



**EL DORADO CITY COMMISSION - REGULAR MEETING AGENDA
PERFORMING ARTS CENTER - 500 W CENTRAL AVENUE
June 1, 2026 - 5:30 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Executive Session**

Commissioner _____ moved to recess into executive session under the non-elected personnel exception under K.S.A. 75-4398(b)(12) to discuss matters relating to security measures that protect a public body and public building, specifically the security plan for the June 1st City Commission meeting, and to reconvene the meeting at 5:45 p.m. in the Performing Arts Center auditorium.

Commissioner _____ seconded the motion.

- 4. Invocation** - Pastor Jurdan Countz, Park Avenue Baptist
- 5. Pledge of Allegiance**

Proclamations and Recognition

- 6. Pride Proclamation**

Personal Appearances. Personal appearances are opportunities for organizations or citizens to make special presentations before the City Commission. Such appearances are scheduled in advance of the meeting by calling City Clerk Emerald Veatch at (316) 321-9100 by 5:00 pm the Tuesday preceding the meeting. Presentations are limited to ten minutes. Any presentation is for information purposes only; no action will be taken.

Public Comments. Persons who wish to address the City Commission regarding any matter that is under the jurisdiction of the City Commission may do so when called upon by the Mayor. Comments on personnel matters, matters pending in court, and land use matters are not permitted. Land use Public Hearings are held during Planning Commission meetings.

Consent Agenda (*Consent agenda items will be acted on by one motion unless a majority of the City Commission votes to remove an item for discussion and separate action.*)

- 7. Approval of City Commission Meeting Minutes from May 4, 2026.**

Old Business

New Business

8. Consideration of an Ordinance amending Article 3, Appendix A, and Article 6 of the Zoning Regulations of the City of El Dorado, Kansas, to add Definitions, use Classifications, and Supplementary Regulations for Certain Emerging Industrial and Infrastructure Uses.

Discussion Items

Reports

9. City Commission and Advisory Board Updates
10. City Manager

Adjournment

11. Consideration of a motion to adjourn

EL DORADO
K A N S A S

PROCLAMATION

THE CITY OF EL DORADO, KANSAS

WHEREAS, the City of El Dorado values diversity and is committed to creating a welcoming and inclusive community for all residents; and

WHEREAS, LGBTQ+ individuals contribute greatly to the civic, cultural, and economic vitality of our city and deserve to live openly and authentically; and

WHEREAS, Pride Month commemorates the ongoing pursuit of equality and honors the history, resilience, and contributions of the LGBTQ+ community; and

WHEREAS, promoting understanding, acceptance, and respect helps build a stronger, safer, and more unified community for everyone; and

WHEREAS, the City of El Dorado encourages all residents to celebrate diversity and support one another in the spirit of inclusion;

I, Bill Young, Mayor of the City of El Dorado, Kansas, do hereby proclaim the month of June as

PRIDE MONTH

Dated this 1st day of June 2026.

Mayor Bill Young

Seal

Emerald Veatch, City Clerk

The El Dorado City Commission met in a regular session on May 04, 2026, at 5:30 p.m. in the Commission Room with the following present: Mayor Bill Young, Commissioner Andrew Tipton, Commissioner Syndee Scribner, Commissioner Leon Leachman, Commissioner Kendra Wilkinson, and City Manager David Dillner. Absent:

VISITORS

Tabitha Sharp	Assistant City Manager	El Dorado, KS
Scott Rickard	Director of Engineering	El Dorado, KS
Jeff Murphy	Deputy Police Chief	El Dorado, KS
Craig Yaryan	El Dorado Main Street	El Dorado, KS
Debbie McCluer	First Church of the Nazarene	El Dorado, KS
Amanda McGee		
Liz Blakely	Management Intern	El Dorado, KS
Melissa Hall	SBAMH	El Dorado, KS

CALL TO ORDER

Mayor Bill Young called the May 04, 2026, meeting to order.

INVOCATION

Pastor Debbie McCluer, First Church of the Nazarene, opened the meeting with invocation.

PLEDGE OF ALLEGIANCE

The City Commission led the Pledge of Allegiance.

PROCLAMATIONS AND RECOGNITION

Mayor Bill Young read the Public Service Recognition Week Proclamation.

PERSONAL APPEARANCE

Mayor Bill Young opened the floor for Personal Appearances.

Craig Yaryan and Anna Vestering, El Dorado Main Street, presented the 1st Quarter Report to the City Commission.

Cherokee Manning, El Dorado Municipal Band, gave an overview of what this season will look like.

Mayor Bill Young Closed the floor.

PUBLIC COMMENT

Mayor Bill Young opened the floor for public comments.

There was no Public Comment.

Mayor Bill Young closed the public comment.

CONSENT AGENDA

Approval of City Commission Meeting Minutes from April 20, 2026.

Approval of the El Dorado Municipal Band Agreement for the 2026 season.

Commissioner Leon Leachman moved to approve the consent agenda.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 5-0.

PUBLIC HEARING

There was no Public Hearing.

OLD BUSINESS

There was no old business.

NEW BUSINESS

CONSIDERATION OF APPROVAL OF A RESOLUTION AUTHORIZING THE SCHEDULING OF A PUBLIC HEARING TO AVVATE OR REMOVE DANGEROUS STRUCTURES KNOWN AS 230 S. JONES ST., 109 S. POPLAR ST., 1241 S. SHELDEN ST., 1118 W. TOWNDA AVE. ALL INTERESTED PARTIES MAY APPEAR AND SHOW CAUSE AS TO WHY SUCH STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED.

City Engineer Scott Rickard stated that Staff have identified four residential structures that qualify as dangerous, unsafe, or unfit for human habitation or use under Chapter 15.16 of the El Dorado Municipal Code. These determinations were made following visual inspections, code enforcement records, and physical observations of long-term neglect, fire damage, or structural decay. The following properties are proposed for formal review and possible abatement: 230 Jones, 109 Poplar, 1241 Shelden, and 1118 W Towanda. Staff has recommended July 6th for the Public Hearings for these structures.

Commissioner Kendra Wilkinson moved to approve a resolution authorizing the scheduling of a public hearing on July 6, 2026, at 5:30 for the purpose of abating or removing the dangerous structures at 230 Jones, 109 Poplar, 1241 Shelden & 1118 W Towanda

Commissioner Leon Leachman seconded the motion.

Motion carried 5-0.

CONSIDERATION OF A RESOLUTION AUTHORIZING AND PROVIDING FOR THE CALLING OF A SPECIAL QUESTION ELECTION IN THE EL DORADO, KANSAS, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY THE QUESTION OF IMPOSING A ONE PERCENT (1%) CITYWIDE RETAILERS' SALES TAX FOR THE PURPOSE OF SUPPORTING SUSAN B. ALLEN MEMORIAL HOSPITAL; AND PROVIDING FOR THE GIVING OF SAID ELECTION.

City Manager David Dillner stated that SBA requested that a five-year, one-cent (1%) sales tax be placed on the August primary election ballot scheduled for August 4. The City's bond counsel prepared the necessary documentation for the governing body to consider a resolution to place a one-cent sales tax question on the August primary ballot. The hospital then requested that a seven-year, one-cent (1%) sales tax be placed on the ballot instead of the original five-year sales tax. The City Commission discussed the request at its April 29, 2026 work session, and decided to place a seven-year, one-cent (1%) sales tax on the May 4, 2026 regular agenda for consideration.

Commissioner Syndee Scribner asked what would happen if are

City Manager Dillner stated that

Commissioner Andrew Tipton moved to approve a Resolution authorizing and providing for the calling of a special question election in the City of El Dorado, Kansas, for the purpose of submitting to the electors of the City the question of imposing a one percent (1%) Citywide Retailers' sales tax for the purpose of supporting Susan B. Allen Memorial Hospital; and providing for the giving of said election.

Commissioner Syndee Scribner seconded the motion.

Mayor Young stated that this was

Commissioner Scribner stated that hospital leadership has made a strong effort to improve

Commissioner Andrew Tipton stated that

Commissioner Kendra Wilkinson stated that

The motion carried 5-0.

CONSIDERATION OF A RESOLUTION DESIGNATING AND ESTABLISHING THE USE OF MULTIPLE-OCCUPANCY PRIVATE SPACES IN COMPLIANCE WITH HOUSE SUBSTITUTE FOR SENATE BILL 244.

City Manager Dillner stated that 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.

Commissioner Leon Leachman moved to approve a Resolution designating and establishing the use of multiple-occupancy private spaces in compliance with House Substitute for Senate Bill 244.

Commissioner Syndee Scribner seconded the motion.

The motion carried 5-0.

DISCUSSION ITEMS

There were none.

REPORTS

CITY COMMISSION AND ADVISORY BOARD UPDATES

Commissioner Leon Leachman that the Recreation department has been busy this spring. He stated that there has been an increase in sign up for youth and adult sports.

Commissioner Andrew Tipton that things are looking good for Main Street.

Mayor Bill Young stated that EFABC met and they have approved

CITY MANAGER REPORT

City Manager David Dillner that there are several improvements happening at the airport terminal.

City Manager Dillner stated that there are a number of improvements happening at the animal shelter.

City Manager Dillner stated that the City has received grant money for backup generators for city hall and the senior center.

ADJOURNMENT

Commissioner Andrew Tipton moved to adjourn the meeting at 6:10 p.m.

Commissioner Syndee Scribner seconded the motion.

Motion carried 5 – 0.

City Clerk Emerald Veatch

Mayor Bill Young

EL DORADO

KANSAS

TO: City Commission
FROM: Scott Rickard
SUBJ: Consideration of an Ordinance amending Article 3, Appendix A, and Article 6 of the Zoning Regulations of the City of El Dorado, Kansas, to add Definitions, use Classifications, and Supplementary Regulations for Certain Emerging Industrial and Infrastructure Uses.
DATE: June 1, 2026

Summary:

Staff is requesting City Commission consideration of the Planning Commission's recommendation to approve zoning text amendments related to various emerging industries. The proposed ordinance would amend three parts of the City's zoning regulations as follows:

1. Article 3, Rules and Definitions, to add definitions for newer industrial, utility, energy, technology, and infrastructure related uses that are not clearly defined in the current regulations.
2. Appendix A, Listing of Uses by Zoning District, to identify whether each use is permitted by right, requires a Special Use Permit, or is not permitted in the O-I, I-1, and I-2 zoning districts.
3. Article 6, Supplementary District Regulations, to add common and use specific review standards addressing utility demand, water and wastewater, stormwater, noise, generator testing, screening, outdoor equipment, hazardous materials, emergency access, decommissioning, and substantial changes after approval.

This item is a zoning text amendment. It does not approve a specific project. It does not rezone any property. It does not approve a data center or any other emerging industry project. It does not grant an incentive. It does not commit City water, sewer, electric, street, drainage, emergency response, or other public infrastructure capacity to any future applicant.

Planning Commission Process:

This effort was intentional from the beginning. It was not prepared in response to a filed application or a specific development request. Staff began this process because there is increasing state level and regional interest in newer types of industrial and infrastructure development, including data centers, battery storage, hydrogen related facilities, semiconductor uses, advanced manufacturing, utility scale solar, research and development, and related uses.

The Planning Commission first received information and discussed this topic at its February 26, 2026 meeting. The purpose was to introduce the issue and begin reviewing how these uses should be defined, classified, and reviewed.

The Planning Commission then held a public hearing at its March 26, 2026 meeting. After receiving information and beginning the public hearing process, the Planning Commission intentionally tabled

the item. That gave the Commission more time to review the language, allowed staff to refine the proposed standards, and allowed for another public hearing.

The Planning Commission held the continued public hearing at its April 23, 2026 meeting. The April hearing included public comment, staff responses, Planning Commission discussion, and consideration of revised language. Following that process, the Planning Commission voted 6 to 0 to recommend approval to the City Commission of the proposed emerging industries zoning text amendments.

Jurisdiction:

The regulations recommended by the Planning Commission would apply only within the City of El Dorado and within the City's extraterritorial zoning jurisdiction. They would not apply across Butler County as a whole.

The City's extraterritorial jurisdiction is the area outside the City limits where El Dorado has zoning and land use authority through its adopted zoning framework and coordination with Butler County. In those areas, zoning and land use decisions fall under the City's jurisdiction, while Butler County retains authority over matters such as building permits, roads, and certain on site utility provisions under the applicable interlocal arrangements.

A majority of the written comments submitted to the Planning Commission, and a number of the individuals who spoke at the public hearing, appear to have come from persons who live or own property outside the area where these recommended regulations would apply. Those comments were still received, heard, and included in the public record. However, the decision before the City Commission is whether these regulations are appropriate for the area where El Dorado has zoning authority.

Why the Amendment Is Being Proposed:

Staff's concern is that the City should not wait until a specific application is filed before deciding how these uses should be classified or reviewed. Once a project is filed, the applicant, neighboring property owners, staff, the Planning Commission, and the City Commission are all reacting to a specific proposal. That is not the best time to decide what the rules should be.

The better approach is to update the regulations first, define the uses, identify the review path, and establish the information the City may need before a project is placed on an agenda.

This is consistent with how zoning regulations are supposed to function. Zoning regulations should not remain frozen while land use, technology, housing needs, business operations, and community expectations change. Over the last five years, the City has made six updates to its zoning regulations, including amendments related to signs, housing, accessory structures, and other land use matters. That is part of good zoning practice. When the City sees a shift in the types of uses being discussed, proposed, or developed in the region, it should review its regulations and determine whether the code still provides clear definitions, appropriate review paths, and adequate local standards.

Staff's research indicates that the vast majority of the use categories listed in this amendment could fit within the City's desired economic development strategy if they are properly located, properly designed, properly reviewed, and conditioned where needed. That does not mean every opportunity should be accepted. It means the City should have a modern zoning framework that allows each opportunity to be evaluated carefully.

Staff does not recommend simply saying no to broad categories of uses before any actual project is presented. Many of these uses can vary significantly based on size, location, design, technology, utility demand, building configuration, outdoor equipment, operations, and surrounding land uses. A blanket prohibition may block projects that could fit the City's economic development strategy, provide jobs, add tax base, reuse industrial land, or make practical use of existing infrastructure. At the same time, allowing these uses by right may not provide enough public review. The Special Use Permit process provides a better middle ground.

Special Use Permit Review and Conditions:

One of the strongest reasons to use the Special Use Permit process for many of these emerging uses is that it allows the Planning Commission and City Commission to add conditions that are tied to the specific use and the specific site.

If a use is permitted by right, the City's review is generally limited to confirming that the use is allowed and that the site plan meets adopted standards. The City still has code authority, but there is less ability to evaluate broader compatibility issues through a public hearing process.

A Special Use Permit gives the City more insight and more control. It allows review of the proposed location, surrounding land uses, site layout, access, utility demand, water and wastewater needs, drainage, outdoor equipment, screening, lighting, noise, operating characteristics, emergency access, hazardous materials, decommissioning, and other site specific issues before the use is approved.

The Special Use Permit process also allows conditions to be placed on the approval. Depending on the facts of the application, conditions could address equipment placement, screening, buffering, generator testing, acoustic mitigation, post construction sound testing, truck routes, emergency response coordination, utility phasing, stormwater controls, wastewater pretreatment, fuel storage containment, local complaint contacts, decommissioning, site restoration, or other reasonable requirements.

That is why the Special Use Permit approach is stronger than trying to force every newer use into an older category or allowing these uses by right without a more detailed public review.

Current Regulatory Context:

The current zoning regulations already allow a number of significant industrial and operational uses today. In the I-1 and I-2 districts, the current regulations already contemplate light manufacturing, general manufacturing, processing, wholesaling, trucking, warehousing, public utility facilities, pipelines, motor freight terminals, recycling processing, refuse transfer, vehicle repair, vehicle storage, equipment storage, truck stops, gas and fuel storage, and similar industrial or service uses. Some are permitted by right. Others require a Special Use Permit.

The point is that the City's current zoning regulations already allow industrial and infrastructure uses that can involve truck traffic, outdoor storage, noise, lighting, heavy utility demand, fuel storage, wastewater, stormwater, or other operational impacts. In some cases, those existing uses may be just as intense, or more intense, than some of the emerging uses being defined in this amendment.

The proposed amendment does not open the door to industrial activity that does not already exist in some form under the zoning regulations. It adds clearer definitions and, for many of the newer uses, requires more review, more disclosure, and more ability to attach conditions. For example, data centers would require a Special Use Permit in any district where they are allowed. Battery energy storage, battery recycling, hydrogen production and storage, carbon capture support facilities,

semiconductor fabrication, small modular reactor or microreactor facilities, and utility scale solar would also require Special Use Permit review in the industrial districts where they are listed.

Other Regulatory and Permitting Requirements:

Zoning is only one layer of review. A zoning approval, including a Special Use Permit, does not replace state or federal permitting, building code review, fire code review, utility review, environmental review, water and wastewater capacity review, stormwater permitting, air quality permitting, industrial pretreatment requirements, Kansas Corporation Commission related utility processes, Kansas Department of Health and Environment requirements, Kansas Intelligence Fusion Center review where applicable, or any other outside agency review that may apply to a specific project.

Some uses may also involve federal review, such as Nuclear Regulatory Commission review for nuclear related facilities, Federal Energy Regulatory Commission or utility coordination for electric transmission matters, U.S. Army Corps of Engineers review for certain water or wetland impacts, or other regulatory approvals depending on the project.

The local zoning process does not waive those requirements. It creates the local land use framework within which those other technical and regulatory reviews can be considered.

Use of the Words “May” and “Shall”:

Several comments during the process focused on the use of the word “may” rather than “shall” in portions of the proposed Article 6 standards. Staff intentionally left “may” in certain places because not every project in a broad use category will create the same impact or need the same level of technical study.

In the City’s zoning regulations, “shall” is mandatory and “may” is permissive. A mandatory “shall” is appropriate when every applicant should provide a specific item or comply with a specific rule in every case. A discretionary “may” is appropriate when the City needs the ability to require additional information, studies, conditions, or mitigation based on the scale, location, operating characteristics, and potential impacts of a specific proposal.

Changing every “may” to “shall” could require studies that are not relevant to a smaller or lower impact proposal. It could also make the regulations more rigid than necessary and reduce the ability to tailor review to the actual facts of a project.

The draft uses mandatory language where baseline requirements should apply. For example, a data center would require a Special Use Permit in any zoning district where the use is allowed. A data center with outdoor cooling equipment, outdoor mechanical equipment, or stationary backup generation would be required to provide a noise mitigation plan and acoustic study.

The draft uses discretionary language where professional judgment and project specific review are needed. Utility provider letters, system impact documentation, phased service plans, hazardous materials summaries, industrial wastewater narratives” is permissive. A mandatory “shall” is appropriate when every applicant should provide a specific item or comply with a specific rule in every case. A discretionary “may” is appropriate when the City needs the ability to require additional, stormwater narratives, decommissioning plans, and financial surety may all be appropriate for some projects. They may not be necessary in the same form for every project.

Staff does not view the “may” language as weakening the regulations. In staff’s opinion, it makes the regulations more workable and more defensible. It allows the City to make requirements proportional, fact based, and tied to the actual application.

Attachments:

1. Text Amendment Ordinance
2. Legal Opinion - Proposed Zoning Text Amendment
3. Official Statement Regarding Proposed Zoning Text Amendment

Funding Source:

This item supports the City Commission's strategic priorities because it deals directly with how El Dorado positions itself for future investment while still protecting local control. The issue is not whether the City should accept every project. The issue is whether the City has the right zoning tools to evaluate serious opportunities when they arise.

Investment matters to El Dorado. Private investment helps grow the tax base, supports utility revenue, creates construction activity, supports permanent employment, improves the use of existing infrastructure, and strengthens the City's ability to provide services over time. Cities that are prepared for investment are in a stronger position than cities that are forced to react after an application is filed. This amendment is intended to put El Dorado in that stronger position.

At the same time, investment has to be reviewed carefully. Not every project is the right project. Not every site is the right site. Not every use belongs next to every neighborhood, roadway, utility system, or public facility. The proposed zoning amendments do not lower the City's standards. They give the City a clearer way to ask the right questions, require the right information, and make decisions based on the facts of the use and the site.

Economic Development:

The proposed amendments directly support the City's Economic Development priority. El Dorado has long marketed its industrial development, transportation access, rail access, utility capacity, and water supply as part of its economic development position. Those assets are part of what makes the community competitive for investment.

The types of uses addressed in this amendment are increasingly part of state, regional, and national economic development discussions. Data centers, advanced manufacturing, battery storage, hydrogen related facilities, semiconductor related facilities, research and development facilities, utility scale solar, and similar uses can involve large capital investment, specialized infrastructure, new technology, utility demand, and long term tax base potential.

The amendment does not say these uses are automatically good. It says they are real uses that communities are seeing interest in, and the City should have a defined local process to evaluate them. That process should allow reasonable opportunities to be considered, while still giving the City the ability to require conditions or deny a project when the facts do not support approval.

Infrastructure:

The proposed amendments support the Infrastructure priority by requiring major utility and operational questions to be addressed earlier in the review process. Many of these uses can involve electric demand, cooling systems, water use, wastewater discharge, stormwater controls, emergency access, backup power, fuel storage, fire protection, or specialized utility coordination.

The amendments also help make clear that zoning approval is not the same thing as utility commitment, infrastructure approval, public financing, or capacity reservation. They give the City a better basis to request information, require technical review, evaluate phasing, and consider conditions or separate agreements when needed.

This is important because El Dorado has valuable infrastructure assets, including water supply, treatment infrastructure, sewer infrastructure, street access, industrial land, and regional transportation connections. Those assets should support growth, but they should be used wisely and with a clear understanding of long term impacts on existing customers, future customers, maintenance obligations, treatment capacity, and system resilience.

Housing:

The amendments support the Housing priority by helping manage the edge between higher intensity uses and residential areas. Economic development and housing are connected, but they have to be balanced. The City needs private investment and tax base growth, while also protecting neighborhoods from incompatible land uses.

This amendment helps with that balance by keeping higher intensity uses out of residential districts, focusing review within office, institutional, and industrial districts, and using the Special Use Permit process for many uses with higher potential impacts. It also gives the City tools to review setbacks, screening, buffering, lighting, noise, outdoor equipment placement, generator testing, emergency access, and other site specific issues that can affect nearby homes or sensitive uses.

Downtown:

The proposed amendments are not primarily a Downtown item, but they still support the broader Downtown priority by helping preserve a clear land use pattern for the community. Higher intensity industrial and infrastructure uses should be directed to appropriate districts and reviewed under appropriate standards. That helps protect the role of Downtown as a civic, commercial, and community center.

A stronger tax base also supports the City's ability to maintain infrastructure, provide services, and reinvest in public improvements over time. This amendment does not fund a Downtown project directly, but it supports the kind of disciplined growth framework that helps the overall community remain stable and investable.

Local Control and Long Term Readiness:

Local control is an important part of this item. The City cannot control every state, federal, utility, or market force that may affect future development. What the City can control is its own zoning framework. It can decide how uses are defined, where they may be considered, whether they require a public hearing, and what local standards apply.

This amendment places El Dorado in a more prepared position. It gives residents, applicants, staff, the Planning Commission, and the City Commission a clearer process. It also helps ensure that if a project is proposed, the discussion can focus on the actual facts of the project rather than first debating whether the use fits into an outdated category.

This action should also be understood as a local jurisdictional action. The recommended regulations would apply to El Dorado and its extraterritorial zoning jurisdiction. They would not regulate the rest of Butler County.

In staff's opinion, that is the value of this amendment. It is not a project approval. It is not an incentive. It is not a commitment of infrastructure. It is a local control measure. It updates the City's zoning regulations so El Dorado can continue to grow in a way that is deliberate, reviewable, and tied to adopted community priorities.

Operation Impact:

The proposed text amendments do not create an immediate financial obligation for the City. Therefore, the primary operational impact is administrative. Staff will use the amended regulations when reviewing future inquiries or applications. For uses requiring a Special Use Permit, applicants would still be required to follow the City's established application, notice, public hearing, Planning Commission, and City Commission process. Future applications involving any of the proposed uses may require additional technical review beyond the typical staff review. There are situations where third-party evaluation will be needed to assist in reviewing certain land uses classifications depending on the scale and type of project. For complex or higher impact applications, those costs will be addressed on a project-specific basis through agreements with the developer. The ordinance does not authorize a project, approve an incentive, commit utility capacity, award a contract, or require capital improvements.

Options/Alternatives:

The City Commission has the following options with respect to this item:

1. **Approve the proposed zoning text amendment as recommended by the Planning Commission.** The City Commission may adopt the Planning Commission's recommendation by ordinance.
2. **Approve the proposed text amendment with modifications.** The City Commission may choose to add, remove, or modify language contained in the proposed ordinance. If the change is clerical, administrative, or non-substantive, it may be included in the motion initiating a vote. Motions should clearly identify the specific language being changed if a change is substantive and modifies the Planning Commission recommendation. Substantive modifications will require a two-thirds super-majority vote of the governing body.
3. **Table the item and direct staff to return with revisions or additional clarification on selected provisions.** The City Commission may table the item and direct staff to return with additional information, revised language, or clarification on selected provisions. This option keeps the item before the City Commission and does not return it to the Planning Commission unless the Commission later chooses to do so. Direction to staff should identify the specific section, use, standard, or issue needing further work.
4. **Return the item to the Planning Commission for additional review.** The City Commission may return the recommendation to the Planning Commission with a statement explaining the basis for not approving or disapproving the recommendation. This option should be used only if the City Commission identifies specific new information, a specific technical issue, or a clearly defined policy concern that warrants additional Planning Commission review. This item has already gone through a deliberate process encompassing three Planning Commission meetings, including initial discussion, two public hearings, tabling for additional review, revisions, and final Planning Commission action. If the item is returned, the motion should clearly identify the exact issue to be reconsidered, the reason additional Planning Commission review is necessary, and what specific task the Planning Commission is being asked to complete. The direction needs to be clear enough that the Planning Commission understands

whether it is being asked to review a particular use, amend specific language, consider a specific standard, evaluate new information, or address a defined policy concern.

5. **Deny the proposed zoning amendments by overriding the Planning Commission recommendation.** The City Commission may deny the proposed zoning amendments by overriding the Planning Commission recommendation. Because the Planning Commission recommended approval, denial would override that recommendation and would require a two-thirds majority vote of the full governing body.

Staff Recommendation:

Staff recommends that the City Commission adopt the recommendation of the Planning Commission and approve Ordinance No. G-____, amending Article 3, Appendix A, and Article 6 of the City of El Dorado Zoning Regulations regarding emerging industries. Staff believes the proposed amendments are a reasonable and responsible step to establishing a regulatory framework for emerging land uses. For many of these uses, the proposed amendments would give the City more public review and ability to attach site-specific conditions through the special use process than what currently exists in the City's Zoning Regulations.

If the City Commission is not prepared to adopt the Planning Commission recommendation, the item should be returned to the Planning Commission with a specific written statement identifying the exact sections or policy issues to be reviewed further.

Commission Action:

Recommended Motion:

Commissioner _____ moved to approve Ordinance No. G-____, an ordinance amending the City of El Dorado, Kansas Zoning Regulations by adding definitions to Article 3, adding use classifications to Appendix A, and adding supplementary district regulations to Article 6 for certain emerging industries, and to adopt the recommendation of the Planning Commission.

Commissioner _____ seconded the motion.

Alternative Motion to Approve with Revised Language:

Commissioner _____ moved to approve Ordinance No. G-____, an ordinance amending the City of El Dorado, Kansas Zoning Regulations by adding definitions to Article 3, adding use classifications to Appendix A, and adding supplementary district regulations to Article 6 for certain emerging industrial, energy, technology, utility, and infrastructure related uses, and to adopt the recommendation of the Planning Commission with the following amendment:

_____.

Commissioner _____ seconded the motion.

Note: If the amendment is substantive, this motion should be treated as requiring a two-thirds, super majority vote of the full governing body.

Alternative Motion to Table:

Commissioner _____ moved to table consideration of Ordinance No. G-____ and direct staff to return with additional information, revised language, or clarification regarding the following specific item or items: _____.

Commissioner _____ seconded the motion.

Alternative Motion to Return to the Planning Commission:

Commissioner _____ moved to return the proposed emerging industries zoning text amendments to the Planning Commission for further review, with the City Commission requesting additional review of the following specific item or items:

_____.

The reason additional Planning Commission review is requested is:

_____.

Commissioner _____ seconded the motion.

Alternative Motion to Override the Planning Commission Recommendation and Deny:

Commissioner _____ moved to override the Planning Commission recommendation and deny Ordinance No. G-____ regarding the proposed emerging industries zoning text amendments.

Commissioner _____ seconded the motion.

Note: This motion would require a two-thirds majority vote of the full governing body.

ORDINANCE NO. G-_____

AN ORDINANCE AMENDING ARTICLE 3, APPENDIX A, AND ARTICLE 6 OF THE ZONING REGULATIONS OF THE CITY OF EL DORADO, KANSAS, TO ADD DEFINITIONS, USE CLASSIFICATIONS, AND SUPPLEMENTARY REGULATIONS FOR CERTAIN EMERGING INDUSTRIAL AND INFRASTRUCTURE USES.

WHEREAS, the City of El Dorado, Kansas, has adopted zoning regulations pursuant to the laws of the State of Kansas, including K.S.A. 12-741 et seq., and amendments thereto; and

WHEREAS, the City has determined that amendments to its Zoning Regulations are needed to improve clarity, consistency, and local readiness for certain emerging industrial and infrastructure use types that are not clearly addressed in the current regulations; and

WHEREAS, the proposed amendments are intended to preserve the City's existing zoning framework while adding definitions, use classifications, and supplementary standards to better guide future review of such uses; and

WHEREAS, the proposed amendments include revisions to Article 3, Rules and Definitions, Appendix A, Listing of Uses by Zoning District, and Article 6, Supplementary District Regulations; and

WHEREAS, after due notice as required by law, the Planning Commission of the City of El Dorado, Kansas, conducted a public hearing on the proposed amendments on _____, 2026; and

WHEREAS, following the public hearing and consideration of the proposed text amendments, the Planning Commission recommended approval of said amendments to the City Commission of the City of El Dorado, Kansas; and

WHEREAS, the City Commission finds that adoption is consistent with the City's authority to regulate land use and development within its jurisdiction.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF EL DORADO, KANSAS:

Section 1. Amendment to Article 3, Rules and Definitions.

Article 3 of the Zoning Regulations of the City of El Dorado, Kansas, is hereby amended to add the definitions set forth in Attachment B, attached hereto and incorporated herein by reference as though fully set forth herein. Said definitions shall be inserted alphabetically within Article 3.

Section 2. Amendment to Appendix A, Listing of Uses by Zoning District.

Appendix A of the Zoning Regulations of the City of El Dorado, Kansas, is hereby amended to add the use classifications and supplementary regulation references set forth in Attachment C, attached hereto and incorporated herein by reference as though fully set forth herein.

Section 3. Amendment to Article 6, Supplementary District Regulations.

Article 6 of the Zoning Regulations of the City of El Dorado, Kansas, is hereby amended by adding Sections 25 through 39, as set forth in Attachment D, attached hereto and incorporated herein by reference as though fully set forth herein.

Section 4. Purpose and Effect.

The purpose of this Ordinance is to clarify the City's zoning regulations as they relate to certain emerging industrial and infrastructure uses, to establish corresponding use classifications within the zoning districts of the City, and to provide supplementary standards for the review and regulation of such uses. Nothing in this Ordinance shall be construed to waive, limit, or replace any other applicable local, state, or federal review, permit, licensing, safety, utility, environmental, subdivision, site plan, building code, fire code, or other regulatory requirement.

Section 5. Attachments Incorporated.

Attachment B, Attachment C, and Attachment D are hereby adopted as part of this Ordinance and shall be maintained with the official copy of this Ordinance on file with the City Clerk.

Section 6. Repealer.

All ordinances, resolutions, regulations, or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. Severability.

If any section, subsection, sentence, clause, phrase, provision, or application of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Commission hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, phrase, and provision hereof, irrespective of the fact that any one or more portions may be declared invalid or unconstitutional.

Section 8. Unchanged Provisions.

Except as expressly amended by this Ordinance, all other provisions of the Zoning Regulations of the City of El Dorado, Kansas, shall remain in full force and effect.

Section 9. Effective Date.

This Ordinance shall take effect and be in full force from and after its publication once in the official newspaper of the City of El Dorado, Kansas.

PASSED AND APPROVED by the Governing Body of the City of El Dorado, Kansas, this ____ day of _____, 2026.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

DRAFT

ATTACHMENT B
ARTICLE 3
RULES AND DEFINITIONS

The following definitions shall be added to Article 3 and inserted alphabetically:

Advanced Manufacturing Facility: An establishment engaged in advanced or technology-intensive manufacturing processes involving a high degree of automation, precision equipment, robotics, sensors, digital controls, specialized materials, or similar production systems, and including ancillary offices, testing areas, storage, utilities, and support facilities.

Battery Cell Manufacturing Facility: An establishment engaged in the manufacture, assembly, formation, or finishing of rechargeable or nonrechargeable battery cells, modules, or similar electrochemical energy storage components, including associated mixing, coating, drying, calendaring, electrolyte filling, testing, storage, and support areas.

Battery Energy Storage System (BESS), Principal Use: One or more devices, assemblies, containers, or buildings capable of storing energy in order to supply electrical energy at a future time, where the system is the principal use of the site and includes associated batteries, inverters, transformers, switchgear, control systems, thermal management equipment, fire suppression equipment, and accessory structures. This term does not include a battery system that is clearly accessory to another principal use.

Battery Recycling and Critical Minerals Processing Facility: An establishment engaged in the disassembly, sorting, shredding, crushing, recycling, processing, refining, recovery, or transfer of spent batteries, battery materials, black mass, critical minerals, or similar materials, including associated storage, loading, testing, utilities, and support facilities.

Black Mass: Shredded, crushed, separated, or otherwise processed battery material containing a mixture of recoverable metals, minerals, graphite, electrolyte residue, or similar constituents generated through battery recycling or material recovery operations.

Carbon Capture, Compression, or CO2 Support Facility: An establishment or support facility engaged in capturing, compressing, dehydrating, liquefying, storing, transferring, or otherwise handling carbon dioxide or related support streams, including associated compression equipment, storage vessels, loading areas, pipelines, utility equipment, or similar support infrastructure.

Controlled Environment Agriculture Facility: An establishment engaged in crop production within enclosed or partially enclosed structures using controlled lighting, temperature, humidity, nutrients, carbon dioxide, irrigation, or similar environmental controls, including greenhouses, vertical farms, hydroponic, aeroponic, or aquaponic systems, and associated packaging, storage, and support areas.

Data Center: A facility, or portion of a facility, whose principal use is the storage, processing, management, or transmission of digital data using servers, network equipment, and related infrastructure. This use includes associated office areas, security features, cooling systems, switchgear, substations, backup power equipment, fuel storage, battery systems, and other accessory improvements necessary to support digital data operations. This term does not include a customary accessory server room or similar equipment area located within and subordinate to another principal use.

Hydrogen Production Facility: An establishment engaged in producing hydrogen through electrolysis, reforming, cracking, or similar industrial processes, including associated compression, storage, cooling, utility, control, and support equipment.

Hydrogen Storage and Distribution Facility: An establishment engaged in storing, compressing, transferring, blending, distributing, or dispensing hydrogen, including associated tanks, compressors, vaporizers, piping, fueling or loading areas, utility equipment, and support facilities.

Research and Development Facility: An establishment primarily engaged in research, design, testing, analysis, prototyping, pilot-scale development, or similar scientific, engineering, or technical activities conducted within laboratories, offices, testing areas, or pilot facilities. This term may include limited fabrication, assembly, or testing that is incidental to research and development activities, but does not include full-scale general manufacturing or processing unless otherwise expressly allowed.

Semiconductor Fabrication Facility: An establishment engaged in the manufacture of semiconductor wafers, chips, or similar devices through fabrication processes such as deposition, etching, lithography, cleaning, doping, chemical treatment, or similar operations, including associated clean rooms, ultra-pure water systems, chemical storage, utilities, testing, and support areas.

Semiconductor Packaging and Test Facility: An establishment engaged in assembling, packaging, burn-in, testing, reliability testing, thermal testing, or finishing semiconductor devices or components, including associated clean rooms, utilities, storage, and support areas.

Sensitive Use: A residence, residential district, school, day care center, hospital, nursing or convalescent home, assisted living facility, public park, trail, library, house of worship, or similar use where occupants may be more sensitive to noise, vibration, glare, emissions, or emergency events.

Small Modular Reactor or Microreactor Facility: An establishment or site containing a nuclear fission reactor designed for modular deployment or small-scale generation,

together with associated support buildings, security areas, cooling systems, utility systems, storage areas, access controls, and other related infrastructure.

Solar Energy Facility, Utility Scale: A principal use facility designed to generate electricity from solar energy for sale, transfer, or distribution to the electric grid or to off-site users, including solar panels, racking, inverters, transformers, substations, access drives, battery storage when accessory, and other related support facilities.

Solar Panel Manufacturing Facility: An establishment engaged in the manufacture, assembly, lamination, coating, treatment, or finishing of solar cells, solar modules, or solar panel components, including associated storage, utilities, testing, and support areas.

ATTACHMENT C

APPENDIX A

LISTING OF USES BY ZONING DISTRICT

P = Permitted Use

S = Special Use Permit

X = Not Permitted/Not Applicable

Use Description (in alphabetical order)	O-I	I-1	I-2	Supplementary District Regulations
Advanced Manufacturing Facility	S	P	P	Article 6.25, Article 6.32
Battery Cell Manufacturing Facility	X	S	S	Article 6.25, Article 6.33
Battery Energy Storage System (BESS), Principal Use	X	S	S	Article 6.25, Article 6.26
Battery Recycling and Critical Minerals Processing Facility	X	S	S	Article 6.25, Article 6.29
Carbon Capture, Compression, or CO2 Support Facility	X	S	S	Article 6.25, Article 6.30
Controlled Environment Agriculture Facility	S	S	S	Article 6.25, Article 6.34
Data Center	S	S	S	Article 6.25, Article 6.27
Hydrogen Production Facility	X	S	S	Article 6.25, Article 6.28
Hydrogen Storage and Distribution Facility	X	S	S	Article 6.25, Article 6.28
Research and Development Facility	P	P	P	Article 6.25, Article 6.35
Semiconductor Fabrication Facility	X	S	S	Article 6.25, Article 6.36
Semiconductor Packaging and Test Facility	S	S	S	Article 6.25, Article 6.39
Small Modular Reactor or Microreactor Facility	X	S	S	Article 6.25, Article 6.31
Solar Energy Facility, Utility Scale	X	S	S	Article 6.25, Article 6.37
Solar Panel Manufacturing Facility	S	S	S	Article 6.25, Article 6.38

**ATTACHMENT D
PROPOSED ARTICLE 6 STANDARDS
(EMERGING INDUSTRIAL USES)**

25. Emerging Industrial Uses: Common Supplementary Regulations

A. Applicability:

These standards apply to development, expansion, or establishment of the following defined uses when permitted as a permitted use or approved by Special Use Permit:

- (1) Advanced Manufacturing Facility.
- (2) Battery Cell Manufacturing Facility.
- (3) Battery Energy Storage System (BESS), Principal Use.
- (4) Battery Recycling and Critical Minerals Processing Facility.
- (5) Carbon Capture, Compression, or CO2 Support Facility.
- (6) Controlled Environment Agriculture Facility.
- (7) Data Center.
- (8) Hydrogen Production Facility.
- (9) Hydrogen Storage and Distribution Facility.
- (10) Research and Development Facility.
- (11) Semiconductor Fabrication Facility.
- (12) Semiconductor Packaging and Test Facility.
- (13) Small Modular Reactor or Microreactor Facility.
- (14) Solar Energy Facility, Utility Scale.
- (15) Solar Panel Manufacturing Facility.

Where a conflict exists between these standards and another applicable provision of these regulations, the more restrictive requirement shall apply. These standards supplement, and do not replace, site plan review, Special Use Permit review, subdivision requirements, adopted construction and fire codes, utility review, drainage review, and any other applicable local, state, or federal requirements.

B. Outdoor Equipment, Screening, and Setbacks:

Outdoor equipment, including generators, fuel tanks, transformers, switchgear, battery containers, compressors, cooling equipment, transfer equipment, tanks, process support equipment, and similar equipment shall be:

- (1) Located and oriented to minimize visibility from public streets and from adjacent residential districts and sensitive uses.
- (2) Screened using a combination of opaque fencing, walls, berming, landscaping, or building placement.
- (3) Organized so that loading, service, and equipment yards are located to the maximum extent practical away from residential districts and sensitive uses.

When the subject site abuts a residential district or is located within 500 feet of a residential district boundary or sensitive use, outdoor mechanical equipment and emergency generators shall be placed to the maximum extent practical away from that boundary and shall incorporate enhanced screening and noise control measures.

Where outdoor equipment is proposed adjacent to a residential district or other sensitive use, the City may require, through site plan review or the Special Use Permit process, increased setbacks and enhanced buffering, including relocation of equipment, acoustic enclosures, or full enclosure within a building.

C. Noise, Vibration, and Operational Impacts:

Uses with significant mechanical equipment shall be designed and operated to minimize off-site noise and vibration impacts. The City may require an acoustic study prepared by a qualified professional to demonstrate anticipated sound levels and identify mitigation measures. When required, the study shall address tonal and low-frequency characteristics where applicable.

For uses with emergency generators or routine testing, the City may require, through site plan review or the Special Use Permit process:

- (1) A testing schedule, including limits on overnight or weekend testing, except during emergencies.
- (2) Maximum sound levels at the property line and, where applicable, evaluation methods that account for low-frequency noise.
- (3) Equipment mufflers, acoustic enclosures, barriers, or building-based screening.
- (4) A designated local contact for complaints and response coordination.

D. Lighting and Glare:

Exterior lighting shall be designed to minimize spillover and glare, with fixtures directed downward and shielded where appropriate. Lighting shall not create a hazard to public streets or adjacent properties.

Security lighting shall be designed to provide safety while minimizing impacts to adjacent properties, including the use of full cutoff fixtures and motion activation where appropriate.

E. Utilities and Infrastructure Documentation:

Applicants shall provide documentation sufficient for staff and decision makers to understand utility demands and service feasibility, including:

- (1) Electric demand characteristics, planned utility interconnections, and standby power configurations.
- (2) Water demand, if applicable, including average day, peak day, process water, and fire flow needs.

- (3) Cooling type, if applicable, including air-cooled, water-cooled, evaporative, or other major cooling system descriptions.
- (4) Wastewater discharge characteristics, if applicable, including expected discharge source, volume, and general pollutant characteristics.
- (5) Stormwater management and any containment needs for equipment yards, storage yards, loading areas, or process areas.
- (6) Phasing or staging of utility needs where development is proposed in phases.

The City may require utility provider letters, system impact documentation, or phased service plans as part of site plan review or the Special Use Permit process.

F. Hazardous Materials Summary, Emergency Coordination, and Containment:

Where a proposed use involves hazardous materials the City may require the applicant to provide a hazardous materials summary sufficient for local review. The summary may be conditioned or expanded through site plan review or the Special Use Permit process and shall include, as applicable:

- (1) General identification of chemical or material types and maximum on-site quantities.
- (2) General description of storage method and location.
- (3) Confirmation that current safety data sheets will be maintained and made available to emergency responders as required by law.
- (4) Emergency contact information for the owner, operator, and facility manager.
- (5) A general statement describing whether the facility anticipates state or federal hazardous chemical inventory reporting.
- (6) A spill prevention and containment narrative for fuels, oils, process chemicals, electrolytes, solvents, liquid reagents, gases, slurries, or similar materials, including drainage controls, curbing, berming, or containment areas where applicable.

Nothing in this section requires public disclosure of proprietary formulas or trade secrets beyond what is reasonably necessary for zoning, life safety, and emergency coordination review.

G. Industrial Wastewater and Pretreatment Review:

Where a proposed use involves process wastewater or has the potential to affect the public sewer system, the City may require an industrial wastewater narrative as part of site plan review or a Special Use Permit application. The narrative may include:

- (1) General description of process flows and wastewater sources.
- (2) Estimated flow volumes, including average and peak discharge where known.
- (3) General pollutant characteristics and whether pretreatment may be required.
- (4) Slug discharge or batch discharge risks, if applicable.
- (5) Proposed equalization, pretreatment, or containment measures.
- (6) Any anticipated need for separate agreements, permits, or wastewater review before connection or discharge.

H. Stormwater, Outdoor Materials Handling, and Housekeeping:

Where outdoor storage, loading, staging, processing, or scrap handling is proposed, the City may require a stormwater and outdoor materials handling narrative that identifies:

- (1) Areas for outdoor storage, loading, unloading, or transfer.
- (2) Materials proposed to be stored or handled outdoors.
- (3) Housekeeping, containment, covering, drainage, and spill response measures.
- (4) Whether stormwater pollution prevention planning, industrial stormwater permitting, or other stormwater controls may be required before operation.
- (5) Measures to prevent discharge of dust, sediment, oils, chemicals, black mass, residues, nutrients, or other pollutants to public drainage systems.

I. Fire Access, Emergency Response, and Safety Documentation:

Projects shall be designed to support safe emergency access, including fire lanes, turning radii, hydrant spacing, and equipment clearances as applicable under adopted codes and Fire Department standards.

Where the use involves higher-risk systems or hazardous materials, the City may require, through site plan review or the Special Use Permit process, documentation addressing:

- (1) Emergency response coordination and pre-incident planning.
- (2) Hazard mitigation plans and spill or release prevention measures.
- (3) Operational contacts and on-site safety measures, including posted emergency shutdown information.
- (4) Identification of restricted access areas, security measures, and emergency entry procedures.
- (5) Staging areas for emergency apparatus where warranted by the scale of development.

J. Material Change After Approval:

A substantial change to an approved emerging industrial use shall require review by the Zoning Administrator to determine whether an amended site plan, an amended Special Use Permit, or both are required. Substantial change as determined by the Zoning Administrator, may include, but is not limited to:

- (1) A significant increase in generating capacity, battery capacity, hydrogen storage volume, compression pressure, or reactor size.
- (2) A change in battery chemistry or other technology that materially changes the hazard profile of the site.
- (3) A major increase in generator count, fuel storage, or testing regime.
- (4) A material increase in process water demand, wastewater discharge, or stormwater exposure risk.
- (5) A change in the location or scale of outdoor equipment, storage, transfer areas, or loading facilities.

(6) The addition of carbon dioxide storage, compression, transfer, or pipeline interconnection not shown on the approved plan.

(7) Any other change determined by the Zoning Administrator to materially affect compatibility, utility demand, public safety, or environmental review.

K. Decommissioning and Removal:

For uses with significant fixed infrastructure, including BESS principal use sites, utility scale solar facilities, carbon dioxide support facilities, data centers, battery cell manufacturing facility, battery recycling and critical minerals processing facility, hydrogen production facility, hydrogen storage and distribution facility, small modular reactor or microreactor facility, solar energy facility, utility scale, solar panel manufacturing facility, and other uses designated by the City through Special Use Permit approval, the City may require a decommissioning, removal, and site restoration plan.

The plan may address:

(1) Trigger events for decommissioning, including end of useful life, abandonment, or cessation of operations for 12 consecutive months, unless extended by the City for good cause shown.

(2) Removal of equipment, foundations, pads, tanks, fencing, access drives, and other improvements not intended to remain.

(3) Restoration of grades, surfacing, and drainage.

(4) Management, recycling, or disposal of any regulated or hazardous materials.

(5) Responsible parties and contact information.

(6) Schedule for removal and restoration.

(7) Financial surety where warranted through the Special Use Permit process. The City may require periodic review of the surety amount to account for inflation, technology changes, or revised removal costs.

26. Battery Energy Storage System (BESS), Principal Use: Specific Supplementary Regulations

A. The application shall identify battery chemistry, total rated energy capacity, total rated power, number and type of containers or enclosures, inverter and transformer layout, and the location of emergency access points.

B. The system shall be designed and installed in compliance with all adopted building and fire codes and applicable standards, including the International Fire Code and NFPA 855, as amended.

C. The City may require, through site plan review or the Special Use Permit process:

(1) Fire department access and staging areas.

(2) Fencing and controlled access.

- (3) Signage and emergency shutdown information.
- (4) Remote monitoring, thermal detection, smoke detection, fire detection, or similar system information.
- (5) Thermal runaway mitigation documentation.
- (6) Minimum setbacks, separation distances, or enclosure requirements where warranted by site conditions.
- (7) A decommissioning plan and financial surety.

D. Prior to final occupancy, the City may require confirmation that emergency response information has been provided to the Fire Department, including emergency contacts, shutoff information, and site access instructions.

27. Data Center: Specific Supplementary Regulations

A. A Data Center shall require a Special Use Permit in any zoning district where the use is allowed.

B. Backup power systems, generator placement, fuel storage, substations, switchgear, and cooling equipment shall be designed and arranged to minimize noise, vibration, visual impacts, and operational impacts on adjacent property, particularly when near residential districts or other sensitive uses.

C. The application shall include a general inventory of stationary engines and turbines, if any, including unit count, estimated size, fuel type, anticipated non-emergency testing hours, and whether the equipment is intended solely for emergency backup, peak shaving, demand response, or any other operational purpose.

D. The application shall include a general water and cooling narrative, if applicable, identifying the cooling method, expected process or cooling water use, estimated average day and peak day demand, any anticipated blowdown or chemical treatment discharge requiring wastewater review, and whether non-potable, reclaimed, or reused water sources are proposed.

E. The application shall include a general utility and energy narrative identifying estimated peak electric demand in megawatts, planned utility interconnections, proposed phasing, any on-site generation or energy storage, and any known need for substation, transmission, or major distribution improvements.

F. The application shall include information identifying whether the project has completed, initiated, or will be required to complete the screening process through the Kansas Intelligence Fusion Center and, if so, the status of the review and any non-confidential results available at the time of application.

G. The application shall identify whether the applicant has engaged, completed, or enrolled in Evergy's Path to Power process, if applicable, or any successor large-load interconnection, delivery point, or service-feasibility review required by the serving electric utility, and shall provide any non-confidential correspondence or results available at the time of application.

H. The application shall identify whether additional air permitting, emissions review, or other regulatory review is anticipated for backup generation, turbines, boilers, or other stationary equipment before final permits are issued.

I. A noise mitigation plan, including an acoustic study prepared by a qualified professional, shall be required for any data center with outdoor cooling equipment, outdoor mechanical equipment, or stationary backup generation. The study shall address normal operations, routine testing, tonal and low-frequency characteristics, and recommended mitigation measures.

J. Non-emergency generator testing shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, unless otherwise approved through the Special Use Permit process. No routine generator testing shall occur on Sundays or City-observed holidays, except during emergencies or when required to address an imminent reliability or safety issue.

K. Where a data center site abuts a residential district or is within 500 feet of a residential district boundary or other sensitive use, outdoor generator yards, cooling yards, substations, and bulk fuel storage shall be located at least 500 feet from that district boundary or sensitive use, unless the Planning Commission and Governing Body find that an alternative arrangement, together with buffering, screening, enclosure, and noise mitigation, will provide equivalent or greater protection.

L. The City may require, through the Special Use Permit process:

- (1) Generator test hours, frequency, and duration beyond the baseline requirements of this section.
- (2) Maximum sound levels at the property line and post-construction verification testing.
- (3) Outdoor equipment screening, placement, and enclosure.
- (4) Truck routing and delivery access, where applicable.
- (5) Fuel storage screening, secondary containment, and emergency access.
- (6) A designated local contact for complaints and emergency coordination.
- (7) Decommissioning, removal, and restoration requirements for outdoor equipment, fuel storage, or dedicated utility infrastructure not intended to remain.

28. Hydrogen Production Facility and Hydrogen Storage and Distribution Facility: Specific Supplementary Regulations

A. The application shall identify, at a general level, the principal hydrogen-related processes proposed, including production, storage, compression, transfer, filling, blending, or distribution functions, and shall identify the location of storage vessels, compressors, transfer areas, fueling or loading areas, and safety setbacks.

B. Outdoor storage, compression equipment, and transfer areas shall be designed with safety setbacks, emergency access, controlled access, and equipment separation appropriate to the use and consistent with adopted codes.

C. The application shall include a general utility and operations narrative identifying estimated electric demand, water demand, if applicable, wastewater characteristics, if applicable, major process or storage volumes, and any anticipated air permitting or other regulatory review before operation.

D. The City may require, through site plan review or the Special Use Permit process:

- (1) Fire department access and emergency response coordination.
- (2) Fencing, controlled access, and security measures.
- (3) Signage and emergency shutdown information.
- (4) Separation distances, setbacks, and buffering from residential districts or sensitive uses.
- (5) Truck access, loading, unloading, or fueling operations.
- (6) Screening and placement of tanks, compressors, vaporizers, and related equipment.
- (7) Hazard mitigation and spill, release, or venting documentation where warranted.

29. Battery Recycling and Critical Minerals Processing Facility: Specific Supplementary Regulations

A. The application shall identify, at a general level, the principal recycling, dismantling, shredding, sorting, leaching, refining, separation, or recovery processes proposed on site and shall identify the location of outdoor storage, indoor storage, processing areas, transfer points, and waste handling areas.

B. The application shall include a general utilities and environmental narrative identifying electric demand, water demand, wastewater characteristics, stormwater exposure risks, and whether air permitting, industrial pretreatment, or other environmental review is anticipated before operation.

C. Outdoor storage of batteries, black mass, recovered materials, scrap, waste, or similar materials shall not occur except as shown on an approved site plan and subject to screening, containment, and stormwater protection measures.

D. The City may require, through site plan review or the Special Use Permit process:

- (1) Fire prevention and emergency response coordination.
- (2) Hazardous materials summaries and emergency contacts.
- (3) Wastewater and pretreatment review.
- (4) Outdoor storage, screening, and housekeeping.
- (5) Dust, odor, fumes, and nuisance mitigation.
- (6) Truck routing, truck queuing, and loading area design.
- (7) Setbacks and buffering from residential districts or sensitive uses.
- (8) Limits on outdoor dismantling, shredding, crushing, or similar activities.

30. Carbon Capture, Compression, or CO2 Support Facility: Specific Supplementary Regulations

A. The application shall identify, at a general level, the principal carbon capture, compression, dehydration, storage, transfer, pipeline interconnection, or related support functions proposed on site and shall identify major equipment, tanks, compression areas, transfer areas, and pipeline connection points.

B. The application shall include a general utility and operations narrative identifying estimated electric demand, water demand, if applicable, wastewater characteristics, if applicable, process support needs, and any anticipated regulatory review before operation.

C. Where carbon dioxide storage, compression, transfer, or pipeline support infrastructure is proposed, the application shall identify emergency access, controlled access, venting or pressure relief areas, where applicable, and general separation concepts from adjacent uses.

D. The City may require, through site plan review or the Special Use Permit process:

- (1) Screening and placement of compressors, tanks, pipe racks, and related equipment.
- (2) Emergency coordination and operational contacts.
- (3) Setbacks and buffering from residential districts or sensitive uses.
- (4) Truck access, transfer operations, and loading design, where applicable.
- (5) Decommissioning, removal, and restoration of support facilities not intended to remain.
- (6) Hazard mitigation and release response documentation where warranted.

31. Small Modular Reactor or Microreactor Facility: Specific Supplementary Regulations

A. A Small Modular Reactor or Microreactor Facility shall require a Special Use Permit.

B. The application shall identify, at a general level, the proposed reactor technology, generating capacity, support facilities, cooling approach, security features, emergency planning framework, and the location of all major facilities and restricted areas proposed on site.

C. Nothing in this section shall be interpreted to waive, replace, or supersede any applicable federal or state licensing, siting, safety, security, environmental, or emergency planning requirements.

D. The City may require, through the Special Use Permit process, narratives or documentation sufficient to understand:

- (1) Site access and security.
- (2) Emergency coordination and public safety planning.
- (3) Utility, water, wastewater, and cooling implications.
- (4) Decommissioning concepts and long-term site restoration assumptions.
- (5) Hazard mitigation and restricted access procedures.

E. The City may require, through the Special Use Permit process:

- (1) Setbacks and buffering from residential districts, public facilities, or other sensitive uses.
- (2) Access control, perimeter security, and screening of support facilities.
- (3) Emergency coordination with local responders.
- (4) Utility and infrastructure phasing.
- (5) Decommissioning and removal of non-reactor support facilities to the extent permitted by law.

32. Advanced Manufacturing Facility: Specific Supplementary Regulations

A. The application shall include a general description of the principal manufacturing processes proposed on site, the major raw materials and finished products, and the location of production areas, loading areas, storage areas, and major mechanical or utility equipment.

B. Where the use involves significant utility demand, process water, process wastewater, bulk material storage, or outdoor equipment, the application shall include utility and operations information sufficient to understand electric demand, water demand, wastewater characteristics, stormwater exposure risks, and major service needs.

C. Outdoor storage, staging, loading, and service areas shall be shown on the site plan and shall be screened and arranged to minimize visibility from public streets and from adjacent residential districts and sensitive uses.

D. The City may require, through site plan review or the Special Use Permit process:

- (1) Truck routing, truck queuing, and delivery access.

- (2) Screening and placement of outdoor equipment, tanks, loading areas, and service yards.
- (3) Utility, wastewater, and stormwater documentation.
- (4) Dust, odor, glare, vibration, or nuisance mitigation where warranted by the proposed operations.
- (5) Setbacks and buffering from residential districts or sensitive uses.
- (6) Limits on outdoor processing, outdoor storage, or hours of operation where warranted by site conditions.

33. Battery Cell Manufacturing Facility: Specific Supplementary Regulations

A. The application shall identify, at a general level, the battery chemistries proposed, major production processes, major solvent or electrolyte systems, dry room or controlled-atmosphere areas, if applicable, and the location of major production, storage, loading, and waste handling areas.

B. The application shall include a general utilities and environmental narrative identifying estimated electric demand, water demand, wastewater characteristics, stormwater exposure risks, and whether air permitting, industrial pretreatment, or other environmental review is anticipated before operation.

C. Outdoor storage of raw materials, off-spec products, waste materials, or chemical containers shall not occur except as shown on an approved site plan and subject to screening, containment, and stormwater protection measures.

D. The City may require, through site plan review or the Special Use Permit process:

- (1) Hazardous materials summaries and emergency coordination.
- (2) Wastewater and pretreatment review.
- (3) Outdoor storage, screening, and housekeeping.
- (4) Dust, odor, fumes, or nuisance mitigation measures.
- (5) Truck routing, truck queuing, and loading area design.
- (6) Setbacks and buffering from residential districts or sensitive uses.
- (7) Limits on outdoor dismantling, staging, or waste handling activities.

34. Controlled Environment Agriculture Facility: Specific Supplementary Regulations

A. The application shall identify, at a general level, the principal production type proposed, including greenhouse cultivation, vertical farming, hydroponic, aeroponic, aquaponic, or similar controlled-environment systems, and shall identify any accessory processing, packaging, storage, or retail components proposed on site.

B. The application shall include a general utility and operations narrative identifying estimated electric demand, water demand, wastewater or nutrient discharge

characteristics, if applicable, proposed backup power systems, hours of operation, and the location of major mechanical equipment.

C. Where supplemental lighting is proposed, site and building design shall minimize off-site glare and light spillover through shielding, screening, orientation, fixture selection, or building design.

D. Where the use is located within 500 feet of a residential district or sensitive use, the City may require a lighting plan identifying expected light levels and proposed mitigation measures.

E. Where carbon dioxide enrichment, fertilizer storage, nutrient mixing, pesticides, or similar materials are proposed above ordinary commercial quantities, the applicant shall provide a general hazardous materials and storage narrative consistent with Section 25.

F. The City may require, through site plan review or the Special Use Permit process:

- (1) Screening and placement of greenhouses, mechanical yards, tanks, pumps, chillers, and backup generators.
- (2) Lighting hours, shielding, and glare mitigation.
- (3) Odor, humidity, and ventilation controls where warranted by site conditions.
- (4) Wastewater, nutrient solution, or process discharge documentation and pretreatment review.
- (5) Loading, delivery access, and truck routing.
- (6) Setbacks and buffering from residential districts or sensitive uses.

35. Research and Development Facility: Specific Supplementary Regulations

A. This section is intended to address principal research and development campuses, laboratories, prototype facilities, and pilot-scale operations, and is not intended to regulate customary accessory laboratory or testing areas subordinate to another principal use.

B. The application shall identify, at a general level, the principal research, testing, prototype, pilot production, or laboratory activities proposed and whether the project includes outdoor testing areas, prototype yards, pilot-scale manufacturing, or major utility or mechanical equipment.

C. Where the proposed use involves hazardous materials above ordinary commercial quantities, process wastewater, outdoor testing, or pilot-scale production, the applicant shall provide narratives consistent with Section 25 regarding hazardous materials, wastewater, stormwater, and emergency coordination.

D. Outdoor testing areas, prototype yards, bulk storage areas, and major equipment yards shall be shown on the site plan and screened or buffered where necessary to protect adjacent property.

E. The City may require, through site plan review:

- (1) Screening and placement of outdoor testing, prototype, or service areas.
- (2) Noise, glare, vibration, or nuisance mitigation where warranted by site conditions.
- (3) Utility, wastewater, and hazardous materials documentation.
- (4) Limits on outdoor testing, demonstration activities, or hours of operation where warranted.
- (5) Setbacks and buffering from residential districts or sensitive uses.

36. Semiconductor Fabrication Facility: Specific Supplementary Regulations

A. The application shall include a general process narrative identifying whether the proposal involves wafer fabrication, etching, deposition, cleaning, lithography, chemical treatment, or other principal semiconductor manufacturing functions, and shall identify any clean room, ultra-pure water, chemical storage, gas storage, bulk chemical delivery, or process exhaust systems proposed.

B. The application shall include a general utilities narrative identifying estimated electric demand, water demand, anticipated ultra-pure water or process water needs, wastewater discharge characteristics, and any anticipated need for industrial pretreatment, air permitting, or other regulatory approvals before operation.

C. The application shall include a general hazardous materials narrative identifying, at a general level, the types of acids, solvents, gases, reagents, slurries, dopants, or other process materials proposed to be stored or used on site, together with general storage and containment methods.

D. The City may require utility provider letters, industrial wastewater review materials, or phased service plans where the scale of the facility warrants additional confirmation of service feasibility.

E. The City may require, through site plan review or the Special Use Permit process:

- (1) Industrial wastewater and pretreatment review.
- (2) Screening and placement of tanks, gas cabinets, scrubbers, exhaust systems, cooling equipment, transformers, and loading areas.
- (3) Hazardous materials management and emergency coordination.
- (4) Truck routing, delivery windows, and access design.
- (5) Setbacks and buffering from residential districts or sensitive uses.

(6) Limits on outdoor storage or outdoor transfer of chemicals, gases, or production materials.

(7) Air emissions, exhaust, or stack location information sufficient to support local compatibility review.

37. Solar Energy Facility, Utility Scale: Specific Supplementary Regulations

A. The application shall include a site plan identifying panel fields, inverter and transformer locations, substations, access drives, perimeter fencing, stormwater features, maintenance access, and any accessory battery storage or related equipment proposed on site.

B. Any Battery Energy Storage System proposed as part of a Utility Scale Solar Energy Facility shall comply with Section 26 in addition to this section.

C. The application shall identify whether the facility will interconnect to an existing or new substation, whether off-site utility improvements are anticipated, and whether a decommissioning or restoration plan is proposed as part of the project.

D. When the site abuts a residential district or sensitive use, the City may require enhanced setbacks, fencing, berming, landscaping, or other screening measures for inverter pads, substations, transformers, or maintenance yards.

E. The City may require, through site plan review or the Special Use Permit process:

(1) Screening and placement of substations, transformers, inverters, and maintenance yards.

(2) Setbacks and buffering from residential districts, public roads, or sensitive uses.

(3) Stormwater management, erosion control, and site stabilization.

(4) Vegetation management, groundcover, and weed control.

(5) Glare or reflectivity information where warranted by site location.

(6) Decommissioning, removal, site restoration, and financial surety.

38. Solar Panel Manufacturing Facility: Specific Supplementary Regulations

A. The application shall include a general manufacturing narrative identifying whether the operation includes glass handling, cell production, lamination, coating, chemical treatment, assembly, packaging, or other major process elements, and shall identify the location of production, storage, loading, and waste handling areas.

B. The application shall include a general utilities and environmental narrative identifying estimated electric demand, water demand, wastewater characteristics, stormwater exposure risks, and whether air permitting, industrial pretreatment, or other environmental review is anticipated before operation.

C. Outdoor storage of raw materials, waste materials, scrap, packaging materials, or chemical containers shall not occur except as shown on an approved site plan and subject to screening, containment, and stormwater protection measures.

D. The City may require, through site plan review or the Special Use Permit process:

- (1) Hazardous materials summaries and emergency coordination.
- (2) Wastewater and pretreatment review.
- (3) Outdoor storage, screening, and housekeeping.
- (4) Dust, odor, fumes, glare, or nuisance mitigation where warranted.
- (5) Truck routing, truck queuing, and loading area design.
- (6) Setbacks and buffering from residential districts or sensitive uses.
- (7) Limits on outdoor staging, storage, or waste handling activities.

39. Semiconductor Packaging and Test Facility: Specific Supplementary Regulations

A. The application shall identify, at a general level, whether the proposal involves semiconductor packaging, assembly, burn-in, reliability testing, thermal testing, or other related activities, and shall identify any clean room, controlled environment, process utilities, loading areas, or outdoor equipment proposed.

B. The application shall include a general utilities and operations narrative identifying electric demand, water demand, if applicable, wastewater characteristics, if applicable, and whether hazardous materials above ordinary commercial quantities are proposed.

C. Where the applicant demonstrates that the proposed facility will not involve wet-process fabrication, significant process wastewater, or substantial hazardous material inventories, the City may determine that a reduced level of application detail is sufficient.

D. The City may require, through site plan review or the Special Use Permit process:

- (1) Screening and placement of major mechanical equipment, tanks, loading areas, and service yards.
- (2) Utility, wastewater, and hazardous materials documentation where warranted.
- (3) Truck routing and loading area design.
- (4) Setbacks and buffering from residential districts or sensitive uses.
- (5) Limits on outdoor storage, testing, or transfer activities where warranted by site conditions.



PHONE
316.251.0924



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EMAIL
office@ablegalks.com



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May 28, 2026

**To: El Dorado City Commission
City of El Dorado
220 East 1st Avenue
El Dorado, Kansas 67042**

From: Ashlyn Brienne Lindskog, City Attorney

RE: Ordinance No. G-___ – Zoning Text Amendment for Emerging Industrial Uses (Including Data Centers)

Purpose of This Memorandum

This memorandum is provided by legal counsel to the City of El Dorado. Its purpose is not to advocate for or against data centers. The City's legal counsel does not have a position on whether a data center should ever be built in or near El Dorado, as that is a policy question for the community and Commission. The purpose of this memorandum is to ensure that the Commission, and the public following this process, understands what the text amendment vote actually means legally and practically, and what it does not mean.

To be clear, a vote in favor of this amendment is not a vote for data centers. It is a vote for the City having the tools to regulate them, condition them, or deny them through a transparent, legally sound public process. To be precise about my role: I take no position on whether a data center should ever be built in or near El Dorado. I do take a position on this amendment, which is that the City should adopt it so it has the legal tools to regulate, condition, or deny such a use if a project is ever proposed. Those are two separate questions, and a recommendation on the second is not advocacy on the first. **A vote against this amendment does not prevent data centers.** It prevents the City from being able to meaningfully control what happens if one is proposed. The Commission is only being asked to decide whether the City's zoning code should have a clear, enforceable framework for evaluating one, or any other emerging industrial use, if a proposal is ever submitted. This is a **policy-based** question, not a project-based question.



What Is Being Proposed

The proposed Ordinance No. G-___ amends three sections of the City’s Zoning Regulations:

- Article 3 (Rules and Definitions) – adds formal definitions for 15 emerging industrial and infrastructure uses, including Data Center, Battery Energy Storage System, Hydrogen Production Facility, Advanced Manufacturing Facility, Small Modular Reactor, and others currently absent from the code.
- Appendix A (Listing of Uses by Zoning District) – assigns each new use to the appropriate zoning districts (O-I, I-1, I-2) and designates whether the use is permitted by right (P), requires a Special Use Permit (S), or is not permitted (X).
- Article 6 (Supplementary District Regulations) – adds Sections 25 through 39, establishing baseline standards and application requirements applicable to all 15 uses, with use-specific supplementary regulations for each.

Data centers are addressed specifically in Article 6, Section 27. Under that section, a Special Use Permit is required in every zoning district where the use is listed. This means that in the proposed text amendment, **no data center can be approved without a public hearing before the Planning Commission and the Governing Body.** Right now, without any amendment, that is not the case.

What the Ordinance Does	What the Ordinance Does NOT Do
Defines “Data Center” and 14 other emerging industrial uses in the zoning code	Approve any specific data center project
Requires a Special Use Permit for any data center in any zoning district (Art. 6.27.A)	Commit the City to issuing any permit
Establishes mandatory public hearing before any data center can be approved	Extend utilities or provide infrastructure



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What the Ordinance Does	What the Ordinance Does NOT Do
Sets baseline standards for noise, screening, setbacks, and generator testing hours	Offer or authorize any tax incentives
Requires detailed utility, water, cooling, and energy narratives from any applicant	Obligate the City to support development
Gives the City authority to impose conditions or deny based on documented findings	Replace other local, state, or federal review requirements
Requires 500-ft setback for equipment from residential boundaries (absent equivalent mitigation)	Prevent the City from later pursuing a prohibition with proper findings

The Core Problem: Regulatory Silence Is Not Protection

El Dorado's current zoning code **does not currently define or classify data centers**. That silence is not a neutral condition. It is a regulatory gap that benefits an applicant, not the City.

Under K.S.A. 12-756(b), special uses "may be designated within each district with conditions attached" but only within a framework that has designated them. The Special Use Permit requirement proposed in Article 6.27.A can only attach to a use that is defined and classified in the code. A permit cannot be required for a use that does not exist in the City's regulations. Right now, data centers and other uses like described in the amendment do not exist in El Dorado's zoning code. The SUP requirement the Commission may want to impose in the future has no hook to hang on.

The consequence is practical and immediate. If a developer submits plans today, the City's ability to even require a public hearing, impose conditions, or deny the application on documented grounds depends entirely on whether the code provides a standard against which the proposal can be measured. Without that standard, a denial is vulnerable to exactly the challenge the Kansas



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Supreme Court identified in *Zimmerman v. Board of County Commissioners of Wabaunsee County*, 289 Kan. 926 (2009): that the action was "so arbitrary that it can be said it was taken without regard to the benefit or harm involved to the community at large... and so wide of the mark that its unreasonableness lies outside the realm of fair debate."

Zimmerman is instructive not just for what it held, but for what it required. The Wabaunsee County Board of Commissioners ultimately prevailed in the Kansas Supreme Court when it prohibited commercial wind farms county-wide. It prevailed because it had done the predicate work: it defined the use, adopted a Comprehensive Plan that addressed the issue, held public meetings, and produced specific written findings of fact tying its decision to aesthetics, community welfare, and plan conformance. The court upheld the prohibition because the record supported it. The City of El Dorado currently has none of that infrastructure for the uses defined in the proposed text amendment. No definitions. No classifications. No plan reference. No findings. A denial issued against that backdrop is not an easily defensible regulatory decision. It could be argued that it is an arbitrary one under Kansas zoning law.

Why Voting Against This Amendment Does Not Prevent Data Centers Outright

Some may view a vote against this amendment as a vote against data centers. That interpretation is legally incorrect, and I want to be direct about the practical and legal consequences.

If the proposed text amendment fails, the current code remains unchanged. Data centers are not prohibited; they are simply undefined. This means that the City retains less regulatory leverage, not more. Without a defined classification, the Special Use Permit requirement of Article 6.27.A would not apply. Without codified standards for noise, setbacks, utility documentation, generator testing, and decommissioning, the City has no framework within which to impose conditions or document the basis for a denial. And without that framework, any denial the City



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attempts to issue is exposed to the same legal vulnerability *Zimmerman* illustrates: a governing body that acts without a record, without findings, and without defined standards can have a difficult time surviving a reasonableness challenge in district court. I want to be very clear here: **Maintaining the status quo is not a neutral outcome. It is a choice to face future applications without tools.**

What the Special Use Permit Framework Gives the City

Requiring a Special Use Permit for data centers (Art. 6.27.A) is one of the most significant protections available to the City under Kansas zoning law. The SUP process is not a formality. Through that process, the Commission can:

- Require a public hearing and procedural process.
- Require the applicant to submit detailed narratives on water and cooling demand, peak electric load in megawatts, planned utility interconnections, backup generation inventory, and Evergy's Path to Power status (Art. 6.27.D, E, G).
- Require an acoustic study from a qualified professional addressing normal operations, generator testing, tonal and low-frequency noise, and recommended mitigation (Art. 6.27.I).
- Enforce a 500-foot setback for outdoor generator yards, cooling yards, substations, and bulk fuel storage from any residential district boundary or sensitive use (Art. 6.27.K).
- Limit non-emergency generator testing to 7:00 a.m.–7:00 p.m., Monday through Saturday, with no routine testing on Sundays or City holidays (Art. 6.27.J).
- Require a decommissioning and site restoration plan, including financial surety (Art. 6.25.K).
- Impose additional conditions or deny the application outright if the applicant cannot demonstrate compatibility with the standards established in the code.

That last authority, the **ability to deny**, is grounded in the fact that the applicant must meet defined standards. The value of that framework becomes clearer when considered alongside the factors Kansas courts have identified as relevant to zoning decisions. In *Golden v. City of Overland Park*,



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316.251.0924



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EMAIL
office@ablegalks.com



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224 Kan. 591 (1978), the Kansas Supreme Court identified eight factors relevant to the reasonableness of a zoning decision, including the character of the neighborhood, the suitability of the property for the proposed use, the extent to which the use will detrimentally affect nearby property, and the conformance of the requested use with the City's comprehensive plan. The Kansas Supreme Court reaffirmed in *Zimmerman v. Board of County Commissioners of Wabaunsee County*, 289 Kan. 926 (2009), that while these factors are not mandatory in every case, they reflect the kind of documented, reasoned analysis that supports a governing body's decision when it is later reviewed for reasonableness.

The proposed ordinance is designed to ensure that information relevant to those factors is actually in front of the Commission when it matters. The required utility narrative addresses infrastructure capacity and service feasibility. The acoustic study addresses impact on neighboring properties. The residential setback requirements address neighborhood compatibility. The Evergy Path to Power disclosure addresses the relationship between the proposed use and existing community infrastructure. The decommissioning plan addresses long-term community impacts. None of that information can be required, evaluated, or made part of a public record without the framework the amendment establishes. And without that information in the record, a governing body that later attempts to deny an application, or a court that attempts to evaluate whether that denial was reasonable, is left, as the Kansas Supreme Court put it in *Zimmerman* citing *McPherson Landfill, Inc. v. Board of Shawnee County Commissioners*, 274 Kan. 303 (2002), in precisely the "quandary" the law is designed to prevent.

The Risk of Doing Nothing Is Not Lower Than the Risk of Acting

City staff and legal counsel recognize that this item has generated significant public concern. That concern is understandable, and the questions residents are asking about water, infrastructure, community health, and the City's relationship with outside developers are legitimate questions that deserve honest answers through a legitimate process.



PHONE
316.251.0924



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EMAIL
office@ablegalks.com



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What I would caution against is the premise that voting no on this amendment is the protective choice, because it isn't. **The risk of doing nothing is not lower than the risk of acting. It is higher.** Without defined standards, without a Special Use Permit requirement, and without the regulatory framework this amendment establishes, the City has fewer tools to require public hearings, fewer grounds to impose conditions, and a weaker legal position if it attempts to deny a future application. The public has expressed that it wants this process to be transparent and above board. This amendment is what makes that possible. Declining to adopt it does not keep data centers out; it keeps the public out of the process if one is ever proposed.

The City's current code could be read to allow a data center by right, requiring nothing more than a building permit. The proposed amendment ensures that any such use goes through a public process. A hypothetical may help make this point clearer:

If a developer acquires land already zoned for industrial use in El Dorado and proposes to construct a data center. Right now, a developer could arguably build a data center with only a building permit and no public hearing at all. They may not be required to disclose peak electric demand, cooling water consumption, backup generator configurations, or noise impacts. They may not be subject to setback requirements designed to protect nearby residents. They may not be required to submit a decommissioning plan or post financial surety. The public may have no formal role in the process at all.

That is not speculation. It is the direct consequence of the current code's silence on this use. Without a definition, there is no classification. Without a classification, the Special Use Permit requirement of the proposed Article 6.27.A has nothing to attach to. Without that requirement, none of the supplementary standards in the proposed Articles 6.25 and 6.27 are triggered. The entire protective framework the proposed ordinance establishes — the acoustic studies, the utility narratives, the residential



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316.251.0924



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EMAIL
office@ablegalks.com



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setbacks, the generator testing limits, the security review, the decommissioning obligations — none of it applies. The City's only tool at that point is the building permit process, which is not designed to evaluate land use compatibility, infrastructure impact, or community welfare.

Many individuals have expressed clearly that they want this process to be transparent, above board, and subject to meaningful oversight. Those positions are exactly the right things to want, but they require a legal framework to be achievable. The instinct behind the request that the Commission vote against the text amendments is understandable, but as a legal matter it leaves the City with fewer tools, not more.

If the Commission's Intent Is Prohibition: That Requires Different Action

I recognize that some residents have expressed a preference for outright prohibition. Those voices are part of the public record and deserve a process that takes them seriously. Again, my goal is not to evaluate whether the opposition is legitimate, but to explain what process serves it best. As Kansas law makes clear, community sentiment is a legitimate planning factor, but only when it is documented, deliberate, and grounded in findings that can withstand legal scrutiny. A vote against the text amendment does not channel that sentiment into a durable outcome, but it does remove the tools the City would need to act on it.

If the Commission's intent is to pursue an outright prohibition on data centers, my recommendation, from a legal position is that the current record does not support that action and attempting it would expose the City to additional legal risk. Kansas law does establish that a prohibition on specific industrial use is legally achievable, but it requires considerable factual record building. El Dorado's current record on this question is limited.

A petition has been circulated in the community and has gathered a notable number of signatures. That level of civic engagement is meaningful and should absolutely be acknowledged.



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EMAIL
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But a petition is not, by itself, a planning record. It documents that some residents have concerns. It does not document what those concerns are, how they weigh against competing community interests, or how they relate to the specific planning factors Kansas courts require a governing body to address. It is, at best, the beginning of the conversation the Kansas Supreme Court has indicated these decisions require, not the conclusion of it.

A prohibition that could withstand legal challenge requires substantially more. It requires a documented planning process, updated comprehensive plan findings that reflect a deliberate community vision, specific findings of fact tied to land use compatibility and community welfare, and an honest accounting of the consequences of foreclosing an entire category of industrial use.

A prohibition also has policy consequences, foreclosing an entire category of industrial use, that the Commission and community should weigh. Those are policy judgments for the Commission, not legal conclusions for counsel. My only legal point is that whatever the Commission decides, an outright prohibition adopted without findings and without a comprehensive plan amendment is exposed to challenge, while a prohibition built on a documented record is defensible.

To be clear, I am not advising the Commission that prohibition is the wrong policy outcome. That is a decision for the Commission and the community. I am advising the Commission that if prohibition is the goal, it deserves the same serious, deliberate, documented effort that Kansas law requires. The residents who want protection deserve a process that could actually produce a durable legal result. The residents who depend on this City's fiscal health deserve an honest conversation about what an outright prohibition means for economic development. And the Commission deserves a record that supports whatever decision is ultimately made. A vote against the text amendment removes the tools the City needs while that conversation remains unfinished.

Conclusion



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316.251.0924



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The proposed zoning text amendment is not a vote on data centers. It is a vote on whether this City governs proactively or reactively, whether it has the tools to protect its residents, its infrastructure, and its community character through a transparent and legally sound process, or whether it faces the next development inquiry without the ability to require a public hearing, impose meaningful conditions, or defend a denial in court.

My recommendation is that the Commission adopt the proposed amendment. Not because data centers are desirable and not because any specific project should be approved. I make this recommendation because a city that prepares its regulatory framework before it needs it is a city that retains control. A city that does not is a city that finds out what it cannot do only after it is too late to do anything about it.

I know that City staff and I are certainly prepared to assist in building the factual record towards whatever direction the Commission gives may require. But a vote against this amendment does not initiate additional work. It simply leaves the City where it is, without definitions, without standards, without a public process, and without the legal foundation to act meaningfully in any direction. The community deserves better than that and so does this Commission.

Best,

Ashlyn B. Lindskog
Founder & Attorney

EL DORADO

K A N S A S

Official Statement Regarding Proposed Zoning Text Amendment

May 22, 2026

The City appreciates citizens sharing their concerns regarding potential data center development in or near El Dorado. We recognize that this issue has generated significant public interest, and we appreciate residents taking the time to express their views. Questions about water use, electric demand, environmental impacts, land use compatibility, tax incentives, and long-term community effects are important and deserve to be taken seriously.

Currently, the City's zoning regulations do not specifically define or regulate data centers. As such, this type of land use could be interpreted as allowed "by right" in certain industrial districts without further review. Because data centers are an emerging and rapidly evolving land use, the City is considering a zoning text amendment to establish a clear regulatory framework before any future project is considered. The purpose of the amendment is not to approve a specific project. Rather, it is to make sure the City has rules in place if a project is ever proposed.

Without clear zoning standards, the City has fewer tools to evaluate, regulate, condition, or even deny a proposed use based on its specific impacts. A zoning text amendment allows the City to define data centers and other emerging technologies, identify where they may or may not be appropriate, and establish requirements that any potential project would have to meet before, during, and after development.

From a zoning perspective, a blanket prohibition is difficult to defend unless it is supported by clear planning and factual findings. A more defensible approach is to define the use, require a public hearing, establish standards, require detailed project information, and preserve the ability to deny or condition a specific request if the facts presented do not support general approval.

The proposed framework would also allow the City to require a Special Use Permit for data center projects. A Special Use Permit is an important land use tool because it allows the City to review a specific proposal on a case-by-case basis rather than treating all projects the same. Through that process, the City may evaluate issues such as infrastructure capacity, water demand, electric service, traffic, noise, setbacks, screening, environmental considerations, emergency access, compatibility with surrounding properties, and other site-specific concerns.

The Special Use Permit process also gives the City the ability to impose additional conditions or standards when necessary to protect the public interest. Those conditions may vary depending on the size, location, design, utility needs, and potential impacts of a proposed project. This creates

a review process with guardrails, public oversight, and the ability to require additional protections.

It is also important to clarify that a zoning text amendment does not obligate the City to approve a future data center, provide incentives, extend utilities, or support any development. Those decisions, if they arise, would require separate review and consideration by the appropriate public bodies. The zoning amendment is a planning and regulatory step, not a final project approval.

For communities, land use regulations often work best when they are developed before a major proposal is on the table. Waiting until a project is already pending can place the City in a reactive position. By considering standards now, the City can better protect residents, property owners, infrastructure systems, and community resources. This is especially important with emerging technologies and industries that may not fit neatly into older zoning categories.

The City understands that some residents oppose data centers altogether. Others may want more information before forming an opinion. The role of the City's zoning process is to ensure that, regardless of viewpoint, the community has a clear, transparent, and legally sound process for evaluating a type of land use. Good planning does not eliminate disagreement, but it does help ensure that decisions are made with better information, clearer expectations, and appropriate public safeguards.

The City remains committed to listening to residents, following required public processes, and considering the long-term interests of the community. Public input is an important part of that process, and comments received from residents will help inform the discussion as the City evaluates whether and how to amend its zoning regulations.

Finally, there is some speculation that the City has been working on a project in the background as it considers amendments to its zoning regulations. It is true that the City has met with a developer inquiring about the possibility of developing a data center in or near El Dorado. Such meetings are not uncommon as companies frequently conduct due diligence to determine sites prior to making investment decisions. City staff often meet with interested parties to discuss development processes, infrastructure capabilities, available sites, and workforce. Conversations with prospective companies also allow the City to learn about a company's needs to determine if it is feasible for us to serve a project.

These meetings are informal and carry no obligations on behalf of the City. The discussion focuses on sharing information to allow a company to make an informed decision about investing in our community. Any zoning, special use permits, incentives, or infrastructure extensions must be approved by the City Commission in an open, public meeting. Over the years, companies in various industries and sectors have met with City staff to research our community for their expansion plans.