our quality of life."

THE MYTH

Data centers operate like an industrial factory running 24/7 at extreme noise levels.

THE FACTS - NOISE IS A REAL CONCERN, NOT A MANUFACTURED ONE

Data centers do contain mechanical equipment that produces sound, primarily from cooling systems and backup generators. Typical ranges include:

- **Interior server halls:** 70–95 dB (similar to other industrial mechanical spaces; hearing protection is typically used by staff).
- **Exterior cooling equipment:** generally 55–75 dBA at the source depending on system design.
- **Backup generators:** can reach 85–100 dBA when operating, but these typically run only during periodic testing or power outages.
- For comparison:

  60 - 65 dB – Normal conversation

  70 dB – Dishwasher or busy office

  80 - 90 dB – Lawn mower

Because buildings, distance, and acoustic design reduce sound levels, noise at the property line is typically much lower and subject to local noise ordinances

Source: TechTarget, 2024; C&C Technology Group, 2024; Gerry McGovern, Data Centers Are Noisy as Hell

Community noise regulations typically set limits of 50–60 dBA. However, most of these ordinances were written before constant, 24/7 low-frequency industrial noise was a common community issue.

Source: Larson Davis Noise Monitoring Systems, 2025

REGULATORY SOLUTIONS IN USE

- **Fairfax County, VA:** Requires 200-foot setbacks from residential areas, pre- and post-construction noise studies, and mandatory acoustic barriers for all external equipment.

MYTH 3 CONTINUED ON NEXT PAGE

MYTH #3 "Data centers are deafening. The noise will destroy our quality of life."

- Liquid and immersion cooling dramatically reduce external fan noise by eliminating or reducing the need for large air-cooled HVAC equipment.
- Acoustic sound walls of 30+ feet can achieve 11 dBA reduction at residences.
- Real-time noise monitoring with automated alerts is now standard engineering practice.

Source: Ramboll Engineering, December 2024; Noise Monitoring Services, 2025; Fairfax County Government

BOTTOM LINE

Data centers do generate mechanical noise, primarily from cooling systems and backup generators. However, modern facility design, local zoning requirements, and engineering controls are commonly used to manage noise levels and maintain compliance with community standards. Noise impacts are therefore site-specific and typically addressed through local planning and permitting processes.

MYTH #4 "They're buying up all the land – there will be no buffer zones and they're building massive complexes."

THE MYTH

Data center developers are purchasing large land tracts with no concern for buffer zones, building unlimited-scale mega-complexes with no regard for neighboring properties.

THE FACTS

Modern hyperscale AI data centers do require substantial land. This is a factual reality:

- A large hyperscale campus can cover hundreds of acres of impermeable surface. The Talen Energy project proposed in Montour County, PA sought to rezone approximately 1,300 acres.
- Prince William County, VA saw data centers account for 74% of the county's $3.1 billion in commercial growth in tax year 2023, leading county supervisors to halt several projects in October 2024.

Source: Reuters, December 2025; Data Center Knowledge, 2024; Dgtl Infra, 2024

However, buffer zones are not optional in responsible development — they are standard engineering practice and increasingly required by ordinance

- Noise, light, and visual impact standards require setbacks from residential and agricultural zones in virtually all jurisdictions with active data center development.
- Developer-driven best practices include vegetative screening, berm construction, and strategic facility orientation to shield neighboring uses.

The legitimate concern here is at the zoning and land-use planning level, not data center engineering per se. Communities that lack specific data center zoning ordinances are more vulnerable to dense siting without adequate buffers. The solution is proactive land-use policy, not a blanket opposition.

BOTTOM LINE

Large hyperscale facilities do require large parcels. Buffer zones must be actively required by local ordinance — they do not happen automatically. Communities should adopt or update zoning ordinances specifically addressing data center setbacks, building heights, screening requirements, and campus density limits before a proposal arrives, not after.

MYTH #5 "If we allow one, we will be overrun with data centers."

THE MYTH

Approving one data center is a one-way door — the community will be unable to stop a flood of similar facilities, losing control of development permanently.

THE FACTS

The clustering effect in data centers is real but not inevitable, and is controllable through local policy:

- Data centers do cluster because they need fiber connectivity, high-voltage transmission infrastructure, and proximity to existing facilities for sub-millisecond latency. Once these infrastructure investments are made, the area becomes more attractive to subsequent developers.
- Northern Virginia's "data center alley" — the world's densest concentration — grew from one facility to 43 million square feet of permitted space in Loudoun County alone, a 231% increase between 2018 and 2024.

  Source: LandApp, Northern Virginia Case Study, January 2025
- Role of Local Policy:

Even in areas with strong infrastructure advantages, local governments retain authority over land use decisions. Communities typically manage development through:

  - zoning designations
  - conditional use permits
  - site plan review
  - building height and setback standards
  - infrastructure and utility agreements

Several jurisdictions around the country have adopted additional policies such as acreage limits, spacing requirements, or designated technology districts to guide development.

BOTTOM LINE

Data centers may cluster in locations with strong power and fiber infrastructure, but communities maintain control over where and how development occurs through local zoning and planning decisions. Development patterns vary significantly based on local policy choices and market conditions.

MYTH #6 "We are being overwhelmed with data center inquiries – they must all be real."

THE MYTH (INVERSE)

Every site inquiry and expression of interest from a data center developer represents a committed, funded project that will definitely be built.

THE FACTS

In practice, large technology and infrastructure companies typically evaluate multiple locations simultaneously before selecting a final site.

How the Site Selection Process Works

During early stages of site selection, companies may:

- Review numerous potential sites across several states
- Use project code names to maintain confidentiality during competitive processes
- Assess power availability, fiber connectivity, land availability, and permitting timelines

As a result, many early inquiries represent preliminary market evaluations rather than finalized projects.

Infrastructure and Timing Considerations

Data center development also depends on several infrastructure factors that can affect whether a project ultimately proceeds, including:

- Availability and timing of electric transmission capacity
- Permitting and environmental review timelines
- Land assembly and site readiness
- Market demand for computing capacity

Because of these factors, it is common for companies to evaluate several locations before committing to a single site.

PRACTICAL GUIDANCE

Kansas law includes additional review steps for qualifying projects. Under SB 98 (2025), proposed data center projects receiving public incentives must undergo review by the Kansas Intelligence Fusion Center and Kansas Department of Commerce before benefits are awarded.

Source: Kansas SB 98, 2025

BOTTOM LINE

Early-stage site inquiries are a normal part of the site selection process and do not always result in construction. Final project announcements typically occur only after companies have completed detailed infrastructure, permitting, and financial evaluations.

MYTH #7 "Data centers will turn our water into black sludge / severely pollute our water supply."

THE MYTH

Some community discussions suggest that data centers discharge heavily contaminated water or create "toxic sludge" that could harm local waterways.

THE FACTS - EXTREME CLAIMS ARE FALSE

The "black sludge" characterization has no basis in documented evidence. However, water quality impacts from data centers are multifaceted. An honest accounting requires addressing several distinct mechanisms:

1. What the Data Shows

There is no evidence that data centers discharge "black sludge" or untreated industrial waste into drinking water systems.

Like many industrial and commercial facilities that use cooling systems, some data centers circulate water through cooling equipment. In certain designs, a portion of that water is periodically discharged and replaced as part of normal system maintenance.

Depending on the cooling technology used, this discharge water may contain:

- Minerals and dissolved solids concentrated during the cooling process
- Small amounts of treatment chemicals used to control scaling or biological growth
- Elevated temperature relative to incoming water

These characteristics are similar to cooling systems used in many industrial facilities.

Source: KETOS Water Intelligence, July 2024; American Society of Civil Engineers (ASCE), 2024; Data Center Knowledge, November 2025

2. Regulatory Oversight

Water use and discharge from data centers are regulated through existing environmental and utility frameworks, including:

- National Pollutant Discharge Elimination System (NPDES) permits for any direct discharge to surface waters
- State environmental permitting requirements
- Local wastewater utility standards for discharge into municipal systems

Facilities that discharge to municipal sewer systems may be required to pretreat wastewater before discharge to ensure compliance with local treatment plant requirements.

MYTH 7 CONTINUED ON NEXT PAGE

MYTH #7 "Data centers will turn our water into black sludge / severely pollute our water supply."

3. Engineering and Operational Practices

Modern data center designs increasingly incorporate technologies that reduce or eliminate water discharge, including:

- Closed-loop cooling systems
- Direct-to-chip liquid cooling
- Air-cooled systems in water-constrained regions

Where water is used, operators typically conduct engineering analyses to evaluate water use, discharge characteristics, and treatment requirements as part of project permitting.

WHAT REGULATORS REQUIRE

- National Pollutant Discharge Elimination System (NPDES) permits regulate any direct discharge to surface water, including temperature and chemical limits.
- Many utilities now require data centers to pretreat blowdown before discharge to the sewer system.
- On-site treatment systems (DAF, MBR, RO systems) are established engineering solutions for facilities where discharge volumes or contaminant concentrations exceed municipal limits.

BOTTOM LINE

Data centers do not discharge untreated industrial waste into drinking water systems. Water use and wastewater discharge are subject to established environmental regulations and local utility standards, and impacts are evaluated on a site-specific basis during project permitting and review.

MYTH #8 "Data centers will destroy our electrical grid and cause blackouts."

THE MYTH

The massive power draw of data centers will destabilize the local grid, cause blackouts, and leave existing customers without power.

THE FACTS

The relationship between data centers and grid stability is nuanced — there are both documented risks and documented benefits, depending on how a facility is designed and integrated:

GRID STABILITY BENEFITS

- Data centers operate at a very high, predictable load factor. Dominion Virginia reported an 82% load factor for large data centers in 2024. This predictability is a planning asset for utilities — unlike residential load, which spikes unpredictably, data center load is steady and forecastable.

  Source: Grid Strategies LLC, National Load Growth Report, 2025
- New generation data centers with battery storage integrated into their UPS systems can provide active grid services: frequency regulation, demand response, and voltage support. Startups like Verrus are specifically designing data centers to send power back to the grid during peak demand events.

  Source: NLR / National Lab Research, February 2026
- The DOE's DCFlex project, partnering with Google, Meta, Microsoft, Duke Energy, and PJM (one of the nation's largest grid operators), is demonstrating how data center workloads can be shifted to reduce grid stress during peak hours.

  Source: ITIF (Information Technology and Innovation Foundation), November 2025
- A Duke University / Nicholas Institute study found that data centers and other large flexible loads could integrate 76–126 GW of new national demand without proportionate grid expansion, if they accept curtailment during fewer than 100 hours per year. This is a transformational finding for grid planning.

  Source: ITIF, November 2025; Renewable Energy World, December 2025

MYTH 8 CONTINUED ON NEXT PAGE

MYTH #8 "Data centers will destroy our electrical grid and cause blackouts."

REAL GRID RISK: SIMULTANEOUS DISCONNECTION

In July 2024, a voltage fluctuation in Northern Virginia caused 60 data centers to disconnect from the grid simultaneously, creating a 1,500 MW surplus that required emergency adjustments to prevent a cascading outage. This is a documented real risk when many large facilities are concentrated in a single area and use traditional UPS systems that automatically disconnect rather than ride through disturbances.

Source: Schneider Electric Blog, February 2026

Transmission System Operators are now requiring "Fault Ride-Through" (FRT) capability for large data center loads, meaning facilities must maintain connection and support the grid through short-duration disturbances rather than dropping load suddenly.

Infrastructure Investment

Data center development drives substantial utility infrastructure investment that benefits all customers in the long run: new substations, upgraded transmission lines, expanded generation capacity. These investments improve overall grid resilience and reliability — though they require careful rate design to ensure data center customers shoulder their proportionate share.

Source: Engineering News-Record, December 2025

BOTTOM LINE

Data centers are not inherently grid destroyers. A properly sited, properly integrated data center with battery storage, demand response capability, and Fault Ride-Through compliant UPS systems can actually improve grid stability. The risk scenario — destabilization — arises from concentration of many inflexible, simultaneously-disconnecting facilities in the same area. This is a design, regulation, and siting standard issue, not an inherent property of data centers.

MYTH #9

"A data center won't attract any other businesses or tech development – it's a dead end economically."

THE MYTH

Data centers are isolated, non-interactive industrial buildings with no meaningful broader economic development effect for a community.

THE FACTS

Data centers function as digital infrastructure anchors. When negotiated properly, they catalyze broader tech ecosystem development:

- According to CBRE research, each direct job created in the data center industry generates an average of 7.4 ancillary jobs across the broader local economy, including construction, operations, maintenance, cybersecurity, telecommunications, and related services.

  Source: WYEDC, citing CBRE Research, 2025
- In southeastern Wisconsin, Microsoft's data centers at Mount Pleasant were accompanied by investments in workforce development, R&D, manufacturing, and tech startup ecosystems — without being formally required in the development agreement.

  Source: Brookings Institution, February 2026
- CoreWeave's data centers in New Jersey were structured as part of the NJ AI Hub with Princeton University, Microsoft, and the New Jersey Economic Development Authority, with $20 million committed to emerging startups.

  Source: Brookings Institution, February 2026
- The Brookings Institution's analysis concludes: "Regions should treat data center negotiations not as isolated real estate transactions but as ecosystem-shaping moments that trade infrastructure access for commitments to advance local innovation, talent, and industry strengths."

  Source: Brookings Institution, February 2026

MYTH 9 CONTINUED ON NEXT PAGE

MYTH #9 "A data center won't attract any other businesses or tech development – it's a dead end economically."

Cybersecurity and Tech Sector Attraction

Data centers require and attract:

- Cybersecurity operations: Every large data center is a major cybersecurity employer and attracts security firms. National security and intelligence community facilities cluster around high-security data infrastructure.
- Fiber and telecom expansion: Data center development drives fiber buildout that serves entire regions, lowering connectivity costs and enabling other tech-dependent businesses.
- Cloud services firms, edge computing operators, and managed service providers cluster near major data center hubs to offer co-located services.
- Advanced manufacturing: Cooling system manufacturers, UPS manufacturers, generator maintenance, and specialized construction firms establish local operations near major data center markets.

IMPORTANT QUALIFICATION

Data centers themselves are not big direct employers. A typical facility creates 1,000+ construction jobs during the build phase, but only 100–200 permanent operational jobs. The broader economic development benefits are real but require deliberate negotiation — they do not happen automatically.

Source: Wisconsin Public Radio, 2025; Brookings, 2026

BOTTOM LINE

Data centers generally employ fewer permanent staff than many other industries, but they involve substantial capital investment and infrastructure development. Their broader economic effects depend on project size, local infrastructure needs, and how communities integrate them into regional economic development strategies.

MYTH #10 "The tax revenue from a data center isn't worth the trade-offs."

THE MYTH

The tax revenue generated by data centers is negligible, especially given the incentives provided, and does not justify the impacts on communities.

THE FACTS — REVENUE IS SIGNIFICANT WHEN PROPERLY STRUCTURED

Where local tax policy captures the full taxable value — including real property, personal property (servers, racks, cooling equipment), and fixtures — data center tax revenue has been transformational for local governments:

- Loudoun County, VA: The world's largest data center concentration now provides nearly half of all property tax revenue, contributing an estimated $663 million in 2022. The county's fiscal analysis calculates approximately $26 in tax revenue for every $1 in county services the data centers require.
- Prince William County, VA: Data centers generated $166.4 million in local tax revenue in 2023.

Source: LandApp / Olney Enterprise, January/November 2025

Mill levy and property tax assessment dynamics:

- Data centers are highly capital-intensive. Equipment (servers, chillers, UPS systems, switchgear) represents $775M+ of tangible personal property in a typical facility, with servers cycling on a 3-5 year replacement schedule.
- In Virginia, counties can tax this personal property as "machinery and equipment" — the primary driver of the extraordinary local revenue figures.
- A data center that invests $1 billion generates an estimated $58.3 million in first-year sales tax liability at the national average rate (7.52%), plus ongoing annual obligations as equipment is replaced.

Source: Tax Foundation, December 2025

- Tax Increment Financing (TIF) districts are a common local tool. A municipality designates a geographic area where new tax revenue from increased property values is used to pay off infrastructure bonds — meaning the data center essentially finances its own serving infrastructure over time.

Source: Wisconsin Public Radio, 2025

MYTH 10 CONTINUED ON NEXT PAGE

MYTH #10 "The tax revenue from a data center isn't worth the trade-offs."

CAUTION — INCENTIVE STRUCTURES CAN DRAMATICALLY REDUCE ACTUAL REVENUE

The revenue figures above reflect jurisdictions where full taxation applies.

- Kansas SB 98 provides a 20-year sales tax exemption for qualified data centers making a minimum $250 million investment and creating at least 20 new jobs. This is the state incentive — but local property tax obligations on real property and equipment, if not separately abated, remain.

  Source: Kansas SB 98, 2025

BOTTOM LINE

The fiscal impact of a data center depends largely on how state and local tax policies are structured and how projects are negotiated at the local level. Communities may evaluate projects based on their capital investment, infrastructure needs, and local tax framework. A data center sited with full sales and personal property taxation can generate tens to hundreds of millions annually.

Key Sources & Citations

All claims in this document are citable. Below are the primary sources by topic area.

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Kansas Utility Rate Law

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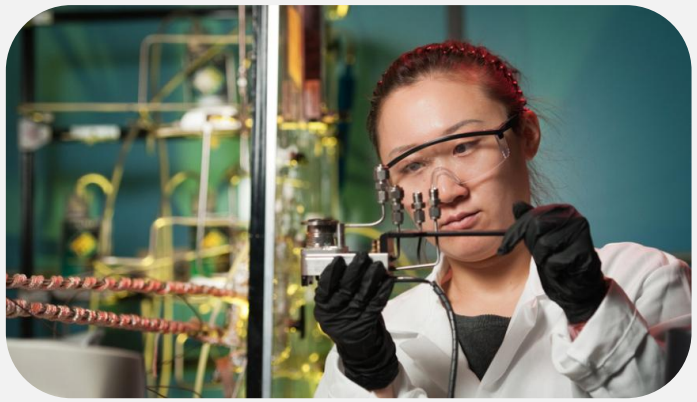
GREAT SEAL OF THE STATE OF KANSAS
AD ASTRA PER ASPERA
JANUARY 29, 1861

KANSAS
COMMERCE



Data Centers in Kansas

Paul Hughes
Headquarters & Megaprojects
Paul.Hughes@ks.gov
(785) 260-5775

KANSAS
COMMERCE

Data Center Type & Size

	Size Metric	Rack Yield	Compute Space	
			SQFT (ft2)	SQM(m2)
250-700 MW	Mega	> = 9,001	>= 225,001	>= 22,501
	Massive	3,001 – 9,000	75,001 – 225,000	7,501 – 22,500
	Large	801 – 3,000	20,001 – 75,000	2,001 – 7,500
	Medium	201 – 800	5,001 – 20,000	501 – 2,000
	Small	11 – 200	251 – 5,000	26 – 500
5-10 MW	Mini	1 – 10	1 – 250	1 – 25

Hyperscale:

Microsoft Google aws ORACLE Meta

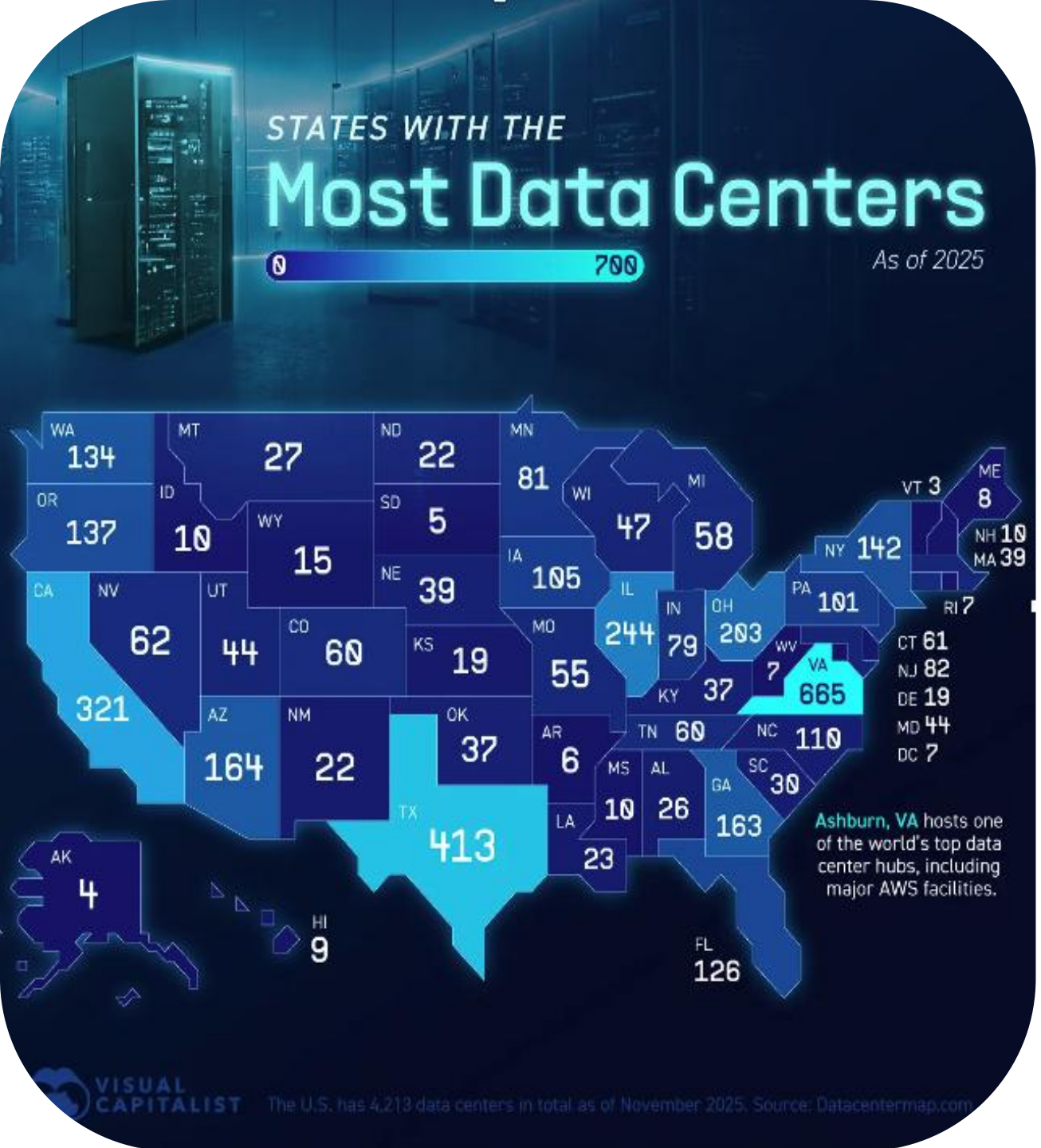
Enterprise:

fiserv. T-Mobile BOEING H&R BLOCK

Co-Located:

IRON MOUNTAIN

STELLAR FORGE



Why the Surge in Projects?

- Infrastructure takes time
  - Wichita IXP
  - Broadband
  - 365kv – 765kv (SPP)
- Passage of SB98 in previous session
- Improved tech opens smaller markets
- Going from 10 DCs to 20 feels “big”
- Speculative development

Source: https://www.visualcapitalist.com/mapped-u-s-states-with-the-most-data-centers-in-2025/

Community Benefits of Data Centers

- Large construction budgets boost hospitality, retail and restaurant tax collections.
- Taxes paid on energy consumption can be a huge boost for smaller communities.
- Responsible operators want to become part of the community.
- Willing to train and hire local talent.
- Hiring pattern doesn’t overwhelm housing or cause traffic congestion.

Why the reaction to Data Centers in Kansas?

- Many people are unaware of Kansas law requiring data centers to pay for their own power infrastructure and blame Data Centers for rising energy rates.

  - People are fearful that “the floodgates are opening.” Virginia wanted to be a Date Center mecca.

  - Speculative developers are tying up power availability, land and other resources when they don’t have a signed customer.
  - This makes it very difficult for energy providers to ascertain whether demand is real or not.

  - Confidentiality requirement is no different for this industry, but people don’t like it.

- Communities are realizing they don’t have a master development plan but want to have say in who/how a data center enters.

Data Centers and Water Use

Technology	Suitability	Key Benefits	Drawbacks	100MW
Water cooling (evaporative)	Low/Medium density	Low equipment cost	Heaviest water use	1-3M gal/day ~4 acre-feet
Air Cooling	Low-density racks	Familiarity, low initial cost	Higher energy use	12,000 gal/day
Direct-to-Chip (liquid)	High performance	Efficiency, high rack density	Higher cost, complex infrastructure	Nearly zero
Immersion Cool (liquid)	High density/edge computing	Most efficient, silent	Complex maint. & specialized hardware	Nearly zero

Important note: in conversation, water cooling and liquid cooling are very different!

Kansas Data Center Opportunity Pipeline

20 Open projects of varying sizes

$12M Smallest defined project scope

$7+B Largest defined project scope

$25.4B TOTAL

What Advice Can Be Offered to Communities

- Leverage cost-benefit analysis tools from Commerce
  - https://www.kansascommerce.gov/program/taxes-and-financing/tax-abatement/
- Get cozy with your energy provider's Economic Development office. They often know about these projects before Commerce does.
- Remind people of SB98 requirement for Intelligence Fusion Center review is under the Office of the Attorney General.
- Consider leveraging the Fusion Center review as a requirement to gain other approvals or permits in your community.
- Data Centers don't "swarm in." Suitable sites are few and Virginia, Texas and California worked hard to achieve what they have.
- If zoning change is the answer, consider scaling based on acreage requirements.

Let's Talk

www.kansascommerce.gov

KANSAS

COMMERCE

EL DORADO
KANSAS

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Speculative Building Policy
DATE: April 1, 2026

Background:

A speculative building policy is an economic development tool intended to encourage the construction of commercial and industrial buildings without a pre-committed tenant. Under this approach, a developer constructs a “spec building” based on anticipated market demand, and the community provides targeted incentives to offset the financial risk associated with building without a guaranteed occupant. In return, the developer actively markets the building to prospective tenants, allowing the community to respond more quickly to business recruitment opportunities.

The need for a speculative building policy is driven by the realities of modern site selection. Businesses, especially those in industrial, logistics, and light manufacturing sectors, often operate on accelerated timelines and prefer sites that are “shovel-ready” or include an existing building that can be occupied quickly. Communities that lack available building inventory are frequently eliminated early in the selection process, regardless of their strengths in infrastructure, workforce, or location. As a result, the absence of move-in-ready space can serve as a barrier to economic growth and limit the City’s ability to attract new investment and jobs. This has recently been the case in El Dorado as several projects seeking existing buildings elected to pursue alternate locations because of a lack of available buildings.

In addition, speculative development helps address local market gaps. In many smaller or mid-sized communities, private developers are hesitant to construct commercial or industrial buildings without tenant commitments due to financing constraints and lease-up risk. This creates a cycle where buildings are not constructed because there are no tenants, and tenants do not locate in the community because there are no buildings. A speculative building policy is intended to intervene in this cycle by reducing upfront risk and creating a pathway for initial development that can catalyze additional private investment over time.

The policy establishes eligibility criteria and program requirements for participation, including building size, design standards, location considerations, and alignment with the City’s economic development goals. It also outlines the types of incentives that may be offered, which can include property tax abatements, fee waivers, or other financial tools authorized by state law. These incentives are structured to encourage timely construction, active marketing of the property, and eventual occupancy, while protecting the City’s financial interests.

Ultimately, the purpose of the speculative building policy is to position the City to compete more effectively for business investment, support the development of its commercial and industrial areas, and stimulate long-term economic growth. By facilitating the construction of market-ready buildings, the City can move from a reactive posture to a more proactive strategy and ensure that when opportunity knocks, there is a door ready to open.

Attachments:

1. 2026 Speculative Building Resolution - DRAFT

Advisory Board Recommendation:
Not applicable, although the City did solicit input from commercial and industrial contractors in the region and its commercial real estate agent to develop the proposed policy.

Policy Issue:
Should the City provide a property tax incentive to facilitate speculative development of commercial and industrial buildings? The City's business park has not had any new development for a number of years. Part of the reason for this lack of development is El Dorado's distance from the Wichita metropolitan growth area. The proposed incentive attempts to reduce the risk to developers of constructing commercial or industrial buildings without tenants beyond this growth area. The incentive also encourages developers to actively market and sign tenants or sell buildings before the incentive ends.

The City of El Dorado has previously had a speculative building policy, although it expired several years ago and has not been renewed. Other communities in south central Kansas have implemented their own speculative building policies to achieve the development of commercial and industrial buildings in their respective jurisdictions. The proposed policy used these communities' policies to establish a framework that was customized to facilitate a competitive environment in El Dorado.

Fiscal Impact:
The proposed policy does not have a direct fiscal impact on the City's budget. Properties that would be targeted by this policy currently do not have buildings available for occupancy. Therefore, property taxes on the targeted tracts are limited to vacant land valuations. Providing a property tax incentive to encourage the development of commercial or industrial buildings requires the City to temporarily surrender property tax revenues generated by such development. The City (and other local taxing jurisdictions) will benefit from increased property taxes once the property reaches the end of the incentive period of ten years. These would be new property taxes that would likely not have otherwise been received but for the incentive to facilitate the development.

Trade-Offs:
A **trade-off** in policy development refers to when decision-makers must balance competing interests or priorities. Decisions often require choosing between certain interests or priorities. Municipal governments face limited resources—like budget, time, public support, or capacity—so strategic choices are necessary to make the most transformative investments with public resources. For example, allocating funds or staff time to one priority means that another priority will receive less resources.

Providing a property tax incentive to facilitate the development of commercial or industrial buildings means the City (and other local taxing jurisdictions) will temporarily forego property tax revenue for a future increased value that will generate more property taxes than are presently generated by a site. The trade-off to implementing this policy is to continue to allow the market to develop existing commercial and industrial sites, while receiving low amounts of associated property taxes from vacant and underutilitized land designated for such opportunities.

Staff Recommendation:
The City Manager recommends approval of a Speculative Building Policy to facilitate development within the City's designated Business Park and industrial growth areas.

Commission Action:
This item is for discussion purposes only. The item will be scheduled for consideration at a regular

meeting pending direction to do so by the City Commission.

CITY OF EL DORADO, KANSAS

RESOLUTION NO. ___

A RESOLUTION ADOPTING A SPECULATIVE BUILDING POLICY FOR THE CITY OF EL DORADO, KANSAS

WHEREAS, the City Commission of the City of El Dorado, Kansas, recognizes the importance of establishing clear and consistent policies to incentivize speculative commercial and industrial projects to advance the City's economic development goals; and

WHEREAS, the City Commission periodically adopts new policies or revises existing policies to improve efficiency, accountability, and service delivery in accordance with the City's mission and values; and

WHEREAS, the Speculative Building Policy has been prepared to provide guidance and transparency with respect to the City's incentives for speculative construction of commercial and industrial buildings; and

WHEREAS, the City Commission finds that adoption of the policy serves the public interest and promotes the economic development goals of the City of El Dorado.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EL DORADO, KANSAS:

1. **Adoption.** The City Commission hereby adopts the document entitled the Speculative Building Policy ("Policy"), attached hereto as *Exhibit A*, as the official policy of the City of El Dorado, Kansas.
2. **Purpose.** The purpose of this Policy is to establish an incentive to encourage speculative building of commercial or industrial buildings to advance the City's economic development interests.
3. **Supersession.** This Resolution supersedes any prior resolutions or policies that conflict with the provisions of the adopted Policy.
4. **Implementation.** The City Manager, or their designee, is hereby authorized and directed to implement the provisions of the Policy and ensure compliance by all applicable departments and personnel.
5. **Effective Date.** This resolution shall be in full force and effect from and after its adoption by the City Commission.

ADOPTED by the City Commission of the City of El Dorado, Kansas, this __ day of _____, 2026.

ATTEST:

_____ _____

Bill Young, Mayor Emerald Veatch, City Clerk

Exhibit A

Speculative Building Policy

Established: [insert date]

1. **Purpose.**
   The goal of this program is to promote the development of commercial and industrial buildings within the corporate limits of the City of El Dorado to advance the economic development interests of the City and to create opportunities for business recruitment and expansion.

2. **Definitions.**
   a. **"Application Approval Date"** shall mean the date on which the City Commission formally approves participation in the Policy through adoption of a resolution authorizing issuance of Industrial Revenue Bonds and execution of a Development Agreement.

   b. **"Certificate of Occupancy"** shall mean a legal document issued by the City building or zoning official certifying that a building or structure is safe, properly inspected, and compliant with all building codes and safety regulations. It officially confirms the property is suitable for habitation or commercial use.

   c. **"City Commission"** shall mean the governing body of the City of El Dorado, Kansas.

   d. **"Commencement of Construction"** shall mean the date at which a building permit is issued for the project and evidence of physical site work within thirty (30) days from the date of the issuance of the building permit.

   e. **"Cure Period"** shall mean a reasonable period, not less than thirty (30) days unless otherwise specified in the Development Agreement, during which a property owner may remedy non-compliance after receiving written notice from the City.

   f. **"Developer"** shall mean any individual, partnership, limited liability company, corporation, or other legal entity that applies for and receives approval to construct and own a speculative building under this Policy, and that is a party to a Development Agreement with the City.

   g. **"Development Agreement"** shall mean a written agreement between the City and the Developer, approved by the City Commission, that sets forth the rights, obligations, performance requirements, reporting requirements, compliance standards, and enforcement provisions associated with participation in this Policy.

   h. **"Industrial Revenue Bond"** shall mean a bond issued by the City pursuant to K.S.A. 12-1740 et seq., as amended, for the purpose of financing the acquisition, construction, or improvement of commercial or industrial facilities, whereby the City holds title to the project for the duration of the bond term to provide property tax abatement as permitted by Kansas law and applicable local policies.

   i. **"Kansas Open Meetings Act"** shall mean K.S.A. 75-4317 et seq., as amended, which requires that meetings for the conduct of governmental business be open to the public unless otherwise specifically provided by law.

j. **"Leased Square Footage"** shall mean the portion of the total gross building area subject to a written lease agreement with a tenant.

k. **"Minimum Industrial or Commercial Site Standards"** shall mean development standards established by the City including, but not limited to, zoning classification, access to public infrastructure (i.e., water, sewer, and street access), minimum lot size, stormwater management compliance, and any adopted site readiness criteria.

l. **"Occupied Space"** shall mean square footage subject to an executed lease agreement or ownership transfer to a third party actively conducting business operations within the building.

m. **"Speculative Building"** shall mean an industrial or commercial building that does not have a commitment from a tenant at the time construction commences.

3. Policy.

The City will grant a five-year, 95% property tax abatement for speculative buildings conforming to the criteria specified in this Policy. Buildings with a minimum of 75% occupied space after the initial five years will receive an additional five years of abatement under this Policy.

Buildings with less than 50% occupied space after five years shall receive a five-year, 75% property tax abatement for the remainder of the incentive term. The City will consider properties leased or sold as equal for purposes of this Policy.

Years	Occupancy	Abatement Percentage
Years 1-5	No occupancy requirement	95%
Years 6-10	Greater than or equal to 50% occupied	95%
Years 6-10	Less than 50% occupied	75%

Occupancy levels for purposes of determining Years 6–10 abatement eligibility shall be measured as of the fifth anniversary of the Certificate of Occupancy issuance date. Continued eligibility for the 95% abatement through Years 6–10 shall require annual verification of maintaining at least 75% Occupied Space.

4. Criteria.

Commercial and industrial projects complying with the following criteria will be considered eligible for participation in this program.

a. Building Size: Building size requirements shall vary by product type as follows:

1. Industrial or Warehouse Buildings: Minimum construction of 30,000 square feet of occupiable, under-roof space with a minimum ceiling height of twenty-eight (28) feet and a building span of thirty (30) feet.

2. Flex or Small Bay Buildings: Minimum construction of 12,000 square feet of occupiable, under-roof space. Such buildings should be designed to allow for the subdivision of the building into bays generally ranging from 3,000 to 6,000 square feet where supported by the market and site layout.

3. Office or Office-Warehouse Buildings: Minimum construction of 10,000 square feet of occupiable, under-roof space, where the applicant demonstrates the project is appropriate for the site and consistent with the City's economic development goals.

4. Alternates: The City Commission may approve alternative dimensional standards where the applicant demonstrates the proposed building is right-sized for the property and represents the highest and best use of the site.

b. Building Composition: Concrete tilt construction is the preferred construction method for buildings, although other construction methods may receive the incentive if the applicant demonstrates an economic justification for varying construction methods. Buildings should include an architectural façade on all public street frontage and exterior design appropriate to the intended building type, location, and market positioning.

c. Building Purpose: Structures shall be used for approved uses within the applicable zoning district per the City's Zoning Regulations. Buildings shall include a minimum of at least 20% of the square footage for office or flexible built space. The City Manager may grant an administrative waiver of this requirement based on market demand. Administrative waivers shall be limited to technical or market-based adjustments and shall not materially alter the incentive structure. Building layout and finish shall be appropriate to the product type and intended market.

1. Industrial or Warehouse Buildings shall not be required to include a minimum office percentage, provided the office area is adequate to support the intended use.

2. Flex or Small Bay Buildings shall include a target of 15% to 20% of the square footage for office or finished flexible space, unless modified by the City Commission based on demonstrated market demand.

3. Office or Office-Warehouse Buildings shall include finished office space appropriate to the intended tenant mix and site.

4. Applicants shall provide a written statement describing the intended tenant profile, market rationale, and why the proposed building is right-sized for the property and consistent with the highest and best use of the site.

d. Building Location: Developers seeking to participate in this program must locate on sites that meet minimum industrial or commercial site standards as determined by the City.

e. Finance: The developer must finance buildings using industrial revenue bonds to participate in the program. Applicants pay all applicable fees for the issuance of industrial revenue bonds.

f. Subleases: All leases or sales involving a material change of use executed during the effective period of the property's participation shall require written approval by the City Manager.

g. Term: The total term of the tax abatement for any speculative building shall not exceed ten years.

h. Timeframe: Construction must commence within thirty (30) days of approval of an application to participate in the program. Construction must receive a certificate of occupancy no later than eighteen months from the application approval date to remain eligible for the incentive. Failure to meet commencement or certificate of occupancy deadlines shall result in automatic termination of incentive eligibility unless extended by the City Commission for good cause shown.

i. Eligibility: Eligibility for all incentives under this Policy is contingent upon issuance of Industrial Revenue Bonds and execution of a Development Agreement.

5. **Building Permit and Utility Fees.** All buildings participating in this program shall be exempt from building permit fees as required by Municipal Code. All buildings participating in this program shall be exempt from applicable water connection fees and sanitary sewer tap fees as otherwise required by Municipal Code or other regulations or policy, respectively. Nothing in this policy shall preclude the property owner from paying any applicable utility rate charged for the provision of service after a service connection is made.

6. **Regulatory Compliance.** Participants agree to comply with all applicable local regulations and ordinances, except those expressly waived by this Policy. Buildings must be used for lawful purposes consistent with federal, state, and local law.

7. **Transparency.** Property owners agree that participation in this program is subject to public disclosure according to the Kansas Open Records Act. The City will disclose participation of all participants on the City's website and the Kansas Department of Commerce's transparency website.

8. **Transferability.** The incentive provided by this program shall transfer upon the sale of the property to the purchasing party with the number of years remaining during the effective period of the incentive. Transfer to another party shall be contingent upon the assumption of the Development Agreement by the third party and continued compliance with the terms and conditions thereof.

9. **Reporting.** Participants shall provide annual occupancy and compliance reports to the City to verify continued eligibility.

10. **Clawback Provision.** Property owners not complying with the provisions of this Policy shall be removed from participation in the program. The City shall notify non-compliant property owners by first-class mail of such non-compliance, specifying the reasons for non-compliance and providing for a period to cure the identified issues to the satisfaction of the City. Failure to cure the identified issues by the cure date shall require the City Commission to remove the property from continued participation in the program. The Development Agreement may require repayment of abated taxes or imposition of penalties in the event of material breach, fraud, or misrepresentation.

11. **Developer Agreement.** The City will prepare a Development Agreement memorializing the terms and conditions of both parties with respect to the administration of this Policy. The agreement will be subject to the review and approval of the City Commission in an open, public meeting.

12. **Sunset.** The Policy will expire five years after its adoption unless otherwise extended or amended by the City Commission. This will provide the City Commission with an opportunity to review the

program to determine if it warrants an extension and if any changes are needed to further the City's economic development goals. All properties in compliance with the requirements of the program shall remain in the program according to the terms of the development agreement should the policy sunset and not be renewed by the City Commission. New applications for the program shall not be accepted after the sunset date unless the City Commission extends the program.

13. **Commission Waiver.** Except as otherwise provided herein, the City Commission may approve a waiver to any criteria or conditions contained in this policy when it makes a finding that an extraordinary economic benefit exists that necessitates such waiver. The approval of such waiver must occur during an open, public meeting of the governing body and shall be approved in the form of a resolution providing for such findings.

14. **Severability.** If any provision of this Policy is determined to be invalid or unenforceable, such determination shall not affect the validity of the remaining provisions.

15. **Supersede.** This Policy supersedes all prior policies of the City in conflict therewith, except for any in conflict with federal or state law.

16. **Effective Date.** This Policy becomes effective upon adoption and may be amended by the City Commission.

EL DORADO
KANSAS

TO:	City Commission
FROM:	David Dillner, City Manager
SUBJ:	Implementation of SB 244 ("Bathroom" Law)
DATE:	April 1, 2026

Background:

On February 18, 2026, the Kansas Legislature overrode Governor Kelly's veto of House Substitute for Senate Bill No. 244. The bill, which became effective on February 24, 2026, requires the designation of multiple-occupancy private spaces in public buildings for use by only one sex and imposes criminal and civil penalties for violations. The law defines the term "gender" to mean biological sex at birth for purposes of statutory construction, directs the division of vehicles to invalidate and reissue driver's licenses when necessary to correct the gender identification on such licenses, and directs the office of vital statistics to invalidate and reissue birth certificates when necessary to correct the sex identification on such certificates.

The City, as a government entity defined by K.S.A. 75-6102 and amendments thereto, is required to comply with the provisions of the law for restrooms in public buildings owned or leased by the City. According to the statute, a "public building" means a building owned or leased by a governmental entity, but does not include a building owned by a governmental entity that is leased to a private entity, whether for profit or not for profit, if the lease agreement for such building between the governmental entity and the private entity was in force and effect on the effective date of the act.

According to the law, the governing body of the government entity shall designate each multiple-occupancy private space in such building for use only by individuals of one sex. The governing body shall take every reasonable step to ensure an individual does not enter a multiple-occupancy private space that is designated for use only by individuals of the opposite sex. The Attorney General is charged with investigating complaints against government entities alleged of not enforcing the provisions of the law. Such entities may be subject to civic penalties of $25,000 for the first violation and $125,000 for each subsequent violation. Each day of a continuing violation constitutes a separate violation.

Attachments:

1. Legal Analysis for House Substitute for Senate Bill No. 244
2. House Substitute for Senate Bill No. 244 (as enrolled)
3. LKM Implementation Guide on SB 244
4. LKM SB 244 Model Policy

Advisory Board Recommendation:

Not Applicable

Policy Issue:

How should the City comply with the state law concerning the regulation of bathroom use by one sex? The League of Kansas Municipalities prepared the draft model policy for cities to use in considering how to implement SB 244. In addition, City Attorney Ashlyn Lindskog prepared a legal opinion on the statute for the City Commission's information.

Fiscal Impact:
The City proposes to designate most restrooms in its facilities as single-occupancy private space to avoid the need for monitoring. There will be some cost to convert these restrooms into single-occupancy private space, although it is anticipated to cost less than $5,000. The City is developing a proposal for multi-occupancy space that is located in recreation facilities and other community facilities such as the Civic Center.

The Attorney General is charged with investigating complaints against government entities alleged of not enforcing the provisions of the law. Such entities may be subject to civic penalties of $25,000 for the first violation and $125,000 for each subsequent violation. Each day of a continuing violation constitutes a separate violation.

Trade-Offs:
A **trade-off** in policy development refers to when decision-makers must balance competing interests or priorities. Decisions often require choosing between certain interests or priorities. Municipal governments face limited resources—like budget, time, public support, or capacity—so strategic choices are necessary to make the most transformative investments with public resources. For example, allocating funds or staff time to one priority means that another priority will receive less resources.

Failure to adhere to the requirements of the law may subject the City to significant fines from the Attorney General's office following a determination of a violation to comply. While public funds may be necessary to bring public facilities into compliance, these expenses pale in comparison to fines that may reach upwards of $25,000 for the first offense and $125,000 for subsequent violations.

Staff Recommendation:
The City Manager recommends adopting a policy outling how the City will implement SB 244 to mitigate its risk for compliance of the state law.

Commission Action:
This item is for discussion purposes only. The item will be scheduled for consideration at a regular meeting pending direction to do so by the City Commission.

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February 18, 2026

Memo – Attorney Client Privileged

To: **City Manager David Dillner**
City of El Dorado
220 East 1st Avenue
El Dorado, Kansas 67042

From: **ABL**

RE: **Analysis of House Substitute for Senate Bill No. 244: Implementation Guidance for the City**

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Meaning of "Designate" in Section 1(b)(1)

STATUTORY LANGUAGE:

Section 1(b)(1) requires the governing body (or chief administrative officer if no governing body exists) of each public building to "designate each multiple-occupancy private space in such building for use only by individuals of one sex."

INTERPRETATION:

The term "designate" is not specifically defined in the bill. However, in statutory and regulatory contexts, "designate" generally means to clearly identify or mark for a particular purpose or group.

- The bill's context suggests that "designation" is about making clear which sex is permitted to use each multiple-occupancy private space.
- The bill does not expressly require the adoption of an ordinance or formal legislative action for designation. The primary requirement appears to be that each space is clearly identified for use by only one sex.

PRACTICAL STEPS:

- **Signage:** At a minimum, the City should post clear and conspicuous signs on all multiple-occupancy private spaces (e.g., restrooms, locker rooms, changing rooms, shower rooms) indicating whether the space is for "male" or "female" use, as defined by the bill.

Policy Documentation: While not strictly required, adopting a written policy or administrative directive documenting the designation process and compliance steps may provide additional legal protection and clarity for staff.

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Ordinance: There is no explicit requirement for an ordinance, but if the City prefers a more formal approach or wants to ensure consistency, an ordinance could be adopted. This is a policy choice rather than a statutory mandate.

Meaning of "Every Reasonable Step" in Section 1(b)(1)

STATUTORY LANGUAGE:

The bill requires the governing body or chief administrative officer to "take every reasonable step to ensure an individual does not enter a multiple-occupancy private space that is designated for use only by individuals of the opposite sex."

INTERPRETATION:

- "Every reasonable step" is not defined, but the standard is commonly interpreted as actions that a reasonable person or entity would take under similar circumstances to achieve compliance.
- The bill recognizes exceptions (e.g., custodial, maintenance, emergency, assistance for those under nine, law enforcement, etc.), so "reasonable steps" do not require absolute prevention, but rather reasonable efforts to deter or address violations.

PRACTICAL STEPS:

- **Signage and Communication:** Ensure all designated spaces are clearly marked and that staff and the public are informed of the policy.
- ***Staff Training:** Train staff to monitor compliance and respond appropriately to violations or complaints.
- **Incident Response**: Develop a protocol for responding to suspected violations, including investigation and documentation.
- **Physical Measure**s: Consider reasonable physical measures (e.g., locks, access controls) where appropriate, but only to the extent practical and not unduly burdensome.
- **ADA Compliance:** Ensure that any steps taken do not conflict with the Americans with Disabilities Act or other applicable laws.

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Delegation of Enforcement and Appeals to the City Manager

REVIEW OF CITY ORDINANCES: CITY MANAGER'S AUTHORITY

Relevant Ordinance Provisions

Section 2.12.010 – Appointment—Term—Qualifications

- The City Manager is appointed by the commission and is responsible for the administration of all city affairs.

Section 2.12.020 – Duties

- The City Manager is responsible for the administration of all city affairs.
- The Manager must see that laws and ordinances are enforced.
- The Manager appoints and removes department heads and employees, oversees discipline, examines departmental affairs, prepares the budget, advises the governing body, and performs other duties as required by law or ordinance.

Section 2.12.030 – Administration of Business

- The administration of the city's business is in the hands of the Manager.

APPLICATION TO SENATE BILL NO. 244

Authority to Implement and Enforce State Law

- The ordinances clearly state that the City Manager is responsible for the administration of all city affairs and for ensuring that laws (including state laws) and ordinances are enforced.
- The broad language ("all of the affairs of the city" and "shall see that the laws and ordinances are enforced") encompasses the implementation of new state mandates, such as those in Senate Bill No. 244.

Delegation of Enforcement and Appeals

- The City Manager's authority to administer city affairs and enforce laws logically includes the ability to oversee compliance with the bill's requirements (e.g.,

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designating spaces, ensuring reasonable steps are taken, investigating violations, and managing appeals).
- The Manager's power to appoint and remove staff, discipline officers, and examine departmental conduct further supports the ability to delegate tasks related to compliance and enforcement.

Consistency with the Bill's Language

- The bill assigns responsibility to the "governing body, or chief administrative officer if no governing body exists."
- While the bill does not expressly address delegation, the City's ordinances already vest the City Manager with broad administrative and enforcement authority, which would include carrying out the governing body's responsibilities under the bill, unless the bill specifically prohibits such delegation (which it does not).

Based on the language of the City's ordinances:

- The City Manager already possesses broad authority to administer city affairs and enforce laws, including new state requirements.
- No additional ordinance or resolution is strictly required to delegate these responsibilities to the City Manager, as the existing ordinances are sufficiently broad.
- However, for the sake of clarity, transparency, and to minimize risk, the City may still choose to adopt a formal resolution or policy statement confirming that the City Manager is responsible for implementing and enforcing the requirements of Senate Bill No. 244.

Recommendation

- No further action is strictly required** to delegate authority to the City Manager, as the ordinances already provide this authority.
- Optional: Adopt a resolution or policy statement to document the City's intent and provide clear guidance to staff and the public.
- The City Manager's existing authority under the City's ordinances is broad enough to cover the implementation and enforcement of the requirements in Senate Bill No.

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244. Formal delegation by the governing body is not legally necessary, but may be considered for clarity and risk management.

Delegation to Administrators of Partnering Entities (e.g., EFABC, Board of Trustees)

Statutory Language:

- "Governmental entity" (Section 1(a)(2)) is defined as the same as in K.S.A. 75-6102, which, under Kansas law, means the state or a municipality.
- "Public building" (Section 1(a)(5)) is defined as a building owned or leased by a governmental entity. It excludes buildings owned by a governmental entity but leased to a private entity if the lease was in effect on the act's effective date.

Responsibility for Compliance

- The bill places the duty to designate and enforce use of multiple-occupancy private spaces on the governing body, or chief administrative officer if no governing body exists, of each public building.
- If a public building is owned or leased by the City (a governmental entity), but maintained or operated by a third-party partner (such as a nonprofit, private company, or other non-governmental organization), the statutory responsibility for compliance remains with the City's governing body or chief administrative officer—not the third-party partner.

Implications for City-Owned Buildings Operated by Partners

- The City cannot delegate its statutory responsibility under the bill to a non-governmental third party. The City remains legally responsible for compliance, even if day-to-day operations are handled by a partner.
- While the City may contractually require its partners to implement and follow the City's policies regarding space designation and access, ultimate legal responsibility (including liability for violations and penalties) remains with the City.
- The City should:
    - Ensure all contracts with third-party operators include clear requirements for compliance with the bill.
    - Provide written policies and training to partners.
    - Monitor compliance and retain the right to inspect and enforce requirements.

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- Respond directly to any complaints or violations, as the City is the entity subject to penalties.

Additional Thoughts and Concerns

Penalties: The bill imposes significant civil penalties for violations ($25,000 for the first violation, $125,000 for subsequent violations, and $1,000 for individuals after a second violation). Each day of a continuing violation is a separate offense.

Notice and Cure Periods: The bill provides for notice and an opportunity to cure violations before penalties are assessed. Prompt response to any notice of violation is critical.

ADA and Other Laws: Ensure that all policies and practices remain in compliance with the Americans with Disabilities Act and other applicable federal and state laws.

Recordkeeping: Maintain thorough records of all compliance efforts, signage, training, and incident responses to demonstrate good faith and reasonable steps in the event of a complaint or investigation.

Public Communication: Consider proactive communication with the public and staff to explain the new requirements and the City's compliance efforts.

Recommended Next Steps

INVENTORY EVERY FACILITY (SERIOUSLY, START HERE)

Before the City "enforces" anything, it has to know **what it actually controls**.

Create a spreadsheet with:

- Facility name
- Who owns building
- Who leases building
- Who operates facility day-to-day

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- Type of agreement (lease / license / MOU / joint use / maintenance)
- Date agreement signed
- Renewal dates
- Who controls bathrooms/locker rooms
- Whether building is open to public
- Risk level (high / medium / low)

Why this matters

Because the statute applies only to **public buildings**. Ownership/lease status determines everything. No inventory = blind liability.

CLASSIFY EACH FACILITY INTO 3 BUCKETS

Bucket A — City-owned or city-leased buildings (HIGH RISK)
Statute applies.
City must:

- designate spaces
- ensure compliance
- cure violations fast
- face penalties if not

Examples:

- rec centers
- public pools
- city buildings
- facilities with joint use agreements
- buildings City leases from someone else

→ **These require immediate action.**

Bucket B — City-owned but leased to private entity (CHECK GRANDFATHER STATUS)

If lease existed before effective date → likely exempt.
But still:

- verify lease date
- confirm scope of tenant control

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- document exemption

Otherwise risk is unclear.

🟩 Bucket C — Privately owned buildings (LOW RISK)

City generally not responsible.
Unless:

- City leases space there
- City exercises operational control
- Other municipal regulations apply

Mostly just document and move on.

LOCK DOWN CONTROL OF "BUCKET A" FACILITIES

This is the real work. The City must show it took "every reasonable step" to prevent violations. That means:

1. Adopt a facility policy

Simple written policy:

- designation of spaces
- allowed uses
- exceptions
- staff procedures
- complaint handling

Install signage

- designate multiple-occupancy spaces
- identify single-occupancy alternatives
- document installation dates

Provide single-occupancy options where possible

The statute allows this and it reduces conflict risk.

Staff training

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Train on:

- policy
- complaint handling
- exceptions
- documentation

Document the training.

AMEND THIRD-PARTY AGREEMENTS IMMEDIATELY

City should update:

- maintenance agreements
- joint use agreements
- programming agreements
- facility use contracts

Add clauses requiring:

- compliance with law
- facility policy adherence
- cooperation with designation rules
- indemnification for violations
- termination rights if noncompliant

Because the statute penalizes the City, so the City pushes risk downstream.

CLARIFY OPERATIONAL CONTROL IN AGREEMENTS

Update to specify:

- who controls access
- who manages restrooms/locker rooms
- who installs signage
- who handles complaints
- who bears liability

CREATE A COMPLAINT RESPONSE PROTOCOL (3-DAY CLOCK MATTERS)

The bill gives:

- written notice
- 3 business days to cure

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So the City needs:

- intake process
- investigation procedure
- response template
- corrective action steps

Otherwise the clock runs while everyone argues about who's in charge.

EVALUATE WHETHER TO RESTRUCTURE AGREEMENTS (STRATEGIC MOVE)

City may consider:

- converting leases to licenses
- clarifying tenant status
- shifting operational control
- terminating risky arrangements
- restructuring facility ownership/lease posture

Because how agreements are structured determines whether the statute applies.

PREPARE A PUBLIC COMMUNICATION STRATEGY

You can feel the litigation energy radiating from this statute.
City should prepare:

- public explanation of policy
- facility rules summary
- ADA accommodation process
- staff talking points

Prevents chaos (but not angry Facebook comments).

House Substitute for SENATE BILL No. 244

AN ACT concerning identification of biological sex; requiring the designation of multiple-occupancy private spaces in public buildings for use by only one sex; imposing criminal and civil penalties for violations; providing a cause of action for individuals aggrieved by an invasion of privacy or other harm when accessing a multiple-occupancy private space; amending the women's bill of rights; defining the term "gender" to mean biological sex at birth for purposes of statutory construction; directing the director of the division of vehicles to invalidate and reissue driver's licenses when necessary to correct the gender identification on such licenses; directing the office of vital statistics to invalidate and reissue birth certificates when necessary to correct the sex identification on such certificates; removing the definition of "gender" from the help not harm act; amending K.S.A. 8-234a and K.S.A. 2025 Supp. 8-243, 65-28,137 and 77-207 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) As used in this section:

(1) "Female" means the same as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto.

(2) "Governmental entity" means the same as defined in K.S.A. 75-6102, and amendments thereto.

(3) "Male" means the same as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto.

(4) "Multiple-occupancy private space" means a facility designed or designated for simultaneous use by more than one individual and in which an individual may be in a state of undress in the presence of another individual, regardless of whether the facility provides curtains or partial walls for privacy. "Multiple-occupancy private space" includes, but is not limited to, a restroom, locker room, changing room or shower room.

(5) "Public building" means a building owned or leased by a governmental entity. "Public building" does not include a building owned by a governmental entity that is leased to a private entity, whether for profit or not for profit, if the lease agreement for such building between the governmental entity and the private entity was in force and effect on the effective date of this act.

(6) "Sex" means the same as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto.

(7) "Single-occupancy private space" means a facility designed or designated for use by only one individual at a time and in which the individual may be in a state of undress. "Single-occupancy private space" includes, but is not limited to:

(A) A single toilet restroom with a locking door that is designed or designated as unisex; or

(B) a family restroom or changing room.

(b) (1) The governing body, or chief administrative officer if no governing body exists, of each public building shall designate each multiple-occupancy private space in such building for use only by individuals of one sex. The governing body, or chief administrative officer if no governing body exists, shall take every reasonable step to ensure an individual does not enter a multiple-occupancy private space that is designated for use only by individuals of the opposite sex.

(2) This subsection shall not be construed to prohibit a governing body, or chief administrative officer if no governing body exists, from:

(A) Adopting a policy in accordance with the Americans with disabilities act of 1990, 42 U.S.C. § 12101 et seq., for individuals who require assistance when using a multiple-occupancy private space; or

(B) establishing a single-occupancy private space.

(c) Notwithstanding the provisions of subsections (b) and (g):

(1) An individual may enter a multiple-occupancy private space designated for use only by individuals of the opposite sex:

(A) For custodial purposes;

(B) for maintenance or inspection purposes;

(C) to render medical or other emergency assistance;

(D) to accompany and provide assistance to an individual who needs assistance using the facility;

(E) for law enforcement purposes;

(F) to render assistance necessary in preventing a serious threat to proper order or safety; or

(G) to provide coaching or athletic training during athletic events, provided such individual is a member of the coaching or athletic training staff and such individual ensures that no individual of the opposite sex is in a state of undress prior to entering such multiple-occupancy private space; and

(2) a child who is under nine years of age may enter a multiple-occupancy private space designated for use only by individuals of the opposite sex if accompanied by an individual caring for such child.

(d) Any governmental entity that violates this section is liable for a civil penalty of $25,000 for the first violation and $125,000 for each subsequent violation. Each day of a continuing violation of this section constitutes a separate violation.

(e) (1) A person may file a complaint with the attorney general against a governmental entity for a violation of this section if:

(A) Such person provides such governmental entity written notice describing the violation; and

(B) such governing body, or chief administrative officer if no governing body exists, of such governmental entity does not cure the violation before the end of the third business day after the date the written notice is received.

(2) A complaint filed under this subsection shall include a copy of the written notice provided to the governmental entity and the complainant's affidavit describing the violation.

(f) (1) Before bringing an action against a governmental entity for a violation of this section, the attorney general shall investigate the complaint filed under subsection (e) to determine whether legal action is warranted.

(2) The governmental entity subject to the complaint shall provide to the attorney general any information the attorney general requests in connection with the investigation of the complaint, including, but not limited to:

(A) Supporting documents related to the complaint; and

(B) a statement on whether the governmental entity has complied or intends to comply with this section.

(3) If the attorney general determines that legal action is warranted, the attorney general shall provide written notice to such governmental entity that:

(A) Describes the violation and location of the multiple-occupancy private space found to be in violation;

(B) the amount of the proposed penalty for the violation; and

(C) the penalty may be avoided by curing the violation on or before the 15th day after the date the attorney general's notice is received.

(4) If a violation is not cured on or before the 15th day after the date the notice is received, the attorney general may bring an action to assess the civil penalty provided in subsection (d).

(g) (1) It shall be a violation of this section for an individual to enter a multiple-occupancy private space designated for use only by individuals of the opposite sex, except as permitted under subsection (b) or (c). Upon receipt of a complaint that an individual entered a multiple-occupancy private space in violation of this section, the governing body, or chief administrative officer if no governing body exists, shall investigate and, upon a finding that such individual violated this section, shall provide written notice of such violation to

such individual. Such notice shall include:

(A) The date and location of the multiple-occupancy private space where the violation occurred;

(B) a statement that repeated violations may result in fines or criminal charges; and

(C) the procedure to administratively appeal the finding that such individual violated this section.

(2) Any individual who commits a second violation after being found to have violated this section pursuant to paragraph (1) shall be liable for a civil penalty of $1,000. An action to assess such penalty may be brought by the attorney general if the violation occurred in a state building or by the county or district attorney for the county where the violation occurred if the violation occurred in a municipal building.

(3) Any individual who commits a third or subsequent violation shall be guilty of a class B misdemeanor.

(h) (1) Any individual who, while accessing a multiple-occupancy private space designated for use only by such individual's sex, is aggrieved by the invasion of such individual's personal privacy or is otherwise harmed by a violation of this section by an individual of the opposite sex may bring a cause of action against such individual of the opposite sex. In bringing such action, the individual may seek either actual damages or liquidated damages in the amount of $1,000, as well as declaratory and injunctive relief.

(2) It shall be an affirmative defense to any claim brought pursuant to this subsection that the defendant did not know that the multiple-occupancy private space was designated for use only by individuals of the opposite sex to that of the defendant.

(3) All civil actions brought pursuant to this subsection shall be commenced within two years after the violation occurred. An individual bringing any such action who prevails shall recover reasonable attorney fees and costs.

(i) Any civil penalty collected by the attorney general pursuant to this section shall be deposited to the credit of the crime victims compensation fund established under K.S.A. 74-7317, and amendments thereto. Any civil penalty collected by a county or district attorney pursuant to this section shall be deposited to the credit of the general fund of the county where such action was brought.

New Sec. 2. (a) Any birth certificate issued prior to July 1, 2026, that identifies the sex of the individual named on such certificate in a manner that is contrary to the definition of such term as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto, shall be invalid.

(b) The state registrar shall correct any birth certificate records that identify the sex of the individual named in such record in a manner that is contrary to the definition of such term as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto.

(c) This section shall be a part of and supplemental to the uniform vital statistics act.

Sec. 3. K.S.A. 8-234a is hereby amended to read as follows: 8-234a. (a) As used in the motor vehicle drivers' license act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(1) "Drivers' license examiner" or "examiner" means a drivers' license examiner of the division of vehicles or any person whom the director of vehicles has authorized, pursuant to the authority granted by this act, to accept applications for drivers' licenses and administer the examinations required for the issuance or renewal of drivers' licenses. Any county treasurer authorized to accept applications for drivers' licenses or administer drivers' license examinations shall be deemed to be acting as an agent of the state of Kansas;

(2) "nonresident" means every person who is not a resident of this state. For the purposes of the motor vehicle drivers' license act any person who owns, rents or leases real estate in Kansas as such person's residence and engages in a trade, business or profession within Kansas or registers to vote in Kansas or enrolls such person's children in a school in this state or purchases Kansas registration for a motor vehicle, shall be deemed a resident of the state of Kansas 90 days after the conditions stated in this subsection commence, except that military personnel on active duty and their military dependents who are residents of another state, shall not be considered residents of the state of Kansas for the purpose of this act;

(3) "patrol" means the state highway patrol;

(4) "address of principal residence" means: (A) The place where a person makes his or her permanent principal home; (B) place where a person resides, has an intention to remain and where they intend to return following an absence; or (C) place of habitation to which, whenever the person is absent, the person intends to return. If a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's address of principal residence;

(5) "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of Northern Mariana Islands;

(6) "wireless communication device" means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer;~~ and~~

(7) "religious organization" means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined to be organized and created as a bona fide religious organization*; and*

(8) "gender" means the same as defined in K.S.A. 77-207, and amendments thereto.

(b) As used in this act, the words and phrases defined by the sections in article 14 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall have the meanings respectively ascribed to them therein, unless a different meaning is ascribed to any such word or phrase by subsection (a)~~ of this section~~.

Sec. 4. K.S.A. 2025 Supp. 8-243 is hereby amended to read as follows: 8-243. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act the driver's license as applied for by the applicant. Such license shall bear the class or classes of motor vehicles that the licensee is entitled to drive, a distinguishing number assigned to the licensee, the full legal name, date of birth, gender, address of principal residence and a brief description of the licensee, either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of the licensee, a facsimile of the signature of the licensee and the statement provided for in subsection (b). No driver's license shall be valid until it has been signed by the licensee. All drivers' licenses issued to persons under the age of 21 years shall be readily distinguishable from licenses issued to persons age 21 years or older. In addition, all drivers' licenses issued to persons under the age of 18 years shall also be readily distinguishable

from licenses issued to persons age 18 years or older. The secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, no driver's license issued by the division shall be valid until either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than $8 and upon the payment of such fee, the division shall cause either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such licensee. A driver's license that does not contain the principal address as required may be issued to persons who are program participants pursuant to K.S.A. 75-455, and amendments thereto, upon payment of the fee required by K.S.A. 8-246, and amendments thereto. All Kansas drivers' licenses and identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication of the document for fraudulent purposes. The secretary of revenue shall incorporate common machine-readable technology into all Kansas drivers' licenses and identification cards.

(b) A Kansas driver's license issued to any person 16 years of age or older who indicated on the person's application that the person wished to make a gift of all or any part of the body of the licensee in accordance with the revised uniform anatomical gift act, K.S.A. 65-3220 through 65-3244, and amendments thereto, shall have the word "Donor" placed on the front of the licensee's driver's license.

(c) Any person who is deaf or hard of hearing may request that the division issue to such person a driver's license which is readily distinguishable from drivers' licenses issued to other drivers and upon such request the division shall issue such license. Drivers' licenses issued to persons who are deaf or hard of hearing and under the age of 21 years shall be readily distinguishable from drivers' licenses issued to persons who are deaf or hard of hearing and 21 years of age or older. Upon satisfaction of subsection (a), the division shall issue a receipt of application permitting the operation of a vehicle consistent with the requested class, if there are no other restrictions or limitations, pending the division's verification of the information and production of a driver's license.

(d) A driver's license issued to a person required to be registered under K.S.A. 22-4901 et seq., and amendments thereto, shall be assigned a distinguishing number by the division which will readily indicate to law enforcement officers that such person is a registered offender. The division shall develop a numbering system to implement the provisions of this subsection.

(e) (1) Any person who is a veteran may request that the division issue to such person a driver's license that shall include the designation "VETERAN" displayed on the front of the driver's license at a location to be determined by the secretary of revenue. In order to receive a license described in this subsection, the veteran shall provide a copy of the veteran's DD form 214, NGB form 22 or equivalent discharge document showing character of service as honorable or general under honorable conditions.

(2) As used in this subsection, "veteran" means a person who served in the active military, naval, air or space service, including those groups and individuals listed under 38 C.F.R. § 3.7, and who was

discharged or released therefrom under an honorable discharge or a general discharge under honorable conditions.

(3) The director of vehicles may adopt any rules and regulations necessary to carry out the provisions of this subsection.

(f) (1) Any person who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person needs assistance with cognition, including, but not limited to, persons with autism spectrum disorder, may request that the division issue to such person a driver's license, that shall note such impairment on the driver's license at a location to be determined by the secretary of revenue.

(2) Satisfactory proof that a person needs assistance with cognition shall include a statement from a person licensed to practice the healing arts in any state, an advanced practice registered nurse licensed under K.S.A. 65-1131, and amendments thereto, a licensed physician assistant or a person clinically licensed by the Kansas behavioral sciences regulatory board certifying that such person needs assistance with cognition.

(g) (1) Any driver's license issued prior to July 1, 2026, that identifies the gender of the individual named on such license in a manner that is contrary to the definition of such term as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto, shall be invalid.

(2) The director shall correct any driver's license records that identify the gender of the individual named in such record in a manner that is contrary to the definition of such term as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto. The director shall send written notice to each such individual notifying such individual that such license is invalid and to surrender such license to the division of vehicles. Upon the surrender of any such license, the director shall issue a new driver's license to such individual with the correct gender identification for such individual.

Sec. 5. K.S.A. 2025 Supp. 65-28,137 is hereby amended to read as follows: 65-28,137. (a) The provisions of K.S.A. 2025 Supp. 65-28,137 through 65-28,142, and amendments thereto, shall be known and may be cited as the help not harm act.

(b) As used in this act:

(1) "Child" means an individual less than 18 years of age.

(2) "Female" means an individual who is a member of the female sex.

(3) ~~"Gender" means the psychological, behavioral, social and cultural aspects of being male or female.~~

~~(4)~~ "Gender dysphoria" is the diagnosis of gender dysphoria in the fifth edition of the diagnostic and statistical manual of mental disorders.

~~(5)~~*(4)* "Healthcare provider" means an individual who is licensed, certified or otherwise authorized by the laws of this state to administer healthcare services in the ordinary course of the practice of such individual's profession.

~~(6)~~*(5)* "Male" means an individual who is a member of the male sex.

~~(7)~~*(6)* "Perceived sex" is an individual's internal sense of such individual's sex.

~~(8)~~*(7)* "Perceived gender" is an individual's internal sense of such individual's gender.

~~(9)~~*(8)* "Sex" means the biological indication of male and female in the context of reproductive potential or capacity, including sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth~~, without regard to an individual's psychological, chosen or subjective experience of gender~~.

~~(10)~~*(9)* "Social transitioning" means acts other than medical or

surgical interventions that are undertaken for the purpose of presenting as a member of the opposite sex, including the changing of an individual's preferred pronouns or manner of dress.

Sec. 6. K.S.A. 2025 Supp. 77-207 is hereby amended to read as follows: 77-207. (a) Notwithstanding any provision of state law to the contrary, with respect to the application of an individual's biological sex pursuant to any state law or rules and regulations, the following shall apply:

(1) An individual's "sex" *or "gender"* means such individual's biological sex, either male or female, at birth;

(2) a "female" is an individual whose biological reproductive system is developed to produce ova, and a "male" is an individual whose biological reproductive system is developed to fertilize the ova of a female;

(3) the terms "woman" and "girl" refer to human females, and the terms "man" and "boy" refer to human males;

(4) the term "mother" means a parent of the female sex, and the term "father" means a parent of the male sex;

(5) with respect to biological sex, the term "equal" does not mean "same" or "identical";

(6) with respect to biological sex, separate accommodations are not inherently unequal; and

(7) an individual born with a medically verifiable diagnosis of "disorder/differences in sex development" shall be provided legal protections and accommodations afforded under the Americans with disabilities act and applicable Kansas statutes.

(b) Laws and rules and regulations that distinguish between the sexes are subject to intermediate constitutional scrutiny. Intermediate constitutional scrutiny forbids unfair discrimination against similarly situated male and female individuals but allows the law to distinguish between the sexes where such distinctions are substantially related to important governmental objectives. Notwithstanding any provision of state law to the contrary, distinctions between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, restrooms and other areas where biology, safety or privacy are implicated that result in separate accommodations are substantially related to the important governmental objectives of protecting the health, safety and privacy of individuals in such circumstances.

(c) Any school district, or public school thereof, and any state agency, department or office or political subdivision that collects vital statistics for the purpose of complying with anti-discrimination laws or for the purpose of gathering accurate public health, crime, economic or other data shall *only* identify each individual who is part of the collected data set as either male or female at birth.

New Sec. 7. Sections 1 through 6, and amendments thereto, are declared severable. Any provision of sections 1 through 6, and amendments thereto, or the application thereof to any person or circumstance that is held to be unconstitutional or invalid shall not affect the validity of any remaining provisions of sections 1 through 6, and amendments thereto, or the applicability of such provisions to any person or circumstance.

Sec. 8. K.S.A. 8-234a and K.S.A. 2025 Supp. 8-243, 65-28,137 and 77-207 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

_____

SENATE concurred in
HOUSE amendments _____

_____
President of the Senate.

_____
Secretary of the Senate.

Passed the HOUSE
as amended _____

_____
Speaker of the House.

_____
Chief Clerk of the House.

APPROVED _____

_____
Governor.

THE LEAGUE OF KANSAS MUNICIPALITIES

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SB 244 Compliance Toolkit for Cities: Implementation Overview and Immediate Action Steps

Purpose

This document provides an overview of House Substitute for SB 244's requirements and the immediate steps cities should take to comply.

What the Law Requires

- Designate each multiple-occupancy private space (e.g., multi-stall restrooms, locker rooms, showers, changing room) for use by one biological sex, as defined in state statute.
- Take every reasonable step to ensure individuals do not enter a multiple-occupancy space designated for the opposite sex.
- Maintain processes to receive complaints, investigate, and issue written notices.

Key Definitions

- **Multiple-occupancy private space**: Designed for use by more than one person at a time and where a person may be in a state of undress.
- **Single-occupancy private space**: Designed for one individual at a time (e.g., gender neutral restroom, family restroom)
- **Sex**: Biological sex at birth, as defined by statute.

Immediate Action Steps for Cities: Reasonable Steps in Practice

- ✓ Inventory and classify all city facilities.
- ✓ Post or update compliant signage, if needed.
- ✓ Update policies or ordinances describing appropriate use and establishing procedures for complaint intake, investigation, notices, and documentation.
- ✓ Train frontline staff using scripts, FAQs, and de-escalation guidance.

Exceptions Allowed Under the Law (Permitted Entry)

- Custodial, maintenance, or inspection work.

- Medical or other emergency assistance.
- Law enforcement purposes.
- Preventing a serious threat to order or safety.
- Coaching or athletic training during athletic events, ensuring no individual of the opposite sex is in a state of undress before entry.
- To accompany and provide assistance to an individual who needs help using the facility.
- Children under the age of nine accompanied by a caregiver.

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SB 244 Compliance Toolkit for Cities: Model Policy

Designation and Use of Multiple-Occupancy Private Spaces in Compliance with House Substitute for Senate Bill 244

1. **Purpose.**

The purpose of this policy is to ensure compliance with House Substitute for Senate Bill 244, regarding the designation and use of multiple-occupancy private spaces in public buildings owned or leased by the City. This policy establishes procedures for designation of such spaces, responding to complaints, and documenting actions taken to comply with the law.

2. **Applicability.**

This policy applies to all public buildings owned or leased by the City, except for buildings owned by the City that are leased to a private entity if the lease agreement was in force before February 26, 2026.

3. **Definitions.**

For purposes of this policy, the following definitions apply:

A. **Multiple-Occupancy Private Space**: A facility designed or designated for simultaneous use by more than one individual where an individual may be in a state of undress in the presence of another individual. Examples include restrooms, locker rooms, shower rooms, and changing rooms.

B. **Single-Occupancy Private Space**: A facility designed or designated for use by only one individual at a time where the individual may be in a state of undress. Examples include single-user restrooms with locking doors and family restrooms.

C. **Sex**: An individual's biological sex, either male or female, at birth.

4. **Designation of Facilities.**

A. All multiple-occupancy private spaces located within a public building owned or leased by the City and subject to this policy shall be designated for use only by individuals of one sex.

B. Clear signage shall be posted identifying the designation of each multiple-occupancy private space.

C. Where feasible, the City may provide single-occupancy private spaces for use by any individual seeking additional privacy.

5. Exceptions.

Consistent with Kansas law, individuals may enter a multiple-occupancy private space designated for the opposite sex under the following circumstances:

A. Custodial, maintenance, or inspection purposes;

B. Rendering medical or emergency assistance;

C. Assisting an individual who requires help using the facility;

D. Law enforcement purposes;

E. Preventing a serious threat to safety or order;

F. Coaching or athletic training when precautions are taken to ensure no individual is undressed; or

G. A child under nine years of age accompanied by a caregiver.

6. Reasonable Steps to Ensure Compliance.

The City shall take reasonable steps to ensure compliance with facility designations. Reasonable steps may include:

A. Posting clear signage;

B. Providing staff training, or

C. Establishing procedures for receiving and documenting complaints.

7. Complaint Reporting.

A. City employees who receive a complaint regarding the use of a multiple-occupancy private space shall provide the individual with a City complaint form and direct the individual to submit the completed form to the [City employee(s) designated to receive the complaint form] for review. Complaints submitted through this process may be reviewed and investigated by [Employee(s) designated to investigate complaints].

B. City employees should not verify an individual's sex, request personal documentation, or directly confront individuals regarding the use of a multiple-

occupancy private space. Employees who receive a concern should refer the matter through the complaint process outlined in this policy.

C. Employees shall respond to complaints in a professional manner and refer concerns to a supervisor or designated administrator as appropriate.

D. The City may review concerns brought to its attention even if a complaint form is not completed.

8. Complaint Review and Investigation.

A. The [Employee(s) designated to investigate complaints] shall be responsible for reviewing complaints related to this policy.

B. Upon receiving a complaint, the [Employee(s) designated to investigate complaints] may:

1. Review incident reports.
2. Speak with staff or witnesses.
3. Evaluate whether further action is appropriate.

C. The [Employee(s) designated to investigate complaints] shall document the outcome of the review.

9. Written Notice of Violation.

A. If the City determines that an individual has violated the designation of a multiple-occupancy private space under Kansas law, the City shall issue written notice of violation to the individual.

The written notice may be delivered by one or more of the following methods:

1. Personal delivery to the individual, or
2. Certified mail, return receipt requested to the individual's last known address.

B. The written notice shall include:

1. The date and location of the multiple-occupancy private space where the violation occurred;
2. a statement that repeated violations may result in fines or criminal charges; and
3. the procedure to administratively appeal the finding that such individual violated this section.

10. Appeal of Determination.

A. Any individual who receives a written notice of violation under this policy may request an administrative review of the determination.

B. A request for review must be submitted in writing to the City within ten business days after the date the written notice is issued.

C. The request should include the individual's name, contact information, and a brief explanation of why the individual believes the determination was made in error.

D. The appeal shall be reviewed by [Employee designated to review appeals] provided that the reviewing official was not directly involved in the initial determination when practicable.

E. In conducting the review, the City may consider:

1. The incident report;
2. Statements from City employees or witnesses; and
3. Any written information submitted by the individual requesting the review.
4. The reviewing official may affirm, modify, or dismiss the determination.
5. The City shall provide written notice of the decision to the individual. The decision of the reviewing official shall constitute the final administrative action of the City.

11. Recordkeeping.

The City shall maintain records of complaints and investigations related to this policy in accordance with applicable records retention requirements.

12. Staff Training.

To assist with implementation of this policy, the City may provide guidance or training, as appropriate, to employees who interact with members of the public.

13. Policy Administration.

The [City employee designated] shall be responsible for administering this policy and may develop procedures or guidance necessary to implement it.

14. Effective Date.

This policy shall become effective on _____.