

TOWNSHIP OF PENN
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 183

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF PENN, BUTLER COUNTY, PENNSYLVANIA, AMENDING TOWNSHIP ORDINANCE NO. 166 KNOWN AS THE “PENN TOWNSHIP ZONING ORDINANCE” TO ESTABLISH REGULATIONS, SPECIFICATIONS, AND RESTRICTIONS FOR THE DATA CENTER USE AND ACCESSORY USES/STRUCTURES ASSOCIATED WITH THE DATA CENTER USE IN THE TOWNSHIP.

WHEREAS, as authorized by the Pennsylvania Municipalities Planning Code (“MPC”), the Board of Supervisors of the Township of Penn (the “Township”) regulates land use and zoning within the Township through its comprehensive Zoning Ordinance, currently Ordinance No. 166 of the Township, as amended (the “Zoning Ordinance”); and

WHEREAS, the Board of Township Supervisors of the Township of Penn has determined that it is in the best interest and general health, safety, and welfare of the residents of the Township to amend the Township Zoning Ordinance to establish standards and requirements for the Data Center use and accessory uses/structures associated with the Data Center use within the Township; and

WHEREAS, the Township Board of Supervisors held a duly noticed and advertised public hearing to take public comment on the proposed zoning ordinance text amendments; and

WHEREAS, the Township Board of Supervisors, having received such public comment as may have been given at the public hearing, and having received the recommendations of the Township’s Planning Commission, the Butler County Planning Commission, and the Township Land Use Administrator, finds that enactment of this proposed zoning ordinance amendment will be beneficial to the health, safety, and welfare of the Township and consistent with the PA MPC.

NOW THEREFORE, be it ORDAINED and ENACTED by the Board of Supervisors of the Township of Penn, Butler County, as follows:

SECTION 1 – AMENDMENT TO APPENDIX A – DEFINITIONS OF ZONING ORDINANCE

Appendix A - Definitions of the Township Zoning Ordinance, Ordinance No. 166, as amended, is hereby further amended as follows by inserting the following definitions:

COMMUNITY NOISE EQUIVALENT LEVEL (CNEL) - 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.

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 CAMPUS - A single site or group of contiguous parcels planned and developed as one integrated Data Center facility.

DATA CENTER ACCESSORY USES/STRUCTURES - 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 generation 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.

SENSITIVE RECEPTORS – Structures/uses that have the potential to be negatively impacted by excess and unwanted noise, including but not limited to residential housing, 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.

STATIONARY ENERGY STORAGE SYSTEMS - Large-scale technologies designed to store electricity for later use.

SECTION 2 – AMENDMENT TO TOWNSHIP USE TABLE

Section 2.07 of the Township Zoning Ordinance, Ordinance No. 166, as amended, is hereby further amended as follows by inserting the underlined text and deleting the stricken text:

2.07 USE TABLES

Use Category	S	RE	R-1	C-1	C-2	I-L
<u>Data Centers</u>						<u>C</u>

SECTION 3- AMENDMENT TO CHAPTER 8 OF ZONING ORDINANCE

Section 8.01 of the Township Zoning Ordinance, Ordinance No. 166, as amended, is hereby further amended as follows by inserting the underlined text:

8.01 CONDITIONAL USES

Conditional Uses: Composting-commercial, animal kennels-private, stables-boarding/riding academies, lodging-hotels/motels, correctional facilities, schools, parks-active, parks-passive, recreation-indoor facilities, recreation-nonprofit, essential communication facilities, pawn shops, check cashing shops, adult-oriented business, storage of vehicles-commercial boats/RV's/cars/equipment/fleet, storage of explosive materials, terminal-freight, data centers and accessory structures associated with data centers, and laundry-industrial.

SECTION 4 – AMENDMENT TO CHAPTER 16 OF ZONING ORDINANCE

Section 16.05 of the Township Zoning Ordinance, Ordinance No. 166, as amended, is hereby further amended as follows by inserting the underlined text and deleting the stricken text:

16.05 PARKING SPACE REQUIREMENTS-VEHICLES AND BICYCLES

Type of Use	Number of Parking Spaces Required	
	Minimum	Maximum
Commercial		
<u>4. Data Centers and accessory structures associated with Data Centers</u>	<u>1 parking space per employee on the largest shift is required, plus an additional 3 visitor spaces</u>	<u>N/A</u>

SECTION 5 - SPECIFIC USE CRITERIA FOR DATA CENTER USE

Chapter 18 of the Township Zoning Ordinance, Ordinance No. 166, as amended, is hereby further amended as follows by inserting the following as new Section 18.55:

18.55 DATA CENTERS

The following requirements shall apply to all Data Centers and accessory structures associated with Data Centers. In the event that any of the following regulations are found to be in conflict with regulations found elsewhere in the Township of Penn Code of Ordinances, the most restrictive regulations shall be applied, unless otherwise stated.

1. Applications

- a. Applications for the data center conditional use shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the Data Center principal structure and/or associated structures, including all property lines.
- b. The Applicant shall pay all application fees, engineer review fees, and any other review fees when seeking approval of Data Centers and accessory uses/structures associated with Data Centers under this Ordinance. All fees

shall be paid before final approval is granted.

- c. Applicants must submit evidence of compliance with all applicable Pennsylvania DEP and federal NPDES requirements during the application review process. An application will not be considered complete if the applicant doesn't submit evidence of compliance. This includes, but is not limited to:
 - i. Water withdrawal registration/permit where withdrawals exceed state thresholds.
 - ii. NPDES coverage or individual permit for any planned discharge (cooling tower blowdown, process wastewater, etc.). Cooling tower blowdown is a known permitting category.
 - iii. If the Applicant is not at a stage where it can provide this requested information with a conditional use application, such shall be provided with any land development application and the Applicant shall accept as a condition of any conditional use approval that such evidence be submitted along with any land development application.
- d. If the proposed system is truly closed loop and produces no discharge, the applicant must supply a sworn engineering statement and O&M manual explaining how the system will avoid routine discharge; the Township reserves the right to require third-party validation.

2. Building Placement and Orientation

- a. All Data Centers and accessory uses/structures associated with Data Centers shall be arranged, designed, and constructed to be harmonious and compatible with the site and with the surrounding properties.
- b. Buildings shall be sited and oriented to:
 - i. 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.
 - ii. Provide safe and convenient vehicular access to the site, including sufficient on-site queuing areas at security gates.
 - iii. Accommodate adequate parking.
 - iv. Minimize impacts to natural resources.
- c. Data Center Campus 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.
- d. All outdoor lighting fixtures shall be properly shielded and meet the performance standards outlined in section 15.08.

- e. The Perimeter shall be surrounded by security fencing and shall be a minimum of eight (8) feet in height above ground and shall be of high-quality design and materials; no barbed wire is permitted.
- f. 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.
- g. All proposed Data Center principal structure and/or associated structures shall conform to the Township stormwater management practices outlined in the Township Stormwater Ordinance.

3. Maximum Height

The maximum building height for Data Centers, principal building and/or associated structures, shall be 60 feet.

4. Lot Dimensional Standards.

- a. For Data Center under 50,000 Gross Square Footage
 - i. The minimum lot area shall be 3 acres.
 - ii. Maximum lot coverage 70%.
 - iii. Lot width shall be determined by the standards set forth within the underlying zoning district.
- b. For Data Center between 50,000 Gross Square Footage – 500,000 Gross Square Footage
 - i. The minimum lot area shall be 20 acres
 - ii. Maximum lot coverage 70%.
 - iii. Lot width shall be determined by the standards set forth within the underlying zoning district.
- c. For Data Center over 500,000 Gross Square Footage
 - i. The minimum lot area shall be 50 acres.
 - ii. Maximum lot coverage 70%.
 - iii. Lot width shall be determined by the standards set forth within the underlying zoning district.

5. Setbacks

All Data Centers and accessory uses/structures associated with Data Centers shall maintain the following setback requirements:

- a. For Data Centers under 50,000 Gross Square Footage
 - i. 100 feet from the property lines.
- b. For Data Centers between 50,000 Gross Square Footage – 500,000 Gross Square Footage

- i. 200 feet from the property lines.
- c. For Data Centers over 500,000 Gross Square Footage
 - i. 300 feet from the property lines.
- d. Data Center Electric Utility Substations
 - i. 100 feet from the property lines.
- e. Parking and loading setbacks shall be at least as follows:
 - i. 75 feet from the property lines.
- f. All Data Centers shall have a setback of at least 300 feet from any body of water, perennial or intermittent stream, or wetland.
- g. No Data Centers and/or accessory structures associated with Data Centers may be located within the 100-year and 500-year flood elevations as shown in the most recent Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency for the Township.

6. Loading Bay Requirements

- a. A minimum of one loading bay is required and must meet the requirements outlined in Chapter 16.

7. Noise/Vibration

- a. Community Noise Equivalent Level (CNEL)
 - i. The CNEL at the boundary of the property containing a Sensitive Receptor shall not exceed a noise standard of 55 dB(A) and 55 dB(C) during the day and 45 dB(A) and 45 dB(C) at night.
 - ii. The CNEL at the boundary of any developed property not containing a Sensitive Receptor shall not exceed a standard of 65 dB(A) and 65 dB(C) during the day and 55 dB(A) and 55 dB(C) at night.
 - iii. 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.
- b. A noise reduction barrier or device may be required at the discretion of the Board of Supervisors when it is inconclusive that noise level tests do not conform to acceptable noise levels.
- c. No vibration from the data center, data center accessory uses, or associated equipment shall be perceptible without instruments at any point beyond the data center's property line.
- d. A sound study shall be conducted at the following phases:
 - i. A preliminary study shall be conducted to determine the Community Noise Equivalent Level (CNEL) at points along every

boundary of the property where the proposed use is located.

- ii. An as-built sound study shall be conducted six months after issuance of the certificate of occupancy. Additional sound studies may also be required thereafter by the Township. 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.
- iii. Maximum decibel levels specified herein shall not apply during times of power outage; however, the sound studies shall also evaluate, and report anticipated decibel levels when all emergency power generation equipment is running, including backup generators.
- iv. The applicant shall provide a vibration study prepared by a qualified and licensed professional that demonstrates that no vibration from the Data Centers and accessory uses/structures associated with Data Centers will be perceptible to the human sense of feeling beyond the property line.
- v. All costs for present and future noise and vibration studies will be incurred by the applicant.

8. Performance Standards

The use shall comply with all performance standards set forth in Section 15.08, 15.09, and 15.10 of the Township

9. Safety

- a. The equipment used in any Data Centers and accessory uses/structures associated with Data Centers 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.
- b. Any Data Centers and/or accessory uses/structures associated with Data Centers 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.

10. Power Supply

- a. An energy generation system designed to supply power directly to Data Centers and accessory uses/structures associated with Data Centers, during normal operations, shall be required. Such systems shall be considered an accessory use/structure and shall be reviewed according to the regulations set forth within this ordinance and the conditional use review process.

- b. If the applicant cannot provide its own energy generation system, then the applicant shall provide an interconnection agreement from the applicable electric service provider indicating that the necessary capacity is available, and the data center will be served.
- c. Additionally, the applicant shall provide documentation that the power consumption by the data center was approved by the applicable utility and shall be secured by financial security required by said utility prior to the start of any data center construction.

11. Power Lines and Data Center Electric Utility Substations

- a. 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.
- b. 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.
- c. All new and enhanced electric lines, both transition and distribution, must be located underground if technically possible. On-site power lines of 34.5 kV and below must be buried.

12. On-site Power Generation

- a. 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 set forth by local, state, and federal regulations.
- b. 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, per this Ordinance.
- c. All building roofs shall be solar ready, which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of roof-mounted solar energy systems.

13. Emergency Contact Information

Each Data Center and accessory uses/structures associated with Data Centers shall provide 24-hour emergency contact to the Township, Township Police Department, and the Penn Township Volunteer Fire Department.

14. Buffer Yards and Screening

All Data Centers and accessory uses/structures associated with Data Centers shall provide buffer yards and screening along all property boundary lines, except for areas of ingress and egress into the site.

- a. Loading bays, refuse collection areas, and service entrances shall be

screened from view from existing or planned public roads, residential uses, and other Sensitive Receptors.

b. Mechanical/Electrical Equipment Screening

i. Ground-Mounted

- (1) Ground-mounted equipment adjacent to and serving the Data Center Principal Building or associated structures 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.
- (2) When in or adjacent to an industrial use, ground-mounted equipment screening is only required from any existing or planned public road.
- (3) Ground-mounted equipment is prohibited in any required setback.

ii. Rooftop

- (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 or associated structures. 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. Rooftop equipment to be screened includes, but is not limited to, the following: cooling, ventilation, and power supply machinery.
- (2) Rooftop 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.

c. Buffering

- i. Data Centers and accessory uses/structures associated with Data Centers, sites abutting Sensitive Receptors or public right of ways must include an enhanced buffer yard with required plantings located on an earthen berm with a grade no steeper than 2:1.
- ii. The minimum height of the berm abutting Sensitive Receptors and abutting public right of ways is two feet.
- iii. Where the combined footprint of the principal structure and/or associated structures is less than 50,000 square feet:
 - (1) A minimum 75-foot buffer yard shall be provided along the entire length of the property line.

- iv. Where the combined footprint of the principal structure and/or associated structures is between 50,000 square feet and 500,000 square feet:
 - (1) A minimum 100-foot buffer yard shall be provided along the entire length of the property line.
- v. Where the combined footprint of the principal structure and/or associated structures exceeds 500,000 square feet:
 - (1) A minimum 200-foot buffer yard shall be provided along the entire length of the property.
- vi. 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.
- vii. Use of existing vegetation for landscaping and screening is required and may be substituted for new berms and plantings if approved by the Board of Supervisors.
- viii. Where a lot line drainage or utility easement is required, the buffer yard shall be measured from the inside edge of the easement.
- ix. 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.
- x. Plant material within buffer plantings shall meet the following requirements:
 - (1) Be resistant to diesel and gas exhaust.
 - (2) No invasive species identified on the most current DCNR invasive species or watch lists.
 - (3) Shall be planted on the top and the exterior of any berm in order to provide effective screening.
 - (4) Shall be arranged in groupings to allow for ease of maintenance and to provide a natural appearance.
- xi. The buffer zone 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 as determined by the Board of Supervisors.

15. Environmental and Community Impact Analysis

The applicant shall provide an environmental and community impact analysis. The environmental and community impact analysis shall include:

- a. 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.
- b. 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.
- c. Evidence that the disposal of materials will be accomplished in a manner that complies with local, state, and federal regulations.
- d. An evaluation of the potential impacts of the proposed use, both positive and negative, upon:
 - i. Emergency services and fire protection,
 - ii. Water supply,
 - iii. Sewage disposal,
 - iv. Solid waste disposal,
 - v. School facilities and school district budget, and
 - vi. Municipal revenues and expenses.
- e. 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.
- f. 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. The potential for public nuisance to residents resulting from operations and truck traffic, including noise, glare, light, and visual obstacles, exists.
- h. A stormwater management plan will be required and must follow the Township's Stormwater Ordinance and all Commonwealth of Pennsylvania Department of Environmental Protection regulations and requirements.
- i. Consistency with the Township comprehensive plan. The applicant shall submit an assessment report of the impact of the proposed use on the goals of the Township's Comprehensive Plan. 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.

- j. Additional considerations. The following shall also be addressed:
 - i. Alternative analysis. A description of alternatives to the impacts.
 - ii. Adverse impacts. A statement of any adverse impacts that cannot be avoided.
 - iii. Impact minimization. Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction, including design considerations.
 - iv. Mitigation steps. A listing of steps/structural controls proposed to minimize damage to the site before and after construction.
- k. 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.
 - i. 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.
 - ii. A statement of impact upon critical areas and of adverse impacts that cannot be avoided.
 - iii. Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction.

16. Water and Sewer

- a. No Data Center principal structure and/or associated structures shall use private groundwater wells or direct withdrawals from surface watercourses as its primary source of water and must use a public water source.
- b. Data Centers shall use cooling systems which require the least amount of water usage as feasibly possible.
- c. Prohibition on private well dependency. Data center principal structure and/or associated structures may not be designed to draw primary cooling make-up water from private potable wells.
- d. Data Center principal structure and/or associated structures must use a public sewer source.

17. Emergency Management

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

- a. Be reviewed and recommended by the local fire department and emergency management services as part of the conditional use process.

- i. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site;
 - ii. Ensure that all first responders receive adequate training specific to the installed system;
 - iii. Include provisions for annual fire safety inspections demonstrating compliance with fire safety standards to be performed by a qualified professional on behalf of the Data Center.
- b. Any 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), Installation of Stationary Energy Storage Systems, or similar standards and must include fire suppression systems designed specifically for battery storage.
- c. No Data Centers and accessory uses/structures associated with Data Centers proposal 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.
- d. Data Center and accessory uses/structures associated with Data Centers shall provide 24-hour emergency contact to the Township, Township Police Department, and the Penn Township Volunteer Fire Department.

18. Green Building Techniques

Data Centers are required to implement low-impact development practices in site design and energy efficiency, such as, but not limited to, the following:

- a. Site Design
 - i. Select sites that avoid sensitive lands such as wetlands, floodplains, and steep slopes.
 - ii. Minimize land disturbance.
 - iii. Maximize tree preservation.
 - iv. Minimize impervious surfaces.
 - v. Minimize potential nuisance impacts (noise, glare, vibration, etc.) on adjacent properties, public roadways, and the vicinity.
- b. Energy/Resource Efficiency
 - i. Orient buildings to take advantage of passive cooling and daylight opportunities.
 - ii. Utilize alternative energy sources (solar, wind, hydro, nuclear or other alternative source) as much as possible, subject to obtaining all required governmental approvals and permits.
 - iii. Provide an energy storage system to monitor and regulate usage of

- alternative energy for usage during off-peak hours.
- iv. Encourage systems that limit the use of finite natural resources and their disposal.
 - v. Encourage fuel storage that limits impacts on the environment from potential spills.
 - vi. Install water-efficient landscape materials.
 - vii. Utilize reclaimed water for cooling.
 - viii. 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.

19. Threatened and Endangered Species

- a. A 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 Township.
- b. 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.

20. Decommissioning

- a. 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.
- b. 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.
- c. 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.
- d. The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township'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.

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 of this Ordinance. It is hereby declared as the intent of the Board of Township Supervisors of the Township of Penn that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof had not been included herein.

SECTION 7 – CONFLICTS

Should any provision of this Ordinance conflict with any other section, provision, regulation, or standard of any other Township Ordinance, the more restrictive provision shall apply.

SECTION 8- EFFECTIVE DATE

The Township of Penn Data Center Ordinance shall become effective upon adoption. This Ordinance shall apply to all Data Center Plans submitted on or after the effective date.

ENACTED AND ORDAINED into law by the Board of Supervisors of the Township of Penn, Butler County, Pennsylvania, this _____ day of _____ in 20____.

Township Manager

Chairman of the Board

Vice-Chairman of the Board

Supervisor