

Chapter 770: DATA CENTERS

Section 770-1 – Authority.

This ordinance is adopted pursuant to the zoning powers granted to the county under the Illinois Counties Code (55 ILCS 5/1-12001 et. seq.).

Section 770-2 – Purpose.

The purpose of this ordinance is to regulate the location, construction, operation, maintenance, expansion, and decommissioning of data centers with the county; protect the public health, safety, and welfare of the community; protect properties from excessive impacts; preserve groundwater and public utility capacity; protect road infrastructure and emergency response capabilities; promote responsible economic development; ensure compatibility with agricultural and rural land uses; and establish permitting standards.

Section 770-3 – Definitions.

- A. "Applicant" means the entity who submits to the county a special use permit application for a data center facility. All references to "applicant" in this ordinance shall include and apply to the applicant and applicant's successors-in-interest and assigns; the facility owner and facility owner's successors-in-interest and assigns; and the operator and operator's successors-in-interest and assigns.
- B. "Certificate of occupancy" means authorization issued by the County permitting a structure or space to be occupied and used for its intended purpose upon demonstration of compliance with applicable building code requirements.
- C. "Closed-loop cooling system" means a cooling system that recirculates coolant within a sealed system and does not rely on continuous withdrawal or discharge of groundwater or surface water during normal operation.
- D. "Co-located data center" means a facility which leases information technology (IT) infrastructure space to others for the storage, processing, and transferring of digital information.
- E. "Commercial operation date" means the calendar date on which the data center facility begins any operations, except initial testing.
- F. "Community space" means a publicly accessible indoor or outdoor area intended for community use, gathering, recreation, education, civic activities, or similar public purposes, including but not limited to parks, playgrounds, public squares, community centers, libraries, recreational facilities, and other areas owned, operated, or maintained by a governmental entity or made generally available for public use.
- G. "Data center" means a facility, building, or campus of buildings used primarily to house computer systems, servers, data storage devices, networking equipment, and associated infrastructure for the processing, storage, management, transmission, or distribution of electronic data and digital

information. A data center may provide data hosting, cloud computing, co-location, artificial intelligence computing, disaster recovery, telecommunications support, or other information technology services to third-party customers for compensation. "Data center" as used in this ordinance shall also include the terms "facility" and "project."

- H. "Data center accessory system" or "accessory system" means ancillary uses, systems or structures secondary and incidental to a data center, including but not limited to, administrative, logistical, fiber optic, storage, and security buildings or structures; sources of electrical power; electrical substations; utility lines; cooling water systems and wastewater treatment systems; water holding facilities; pump stations; water towers; environmental controls (air conditioning or cooling towers, fire suppression, and related equipment); security features, provided such data centers/structures are located on the same tract or assemblage of parcels developed as a unified development with a data center or for the purpose of supporting the data center.
- I. "Facility owner" means (i) a person or entity with a direct controlling ownership interest in a data center facility, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) a person or entity who, at the time the facility is being developed, is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.
- J. "Financial assurance" means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.
- K. "Nonparticipating property" means real property that is not a participating property.
- L. "Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that a special use permit application for the data center facility is filed with the county.
- M. "Operator" means the person or entity responsible for the day-to-day operation and maintenance of the data center facility, including any third-party subcontractors, successors-in-interest and assigns.
- N. "Participating property" means real property that is the subject of a written agreement between a facility owner and the property owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a data center facility or accessory systems. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a data center facility or accessory systems.
- O. "Professional engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- P. "Project" means the data center facility and accessory system(s).

- Q. "Protected lands" means real property that is: (1) subject to a permanent conservation right consistent with the Illinois Real Property Conservation Rights Act (765 ILCS 120/1 et seq.); or (2) registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act (525 ILCS 30/1 et seq.).

Section 770-4 – Applicability.

This ordinance governs data center facilities (including any accessory systems) within the unincorporated areas of the county that are outside of the zoning jurisdiction of a municipality.

This ordinance applies to data centers and accessory systems that exceed 10,000 square feet of processing space or the anticipated maximum power draw exceeds 5 megawatts of alternating current capacity, or the anticipated water use exceeds 100,000 gallons per day.

Section 770-5 – Prohibition.

- A. No data center or data center accessory systems governed by this ordinance shall be constructed, erected, installed, or located within the county without a special use permit and building permit granted by the county. Data center facilities and accessory systems shall only be allowed by a valid special use permit and building permit. Unless otherwise allowed by the county, all projects shall conform to the representations made within the special use permit application, representations during the public hearing process, and representations contained within the building permit application.
- B. No data center or data center accessory systems may be constructed or operated upon property other than those properties zoned as industrial (I-1, I-2) within the county.
- C. Data centers or data center accessory systems constructed or operated within the FEMA designated Flood Zones as shown within the County FIRM shall follow the regulations listed within Chapter 720 of the Carroll County Ordinances.
- D. No data center or data center accessory systems shall be constructed or operated within protected conservation areas.
- E. No data center or data center accessory systems may be constructed or operated where water will be consumed or removed from any U.S. EPA or Illinois EPA designated Sole Source Aquifer, or a recharge zone for a Sole Source Aquifer.

Section 770-6 – Pre-Application Notification to Neighboring Property Owners

- A. At least forty-five (45) days prior to filing an application for a Special Use Permit, the applicant shall mail written notice of the applicant's intent to submit such application to all property owners and residents located within one (1) mile of the proposed project footprint.

The notice shall provide a general description of the proposed project, its location, the name and contact information of the applicant. The notice shall also identify a means by which neighboring

property owners and residents may submit questions, comments, or concerns regarding the proposed project to the applicant prior to the filing of the Special Use Permit application.

- B. The applicant shall be responsible for all costs associated with preparing and mailing the required notices. Evidence demonstrating compliance with this Section, including a copy of the notice and documentation identifying the persons or properties to which notice was mailed, shall be submitted to the County with the Special Use Permit application.

Section 770-7 – Special Use Permit Application.

- A. To obtain a special use permit for a data center and any supporting facilities, an applicant shall first submit a special use permit application to the county for scheduling of a public hearing on the application.
- B. The applicant shall submit at least 10 physical copies and one digital copy of the special use permit application to the county.
- C. Material changes to the special use permit application are not permitted once notice of public hearing on the application has been published, unless otherwise requested or permitted by the county board.
- D. The special use permit application shall contain:
 - 1. A project summary for the data center facility and its accessory systems, including:
 - a. A general description of the project, including:
 - i. Number of structures;
 - ii. Number of generators;
 - iii. Maximum height of all buildings and accessory systems;
 - iv. Approximate overall nameplate generating capacity of any electrical generation systems utilized to power the project;
 - v. Potential manufacturers of equipment to be utilized at the project;
 - vi. Description of accessory systems, including energy storage systems, nameplate capacities, types of systems, and overall acreages;
 - vii. Project site plan, phasing plan, and construction timeline; and
 - b. A description of the application, facility owner and operator, including their respective business structures as required for publication pursuant to the Illinois Counties Code.
 - 2. The name, address, and phone number of the applicant, facility owner, operator, participating proper owners, and documentation demonstrating land ownership or legal control of the property.
 - 3. A site plan for the project showing the boundaries project parcel, property lines, setback lines, existing or proposed easements, location of all existing structures with their uses identified, all proposed structures including, but not limited to, the project, the project substations,

interconnection substations, energy storage systems, and any accessory systems; on-site vehicular circulation, vehicular parking; number and legal descriptions for each parcel.

4. Any of the following within 2,500 feet of the project parcel boundary: (a) participating and nonparticipating residences; (b) community spaces; (c) setback lines; (d) public access roads and turnout locations; and (e) location of any wetlands, flood plain, drainage structures (including surface ditches and subsurface drainage lines), underground mines, scenic and natural areas.
5. A topographic map depicting the project site and surrounding area within 1,000 feet.
6. A proposed decommissioning plan for the project, including cost estimations and a draft form of financial assurance for same.
7. Written approval from relevant road authorities of the roads to be utilized for construction and a draft form of financial assurance for the protection of said roads.
8. Sound modeling demonstrating that the project will comply with the sound requirements of this ordinance.
9. Vibration modeling demonstrating that the project will comply with the requirements of this ordinance.
10. Results and recommendations from consultation with the Illinois Department of Natural Resources (IDNR) obtained through its Ecological Compliance Assessment Tool” (EcoCAT) or a comparable successor tool.
11. Results and recommendations from consultation with the Illinois State Historic Preservation Office (SHPO) regarding potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/1 et seq.).
12. Evidence demonstrating that the project will avoid protected lands as identified by the Illinois Department of Natural Resources (IDNR) and the Illinois Nature Preserves Commission (INPC).
13. A farmland drainage plan (to include a drain tile survey) which shall be provided to the county and any impacted drainage district.
14. Adequate proof that the special use permit application has been submitted to local emergency response agencies.
15. A proposed vegetative screening plan and vegetation/weed management plan compliant with the provisions of this ordinance.
16. A proposed grading plan and dust mitigation plan if any grading will be necessary for the construction of the project.

17. A copy of all communication and interference studies demonstrating the potential impacts of the project on television, radio, telephone (including mobile phone communications), transportation communication devices, emergency and law enforcement communications including E911 communications, and weather radar utilized by the National Weather Service or others to communicate weather events to the public.
18. A water use study demonstrating that public and private water resources will not be negatively impacted from the project, a water supply impact assessment, and drought contingency plan.
19. A preliminary emergency response plan which shall include detailed procedures for fire suppression, containment, ventilation, evacuation, an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment at the project, a plan for training of first responders, and annual fire safety inspections demonstrating compliance with the fire safety standards to be performed by a qualified professional on behalf of the data center.
20. A storm water management plan designed to prevent, limit and remedy stormwater pollution, erosion and sediment control during the construction and operation of the project.
21. All information required under Section 5-12024 of the Illinois Counties Code (55 ILCS 5/5-12024) and County Chapter 765 for any energy storage systems utilized for the project.
22. For co-located data centers, the number of separate systems to be leased to third parties.
23. A comprehensive cost-benefit analysis considering, at a minimum, the following: tax revenue and potential tax loss; water, power and utility requirements and any necessary improvements to public infrastructure, and the costs of such improvements; job creation in comparison to any anticipated job loss and the average full-time equivalent salary in each category.
24. A Phase I Environmental Site Assessment shall be conducted in accordance with ASTM E1527. If the Phase I assessment indicates that further investigation is necessary, a Phase II Environmental Site Assessment shall be conducted and submitted in accordance with ASTM E1903.
25. Non-confidential utility service coordination letter.
26. All other required information, studies, reports, certifications, and approvals necessary for demonstrating compliance with the provisions of this ordinance at the time of public hearing on the special use permit application.
27. Any other information requested by the county or its consultants necessary to evaluate the special use permit application and to demonstrate that the project meets the requirements of this ordinance.

28. Any other information normally required or requested by the county as part of its permitting requirements for buildings or other structures.

Section 770-8 – Setbacks and Dimensional Requirements.

- A. Setbacks and dimensional standards of data centers and data center accessory systems shall be in accordance with the industrial district with the following exceptions (setback distances shall be measured from the nearest edge of any above-ground component, excluding fencing):
1. Community public spaces and dwellings on nonparticipating property: 2,000 feet to the nearest point on the outside wall of the structure of a dwelling and any community space.
 2. Boundary lines of participating property: None.
 3. Boundary lines of nonparticipating property: 1,000 feet to the nearest point on the property line of the nonparticipating property.
 4. Public road rights-of-way: 200 feet to the nearest edge of the public right-of-way.
 5. Height: The maximum building height for a data center and data center accessory systems shall be 60 feet, inclusive of any roof mounted equipment such as cooling and ventilation systems, HVAC units and cooling towers.
- B. Setback requirements may be waived by the written consent of the property owner of each affected nonparticipating property, except for community public spaces. Any waiver of the above setback requirements shall run with the land and shall be recorded with the county recorder prior to the issuance of any building permit for project.

Section 770-9 – Visual Impact.

- A. Lighting. The project shall comply with responsible outdoor lighting standards and recommendations provided by DarkSky International and shall limit outdoor lighting to that which is minimally required for safety and operational purposes. Any outdoor lighting shall be shielded and downcast from all residences and adjacent properties.
- B. Landscape Buffer. A landscape buffer is required between any data center and data center accessory systems and any adjoining residentially zoned parcel, community space, or public right-of-way. The landscape buffer shall, at a minimum, comply with the following requirements, and shall be maintained throughout the life of the project:
1. The landscape buffer shall be at least 25 feet in width and may be part of the minimum setback distance.
 2. The landscape buffer plantings shall consist of native species and shall include, at a minimum:

- a. One large evergreen tree per 25 linear feet of buffer. The size of the evergreen trees shall be a minimum of eight feet in height at the time of planting.
 - b. One deciduous canopy (shade) tree per 75 linear feet of buffer. The size of the canopy (shade) trees shall be a minimum of 2-inch caliper at the time of planting.
 - c. One ornamental/flowering tree per 50 linear feet of buffer. The size of the ornamental/flowering trees shall be a minimum of eight feet in height for multi-stemmed varieties, or two and one-half inches caliper at the time of planting for single-stemmed varieties.
 - d. Five shrubs per 25 linear feet of buffering. Shrubs shall be fully branched and at a 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.
 3. If existing vegetation is adequate to meet the intent of the required landscape buffer to screen the data center and any data center accessory systems from adjoining residentially zoned parcels, community spaces, and public roadways, the county may allow such existing vegetation to substitute for the vegetative screening requirements upon recommendation by the county engineer and the zoning board of appeals.
 4. Ground mounted and roof mounted equipment used for cooling, ventilation, or otherwise supporting the facility, including power generation or other power supply equipment, that is located within 200 feet of a public right-of-way, residential zoning district, or the parcel line of any community space or occupied non-participating residence, shall be fully enclosed, except where not mechanically feasible based on the manufacturer's specifications. If not feasible to fully enclose the equipment due to manufacturer's specifications, it must be fully screened from view using one or more of the following means:
 - a. The vegetative screening required above;
 - b. By existing vegetation that will remain on the property;
 - c. By the principal data center building or accessory building; or
 - d. 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.
- C. Vegetation/Weed Management. The project shall perform an assessment of the property for the presence of noxious weeds, in particular, those regulated by the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.) and the Illinois Exotic Weed Act (525 ILCS 10/1 et seq.). In addition to those weeds specifically regulated by statute or regulation, the applicant shall perform an assessment of the property for all species of *Amaranthus*, including but not limited to, *Amaranthus Tuberculatus* (waterhemp, roughfruit waterhemp, roughfruit amaranth, etc.). Such assessment shall include the presence and propensity for such weeds to exist within the project area and a plan for eradication and management of such weeds. A vegetation/weed management plan must be submitted as part of the special use permit application and may be subject to revision, review and approval prior to the issuance of a building permit.

- D. Fencing. The project shall be enclosed by fencing having a height of at least eight (8) feet. The fencing shall not include barbed wire, razor wire or similarly visible deterrence devices. If fencing is fully screened by vegetative screening, then the fencing requirements shall not apply.

Section 770-10 – Communications Interference.

- A. The applicant shall demonstrate that the proposed project will not interfere with electromagnetic communications through the use of a third-party professional.
- B. The facility owner/operator shall, at its own expense, immediately mitigate and eliminate any interference the project causes with electromagnetic communications, including radio, telephone, microwave, or television signals, especially those affecting government public safety communications (police, fire, emergency management services, and 911 dispatch).
1. The applicant shall provide microwave transmission providers and local emergency service providers with a copy of the project summary and site plan. If these providers demonstrate a likelihood of interference, the facility owner/operator shall take all necessary measures to minimize and mitigate the anticipated interference. For any interference affecting public safety communications, the facility owner/operator shall immediately implement all necessary and commercially available measures to eliminate the interference.
 2. If the facility owner/operator receives a written interference complaint after construction, it shall respond immediately. For public safety communications complaints, the facility owner/operator must immediately take all necessary and commercially available steps to eliminate the interference.
- C. If, after construction of the project, the facility owner/operator receives a written complaint related to interference with local residential television or radio reception, the facility owner/operator shall take commercially reasonable steps to investigate and respond. A summary of the complaint and subsequent response from the facility owner/operator shall be forwarded to the county for review. The facility owner/operator shall have 30 calendar days to verify the complaint, and 15 calendar days to respond. Said response shall be addressed and forwarded to both the county and the complainant. Such response shall include, but not be limited to, an acknowledgment that a complaint was made and evaluated by the facility owner/operator; and if considered valid by the facility owner/operator, an explanation, including a timeline, as to how the facility owner/operator will resolve the complaint. In no event shall valid television reception issues persist beyond 60 calendar days from the date the complaint is validated. If considered invalid by the facility owner/operator, an explanation, including supporting documentation and expert opinions as to why the applicant believes the complaint is not valid shall be provided to the county and the complainant.

Section 770-11 – Noise and Vibration.

- A. The applicant shall demonstrate with testimony from a qualified professional during the special use permit hearing that the project will comply with Illinois Pollution Control Board (IPCB) requirements regulating noise and sound, measured from the property boundary. Within one year following completion of construction and during operation of the project, the owner shall perform at least one

noise study utilizing a qualified third-party. If the noise study demonstrates non-compliance with the relevant IPCB standards, the owner shall cause the project to cease or curtail operation of the project to gain compliance with the IPCB standards. In order to resume normal operation of the project, the owner must provide a remediation plan to be reviewed and approved by the county. Within 30 days of resuming normal operation, the owner must provide a noise study demonstrating compliance with the IPCB standards.

- B. The applicant shall provide a vibration study prepared by a qualified professional that demonstrates that no vibration from the data center or accessory systems will be perceptible to the human sense of feeling beyond the property line and that no damage will occur public or private property.

Section 770-12 – Power.

- A. If the applicant proposes connecting the data center to the public grid, the applicant shall provide an interconnection agreement from the public utility, or written confirmation from the public utility that no such agreement will be required.
- B. Any energy generation system designed or used to supply power (including backup power) directly to a data center during normal operations, including but not limited to, solar, wind, fossil fuel, natural gas, energy storage systems, diesel generator systems or nuclear energy generating systems, shall be considered part of the project and subject to additional regulation or requirements. All such systems shall not be considered personal property for the purposes of property tax assessment.

Section 770-13 – Water and Sewer.

- A. 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 that 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.
 - 1. The water feasibility study shall include the following information at a minimum:
 - a. The projected water demands of the data center;
 - b. The source of water to be used;
 - c. 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);
 - d. The long-term safe yield of the water source;
 - e. A description of the amount or portion of water withdrawn that will be recycled or discharged and by what means;
 - f. A geologic map of the area with a radius of at least one mile from the site;
 - g. The location of all existing and proposed wells within 1,000 feet of the property boundary, with a notation of the capacity of all high yield wells;

- h. The location of all 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;
 - i. 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;
 - j. A statement of the qualifications and the signature(s) of the person(s) preparing for the study; and
 - k. Proof review and approval from any state or federal agencies regarding the water use of the project.
- B. To the extent a project will utilize water for non-potable purposes, including cooling or humidity control, the project shall utilize a closed-loop cooling system or another cooling technology or system demonstrated to provide water-use efficiency considering the design, scale, and operational requirements of the project. The use of an alternative to a closed-loop system may be permitted where the applicant demonstrates that the proposed system's anticipated water consumption is appropriate and sustainable when evaluated against the findings of the required water study, available water resources, and potential impacts to public and private water supplies.
- C. As part of the special use permit application, the applicant shall provide sufficient information regarding the proposed cooling system, including estimated average and peak water demand, anticipated annual water consumption, source of water, water-use efficiency, and expected replenishment or makeup-water requirements. Such information shall be evaluated in conjunction with the required water study and the demonstrated availability and sustainability of the proposed water source.
- D. The applicant 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 relevant public body.

Section 770-14 – Drainage Systems.

The applicant, at its expense, shall repair, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance and/or operation of the project.

Section 770-15 – Environment and Wildlife.

- A. Generator Emissions. Backup generators shall meet the requires of EPA Tier 4 standards and Illinois EPA permitting.
- B. Avian and Wildlife Impact. The applicant, at its expense, shall have a third-party, qualified professional conduct an environmental impact study and submit said study to the county as part of the special use permit application. The project shall be located, designed, constructed, and operated so as to avoid and if necessary, mitigate, impacts to wildlife.

Section 770-16 – Emergency Response.

- A. The applicant shall submit to all local emergency responders a copy of the site plan and standard operating procedures and guidelines for the project so that the local law enforcement, fire department/fire protection district and rescue units, emergency medical service providers and emergency management service providers having jurisdiction over the project may evaluate and coordinate emergency response plans with the applicant. Such materials shall be provided prior to the filing of the special use permit application.
- B. The facility owner, at its own expense, shall provide annual training for, and the necessary equipment to, the operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the project.
- C. The facility owner and operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the facility owner and the operator, at least three designated facility representatives (a primary representative with two alternate representatives, that are on-call 24 hours per day/7 days per week/365 days per year. Any change in the designated facility representatives and/or contact information shall be promptly communicated to the county zoning administrator. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annual basis.
- D. Any portion of the project that experiences a fire or weather impact/damage shall be immediately addressed by the facility owner and operator in coordination with all fire departments/fire protection districts and any other emergency response agencies within the project footprint. The facility owner shall notify the county zoning administrator within 24 hours of any fire incident or weather impact/damage and shall provide to the county zoning administrator within seven days the following information: (1) extent of damage and whether the fire or weather impact/damage resulted in any portion of the project becoming inoperable; (2) the estimated time for repair; (3) whether overweight or oversize vehicles will need to utilize public roads for repair of any damaged equipment; and (4) the point of contact for the facility owner regarding the emergency and repairs, and point of contact for any contractor(s) performing the repairs.
- E. Nothing in this ordinance shall alleviate the need to comply with all other applicable life, health, safety, fire and emergency laws and regulations.

Section 770-17 – Signage and Warnings.

- A. Visible warning signs concerning voltage must be placed at all entrances, at all transformers and inverters, substations, and other locations where high voltage is present and is reasonably accessible by others.
- B. Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.

Section 770-18 – Design Safety Certification.

The project shall conform to federal and state laws and regulations, and applicable industry standards, including those of Underwriters Laboratories (UL), American National Standards Institute (ANSI), National Fire Protection Association standards (NFPA) (including but not limited to NFPA 75 and NFPA 70). All standards denoted herein shall refer to the latest version published prior to the issuance of a building permit. Prior to the issuance of a building permit, applicant shall submit certificates of design compliance from equipment manufacturers obtained from UL or an equivalent third party. Prior to the issuance of the building permit, applicant shall provide to the county a copy of all applicable laws, regulations, and standards governing the project. To the extent the provisions of this ordinance conflict with any industry safety standards, such as UL, ANSI or NFPA requirements, the more stringent requirements shall apply.

Section 770-19 – Engineer’s Certificate.

Prior to the issuance of a building permit, applicant must submit a certification from a structural engineer registered in the State of Illinois that the project design is compatible with and appropriate given the specific soil, subsurface and climate conditions. The structural engineer's certificate shall be submitted as part of the building permit application.

Section 770-20 – As-Built Map and Plans.

Within 60 calendar days of completion of construction of the project, the facility owner or operator shall deliver to the county "as-built" maps, a final site plan and engineering plans that have been signed and stamped by a professional engineer and surveyor licensed in the State of Illinois.

Section 770-21 – Road Use Agreement.

- A. An applicant proposing to use any county, municipality, township or village roads for the purpose of transporting equipment for construction, operation, or maintenance of a data center shall:
 - a. Identify all such public roads;
 - b. Conduct a preconstruction baseline survey to determine existing road conditions for assessing potential future damage; and
- B. Enter into a road use agreement with the county and each affected road district that includes the following provisions, at a minimum:
 - a. Project layout map;
 - b. Transportation impact analysis;
 - c. Notification procedures for road closures and/or lane restrictions;
 - d. Preconstruction plans;
 - e. Project traffic map;
 - f. Project scope of repairs;
 - g. Post-construction repairs;
 - h. Insurance; and
 - i. Financial assurance in forms and amounts acceptable to the county.

- C. The road use agreement shall require applicant to be responsible for the reasonable cost of improving roads used to construct the project and the cost of repairing roads used by the facility owner during construction of the project. Roadways improved in preparation for and during the construction of the project shall be repaired and restored to the improved condition at the cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.
- D. All repairs and improvements to county public roads and roadway appurtenances shall be subject to the prior approval of the county before being made and shall also be subject to inspection and acceptance by the county after such repairs and improvements are completed. The county's road use agreement, and any further agreements contemplated therein, regarding the maintenance and repair of county public roads and highways, must be approved by the county board prior to the approval of any building permit applications related to the construction of the project. Copies of any other road use agreements for the project must also be provided to the county zoning administrator prior to the approval of any building permit applications.
- E. Road use activities associated with construction, operation and maintenance shall also comply with Carroll County Ordinance Chapter 800, including all applicable overweight and over-dimension permitting requirements and county highway entrance permitting.
- F. The applicant shall provide to both the zoning officer and county engineer before the building permit process shall begin a traffic impact analysis, construction traffic management plan, and oversize load routing plan.

Section 770-22 – Decommissioning Agreement.

- A. Any project, or portion thereof, that is no longer utilized as a data center and has not been repurposed for other uses for a period of 24 months or greater, shall be decommissioned.
- B. Applicant must submit a decommissioning plan with cost estimation to the county as part of the special use permit application and shall provide testimony supporting the calculation of costs during the public hearing on the special use permit application. Salvage or resale value shall not be considered for purposes of cost estimation.
- C. Prior to receiving any building permit for the project, the facility owner shall enter into a decommissioning agreement with the county to be approved by the county board and post a financial assurance equal to or greater than 125% of the decommissioning cost estimate.
- D. The facility owner shall submit an updated decommissioning plan with updated cost estimation and updated financial assurance in accordance with the schedule agreed in the decommissioning agreement.
- E. The county may utilize a third-party engineer and/or counsel to review any decommissioning plan and cost estimation prior to approval of the decommissioning agreement/plan and financial assurance. Costs incurred for the same shall be paid by the applicant or facility owner.

Section 770-23 – Additional Terms and Conditions.

- A. All technical submissions, as defined by the Illinois Professional Engineering Practice Act of 1989 (225 ILCS 325/1 et seq.), contained in the special use permit application and the building permit application shall be prepared and signed by a professional engineer for the relevant discipline.
- B. The county may retain a qualified, independent code inspector or professional engineer both to make inspections of the project during and after construction and to consult with the county to confirm that the construction, substantial repair, replacement, repowering of energy supply and/or decommissioning of the project is performed in compliance with applicable ordinance, conditions, electrical and building codes, state and federal law and regulation. During the special use permit process, the county may retain third parties to consult on any aspect of the project including potential impacts and compliance with any laws, regulations, ordinances, and standards. The cost and fees so incurred by the county in retaining said inspector or engineer shall be promptly reimbursed by the applicant within 30 days of receipt of an invoice from the county.
- C. Parking shall be provided on a paved surface and sufficient to provide at least one parking spot designated for each employee at peak employee utilization during operation, and at least one parking spot designated for vehicles owned and/or utilized by the project during operation.
- D. Project labor agreements with local union labor organizations are preferred and encouraged by the county.
- E. Community benefit agreements are preferred and encouraged by the county. To the extent any community benefit agreements are entered into, those agreements shall be with local non-profit entities for the utilization of community spaces or programs designed to benefit or available to benefit all residents of the county.
- F. Costs of any public infrastructure improvements necessitated by, or due to or as a consequence of the project, shall be paid for by the owner. If such improvements are necessary or recommended, then prior to the issuance of a building permit for any project, the owner and county (or public infrastructure owner, if different than the county) shall enter into a public infrastructure improvement agreement which shall include, at a minimum, the cost assessment, method of payment, timing of payment and warranty period(s) for such improvements.
- G. To the extent a reasonable depreciation in adjacent properties is demonstrated during the special use permit hearing, the owner enter into property value guarantees with the adjacent property owners and provide the executed guarantees prior to the issuance of any building permit for the project.

Section 770-24 – Complaint Resolution.

The facility owner shall, at its expense and in coordination with the county, develop a system for logging and investigating complaints related to the project. The facility owner shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the county. All costs and fees incurred by the county in attempting to or resolving complaints shall be reimbursed by the facility owner. The facility owner and operator shall also designate and maintain for the duration of the project a telephone number and email address as its public information/inquiry/complaint hotline which shall be answered by

a customer service representative on a 24/7 basis. The facility owner and operator shall post the telephone number and email address for the customer service representative in a prominent, easy to find location on their websites and at the project site on signage.

Section 770-25 – Reporting.

The facility owner must submit, on an annual basis on or before February 1st of each calendar year following its commercial operation date, a report to the county zoning administrator containing the following information: (i) a general description of any physical repairs, replacements, or modifications to the project; (ii) complaints pertaining to setbacks, water use, power use, noise, appearance, safety, lighting and use of any public roads received by the facility owner concerning the project and the resolution of such complaints; (iii) calls for emergency services; (iv) a general summary of service calls to the project; (v) current certificates of insurance; (vi) a report of the annual and per month use of water at the site; (vii) a report of the annual and per month electricity use at the site; and (vi) contact information (names, email address and phone numbers) for the person(s) with general oversight of the facility including emergency response; In addition to the annual report, such information shall be provided upon direct request by the county. Failure to provide the annual report or report directly as requested by the county (within 30 days) shall be considered a material violation of this ordinance and subject to the remedies provision of this ordinance. Additionally, in the event the person(s) with oversight or emergency responsibilities changes or said person(s) contact information changes, the facility owner shall provide updated information to the county within seven calendar days of said change.

Section 770-26 – Liability Insurance and Indemnification.

- A. Commencing with the issuance of a building permit, the facility owner shall maintain a current general comprehensive liability policy, pollution liability and automobile liability coverage covering bodily injury, death and illness, and property damage, with limits of at least \$20,000,000 per occurrence and \$40,000,000 in the aggregate, during the life of the project. All insurance policies shall be in the name of the facility owner. The original certificate of insurance shall be provided to the county zoning administrator upon prior to the issuance of a building permit, and at each subsequent renewal, at least annually thereafter. Additionally, the facility owner shall promptly increase policy limits if the amount required under this ordinance is increased, upon written notice from the county, and the facility owner shall thereafter provide proof of the increased policy to the county zoning administrator.
- B. The facility owner and operator shall defend, indemnify and hold harmless the county and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually, the indemnified parties) from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the special use permit or the construction, operation, maintenance and removal of the and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the facility owner and/or the operator under this ordinance or the special use permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such indemnified parties. This

general indemnification shall not be construed as limiting or qualifying the county's other indemnification rights or immunities available under the law.

Section 770-27 – Defaults and Remedies.

- A. Any project declared to be unsafe by the county by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, or abandonment is hereby declared a public safety issue and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in this ordinance and decommissioning agreement or plan.
- B. Failure by the applicant, facility owner, or operator to comply with any provisions of this ordinance, provisions under the special use permit, other permits, any conditions imposed on the project, and/or failure to comply with any law or regulation shall constitute a default under this ordinance and shall be grounds for revocation of any special use permit or other permits granted by the county board or the county.
- C. Prior to implementation of the existing county procedures for the resolution of such default(s), the appropriate county body shall first provide written notice to the facility owner and operator, setting forth the alleged default(s). Such written notice shall provide the facility owner and operator a reasonable time period, not to exceed 30 days, for good faith negotiations to resolve the alleged default(s).
- D. If the county determines that the parties cannot resolve the alleged defaults within the good faith negotiation period, the county shall make application to the circuit court for an injunction requiring conformance with this ordinance or make such other order as the court deems necessary to secure compliance with the ordinance.
- E. Any violation of this ordinance shall be an offense punishable by a fine of \$1,000. Each violation shall be a separate offense. Each day a violation occurs or continues shall be a separate offense, subject to a \$1,000 fine for each additional day the violation is not corrected. A court may impose any additional and appropriate per day fine for each day the violation exists or until such violation is remedied, and the court may consider the nature of the violation, the degree of public safety involved, and the efforts of the county, the applicant, facility owner, and/or operator to resolve quickly and safely any and all violations. It is the intent that any dispute between the parties be resolved promptly, and where possible, by informal discussions with the county, as may be outlined elsewhere in this ordinance.
- F. The effective date of this ordinance, any person/entity who proceeds with the development of a data center located within the territorial jurisdiction of this ordinance, prior to obtaining all approvals under the terms of this ordinance, shall be deemed in violation of this ordinance and shall be fined as stated herein.
- G. The county reserves the right to hire outside counsel or engineers to enforce this ordinance and/or determine compliance with this ordinance. The applicant, facility owner, and/or operator is liable for payment of reasonable attorney's fees in this regard.

- H. Nothing herein shall prevent the county from taking such other lawful action to prevent or remedy violations. All costs connected therewith shall accrue to the applicant, facility owner, and/or operator responsible for the project.

Section 770-28 – Fees and Costs.

- A. Special Use Permit Application Fees. Prior to processing any special use permit application for a data center, the applicant must submit a non-refundable payment to the county \$250,000.00. In addition to the application fee, the applicant shall be responsible for any third-party costs of the county in relation to the special use permit application.
- B. Building Permit Application Fees. Prior to the issuance of a building permit, the facility owner must deposit a non-refundable building permit fee equating \$250,000.00, plus an additional fee of \$10,000 per megawatt of nameplate capacity for such energy anticipated to be utilized from non-renewable energy resources based on the direct current nameplate capacity. In addition to the building permit fee, the applicant shall be responsible for any third-party costs of the county in relation to the building permit or enforcement of requirements related to the construction, operation, or decommissioning of the Project.
- C. Operating Permit Fees. The facility owner shall pay an operating permit fee of \$25,000.00 to the county. The operating permit fee shall be paid on or before January 1st of each calendar year, beginning with the first date following the issuance of the building permit.
- D. All Costs Paid by Applicant/Facility Owner/Operator. The applicant, facility owner, and/or operator shall pay all costs incurred by the county, those costs associated with all offices, boards and commissions of the county, and third-party costs incurred by the county, including but not limited to, direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/or negotiations. Any costs that remain unpaid after 30 days following a request for payment from the county shall be subject to any and all available remedies including fines or revocation of any previously issued permit.

Section 770-29 – Hearing Facilitator.

The county may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the county but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments. The applicant shall reimburse the county for the fees and costs charged by the facilitator.

Section 770-30 – Hearing Factors.

In addition to the requirements of this ordinance, the following factors shall be considered as a balancing test by the county board in rendering a decision as to approval or denial of any special use permit under this ordinance:

1. The establishment, maintenance or operation of the project will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community;
2. The project will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;
3. The establishment of the project will not impede the normal and orderly development and improvement of the surrounding properties;
4. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
6. The project is not contrary to the objectives of the current comprehensive plan of the county (if any); and
7. The project will, in all other respects, conform to the applicable regulations of this ordinance, except as such regulations may, in each instance, be modified pursuant to the recommendations of and as approved by the county board.

Section 770-31 – Special Use Permit Conditions and Restrictions.

- A. Conditions. As part of its approval of a special use permit, the county board may stipulate conditions, guarantees, and restrictions upon the establishment, location, construction, maintenance, and operation of the project as deemed necessary for the protection and promotion of the public health, safety, and welfare of the county and to secure compliance with the standards and requirements of this ordinance.
- B. Revocation. In any case where a special use permit has been granted under this ordinance, the applicant/facility owner shall apply for a building permit from the county, and obtain all other permits required by other government and regulatory agencies to commence construction of the project and shall commence and actively pursue construction of the project within three (3) years from the date the special use permit is granted by the county. If the applicant/facility owner fails to apply for a building permit from the county and obtain all other permits required by other government or regulatory agencies necessary to commence construction and/or fails to commence and actively pursue construction of the project within this three (3) year period, then without further action by the county, the special use permit for the project shall be automatically terminated, revoked, and void. Upon written request supported by evidence that the applicant/facility owner has diligently pursued issuance of all necessary permits required to commence construction and that any delay in commencement of construction of the project is due to conditions out of its control, the county may allow for a reasonable extension of time.

1. A special use permit shall be automatically terminated, revoked, and void if the applicant/facility owner dissolves or ceases to do business, abandons the project, or the project ceases to operate for more than 24 consecutive months.
 2. A special use permit may be revoked by the county if the project is not constructed, installed, or operated in conformance and compliance with the county-approved plans, the special use permit (including conditions, guarantees, and restrictions), building permit, requirements of this ordinance, and any other local, state and federal permits, laws and regulations.
- C. Transferability. Any change in ownership of the project shall be reported to the county within thirty (30) days of the transfer or the special use permit and building permit shall automatically terminate without any further action by the county.
1. A Special Use Permit or Building Permit issued for a data center or associated facility is specific to the approved property and location and shall not be transferred to another property or site.
- D. Special Use Permit Effective Date and Expiration. A special use permit granted under this ordinance shall become effective upon the date of approval of the special use permit by the county board. The special use permit shall automatically terminate 30 years after the issuance of a building permit, unless otherwise limited or extended by condition to the special use permit or resolution of the county board.

Section 770-32 – Interpretation.

The regulations and provisions set forth in this ordinance shall be held as the minimum requirements adopted for the promotion and preservation of the public health, safety, and general welfare of the county. The regulations and provisions set forth in this ordinance are not intended to repeal, abrogate, annul, or in any manner interfere with any other local, state, or federal laws and regulations.

Section 770-33 – Severability.

If any section, paragraph, clause, phrase or part of this ordinance is for any reason held invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance.

Section 770-34 – Effective Date.

This ordinance shall be in full force and effect from and after its passage, publication and approval as required by law, and all prior ordinances pertaining to the subject of this ordinance shall be deemed repealed from and after the effective date of this ordinance.

ADOPTED by the COUNTY BOARD of CARROLL COUNTY, Illinois, this _____

day of _____, 2026.

County Board Chair: _____

ATTEST:

County Clerk: _____

DRAFT