

Maryland's Data Center Order: What It Sets, and What It Still Needs

Five principles, a task force, and a public record. Community Revenue Participation satisfies what the order asks of a county agreement, with three additions.

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What the order does

Effective immediately, every data center of 25 megawatts or more that asks the State for a permit, incentive, or other help is measured against five principles: ratepayer and grid protection; economic benefit for Marylanders; community voice; environmental protection; and transparency and accountability. A Data Center Accountability Task Force, chaired by a Governor's designee and staffed by the Governor's Office, becomes the single point of contact. Within 60 days of intake it lists the project on a public Dashboard; the developer is invited to sign a Statement of Commitments, measurable promises with milestones that bind any successor; and the Task Force issues a written determination, Aligned, Conditionally Aligned, or Not Aligned, that governs coordinated review and State incentives, where the commitments become enforceable terms with clawbacks. And the Department of Planning must publish a guide for counties with a recommended community investment benchmark per megawatt, a model community investment fund, and model terms for community benefits agreements. The order does not repeal the sales and use tax exemption; it directs Commerce to build the order's requirements into the exemption's certification to the extent the law permits, and the Governor said at signing that he will ask the General Assembly for repeal. It is a framework, not a moratorium.

What it means

The order is stronger on paper than the remarks suggested: principle three says communities must have "a decisive voice," its criteria call for a community benefits agreement with the host jurisdiction measured against the State's benchmark, and commitments are enforceable, by the State through incentive agreements and by the county through the agreement it signs. What the order still does not answer is the question underneath its economic benefit principle: how a community receives a lasting benefit, who holds that entitlement, and who collects and administers it. The benefits it names, jobs, apprenticeships, training, research partnerships, are real and the model keeps them; but the benchmark measures contributions against project capacity, not against operating revenue; the fund has no stated owner; and no party in the order holds a right on behalf of the residents beside the facility.

Community Revenue Participation satisfies those requirements and adds three things, in the order's own vocabulary. The share becomes an annuity: one percent of the campus's gross rental revenue for the life of the project, paid mostly as a dividend to nearby households, where the benchmark is a lump sum. The model community investment fund gains an owner: a single-purpose Community Revenue Vehicle, owned by a community trust, which signs the agreement, holds the revenue right, and can enforce it. And the annual report the order already requires, which must list payments under any community benefits agreement, gains a line the Dashboard can audit: what residents were entitled to receive, what was collected, what was distributed, what remains unpaid. All of it is written into the community benefits agreement, the instrument the order expressly contemplates. Lender acceptance, foreclosure treatment, and governance are implementation questions, set out in Working Paper No. 3, for the pilot to resolve.

What it still needs

A named chair, a first meeting date, and dates for the two documents that will decide what the principles mean in practice: the Framework Guidance, which prescribes the Statement of Commitments form, and the local government guide, which sets the benchmark and model terms. The order dates neither, so developers and counties cannot know when common requirements and model terms will exist. If the Governor's call to repeal the tax exemption succeeds, the cost of building in Maryland rises and the value of a standard, visible community term rises with it; the State owes developers certainty in return; the single point of contact is half of it and standard terms are the other half. And a dashboard that can be read; a proposal follows.

The ask in our upcoming meeting

That the local government guide include Community Revenue Participation among its model terms, a percent of revenue alongside the per-megawatt benchmark; that the model community investment fund be structured as a Community Revenue Vehicle, owned by a community trust that holds a contractual right; that the Statement of Commitments form carry a community payment line; and that the Task Force announce dates for the Guidance and the guide. Working Paper No. 3 sets out the instrument in full and is available to the Task Force and Planning without condition.

The Dashboard the Order Requires

Five measures, one per principle. Commitment, result, variance, responsible party, remedy and deadline. Online, current, and short enough to be read.

The order lists what the Dashboard must contain: owner and anchor tenant, power and water use, every State request and its status, the determination and its reasons, the Statement of Commitments and performance status, annual reports, public comment, updated monthly. That is the record. A dashboard fulfills the order's accountability purpose only if, above that record, it compares what was promised with what was delivered and names who owes the difference. Project descriptions and forecasts are context; accountability is variance. The proposal below keeps the measures to five, one for each principle in the order, so that a resident, a county executive, and a developer's lender can all read the same page in a minute and see the same thing.

PRINCIPLE	MEASURE	WHAT IT SHOWS	WHAT IT REVEALS
1 • Ratepayer and grid	Public costs covered	Project-attributable power, water, and infrastructure costs incurred; amounts paid by the developer, secured but unpaid, and unsecured.	Whether residents and ratepayers are carrying costs the project agreed to carry, and whether security has become payment.
2 • Economic benefit	Community value delivered	Benefits due by the reporting date against benefits delivered: local payroll, apprenticeships, training placements, community payments. Where a Community Revenue Vehicle exists: revenue participation due, collected, distributed to households, unpaid.	Whether the benefits reach the people they were promised to, and keep reaching them after construction.
3 • Community voice	Community responsiveness	Share of material concerns acknowledged within the agreed response period and resolved within the agreed resolution period, shown separately; age of the oldest unresolved item; resident confirmation of resolution.	Whether a say produces a response and a remedy.
4 • Environment	Operating impacts	Actual electricity demand, water draw, noise, and backup-generator hours against agreed limits; violations and corrective-action status.	Whether the facility runs within the conditions the community accepted.
5 • Transparency and accountability	Commitments kept	Material obligations due against delivered, shown separately for developer and county; every overdue item listed with responsible party, days outstanding, and next action.	Whether both parties do what they agreed to do, and whether the relationship can solve problems.

Each entry follows one reporting unit: commitment, actual result, variance, responsible party, remedy and deadline. "Community engagement: green" tells a resident nothing. "Three material concerns overdue; oldest 47 days; developer response due October 15" tells them something they can act on.

Four design rules keep the page short without hiding anything. Show the current position and its trend, because a missed commitment being corrected is different from one that worsens every quarter. Never average away a material failure; a hundred minor obligations met do not offset one unpaid community distribution or one serious environmental breach. Mark every figure as self-reported, county-verified, or independently verified, and print "not reported" where nothing came in. Keep county performance visible without treating every delay as county failure; an incomplete developer submission, a staffing delay, and an open environmental question need different explanations.

For the quality of the developer-county relationship, observable conduct beats a satisfaction score: promises kept, decisions made on time, problems resolved, disputes left outstanding. The Community Revenue Vehicle gives the dashboard its most precise line, because a revenue right produces an auditable number: entitled, collected, distributed, unpaid. The five measures should sit at the top of the Dashboard the order requires, online, updated monthly, and identical for every project in the State, so that projects can be compared and the standard cannot drift.