TOWN OF MONTVILLE
DATA CENTER MORATORIUM ORDINANCE

Section 1. Definitions.

Data Center means a facility, building, portion of a building, structure, site, or campus whose principal use is to house computer servers, data-storage systems, networking equipment, or other electronic equipment used to store, process, manage, or transmit digital information. A Data Center includes all related and accessory indoor and outdoor equipment, structures, and facilities necessary to support its operation, including electrical rooms, substations, transformers, battery systems, uninterruptible power supplies, backup generators, fuel storage, cooling equipment, chillers, cooling towers, air handlers, liquid-cooling systems, water treatment or storage systems, fire-suppression systems, security facilities, network connections, and offices or maintenance areas incidental to the Data Center use.

Data Center Project means the new construction, enlargement or expansion of a Data Center having a gross floor area of 10,000 square feet or more or an electrical capacity of 20 megawatts or greater, including all related tree harvesting, site clearing, site work, and road/driveway construction.

Town means the Town of Montville, a municipal corporation organized and existing under the laws of the State of Maine.

Section 2. Moratorium Declared.

WHEREAS, the Town has become aware of increasing interest in Maine and the region regarding the siting and development of data centers; and

WHEREAS, data centers are an emerging land use that have not previously been contemplated by the Town's land use regulations and planning efforts; and

WHEREAS, data centers may have unique operational, environmental, infrastructure, public safety, emergency response, and land use impacts that have not been adequately studied by the Town or Maine Data Center Advisory Council and are not adequately addressed by existing local regulations; and

WHEREAS, the Town has not evaluated the potential effects of data centers on electrical infrastructure, water resources, municipal services, transportation systems, natural resources, neighboring properties, and other public facilities and services; and

WHEREAS, the Town's current ordinances, codes, and regulations do not adequately provide for the effective review and regulation of the location, development, construction, operation, maintenance, expansion, and decommissioning of data centers; and

WHEREAS, the Town's existing ordinances do not contain adequate definitions, performance standards, application requirements, siting criteria, emergency response requirements, decommissioning standards, or other regulatory provisions specifically applicable to data centers; and

WHEREAS, the Town finds that allowing applications for data centers to be submitted and reviewed before the Town or Maine Data Center Advisory Council has completed its study and adopted appropriate regulatory standards could result in development that may be inconsistent with future ordinance provisions and could undermine the Town's ability to protect the public health, safety, and welfare; and

WHEREAS, the Town requires a reasonable period of time to study data centers; consult with planning, engineering, environmental, legal, emergency management, and utility professionals; evaluate potential impacts; and prepare and adopt appropriate ordinance amendments governing such facilities; and

WHEREAS, the Town finds that a temporary moratorium is necessary to preserve the status quo while such studies and ordinance amendments are undertaken and considered; and

WHEREAS, pursuant to 30-A M.R.S. §4356(1), the Town finds that its existing ordinances, regulations, and review procedures are inadequate to address the construction, operation, maintenance, expansion, and decommissioning of data centers, that additional time is needed to develop appropriate regulatory standards, and that a temporary moratorium is necessary to preserve the status quo and protect the public health, safety, and general welfare while such work is completed; and

WHEREAS, the Town will need at least 180 days to study its ordinances and consider the land use amendments to address the impacts of data centers; and

WHEREAS, adoption of an ordinance or ordinance amendment requires a public hearing by the Planning Board and possibly by the Select Board, and then must be voted upon at a Town Meeting; and

WHEREAS, in the judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S. § 4356(1)(B) and require this Moratorium Ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the *Town* hereby ordains that this Moratorium Ordinance be, and hereby is, enacted, and in furtherance thereof, the *Town* does hereby declare a moratorium on development proposals involving any Data Center Project. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Moratorium Ordinance, unless extended by the Select Board in accordance with the following paragraph, for the express purpose of drafting an ordinance or ordinance amendment to protect the public from health and safety risks including, but not limited to, potential ground or surface water pollution risks, including increased phosphorous runoff, and other environmental degradation effects of development proposals involving a Data Center Project if not properly regulated; and

BE IT FURTHER ORDAINED, that, in accordance with 30-A M.R.S. § 4356(2) and (3), the Select Board may extend this moratorium for additional periods of not more than one hundred and eighty (180) days each, after notice and public hearing, if the Select Board finds that (a) the problem giving rise to the need for the moratorium still exists and (b) reasonable progress is being made to alleviate that problem; and

BE IT FURTHER ORDAINED, that this Moratorium Ordinance shall apply to any new development proposals involving a Data Center Project after the applicability date of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, no officer, official, employee, office, administrative board, agent, or agency of the *Town* shall accept, process, approve, deny or in any other way act upon any application for a license, building permit, site plan review and/or any other required land use approval, and/or any other permits, licenses or approvals related to a Data Center Project that is submitted after the applicability date of this Moratorium Ordinance and during the term of the moratorium, it being the intent of this Moratorium Ordinance to suspend only the Town's processing and issuance of such approvals and not to affect any permit, license or approval required from a State or federal agency; and

BE IT FURTHER ORDAINED, that those provisions of the *Town's* Subdivision and Site Plan Review Ordinances or any other ordinance that are inconsistent or conflicting with the provisions of this Moratorium Ordinance, including, without limitation, the requirements for review by the Code Enforcement Officer and/or Planning Board, are hereby suspended to the extent that they are applicable during the duration of the moratorium hereby ordained, but not otherwise, and provided that nothing in this paragraph suspends, amends or overrides any requirement of State law, including without limitation the Mandatory Shoreland Zoning Act, 38 M.R.S. § 435 et seq.; and

BE IT FURTHER ORDAINED, that to the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid; and

BE IT FURTHER ORDAINED, the Select Board is hereby authorized to institute any and all actions, either legal or equitable, that it deems necessary or appropriate to enforce the provisions of this Moratorium Ordinance.

Section 3. Violations; Civil Penalties.

Any violation of this Moratorium Ordinance is subject to an enforcement action under 30-A M.R.S. § 4452. Each day of violation shall constitute a separate violation of this Moratorium Ordinance, and the *Town* shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties in accordance with 30-A M.R.S. § 4452, injunctive relief, and its reasonable attorney fees and costs in prosecuting any such violations.

Section 4. Effective Date; Applicability Date.

This Moratorium Ordinance shall take effect immediately upon passage by Town Meeting. The applicability date of this Moratorium Ordinance is the effective date of this Moratorium Ordinance.