

Title: To enact Chapter 4119, “Heavy Manufacturing and Industrial Decommissioning,” of the Columbus City Codes; to establish requirements for decommissioning plans, site restoration, and electronic waste management for heavy manufactures and industrial businesses operating within the City of Columbus; to prescribe enforcement mechanisms and penalties for violations thereof; and to declare an emergency.

CHAPTER 4119 DECOMMISSIONING

4119.01 Applicability

(A) This chapter shall apply to all heavy manufactures and industrial entities, that the following apply:

- a. Are located within the corporate limits of the City of Columbus;
- b. Occupy a building or buildings with a combined gross floor area of fifty thousand (50,000) square feet or greater dedicated to heavy manufacturing; or
- c. Draw an aggregate peak electrical demand of twenty (20) megawatts or greater from of electrical design capacity or on-site generation systems.
- d. Draw an aggregate peak water demand of 50 GPM (Annualized water use)

(B) For existing heavy manufactures as of the effective date of this chapter, the owner or operator shall have one (1) year from the effective date to achieve compliance with all requirements of this chapter.

(C) For new sites seeking a certificate of occupancy after the effective date of this chapter, full compliance shall be a condition precedent to the issuance of such certificate

(D) This chapter shall apply to any expansion, change of ownership, or transfer of operational control, as set forth in Section 4119.15.

4119.02 Definitions

As used in this chapter, the following words and phrases shall be construed as defined in this section unless the context indicates otherwise. All other definitions of Title 41 (Building Code) of the Columbus City Codes shall apply.

"Cessation of Operations" means the permanent discontinuation of active data processing, storage, transmission, or associated functions at a data center facility, or the abandonment of a data center facility for a continuous period of twelve (12) months or more, regardless of stated intent.

"Chief Building Official" means the Director of the Department of Building and Zoning Services of the City of Columbus, or his or her duly authorized designee.

"Data Center" means a facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, servers,

appliances, and other associated components related to digital data operations. The facility may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support sustained operations.

"Data Center Campus" means all structures and real estate owned, controlled, leased, or otherwise occupied primarily for use and purpose as a data center, including data center accessory uses and all appurtenant systems, equipment, piping, conduit, and other structures incidental to and necessary for the construction, support, operation, repair, maintenance, and protection of the data center.

"Decommissioning" means the process of permanently closing, dismantling, removing, restoring, and disposing of all equipment, structures, and appurtenances comprising a data center facility, in accordance with the requirements of this chapter.

"Decommissioning Plan" means the written plan required under Section 4119.07 of this chapter, setting forth the specific actions, timeline, responsible parties, and estimated costs for decommissioning a data center facility.

"Electronic Waste" or "E-Waste" means discarded or obsolete electronic equipment including, but not limited to, servers, storage devices, networking hardware, uninterruptible power supplies, cables, batteries, and associated peripheral equipment.

"Financial Assurance Instrument" means a performance bond, irrevocable letter of credit, escrow account, trust fund, or other financial security acceptable to the Chief Building Official, posted to guarantee the performance of decommissioning obligations.

"Operator" means the person or entity that controls, manages, or is responsible for the day-to-day operations of a data center facility, whether or not the operator is the owner of the real property.

"Owner" means the record owner of the real property on which a data center is located, as identified in the records of the Franklin County Auditor.

"Qualified Environmental Professional" means an individual licensed under Ohio law as a Professional Engineer (PE) or Professional Geologist (PG), with demonstrated expertise in environmental assessment and remediation.

"Responsible Party" means, collectively and individually, the owner, operator, and any party in interest of a data center facility, each of whom shall be jointly and severally liable for compliance with this chapter.

"Site Restoration" means the removal of all data center-specific structures, equipment, foundations, subsurface infrastructure, and associated materials from a decommissioned site, and the restoration of the site to a condition suitable for reuse consistent with applicable zoning, environmental, and building codes.

4119.03 Decommissioning Plan

(A) Requirement to Submit

Prior to the issuance of a certificate of occupancy for any new heavy manufacturing site, and within one (1) year of the effective date of this chapter for all existing data centers subject to this chapter, the responsible party shall submit a Site Decommissioning Plan to the Director for review and approval. No certificate of occupancy shall be issued for a new site until the Decommissioning Plan has been approved.

(B) Required Contents

The Site Decommissioning Plan shall, at a minimum, include and address each of the following:

1. **Facility Inventory and Description.** A comprehensive inventory of all heavy manufacturing and industrial sites, including data center-specific equipment, structures, and infrastructure on the site, which includes:
 - All server racks, storage arrays, networking hardware, and associated peripheral equipment;
 - All electrical systems, including generators, uninterruptible power supply systems, switchgear, transformers, and utility substations;
 - All mechanical and cooling systems, including computer room air conditioning units, cooling towers, chillers, raised flooring systems, and associated plumbing;
 - All structural elements uniquely associated with data center use, including reinforced flooring, seismic bracing, and blast-resistant construction;
 - All telecommunications and fiber optic infrastructure; and
 - All below-grade infrastructure including conduit, piping, vaults, and foundations constructed specifically for data center operations.
2. **Environmental Assessment.** A Phase I Environmental Site Assessment (ESA), prepared by a Qualified Environmental Professional and conducted in accordance with ASTM Standard E1527-21, addressing:
 - Identification and proposed management of any hazardous materials present or reasonably anticipated at the site, including refrigerants, battery electrolytes, flame-retardant compounds, and transformer fluids;
 - Identification of any recognized environmental conditions (RECs) associated with data center operations; and
 - A Phase II ESA shall be required if the Phase I ESA identifies any RECs, or at any time directed by the Chief Building Official upon reasonable cause.
3. **Demolition and Removal Scope.** A description of the proposed method, sequence, and scope of equipment removal, structural demolition, and infrastructure removal, including:
 - Identification of all equipment and structures to be removed versus retained for future use;
 - Proposed methods for disconnection of electrical, mechanical, and telecommunications systems; and
 - Proposed methods for removal of below-grade infrastructure.
4. **Electronic Waste Management Plan.** A plan for the responsible management of all electronic waste generated during decommissioning, consistent with Section 4119.09 of this chapter.
5. **Site Restoration Plan.** A description of proposed site restoration activities, including final grading, erosion and sediment control, restoration of impervious surface to conforming levels, and any required landscaping or revegetation, consistent with applicable provisions of the Columbus City Codes and the Columbus Stormwater Design Manual.
6. **Decommissioning Schedule.** A proposed timeline for the completion of all decommissioning and site restoration activities, which shall not exceed twenty-four (24)

months from the date of Cessation of Operations, unless extended by the Director of the Department of Development for good cause shown.

7. **Cost Estimate.** A written estimate, prepared and sealed by a licensed Professional Engineer, of the total cost to complete all decommissioning, dismantling, removal, electronic waste disposal, and site restoration activities described in the plan, itemized by major activity category. The estimate shall be prepared assuming decommissioning will be performed by a qualified third-party contractor and shall not reflect any credit for salvage value of equipment.
8. **Responsible Parties and Contacts.** Identification of the responsible party or parties for each element of the plan, including primary and emergency contact information available on a twenty-four (24) hour basis.

(C) Review and Approval

The Department of Development, planning division shall review the submitted Decommissioning Plan within sixty (60) days of receipt of a complete submission and shall either approve the plan, approve the plan with conditions, or deny the plan with written findings. The responsible party may appeal any denial to the Columbus Building Commission pursuant to Chapter 4107 of the Columbus City Codes.

(D) Periodic Updates

An approved Decommissioning Plan shall be reviewed and, if necessary, updated by the responsible party no less frequently than every five (5) years from the date of initial approval, and upon any material change to facility operations, ownership, or physical configuration. Updated plans shall be submitted to the planning division for review and approval. An updated cost estimate, sealed by a licensed Professional Engineer, shall be submitted with each periodic update.

4119.04 Electronic Waste Management

(A) All electronic waste generated during decommissioning of a covered data center shall be managed in compliance with all federal and state regulated waste laws as defined by Ohio Administrative Code (OAC) Chapter 3745-51, universal wastes as defined by OAC Chapter 3745-273, and used oil as defined by OAC Chapter 3745-279, including the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.). (B) The responsible party shall partner with and utilize only certified electronic waste recycling and disposition vendors who have been assigned a U.S EPA identification (ID) number and hold current certification under the Responsible Recycling (R2) Standard or the e-Stewards Standard as promulgated by the Basel Action Network or any successor standard recognized in rule. (C) The responsible party shall prepare and maintain a complete manifest or chain-of-custody documentation for all electronic waste removed from the site, identifying the type and quantity of material, the receiving facility, and the method of disposition. Such documentation shall be provided to the Chief Building Official within thirty (30) days of the completion of electronic waste removal.

(D) Data-bearing devices, including hard drives, solid-state drives, magnetic tape, and removable media, shall be sanitized or destroyed in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88, Guidelines for Media Sanitization, or equivalent standard, prior to removal from the site or transfer to any third party. Certificates of destruction or

sanitization shall be maintained by the responsible party and provided to the city and or city council upon request.

(E) No electronic waste shall be landfilled within the State of Ohio except to the extent permitted by applicable law and the EPA Cessation of Regulated Operations Program (CRO).

4119.05 Notice of Cessation of Operations

(A) The responsible party shall provide written notice to the Department of Development, Department of Public Safety, and City Council not less than ninety(90) days prior to any planned Cessation of Operations. Such notice shall include:

9. The anticipated date of Cessation of Operations;
10. A designated contact person
11. A copy of the most recently approved Decommissioning Plan, updated as needed to reflect current conditions;
12. An updated cost estimate prepared and sealed by a licensed Professional Engineer;
13. A plan for posting warning signs and maintaining security around areas that contain or are contaminated with regulated substances;
14. A list of every stationary tank, vat, electrical transformer and vessel that will remain at the site that contains or is contaminated with a regulated substance;
15. A plan for the drainage and removal of all regulated substances from each stationary tank, vat, electrical transformer and vessel and from all piping that is to remain at the facility and remove from the facility all regulated substances and debris, nonstationary equipment and furnishings, nonstationary containers, and motor vehicles and rolling stock that contain or are “contaminated with” regulated substances;
- 16.

(B) In the event of an unplanned Cessation of Operations, the responsible party shall provide written notice to the Director of the Department of Development within thirty (30) days of the date on which operations ceased.

(C) A manufacturing facility that will temporarily cease operations for more than 30 days, shall notify the city within 15 days after the Temporary CRO (TCRO), that the TCRO will not exceed 365 days.

(D) Operations have been inactive for a continuous period of twelve (12) months or more shall be presumed to have undergone Cessation of Operations, and the responsible party shall comply with the notice requirements of this section within fifteen (15) days of receiving written notice from the Director of the Department of Development of such presumption. The responsible party may rebut this presumption by demonstrating, within such fifteen (15) day period, that the facility is actively being restored to operational use.

(E) Following notice of Cessation of Operations, the responsible party shall initiate decommissioning activities within ninety (90) days and complete all decommissioning and site restoration activities within twenty-four (24) months, unless an alternative schedule is approved in writing by the Director of the Department of Development for good cause shown.

4119.06 Transfer of Ownership or Operational Control

(A) Prior to the transfer of ownership of real property, and or operational control, the following shall occur:

17. The transferor shall provide written notice to the division of planning of the proposed transfer not less than thirty (30) days in advance;
18. The transferee has assumed, in writing, all obligations of the responsible party under this chapter, including obligations under the approved Decommissioning Plan; and
19. (B) Such transfer shall not relieve the transferor of liability for any violations of this chapter occurring prior to the date of transfer, or for decommissioning obligations arising from conditions existing prior to the date of transfer, unless the Director of the Department of Development approves a written release.

(C) The responsible party shall record a notice of the obligations imposed by this chapter against the real property in the official records of the Franklin County Recorder prior to, or contemporaneously with, the recording of any deed or other instrument transferring ownership of the property. Such notice shall reference the chapter number and ordinance number of this chapter and the parcel identification number of the affected property.

4119.07 Inspections and Reporting

(A) The Chief Building Official, or any authorized representative of the Department of Building and Zoning Services, is hereby authorized to inspect any site subject to this chapter during normal business hours, upon reasonable notice, to determine compliance with this chapter.

(B) The Chief Building Official or the City Attorney shall require inspections at such intervals as deemed necessary, at a minimum at least one compliance inspection of each covered site during each five-year period coinciding with Decommissioning Plan review cycles.

(C) The responsible party shall maintain and make available for inspection, upon request of zoning officials, all records related to decommissioning planning, electronic waste management, and site restoration activities, for a period of not less than ten (10) years.

(D) Upon initiation of decommissioning activities, the responsible party shall provide monthly written progress reports to the Department of Development, Public Safety, and City Council until decommissioning is certified as complete. Each report shall describe the activities completed during the prior month, activities planned for the upcoming month, any issues encountered and corrective actions taken, and the percentage of estimated cost expended to date.

4119.08 Enforcement

(A) Notice of Violation

Upon finding that a responsible party has violated or failed to comply with any provision of this chapter or any approved Decommissioning Plan, the Division of Building and Zoning shall issue a written Notice of Violation to the responsible party. Such notice shall:

20. Identify the specific violation(s) and the provision(s) of this chapter or the approved Decommissioning Plan alleged to be violated;
21. Describe the action(s) required to correct each violation;

22. Specify a reasonable time period for correction, which shall not exceed ninety (90) days unless a shorter period is necessary to protect public health or safety, or that a longer period is warranted given the nature of the violation as determined by Building and zoning or the appropriate oversight agency; and
23. Advise the responsible party of the right to appeal pursuant to subsection (F) of this section.

(B) Civil Penalties

Any responsible party who violates or fails to comply with any provision of this chapter, or who fails to correct a violation within the time period specified in a Notice of Violation, shall be subject to the following civil penalties:

24. For a first violation: a civil penalty of five hundred dollars (\$10,500.00) per day for each day the violation continues beyond the compliance deadline set forth in the Notice of Violation;
25. For a second or subsequent violation of the same provision within a three (3) year period: a civil penalty of one thousand dollars (\$10,000.00) per day for each day the violation continues beyond the applicable compliance deadline; and
26. For a violation that poses an imminent risk to public health, safety, or welfare, or that involves the willful falsification of records, cost estimates, or timelines required under this chapter: a civil penalty of up to fifteen thousand dollars (\$15,000.00) per day for each day the violation continues.

Each day of continued non-compliance shall constitute a separate and distinct violation. Civil penalties shall be assessed and collected by the Department of Building and Zoning Services and shall be deposited into the General Fund of the City of Columbus.

(C) Stop-Work and Cease Operations Orders

Upon a finding that a responsible party is conducting decommissioning activities in a manner that poses an immediate threat to public health, safety, or welfare, or in material violation of the approved Decommissioning Plan, the Chief Building Official may issue a Stop-Work Order requiring immediate cessation of all or specified decommissioning activities until the identified deficiencies are corrected to the satisfaction of the Chief Building Official.

(D) City Performance of Decommissioning

If a responsible party fails to initiate or complete decommissioning within the timeframes required by this chapter, or fails to cure a violation within the time specified in a Notice of Violation, the City of Columbus may, in addition to any other remedy available under this chapter:

27. Perform or cause to be performed any and all decommissioning and site restoration activities required under this chapter;
28. Draw upon the Financial Assurance Instrument to fund such activities as provided in Section 4119.11(F); and
29. Recover from the responsible party, jointly and severally, all costs incurred by the City in performing or supervising decommissioning activities, including reasonable administrative costs, attorney fees, and contractor fees.

Any amount recovered by the City under this subsection shall be in addition to, and not in lieu of, any civil penalties assessed under subsection (B) of this section. The City may pursue recovery through any legal means available, including placement of a lien on the subject real property.

(E) Criminal Penalty

Any person who willfully and knowingly: (1) makes a materially false statement in any submission required under this chapter; (2) destroys, falsifies, or conceals records required to be maintained under this chapter; or (3) obstructs or interferes with any inspection authorized under this chapter; shall be guilty of a misdemeanor of the first degree and upon conviction shall be fined not more than ten thousand dollars (\$10,000.00), or imprisoned for not more than one hundred eighty (180) days, or both, for each such offense, as provided under Ohio Revised Code § 715.261

(F) Appeals

Any person aggrieved by an order, decision, or determination of the Chief Building Official under this chapter, including the issuance of a Notice of Violation or assessment of civil penalties, may appeal to the Columbus Building Commission pursuant to Chapter 4107 of the Columbus City Codes. An appeal shall be filed in writing with the Columbus Building Commission within thirty (30) days of the date of the order, decision, or determination being appealed. The filing of an appeal shall not stay the accrual of civil penalties unless the Columbus Building Commission, upon a showing of good cause, issues a specific written order staying penalty accrual pending the outcome of the appeal.

(G) Cumulative Remedies

The remedies provided in this section are cumulative and not exclusive. The use of any one enforcement mechanism shall not preclude the use of any other remedy available under this chapter, other provisions of the Columbus City Codes, or applicable state or federal law. The City of Columbus may pursue any combination of available remedies, simultaneously or sequentially, as determined by the Director of the Department of Development and the City Attorney.

4119.09 Effective Date

(A) Effective Date

This chapter shall take effect and be in force from and after the earliest period allowed by law.