

## CITIZEN PARTICIPATION IN DATA CENTER ORDINANCE ENFORCEMENT

### ISSUE PAPER Citizen Participation in Data Center Ordinance Enforcement

**Date:** August 2026

**Subject:** Effective Models, Integration into a Data Center Ordinance, Complaint Processes, and Remediation Monitoring

#### Issue Statement

Strong performance standards in a Data Center Ordinance are only as effective as their enforcement. Local governments often lack the staff capacity for continuous monitoring of noise, water use, emissions, lighting, and other operational impacts. Structured citizen participation—through formal complaint channels, public data access, independent monitoring, and, where available, private enforcement rights—has proven essential to holding operators accountable. This paper summarizes effective implementations, recommends ordinance language for New Kent County, and outlines practical steps for citizens to report infractions and track remediation.

#### How and Where Citizen Participation Has Been Effectively Implemented

Effective models combine accessible complaint processes, mandatory public reporting, citizen monitoring, and legal tools:

- **Complaint-driven enforcement and public portals.** Many localities maintain online zoning or code-enforcement complaint systems (e.g., Jefferson County, Colorado model) that accept documented resident reports of noise, traffic, or operational issues. Staff investigate, log responses, and can issue notices of violation. Some ordinances explicitly authorize additional testing upon substantiated complaints.
- **Citizen monitoring programs.** Organizations such as Community & Environmental Defense Services (CEDS) promote low-cost, credible citizen monitoring of noise, air pollution, and related impacts using calibrated equipment, logs, and periodic comparisons with official inspections. Citizens have successfully used such data to press for stronger noise ordinances and permit conditions (e.g., influencing proposals in Prince William County, Virginia). Accompanying official inspectors on site visits and cross-checking findings strengthens accountability.
- **Special Use / Conditional Use Permit conditions.** Conditions attached to individual approvals (noise limits measured at property lines, water caps, generator testing restrictions) are often easier to enforce than general ordinances because non-compliance

can support permit modification or revocation. Residents have leveraged documented exceedances to force mitigation, such as fan silencers on existing facilities.

- **Private nuisance and citizen standing.** Neighbors retain common-law private nuisance claims for unreasonable interference with property use (noise, vibration, light). Multiple data-center noise lawsuits have been filed across states. Some local ordinances explicitly state that the locality *or any citizen* may pursue all legal and equitable remedies, including injunctive relief (example language appears in certain Arkansas county data-center noise provisions).
- **Public reporting and transparency requirements.** Stronger frameworks require operators to submit annual or more frequent monitoring reports (noise, water, emissions) to the locality and make them publicly available. Community Benefits Agreements sometimes include public websites for complaints and project data. Community Advisory Boards with audit rights appear in advanced CBA models.

These tools work best when the ordinance itself creates clear metrics, timelines, and consequences rather than relying solely on discretionary staff action.

## Integrating Citizen Participation into a New Kent Data Center Ordinance

Recommended ordinance provisions:

1. **Formal complaint process.** Establish a dedicated, publicly advertised channel (online portal + email + phone) for data-center-related complaints. Require the Zoning Administrator or Code Enforcement to acknowledge receipt within a set period (e.g., 5 business days), investigate substantiated complaints within a defined timeframe, and provide written disposition to the complainant.
2. **Public data and reporting.** Mandate that operators submit periodic monitoring reports (noise at property lines under specified conditions, water use, generator testing logs, etc.) to the County and post them (or summaries) on a public webpage. Require real-time or near-real-time public access to key sensor data where feasible.
3. **Citizen monitoring support.** Authorize or encourage independent citizen monitoring; allow qualified residents or designated community representatives to accompany official inspections under reasonable conditions. Require the operator to maintain a public complaint log and respond to verified issues.
4. **Standing and remedies.** To the extent permitted by Virginia law, include language affirming that the County or any aggrieved citizen may seek legal and equitable remedies for ordinance violations, including injunctive relief. Tie material non-compliance to potential modification or revocation of special-exception or conditional-use approvals.
5. **Escalation and oversight.** Require staff to report unresolved or repeated complaints to the Board of Supervisors. Consider a lightweight community liaison or advisory mechanism for major facilities with access to monitoring data.
6. **Conditions of approval.** Make the above requirements explicit conditions of any special exception or conditional-use permit so that violations constitute permit non-compliance.

## How Citizens Can Alert Officials and Monitor Remediation

**Reporting infractions:**

- Document thoroughly: date/time, location, description, photos/videos, noise readings (calibrated meter preferred; phone apps as supporting evidence), and any operator response.
- File via the official County channel and retain confirmation. Copy relevant Supervisors and planning staff.
- Submit Freedom of Information Act (FOIA) requests for operator reports, prior complaints, inspection records, and permit conditions.
- Raise the issue at public meetings and request it be placed on the record.

**Monitoring remediation:**

- Demand written confirmation of the investigation findings, required corrective actions, and deadlines.
- Request verification testing after remediation and comparison with baseline or permit limits.
- Continue independent monitoring and re-file if problems recur.
- Escalate unresolved issues to the Board of Supervisors, County Attorney, or (where available) private counsel for nuisance or ordinance-enforcement actions.
- Track public reports and complaint logs over time; share patterns with elected officials and the broader community.

**Conclusion and Recommendation**

Citizen participation turns passive standards into living accountability. New Kent should embed clear complaint procedures, public data requirements, and enforceable consequences directly into any Data Center Ordinance and into individual permit conditions. Early adoption of these mechanisms—before facilities become operational—gives residents practical tools to protect rural quality of life while reducing the enforcement burden on limited County staff. Citizens who organize documentation, use official channels consistently, and follow remediation to completion will maximize the ordinance’s protective effect.