SUGARLOAF TOWNSHIP

LUZERNE COUNTY, PENNSYLVANIA

ORDINANCE NUMBER _____

BILL NUMBER _____

Duly Adopted _____/_____/_____

AN ORDINANCE AMENDING CHAPTER 27 (ZONING) OF THE SUGARLOAF TOWNSHIP ZONING CODE OF ORDINANCES, TO ALLOW FOR THE CONSTRUCTION OF DATA CENTERS AND ASSOCIATED FACILITIES TO DATA CENTERS WITHIN THE I-1 GENERAL INDUSTRIAL MINING DISTRICT OF SUGARLOAF TOWNSHIP.

WHEREAS, Sugarloaf Township (the "Township") has a Code of Ordinances being Chapter XXVII of the Code of Ordinances of Sugarloaf Township dated October, 2005 (the "Zoning Ordinance"); and

WHEREAS, Pursuant to Section 609 of the Pennsylvania Municipalities Planning Code ("MPC") 53 P.S. § 10609, the Township is authorized and empowered to enact amendments to its Zoning Ordinance after public hearing thereon pursuant to public notice; and

WHEREAS, the instant matter is before the Township pursuant to a petition for curative amendment to the Zoning Ordinance filed in accordance with Section 916.1, 53 P.S. § 10916.1 of the MPC and §27-905 of the Sugarloaf Township Zoning Ordinance, and pending an appeal before the Luzerne County Court of Common Pleas at Docket No. 2025-07455, on the issue of appropriate siting and regulation of data centers within the Township; and

WHEREAS, in resolution of the pending appeal, the Board of Supervisors of Sugarloaf Township desires to ordain and enact the amendment to the Zoning Ordinance as further set forth hereinafter.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors for Sugarloaf Township and it is hereby ordained and enacted by the authority of the same, to wit:

SECTION I. AMENDMENTS TO ZONING ORDINANCE

Section 27-201 Definitions; Word Usage, is hereby amended to include the following:

> **DATA CENTER** A facility or facilities used primarily for the housing, operation, and/or co-location of computer and communications equipment (such as Uninterruptible Power Supply (UPS), Servers, Storage Devices) and for handling, storing, and backing up electronic data. Data Center may also include Data Center Accessory Uses when located on the same tract or assemblage of adjacent parcels developed as a unified development.

A Data Center shall be classified as a "High Water Withdrawal Data Center" if its source for cooling and operation of the equipment associated with the use is primarily an on-site well, a groundwater source within the Township, or a groundwater source within 2,000 feet of the property on which the Data Center being one in which groundwater withdrawal will exceed 10,000 GPD of groundwater multiplied by the maximum allowable buildings on the Tract, calculated in accordance with §27-550.1.A.2.

A Data Center shall be classified as a "Low Water Withdrawal Data Center" if it is operated as a closed loop water system (including technologies for repurposed, fully treated sewage water or stormwater runoff, including acid mine runoff), an air-cooled water system, or similar methodology that does not withdraw greater than 10,000GPD of groundwater multiplied by the maximum allowable buildings on the Tract, calculated in accordance with §27-550.1.A.2.

DATA CENTER ACCESSORY USES. Utilities, utility lines, electrical substations, pump stations, water towers, mechanical equipment and environmental controls (air conditioning or cooling towers, fire suppression, etc.), redundant/backup power supplies, redundant data communications connections, environmental controls, guard buildings and security devices when located on the same tract or assemblage of adjacent parcels developed as a unified development for a Data Center and being an accessory to such Data Center use on the parcel.

SUBSTATION. A stable, long-standing infrastructure facility that serves as the hub of the electrical grid, connecting all the different spokes of the grid to bring electricity from power plants to other facilities. Substations convert power from high voltage to low voltage to bring power to the different components and equipment within the Data Center.

Section 27-406 I-1 General Industrial Mining District, Subsection 2 Principal Permitted Uses (referring to Table No. 1), Subsection 4. Area, Yard and Height Regulations (referring to Schedule I), and Subsection 5 General Regulations, is hereby amended, as is the said Table No. 1 (Land Use Classifications) and Schedule I (Building Regulations), S-1, A-1 and I-1 Zoning Districts, as follows:

1. Table No. 1 Land Use Classifications by Zoning District, shall be amended to add "Data Centers and Data Center Accessory Uses – Low Water Withdrawal Data Center" and mark "Data Centers and Data Center Accessory Uses – Low Water Withdrawal Data Center" as "X – Principal Permitted" in the I-1 Zone, referencing Section 27-550, Data Centers.

2. Table No. 1 Land Use Classifications by Zoning District shall be amended to add "Data Centers and Data Center Accessory Uses – High Water Withdrawal Data Center" and mark the same as "SE/Special Exception" under the I-1 Zone, referencing Section 270-550, Data Centers.

3. Schedule I, Building Regulations, S-1, A-1, I-1 Zoning Districts, shall be amended as follows:

Maximum building height for the I-1 Zoning District: 65 feet, which shall not include roof-top equipment.

NOTE:

(2) Data Centers and Data Center Accessory Uses shall comply with the Building Regulations found in Section 27-550, Data Centers.

Section 27-550, Data Centers shall be added to the Zoning Ordinance and shall state the following:

Section 27-550 Data Centers.

1. **Low Water Withdrawal Data Centers**. Low Water Withdrawal Data Centers, Data Center Accessory Uses and Substations, subject to the following conditions:

   A. Building Restrictions for Data Centers:

      1. Tract Size. The minimum lot size or assemblage of adjacent parcels developed as a Data Center (the "Tract") shall not be less than 75 acres, inclusive of open space. Tracts divided by easements or rights-of-way but owned in common or otherwise developed as a unified development, regardless of subdivision or creation of a condominium, shall be deemed contiguous for the purposes of minimum tract size calculations.
      2. Maximum Density. The ratio of Data Centers on each Tract may not exceed one (1) Data Center building per twenty (20) acres gross. No individual Data Center building footprint may exceed 350,000 square feet.
      3. Proximity to Residential Zoning District or existing Residential Uses' Property Lines:
         - No Data Center or Data Center accessory structure shall be 200 feet or less from a residential district or existing occupied residential uses' property line, provided all sound level maximums are met (as set forth herein this Section).
         - No Substation shall be less than ~~300~~750' from a residential district or existing occupied residential uses' property line, provided all sound level maximums are met (as set forth herein this Section).
         - No Substation shall be located in the Front or Side Yard of the Tract.
         - Loading docks and truck maneuvering areas shall be setback not less than 200 feet from residential districts or existing occupied residential uses' property lines, and shall not be located in the Front Yard of the Tract.

   B. No Data Center building may be located within 1,000 feet of an existing school, cemetery or licensed daycare.
   C. No Data Center campus shall be located within 3,000 feet of another Data Center campus within the Township.

D. A Data Center will only be permitted if it has direct access to the existing 230 KV electric transmission line easements within the Township, which shall serve as its power source (in addition to any solar facilities that may be implemented as part under 27-550(1)(K). Such easement area may be expanded only to provide on-site electrical service to the Data Center. ~~; provided however that said easement may be expanded to accommodate additional facilities that are required.~~

E. Each Data Center use shall comply with Section 27-511. Environmental Performance Standards, where applicable and except as provided herein.

F. Each Data Center shall provide a letter or other communication from the public utility indicating that utility service to the proposed facility is feasible and the utility is willing to consider providing such service, subject to its standard review process and its requirements. This information may be submitted as a part of the Land Development Application.

G. Design Guidelines:

1. Principal building facades: Principal building facades shall avoid the use of undifferentiated surfaces by including at least two of the following design elements: change in building height; building step-backs or recesses; fenestration; change in building material, pattern, texture, color; or use of accent materials. When a building has more than one principal facade, such principal building facades shall be consistent in terms of design, materials, details, and treatment.

2. Screening of mechanical and electrical equipment: In order to minimize visibility from adjacent roads and adjacent properties, ground level and roof top mechanical and electrical equipment shall be screened and such noise mitigation efforts, if any, as are required pursuant to subsection H below. This screening may be provided by a principal building or existing vegetation that will remain on the property or is within a landscaping/buffer easement on an adjacent property. Mechanical and electrical equipment not screened by a principal building or existing vegetation shall be screened by a visually solid fence, screen wall or panel, parapet wall, or other visually solid screen that shall be constructed of materials compatible with those used in the exterior construction of the principal building.

3. Landscaping and Buffering. A buffer yard is required from a residential district or existing occupied residential uses' property line within the required setback from said property line. This buffer yard shall consist of a berm and a dense screen of evergreen and deciduous trees, in accordance with the requirements set forth herein. Landscaping shall be installed between the Data Center and road right-of-way and shall consist of at least one evergreen tree and one deciduous tree for every fifteen (15) feet of road frontage or frontage along an existing residential parcel, adjacent to the Data Center. Other than accessway cuts, a berm averaging a minimum of ~~five~~ ten (10~~5~~) feet in height above the adjacent average ground level, with a maximum slope of 2:1, shall be installed along the frontage of the property and between the Data Center and any adjacent existing residential

parcels. The required screening is to be placed on the berm or as otherwise necessary to provide an effective visual buffer. Fencing may be used to augment the required vegetative screening. The required screening shall be planted in a staggered manner, shall be native species, and shall have a mixture of varieties. All coniferous and deciduous trees shall be a minimum of ~~six~~ eight feet in height at time of planting, and all deciduous trees shall not be less than two and a half-inch caliper at time of planting. Except as approved by the Township during the Subdivision and Land Development process, the required buffering shall be installed at the commencement of any construction of a Data Center.

H. Traffic Study. As part of the Land Development Application, a traffic impact study must be prepared to address both daily operational traffic and emergency response access, to demonstrate that the facility will not adversely affect local road capacity or increase impacts beyond what is expected of other uses permitted in the I-1 District.

I. Noise. No Data Center use shall be required to comply with the Noise standards set forth in 27-511.7.B.(7) (a) or (b). Each Data Center use shall meet the maximum daytime equivalent decibel level of 67 dBA and a maximum nighttime equivalent decibel level of 57 dBA, at the property lines for any neighboring properties. The daytime level generally corresponds to interference with normal conversation. The nighttime level generally corresponds to interference with sleep. A study will be conducted as part of the Land Development application to recommend sound reducing materials or systems to meet these standards. An as-built sound study will be conducted six (6) months following the issuance of a Certificate of Occupancy for any Data Center building. Emergency back-up generator testing or recharge shall not occur during nighttime hours and at no point shall the emergency use of generators exceed 20 dBAs over the allowable dBAs for ordinary operation of the Data Center. An Applicant's protocols for its emergency generator testing and recharge shall be set forth by the Applicant during the land development process for review and approval of the Township. To the extent that diesel-powered generators are used, they shall meet the qualifications of a Tier IV or better certified generator.

J. Other Environmental Impacts. As part of the Land Development application, the following shall be required:

1. Water Supply. A water supply feasibility study shall be prepared to demonstrate that sufficient water resources are available to serve the proposed use if the use involves the use of any water resources. Approval by the Township Engineer shall be required prior to implementation.

2. Applicant shall demonstrate how any waste from the operation of the Data Center will be disposed (e.g., any water or other medium used for cooling of the equipment used in the Data Center). Waste management practices must comply with federal laws, including the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA), and Zoning Ordinance Section 27-511(7)(B)(1). Outdoor storage of materials or waste prior to its off-site disposal is not permitted in front or side yard areas.

3. Wastewater Management. The applicant shall demonstrate to the Township that adequate means of wastewater disposal have been provided for and approved by the Sewage Enforcement Officer and/or PA DEP. This would include wastewater management from any domestic wastewater as well as any wastewater used for cooling or industrial purposes. If public sewer will serve the use, then the applicant shall prove that capacity is available.

4. Vibration Study: A Vibration Study shall be provided that demonstrates that vibration resulting from sources material to the Data Center or Data Center Accessory Uses does not extend past the property line. This study shall be prepared by a qualified professional.

5. Air Quality. Air quality and emissions controls for the Data Center or Data Center Accessory Uses will meet the requirements applicable to data centers and stand-by generator usage established by the state and local regulations, and will comply with Section 27-511.7.B.(6) of the Zoning Ordinance related to air management.

6. Fire Safety & Emergency Response. An Emergency Response Plan shall be prepared by a qualified professional to be reviewed and approved by the local fire department. Such Plan shall include detailed information regarding fire suppression, containment, ventilation and evacuation, as well as access and hydrant locations, as applicable. In reviewing the adequacy of a Fire Safety and Emergency Response Plan, the following shall be considered, in addition to Building Code Requirements:
    - Use of fire-resistant rated construction materials;
    - Location of IT equipment and restricted access to it;
    - Openings and penetrations;
    - Aisle containment and hot air systems;
    - Limitation of materials in and around IT equipment;
    - Construction of IT materials;
    - Design and installation of automatic fire protection systems, such as sprinkler systems or gaseous extinguishing systems;
    - Automatic detection systems;
    - Portable extinguishers and hose lines;
    - Knox box pursuant to Ordinance 3-2022;
    - Staff training;
    - Any on-site battery storage systems;
    - Emergency and recovery procedures;
    - Fire Company emergency response equipment capabilities; and
    - Maintenance and auditing plan for fire safety

    Fire lanes shall be provided where required by state or federal regulations or other local ordinances. The specific locations of these lanes are subject to

review by Township Fire Marshal (or other duly designated emergency services officials serving the Township).

At the time of permitting, the applicant shall provide training to the fire department providing emergency services to the Data Center or at the reasonable request of the Township or Fire Company.

K. Roof Mounted Solar: An Applicant is encouraged, but not required, to utilize roof mounted solar for on-site electric generation associated with the Data Center use, subject to compliance with the glare and code compliance provisions set forth in Section 27-1406.

L. Decommissioning: The facility owner will decommission all equipment and personal property associated with the Data Center at the end of the useful life of the equipment or upon the discontinuance of the use of the facility as a Data Center. Such efforts may include, where practicable, removal of equipment, related structures, containment ponds, and other features that are no longer in use or reasonably reusable. Therefore, the site must be restored to a condition that will allow for a beneficial reuse of the property. A decommissioning agreement will be required to be executed between the Township and the facility owner to ensure the requirements within this section are met within twelve (12) months of the date at which the facility ceases to operate as a Data Center, providing for the same and for the provision of financial security to carry out the same.

M. External security fencing. External security fencing shall not exceed fifteen (15) feet in height. No barbed wire or chain-link fencing shall be permitted. Such fencing shall be wrought iron/metal or a similar style of fence approved by the Township during the land development process.

N. Where gates, guard shacks or checkpoints are proposed at such facilities, adequate queuing space shall be provided within the property boundaries to prevent stacking of vehicles on or along public streets.

O. Minimum Parking. The minimum number of parking spaces shall be twice the maximum number of employees on site during the largest shift. Loading areas shall not be permitted the Front Yard or Side Yards.

P. Any Accessory Bulk Fuel Storage associated with a Data Center shall only be permitted in the Rear Yard, when less than 200 feet from a residential district or an existing occupied residential uses' property line, and must comply with Zoning Ordinance Section 27-201 and 27-511.

2. **High Water Withdrawal Data Center.** High Water Withdrawal Data Centers are only permitted by Special Exception in the I-1 Zoning District, provided that the Applicant establishes compliance with Zoning Ordinance Section 27-706(2) and the following criteria:

A. Applicant shall establish compliance with all provisions set forth in Section 27-550(1), and as specifically modified below; provided, however, that upon satisfying this condition, Applicant shall be deemed to also have satisfied the general criteria of Section 27-706(2).

B. The minimum lot size or assemblage of adjacent parcels developed as a Data Center (the "Tract") shall not be less than 100 acres, inclusive of open space. Tracts divided by easements or rights-of-way but owned in common or otherwise developed as a unified development, regardless of subdivision or creation of a condominium, shall be deemed contiguous for the purposes of minimum tract size calculations.

C. The water feasibility study, prepared by a qualify engineering consultant acceptable to the Township, shall include the following minimum information:

1. Calculations of the projected water needs for the Data Center and surrounding uses;

2. A geologic map of the area with a radius of at least one mile from the site of the Data Center;

3. The location of all existing and proposed wells within 1,000 feet of the site of the Data Center, with a notation of the capacity and condition of all existing and proposed wells;

4. The location of all streams within 1,000 feet of the site of the Data Center and its water source;

5. Timing proposed for studying the long-term yield of the on-site water source shall be determined based on the geological formations underlying the site of the Data Center;

6. An analysis and determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells (not further than 1000 feet from the boundary), streams (where applicable) and the groundwater table;

7. Identification of how water will be recycled, disposed of or released from the Data Center; and

8. A statement of the qualification(s) and the signature(s) of the person(s) preparing the study.