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1311 Cherrytree Road ***Supervisors:***
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CHERRYTREE TOWNSHIP
VENANGO COUNTY, PENNSYLVANIA

ORDINANCE NO. #01-2026

AN ORDINANCE TO AMEND THE CHERRYTREE TOWNSHIP, VENANGO COUNTY, ZONING ORDINANCE, ADOPTED MARCH 6, 2006 (AMENDED DECEMBER 3, 2012 and AMENDED AUGUST 2, 2021), TO PROVIDE A COMPREHENSIVE UPDATE TO THE ZONING ORDINANCE AND TO PROVIDE FOR THE LAND USE REFERRED TO AS A DATA CENTER (CURATIVE AMENDMENT). THE PURPOSE OF THE CURATIVE AMENDMENT IS TO CURE A DEFICIENCY CREATED BY EXCLUSION OF A REASONABLE USE OF LAND, AS PERMITTED UNDER SECTION 609.2 OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE.

Whereas, the Cherrytree Township Board of Supervisors wishes to make a comprehensive update to the Zoning Ordinance based on recommendations made by the Cherrytree Township Planning Commission; and

Whereas, the Cherrytree Township Board of Supervisors is aware that there could be proposals and plans forthcoming for development of data centers within Cherrytree Township; and

Whereas, the Board of Supervisors has been informed that the Cherrytree Township Zoning Ordinance does not provide for data center land uses anywhere in Cherrytree Township, and has no regulations for such use; and

Whereas, based on the advice of Counsel, because Cherrytree Township does not provide for the use of land for data centers anywhere in the Township, such use is excluded from the Township, and the zoning ordinance is accordingly subject to a curative amendment challenge, and may be found substantially invalid; and

Whereas, due to concerns regarding public safety and welfare, limited natural resources, and limited essential services (infrastructure), the Board of Supervisors unanimously declared (June 1, 2026) that a portion of the Cherrytree Township Zoning Ordinance is substantively invalid, by reason that a land use referred to as a data center is not permitted in the Township, and proposed to prepare a curative amendment to overcome the invalidity; and

Whereas, the Board of Supervisors unanimously adopted Resolution #26-44, on June 1, 2026, declaring that a portion of the Cherrytree Township Zoning Ordinance is substantively invalid, by reason of the finding that a land use referred to as a data center is not permitted in the township, and imposing a limited moratorium on such development for purposes of curing the deficiency created by exclusion of a reasonable use of land, as permitted under Section 609.2 of the Pennsylvania Municipalities Planning Code; and

Now, Therefore, Be it Enacted and Ordained by the Board of Supervisors of Cherrytree Township, Venango County, Pennsylvania, and it is hereby enacted and ordained by and with the authority thereof as follows:

SECTION 1. Amendment to Section 3.01 entitled "Definition of Terms"

Section 3.01 entitled "Definition of Terms", of Article III of the Cherrytree Township Zoning Ordinance is hereby amended to add definitions of terms as follows:

Battery Energy Storage System (BESS): A facility or system whose principal use is the storage of electrical energy in batteries or other electrochemical storage devices for subsequent discharge, distribution, or transmission of electrical energy. A BESS includes battery units or enclosures and associated equipment necessary for its operation, including inverters, transformers, controls, switchgear, electrical interconnections, cooling systems, and related accessory structures.

Data Center: A data center is a physical facility and all required supporting facilities that house information technology (IT) infrastructure for building, running, and delivering applications and services. It also stores and manages the data associated with those applications and services.

Dwelling: A building or portion thereof that provides living facilities for one or two families.

Essential Service: The erection, construction, alteration or maintenance by locally publicly accessible utilities or publicly accessible service establishment or municipal or other governmental agencies of: underground gas, electrical, telephone, radio, television transmission or distribution systems; and public water, public sanitary sewer and public storm sewer facilities including wires, mains, drains, sewers, pipes, conduits, fire alarm boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith; including buildings necessary for the furnishing of adequate services for the public health, safety and general welfare; excluding sanitary landfills. The essential service must be available to be consumed by a local resident or establishment to be deemed essential.

Farmland of Statewide Importance: This is land designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, the National Heritage Area Management Plan (Oil Heritage.org) and listed and mapped in the Cherrytree Township Comprehensive Plan. The definition for "Farmland of Statewide Importance" is, in part, "for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law." Soils listed in the Comprehensive Plan "List of Tables", Tables number 3 and 4 in Section A.5 and on pages I-9 and I-10 and corresponding maps, will be determining factors as to whether a permit will be approved within Cherrytree Township. Property with soil types listed and confirmed as "Prime Farmland" will not be allowed to have a permit issued. Property with soil types listed and confirmed as "Soils of Statewide Importance" or "Farmland of Statewide Importance" will not be allowed to have a permit issued until reviewed by the Zoning Hearing Board. Soil sampling will be undertaken by

Solar Company PRIOR to permitting and during the Application phase to establish eligibility and a baseline for future remediation. Note that Local, Statewide, and National Emergencies supersede this.

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose, separate or screen areas of land. Fences erected within the R/A and R/R districts require no approval to be built, as long as they follow all setback requirements as outlined in Article IV-Zoning Districts and fall within property lines. Fences are required in the Commercial District as needed under screening requirements.

(1) Fence, Closed: A fence with 25% or less open area, including gates, effectively screening the activities conducted on a property from adjacent properties and rights-of-way.
(2) Fence, Open: A fence with greater than 25% open area, including gates, including but not limited to split rail fence.

Guest Home: A house, or portion thereof, where short-term lodging rooms are provided, such as an Airbnb or VRBO. The operator of the inn shall live on the premises or in abutting premises.

Tiny Home: A detached single-family dwelling under 900 square feet designed for permanent, year-round occupancy, used as a primary residence or guest home, and constructed on a permanent foundation.

SECTION 2. Amendment to Section 4.01 entitled "Residential/Agricultural District – R/A District"

Section 4.01, entitled "Residential/Agricultural District – R/A District", of Article IV, of the Cherrytree Township Zoning Ordinance is hereby amended (Section 4.01 (D)) as follows:

D. **Area** – The minimum lot area for uses within the R/A District is three (3) acres or the minimum size over three (3) acres required to meet applicable DEP on-lot sewage disposal requirements, whichever is greater. Venango County requirements for mobile home parks shall apply.

Lots lawfully existing at less than three (3) acres as of the effective date of this Ordinance shall be considered conforming for purposes of area, provided they can meet all applicable DEP standards for on-lot septic systems at the time of permit application. No subdivision shall create any lot smaller than three (3) acres within the R/A District after the effective date of this Ordinance.

SECTION 3. Amendment to Section 4.03 entitled "Commercial/Light Industrial Overlay District – C/L District"

Section 4.03, entitled "Commercial/Light Industrial Overlay District – C/L District", of Article IV, of the Cherrytree Township Zoning Ordinance is hereby amended (Section 4.03 (C) and

Section 4.03 (D)) to include Data Centers and Battery Energy Storage Systems (BESS) as follows:

C. Conditional Uses - The following require Conditional Uses in accordance with Article VI of this Ordinance, and are subject to review and action by the Board of Supervisors:

1. Group Homes
2. Personal Care Homes
3. Manufacturing not meeting definition of Light Industrial Uses
4. Single-family detached dwellings
5. Solid waste disposal/transfer facilities
6. Methadone Treatment Facilities
7. Data Centers
8. Battery Energy Storage Systems (BESS)

D. Area - The minimum lot area for uses within the C/L District is as follows:

1. Shopping center or mall – thirty (30) acres
2. Warehousing and wholesaling – five (5) acres
3. Hotels and motels – three (3) acres
4. Light Industrial Uses – five (5) acres
5. Data Centers – Premises must be entirely contained within the Commercial District.
6. All other uses – one (1) acre in areas having sanitary sewer service or three (3) acres in areas not having sanitary sewer service

SECTION 4. Amendment to Section 5.23 entitled "Sanitary Disposal and Transfer Stations"

Section 5.23, entitled "Sanitary Disposal and Transfer Stations", of Article V, of the Cherrytree Township Zoning Ordinance is hereby amended as follows:

5.23 SANITARY DISPOSAL AND TRANSFER STATIONS

Sanitary landfills are not permitted in any district. Transfer stations shall be permitted as a Conditional Use in the C/L District, subject to the following requirements:

(1) All activities must be in compliance with all applicable federal, state and local regulations.

(2) All activities must be entirely fenced with an opaque material at least ten (10) feet in height. A living fence shall not be substituted.

(3) Setbacks on all sides must be at least three hundred (300) feet.

(4) All access roads must be constructed to meet the requirements of the Pennsylvania Department of Transportation Form 408.

SECTION 5. Amendment to Section 5.30 entitled "Special Accessory Use – Outdoor Furnace"

Section 5.30, entitled "Special Accessory Use – Outdoor Furnace", of Article V, of the Cherrytree Township Zoning Ordinance is hereby amended (Section 5.30 (2)) as follows:

(2) Outdoor furnaces shall have the maximum of a twenty (20) foot insulated steel chimney or stack;

SECTION 6. Amendment to Section 5.34 entitled "Accessory Solar Energy Systems (ASES)"

Section 5.34, entitled "Accessory Solar Energy Systems (ASES)", of Article V, of the Cherrytree Township Zoning Ordinance is hereby amended (Section 5.34 (1) (a)) as follows:

(1) Regulations Applicable to All Accessory Solar Energy Systems (ASES):

a. ASES that have a maximum power rating of not more than 30kW shall be permitted as a use by right in all zoning districts. ASES that have a power rating more than 30kW shall comply with the requirements of Section 5.35 Principal Solar Energy Systems (PSES).

SECTION 7. Amendment to Section 5.35 entitled "Principal Solar Energy Systems (PSES)"

Section 5.35, entitled "Principal Solar Energy Systems (PSES)", of Article V, of the Cherrytree Township Zoning Ordinance is hereby amended (Section 5.35 (9) (f) and Section 5.35 (10) (c) (1)) as follows:

(9) Emergency Access and Requirements:

f. PSES over one hundred (100) acres will require one (1) or more water towers to be built and maintained on-site to provide adequate water for initial fire suppression services. This could be an in-ground tank as well. The water capacity of the tower or in-ground tank must be a minimum of seven thousand (7000) gallons, to be maintained year round. One seven thousand (7,000) gallon system will be required for each one hundred (100) acres of project size.

(10) Total Land Usage Within Cherrytree Township:

c. Prime Farmland and Soils of Statewide Importance:

1) PSES located on permitted "Soils of Statewide Importance" shall be constructed in accordance with the guidelines of the

Commonwealth of PA and the Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects, per approval from the Zoning Hearing Board, as required.

SECTION 8. Amendment to Section 6.01 entitled "Administration and Administrative Procedures"

Section 6.01, entitled "Administration and Administrative Procedures", of Article VI, of the Cherrytree Township Zoning Ordinance is hereby amended (Section 6.01 (7)) as follows:

(7) Effective Period - Zoning permit(s) shall be valid for a period of one hundred eighty (180) days from the date of issuance if work described in the permit has not begun. If work described in any zoning permit has begun within the one-hundred-eighty-(180)-day period, said permit shall expire two (2) years from the date of issuance.

A. Extension for Permits with No Work Started - If work has not been initiated within the initial one-hundred-eighty (180) days, the applicant may apply for one (1) additional extension of the one-hundred-eighty (180) days.

1. Commencement of the work and the start of construction shall mean the pouring of footers or the construction of a permanent foundation.

2. If work has not commenced by the end of the extension period, the permit shall be deemed expired and the applicant must submit a new zoning permit application and pay all applicable fees, following current zoning ordinances.

B. Work not completed - If work is initiated and construction is started, but not completed within the timeframes noted above, continuation of the work approved in the original application may only occur after payment of additional application costs as per Section 6.06.

C. Work Initiated Without Permit - Work initiated prior to the issuance of a zoning permit will be subject to fees double those outlined in Section 6.06.

SECTION 9. Enforcement

Any violation of these amendments shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Cherrytree Township.

SECTION 10. Ordinance Unchanged

All other provisions of the Cherrytree Township Zoning Ordinance, as amended, shall remain in full force and effect except as modified by these amendments.

SECTION 11. Repealed

All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

SECTION 12. Severability

(1) The invalidity or unenforceability of any section, subsection, declared by the valid judgement of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

(2) If any clause, sentence, phrase, paragraph, or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph, or part thereof, directly involved in the controversy or action in which such judgement shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provision been excluded.

SECTION 13. Effective Date.

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED into law by the Board of Supervisors of Cherrytree Township this 2nd day of November, 2026.

Cherrytree Township Board of Supervisors

By: _____
James S. Waugh, Chairman

By: _____
Robert J. Kellogg, Supervisor

By: _____
Shari L. Nelson, Supervisor

Attest:

By: _____
Christine C. Kurelowech, Secretary-Treasurer [seal]

ZONING DISTRICT SUMMARY
CHERRYTREE TOWNSHIP ZONING ORDINANCE

As Adopted on March 6, 2006
As Amended on December 3, 2012
As Amended on November 2, 2026

ZONING DISTRICT SUMMARY
CHERRYTREE TOWNSHIP ZONING ORDINANCE

FACTOR	R/A	RR	C/L	S	AP
Permitted Uses	Agricultural uses Single-family detached dwellings Seasonal dwellings Kennels, veterinary facilities, and animal hospital Houses of worship, convent, rectory, parsonage or other incidental structures Bed and breakfast/guest home Cemeteries and necessary incidental structures Essential services Accessory buildings and uses Parks and playgrounds Residential WECS No impact home-based businesses Forestry	Single-family detached dwellings Two-family attached dwellings. Bed and breakfast/guest home. Parks and playgrounds Essential services Accessory buildings and uses No impact home-based businesses Forestry	Multi-family dwellings Professional offices Commercial and service establishments Educational facilities Churches and houses of worship Wood products and woodworking Clubs, lodges and fraternal organizations Parks and playgrounds Essential services Accessory buildings and uses Auto sales Light Industrial Wholesale activities including warehousing facilities and mini-storage units Truck and rail terminals including necessary buildings and activities areas Supply yards including establishments dealing in agricultural materials and supplies and construction contractors' establishments Research laboratories Drive-in stores and shops Forestry Hotels and motels No impact home-based businesses	Existing principal and accessory uses Agriculture and horticulture Water-related uses such as docks, piers, wharves and bridges Passive recreation facilities, including trails, bike paths, open space, and nature walks Accessory buildings and uses Forestry	Runways, taxiways, navigational equipment, aircraft parking areas, administrative offices and other similar facilities associated with a general aviation airport. Hangars Aircraft sales, repair, rebuilding and maintenance, and related facilities Aircraft/flight instructional activities Fixed base operations providing aviation and aircraft services. Storage and sale of aviation fuel, oil and other aviation fluids. Airfreight and air courier services and facilities. Agriculture and horticulture. Accessory buildings and uses Forestry No impact home-based businesses
Special Exceptions (Review by Zoning Hearing Board)	Educational facilities Philanthropic facilities Clubs, lodges and fraternal organizations Day care facilities (child and adult) Mobile home parks. Nursing homes Trailer/recreational vehicle Automobile repair and or body work facility Recreational facilities Commercial WECS Retirement community Personal care homes	Educational facilities Churches and houses of worship Day care facilities (child and adult)	Shopping center or mall Billboards and other off-premises signs Flea market Automobile repair and/or body work facility Gas stations Public or private ambulance service on an arterial highway Industrial parks Industrial planned unit developments Banks and financial institutions Adult entertainment Methadone treatment facilities	None	None
Conditional Uses (Review by Board of Supervisors)	Planing mill and/or sawmill Light industrial uses Junkyards Solid waste disposal/transfer facilities Extractive industries Group Homes	Group homes Personal care homes Multi-family residential development Planned residential development	Group homes Personal care homes Manufacturing not meeting Light industrial uses definition Single-family detached dwellings Solid waste disposal/transfer facilities Data Centers Battery Energy Storage Systems (BESS)	Public memorials and monuments Active recreational facilities	Manufacturing of aviation equipment Manufacturing dependent on nearby air access

FACTOR	R/A	RR	C/L	S	AP
Minimum Area/Bulk	All uses 3 acres or the minimum size over three (3) acres required to meet applicable DEP on-lot sewage disposal requirements, whichever is greater.	Single-family detached dwellings, Group homes, Bed & breakfast/guest home, and Seasonal dwellings - 3 acres or the minimum size over 3 acres required to meet applicable DEP on-lot sewage disposal requirements Two-family attached dwellings – 1 acre for areas with sewer service; 3 acres for areas without sewer or the minimum size over 3 acres required to meet applicable DEP on-lot sewage disposal requirements Mobile home parks – 5 acres All other uses – 3 acres	Shopping center or mall – 30 acres Warehousing and wholesaling – 5 acres Hotels and motels – 3 acres Light industrial uses – 5 acres Data Centers – Premises must be entirely contained within the Commercial District. All other uses – 1 acre for areas with sewer service; 3 acres for areas without sewer or the minimum size over 3 acres required to meet applicable DEP on-lot sewage disposal requirements	10 acres	3 acres; or the minimum needed for an On-Lot Sewage Disposal system as per DEP requirements.
Minimum Lot Width	Single-family detached dwellings, Day care facilities, Group homes, Bed & breakfast/guest home and Seasonal dwellings - 150 feet Agricultural uses – No minimum for farms; 500 feet for packing, treating or storing agricultural uses All other uses – 500 feet	Single-family detached dwellings, Day care facilities and Group homes - 100 feet Two-family attached dwellings – 120 feet Bed and breakfast/guest home, Personal care homes and Day care facilities – 150 feet All other uses – 300 feet	All uses – 150 feet	500 feet	150 feet
Maximum Coverage	20%	25%	30%	10%	25%
Front Setback	Single-family detached dwellings, Day care facilities, Group homes, Bed & breakfast/guest home and Seasonal dwellings – 35 feet Other permitted uses – 50 feet	Single-family detached dwellings, Day care facilities, Two-family attached dwellings, Bed & breakfast/guest home and Group homes – 30 feet All other uses – Fifty (50) feet	50 feet	100 feet	50 feet
Side Setback	Single-family detached dwellings, Group homes, Bed & breakfast/guest home and Seasonal dwellings –15 feet Other permitted uses – 25 feet Accessory use - 10 feet	Single family detached dwellings, group homes, Bed & breakfast/guest home and Seasonal dwellings –15 feet Other permitted uses – 20 feet Accessory use 8 feet	Permitted uses - 20 feet. Accessory use - 8 feet	50 feet	Permitted uses – 20 feet Accessory use – 8 feet

FACTOR	R/A	RR	C/L	S	AP
Rear Setback	Principal use - 35 feet Accessory use - 10 feet	Principal use - 25 feet Accessory use - 8 feet	20 feet	50 feet	20 feet
Maximum Height	Single-family detached dwellings, Group homes, Bed & breakfast/guest home and Seasonal dwellings - 3 stories or 35 feet, whichever is less Agricultural uses: Farm buildings – no maximum; packing, treating and storing agricultural uses – 50 feet. Accessory buildings – 20 feet All other uses – 50 feet for principal building, except for 75 feet for steeples or towers on houses of worship	Single-family detached dwellings, Group homes, Bed & breakfast/guest home and Seasonal dwellings - 3 stories or 35 feet, whichever is less All other uses – 50 feet for principal building except for 75 feet for steeples or towers on houses of worship	Professional, commercial and service uses – thirty-five (35) feet All other uses – Fifty (50) feet	15 feet	25 feet