

**SOMERSET COUNTY
DATA CENTER FACILITIES PLANNING ORDINANCE**



**SOMERSET COUNTY PLANNING COMMISSION
300 NORTH CENTER AVENUE, SUITE 540
SOMERSET, PENNSYLVANIA 15501
OCTOBER 6TH 2026**

SOMERSET COUNTY
DATA CENTER FACILITIES PLANNING ORDINANCE

Prepared for:

SOMERSET COUNTY BOARD OF COMMISSIONERS

300 NORTH CENTER AVE, SUITE 500

SOMERSET, PENNSYLVANIA 15501

SOMERSET COUNTY PLANNING COMMISSION

300 NORTH CENTER AVE, SUITE 540

SOMERSET, PENNSYLVANIA 15501

OCTOBER 6TH 2026

CERTIFICATION OF ADOPTION

The undersigned, of the County of Somerset, Pennsylvania, do hereby certify that the foregoing and attached Ordinance was duly adopted by a majority vote of the entire Board of Commissioners of Somerset County, at a duly advertised, a called and held public meeting of said Board of Commissioners, which meeting was held at 10:30 am, prevailing time, on Tuesday the 6th day of October, 2026, at the Commissioners Board Room, the County's usual meeting place, in Somerset Borough, Somerset County, Pennsylvania.

CERTIFIED this 6TH day of October, 2026

SOMERSET COUNTY BOARD OF COMMISSIONERS

Brian Fochtman, Chair

Irv Kimmel, Vice- Chair

Pamela A. Tokar-Ickes, Secretary

Attest:

Scott DeArmitt, Chief Clerk

TABLE OF CONTENTS

The Somerset County Data Center Planning Ordinance feature the following sections:

ARTICLE I- GENERAL PROVISIONS..... 5

ARTICLE II- DEFINITIONS..... 7

ARTICLE-III- DATA CENTER FACILITIES..... 12

ARTICLE IV- ADMINISTRATION, AMENDMENT, & SEVERABILITY..... 35

APPENDIX

Adoption Resolution

Fee Schedule

Application

Alternative Set-Back & Waiver Agreement Example

Non-Disturbance Waiver

Acknowledgment of Individuals or Partners

Contractual Consent of Landowner

ARTICLE I
GENERAL PROVISIONS

101. SHORT TITLE

This ordinance shall be known and may be cited as "The Somerset County Data Center Planning Ordinance".

102. PURPOSE

These regulations are adopted for the following purposes:

- 102.1. To protect and provide for the public health, safety and general welfare of the citizens of Somerset County. Those areas, which are subject to hazards of life, health, or property, as may arise from fire, flood, disease, subsidence, or other causes, shall not be developed for building purposes unless such hazards have been eliminated or unless the plan shall show adequate safeguards against them, which shall be approved by the appropriate regulatory agencies.
- 102.2. To guide the future growth and development of the County;
- 102.3. To protect and preserve the value of land throughout Somerset County and the value of buildings and improvements upon the land; and to minimize the conflicts among the use of land and buildings;
- 102.4. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic through the county, having particular regard to the avoidance of congestion in the streets and highways, and to provide for the proper location and width of streets;
- 102.5. To establish standards of design and procedures for infrastructure plans and land developments, in order to further the orderly layout and use of land;
- 102.6. To preserve the natural beauty, topography, and environment of the county and to insure appropriate development with regard to these natural features;
- 102.7. To provide for adequate storm water management practices and improvements as required in Pennsylvania Act 167 of 1978, 32 P.S. 680.1 et seq;
- 102.8. To provide an implementation tool in carrying out the adopted Somerset County Comprehensive Plan and its amendments.

103. AUTHORITY & JURISDICTION

Whereas, pursuant to the laws of the Commonwealth of Pennsylvania and the Pennsylvania County Code for Counties of the Second Class A Through Eighth Class, at 16 Pa.C.S.A. 12509, power is vested in the County Commissioners to enact ordinances to promote and preserve public health, safety, and welfare; the Commissioners hereby declare the enactment of this Ordinance to be necessary for said

protection, benefit, and preservation of the health, safety, and welfare of the inhabitants of Somerset County.

The Somerset County Planning Commission is hereby delegated the authority to administer and enforce all provisions of this ordinance.

104. INTERPRETATION

Where provisions of this ordinance conflict or are inconsistent with the provisions of any other regulation or requirement, the more restrictive provisions in question shall apply. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.

105. REPEAL

This Ordinance replaces portions of the Somerset County Subdivision & Land Development. All ordinances or parts of ordinances in conflict with or inconsistent with other Ordinances, are hereby repealed to the extent necessary to give this Ordinance full force and effect. Any ordinance(s) that contain more restrictive requirements shall continue in full force and effect

ARTICLE II DEFINITIONS

201. TENSE, GENDER, & NUMBER

Words in the singular include the plural and those in the plural include the singular; words in the present tense include the future tense, words used in the masculine gender include the feminine and neuter.

202. TERMS OR WORDS NOT DEFINED

Where terms or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

203. PRE-APPLICATION PROCEDURES

203.1. Copies of this ordinance shall be available for review by any person seeking information regarding subdivision and/or land development standards and procedures in Somerset County. Any prospective developer or applicant may schedule a meeting with the Planning Commission staff to discuss and review any tentative plan and/or provisions of this ordinance.

203.2. The Planning Commission is only responsible for insuring that the developer meet at least the minimum requirements in this ordinance and those regulations set forth in Act 247, The **Pennsylvania Municipalities Planning Code**. The local municipalities are not responsible for insuring the provisions of this ordinance are met. There are other Federal, State, and Local laws, requirements and ordinances which may need to be addressed prior to land subdivision and development; for example, but not limited to:

- Pennsylvania Department of Environmental Protection -stream encroachment, sewage planning modules, sewage feasibility studies, ground water studies, culverts and bridges;
- Pennsylvania Department of Transportation - state highway access permits, culverts and bridges; Pennsylvania Public Utilities Commission - public water supplies;
- Environmental Protection Agency - wetland encroachment;
- Pennsylvania Fish Commission - stream changes;
- Pennsylvania Historical Commission - changes to properties on the National Register of Historic Places;
- Somerset County Conservation District - soil erosion and sedimentation control plans;
- U.S. Postal Service and/or 911 addressing office - street names;
- Local Municipalities - public road dedications, sewage modules, building permits, flood plain compliance, building code enforcement and storm water management ordinances;
- Local Zoning Ordinances;
- American National Standards Institute (A.N.S.I.).
- United States Army Corps of Engineers
- Americans with Disabilities Act
- Department of Labor and Industry
- Pennsylvania Farmland and Forestland Assessment Act 1974 (Act 319) (Clean and Green)
- Municipal Act 167 Storm Water Management Ordinances

- Pennsylvania One-Call (811) for utility line locations;
- Local Municipal Authorizations
- Building Permits

203.3. It is the developer's responsibility to insure all necessary items are addressed prior to Final Plan submission. The Commission may require of the developer copies of reports and approvals of the applicable agencies prior to Final Plan approval.

203.4. An applicant may not transfer title until such time as a Certificate of Completion has been obtained. Sales contracts on lots are acceptable provided legal title remains in the name(s) of the land owner.

203.5. A applicant or developer may not begin construction within any development until a plan has been submitted and approved by the Somerset County Planning Commission.

203.6. An applicant or developer may need to consult various County-wide ordinances as well as any local municipal ordinances for project conformity.

204. SPECIFIC TERMS

Terms or words used herein, unless otherwise stated, shall have the following meanings:

Applicant - a landowner (including his heirs, successors and assigns) who has filed an application for subdivision or land development.

Application for Development - the document required to be filed with each subdivision or land development plan submitted. (See Appendix)

Buffer strip or area - an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to limit the view of and/or noise from the site to adjacent sites or properties.

Building - a structure designed to be used as a place of occupancy, storage or shelter.

Building Footprint - building footprint is the outline of the total area horizontal projection of the roof.

Building Permit- a permit issued by the local 3rd party municipally appointed building code agency or issued directly from the Pennsylvania Department of Labor & Industry.

Campus Development — A single site or group of contiguous parcels planned and developed as one integrated Data Center Facility.

Certificate of Completion - certificate that is to be obtained prior to occupying the building in a major land development or prior to selling lots within a major subdivision.

Closed Loop Cooling System — Designed to circulate water within a closed circuit, allowing it to absorb heat from equipment and then release that heat through a heat exchanger or cooling tower. This system minimizes water loss and reduces environmental impact by reusing the same water repeatedly.

Community Noise Equivalent Level (CNEI) - The 24-hour A-weighted average sound level from midnight to midnight, obtained after the addition of 5 dB to sound levels occurring in the evening from 7 PM to 10 PM and after the addition of 10 dB to sound levels occurring in the night between 10 PM and 7 AM.

Commission - the Somerset County Planning Commission.

Data Center —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 at the Data Center.

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), and 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. Accessory renewable energy systems including battery storage or on-site solar generations serving the Data Center are permitted.

Data Center Electrical Substation —A facility used for the transformation or transmission and/or switching of voltages to distribution voltages which switches circuits and distributes usable/consumable electric power, specifically for Data Center users on the same or adjacent site, or on a site immediately across a road right-of-way.

Data Center Principal Building — A building that contains the office and/or data storage functions of a Data Center.

Developer - any landowner, or agent of a landowner (who has been given appropriate authorization by the land owner); and with acknowledged permission of the landowner, who makes or causes to be made a subdivision of land or a land development.

Easement - an interest held by one person in land of another whereby the first person is accorded limited use of such land.

Engineer - a Professional Engineer licensed as such in the Commonwealth of Pennsylvania.

Facility Owner: the entity or entities having an equity interest in the facility, including their respective successors and assigns.

Landowner - the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person that has a proprietary interest in land.

LEED — Leadership in Energy and Environmental Design

LEED Certification —A globally recognized symbol of sustainability achievement in building design, construction, and operation.

Lease - Use of or occupation of land or holdings during a specific period in exchange for rent.

Municipality - a Borough, Township or County

National Fire Protection Association (NFPA) —The world's leading resource on fire, electrical, and related hazards, dedicated to eliminating loss through knowledge.

Non-Participating Landowner- means any landowner except those on whose property all or a portion of a facility is located pursuant to an agreement with the Facility Owner or Operator.

Occupied Structure – Any structure that has an assessed value.

Operator- means the entity responsible for the day-to-day operation and maintenance of a facility.

Plan - the map, plan, or record of a subdivision and any accompanying materials, as described in this ordinance.

Public Notice - notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than thirty days and the second publication shall not be less than seven days from the date of the hearing.

Recorder of Deeds Statement – See Appendix for example.

Residue- The lot that is the remainder of the original parcel, not exempt from this ordinance.

Right-of-Way - a right of passage or travel for general or limited purposes over the land of an owner given to another person or persons. A right of passage over another's land.

Sensitive Receptors — Schools, preschools, day care centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, community centers, places of worship, campgrounds, prisons, dormitories, and any residence where such residence is not located on a parcel with an existing industrial, commercial, or unpermitted use.

Setback- the separation of a structure and lot/parcel line.

Stationary Energy Storage Systems — Large scale technologies designed to store electricity for later use.

Structure - mode of building, construction, or organization consisting of walls and a roof.

Subdivider - See Developer and/or Landowner.

Subdivision - the division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of

ownership, building, or lot development. The acquisition of a parcel by adverse possession shall also be considered a subdivision. The claimer shall be responsible for filing the subdivision plan. Refer to the Somerset County Subdivision & Land Development Ordinance for further details.

Submission- Every time a review is conducted a new submission is created and a new review fee required.

Subservient - Serving or acting in a subordinate capacity; subordinate.

Surveyor - Professional Land Surveyor licensed as such in the Commonwealth of Pennsylvania.

Temporary facility – A building, structure or activity that will remain on any site less than two years, not fixed to the surface and removed at the end of a season.

Tract- A portion of land within a deed.

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ARTICLE III
DATA CENTER FACILITIES

301. SPECIFIC USE CRITERIA- The following requirements shall apply to all Data Centers. In the event that any of the following regulations are found to be in conflict with regulations found elsewhere in Somerset County Ordinances, the most restrictive regulations shall be applied, unless otherwise stated.

302. BUILDING PLACEMENT AND ORIENTATION

302.1. 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.

302.2. Buildings shall be sited and oriented to:

302.2.1. Minimize visual impacts of the bulk of the building when examined on a line-of-sight basis from adjacent public streets and Sensitive Receptor areas.

302.2.2. Provide safe and convenient vehicular access to the site, including sufficient on-site queuing areas at security gates.

302.2.3. Accommodate adequate parking.

302.2.4. Minimize impacts to natural resources.

302.2.5. Incorporate appropriate stormwater management practices.

302.3. Data Center campuses containing more than one building shall 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.

303. MAXIMUM HEIGHT- The maximum building height for Data Centers shall be 65 feet. Any request for a waiver must be included in the written application and must be supported by engineering, architectural, and safety analyses prepared by qualified professionals. The County may require an independent third-party review at the developer's expense. No waiver shall be granted unless the applicant proves, to the satisfaction of the County, that the proposed height will not impact emergency response capabilities, environmental resources, or adjacent properties, and that no reasonable alternative exists.

304. SETBACKS- All data center principal buildings, accessory structures, and Data Center Electric Utility substations shall maintain the following setback distances:

304.1. Property lines, road rights of way — 250 feet from all adjoining properties and public road right of ways.

304.2. Residential structures or other occupied buildings - 1,000 feet from any existing residential structure not located on the project parcel or any/ sensitive receptor.

304.3. Parking lots - 50 feet from public road rights-of-way, and from all property lines.

304.4. Waterbodies - 200 feet to any body of water, perennial or intermittent stream or wetland.

305. PARKING REQUIREMENTS- A minimum of 1 parking space per employee on the largest shift is required, plus an additional 3 visitor spaces.

306. OFF STREET LOADING- A minimum of one loading bay is required. Loading bays shall be located on one facade of the Data Center Principal Building. These bays shall be designed to cause no obstructions to adjacent street traffic whether during backing and parking or parking and unloading. Sufficient area shall be provided to allow for emergency access around loading areas.

307. NOISE/VIBRATION

307.1. Community Noise Equivalent Level (CNEL)

307.1.1. The CNEL at the boundary of the property containing a Sensitive Receptor shall not exceed a noise standard of 57 dBA.

307.1.2. The CNEL at the boundary of any developed property not containing a Sensitive Receptor shall not exceed a standard of 57 dBA.

307.1.3. The CNEL at the boundary the nearest residential property line shall not exceed a standard of 57 dBA.

307.1.4. The maximum sound levels listed above do not apply to emergency alerts, emergency work to provide electricity, water, or other public utilities when public health or safety is involved, snow removal, or road repair.

307.2. A noise reduction barrier or device may be required at the discretion of the planning commission when it is inconclusive that noise level tests do not conform to acceptable noise levels.

308. NEGATIVE IMPACTS- 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.

309. SAFETY- 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. 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.

310. POWER- The applicant shall provide written verification from the applicable service provider stating the following:

310.1. Adequate capacity is available on the applicable supply lines and substation to ensure that the capacity available to serve the other needs of the service area is consistent with the normal projected load growth envisioned by the provider,

- 310.2. Utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed use,
- 310.3. Any system designed for cooling and operation of the facility (electricity, water, or other means) shall be adequate and will not negatively impact the surrounding region,
- 310.4. The use shall not cause electrical interference or fluctuations in line voltage on and off the operating premises, and
- 310.5. The applicant shall provide the planning commission with written verification that the electrical work has passed a third-party final inspection.

ON-SITE POWER GENERATION SHALL BE AT 150% (ONE HUNDRED AND FIFTY PERCENT) OF MAX LOAD TO THE DATA CENTER TO ENSURE NO NEGATIVE IMPACT TO THE SURROUNDING GRID USERS.

311. LIGHTING—Data centers can generate substantial night lighting if not carefully controlled. The County requires the following:

- 311.1. All site and building lighting be full-cutoff/fully shielded to prevent light from shining above the horizontal and across property lines;
- 311.2. The color temperature of exterior lighting generally not exceed 3,000K to reduce blue light and skyglow in rural areas;
- 311.3. Property-line light levels at residential and agricultural boundaries be kept very low, consistent with rural conditions (for example, an average of no more than 0.2 foot-candles);
- 311.4. Non-essential lighting be controlled by timers, dimming, or motion sensors so that lighting is reduced during overnight hours while maintaining necessary security. The Planning Commission is encouraged to review a photometric plan for each project to verify that light trespass and glare to neighbors and Sensitive Receptors are minimized.

312. PERIMETER FENCING/SECURITY- The Perimeter shall be surrounded by security fencing and shall be a minimum of eight feet in height above ground and shall be of high-quality design and materials.

313. POWER LINES AND DATA CENTER ELECTRIC UTILITY SUBSTATIONS

- 313.1. Data Center Electric Utility Substations must include year-round opaque landscaping or a screen wall a minimum of eight feet in height to minimize visual impact.
- 313.2. Electric Utility Substations on the same property as the Data Center they serve must be located on the side or rear of a Data Center Principal Building so they are screened from public view and must not be located in a required front yard. On-site substations do not require a buffer or screening between the Data Center Principal Building and the substation.
- 313.3. Burying power lines serving the property is strongly encouraged. On-site power lines of 34.5 kV and below must be buried.
- 313.4. The Data Center Electric Utility Substation shall be setback 200ft from all adjoining properties lines and roadways. The setback for residential structures shall be 500ft from the residential structure

not on the project parcel. Setbacks shall be measured from the edge of the compound containing the substation to the property boundary of the lot it occupies.

314. ON-SITE POWER GENERATION - 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. All Data Centers shall provide and maintain on-site or behind-the-meter power generation systems capable of supporting critical operations.

ON-SITE POWER GENERATION SHALL BE AT 150% (ONE HUNDRED AND FIFTY PERCENT) OF MAX LOAD TO THE DATA CENTER TO ENSURE NO NEGATIVE IMPACT TO THE SURROUNDING GRID USERS.

315. EMERGENCY CONTACT INFORMATION - Each Data Center operation shall provide 24-hour emergency contact signage visible at the access entrance. Signs shall include the company name (if applicable), the owner/representative's name, the telephone number, and the corresponding local power company's name and telephone number.

316. SENSITIVE RECEPTORS - Unless physically impossible, loading bays, truck entries, and truck drive aisles shall be located away from nearby Sensitive Receptors. Screening as described in Section P below shall be provided. When making feasibility decisions, the planning commission must consider existing laws and regulations and balance public safety with the site development's potential impacts on nearby Sensitive Receptors.

317. BUFFER YARDS AND SCREENING - All Data Center operations shall provide buffer yards and screening along all property boundary lines, except for areas of ingress and egress into the site.

317.1. Service Areas - Loading bays, refuse collection areas, and service entrances shall be screened from view from existing or planned public roads, Sensitive Receptors, and residential properties.

317.2. Mechanical/Electrical Equipment Screening

317.2.1. Ground-Mounted

317.2.1.1. Ground-mounted equipment adjacent to and serving the Data Center Principal Building shall be completely screened behind an opaque wall or fence. When the equipment is located between buildings, a combination of walls and gates may be used at the openings between buildings.

317.2.1.2. When in or adjacent to an industrial use, ground-mounted equipment screening is only required from any existing or planned public road.

317.2.1.3. Ground-mounted equipment is prohibited in any required setback.

317.2.2. Roof Top

- 317.2.2.1. All rooftop-mounted equipment shall be screened by a parapet wall, equipment penthouse, or visually solid screen on all four sides that is constructed of materials complementary to those used in the exterior construction of the Data Center Principal Building. This shall be accomplished by setting the penthouse or screened area back from the facade of the building such that the top of the penthouse or screen is below a 45-degree line drawn from the top of the parapet. Roof-top equipment to be screened includes, but is not limited to, the following: cooling, ventilation, and power supply machinery.
- 317.2.2.2. Roof top equipment that is visible above the parapet wall shall be set back from the exterior or parapet wall a distance no less than the height of said equipment.

317.3. Buffering

- 317.3.1. Data Center sites abutting Sensitive Receptors or collector/arterial roads must include an enhanced buffer yard with required plantings located on an earthen berm with a grade no steeper than 2:1. The minimum height of the berm abutting Sensitive Receptors is two feet, and abutting collector/arterial roads is two feet. The Planning Commission may grant a modification or waiver from any of the requirements below. The waiver must be in written form and accompany the Land Development application.

317.3.1.1. Where the combined footprint of the principal structure or structures is **less than 100,000 square feet:**

- 317.3.1.1.1. A minimum 100-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.
- 317.3.1.1.2. A minimum 50-foot buffer yard shall be provided along any property line adjacent to a non-residential use or zone.

317.3.2. Where the combined footprint of the principal structure or structures is **between 100,000 square feet and 250,000 square feet:**

- 317.3.2.1. A minimum 150-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.
- 317.3.2.2. A minimum 50-foot buffer yard shall be provided along all other property lines.

317.3.3. Where the combined footprint of the principal structure or structures **exceeds 250,000 square feet:**

317.3.3.1. A minimum 300-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.

317.3.3.2. A minimum 50-foot buffer yard shall be provided along all other property lines.

317.3.4. Utilities should be located outside of buffer yards to the maximum extent feasible to maintain a cohesive buffer yard, protect landscaping, and preserve open space. Utilities should be co-located when feasible to minimize the number of utility crossings through the required buffer yard, particularly when such crossings cannot be avoided.

317.3.5. Use of existing vegetation for landscaping and screening is strongly encouraged and may be substituted for new berms and plantings if approved by the planning commission.

317.3.6. Where a lot line drainage or utility easement is required, the buffer yard shall be measured from the inside edge of the easement.

317.3.7. Buffer yards shall not include environmental encumbrances such as, but not limited to, wetlands, wetland transition areas, riparian buffers, and flood hazard areas as may be imposed by outside agencies.

317.3.8. The buffer yard shall include a dense landscape buffer consisting of the following or plant material approved by the Planning Commission.

317.3.8.1. One (1) large evergreen tree per 25 linear feet of buffer. The size of large evergreen trees shall be a minimum of eight (8) feet in height at the time of planting. Narrow/upright evergreen species may also be used within buffers at a ratio of 3:1. No more than 25% of the total required large evergreen species can be substituted with narrow/upright species.

317.3.8.2. One (1) canopy (shade) tree per 75 linear feet of buffer. The size of canopy (shade) trees shall be a minimum of 2 1/2 inch caliper at the time of planting.

317.3.8.3. One (1) ornamental/flowering tree per 50 linear feet of buffer. The size of ornamental/flowering trees shall be a minimum of eight (8) feet in height for multi-stemmed varieties, or 2 1/2 inch caliper at the time of planting for single-stemmed varieties.

317.3.8.4. Five (5) shrubs per 25 linear feet of buffer. Shrubs shall be fully branched and a minimum of three (3) feet in height at the time of planting. Shrubs shall be a combination of

evergreen and deciduous species, with a minimum of 50% evergreen.

317.3.9. The landscape buffer shall be located along the outer edge of the buffer yard.

317.3.10. Plant material within buffer plantings shall meet the following requirements.

317.3.10.1. Be resistant to diesel exhaust.

317.3.10.2. Not identified on the most current DCNR invasive species or watch lists.

317.3.10.3. Shall be planted on the top and the exterior of any benn in order to provide effective screening.

317.3.10.4. Shall be arranged in groupings to allow for ease of maintenance and to provide a natural appearance.

317.3.11. The buffer yard may be located within the required building setback lines. No impervious surface is permitted within the buffer yard aside from access drives, sidewalks, and associated improvements.

318. ENVIRONMENTAL AND COMMUNITY IMPACT ANALYSIS- The applicant shall provide an environmental and community impact analysis. The environmental and community impact analysis shall include:

318.1. A narrative description of the nature of the on-site activities and operations, including the market area 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 materials stored and the duration period of storage of materials.

318.1.1. A site plan of the property indicating the location of proposed improvements, flood plains, wetlands, waters of the Commonwealth and cultural and historic resources on the property and within 500 feet of the boundaries of the property.

318.1.2. Evidence that the disposal of materials will be accomplished in a manner that complies with state and federal regulations.

318.1.3. An evaluation of the potential impacts of the proposed use, both positive and negative, upon:

318.1.3.1. Emergency services and fire protection,

318.1.3.2. Water supply,

318.1.3.3. Sewage disposal,

318.1.3.4. Solid waste disposal,

318.1.3.5. School facilities and school district budget, and

318.1.3.6. Municipal revenues and expenses.

318.1.4. 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 specific measures employed to mitigate or eliminate any negative impacts.

318.1.5. 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.

319. BUILDING COLORS- External building materials shall be of colors that are low-reflective, subtle, or earth tone. Fluorescent and metallic colors shall be prohibited as exterior wall colors.

319.1. The building façade on the street(s) facing side shall be a minimum of 60 percent (60%) glazing.

319.2. A visual barrier wall shall extend above any and all roof mounted systems as to not be visible from any public street or roadway.

320. WATER AND SEWER

320.1. If the use will be served by a public water supply and/or public sewage system, the applicant shall submit documentation from the public authority certifying that the public authority will supply the water needed and the sewage system can accept the additional flow.

320.2. If the use is to rely upon nonpublic sources of water, the applicant shall provide a water feasibility study. The purpose of the study is to determine if there is an adequate supply of water for the proposed use and to estimate the impact of the use on existing wells, groundwater, and surface waters in the vicinity. No data center shall be approved unless the water feasibility study demonstrates that the anticipated water supply yield is adequate for the project and that the proposed water withdrawals and discharges will not endanger or adversely affect the quantity or quality of groundwater supplies or surface waters in the vicinity. The water feasibility study shall include the following information at a minimum.

320.2.1. The projected water demands of the data center

320.2.2. The source of water to be used

320.2.3. A description of how water will be used, including the amount or proportion of water to be used for each purpose (e.g. cooling, humidity control, fire suppression, and domestic usage)

320.2.4. The long-term safe yield of the water source

320.2.5. A description of the amount of portion of water withdrawn that will be recycled or discharged and by what means

320.2.6. A geologic map of the area with a radius of at least one mile from the site

320.2.7. The location of all existing and proposed wells within 1,000 feet of the property boundary, with a notation of the capacity of all high-yield wells

320.2.8. The location of all surface waters, including perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps, and estuaries, within 1,000 feet of the property boundary

320.2.9. A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, surface waters, and the groundwater table

320.2.10. A statement of the qualifications and the signature(s) of the person(s) preparing the study.

321. EMERGENCY RESPONDERS - The applicant shall coordinate with the Somerset 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 Emergency Response Plan (ERP) to the Somerset County Department of Emergency Services and to the local fire department(s) having jurisdiction.

322. ENVIRONMENTAL IMPACT ASSESSMENT -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 planning commission 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:

- 322.1. 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 (PM_{2.5}), 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.
- 322.2. The potential for public nuisance to residents resulting from operations and truck traffic, including noise, glare, light, and visual obstacles, exists.
- 322.3. A stormwater management plan will be required per **Somerset County Subdivision and Land Development Ordinance (SALDO), Section 806 Stormwater Management (For Major Subdivisions and Land Developments)**.
- 322.4. 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.
- 322.5. Additional considerations. The following shall also be addressed:
 - 322.5.1. Alternative analysis. A description of alternatives to the impacts.
 - 322.5.2. Adverse impacts. A statement of any adverse impacts that cannot be avoided.
 - 322.5.3. Impact minimization. Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction, including design considerations.
 - 322.5.4. Mitigation steps. A listing of steps/structural controls proposed to minimize damage to the site before and after construction.
- 322.6. 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.

322.6.1. Critical impact areas include, but are not limited to, floodplains, riparian buffers, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, hydric soils, hydrologic soil groups, areas of high-water table, and mature stands of native vegetation and aquifer recharge and discharge areas.

322.6.2. A statement of impact upon critical areas and of adverse impacts that cannot be avoided.

322.6.3. Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction.

323. GREEN BUILDING TECHNIQUES- Data Centers shall implement low-impact development practices in site design and energy efficiency, such as, but not limited to, the following:

323.1. Site Design

323.1.1. Select sites that avoid sensitive lands such as wetlands, floodplains, and steep slopes

323.1.2. Minimize land disturbance

323.1.3. Maximize tree preservation

323.1.4. Minimize impervious surfaces

323.1.5. Minimize potential nuisance impacts (noise, glare, vibration, etc.) on adjacent properties, public roadways, and the vicinity.

323.2. Energy/Resource Efficiency

323.2.1. Orient buildings to take advantage of passive cooling and daylight opportunities.

323.2.2. Utilize alternative energy sources (solar, wind, hydro, etc.) as much as possible.

323.2.3. Provide an energy storage system to monitor and regulate usage of alternative energy for usage during off-peak hours.

323.2.4. All Data Centers shall utilize a Closed Loop Cooling System. Open-loop, once-through, or discharge-based cooling systems are prohibited. Cooling systems shall be designed to recirculate water within a sealed system to minimize overall water withdrawal and prevent impacts to groundwater, private wells, and surface waters.

323.2.5. Encourage systems that limit the use of finite natural resources and their disposal

323.2.6. Encourage fuel storage that limits impacts on the environment from potential spills

323.2.7. Install water-efficient landscape materials

323.2.8. Implement energy management best practices and carbon reduction techniques such as, but not limited to, those promoted through the U.S. Department of Energy's Better Buildings initiative and U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) Certification system.

324. LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) CERTIFICATION- LEED certification is strongly encouraged, as well as the installation of roof-mounted accessory solar energy systems.

325. THREATENED AND ENDANGERED SPECIES

325.1. PNDI-Pennsylvania Natural Heritage Program study (PNDI Receipt) dated within two years of the submission of an application for conditional use/special exception or subdivision and land development, whichever is first, as well as any state agency clearance letters required thereby, shall be provided to the municipality.

325.2. Compliance-The applicant shall comply with all measures directed by the clearance letters to avoid, minimize, or mitigate impacts to endangered, threatened, and special concern species and their habitat.

326. RIPARIAN FOREST BUFFER AREA -Data Centers subject to the requirements of this Section must satisfy the stricter of the requirements of this Section, or of 25 Pa. Code 102.14, Riparian Buffer Requirements.

326.1.1. For purposes of this Section, a riparian buffer is an area of permanent vegetation along a waterway that is left undisturbed to allow for the natural succession of native vegetation. A riparian forest buffer is a type of riparian buffer that consists predominantly of native trees, shrubs, and forbs, providing at least 60% uniform canopy cover.

326.2. Where the project site contains, is along, or is within 150 feet of a perennial or intermittent river, stream, or creek, lake, wetland, floodplain, pond, or reservoir, whether natural or artificial, the use will be subject to the requirements of this Section and shall, in accordance with the requirements of this subsection, do one of the following:

326.2.1. Protect an existing riparian forest buffer.

326.2.2. Convert an existing riparian buffer to a riparian forest buffer.

326.2.3. Establish a new riparian forest buffer.

326.3. Where a riparian forest buffer exists, it shall be left intact to meet the width requirements in subsections (6) and (7). An existing riparian forest buffer need not be altered to establish individual Zones I and 2 under subsection (9).

326.4. Riparian buffers that consist predominantly of native woody vegetation that do not satisfy the composition requirements for a riparian forest buffer in subsection (I) or the width requirements in subsections (6) and (7) shall be enhanced or widened, or both, by additional plantings in open spaces around existing native trees and shrubs to provide at least 60% uniform canopy cover for the required width and shall be composed of zones in accordance with subsection (9).

326.5. On sites without native woody vegetation, a riparian forest buffer providing at least 60% uniform canopy cover shall be established to meet the width requirements in subsections (6) and (7) and be composed of zones in accordance with subsection (9).

326.6. The width of the riparian forest buffer shall be a minimum of 100 feet on each side of the water body as measured from the top of the bank. The boundary of the buffer shall follow the natural streambank or shoreline.

326.7. Measured within the 100-foot buffer, the following additional distances shall be added to the minimum width of the riparian forest buffer:

326.7.1. 10 feet if the average slope is 10-15%,

326.7.2. 20 feet if the average slope is 16-17%,

326.7.3. 30 feet if the average slope is 18-20%,

326.7.4. 50 feet if the average slope is 21-23%,

326.7.5. 60 feet if the average slope is 24-25%, or

326.7.6. 70 feet if the average slope exceeds 25%.

326.8. In the case of the presence of a nontidal wetland or vernal pond wholly or partially within the riparian buffer area, an additional 25 feet shall be added to the width of the riparian forest buffer area for that portion of the buffer area along the wetland, floodplain, or pond.

326.9. A new riparian forest buffer or a converted riparian forest buffer shall be composed of zones as follows:

326.9.1. Zone 1 shall begin at the top of the streambank or normal pool elevation of a lake, pond, or reservoir and occupy a strip of land 50 feet in width, measured horizontally on a line

perpendicular from the top of the streambank or normal pool elevation of a lake, pond, or reservoir. Predominant vegetation must be composed of a variety of native riparian tree species identified in Appendix C.1 of the PA Department of Environmental Protection Guidance Document 394-5600-001, entitled Riparian Forest Buffer Guidance.

326.9.2. Zone 2 shall begin at the landward edge of Zone 1 and occupy an additional strip of land a minimum of 50 feet in width, measured horizontally on a line perpendicular from the top of the streambank or normal pool elevation of a lake, pond, or reservoir. Predominant vegetation must be composed of a variety of native riparian trees and small tree/shrub species identified in Appendix C.1 of the PA Department of Environmental Protection Guidance Document, 394-5600-001, entitled Riparian Forest Buffer Guidance.

326.10. No earth disturbance, land development, or storing or stockpiling of materials shall occur within the riparian forest buffer area.

326.11. In the management of riparian buffers, noxious weeds and invasive species shall be removed or controlled to the greatest extent possible.

326.12. Existing, converted, and newly established riparian buffers, including access easements, must be protected in perpetuity through deed description, conservation easement, permit conditions, or any other mechanisms that ensure the long-term functioning and integrity of the riparian buffer.

326.13. The riparian buffer shall be designated on the final subdivision and/or land development plan.

327. SUBMISSION

327.1.1. Plan(s) (Minimum 24 x 36")

327.1.2. Existing Conditions

327.1.3. All Proposed Structures

327.1.4. All Proposed Utilities

327.1.5. Proposed Parking Lots

327.1.6. Proposed Landscaping

327.1.7. Proposed Buffer Areas

327.1.8. Proposed Setbacks

327.1.9. Proposed Topographic Lines

327.1.10. Proposed Stormwater

327.1.11. Proposed Leased Areas

327.2. Application

327.3. Checklist

327.4. Decommissioning Plans

328. SECTION 6 - DECOMMISSIONING

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, shall be provided by the applicant.

The decommissioning plan shall include, but is not limited to, financial assurance in the form of a bond, a parent company guarantee, or an irrevocable letter of credit, but excluding cash, to be

determined by the applicant. The amount of the financial assurance shall not be less than the estimated cost of decommissioning the facility, after deducting salvage or recycling value, as calculated by a third party with expertise in decommissioning, hired by the applicant.

In no event shall the security be less than 100% of the estimated cost of decommissioning. The owner shall provide a new estimate of the cost of decommissioning every ten years thereafter and increase its security if the cost increases.

The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the county's right to seek reimbursement from the owner or owner successor for decommissioning costs in excess of the amount deposited in the account and to file a lien against any real estate owned by the owner or owner successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

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ARTICLE IV
ADMINISTRATION, AMENDMENT, SEVERABILITY

400. REVISION & AMENDMENT

400.1. Any revisions, modifications or amendments to this ordinance shall be made in accordance with the procedure established by law, after a public hearing on the proposed revisions, modifications, or amendments.

400.2. In addition, in the case of amendment other than that prepared by the Somerset County Planning Commission, the Somerset County Board of Commissioners shall submit each amendment to the Somerset County Planning Commission for recommendations at least thirty (30) days prior to the date fixed for the public hearing on such proposed amendment.

401. RECONSIDERATION, APPEALS, & CHALLENGES

401.1. Reconsideration, appeals, and/or challenges to a decision of the Somerset County Planning Commission shall be made pursuant to Act 247, as amended, the **Pennsylvania Municipalities Planning Code**.

402. FEES

402.1. The Somerset County Commissioners shall establish by resolution a collection procedure and Schedule of Fees to be paid by the applicant at the time of filing a Plan.

402.2. The Schedule of Fees shall be posted in the Somerset County Planning Commission Office or in such other place as they may designate.

402.3. There shall be no refund or credit of any portion of the fee should the applicant fail to apply for a Certificate of Completion.

402.4. If a Plan is not submitted to the Commission in a complete form as required by this ordinance, a new application and filing fee will be required. The Commission will return the incomplete plan but retain the initial filing fee.

403. PREVENTATIVE REMEDIES

403.1. In addition to other remedies, the municipality may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

403.2. A municipality may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of any ordinance adopted pursuant to this article. This authority to deny such a permit or approval shall apply to any of the following applicants:

403.2.1. The owner of record at the time of such violation.

403.2.2. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

- 403.2.3. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
- 403.2.4. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
- 403.2.5. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the municipality may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

404. NOTICE OF VIOLATION

Whenever a condition constituting a violation under this Ordinance is permitted or maintained in Somerset County in violation of this Ordinance, an agent of the County designated for the enforcement of this Ordinance shall cause written notice to be served upon the owner of the property and/or the person or persons causing or permitting the said nuisance, which notice shall require the owner or other person to eliminate the violation within 10 days, unless further extension is agreed upon in writing between the owners or other person and the County, in one of the following manners:

- 404.1. By making personal delivery of the notice to the owner of the subject property or the person operating any facility in violation;
- 404.2. By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides, but if no adult member of the family is found, then to an adult person in charge of such residence;
- 404.3. By handing a copy of the notice to any adult person at the place of business of the operator of any facility which constitutes a violation;
- 404.4. By fixing a copy of the notice to the door or the entrance of the premises in violation;
- 404.5. By mailing a copy of the notice to the last known address of the owner, or to the person operating any facility in violation, by certificate of mailing; or
- 404.6. By publishing one (1) copy of the notice in a local newspaper of general circulation within Somerset County, Pennsylvania.

405. ENFORCEMENT: AUTHORITY

- 405.1. This Ordinance shall be enforced by an enforcement officer appointed by proper resolution of the Somerset County Commissioners. In the event that any police department or law enforcement agency which has jurisdiction over the site of the violation accepts designation by the Commissioners for enforcement of this ordinance, it is also the specific intention of the Commissioners that enforcement may be conducted either by a duly appointed enforcement officer, or by any such police department or law enforcement agency.
- 405.2. Enforcement may be by citation and action before a magisterial district judge, as referenced in Section 406 Penalties and Remedies, below; or may be by filing of a civil claim in the magisterial district court or the Court of Common Pleas; or by municipal lien.
- 405.3. The designated agent of the County for enforcement of this ordinance shall have a right of reasonable entry upon and into the property of any property owner subject to this Ordinance, in order to safeguard the safety, health, and welfare of the public, to include any exterior of the

premises or property area, at a reasonable time; and shall have a right to inspect the interior of property to safeguard compliance with this Ordinance subject to order of court as described below:

405.3.1. By consent of the property owner; or

405.3.2. In the event that the County opts, through its designated agent, to pursue enforcement under this Ordinance as a filing of a citation and action before a magisterial district judge as a summary offense, prior to the filing of any such action, if the designated agent of the County has the requisite probable cause to do so, said designated enforcing agent of the County may apply before a court of competent jurisdiction for a search warrant for the purposes of seeking and/or gathering evidence pertinent to a violation of this Ordinance and the pursuit of any such citation.

405.3.3. In the event that the County opts to pursue enforcement under this Ordinance by filing a civil claim, the County may explicitly file such a claim in law and in equity for purposes of seeking a preliminary injunction, pre-complaint discovery, or other such civil or equitable relief permitted by any relevant civil procedural rules, regulations, or caselaw, for the purposes of enjoining further violation of this Ordinance, or for purposes of seeking and/or gathering evidence pertinent to pursuit of a civil claim for violation of this Ordinance.

406. ENFORCEMENT: PENALTIES AND REMEDIES

406.1. Summary Offense: The County may, in its discretion, pursue enforcement against any person who fails to comply with this Ordinance, as aforesaid, by action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The fine shall be in an amount of One Thousand and 00/100 (\$1,000.00) Dollars for each violation. Additionally, imprisonment may be imposed to the extent allowed by law for the punishment of summary offenses. Any person or entity found guilty of violating this Ordinance may be assessed court costs, reasonable attorney fees incurred by the County in any enforcement proceedings, as well as other costs of enforcement, such as expert witness fees (including but not limited to engineering fees) and enforcement officer or agency fees. Any penalty imposed in a summary prosecution shall be in addition to any costs or payment made for enforcement charges or administrative charges. Each day the violation of this Ordinance occurs, continues, or is permitted to continue, will constitute a separate offense for which a separate fine and related penalties as referenced above may be imposed. In those instances where relevant, a property owner on which a violation is occurring and an operator of any facility which constitutes a violation of this ordinance, and/or any other person responsible for such a violation, shall be jointly and severally liable.

406.2. Civil Claim: The County may, in its discretion, pursue enforcement against any person who fails to comply with this Ordinance, by filing a civil action for either legal or equitable relief, including any form of damages collectible at law or in equity, before a magisterial district court or in the Court of Common Pleas or any other court of competent jurisdiction, to include recovery of costs and expenses as otherwise noted in this Ordinance (in the section on criminal enforcement, above).

406.3. Municipal Lien: If a property owner permits (for example, but not limited to, through being a party to an agreement with a third party) or causes said property to be maintained in violation of this Ordinance, the County may, after providing the owner with written notice under this Ordinance,

correct the matter giving rise to the violation at County expense and may thereafter collect all costs and expenses, to include man-hours used by the County for such corrective action, plus 10% incurred in connection with correcting the violation, through the means of filing a municipal lien on the subject property. If a violator of the Ordinance does not take action upon notice, under this Ordinance, and it is necessary for the protection of the public health, safety, and/or welfare for the County to proceed to take said action to eliminate any threat to the public health, safety, and/or welfare, upon real property in violation of this Ordinance, the County may, in addition to or exclusive of any legal or equitable action to recover the costs and expenses to the County for any such action by the County, place a municipal lien on such real property associated with a violation.

- 406.4. Furthermore, any costs and expenses of any type attributable to the owner by action of the above subparagraphs with regard to enforcement by other means, shall be assessable and collectible through the means of filing a municipal lien on the subject property.
- 406.5. No Remedy Shall be Exclusive: The choice by the County to initiate any summary proceedings against any person, firm, partnership, corporation, or other entity, who or which fails to comply with the terms of this Ordinance, nor the initiation of any other form of enforcement of this ordinance, to include civil claim, civil penalty, or municipal lien, shall not serve as the exclusive remedy or means of enforcement of this Ordinance, and the County retains all rights provided by law to pursue other remedies including actions in equity or otherwise in the Magisterial District Court, Court of Common Pleas, or any other court of competent jurisdiction.
- 406.6. Costs and Fees Assessable: In the event that legal proceedings are necessary to enforce this Ordinance, the County shall be allowed to recover, reasonable counsel fees, in addition to all other legal costs and expenses associated with enforcement which may be legally collectible, including but not limited to, expert witness fees (including but not limited to engineering fees and/or enforcement agency fees).
- 406.7. Enforcement of this Ordinance is not exclusive with any other County Ordinance, or ordinance of a local municipality, and any remedies under this Ordinance are not mutually exclusive with any remedies under any other Ordinance or law at any level of government.

407. SEVERABILITY AND REPEALER: If any parts or sections of this Ordinance are adjudicated to be unconstitutional, illegal, or invalid by a court of appropriate jurisdiction, then each and every other part and element shall remain in full force and effect, it being the intention of the County to have enacted this Ordinance even without the inclusion of any such parts or provisions held to be unconstitutional, illegal or invalid. Any parts of any Ordinances which are specifically inconsistent with the terms of any prior Ordinance concerning the same subject matter are hereby superseded, only to the extent that they contradict any term of this Ordinance.

408. HEADINGS: Section headings set forth in this Ordinance are merely for convenience purposes, and they shall not be taken to govern or limit the scope of sections set forth in this Ordinance.

409. EFFECTIVE DATE: This Ordinance shall be effective upon enactment.

410. STATUTE OF LIMITATIONS - If no action is taken by the Commission, against a violator of these regulations, within a period of ten (10) years following a violation, no action will be pursued by the Commission.

411. KEEPING OF RECORDS- The Somerset County Planning Commission shall keep a record of their findings, decisions, and recommendations relative to all subdivision plans filed for review. All records shall be available for public review and inspection.

412. RESPONSIBILITY- The applicant shall be responsible for observing the procedures established in this ordinance and for submitting all plans and documents as may be required.

413. CONFLICTS- All existing ordinances or regulations or parts thereof, which are contrary to the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect. Any entity regulated by the Pennsylvania Public Utility Commission shall be exempted from the provisions of this Ordinance to the extent provided by applicable law.

414. SEVERABILITY- Should any article, section, subsection, paragraph, clause, phrase, or provision of these regulations be declared by a court of competent jurisdiction to be invalid, such judgment shall not affect the validity of the regulation as a whole or any part or provision thereof other than the part so declared to be invalid or unconstitutional.

APPENDIX

DRAFT

Resolution # ___ of ___

Somerset County Data Center Planning Ordinance- Fee Schedule

Whereas, the Pennsylvania County Code for Counties of the Second Class A Through Eighth Class, at 16 Pa.C.S.A. 12509, as amended, authorizes the governing body to prescribe reasonable fees with respect to the administration of a Data Center Planning Ordinance;

Therefore, Somerset County list the fee schedule as attached.

Adopted this ___ day of ___, 20__.

Somerset County Board of Commissioners

Brian Fochtman, Chair

Irv Kimmel, Vice- Chair

Pamela A. Tokar- Ickes, Secretary

Attest:

Scott DeArmitt, Chief Clerk

**APPLICATION FEE SCHEDULE
SOMERSET COUNTY DATA CENTER PLANNING ORDINANCE**

The filing fee will be considered part of the application package and shall be submitted by the developer, or their agent, at the time the plan is delivered to the Somerset County Planning Commission Offices. **No**

application packages will be accepted by the Planning Commission without the appropriate fee attached.

The following fees will be required, as part of every submission package beginning of the effective date to the Somerset County Communications Tower Ordinance. Resubmissions are subject to the following review fees:

Data Center Plan	\$1,000
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APPLICATION FOR SUBDIVISION OR LAND DEVELOPMENT APPROVAL
SOMERSET COUNTY PLANNING COMMISSION

Name of Subdivision/Development: _____									
Type of Application (Check One):									
☐	MASTER PLAN	(\$50)	☐	SIGN PERMIT		(\$100)			
☐	MINOR SUBDIVISION PLAN/REV.	(\$100)	☐	MINOR NON-RESIDENTIAL LAND DEVELOPMENT PLAN		(\$100)			
☐	MAJOR SUBDIVISION PLAN/REV.	(\$200)	☐	MAJOR NON-RESIDENTIAL LAND DEVELOPMENT PLAN		(\$200)			
☐	INCIDENTAL BOUNDARY CHANGE	(\$25)	☐	MOBILE HOME LAND DEVELOPMENT (see Appendix)		*			
☐	SMALL PROJ. STORMWATER REV	(\$25)	☐	RESIDENTIAL CLUSTER (see Appendix)		*			
☐	STORMWATER REVIEW	(\$200)	☐	CAMPGROUND LAND DEVELOPMENT(see Appendix)		*			
Owner Name:						Telephone:			
Owner Address:									
Owner City:				State:				Zip:	
								Email:	
Applicant Name:						Telephone:			
Applicant Address:									
Applicant City:				State:				Zip:	
								Email:	
Consultant Name:						Telephone:			
Consultant Address:									
Consultant City:				State:				Zip:	
								Email:	
Tax Map Number(s) of parcel being divided or developed: (ex: S00-000-000-00)									
Municipality:				Is the site in the Coxes Creek or Stonycreek Watershed?				☐ Y ☐ N	
Subdivisions	Acreage of Original Parcel:				Number of lots being created:				
	Minimum Proposed Lot Size:				Residue Lot:		+		
	Water Supply System:				# of Lots previously created from Original Parcel, since May 28, 1991:		+		
	Sewer Disposal System:								
	Proposed Use:				Total:		=		
LAND DEVELOPMENTS	Exiting Non- Res. Building (sf):				Existing Non-Res. Impervious Area (sf):				
	Proposed Building Footprint (sf):				Proposed Impervious Surfaces – Non-Building (sf):				
	Limits of Disturbance (sf):				Note: Please include a narrative sheet if necessary.				

Note (Please Read Carefully) Upon signing this application, the Owner/Subdivider has read the attached Fact Sheet and does hereby grant permission to the Somerset County Planning Commission, their staff, and/or their agent(s) to enter upon the above mentioned parcel(s) for the purpose of site inspection(s). Said approval shall extend until such time as final plan approval signatures of the Somerset County Planning Commission have been affixed to the plan.

Owner Signature _____ Date _____

ALTERNATIVE SET-BACK AND WAIVER AGREEMENT EXAMPLE

THIS AGREEMENT MADE THIS _____ day of _____, 2024, by and between:

Name1, having a mailing address of _____ (hereinafter referred to as "Adjacent Landowner")

A N D

Name 2, having a mailing address of _____ (hereinafter referred to as "Developer")

WHEREAS, Adjacent Landowner is the owner of a parcel of land situate in MUNICIPALITY, Somerset County, Pennsylvania more particularly described in Somerset County Recorder of Deeds Office in Record Book Volume _____, Page _____, having a Tax Identification No. _____ and a Tax Map No. of _____ ("Adjacent Property"); and

WHEREAS, Developer is the owner of a parcel of land situate in MUNICIPALITY, Somerset County, Pennsylvania more particularly described in Somerset County Recorder of Deeds Office in Deed Book Volume _____, Page _____, having a Tax Identification No. _____ and a Tax Map No. of _____ ("Developer Property"); and

WHEREAS, Developer proposes to erect a commercial building on Developer Property; and

WHEREAS, pursuant to Section _____ of the Somerset County Communication Tower Ordinance, the set back requirement for any structure from the exterior boundary lines of the Adjacent Property is _____ feet ("Set Back Requirement"); and

WHEREAS, the proposed structure to be erected on Developer Property will encroach into the required setback area by _____ feet (_____ feet from the Adjacent Property)("Encroachment"); and

WHEREAS, Adjacent Property Owner agrees to wave the Set Back Requirement pursuant to Section _____ of the Somerset County Communication Tower Ordinance.

NOW THEREFORE, for and in consideration of the mutual promises herein contained and intending to be legally bound hereby, the parties do hereby agree as follows:

1. Adjoining Property Owner does hereby consent to the erection of the commercial building by Developer to be located **ten (10) feet** from the Adjoining Property, in compliance with Section _____ of the Somerset County Communication Tower Ordinance and by signing below does waive the Set Back Requirement for pursuant to Section _____ of the Somerset County Communication Tower Ordinance ("Set Back Waiver").
2. Adjoining Property Owner does hereby authorize Developer to deliver this Set Back Waiver to the appropriate authorities and further authorizes Developer to cause the same to be recorded among the land records of Somerset County, Pennsylvania.
3. Developer agrees to indemnify and hold Adjacent Property Owner, their agents, representatives, heirs, successors and assigns harmless from any and all claims, injuries, losses, causes of action, costs, damages and expenses, including attorney's fees, arising out of or related to any action or damage to Adjacent Property and for any injury to or death of any persons arising from any action or omission of Developer, or its agents, employees, invitees, successors or assigns as a result of any condition or defect on the Developer Property relating to the Encroachment.

4. This waiver shall inure to the benefit of the parties, and their heirs, successors and assigns and be a covenant that shall run with the land.

ATTEST:

DEVELOPER

Secretary

President

COMMONWEALTH OF PENNSYLVANIA

)

ss:

COUNTY OF

)

On this, the _____ day of _____, 2024, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of **NAME 2**, and that he as such _____, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as _____.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

WITNESS:

ADJACENT PROPERTY OWNER

NAME 1

COMMONWEALTH OF PENNSYLVANIA

)

ss:

COUNTY OF SOMERSET

)

On this, the _____ day of _____, 2024, before me, the undersigned officer, personally appeared **NAME 1**, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

NON-DISTURBANCE WAIVER

THIS WAIVER, entered into this _____ day of _____, by and between:
_____, hereinafter referred to as "Property Owner"

AND

_____, hereinafter referred to as "Developer"

WHEREAS, Property Owner is the owner of a parcel of land situate in _____, Somerset County, Pennsylvania, more particularly described in Somerset County Deed Book Volume _____, at Page _____, upon which is currently erected a residential building ("Building"); and

WHEREAS, Developer proposed to erect a wind energy tower or tower ("tower") which will be within the setback requirements of the Somerset County Communication Tower Ordinance ("Ordinance") from Property Owner's Building; and,

WHEREAS, Property Owner has agreed to provide Developer with a Consent and Waiver as required by the Ordinance.

NOW THEREFORE, intending to be legally bound hereby, Property Owner agrees as follows:

1. Property Owner does hereby consent to the erection of the Tower within the setback requirements from his/her/its Building.
2. Property Owner further releases Developer, its successors and assigns as well as the County of Somerset, and any of its agencies, of and from any and all claims, damages and/or losses resulting from higher noise levels, visual impacts, flickering reflections and/or shadows which may arise as a result of the location of the Tower within the established setback distance from Property Owner's Building.
3. This Waiver shall be a covenant running with the land and shall inure to and be binding on the parties hereto, their heirs, successors and assigns. It shall further be recorded among the records of the Recorder of Deeds of Somerset County, Pennsylvania. This form shall be a standalone document and must be delivered to the Planning Commission at the same time the plan is submitted for review.

IN WITNESS WHEREOF, Property Owner has set their hands and seals the day and year first above written.

Witness

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF SOMERSET)

ss:

On this, the _____ day of _____, before me, the undersigned officer, personally appeared _____ known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that _____ executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

Notary Public

**ACKNOWLEDGEMENT OF INDIVIDUALS OR PARTNERS
LANDOWNER**

STATE OF: _____ : _____ : SS

COUNTY OF: _____ :

On _____, before me, the undersigned Notary, personally appeared

Name(s)

Known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and who acknowledged that _____ (*he, she, they*) executed the same and desires it to be recorded. IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL) _____ Notary Public My Commission Expires: _____ Date

LANDOWNER

STATE OF: _____ : _____ : SS

COUNTY OF: _____ :

On _____, before me, the undersigned Notary, personally appeared

(Name(s))

Known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and who acknowledged that _____ (*he, she, they*) executed the same and desires it to be recorded. IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL) _____ Notary Public My Commission Expires: _____ Date

ACKNOWLEDGEMENT OF CORPORATIONS- LANDOWNER

STATE OF: _____ : _____ : SS

COUNTY OF: _____ :

On _____, before me, the undersigned Notary, personally appeared

_____, acknowledged (herself)(himself) to be the _____ (Title of
Person) of

(Name of
Corporation) _____, a

corporation, and that (she)(he), as such officer, being authorized to do so, executed the foregoing instrument on behalf of the said corporation and desires that this instrument be recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL) _____ Notary Public My Commission Expires: _____
_____ Date _____

This instrument has been recorded in _____ County, Pennsylvania, this
_____ day of _____, _____ (year), at Book _____ Page(s) _____.

(Signed & Print Name)

(Seal)

CONTRACTUAL CONSENT OF LANDOWNER

(I)(We), the undersigned, being the owner(s) of _____ acres of land located in _____ Township/Borough, Somerset County, as described in the deed(s) recorded in the Recorder of Deeds Office Book(s) and pages (s) _____ and by tax map number _____ or tax identification _____ upon which the

_____ (Name of Developer, Engineer, or Surveyor)

Proposes to engage in a design of a subdivision of land or in a land development activities for which an application for approval will be made to Somerset County Planning Commission and which application this consent will be made a part, **DO HEREBY ACKNOWLEDGE THAT THE APPLICANT HAS THE RIGHT TO ENTER UPON AND USE THE LAND FOR PURPOSES OF THE SUBDIVISION OR LAND DEVELOPMENT ACTIVITIES.**

Furthermore, (I)(We), the undersigned, do hereby irrevocably grant to the applicant and the Somerset County Planning Commission, the right to enter upon the aforesaid land during the application and approval process, during the development activity(ies) and upon the conclusion of the development for the purpose of inspecting the site. (I)(We) do hereby grant in addition to the adjoining or contiguous lands owned by (us)(me) in order to have access to the land described herein. It is specifically agreed and understood that this contractual consent give the Applicant and the Somerset County Planning Commission the right to enter, inspect and study, the land and does not constitute and ownership interest by the Applicant or Somerset County Planning Commission in the aforesaid land.

This consent shall not be construed to impair any contractual agreement between the Applicant and the landowner.

(INSERT ADDITIONAL PROVISIONS OR RESTRICTIONS)

In witness whereof and intending to legally bind (myself)(ourselves), (my)(our) heirs, successors and assigns,

(I)(we) have hereunto set (my)(our) hand(s) and seal this _____ day of _____, _____(year)

By: _____
(signature) (Seal)

(Print Name)

By: _____
(signature)

(Print Name)