ORDINANCE NO. _____

UPPER BURRELL TOWNSHIP

WESTMORELAND COUNTY, PENNSYLVANIA

AN ORDINANCE OF UPPER BURRELL TOWNSHIP, WESTMORELAND COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE UPPER BURRELL TOWNSHIP ZONING ORDINANCE, TO PROVIDE DEFINITIONS AND STANDARDS RELATED TO DATA CENTERS, AND ADD REGULATIONS AS TO THE REQUIREMENTS OF DIFFERENT ZONING AREAS.

WHEREAS, the Board of Supervisors of Upper Burrell Township, Westmoreland County, Pennsylvania, have previously enacted the Upper Burrell Township Zoning Ordinance (Chapter 350); and

WHEREAS, technological advancements in data center, data center accessory use, and facility technology necessitate updated Township standards and criteria, and updated definitions to ensure these uses are effectively designed, planned, and managed to balance safety, community health, community welfare, and environmental protection; and

WHEREAS, the Township recognizes the need to have the uses modified so that data centers and data center accessory uses are a conditional use in the I-Industrial District and; and

WHEREAS, Upper Burrell Township seeks to promote the general health, safety and welfare of the community by adopting and implementing an amendment to the Zoning Ordinance providing for regulations and definitions relating to Data Centers; and

WHEREAS, after holding public hearings, the Upper Burrell Township Board of Supervisors desires to ordain and adopt the amendments to the Zoning Ordinance as set forth hereinafter; and

WHEREAS, this ordinance serves as an amendment to the Township's existing Zoning Ordinance, and is consistent with the Pennsylvania Second Class Township Code and the Pennsylvania Municipalities Planning Code; and

WHEREAS, the Upper Burrell Township Board of Supervisors hereby adopts the following ordinance amendments in the Upper Burrell Township code of ordinances.

NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Upper Burrell Township, Westmoreland County, Pennsylvania, as follows:

SECTION 1. TITLE.

This Ordinance shall be known as the "Upper Burrell Township Data Center Ordinance of 2026."

SECTION 2. DEFINITIONS

Amendment of Article II, Chapter 350-7 of the Upper Burrell Township Zoning Ordinance entitled "Definitions". Chapter 350-7 of the Upper Burrell Township Zoning Ordinance is hereby amended to add or amend the following definitions to the ordinance:

CONTINOUS NOISE EQUIVALENT LEVEL (CNEL): A measure of the cumulative noise exposure in a community over a 24-hour period. It is calculated by adding up the average noise levels over the day and applying different weighting factors to the evening and nighttime periods. The computation of CNEL decreases 5 dB to the permitted average hourly noise levels between 7:00 p.m. and 10:00 p.m. (evening hours), and 10 dB to the average hourly noise levels between 10:00 p.m. and 7:00 a.m. hours. This weighting accounts for the increased human sensitivity to noise in the evening and nighttime hours. The noise level shall be measured hourly over a 24-hour period along each property line.

DATA CENTER – A commercial use of one or more buildings, designed and intended primarily to house computer, networking and communication systems, equipment and

components, such as routers, switches, firewalls, servers, storage systems, cooling systems and application-delivery controllers, for storing, processing, managing, transmitting and backing up electronic data necessary for the operation of a business, enterprise, institution, or other similar organizational entity. A data center also includes accessory and supporting public utilities (e.g., substations, switch stations, etc.), infrastructure systems, mechanical equipment, components and environmental controls (e.g., air conditioning or cooling towers, fire suppression, etc.), redundant/backup power supplies, redundant data communications connections and enhanced security. This use does not include computers or telecommunications-related equipment that is considered customarily accessory to an otherwise permitted use on the property, such as servers associated with an office building, both located on the same property.

DATA CENTER ACCESSORY USE – Ancillary uses or structures secondary or incidental to a Data Center use including, but not limited to: administrative, logistical, fiber optic, storage, cryptocurrency, blockchain, transaction processing, server farms, 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-contacting 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.

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, 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.

SECTION 3. Amendment of Article XV of the Upper Burrell Township Zoning Ordinance entitled "Express Standards and Criteria for Granting Conditional Uses and Uses by Special Exception" to add a new Section 350-93A for regulation of Data Centers as Conditional Uses. There is hereby added a new Section 350-93A with related subsections, to Article XV of the Upper Burrell Township Zoning Ordinance, entitled "Conditional Uses; Uses by Special Exception" to add regulations for the use of Data Centers which shall read as follows:

350-93A – Data Centers

350-93A(A) – Submission Checklist for Data Centers and Data Center Accessory Uses.

1. This section provides a general guide for potential applicants preparing to submit permits, plats, and/or applications for a Data Center or Data Center Accessory Use in Upper Burrell Township. For a complete understanding of the applicable regulations for these uses, please refer to §Chapter 350 in its entirety. Applicants are required to submit comprehensive analyses, including but not limited to:
    a. Providing evidence of compliance with the standards and criteria for dimensional standards, and shall also include the submission to the Township of Commonwealth of Pennsylvania Licensed Architect's rendering(s) and must also include elevations. When the use is located adjacent to residential districts, the Commonwealth of Pennsylvania Licensed Architect's rendering(s) must also depict evidence of compliance with screening, fencing, and landscape buffer regulations.
        i. The Commonwealth of Pennsylvania Licensed Architect shall be able to delegate work that is required but not within his/her area of competence to Licensed Professional Engineers and/or Licensed Surveyors. Any

Professional Engineer or Licensed Surveyor shall be licensed in the Commonwealth of Pennsylvania.

b. The applicant shall thoroughly demonstrate how the Data Center's utility needs will be met including water usage, emergency management, and electrical connectivity without creating a negative impact to Township residences and businesses.

c. A noise study, and a vibration study, prepared and certified by a professional noise engineer shall be submitted to the Township Supervisors, Township Planning Commission, and Township Engineer for review. The study must demonstrate compliance with the criteria in §Chapter 350 and the Township's Noise Ordinance. Studies must include also parameters for noise and vibration mitigation designs for all Data Center equipment and Data Center Accessory Uses.

d. The applicant shall thoroughly demonstrate capacity to comply with all decommissioning criteria compliance, as per §Chapter 350.

e. All studies and/or monitoring shall be at the expense of the developer and/or operator. The Township shall choose all consultants/companies to conduct such studies and/or monitoring. The developer and/or operator shall use best management practices (BMP) in the construction and operation of the Data Center and its decommissioning.

f. For all regulations, standards, and criteria, please refer to §Chapter 350 in its entirety.

350-93A(B) Regulations Applicable to All Data Centers

1. **Location Restrictions**

a. Data Centers are a Conditional Use in the Industrial District.

b. Data Center buildings and Data Center Accessory Uses shall be set back at least 500 feet from the property line. In addition, Data Center buildings and exterior equipment shall not be closer than 1,000 feet (measured radially from the Data Center building or equipment) from any residentially zoned property line or occupied residence.

2. **Power and Water Supplies**

a. Any Data Center shall provide its own baseload generation power which shall consist of new generation build or repurposing previously retired generation assets which may be refitted to comply with existing law. Data Centers shall pay their own costs for interconnecting with transmission and distribution systems regardless of the proximity of those costs to the Data Center and the generation facility. Baseload power generally means the minimum amount of electricity that must be available at all times to meet constant demand. It represents the constant floor of power usage that never goes away, regardless of the time of day. In this context, baseload generation refers to a reliable, around-the-clock power source capable of continuously serving the significant electricity needs of a Data Center.

b. Any proposal for a Data Center use involving the supply of electricity by a public utility, a municipality or municipal authority shall include a letter from the electrical provider that certifies that the power grid has the capacity to meet the demands of the proposed facility while maintaining currently provided levels of service to the existing residents and businesses in the Township. In addition, any proposal for a Data Center use shall include a copy of the executed agreement with the public utility, municipality or municipal authority for Township records. The Utility shall provide quarterly reports of the status of levels of service available to all other

township residents and businesses. Known impacts on electric rates or availability for other uses directly attributable to the Data Center project shall be noted and evaluated.

i. Any generation system designed or used to supply power exclusively to a Data Center during normal operations including, solar, wind, fossil fuel, geothermal or nuclear energy generating systems, shall not be considered part of the Data Center use. Such systems shall be considered a separate use and shall be approved according to the zoning regulations applicable to such a use.

ii. Any Data Center Use or Data Center Accessory 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 the National Fire Protection Association (NFPA) standards, specifically Standard 855, Installations of Stationary Energy Storage Systems, or similar standards and must include fire suppression systems designed specifically for battery storage.

iii. In the event that turbines, generators, or diesel engines are utilized for on-site power generation, and not powered by the public transmission grid, any on-site power generation facilities must be in a building constructed with durable materials conducive to safe Data Center construction, in order to mitigate noise, vibration, and any other nuisance caused by the on-site power generation. These buildings must contain noise and vibration mitigation systems, automatic fire suppression systems, as well as heat and

gas detection systems.

c. Any proposal for a Data Center use shall include a letter from the operator providing an analysis of the anticipated raw water needs and proposed sources thereof. Further, in the event that the source of water is a public utility, a municipality, or municipal authority, the proposal for a Data Center Use shall include a letter from the water provider that certifies that the water provider has the capacity to meet the demands of the proposed facility, including fire suppression, while maintaining currently provided levels of service to the existing residents and businesses in the Township, without creating a negative impact to other Township residences and businesses. In addition, any proposal for a Data Center use shall include a copy of the executed agreement with the public utility, municipality or municipal authority for Township records. The Utility shall provide quarterly reports on the status of levels of service available to all other township residents and businesses.

d. If the user 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 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:

i. The projected water demands of the Data Center;

ii. The source of water being used;

iii. 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);

iv. The long-term safe yield of the water source;

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

vi. A geological map of the area with a radius of at least one mile from the site;

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

viii. The location of all regulated 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;

ix. 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;

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

xi. Study shall include the effects of droughts and floods on all water services; and

xii. Study shall include flow volume study for a minimum of the last ten years.

e. The owner/operator shall provide proof of review and approval from the Pennsylvania Department of Environmental Protection.

f. All power transmission or other lines, wires, or conduits from a Data Center or Data Center Accessory Use to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.

g. Data Center uses shall include modern technology that offsets a portion of the power needs through energy efficient solutions. The developer and/or operator shall prepare and submit an annual report indicating efficiency upgrades incorporated into the facility during the past twelve months. The Developer and/or operator shall include in the report an analysis by an independent agency of technological advances in Data Accessory uses and equipment that have been made available during the period of the study.

h. Any proposal for a Data Center shall include the latest technology in water conservation, including utilizing closed loop systems in order to reduce the demand for public water.

i. Any proposal for a Data Center shall include a closed loop system where applicable, including but not limited to a closed loop water cooling system for turbines.

j. Any temporary power generation source shall meet all permanent power generation source requirements.

3. **Wastewater**

a. The applicant or owner/operator shall demonstrate that adequate means of wastewater disposal, including domestic wastewater and wastewater used for cooling or industrial purposes, have been provided and approved by the Pennsylvania Department of Environmental Protection, Department of Wastewater.

b. The storage, handling, transportation and disposal of hazardous or potentially hazardous materials shall be in accordance with all applicable permits and requirements of Upper Burell Township, the Pennsylvania Department of Environmental Protection (PA DEP) and the EPA, most notably with regard to closed-loop cooling system chemicals such as, but not limited to, water-glycol mixtures, dielectric liquids, nitrite inhibitors, and copper/zinc.

4. **Safety**

a. All fire protection shall be in accordance with the Pennsylvania Uniform Construction Code (PA UCC) and the NFPA.

b. The Data Center developer and/or operator shall provide the Township fire department with annual training on firefighting procedures, methods, and possible hazards specific to the designed and built system. As part of the annual training, the developer and/or operator shall communicate with Township fire department to identify any special equipment that may be required to fight a fire at a Data Center or Data Center Accessory Use in order to meet PA UCC and NFPA standards, and the same shall be provided to all possible responding fire companies at the expense of the developer and/or operator and the fire departments shall be trained in their use. Fire Hydrants and Fire Pumps must be utilized on site in accordance with PA UCC and NFPA standards and guidelines, Township amendments, and approved by the authority having jurisdiction.

c. A gas shut-off valve shall be provided as part of the gas feed to the Data Center at a location to safely shut off the gas supply to the entire Data Center operations. The Upper Burrell Township Fire Department (and all neighboring fire departments which would possibly respond to an emergency situation) shall be made aware of

the gas shut-off location. All applicable Fire Departments shall have access and permission to shut off the natural gas feed if deemed warranted during an emergency situation.

d. All Data Center uses and/or Data Center Accessory Use shall comply with the provisions of the PA UCC and NFPA.

e. Building materials shall consist of durable materials conducive to safe Data Center construction with variation of color. Rooflines shall have variation throughout.

f. Data Centers and Data Center Accessory Uses shall be limited to no more than 125,000 gross square feet for any one building, and shall have an approved hardtop surface, and a 30-foot-wide gravel cartway between buildings to accommodate fire and safety vehicles in the event of emergency.

g. Each building must be equipped with a Knox Emergency Electrical Shut-off, to be accessible by fire and emergency personnel in the event of an emergency in order to isolate power to building areas.

h. Prior to any construction or building, the developer and/or operator must conduct an environmental impact assessment to identify potential risks and develop strategies for minimizing the ecological footprint of operating, as well as include its plan and strategy for such as e-waste disposal, energy consumption, and carbon emissions.

    i. The developer and/or operator shall also conduct testing to determine baseline levels of air quality and water purity to establish a baseline, as well as scheduled periodic studies of air quality and water purity to be referenced by the Township in the event of extraordinary or catastrophic event.

i. Prior to any construction or building, the developer and/or operator shall conduct studies to determine methane pockets above areas that were previously used for mining operations. In addition, the developer and/or operator shall conduct studies to determine areas where there is possible subsidence from previous mining operations. Data Centers or Data Center Accessory Use shall not be constructed in areas where it has been determined that there are methane pockets from previous mining operations or mine subsidence.

j. If the Data Center or Data Center Accessory Use experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township and Emergency Management Coordinator immediately, after the extraordinary or catastrophic event. A written follow-up detailing the incident and steps taken to remedy the situation must be provided to the Township and Emergency Management Coordinator within 72 hours of the event.

k. The operator and owners shall submit an Emergency Response Plan (ERP) prepared by a qualified professional. The ERP shall:

   i. Be reviewed and accepted by the Upper Burrell Fire Department and emergency management services as part of the conditional use and/or land development process;

   ii. The operator and owner shall allow the Upper Burrell Township Fire Department and Emergency Management Services to view/inspect the site as part of its review/acceptance of the ERP.

   iii. Include detailed procedures for fire suppression, containment, ventilation, and evacuation;

iv. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site;

v. Ensure that all first responders receive adequate training to the installed system;

vi. Include provisions for annual fire safety inspections demonstrating compliance with fire and safety standards to be performed by a qualified professional on behalf of the Data Center.

vii. Provide Material Safety Data Sheets for all appropriate materials.

l. Every six months, the operator and owner will participate in a public safety meeting, review their emergency response plan and emergency management information. In addition, a drill simulating an extraordinary or catastrophic event will be performed every six months in conjunction with the Township fire department, county public safety personnel, and operator's facility staff.

m. The Data Center or Data Center Accessory Use must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drainage facilities at least once a year by means of robotic camera, with the first inspection occurring before the Data Center is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain piping within sixty (60) days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

5. **Security**

a. A truck rejection lane and a security guard kiosk monitored twenty-four (24) hours per day, seven (7) days a week shall be provided on the site. The perimeter of the Project shall be completely enclosed by a minimum eight (8) foot high anti-climb security fence with controlled and monitored access and egress points. A designated security team shall regularly patrol the site along the perimeter fence from inside the facility and periodically inspect the area along the perimeter fence from the outside. A clearly visible warning sign shall be placed as necessary informing individuals of all potential voltage hazards. Applicant/Owner shall provide twenty-four (24) hour security, seven (7) days a week at the main entrance. In addition, all State and Federal security requirements shall be followed.

6. **Dimensional Standards**

a. Data Centers and Data Center Accessory Uses shall have a maximum height of 45 feet from finished grade. This maximum height shall include all rooftop equipment (e.g., HVAC, water towers, generators, exhaust flues, chimneys or other appurtenances and the like).

b. Data Centers uses shall not have blank exterior walls on any side of a building. There shall be adequate fenestration and rustication, as well as horizontal and vertical breaks every 35 lineal feet.

7. **Roadways/Traffic**

a. The owner/operator shall identify and verify by way of a study by a licensed professional engineer that all local public roads to be used within the Township are structurally capable of supporting all loads required to transport equipment, materials and other items for construction, operation, maintenance and

decommissioning of the Data Center and Data Center Accessories.

b. Prior to the construction phase, the Developer shall provide to the Township a Construction Transportation Plan to provide for a road maintenance agreement and to address the potential damage to Township roads.

c. During the construction phase of the Data Center the owner/operator shall provide the Township with a road bond in accordance with Upper Burrell Township Zoning Ordinance. An Overweight Use Permit and Excess Maintenance Agreement will also be required as per Township Ordinance Chapter 320 Vehicles and Traffic.

8. **Noise/Visual Buffers**

a. Construction shall be regulated by Chapter 350-95 and limited to the hours between 7:00 a.m. and 9:00 p.m. No construction shall take place on Sundays and Federal holidays.

b. Any proposal for a Data Center Use shall include pre- and post -construction sound and vibration studies which examine all interior and exterior utility functions of the building (rooftop and ground -mounted) that produce sound. All sound producing equipment shall be designed and equipped with sound attenuators designed by qualified acoustic engineers. All vibration producing equipment shall be designed and equipped with vibration attenuation designed by qualified mechanical engineers with competence in vibration mitigation. The sound and vibration study shall identify compliance with all Upper Burrell Township Ordinances as applicable. A post-construction sound study shall be submitted prior to an occupancy permit being issued for the building.

i. All rooftop equipment that produce sound (e.g., HVAC, generators, and the like) shall be fully screened from view and the screening shall be placed to

shield the direction of emitted sound.

ii. All ground-mounted equipment that produce sound (e.g., HVAC, generators, and the like) shall be fully screened from view and the screening shall be placed to shield the direction of emitted sound.

c. The Data Center and/or Data Center Accessory Use must not generate a maximum sound in excess of any acceptable level as defined by the Township's ordinances.

i. Compliance with the Township's ordinance is when the CNEL is equal to or less than the following limits:

1. 60 dBA CNEL for outdoor noise exposure levels for private residential and agricultural areas in R1, R2, R3 and RA zoning areas.

2. 65 dBA CNEL for office buildings, commercial, professional and mixed-use developments in C1, C2, C3, and CC zoning areas.

3. 75 dBA CNEL for outdoor levels for recreational areas, cemeteries, industrial manufacturing, utilities in I and P RAzoning areas.

4. Infra sound (less than 20 Hz) shall be regulated in accordance with the Federal Communications Commission (FCC), and proof as such shall be provided within the sound and vibration studies

5. In addition, sound shall be in compliance with the UBT Supplemental Regulations Chapter 350-95C. Noise.

d. To provide visual screening and reduce noise levels, ground-mounted and roof-mounted equipment used for cooling, ventilating, or otherwise operating the Use including power generation or other power supply equipment, that is located within 300 feet of a public roadway, any residential district, or the lot line of a property developed with a sensitive receptor(s) must be fully enclosed, except where not

mechanically feasible based on the owner/operator's specifications. If it is not mechanically feasible to fully enclose the equipment, it must be fully screened from view using one or more of the following means:

i. The landscape buffer and/or use of existing vegetation that will remain on the property as required by §Chapter 350.

ii. By the principal data center or data center accessory use buildings.

iii. An earthen berm averaging a minimum of five (5) feet in height above the adjacent average ground level with a maximum side slope of 3:1, provided that the berm shall be covered by native shrubs and a well-maintained all season natural ground cover. Any required screening plantings shall be arranged on the outside and top of the berm.

iv. 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.

e. Fencing of the property is permitted, provided that fencing along public and private roadways is not chain-link, with or without slatted inserts, and does not include barbed wire or other similarly visibly intrusive deterrence device. An applicant shall not be required to comply with this requirement if fencing is fully screened from view by one or more of the means identified in Chapter 350.

f. A landscape buffer (also termed a buffer yard) is required between a data center, and data center accessory use and any adjoining residential zoning district, an existing residential use, a sensitive receptor, or a public roadway. The landscape buffer shall comply with the following requirements:

i. The landscape buffer shall be at least a width of 100 feet and may be part of the minimum setback distance.

ii. Landscape buffer plantings shall consist of native species planted as follows:

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.

2. One (1) deciduous canopy (shade) tree per 75 linear feet of buffer. Size of canopy (shade) trees shall be a minimum of 2½ inch caliper at the time of planting.

3. One 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 2½ inch caliper at the time of planting for single-stemmed varieties.

4. Five (5) shrubs per 25 linear feet of buffer. Size of shrubs shall be fully branched and minimum of three feet in height at the time of planting. Shrubs shall be a combination of evergreen and deciduous species, with a minimum of 50% being evergreen.

iii. Utilities, equipment, and stormwater management facilities shall not be located in the landscape buffer. If a utility must cross the landscape buffer, it shall be the minimum traversal distance and then only if every precaution is taken to make up for the lost visual screen by utilizing a screen wall of earthen colors.

iv. In the event that existing vegetation is adequate to meet the intent of the required landscape buffer yard to screen the data center, and/or data center accessory use from adjoining residential zoning districts, existing residential uses, sensitive receptors, and public roadways, the Board of Supervisors, upon recommendation by the Township Engineer and Planning Commission, may determine that existing topography and/or vegetation constitutes all or part of the required landscape buffer yard.

v. Required details on plat submission: For existing vegetation that is adequate to meet the intent of the required landscape buffer yard, per §Chapter 350 those vegetation(s) shall be clearly specified and shown on all the submitted plats. If the final plat is approved, the Township Engineer and the applicant shall meet on site prior to the commencement of construction and/or clearing to identify exactly which existing trees meet the criteria, to be credited toward the requirements in §Chapter 350.

g. Any planned maintenance must occur between the hours of 6:00 a.m. and 6:00 p.m. Emergency repairs/maintenance may be completed after hours as required.

i. In the event of maintenance, any manual generator utilized shall be equipped and designed with vibration isolation and noise mitigation and shall have a cumulative maximum run time of 120 hours on a yearly basis.

9. **Lighting**

a. Lighting of the Data Center and/or Data Center Accessory Use is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Data Center. The Data Center or Data Center Accessory Use must not produce any glare that is visible to

neighboring lots or to persons traveling on public or private roads.

i. For the lighting of predominantly horizontal surface, such as, but not limited to, parking areas, roadways, vehicular and pedestrian passage areas, loading docks, building entrances, sidewalks, bicycle paths, and site entrances, luminaires shall be aimed down, and shall meet Illuminating Engineering Society of North America (IESNA) full cut-off/fully shielded criteria.

ii. For the lighting of predominantly non-horizontal surfaces, such as, but not limited to, facades, landscaping, and signs, luminaires shall be shielded and shall be installed and aimed to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward, or onto a public roadway.

iii. Vegetation screens shall not be employed as to serve as the primary means for controlling glare. Glare control shall be achieved by primarily using such means as cutoff luminaires, shields and baffles, and appropriate application of luminaire mounting height, wattage, aiming angle, and luminaire placement.

iv. Luminaires shall not be mounted more than 20 feet above the finished grade of the surface being illuminated. No pole-mounted lighting on the roof shall be permitted.

v. Lighting after hours for parking areas and vehicular traffic ways shall be automatically extinguished nightly within ½ hour (30 minutes) of the close of the facility.

10. 5 to 10-Year Master Development Plan

Prior to data center permitting approval, the Developer shall submit a written 5 to 10-Year Master Development Plan (Plan), which shall be approved by the Township. Updated 5 to 10-Year Master Development Plans shall be submitted and approved once every two years thereafter. The Plan shall address all requirements within this Ordinance as well as all other statewide and federal regulatory requirements.

11. **Enforcement**

a. Any person who shall fail, neglect, or refuse to comply with any terms or provisions of this Ordinance shall, upon conviction before any Magisterial District Judge, be sentenced to pay a fine of Five Hundred Dollars ($500.00) per day for each violation and costs of prosecution, and in default of payment thereof, to imprisonment for a term not to exceed ninety (90) days. Notwithstanding the aforesaid, Upper Burrell Township may pursue any other legal avenue available to it, whether at law or in equity, to enjoin violations of this Ordinance. In addition, this Ordinance shall be subject to Article XXI Administration and Enforcement, Chapter 350 Township Zoning Ordinance.

12. **Complaints**

a. If a reasonable complaint is registered with the Township, the Applicant/Owner will use its best effort to respond promptly to said complaint taking whatever reasonable means may be necessary to alleviate and cure said complaint, should it be found by Applicant/Owner to be with merit.

13. **Miscellaneous**

a. The owner shall execute a Community Benefit Agreement, satisfactory to the Township and as negotiated between the parties.

b. The developer or operator must submit a report on or before January 1 of each year that includes all of the following:

i. Current proof of insurance;

ii. Verification of financial security;

iii. A summary of all complaints, complaint resolution, and extraordinary events, and how the complaints or issues were reconciled; and

iv. List of updated emergency contact information.

c. The Township may inspect a Data Center or Data Center Accessory Use at any time by providing 24 hours advance notice to the developer or operator.

14. **Permitting**

a. All required county, state, and federal permits must be obtained before the Data Center or Data Center Accessory Use begins operating. A building permit from the Township is required for construction of a Data Center or Data Center Accessory Use, regardless of whether the applicant or operator is otherwise exempt under state law.

15. **Decommissioning**

a. To ensure proper decommissioning of a Data Center and Data Center Accessory Use upon abandonment, the operator must post financial security in the form of a security bond or escrow payment in an amount equal to 150% of the total estimated cost of decommissioning, code enforcement, and reclamation, less salvage value, which cost estimate must be approved by the Township. The operator, the Township, and Township Engineer will review the amount of the financial security annually to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the conditional use

application.

b. In the event that a Data Center ceases operations or the property is no longer being used for the purposes of facilitating a Data Center use for a period longer than 18 months or begins decommissioning the Data Center operator shall:

i. Conduct an environmental impact assessment to identify potential risks and develop strategies for minimizing the ecological footprint of decommissioning activities, as well as consider factors such as e-waste disposal, energy consumption, and carbon emissions.

ii. Prioritize the recycling or responsible disposal of decommissioned hardware and materials to reduce environmental impact, and partner with certified e-waste recycling facilities to ensure proper handling and recycling of electronic components.

iii. Establish secure logistics protocols to track the movement of decommissioned hardware throughout the decommissioning process, and maintain a chain of custody to ensure accountability and prevent unauthorized access or tampering.

iv. Properly decommission power and cooling infrastructure, including UPS units, HVAC systems, and generators, to minimize energy consumption and ensure safety. The operator shall disconnect and remove all electrical and mechanical components according to industry best practices.

v. Provide comprehensive training to employees involved in the decommissioning process to ensure they understand and adhere to best practices. Increase awareness of data security protocols, environmental responsibilities, and safety procedures to minimize risks and errors during

decommissioning activities. Regularly update training materials to reflect changes in regulations, technologies, and industry standards.

vi. Maintain comprehensive documentation of the decommissioning process, including records of data sanitization, hardware disposal, and environmental compliance. Retain audit trails to demonstrate adherence to best practices and regulatory requirements.

vii. Notify Township public safety and emergency management personnel of any changes in facility use and/or occupancy.

SECTION 5. Construction and Severability.

A. The provisions of this Ordinance shall be construed to the maximum extent possible to further the purposes and policies set forth herein, as consistent with applicable state statutes and regulations. If the provisions of this section and state law are in conflict, then state law shall prevail.

B. It is the intention of the Township's Board of Supervisors that the provisions of this Ordinance shall be declared unconstitutional or invalid by the judgement or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining provisions of this Ordinance.

SECTION 6. Priority. If any sections of this Ordinance or the current Zoning Ordinance address the same subject, the stricter provision shall apply.

SECTION 7. Ratification. Except as amended by this Ordinance, all other portions, parts and provisions of the current Upper Burrell Township Zoning Ordinance, as heretofore enacted and amended, shall remain in full force and effect.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be effective five (5) days after its enactment.

ENACTED AND ORDAINED by the Board of Supervisors of Upper Burrell Township, Westmoreland County, Pennsylvania, this _____day of _____, 2026.

ATTEST: **UPPER BURRELL TOWNSHIP**

_____ By: _____
Melissa A. Cortileso, Secretary Ross G. Walker, III, Chairman

(SEAL)