

UPPER MOUNT BETHEL TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA
ORDINANCE NO. 2025-

AN ORDINANCE AMENDING THE TOWNSHIP'S ZONING ORDINANCE BY
ADDING NEW PERMITTED/BY-RIGHT USE CLASS 8A-DATA CENTERS AND
DATA CENTER CAMPUSES, DEFINITIONS, AND SUPPLEMENTARY
REGULATIONS TO THE TOWNSHIP ZONING ORDINANCE IN ORDER TO
FURTHER IMPLEMENT THE INTENT OF GENERAL INDUSTRIAL USES OF THE
EXISTING TOWNSHIP ZONING ORDINANCE

WHEREAS, Upper Mount Bethel Township is a political subdivision situated within the County of Northampton, Commonwealth of Pennsylvania, is a Township of the Second Class and has offices located at 387 Ye Olde Highway, Mt. Bethel, PA 18343; and,

WHEREAS, the Township has in effect a Zoning Ordinance (hereinafter "Ordinance") which was revised and completely restated and readopted on March 15, 2004 and has since been amended; and,

WHEREAS and by Township Ordinance No. 2020-02, the Zoning Ordinance was amended to allow for the development of new Industrial Parks attractively developed and designed to attract new industry. See Ordinance Section Use Class 8-General Industrial Uses-subsection 8(e); and,

WHEREAS, the Township's zoning officer issued a written zoning determination that a data center was a by-right use in the Planned Industrial Park Use Class 8A; and,

WHEREAS, the Township believes that codifying that written determination by adding and defining data centers and data center campuses, and adding supplementary regulations for those uses is in the Township's best interests as it promotes the health, safety and welfare of the Township's residents; and,

WHEREAS, the PA Second Class Township Code (hereinafter referred to as "Code") provides that the Board may adopt ordinances in which general or specific powers of the Township may be exercised and can include the protection of the health, safety and welfare of the Township residents (53 P.S. Section 66506); and,

WHEREAS, the Code also authorizes the Township to adopt land use regulations, 53 P.S. Section 66516; and,

WHEREAS and pursuant to Section 609 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10609, the Township is authorized and empowered to enact amendments to the Upper Mount Bethel Township Zoning Ordinance after public hearing thereon pursuant to public notice; and,

WHEREAS and pursuant to the Pennsylvania Municipalities Planning Code, both the Township Planning Commission and the Lehigh Valley Planning Commission have reviewed the proposed amendments; and,

WHEREAS, the Upper Mount Bethel Township Board of Supervisors has conducted a public hearing pursuant to public notice concerning the aforesaid amendments to the Upper Mount Bethel Township Zoning Ordinance; and

WHEREAS, after holding a public hearing, the Upper Mount Bethel Township Board of Supervisors desires to ordain, adopt and enact the amendments to the Upper Mount Bethel Township Zoning Ordinance; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby ENACTED AND ORDAINED by the Board of Supervisors of Upper Mount Bethel Township, Northampton County, Pennsylvania, as follows:

Section 1. ARTICLE 2-DEFINITIONS, SECTION 2.100, APPLICABLE DEFINITIONS is amended by adding the following definitions:

2.161a **Data Center** – a building which is occupied primarily by computers and/or telecommunications and related equipment, including supporting equipment, where information is processed, transferred and/or stored. A data center may include data center equipment.

2.161b **Data Center Accessory Uses/Structures** – ancillary uses or structures associated with data centers including but not limited to: utilities; utility lines; administrative, logistical, fiber optic, storage, and security buildings or structures; electrical substations; domestic and non-contact cooling water and waste-water treatment facilities; water holding facilities; pump stations; water towers; environmental controls (air conditioning or cooling towers, fire suppression, and related equipment); redundant data communications connections; 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 for a data center campus.

2.161c **Data Center Campus** – An integrated development of multiple data centers that may include data center accessory uses/structures and data center equipment.

2.161d **Data Center Equipment** – outdoor mechanical equipment adjacent to a data center that provides redundant power capacity to a data center.

2.161e **Data Center Campus Master Plan** – A plan for land development for a data center campus as set forth in Section 6.1300.

Section 2. ARTICLE 4 – BASIC DISTRICT REGULATION, 4.200 USE CLASSES IN ZONING DISTRICTS, USE CLASS 8.A, PLANNED INDUSTRIAL PARKS, SECTION 1.A. USES BY RIGHT IN I-2 DISTRICT is amended as follows by adding:

(15) Data Center.

(16) Data Center Campus.

Section 3. ARTICLE 6 SUPPLEMENTARY REGULATIONS is amended by adding **Section 6.1300 DATA CAMPUS DEVELOPMENT** as follows:

6.1300 Data Center Development. Data center and/or data center campus development shall be permitted in Use Class 8.A. as a by right use subject to the requirements applicable to planned industrial park except to the extent modified by this Amendment. In the event of a conflict between Section 6.1300-6.1311 and the Zoning Ordinance or the SALDO, this Section 6.1300-6.1311 shall control.

6.1301 Accessory Uses/Structures. Data center equipment shall be permitted by right in support of a data center or data center campus. Data center accessory uses/structures shall be permitted by right in support of a data center campus. For purposes of the minimum distance between buildings, data center equipment and un-occupied data center accessory structures shall be deemed as auxiliary buildings that are not subject to the 25-foot set back between buildings.

6.1302 Sound. Sound from a data center or a data center campus shall not exceed: (i) 55 dB(A) during day time hours (6:00 a.m. to 6:00 p.m.) and 45 dB(A) during night time hours (6:00 p.m. to 6:00 a.m.) at a receiving residential land use; (ii) 65 dB(A) during day time hours (6:00 a.m. to 6:00 p.m.) and 55 dB(A) during night time hours (6:00 p.m. to 6:00 a.m.) at a receiving parks land use; and (iii) 65 dB(A) during day time hours (6:00 a.m. to 6:00 p.m.) and 60 dB(A) during night time hours (6:00 p.m. to 6:00 a.m.) at any other land use. Sound shall be measured 1.5 meters above ground at the property line per ANSI S1.13-2020 (American National Standard – Measurement of Sound Pressure Levels in Air). The developer will provide a sound assessment with its preliminary land development plan application for a data center or preliminary master plan application for a data center campus establishing how it will comply with the above sound standards. The sound assessment will be performed by a professional acoustic engineer that can demonstrate qualifications by delivery of a resume to the Zoning Officer. Notwithstanding the foregoing provisions of this Section, all sound produced by: (i) required periodic testing of data center equipment, and (ii) emergency use of data center equipment are exempt from the requirements of this Section and the Zoning Ordinance.

6.1303 Parking. A minimum of 40 spaces per each data center shall be provided; provided that, the minimum parking for a data center campus may be reached by aggregating all parking on a data center campus site. No parking for a data center shall be located within fifty (50) feet of a property line abutting a residential district or having a residential use.

6.1304 Off Street Loading. A minimum of 1 off-street loading space/dock shall be provided for a data center.

6.1305 Utility Lines. To the extent practical, utility lines, including but not limited to electronic, fiber optic, cable, and telephone lines, from sub-station(s) to a data center shall be placed under-ground. This requirement shall not apply if the utility company requires above-ground lines or the placement of under-ground lines is not feasible. Utility lines to the substations from off-site may be placed above-ground.

6.1306 Height. Data centers shall comply with the height restrictions for planned industrial parks, including the setback requirements for height around Community Park except that any data center that exceeds 90 feet in height shall be approved by the Board of Supervisors through modification under the master plan process set forth in Section 6.1311. No data center shall exceed 110 feet. Data Center Accessory Uses/Structures shall not exceed 90 feet. For purposes of determining the height of a data center or a building associated with data center accessory uses, projections through the roof of the building for items such as elevator towers, heating or cool units, parapet walls to screen rooftop equipment and protrusions, and other such items shall not be counted.

6.1307 Fences. Section 6.305 shall not apply to a data center or data center campus development. Fencing height shall be adequate to provide for secured facilities. Fences for a data center or data center campus shall be setback a minimum of 10 feet from the property line.

6.1308 Outdoor Lighting. Section 6.909 shall apply to a data center or data center campus development except that Section 6.909.b.4 shall be modified to permit lighting fixtures (luminaries) not higher than 30 feet. Lighting fixtures that are 25 feet or less in height shall not be located closer than 30 feet from any boundaries of residential or institutional areas. Lighting fixtures that are in excess of 25 feet and 30 feet or less in height shall not be located closer than 60 feet from any boundaries of residential or institutional areas. Outdoor lighting shall not exceed 30 feet unless a variance is obtained.

6.1309 Construction Hours. Construction and related operation of heavy machinery, operating or permitting the operation of any tools, equipment or heavy machinery used in construction, drilling, or demolition work for a data center campus may occur between the hours of 7:00 a.m. and 10:00 p.m. on Monday through Saturday. The zoning officer may permit additional construction hours by administrative modification upon request by an applicant.

6.1310 Phased Development. A data center campus may be developed in one or more phases. No time limitation shall apply to approvals of a data center campus.

6.1311 Data Center Campus Master Plan. Data center campus development shall be subject to a data center campus master plan which covers the full site. A data center campus master plan application shall be submitted for purposes of developing a data center campus. An applicant shall submit separate data center campus master plan applications for preliminary and final approvals by the Board of Supervisors. The process and procedures for data center campus master plan application shall follow the process for major/subdivisions/land development approvals under the SALDO subject to the exceptions for planned industrial parks and as set forth below. In the event of a conflict between these terms and the SALDO, Section 6.1311 and the exceptions for planned industrial parks shall control.

6.1311.A. A data center campus master plan shall be subject to the same exceptions from the SALDO as a planned industrial park. In addition, the following provisions of the SALDO shall not apply:

1. Section 301 (Tentative Sketch Plan).

2. Section 307.12 (recordation). The final data center campus master plan approval shall not be recorded. Each final phase site plan of the data center campus master plan shall be recorded. The Township may require as a condition of approval that applicant cause to be recorded a final “as built” data center campus master plan.
3. Section 600.4.5.1 (sidewalks)
4. Section 600.4.10. Provided that, the applicant shall demonstrate to the Township engineer that fuel tanks are sufficiently secured to prevent movement by wind, water or other elements and shall meet the requirements of the National Electrical Code.

6.1311.B After approval of the data center campus master plan, the development of each, lot, parcel or building identified in the data center campus master plan shall be permitted by right. An individual site plan for each data center identified on the data center campus Master Plan or each phase of the development of the data center campus demonstrating compliance with the data center campus master plan shall be submitted to the zoning officer prior to issuance of a building permit. A site plan may reflect lot consolidation and subdivision of lots that at the time of submission are under common control and separate lot consolidation, and subdivision is not necessary. Copies of any applicable third-party permits shall be submitted to the zoning officer prior to issuance of a building permit. Applicable third-party permits may include, but are not limited to, highway occupancy permits, NPDES permits, and ESCGP permits.

6.1311.C An individual site plan for each data center or each phase of the development of the data center campus shall be found to be consistent with the approved data center campus master plan if it is clearly identified in the approved data center campus master plan or if the site plan is found to be a minor modification to the approved data center campus master plan. The procedure for a major modification to the approved data center campus master plan shall be the same as a new master plan under this Chapter.

1. A minor modification to an approved data center campus master plan is development that results in any of the following:
 - a. A rate of stormwater discharge and runoff from the site equal to or less than rates identified in the stormwater management plan approved in connection with the data center campus master plan.
 - b. Minor shifts in building locations that do not substantially deviate from the originally approved plans.
 - c. Addition or relocation of data center accessory uses/ structures or data center equipment within the approved development area.
 - d. Adjustments to internal road layouts that do not substantially modify overall traffic patterns or materially alter ingress and egress access points.

- e. Adjustments to utility line routes within the approved development area.
 - f. Building adjustments that increase the square footage of a data center or accessory uses/structures by up to 5% or any adjustment that decreases or eliminates the square footage of a planned data center or data center campus.
 - g. Any adjustment to the approved plan required by a third-party governmental agency including but not limited to PennDOT or DEP necessary for approval under their permitting process.
 - h. Any similar adjustments deemed by the zoning officer to be minor in nature consistent with the Zoning Ordinance and this Section 6.1300-6.1311.
2. A major modification to an approved data center campus master plan is any modification to an approved data center campus except as set forth in Section 6.1311.C.1 above.
 3. The applicant may submit to the zoning officer (either with the site plan or at the request of the zoning officer) any additional plans, studies, or reports demonstrating that individual site plan for each data center or each phase of the development of the data center campus is a minor modification of the data center campus master plan.

6.1311.D The Board of Supervisors may approve waivers or modifications for implementation of the data center campus master plan if a provision is shown to the Board's satisfaction to be unreasonable, cause undue hardship, or an alternative standard is demonstrated to provide equal or better outcomes.