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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

YELLOWSTONE COUNTY, Plaintiff, vs. KASSI SOLBERG, and QUANTICA INFRASTRUCTURE, Defendants.	Cause No. DV 26-0947 Judge Ed Zink AMENDED COMPLAINT TO DETERMINE THE VALIDITY OF PROPOSED INITIATIVE ON DATA CENTERS
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I. Introduction

1. Pursuant to § 13-28-401(1), MCA (2025), Yellowstone County brings this action to challenge the validity of a proposed county initiative regulating data centers through the County's zoning authority. The initiative would require the County to obtain voter approval before authorizing, licensing, permitting, or otherwise approving the construction, expansion, or continued operation of data centers and would terminate certain existing lawful land uses. Those provisions exceed the authority the Montana Legislature has delegated to traditional counties.
2. Traditional counties possess only those powers granted by the Legislature. Although the Legislature has authorized counties to adopt and administer zoning regulations, it has also prescribed the manner in which those regulations are administered. Nothing in Montana's

zoning statutes authorizes counties to administer zoning through initiative elections or to alter the statutory framework governing zoning administration. Likewise, the Legislature has not authorized counties to extinguish lawful nonconforming uses through the initiative process.

3. Because the proposed initiative exceeds the County's statutory authority, it is invalid as a matter of law. The County therefore requests that the Court declare the initiative invalid and enjoin any further processing of the initiative.

II. Parties

4. Yellowstone County is a political subdivision of the State of Montana. Pursuant to Title 76, MCA, the County has adopted and administers zoning regulations in portions of the County, while other portions of the County remain unzoned.
5. Kassi Solberg is a resident of Stillwater County. Ms. Solberg submitted a petition for an initiative that would require countywide elections before the County could exercise certain land-use and zoning authority relating to data centers.
6. Quantica Infrastructure is a private Delaware corporation that owns land in Yellowstone County outside of any zoning jurisdiction through its subsidiary, Montana Property LLC. Quantica Infrastructure is joined pursuant to § 27-8-301, MCA, because it claims an interest that may be affected by the requested declaratory relief.

III. Jurisdiction and Venue

7. This Court has jurisdiction over this action pursuant to § 13-28-401(1), MCA as the action seeks a judicial determination that the proposed county initiative exceeds the authority delegated to Yellowstone County and is therefore invalid.

8. Venue is proper in this Court because the land to be regulated by the initiative is located in Yellowstone County. § 25-2-123, MCA.

IV. Facts

9. Prior to 2026, Quantica Infrastructure purchased land in Yellowstone County outside any zoning jurisdiction through a subsidiary, Montana Property LLC. Its land is near Broadview and is unzoned. Quantica intends to develop a data center on the property.
10. On September 4, 2026, Kassi Solberg submitted to Dayna Causby, the Yellowstone County Election Administrator, a proposed initiative. The proposed initiative would regulate the construction, expansion, and continued operation of data centers within Yellowstone County.
11. After reviewing the submission, the County approved the initiative as to form on September 23, 2026, and provided the language required by law for circulation.
12. As approved for circulation, the proposed initiative would, among other things:
 - a. Prohibit Yellowstone County from authorizing, licensing, permitting, or otherwise approving the construction, expansion, or continued operation of any data center unless the proposal first receives approval by two-thirds of the voters participating in a countywide special election;
 - b. Require that the County, pursuant to MCA § 76-2-206, declare an emergency involving the public health, safety, morals and general welfare, and establish interim zoning.
 - c. Require mandatory disclosures of any communication, as well as summaries, between County employees or agents and individuals associated or employed by any person or entity in the data center industry; and
 - d. Require existing data centers to obtain voter approval to continue operating.

13. The initiative remains in the statutory initiative process unless declared invalid by this Court.

14. On October 6, 2026, the Yellowstone County Board of County Commissioners authorized the Yellowstone County Attorney to commence this action.

V. The Initiative Exceeds the County's Statutory Authority by Altering the Administration of County Land Use Regulation

15. Traditional counties possess only those powers expressly or impliedly delegated by the Montana Legislature. § 7-1-2101(2), MCA. The initiative power does not authorize county voters to expand the County's statutory authority. § 7-5-131(1), MCA.

16. The Legislature has delegated to traditional counties the authority to enact and administer zoning regulations. §§ 76-2-101(1) and 76-2-201(1), MCA. The Legislature has also prescribed the procedures by which counties review, approve, deny, amend, and administer zoning regulations and other land use approvals. See §§ 76-2-101 through -119 and §§ 76-2-201 through -240, MCA.

17. The proposed initiative would fundamentally alter that statutory framework. Rather than allowing the County to exercise its delegated authority through the procedures established by the Legislature, the initiative would prohibit the County from authorizing, licensing, permitting, or otherwise approving the construction, expansion, or continued operation of a data center unless the proposal first receives approval by a two-thirds vote at a countywide special election.

18. The initiative would require the County to declare an emergency and institute interim zoning pursuant to MCA § 76-2-206.

19. Nothing in Montana law authorizes a traditional county to condition the exercise of its statutory permitting, licensing, zoning, or land use authority upon approval at a countywide

election. Nor does Montana law permit a county to impose interim zoning based on a countywide vote. Because the initiative attempts to create a method of exercising the County's statutory land use authority that the Legislature has not authorized, it exceeds the County's statutory authority and is invalid.

20. In *Treasure County v. Edlund*, 2026 MT 134, 428 Mont. 498, 591 P.3d 583, the Montana Supreme Court recently considered a county initiative regulating the development of wind energy facilities through the county's zoning authority. The Court held that the initiative exceeded the authority delegated to a traditional county by the Legislature and therefore was invalid under § 7-5-135, MCA (2023), the predecessor to § 13-28-401, MCA (2025). As in *Edlund*, the initiative challenged here does not merely adopt substantive land use regulations. Instead, it alters the manner in which Yellowstone County exercises its statutory authority by requiring countywide voter approval before the County may authorize, license, permit, or otherwise approve the construction, expansion, or continued operation of a data center. Because the Legislature has not delegated that authority to traditional counties, the initiative is likewise invalid.

VI. The Initiative Exceeds the County's Statutory Authority by Extinguishing Existing Lawful Nonconforming Uses

21. Montana law recognizes the continued existence of lawful uses notwithstanding subsequent changes in land use regulations. See § 76-2-208, MCA.
22. The proposed initiative would require existing data centers operating pursuant to previously issued authorizations, licenses, permits, or other approvals to obtain voter authorization in order to continue operating. As a result, the initiative would extinguish existing lawful uses unless they receive approval through a countywide election.

23. The Legislature has not authorized counties to extinguish existing lawful uses through the initiative process or by requiring previously approved land uses to obtain voter approval to continue operating. Accordingly, those provisions exceed the County's statutory authority and are invalid.

VII. The Initiative Conflicts With the Montana Right to Compute Act

24. The Montana Right to Compute Act provides that government actions restricting the ability to privately own or make use of computational resources for lawful purposes must be limited to those “demonstrably necessary and narrowly tailored to fulfill a compelling government interest.” § 2-10-204, MCA. The Act defines “computational resources” broadly to include the infrastructure that facilitates data processing, storage, and transmission, and defines “government actions” and “government entity” to reach ordinances adopted by counties. § 2-10-203, MCA.

25. The proposed initiative restricts the use of computational resources by prohibiting the construction, expansion, and continued operation of any data center absent approval by two-thirds of the voters in a countywide election. Those restrictions are not demonstrably necessary or narrowly tailored as § 2-10-204, MCA, requires.

26. A county initiative may not adopt provisions that conflict with state statute or exceed the authority the Legislature has conferred. § 7-5-131(1), MCA. Because the initiative’s restrictions conflict with § 2-10-204, MCA, they exceed the County’s statutory authority and are invalid.

VIII. The Initiative’s Mandatory Public-Disclosure Requirement Exceeds the County’s Statutory Authority

27. Section 6 of the proposed initiative provides that if the County, or any of its agents or employees, “is contacted by an individual(s) associated or employed by any person or

entity in the data center industry,” the County “shall immediately disclose” to the public the identity of the industry individual(s) who initiated the contact, the identity of the County personnel who participated, a contemporaneous summary of the substance, duration, and content of the communication, and electronic copies of all forms of the communication.

28. The Legislature has enacted a comprehensive framework governing public access to the records of counties and other political subdivisions: the Montana Public Records Act, Title 2, chapter 6, part 10, MCA. Under that framework, public access is request-driven. "[E]very person has a right to examine and obtain a copy of any public information," § 2-6-1003(1), MCA, and a local government's obligation to produce arises "[u]pon receiving a request." § 2-6-1006(2), MCA. The framework applies to "public information" the County has already prepared, owned, used, or retained. § 2-6-1002(11), (13), MCA.
29. Section 6 departs from that prescribed framework. First, it discards the request-driven structure and imposes an affirmative, self-executing obligation to disclose "immediately" upon any contact with the data center industry, triggered by no request from any person. Second, it compels the County to create records that do not otherwise exist: a "contemporaneous summary of the substance, duration, and content" of each communication. Third, it shifts onto the County the cost and burden of locating, compiling, and producing these records, which the Legislature has placed on the requesting person.
30. The initiative power does not authorize county voters to confer on the County authority the Legislature has withheld. Because Section 6 imposes records obligations the Legislature has not authorized and that depart from and conflict with the framework the Legislature has prescribed, it exceeds the County's statutory authority and is invalid.

IX. Request for Relief

WHEREFORE, Yellowstone County respectfully requests that the Court:

1. Declare the proposed initiative invalid for the reasons outlined above;
2. Enjoin the Yellowstone County Election Administrator from taking any further action to process or place the initiative on the ballot; and
3. Grant any other relief the Court deems appropriate.

DATED this 6th day of October 2026.



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