

SMITH TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2025-XX

**AN ORDINANCE OF SMITH TOWNSHIP, WASHINGTON COUNTY,
PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE
TO ESTABLISH REGULATIONS FOR DATA CENTERS WITHIN THE
TOWNSHIP.**

WHEREAS, the Second-Class Township Code, 53 P.S. Section 65101, *et. seq.* authorizes the Board of Supervisors of Smith Township to make and adopt Ordinances that are consistent with the Constitution and the laws of the Commonwealth of Pennsylvania that it deems necessary for the proper management of Smith Township; and,

WEHREAS, the Pennsylvania Municipalities Planning code, 53 P.S. Section 10101, *et seq.*, authorizes the Board of Supervisors of Smith Township to enact, amend, and repeal Zoning Ordinances; and

WHEREAS, the Board of Supervisors of Smith Township deem it to be in the best interests and the general welfare of the citizens and residents of the Township to amend the Code as follows; and,

WHEREAS, the Board of Supervisors of Smith Township desires to establish appropriate regulations for the placement and operation of data centers within the Township; and

WHEREAS, the Township has determined that data centers, while potentially beneficial to economic development, may have significant impacts on neighboring properties and Township infrastructure if not properly regulated; and

WHEREAS, the Township Planning Commission has reviewed and recommended approval of these amendments to the Township Zoning Ordinance; and

WHEREAS, the Board of Supervisors of Smith Township have met all procedural requirements of the Pennsylvania Municipalities Planning Code and Second-Class Township Code for the adoption of the proposed Ordinance, including holding a Public Hearing.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Smith Township, Washington County, Pennsylvania, as follows:

SECTION 1. DEFINITIONS

The following definitions shall be added to Chapter 27 (Zoning Ordinance) of the Smith Township Code:

DATA CENTER: A facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer systems and associated components, such as telecommunications and storage systems, including but not limited to power supplies, data communications connections, environmental controls (e.g., air conditioning, fire suppression), and security devices.

DATA CENTER ACCESSORY USE: Systems, equipment, facilities, and/or components used in the cooling system including fans, blowers, water or other liquid cooling pumps, power supply systems including electrical substations, transformers, fuel cells, generators, and similar systems and components, telecommunication, cloud communication, and mechanical or environmental controls when used in the support or enabling of a Data Center.

DATA CENTER EQUIPMENT (“DCE”): Data Center Equipment or DCE include Data Center Accessory Uses, which in an un-muffled state generate noise in excess of the permitted maximum dB(A) at the point of generation. DCE shall be accessory to the Data Center and be located on the same tract or assemblage of adjacent parcels developed as a unified development for a Data Center.

STREET: A public or recorded private right-of-way that affords primary means of vehicular access to abutting property, but not including alleys.

STREET, ARTERIAL: A public street that serves large volumes of high-speed and long-distance traffic. Streets classified as arterial in the Township for the purposes of interpreting this chapter are: U.S. Route 22 and PA Route 18.

STREET, COLLECTOR: A public street that, in addition to giving access to abutting lots, intercepts local streets and provides a route for carrying considerable volumes of local traffic to community facilities and arterial streets. Streets classified as collector streets in the Township for the purposes of interpreting this chapter are:

- A. Atlas-Cherry Valley Road
- B. Bavington Road
- C. Francis Mine State Road
- D. Joffre-Bulger Road
- E. Grant Street (formerly Joffre-Bulger Road)
- F. Joffre-Cherry Valley Road
- G. Langeloth Road
- H. Ostop Road
- I. Pleasant Valley Road
- J. Bulger-Candor Road
- K. Keys Road
- L. Plum Run Road
- M. Log Cabin Road

SECTION 2. CONDITIONAL USES

Data centers shall be conditional as follows:

- A. **Conditional Use:** Data centers shall be permitted as a principal use, conditional use only in the following zoning districts:
 - 1) Conservation District (C-D)
 - 2) Industrial District (I-1)
- B. **Prohibited Use:** Data centers shall not be permitted in any other zoning district.

SECTION 3. DEVELOPMENT STANDARDS

All data centers shall comply with the following development standards:

1. Lot Requirements

- A. **Minimum Lot Size:** Data Centers less than 40 MW - Five (5) acres
Data Centers 40 MW or greater – Thirty (30) acres
- B. **Maximum Lot Coverage:** Sixty-five percent (65%)
 - 1) At least 10% of the total lot area, excluding stormwater management facilities, must be designated green or open space
- C. **Minimum Lot Width:** One Hundred and Fifty (150) feet

2. Building Setbacks

- A. **Front Yard:** Fifty (50) feet minimum from right-of-way
- B. **Side Yard:** Fifty (50) feet minimum
- C. **Rear Yard:** Fifty (50) feet minimum
- D. **From Residential and Agricultural Districts:** Two hundred (200) feet minimum from any residential or agricultural zoned lot line.
 - 1) If located on the ground, any equipment for cooling, ventilating, or otherwise operating the facility, including any power generator or other power supply equipment, must be located at least 300 feet from the lot line of any residential or agricultural zoned property.

3. Building Design Standards

- A. **Maximum Building Height:** The maximum building height shall be seventy-five (75) feet.
- B. **Architectural Requirements:**

- 1) Façade variations shall be required to enhance visual appeal.
- 2) Main entrance features shall be clearly defined.
- 3) Buildings shall incorporate design elements to improve appearances.
- 4) Walls visible from public rights-of-way shall not exceed 100 feet in length without architectural treatment.

C. Data Center Accessory Equipment Screening:

- 1) All data center accessory equipment shall be screened from public view. Furthermore, all data center accessory equipment shall be secured against unauthorized entry and safeguarded in an approved manner.
- 2) Screening shall be accomplished through landscaping, fencing, or architectural elements compatible with the primary building.
- 3) Screening shall be a minimum of twelve (12) feet in height for ground mounted components and a minimum of ten (10) feet in height for roof mounted components.

4. Landscaping

A. Buffer Yard Requirement:

- 1) Buffer Area A shall be required in accordance with §1202.1.A for a visual screen of native vegetation installed between the facility and public roadways.
- 2) A minimum fifty (50) foot buffer yard shall be provided along all property lines abutting residential and agricultural districts.
- 3) Buffer yards shall include a dense screen of evergreen and deciduous trees.
- 4) Trees within buffer yards shall be planted at a minimum height of twelve (12) feet and reach a minimum height of thirty (30) feet at maturity.

5. Access and Parking

A. Access:

- 1) All access roads, including emergency access roads, shall have a total lane width of not less than 24 feet, excluding any on street parking areas and shoulder.
- 2) Primary access shall be from collector or arterial roads.
- 3) Access from local township streets is prohibited unless no alternative exists.
- 4) It shall be demonstrated that there is an adequate second means of ingress and egress suitable for emergency access to the site.

- 5) A minimum of one (1) fire lane intended for aerial apparatus access to roof structures shall be provided. The lane shall be:
 - i. A minimum of 24 feet wide restricted to travel and not including any on street parking or shoulder;
 - ii. Clearly identified with ground markings and post-mounted signs;
 - iii. Free from any overhead obstructions; and
 - iv. Able to access the area not less than 15 feet nor greater than 30 feet from the Data Centers and be on the same side of the structure as the access road.

B. Parking:

- 1) 1.5 spaces per onsite employee during peak shift.
- 2) Off-street loading shall be provided in accordance with §1303 Off-Street Loading.

SECTION 4. OPERATIONAL STANDARDS

1. Noise

A. Noise Limits:

- 1) Noise limits shall meet the standards set forth in Chapter 27 §1201.B or the latest Noise Ordinance adopted by the Township.

B. Noise Studies:

- 1) A noise study shall be provided during pre-construction plan review showing anticipated levels and post-construction six (6) months after issuance of certificate of occupancy showing noise levels at the time of operation along all property lines.
- 2) Annual noise monitoring reports, if requested by the Township, shall be provided at the owner's expense.
- 3) A preliminary sound study for the Data Center and associated DCE shall be conducted as part of the Conditional Use process. The preliminary sound study shall recommend the noise reducing materials or systems to meet the aforesaid noise limits.

C. Noise Mitigation:

- 1) All equipment that generates noise, including HVAC systems, generators, and cooling systems, shall be enclosed within sound-attenuating structures.
- 2) Noise barriers or berms shall be installed where necessary to achieve compliance with noise limits.

- 3) When noise producing equipment is abutting a residential or agricultural district or use, such equipment shall be placed so that the Data Center is between the affected lot and the equipment.
- 4) If the Data Center has more than one lot line that abuts a residential or agricultural district or use, the sound producing equipment shall be placed on the side of the Data Center that does not abut the residential or agricultural district or use or the side that has the greatest setback from the affected property line(s) with distance preference going to existing residential or agricultural uses.

2. Vibration

No vibration from equipment, including fans and pumps, shall be perceptible beyond the property line.

3. Lighting

- A. All outdoor lighting shall comply with the Township's outdoor lighting regulations.
- B. Lighting shall be designed to minimize glare and light trespass onto adjacent properties.
- C. Full cut-off fixtures shall be used for all outdoor lighting.
- D. A photometric plan shall be provided showing all exterior lighting for the Data Center and shall be designed so as to not produce more than zero (0) foot-candles at all property lines.

4. Utilities and Infrastructure

A. Power Supply:

- 1) The applicant shall submit documentation confirming adequate electric power supply is available without negatively impacting existing power users.
- 2) All primary and backup power systems shall be identified in the application.
 - i. Short term backup power shall utilize uninterruptible power supplies (UPS) providing twenty-four hours of operation.
 - ii. Long term backup power shall utilize diesel or gas-powered generators.

B. Water Usage:

- 1) Water-cooled data centers shall submit a water impact study to demonstrate that water systems will not adversely impact nearby wells, ponds, streams, and adjoining public potable water users.
- 2) Water conservation methods shall be implemented to minimize consumption during drought conditions.

- 3) Applicant shall provide a will serve letter from the public water utility confirming that the required quantities will be supplied and shall supply a water needs analysis confirming the required quantities.
- 4) Applicant shall provide a will serve letter from the public sewage utility confirming capacity is available for the site.
- 5) Annual water usage reports shall be provided to confirm compliance with the amount of water permitted to be used.
- 6) Water recycling and reuse strategies shall be implemented where possible.

C. Utility Connections:

- 1) All utility connections shall be installed underground.
- 2) Backup generators and related data center accessory infrastructure shall be identified on site plans.

5. Emergency Management Requirements

A. Emergency Preparedness

- 1) An emergency response plan shall be submitted and approved by the Township Emergency Management Coordinator and fire department.
- 2) The plan shall address fire prevention, suppression systems, evacuation procedures, and hazardous materials management.
- 3) Annual emergency response drills shall be conducted in coordination with local emergency services.
- 4) Any gated emergency access route or secondary access route shall be fitted with the "knox-box" type device dictated by the fire department.
- 5) Signage: Approved signs shall be provided on all exterior doors and around the perimeter of the complex notifying of all hazards.
- 6) Energy Management System: An approved energy management system shall be provided for monitoring and balancing voltages, temperatures, and other functions within the manufacturer's specifications. This system shall transmit an alarm signal to an approved location if potentially hazardous conditions are detected.
- 7) Smoke Detection System: An approved automatic smoke detection system shall be installed. This system will alert emergency responders.
- 8) Fire Extinguishing System: All rooms within the structure shall be equipped with an automatic sprinkler system. This system will alert emergency responders.

- 9) Alternative Fire Extinguishing System: Areas that utilize water reactive materials or equipment shall be protected with an approved alternative automatic fire extinguishing system. This system will alert emergency responders.
- 10) Emergency Shutdown: An emergency shutdown switch shall be located outside of the structure readily available for emergency responders.
- 11) Spill Control and Neutralization: In areas that contain liquid electrolytes, acids or other hazardous materials, an approved method shall be provided to control, contain and neutralize spills.
- 12) Gas Detection System: A gas detection system shall be provided if natural gas is used. The system shall be designed to detect natural gas leaks in concentrations of not more than 25% of the lower flammable limit. The system will close all supply valves, shut down all fuel cell power systems, and initiate local audible and visual alarms, and notify emergency response automatically.
- 13) Vehicle Impact Protection: Protection from impact by a motor vehicle shall be provided around the perimeter of the structure.

SECTION 5. CONDITIONAL USE REQUIREMENTS

A. Additional Permits:

- 1) Applicant/User shall be responsible for obtaining all applicable federal and state permits.

B. Air Quality and Emissions:

- 1) Any emissions of exhaust, gases, noxious odor or similar shall adhere to applicable State and Federal emission standards.

C. Ecological Impact:

- 1) Inventory of existing natural resources, habitats, and wildlife shall be provided (PNDI Receipt).

D. Waste Management Plan:

- 1) All E-waste and recycling shall be handled and disposed of in an approved disposal site.
- 2) All conditional use applications shall include a hazardous materials management plan including onsite storage. Hazardous materials shall include, but not be limited to, batteries, diesel fuel for backup generators, coolants, cleaning and maintenance materials, and E-waste such as fluorescent lamps and circuit boards.

E. Infrastructure Impact:

- 1) Identify all necessary infrastructure improvements, if applicable.
- 2) Proposed contributions to infrastructure improvements

F. Public Services Impact:

- 1) Prior to commencement of construction, Applicant/User must coordinate with the local school districts to coordinate construction and equipment traffic in an effort to ensure that there is no impact on school drop-off and pick-up times.

G. Visual and Aesthetic Impact:

The Applicant/User shall provide and implement the following:

- 1) Visual simulation model showing the facility from multiple viewpoints.
- 2) Analysis of compatibility with surrounding land uses.
- 3) Facility design elements to minimize visual impacts.
- 4) Viewshed protection measures.

H. Cumulative Impact Analysis:

- 1) Application shall show compatibility with the Township's comprehensive plan.

SECTION 6. ENFORCEMENT AND PENALTIES

1. Violations of this ordinance shall be subject to the enforcement procedures and penalties set forth below in Section 9 and/or in the Smith Township Zoning Ordinance.
2. In addition to other remedies, the Township may require the facility operator to implement additional mitigation measures if operational impacts exceed projections or standards established by this ordinance.
3. The failure of Smith Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION 7. DECOMMISSIONING AND SITE RESTORATION

1. Decommissioning Plan:

- 1) Prior to issuance of grading and building permits, the applicant shall submit a decommissioning plan for approval by the Township. The plan shall detail procedures and requirements for removal of all structures and restoration of soil and vegetation.

2) The decommissioning plan shall include the following elements:

- i. The anticipated life of the data center facility; and
- ii. The estimated decommissioning costs in current dollars, including contingency; and
- iii. A timeline for decommissioning activities; and
- iv. The method of ensuring that funds will be available for decommissioning and restoration; and
- v. A schedule for updating the decommissioning cost estimate and financial security every three (3) years and/or prior to a transfer of ownership; and
- vi. A detailed scope of work for decommissioning that includes removal of all structures, equipment, wiring, conduit, foundations to a depth of at least four (4) feet below grade; and
- vii. A plan for restoring the site to pre-development conditions or better, including stabilization and revegetation of the site.

2. Determination of Abandonment:

- 1) A data center facility shall be considered abandoned when it has not been in active operation for a period of twelve (12) consecutive months.
- 2) The Township shall notify the owner in writing of the preliminary determination of abandonment and allow the owner thirty (30) days to respond.
- 3) If the owner fails to respond or demonstrate that the facility has not been abandoned, the Township shall issue a final determination of abandonment.

3. Decommissioning Process:

- 1) Decommissioning shall commence within sixty (60) days of final determination of abandonment.
- 2) All decommissioning work shall be completed within one hundred eighty (180) days of commencement.

4. Financial Security:

- 1) Prior to the issuance of grading and building permits, the applicant shall provide financial security in the form of a performance bond, irrevocable letter of credit, or other security acceptable to the Township.
- 2) The financial security shall be in an amount equal to one hundred twenty-five percent (125%) of the total estimated decommissioning and restoration costs.

- 3) The financial security shall remain in effect until decommissioning and restoration are completed to the satisfaction of the Township.
- 4) The financial security shall be reviewed and updated prior to any sale of the property /transfer of ownership and/or every three (3) years (whichever shall occur first) to account for inflation and changes in estimated costs.
- 5) If the owner fails to complete decommissioning within the specified period, the Township may draw upon the financial security to complete the decommissioning and restoration.
- 6) The Applicant shall file the approved decommissioning plan with Washington County Recorder of Deeds.
- 7) Forms of financial assurance:
 - i. An escrow account.
 - ii. A certificate of deposit or an automatically renewable, irrevocable letter of credit from a financial institution chartered or authorized to do business in Pennsylvania and regulated and examined by a Federal agency or the Commonwealth.
 - iii. A bond executed between the grantee and a corporate surety licensed to do business in Pennsylvania.
 - iv. A negotiable bond of the Federal Government, the Commonwealth or a municipality within Pennsylvania.

5. Transfer of Ownership:

- 1) The decommissioning requirements shall run with the land and be binding upon future owners, successors, and assigns.
- 2) Prior to transfer of ownership, the new owner shall provide updated financial security to the satisfaction of the Township.

SECTION 8. COMPLIANCE WITH TOWNSHIP CODE.

Unless specifically set forth herein, compliance with all applicable performance standards, general standards, and requirements of the Smith Township Code and Zoning Ordinance must occur.

SECTION 9. VIOLATIONS.

In the event of a violation of any provision herein and failure of owner to correct said violation in the time period provided by the Township and/or its designated agent, said failure shall constitute a Civil Violation, as defined in the laws of the Commonwealth, and shall be prosecuted

in accordance with the laws of the Commonwealth and the Rules of Civil Procedure adopted by the Pennsylvania Supreme Court.

Except where specific maximum penalties are provided elsewhere, in a law of the Commonwealth uniformly effective for political subdivisions or in another ordinance of the Township for a particular violation, any person/entity who shall violate any provision of this Code, any provision of any code or other regulation adopted by reference by this Code or any provision of any other Township ordinance, including applicable general performance standards for said use, shall, upon an adjudication and a finding of a violation, pay a civil penalty not to exceed **One Thousand Dollars (\$1,000.00)** for a violation of building, housing, property maintenance, health, fire, and public safety codes and for water, air and noise pollution violations; and a civil penalty not exceeding **Six Hundred Dollars (\$600.00)** for any violation of the Township Code, costs of prosecution, attorneys' fees where authorized; all collectible as provided by law.

SECTION 10. SEVERABILITY.

In the event that any provisions, sections, sentences, clauses, phrases or words of this Ordinance shall be declared illegal, invalid or unconstitutional by any court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, phrases or words of this Ordinance.

SECTION 11. REPEALER

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION 12. EFFECTIVE DATE

This ordinance shall take effect immediately upon adoption.

- SIGNATURE PAGE(S) TO FOLLOW -

ORDAINED AND ENACTED this _____ day of _____, 2025.

ATTEST:

SMITH TOWNSHIP BOARD OF SUPERVISORS

Township Secretary

Chairman

Supervisor

Supervisor