

**MONTOUR COUNTY, PENNSYLVANIA  
ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF MONTOUR COUNTY, PENNSYLVANIA, TO AMEND ITS ZONING ORDINANCE TO DEFINE AND ADD SPECIFIC REQUIREMENTS FOR DATA CENTERS AND DATA CENTER ACCESSORY USES.

WHEREAS, Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. §10601, *et seq.*, authorizes Montour County to enact, amend, and repeal its Zoning Ordinance within Montour County;

WHEREAS, Article I, Section 27 of the Pennsylvania Constitution, also known as the Pennsylvania Green Amendment, recognizes and protects the environmental rights of all people of the Commonwealth, including future generations. The same provides: "The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the most common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people" and

WHEREAS, Montour County deems it to be in the best interest and general welfare of the residents of Montour County to update and amend provisions of its Zoning Ordinance to provide for Data Centers and Data Center Accessory Uses.

**LEGISLATIVE FINDINGS AND INTENT:**

The Board of Commissioners of Montour County hereby makes the following findings:

1. Data Centers and related high-intensity technology and infrastructure uses may involve substantial impacts related to land use compatibility, water consumption, energy demand, noise, lighting, traffic, environmental resources, and emergency services.
2. Montour County contains significant agricultural lands, rural residential communities, environmentally sensitive areas, aquifer recharge zones, and public natural resources that require protection for the health, safety, and welfare of present and future residents.
3. The Pennsylvania Municipalities Planning Code authorizes municipalities to regulate land uses through zoning ordinances to prevent harm to public resources, ensure compatibility of uses, and promote orderly development.

4. The purpose of this Ordinance is not to prohibit Data Centers, but to ensure that any such use is carefully reviewed, appropriately sited, and conditioned to avoid adverse impacts on surrounding communities, infrastructure, and natural resources.
5. Data Centers are unique structures with the improvements and any equipment therein being interconnected and essential to each other.
6. This Ordinance is intended to provide clear, objective, and enforceable standards that allow the County to evaluate proposed Data Centers on a case-by-case basis through the Conditional Use process.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Commissioners of Montour County as follows:

**Section 1.**

TITLE: This Ordinance may be cited as the "Data Center Land Use Ordinance", the same being an Amendment to the Montour County Zoning Ordinance.

The Definitions section of Montour County Zoning Ordinance is hereby amended to add the following definitions:

**Data Center:** A building or buildings which are occupied primarily by computers and/or telecommunications and related equipment where digital information is processed, transferred, and/or stored, primarily to and from offsite locations. This use does not include computers or telecommunications related equipment that is secondary and customarily incidental to an otherwise permitted use on the property, such as servers associated with an office building. This use shall also include cryptocurrency mining, blockchain transaction processing, hyperscaler, artificial intelligence, supercomputers, data center campuses, and server farms. A Data Center may include Data Center Accessory Uses.

**Data Center Accessory Use:** Ancillary uses or structures secondary and incidental to a Data Center Use, including but not limited to: administrative, logistical, fiber optic, storage, and security buildings or structures; sources of electrical power such as generators used to provide temporary power when the main source of power is interrupted; electrical substations; utility lines; domestic and non-contact cooling water and wastewater treatment facilities; water holding facilities; pump stations; water towers; environmental controls (air conditioning or cooling towers, fire suppression, and related

equipment); battery storage system; security features, provided such data center accessory uses/structures are located on the same tract or assemblage of adjacent parcels developed as a unified development with a Data Center. The Use shall not include energy generation systems used or intended to be used to supply power to the Data Center during normal operations.

**Sensitive Receptor:** Schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, community centers, places of worship, playgrounds, parks, campgrounds, prisons, dormitories, and any residence where such residence is not located on a parcel with an existing industrial, commercial, or unpermitted use as determined by the zoning officer, and any parcel where a residential use is a use permitted as a matter of right. This definition is based upon use, regardless of property ownership.

## **Section 2.**

Data Centers shall be permitted by **CONDITIONAL USE** in the Industrial Zoning District when approved in compliance with the procedures, standards, and criteria contained in this Ordinance.

## **Section 3.**

The Applicant shall demonstrate compliance with all applicable provisions of the County Zoning Ordinance, the County Subdivision and Land Development Ordinance (SALDO), and the Specific and General Criteria contained in this Ordinance. The Applicant shall also comply with all local, state, and federal rules and regulations.

The Applicant shall also demonstrate consistency with the goals, policies, and recommendations of the Montour County Comprehensive Plan, including but not limited to provisions addressing agricultural preservation, rural character, environmental protection, water resources, and infrastructure capacity. When a proposed Data Center conflicts with the Comprehensive Plan, the Applicant shall identify specific mitigation measures to offset such conflict. The County may deny or condition approval where the Applicant fails to demonstrate that the proposal adequately advances or mitigates impacts to Comprehensive Plan objectives.

The County may attach reasonable conditions to any approvals granted under this Ordinance.

## **Section 4. Specific Criteria**

### **A. Building Placement and Orientation**

1. All principal and accessory structures associated with a Data Center shall be arranged, designed, and constructed to be harmonious and compatible with the site and with the surrounding properties. In general, Data Centers that visually approximate commercial office buildings are encouraged.
2. Buildings shall be sited and oriented to:
  - a. Minimize visual impacts of the bulk of the building when examined on a line-of-sight basis from adjacent public streets and Sensitive Receptor property lines.
  - b. Provide safe and convenient vehicular access to the site, including sufficient on-site queuing areas at security gates.
  - c. Accommodate adequate parking.
  - d. Minimize impacts to natural resources.
  - e. Incorporate appropriate stormwater management practices.
3. Data Center(s) containing more than one building are encouraged to provide a variety in building size, massing, siting, and appearance by transitioning from smaller or lower buildings along street frontages to larger and taller structures on the interior of the site. Consideration of topography shall be given to avoid placement of larger, taller, or more massive buildings in a prominent location on the property or along a public street.

**B. Maximum Height**

The maximum building height for Data Centers or Data Center Accessory Uses shall be 80 feet, inclusive of equipment on roof.

**C. Setback**

1. All Data Centers and Data Center Accessory Uses shall be set back at as follows:
  - a. front setback – 250 feet from center of road;
  - b. side and rear setback – 150 feet from all property lines;
  - c. Notwithstanding the above, all Data Centers and Data Center Accessory Use(s) shall be setback 500 feet from a Sensitive Receptor property line.

**D. Noise**

1. The Applicant shall demonstrate through a sound study conducted by a professional acoustical expert that the sound generated by a Data Center and/or Data Center

Accessory Uses during normal operations shall be limited to a maximum daytime (7:00 a.m. to 8:00 p.m. Monday – Friday) decibel level of 60 dB(A) and a maximum nighttime and weekend (8:00 p.m. to 7:00 a.m. Monday – Friday and all day Saturday and Sunday) decibel level of 55 dB(A) as measured from the property line of the Use. Provided, however, the noise level shall not exceed 45dB(A)s at nighttime at the property line of any Sensitive Receptor not included as part of the site property. Such sound study shall be conducted using Sound Level Meters described in ANSI S1.4-2014, or the most up to date industry standard, and generally accepted technology. Additionally, since traditional measurements of noise in dBA is not fully capable of capturing low frequency noise, and meaningful limits using measurement techniques have not been well established, Data Center applicants shall incorporate the latest technology into the equipment/facility design and in the operating procedures, to limit low frequency noise emission beyond the site property line. A sound study shall be conducted at the following phases:

- a. A preliminary study shall be conducted as part of the Conditional Use process. The preliminary sound study shall include recommended sound reducing materials or systems as needed to meet the aforesaid sound limits.
  - b. An interim sound study shall be conducted during the building permit approval process based upon the proposed user or users of the Data Center and Data Center Accessory Uses depicted on the building plans. Any sound reducing materials or systems recommended by interim sound study shall be incorporated into the construction plans for the Use.
  - c. An as-built sound study shall be conducted six months after issuance of the certificate of occupancy and prior to the final escrow release for any land development phase. An as-built sound study may also be required thereafter by the Montour County Commissioners. If it is determined by the as-built sound study that there is a violation of the aforesaid noise limits, it shall be considered a violation of this Ordinance.
2. Maximum decibel levels specified herein shall apply during times of power outage. The sound studies shall also evaluate, and report anticipated decibel levels when all emergency power generation equipment is running, including emergency backup

generators. Emergency generator testing as required by industry standards is permitted.

3. In the event of any complaints of noise, Applicant or Occupant shall undertake timely corrective actions. The County Commissioners, in its discretion, shall determine the timeframe for any corrective actions and what actions to take. Should the County hire an independent noise expert to evaluate the noise, and should it be determined that Applicant or Occupant is in violation of the noise provisions of this Ordinance, Applicant or Occupant shall reimburse the County for the full costs of the same.

**E. Negative Impacts**

1. Any Use or activity producing air, dust, smoke, glare, exhaust, heat, or humidity in any form shall be carried on in such a manner that it is not perceptible at or beyond the property line.
2. The emission of any smoke, odorous gases or other odorous matter or steam in quantities that are offensive or have an extremely offensive smell at any point along the boundary with an adjacent zoning district, residential property or Sensitive Receptor property line shall be prohibited.
3. The Applicant shall provide a vibration study prepared by a qualified professional that demonstrates that no vibration from the Data Center, Data Center Accessory Uses, or associated equipment will be perceptible to the human sense of feeling beyond the property line.

**F. Safety**

1. The equipment used in any Data Center operation shall be housed in a metered, electrically grounded, and pre-engineered metal-encased structure with a fire rating designed to resist an internal electrical fire for at least 30 minutes. The containment space shall contain baffles that automatically close in the event of fire, independent of a possible electric system failure.
2. Any Data Center Use proposing battery storage or any other device or group of devices capable of storing energy in order to supply electrical energy at a later time, whether the energy is stored for use on-site or off-site, shall demonstrate compliance with National Fire Protection Association (NFPA) Standard 855, Installation of

Stationary Energy Storage Systems, or similar standards and must include fire suppression systems designed specifically for battery storage.

**G. Emergency Management**

1. The Applicant shall submit an Emergency Response Plan (ERP) prepared by a qualified professional.

The ERP shall:

- a. Be reviewed and accepted by the local fire department and emergency management services as part of the [conditional use//land development] process;
  - b. Include detailed procedures for fire suppression, containment, ventilation, and evacuation;
  - c. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site;
  - d. Ensure that all first responders receive adequate training specific to the installed system. Applicant shall bear the costs of any specialized training needed;
  - e. The Applicant shall coordinate with the Montour County 911 Coordinator to ensure there is adequate radio coverage for emergency responders within the building based upon the existing coverage levels of the County Public Safety Radio Communications System at the exterior of the building and shall install enhancement systems as needed to meet compliance. A 911 address shall be obtained. It shall be confirmed that the local emergency departments have the proper chemicals/supplies in the event of a fire emergency. The Applicant shall submit an ERP to the Montour County Department of Emergency Services and to the local fire department(s) having jurisdiction.
2. No Data Center shall be approved unless the Applicant demonstrates that procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of public health, safety, and welfare.
  3. Data Centers shall provide a 24-hour emergency contact signage visible at the access entrance. Signs shall include company name, if applicable, owner/representative name and telephone number and corresponding power provider and telephone number.

## H. Energy System/Supply

1. Applicant is encouraged to supply its own power generation system not to exceed noise levels provided for Data Centers set forth in Section D above.
2. Any energy generation system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel (gas or oil), or nuclear energy generating systems, shall not be considered part of the Data Center Use. Such systems shall be considered a separate use and shall be approved according to the zoning regulations applicable to such use and shall not exceed the levels set forth in Section D during energy production.
3. If the Applicant proposes to connect the Data Center to the electric grid, the Applicant shall provide documentation from the applicable electric service provider certifying the following:
  - a. Applicant shall provide an interconnection agreement with the applicable electric service provider.
  - b. Adequate capacity is available on the applicable service lines and substation to ensure that capacity is available to serve the proposed Use together with the other needs of the service area and is consistent with the normal projected load growth envisioned by the provider;
  - c. Utility supply equipment and related electrical infrastructure are sufficiently sized and will safely accommodate the proposed Use;
  - d. The Use will not cause electrical interference or fluctuations in line voltage on and off the operating premises.
  - e. Applicant shall demonstrate that there is sufficient capacity, interconnection, power quality, reliability, and that the existing local and regional infrastructure is sufficient to accommodate the proposed Data Center and Data Center Accessory Uses. Applicant or Developer shall be solely responsible to pay for the full costs of any infrastructure upgrades needed because of the proposed use.
4. Prior to approval of the certification of completion or occupancy, the Applicant shall provide the zoning officer with written verification that the electrical work has passed a third-party inspection.

5. On-site or behind the meter generation using natural gas, renewable fuels, or other clean sources when used to improve reliability, efficiency, or sustainability is permissible. All systems shall meet environmental, safety, and utility interconnection standards. The Applicant shall use Tier 4 or greater generators that are subject to stringent emission standards aimed at reducing pollutants and improving air quality and that operate at the lowest dBA levels.

**I. Nuclear**

1. The Applicant shall submit a preliminary Radiological Land Survey conducted by a qualified professional of the entire site with its application. The Radiological Land Survey must show measurements at external perimeter points of the property which must include measurements taken at perimeter points within 400 feet of residential, Sensitive Receptor property line, or commercial activity. The Radiological Land Survey must make recommendations as to how to contain and minimize the release, dispersion, movement, emission and spread of radiation from the Property. The County may have a Radiological Land Survey generated on its behalf at any time thereafter, by an entity selected by the County at the expense of the Applicant.
2. An as-built Radiological Land Survey shall be conducted six (6) months after issuance of the certificate of occupancy for any Data Center and associated Data Center Accessory Use prior to the final escrow release for any Data Center Land Development phase. The County may have a Radiological Land Survey generated on its behalf at any time thereafter, by an entity selected by the County at the expense of the Applicant or Developer.
3. If it is determined that there is a violation of the prescribed radiation limits, then the issued Zoning Permit is rescinded until the Applicant or Developer provides a Radiological Land Survey showing that the radiation does not exceed the prescribed radiation limits. The County may select an entity to conduct a Radiological Land Survey to verify that the radiation does not exceed the prescribed radiation limits and the costs of the Survey shall be borne by the Applicant or the Developer. Upon verification that the radiation does not exceed the limits established by this Ordinance, the Zoning Permit shall be reinstated.

4. In the event of a failure of a property owner or occupant to remediate a radiation violation, the County may revoke any zoning permits previously issued for the Data Center.
5. Applicant or Developer shall comply with all regulations of the Nuclear Regulatory Commission (NRC).

**J. Water Infrastructure:**

1. The Applicant shall submit an analysis of raw water needs (groundwater or surface water) from either private or public sources, indicating quality and quantity of water required. If the source is from a municipal system; the Applicant shall submit documentation that the public authority will supply the water needed.
2. If the Data Center is to rely upon nonpublic sources of water, a water feasibility study will be provided at the sole cost of Applicant. The purpose of the study will be to determine if there is an adequate supply of water for the proposed Data Center and to estimate the impact of the Data Center on existing wells, ground water, and surface water in the vicinity. To ensure objectivity, the County may retain an independent hydrologist to review and verify the Applicant's study. No Data Center shall be approved without sufficient water and/or for a use that poses adverse impact on existing wells in the vicinity. A water feasibility study shall include the following minimum information:
  - a. Calculations of the projected water needs and sources of water to be used.
  - b. A geological map of the area with a radius of at least two miles from the site property line.
  - c. The location of all existing and proposed wells within two miles of the site property line, with a notation of the capacity of all high-yield wells
  - d. The location of all surface waters, including perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps, and estuaries, within two miles of the site property line and all known point sources of pollution.
  - e. Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.

- f. A determination of the effects of the proposed water supply system on the quantity and quality of the water in nearby wells, streams, and the groundwater table
  - g. Identification of how water will be recycled or released into surrounding water bodies
  - h. A statement of the qualifications and the signature(s) of the person(s) preparing the study
  - i. Applicant shall submit the study to the applicable Municipal Authority for comment and recommendation.
3. The Applicant shall provide proof of review and approval from the Susquehanna River Basin Commission (SRBC) for projects that have:
  - a. Water withdrawals of one hundred thousand (100,000 gpd) gallons per day or more over a 30-day average from any water source or combination of sources within the Susquehanna River Basin
  - b. Any consumptive water use of twenty thousand (20,000 gpd) gallons per day or more over a 30-day average from any water source
4. The Applicant shall demonstrate through a qualified expert that the surrounding water supplies will not be negatively impacted or dewater surrounding properties.
5. Applicant must exhaust all reasonable efforts to utilize existing public or private waterlines for site water needs before proposing withdrawals from local aquifers or surface waters. Documentation of these efforts shall be submitted with the Application.
6. The Applicant shall demonstrate the use of the best available technology closed loop heating and cooling systems to the extent feasible.
7. The Applicant shall demonstrate that adequate means and volume of waste disposal, including domestic wastewater and wastewater discharge from cooling or industrial uses (used for cooling or industrial purposes including but not limited to refrigerants), have been provided and approved by the Sewage Enforcement Officer, Municipal Authority, Susquehanna River Basin Commission, and/or Pennsylvania Department of Environmental Protection (DEP).
8. Applicant shall comply with all local, state, and federal rules and regulations related to water quality.

## **K. Environmental and Community Impact**

Environmental and community impact studies shall be conducted to determine whether the proposed data center serves the public interest and to prevent undue burdens on municipal services. A qualified, independent scientist (including but not limited to geologist/hydrogeologist) shall be allowed to participate in and review all field studies/drilling events (well/logging/soils samples) on behalf of the County.

1. A traffic impact study shall be provided by the Applicant. A traffic impact analysis meeting the following standards of this section shall apply:
  - a. A professional traffic engineer shall prepare the analysis.
  - b. Potential traffic hazards and/or congestion identified by the analysis shall be avoided and/or mitigated in compliance with accepted traffic engineering principles, subject to approval by the County, upon recommendation of the County's Engineer and Planning Commission.
  - c. The traffic impact analysis shall provide an analysis during both construction and operation and include the following elements:
    - i. Traffic impact on all roadways, intersections, bridges, and interchanges within a one-half-mile radius of the site property line.
    - ii. Description of traffic characteristics of the proposed development.
    - iii. Traffic volumes for average daily traffic at peak hours, before and after proposed development.
    - iv. Source of trip generation rates used.
    - v. Origin and destination analysis of projected traffic.
    - vi. Documentation of on-site and off-site improvements proposed to mitigate any adverse impacts.
    - vii. All other information, findings, conclusions and recommendations necessary to produce a complete analysis in compliance with accepted traffic engineering principles and practice.
2. Applicant shall submit an economic community impact study from a licensed real estate agent that the proposed Data Center and accessories will not negatively impact the surrounding real estate property values.

3. Applicant shall submit an Environmental impact study to show that the Data Center and its accessories will not impact on environmental features or wildlife.
  - a. PNDI- A Pennsylvania Natural Heritage Program Study (PNDI) dated within two years of the submission of an application for conditional use as well as any state agency clearance letters required thereby, shall be provided to the County.
  - b. Compliance. The Applicant shall comply with all measures directed by clearance letters to avoid, minimize, or mitigate impacts to endangered, threatened, and special concern species and their habitat.
4. The Applicant shall provide an Environmental and Community Impact Analysis. The same shall include:
  - a. A narrative description of the nature of the on-site activities and operations, including the market areas served by the facility, the hours of operation of the facility, the total number of employees on each shift, the times, frequencies, and types of vehicle trips generated, the types of material stored and the duration period of storage of materials.
  - b. A site plan of the property indicating the location of proposed improvements, flood plains, wetlands, waters of the Commonwealth on the property and within 500 feet of the boundaries of the property.
  - c. Historic and Cultural Resource Assessment.
    - i. Identify and map all known or potential historic, cultural, and archeological resources on the property and within 500 feet of the property boundary, using:
      - (a) The Pennsylvania State Historic Preservation Office (SHPO) CRGIS database;
      - (b) Historical maps, aerial photographs, and local records;
      - (c) Consultation with local historical societies when applicable.
    - ii. Evaluate potential direct and indirect impacts of the proposed Data Center and Data Center Accessory Uses on identified historic or cultural resources.
    - iii. Include recommended avoidance, minimization, or mitigation measures if impacts are identified.

- iv. Demonstrate consultation with the SHPO where the Assessment indicates the presence or high likelihood of significant historic or archaeological resources.
    - v. No Data Center shall be approved unless the Applicant demonstrates that historic and cultural resources will not be adversely impacted or that appropriate mitigation has been proposed and accepted by the County.
  - d. Evidence that the disposal of materials will be accomplished in a manner that complies with local, state, and federal regulations.
  - e. An evaluation of the potential impact of the proposed use, both positive and negative, upon:
    - i. Emergency and fire protection;
    - ii. Water Supply;
    - iii. Sewage Disposal/Wastewater/Industrial Effluent Disposal;
    - iv. Solid waste disposal;
    - v. School facilities and school district budget, and
    - vi. Municipal revenue and expenses.
  - f. Any environmental impacts that are likely to be generated (e.g. odor, noise, smoke, dust, litter, glare, heat islands, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and the specific measures employed to mitigate or eliminate any negative impacts. The Applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinances.
  - g. An Environmental Impact Assessment shall be performed. The assessment shall be prepared by a professional engineer, ecologist, environmental planner, or other qualified individual. An assessment shall include a description of the proposed use, including location, relationship to other projects or proposals, with adequate data and detail for the County to assess the environmental impact. The assessment shall also include a comprehensive description of the existing environment and probable future effects of the proposal. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships. At a minimum, the assessment shall include an analysis of the items listed

below regarding the impact of the proposed use and the mitigation of any such impacts. The assessment shall also include a detailed examination of public resources most likely impacted by the development plan and include the following focus areas.

- i. Air pollution impacts emissions from vehicle operations, including from truck engines during idle time. The Applicant shall identify all stationary and mobile sources of fine particulate matter (PM2.5), volatile organic compounds, and nitrogen oxides at the site. The Applicant shall specify best management practices for preventing and reducing the concentration of air-polluting emissions at the site. The owner or operator of the facility shall have anti-idling signs prominently posted in areas where 15 or more trucks may park or congregate.
- ii. The potential for public nuisance to residents resulting from operations and truck traffic, including noise, glare, light, and visual obstacles, exists.
- iii. A stormwater management plan will be required.
- iv. An assessment of any adverse impact of the proposed color and design of the Data Center and Data Center Accessory Uses on wildlife.
- v. Consistency with the municipal and county comprehensive plan. The Applicant shall submit an assessment report of the impact of the proposed use on the goals of the respective plans. Where the proposed use conflicts with the comprehensive plan, the assessment report shall identify mitigation measures that may be undertaken to offset any degradation, diminution, or depletion of public natural resources.
- vi. Additional considerations. The following shall also be addressed:
  - (a) Alternative analysis. A description of alternatives to the impacts.
  - (b) Adverse impacts. A statement of any adverse impacts that cannot be avoided.
  - (c) Impact minimization. Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction, including design considerations.

- (d) Mitigation steps. A listing of steps/structural controls proposed to minimize damage to the site before and after construction.
- vii. Critical impact areas. In addition to the above, plans should include any area, condition, or feature that is environmentally sensitive or that, if disturbed during construction, would have an adverse impact on the environment.
  - (a) Critical impact areas include, but are not limited to, karst features, floodplains, riparian buffers, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, prime farmland soils, hydric soils, hydrologic soil group D, A/D, B/D, or C/D (USDA NRCS, 2009, or as amended) areas of high-water table, and mature stands of native vegetation and aquifer recharge and discharge areas.
  - (b) A statement of impact upon critical areas and of adverse impacts that cannot be avoided.
  - (c) Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction.
- viii. Any use or activity producing air, dust, smoke, glare, exhaust, heat, or humidity in any form shall be carried on in such a manner that it is not perceptible at or beyond the property line.
- h. The County reserves the right to require the Applicant to perform any additional well testing; or Phase I or Phase II environmental site assessments prior to SALDO approval based upon the presentation of the Conditional Use Application.

**L. Screening and Buffering.**

- 1. Data Centers shall be screened and buffered in accordance with the following standards.
  - a. Vegetative buffering shall be installed around the entire perimeter of the Data Center site, except where the Commissioners determine that the retention of existing trees within the vegetative buffering area may constitute the required

- vegetative buffer or where the Commissioners determine that the Data Center cannot be viewed from a public roadway or Sensitive Receptor property line.
- b. The vegetative buffering shall be installed along the exterior side of the fencing. All required vegetative buffering shall be located within fifty (50) feet of the required fencing.
  - c. Vegetative buffering should be designed to emulate the mix of native species and appearance of existing tree lines, hedge rows, and wooded areas already in existence within the landscape of where the Data Center is proposed. The Applicant shall assess the species mix and characteristics found in the existing tree lines, hedge rows, and wooded areas surrounding the Data Center and document that the vegetative buffering is designed to emulate these characteristics. Arborvitae may be used as a vegetative buffer.
  - d. No less than 20% of the vegetative buffering plantings shall be pollinator friendly species.
  - e. Vegetative buffering shall be selected to provide year around buffering and shall be of sufficient height, density, and maturity to screen the facility from visibility to the maximum extent possible within thirty-six months of installation of the Data Center.
  - f. A combination of Natural topography and vegetation can serve as a buffer provided that the Data Center will not be visible from the property line of Sensitive Receptors. Earthen berms may be created to serve as a buffer wherein they are constructed to emulate or be in harmony with surrounding topography.
  - g. The Applicant or Occupant shall replace any dead or diseased trees in the buffer. All screening shall be properly maintained throughout the life of the project.
  - h. The buffering requirements of this section shall supersede the provisions of the Montour County Zoning Ordinance and Subdivision and Land Development Ordinance as they may pertain to Data Centers.

**M. Fences.** Fences shall not exceed eight (8) feet in height above ground and shall be of such design and materials approved by the County.

**N. Lighting.** The Data Center site shall be dark sky compliant under the most up to date industry standard, fully shielded, and there shall be no spillover of Lighting beyond the property line.

**O. Cumulative Impact Analysis**

1. In evaluating a Conditional Use application, the County shall consider the cumulative impacts of the proposed Data Center in combination with:
  - a. Existing Data Centers, power generation facilities, substations, or other high-intensity industrial uses within a five (5) mile radius;
  - b. Other pending or approved projects under common ownership or control; and
  - c. Phased development or future expansion reasonably foreseeable based on property ownership, infrastructure capacity, or submitted plans.
2. The County may require additional studies or deny approval where cumulative impacts pose a risk to water supply, energy reliability, environmental resources, transportation systems, or community character.

**P. Expansion, Intensification, and Change of Use**

Any expansion, intensification, change in operational capacity, change in cooling technology, increase in water or energy demand, or addition of accessory infrastructure beyond what is approved shall require a new Conditional Use approval. Approval of a Data Center shall not create a vested right to expand or modify the use beyond the scope expressly authorized by the County.

**Q. Voluntary Development Agreements**

As part of the Conditional Use process, the County may consider voluntary development agreements addressing infrastructure improvements, emergency services support, environmental mitigation, or community benefits. Nothing in this Ordinance shall be construed to require a payment in lieu of taxes or community benefit contribution as a condition of approval, except where authorized by law.

## R. Decommissioning

1. The Applicant shall submit a decommissioning plan that ensures the return of all participating properties to a useful condition, including removal of above-surface facilities and infrastructure that have no ongoing purpose. Applicant shall have the burden of demonstrating which facilities and infrastructure has an ongoing purpose and the same shall be reviewed during the Conditional Use/Land Development process and during the five-year updates as is set forth below.
2. The Facility Owner or Operator is required to notify the County immediately upon cessation or abandonment of the use. The use shall be presumed to be discontinued or abandoned if the Data Center is not operated for a continuous period of twelve (12) months.
3. The Facility Owner or Operator shall then have six (6) months in which to dismantle and remove the Data Center and Data Center accessory equipment. The Facility Owner or Operator shall also restore the land to its original pre-construction condition consistent with paragraph a above. If the Facility Owner or Operator fails to dismantle or remove the Data Center and restore the land within the six (6) month time period, the County may, but shall not be required to, complete the decommissioning and land restoration at the Owner's expense.
4. At the time of the issuance of the permit for the construction of the Data Center, the Facility Owner or Operator shall provide financial security to the County to secure the expense of dismantling and removing the Data Center, including accessory equipment, and restoration of the land to its original condition consistent with paragraph a above. The financial security shall be in the amount of one hundred ten (110%) percent of the cost of decommissioning. The decommissioning funds shall be posted and maintained during the life of the project in the form of a Performance Bond, Irrevocable Letter of Credit or other financial form of security acceptable to the County. The same shall be with a financial institution acceptable to the County. The Bond shall be posted prior to SALDO approval.
5. An independent and certified professional engineer shall be retained by the County at the Facility Owner or Operator's expense to estimate the total cost of decommissioning of the Data Center. Thereafter, the Facility Owner or Operator shall retain an engineer to provide the County with cost estimates of decommissioning after the first year of

operation and every fifth year thereafter. The financial security shall be updated every five (5) years throughout the life of the project.

6. Applicant shall provide a decommissioning plan as part of the Conditional Use Application and any land development submission and shall show how the site will be returned to a neutral state, being a condition that is easily adapted to similar uses, and the handling and removal of any Electronic Waste (also known as "E-Waste") and/or any other hazardous material, including but not limited to contaminated water, that may be present on the site.
7. The Decommissioning Plan shall include but is not limited to:
  - (a) Identification of all above-ground structures, equipment, and facilities that have no ongoing purpose which shall be removed;
  - (b) Hazardous materials, including batteries, fuel, or refrigerants shall be disposed of in compliance with all local, state, and federal regulations;
  - (c) Disturbed soil shall be stabilized and re-vegetated;
  - (d) Any utility connections shall be safely disconnected and capped.
  - (e) The site shall be restored to a condition compatible with surrounding land uses or consistent with the most restrictive adjacent zoning district.

## **Section 5. Conditional Use Process**

### **A. Procedure**

Applications for any Conditional Use permitted by this Ordinance shall be made to the Zoning Officer. Within 60 days of the date of an applicant's request for a Conditional Use, the Commissioners shall advertise (pursuant to Public Notice) and hold a public hearing on the proposal. (The burden of proof for presentation of the Conditional Use request at the hearing shall rest entirely with the applicant.)

In addition, upon acceptance of a Conditional Use application, the Commissioners, or the Zoning Officer on their behalf, shall forward a copy of the application to the Montour County Planning Commission and the governing body of the municipality which the requested Conditional Use is located for their review and recommendation. The Planning Commission and the governing body of the municipality shall conduct its review and make its recommendations within 45 days of receipt of such request.

The Commissioners shall render a decision or, when no decision is called for, make written findings on the Conditional Use application within 45 days after the date of the last hearing on the application. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons, therefore. Conclusions based on any provisions of the PA Municipalities Planning Code, this Ordinance, or other ordinance, rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.

**B. Written Statement Required**

All applications for Conditional Uses shall include a written statement describing the tract of land and its intended use. Such statement shall include the following information:

1. the location of the tract of land, including the municipality or municipalities which it is located in;
2. the present use of the tract for which the conditional use is requested;
3. the present use of adjoining tracts;
4. the type of conditional use for which the application is made;
5. a brief description of the type and extent of the proposed activities;
6. an estimate of the total development cost of the conditional use; and,
7. the names of the applicant, the owner of the tract, the developer of the conditional use and the person or organization who will operate the conditional use.

**C. Site Plan Requirement**

All applications for Conditional Uses shall include a site plan of the proposed development as set forth below.

The site plan shall be drawn to a scale not more than 50 feet to the inch and shall be on a sheet no smaller than 18" x 24" and no larger than 24" x 36". If the site plan is drawn in two (2) or more sections, a key map showing the locations of the sections shall be placed on each sheet. The site plan shall include:

1. title block containing the name of the developer or landowner, date, scale, north arrow and the name and profession of the preparer of the plan;
2. tract boundaries showing bearings and distances;
3. existing significant natural or man-made features of the site;

4. existing and proposed streets, rights-of way, easements, means of access and setback lines;
5. existing buildings, sewers, water mains, culverts, transmission lines, and fire hydrants on or adjacent to the site;
6. existing contours at vertical intervals of five (5) feet or less and the datum to which the elevations refer;
7. proposed grading and drainage plans;
8. proposed plan of any landscaping of the tract showing all paved and planted areas, screens or fences and erosion control measures;
9. plans of any proposed sanitary sewer or storm sewer systems and water supply systems;
10. the location, size and floor plan of all proposed buildings or structures and the proposed use of all buildings or structures and open or unenclosed areas of the tract; and
11. Any additional information required by this Ordinance.

In cases where little site improvement or development is required or proposed for a conditional use, the Commissioners may waive the requirement for submittal of certain information that they deem unnecessary for their review of the application. The Zoning Officer shall however visit the site of each proposed conditional use and shall report his findings to the Commissioners before such a determination is made. In all cases, the information submitted by the applicant shall be adequate for review of the conditional use request.

**D. Additional Written Submission Checklist**

For clarification purposes, to ensure that the Application for Conditional Use is a complete submission, the Applicant shall submit the following:

1. Completed Zoning Application and payment of fee;
2. Written Statement set forth in Subsection B above;
3. Site Plan set forth in Subsection C above;
4. Narrative of how the project complies with the requirements of this Ordinance;
5. Narrative of how the project complies with the Criteria for Conditional Uses set forth in Subsection D below;
6. Narrative of the Consistency with the Comprehensive Plan and any mitigation efforts to mitigate any conflicts with the Plan.

7. Studies and Assessments required by this Ordinance including but not limited to:
- a. Noise Study;
  - b. Negative Impact Assessment;
  - c. Emergency Response Plan;
  - d. Energy System Assessment/Studies;
  - e. Water Assessment/Studies;
  - f. Traffic Impact Study;
  - g. Real Estate Impact Study;
  - h. PNDI Study;
  - i. Environmental and Community Impact Analysis;
  - j. Historic and Cultural Resource Assessment;
  - k. Decommissioning Plan;
  - l. Screening and Buffering Plan; and
  - m. Any other studies or Assessments required by this Ordinance;

The County, or its Zoning Officer, may amend this checklist from time to time by resolution. Applicant shall ensure that they obtain the most recent checklist from the Zoning Officer prior to submission to ensure that there is a complete submission.

#### **E. Criteria for Conditional Uses**

The Commissioners shall, in making decisions on applications for Conditional Uses, consider the following general criteria, in addition to the special criteria established elsewhere in this Ordinance:

1. the purpose of the zone in which the requested conditional use is to be located and the compatibility of the requested conditional use with existing and potential land uses on adjacent tracts of ground;
2. whether the specific site is an appropriate location for the use, structure or condition;
3. whether the use developed will adversely affect the neighborhood;
4. whether the use will create undue nuisance or serious hazard to vehicles or pedestrians;

5. whether adequate and appropriate facilities and services will be provided to ensure the proper operation of the proposed use;
6. the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; and,
7. whether satisfactory provision and arrangement has been made concerning the following:
  - a. ingress and egress to the property and structure thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow, control and access in case of fire or other emergency;
  - b. off-street parking and loading areas;
  - c. waste collection, storage and disposal;
  - d. utilities, with reference to location, availability and compatibility;
  - e. screening and buffering with reference to type, dimensions and character
  - f. signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; and,
  - g. required yards and open spaces.
  - h. the Commissioners may consider and grant any requested waivers for any requirements of the Ordinance, where they deem them to be not applicable to the intent of the Ordinance.

**F. Decisions**

As set forth in Sub-Section A above, Commissioners shall render a decision or, when no decision is called for, make written findings on the Conditional Use application within 45 days after their last hearing on the application. A copy of the final decision or, where no decision is called for, the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

**G. Failure to Hold Required Hearing or Render Decision**

Where the Board of Commissioners fails to hold the required hearing or fails to render a decision within the time periods specified in Sub Section A above, the decision shall be deemed to

have been rendered in favor of the applicant, unless the applicant has agreed in writing to an extension of the required time periods. If a decision has been rendered in favor of the applicant because of violation of the prescribed time periods, the Board of Commissioners shall give public notice (in the same manner as is done for the public hearing) of the decision within ten (10) days from the last day it could have met to render a timely decision. If the Commissioners shall fail to provide such notice, the applicant may do so.

**H. Expiration of Decision**

Unless otherwise specified by the Commissioners at the time of their action, a conditional use authorization shall expire if the applicant fails to obtain a necessary Building/Zoning Permit or comply with the conditions of said authorization within six (6) months from the date of authorization. The Commissioners may extend this period upon written request of the Applicant. Approval of an extension request shall not unreasonably be withheld.

**Section 6. Severability**

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity, shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts thereof. It is expressly declared as the intent of Montour County that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

**Section 7. Repealer.** All provisions of Montour County Ordinance which are contrary to this Ordinance are expressly repealed.

**Section 8. Effective Date.** This Ordinance shall be in full force and effect from and after its passage or the first day allowed by law thereafter.

ENACTED AND ORDAINED by the Board of Commissioners of Montour County this \_\_\_\_ day of \_\_\_\_\_, 2026.

MONTOUR COUNTY BOARD OF COMMISSIONERS

ATTEST:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice-Chairman