

ORDINANCE NO. 26-__

AN ORDINANCE AMENDING AND REPEALING ORDINANCE NO. 25-3 THE NESCOPECK TOWNSHIP ZONING ORDINANCE TO ALLOW FOR THE CONSTRUCTION OF DATA CENTERS AND ASSOCIATED FACILITIES TO DATA CENTERS WITHIN THE INDUSTRIAL DISTRICT OF NESCOPECK TOWNSHIP

BACKGROUND

WHEREAS, the Pennsylvania Municipalities Planning Code (the “MPC”) authorizes the governing body of a municipality to enact a zoning ordinance and amendments to existing zoning ordinances; and

WHEREAS, on October 9, 2012, the Nescopeck Township Board of Supervisors adopted the Nescopeck Township Zoning Ordinance and Zoning Map (the “Ordinance”); and

WHEREAS, the Nescopeck Township Board of Supervisors enacted Ordinance No. 25-3 on December 11, 2025; and

WHEREAS, landowners with property rights in Nescopeck Township appeared and addressed certain procedural and substantive challenges to Ordinance No. 25-3; and

WHEREAS, the Township Board of Supervisors agrees that Ordinance No. 25-3 shall be repealed and replaced in its entirety; and

WHEREAS, a copy of this proposed amendment to the Ordinance (the “Amendment”) was provided to the Luzerne County Planning Commission for review and comment pursuant to Section 609(c) of the MPC; and

WHEREAS, the Luzerne County Planning Commission provided its comments to the proposed Amendment on _____; and

WHEREAS, a copy of the proposed Amendment was provided to the Nescopeck Township Planning Commission who reviewed the same at a public meeting held on _____ and provided its comments to the Amendment on _____; and

WHEREAS, the Nescopeck Township Board of Supervisors provided public notice on _____ and _____ of a public hearing to be held with respect to the proposed Amendment on _____, 2026, in the Press-Enterprise, a newspaper of general circulation in Nescopeck Township, Luzerne County; posted the property subject to this Amendment on _____, 2026; mailed notice to affected property owners on _____, 2026; and provided an attested copy to the Luzerne County Law Library on _____, 2026.

WHEREAS, the public notice stated that the Nescopeck Township Board of Supervisors would consider adoption of the proposed Amendment on _____ at 7:00 pm at the Nescopeck Township Municipal Building; and

WHEREAS, the Nescopeck Township Board of Supervisors held a public hearing with respect to the proposed Amendment on _____; and

WHEREAS, the Nescopeck Township Board of Supervisors desires to adopt this Amendment pursuant to the authority granted by the MPC to amend the Ordinance.

NOW, THEREFORE, The Nescopeck Township Board of Supervisors ordain as follows:

Section I. Amendments to Zoning Ordinance.

A. Article III - Definitions; Word Usage, of the Ordinance is hereby amended to add the following definitions:

COMMUNITY INCENTIVE PACKAGE: Projects or programs related to healthcare, education, community amenities, infrastructure enhancements and the enhancement of services to the public and to the Township that can be utilized to promote the public health, safety and welfare in the Township, which are enforceable through a developer's agreement executed between the Applicant and the Township.

DATA CENTER: A facility or facilities used primarily for the housing, operation, and/or co-location of computer and communications equipment (such as Uninterruptible Power Supply (UPS), Servers, Storage Devices) and for handling, storing, and backing up of digital data. Data Center may also include Data Center Accessory Uses and Disaster Recovery Facilities when located on the same tract or assemblage of adjacent parcels developed as a unified development.

DATA CENTER ACCESSORY USES: Data Center Accessory Uses shall include Battery Energy Storage Systems (BESS), Small Modular Reactor (SMR), storage utilities, utility lines, electrical substations, pump stations, water towers and treatment facilities, mechanical equipment and environmental controls (air conditioning or cooling towers, fire suppression, etc.), redundant/backup power supplies such as generators, fuel storage for backup power, office and training space for Data Centers and Disaster Recovery Facilities, redundant data communications connections, environmental controls and security devices when located on the same tract or assemblage of adjacent parcels developed as a unified development for a Data Center. Data Center Accessory Uses shall include all customary and necessary uses in support of temporary construction operations including, but not limited to, trailers and outdoor storage or lay down yards.

DATA CENTER ACCESSORY STRUCTURES: Data Center Uses that are buildings or are related to energy generation including accessory office or support buildings, security facilities, electrical substations, BESS, BMS, SMRs, water treatment facilities, and redundant generation.

DISASTER RECOVERY FACILITIES: A building used for the continued operation of an off-site business in the event of a natural or manmade disaster that causes the interruption of that business. Such facilities may include digital storage of business documentation, records or other information.

NO BUILD AREA: Subject to the provisions of 811.1.B.iii, an area designated on the DC-O Overlay Map where Data Centers, Disaster Recovery Facilities, and Data Center Accessory Structures are prohibited. The No Build Area is shown on Exhibit B.

PRINCIPAL BUILDING FAÇADE: An exterior wall of the Data Center oriented towards and visible from a public right-of-way within 800 feet of the property line of the development.

RADIOLOGICAL LAND SURVEY: A study, if necessary, required under Section 811.14 of this Amendment to support deployment of a SMR.

SENSITIVE RECEPTOR: Any occupied school, preschool, day care center, in-home daycare facility, hospital, long-term care facility, retirement or nursing home, community center, place of worship, playground, or park and any property occupied for residential purposes where such residence is not located on a parcel with an existing industrial, commercial, or unpermitted use as determined by the zoning officer.

SMALL MODULAR REACTOR: The small modular reactor (SMR) is a class of small nuclear fission reactors, designed to be built in a factory, shipped to operational sites for installation and then used to power buildings or other commercial operations. SMR designs include pressurized water, generation IV, thermal-neutron reactors, fast neutron reactors, molten salt, and gas-cooled reactor models, as examples. An SMR must be of a design fully licensed and permitted by the Nuclear Regulatory Commission. An SMR may only be approved as part of a conditional use approval for a Data Center.

UTILITY-SCALE BATTERY ENERGY STORAGE FACILITIES: One or more devices, assembled together, capable of storing energy in excess of 600kWH, in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale Battery Energy Storage System (“BESS” together with a battery management system (“BMS”)).

B. Section 401 of the Ordinance Designation of Districts, is amended as follows: The Nescopeck Township Zoning Ordinance, Article 4, Zoning Map and Zoning Districts, by adding Section 401.5 as the DC-O Data Center Overlay District. The DC-O Data Center Overlay District is created to promote reasonable growth presented by the data center industry while limiting that growth to areas which are zoned or have been historically used for or in support of industrial uses including mining and/or quarrying.

C. Section 402 of the Ordinance Official Zoning Map, is amended, to add the DC-O Data Center Overlay District as shown on Exhibit A. The DC-O Data Center Overlay District shall include and be limited solely to the land encompassed by the following Luzerne County parcels existing as of the date of this Amendment: 44-P3-00A-03A-000, 44-P4-00A-001-000, 44-P4-00A-002-000, 44-P4-00A-004-000, 44-P4-00A-005-000, 44-P4-00A-006-000, 44-P4-00A-007-000, 44-P4-00A-027-000, 44-P4-00A-02A-000, 44-P4-00A-03C-000, 44-P4-00A-28A-000, 44-P4-00A-28B-000, 44-P4-00A-28C-000, and that portion of parcel number 44-P4-00A-028-000 located north of Pennsylvania State Route 93.

D. Section 404 of the Schedule of Uses, is amended to add the DC-O Data Center Overlay District. In addition to the uses permitted in the underlying district(s), the DC-O Data Center Overlay shall include “Data Center”, “Data Center Accessory Uses” and “Disaster Recovery Facilities” and identify “Data Center”, “Data Center Accessory Uses” and “Disaster Recovery Facilities” as a use authorized by the Nescopeck Township Board of Supervisors by conditional use approval in the DC-O Data Center Overlay District.

E. Section 404, Schedule of Development Standards, for the DC-O Data Center Overlay District, shall be amended to add a Part 7 as follows:

Data Centers, Data Center Accessory Uses and Disaster Recovery Facilities shall comply with the Building Regulations set forth in Section 811. Except as provided, all other uses shall comply with the underlying zoning for the parcel at issue in the DC-O Data Center Overlay District.

F. Section 811 entitled “Data Centers” shall be added to Article VIII, Standards for Specific Uses, and shall state the following:

811 Data Center, Data Center Accessory Uses, and Disaster Recovery Facilities Supplementary Regulations.

Any Data Center, Data Center Accessory Uses, and Disaster Recovery Facilities shall meet the following standards and criteria set forth below.

811.1 Dimensional Criteria for Data Center. The application for any Data Center, Disaster Recovery Facilities and Data Center Accessory Uses shall meet the following dimensional criteria:

- A. **Tract Size.** The minimum lot size or assemblage of adjacent parcels developed as a single integrated Data Center, Data Center Accessory Uses and Disaster Recovery Facilities (the “Tract”) shall not be less than 50 acres, inclusive of open space. Tracts divided by easements or rights-of-way, but owned in common or otherwise developed as a unified development as one conditional use approval and one land development approval for a Data Center, Data Center Accessory Uses and Disaster Recovery Facilities located within the DC-O shall be deemed contiguous for the purposes of minimum tract size calculations. Section 502.1.A shall not apply to application submitted under this Amendment.
- B. **Yard Setback.**
 - i. Subject to Section 811.1.B.iii., Data Center(s), Disaster Recovery Facilities, and Data Center Accessory Structures shall be set back no less than 600 feet from a front lot line along Pennsylvania State Route 93. All other Data Center Accessory Uses except for Data Center Accessory Structures shall be permitted in the front yard setback, with Board of Supervisors approval which shall not be unreasonably withheld, conditioned or delayed, and appropriately screened. This includes utility, water, fiber, and sewer lines and related infrastructure, storm water facilities, fire suppression and related structures and equipment, roads, security fencing, environmental controls, and mechanical equipment.

- ii. All other Data Center Accessory Uses except for Data Center Accessory Structures shall be set back no less than 300 feet from a front lot line along Pennsylvania State Route 93 except for roads, utility, water, fiber, and sewer lines and related infrastructure.
- iii. Notwithstanding the provisions of Section 811.1.B.(i)-(ii), one (1) primary accessory security facility and one (1) electrical substation shall be located within the front yard setback along Pennsylvania State Route 93 at locations approved by the Board of Supervisors.
- iv. Data Centers, Disaster Recovery Facilities, and Data Center Accessory Structures shall be set back no less than 125 feet from a rear lot line along Pennsylvania State Route 3036. All other Data Center Accessory Uses except for Data Center Accessory Uses shall be permitted in the rear yard setback and appropriately screened. This includes utility, water, fiber, and sewer lines and related infrastructure, storm water facilities, fire suppression and related structures equipment, roads, security fencing, environmental controls, and mechanical equipment.
- v. Data Centers, Data Center Accessory Uses, and Disaster Recovery Facilities shall be set back no less than 100 feet from each side lot line.
- vi. Except for those areas which are subject to Sensitive Receptor setback requirements, any proposed Data Center, Disaster Recovery Facilities, and/or Data Center Accessory Uses shall be set back no less than 600 feet from any county or township road.
- vii. Any existing vegetative buffer located within the setback area shall not be removed, disturbed and shall remain in place except as necessary for roads, driveways, parking areas, utilities, utility crossings, stormwater management facilities, water and sewer facilities, grading, landscaping, fencing, security measures and similar improvements as approved by the Board of Supervisors. As part of the conditional use process an Applicant for a Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses shall submit the landscaping plan required by Section 811.4 which shows the location of existing site vegetative buffers and the location of all Data Center Accessory Uses.

For purposes of the DC-O Overlay District, Pennsylvania State Route 93 shall be considered the front lot line and Pennsylvania State Route 3036 the rear lot line for any Data Center, Data Center Accessory Use and Disaster Recovery Facilities located within the DC-O Overlay District.

- C. **Sensitive Receptor Setback.** Data Center, Disaster Recovery Facilities and Data Center Accessory Uses shall be setback not less than 1,200 feet from a Sensitive Receptor as measured from the closest point of the Data Center or Disaster Recovery Facilities to the Sensitive Receptor structure, provided all sound level

maximums are met. Any existing vegetative buffer located between a Sensitive Receptor and any proposed Data Center, or Disaster Recovery Facilities shall not be removed or disturbed and shall remain in place except for, when necessary, grading, retaining walls, roadways, utilities or fencing with Board of Supervisors approval, which approval shall not be unreasonably withheld, conditioned or delayed. As part of the preliminary site plan approval, the applicant shall submit the plan required by Article 12 showing the location of existing vegetative buffers and all Sensitive Receptors within 1,200 feet of the nearest proposed Data Center or Disaster Recovery Facilities.

- D. **Impervious Lot Coverage.** 60% of Tract
- E. **Height.** The maximum building height for each building and/or structure comprising Disaster Recovery Facilities, Data Center Accessory Structures, Data Center Accessory Uses and/or a Data Center shall not exceed: (a) sixty-five (65) feet if the graded pad level of such building and/or structure is over 620 feet above sea level; or (b) eighty-five (85) feet if the graded pad is equal to or below 620 feet above sea level. In all such instances described in the preceding sentence, the maximum building height for each completed building and/or structure shall not exceed 705 feet above sea level. The maximum building height shall be inclusive of all roof-mounted equipment such as, but not limited, to features such as cooling and ventilation systems, HVAC units and cooling towers. For purposes of calculation of the height limitation, Section 501.4 of the Ordinance shall not apply to the provisions of this Amendment and this Amendment shall supersede the same.
- F. **Off Street Parking.** A minimum of one (1) parking space per employee on the largest shift is required, plus an additional five (5) visitors.
- G. **Loading.** A minimum of one (1) loading space per Data Center building shall be provided. Loading docks and truck maneuvering areas shall be set back not less than 1,200 feet from any Sensitive Receptor and subject to screening requirements.

811.2 Redundant Electrical Generation. Redundant electrical generation shall meet the following criteria.

- A. Generator testing is limited to between 9:00 a.m. and 4:00 p.m., Monday through Friday, provided that no testing shall occur on officially recognized federal or state holidays.
- B. Except for generator testing or commissioning activities, generators are to be used solely during periods of power outages from the public utility serving the Data Center, Data Center Accessory Uses and/or Disaster Recovery Facilities, natural disasters or similar emergency events for power generation as ordered by the Nescopeck Township EMA and/or applicable governmental agencies and/or authorities. Each generator which is operated in violation of this provision shall be considered a separate violation of this Amendment for enforcement purposes.

- C. Operation of redundant electrical generators shall comply with all federal and state regulations. Applicant shall provide the Township with copies of any necessary federal or state permits required to operate the redundant electrical generators.
- D. All redundant electrical generators that will be powered by diesel shall be Tier IV emissions compliant and/or such subsequent standard as determined by the United States Environmental Protection Agency.
- E. Generators shall be equipped with acoustical enclosures.
- F. Portable and Permanent Turbines shall comply with the following:
 - i. No more than two (2) turbines shall be operated on any single non-residential or commercial property at the same time without a Permit.
 - ii. Turbines shall be set back at least one thousand five hundred (1,500) feet from any Sensitive Receptor.
 - iii. Turbines shall comply with the noise limits herein and shall have functional braking or shut-off mechanisms.
 - iv. Turbines shall be properly secured and maintained to prevent mechanical failure or debris hazards.
 - v. Turbines shall not be operated for more than 10 consecutive days in a calendar year without a Temporary Use Permit.

811.3 Design Guidelines.

A. Principal Building Façade.

(1) A Principal Building Façade shall avoid the use of undifferentiated surfaces by including at least two of the following design elements: 1) building step-backs or recesses; 2) fenestration; 3) change in building material, pattern, texture, color; or 4) use of accent materials. When a building has more than one principal façade, such principal building façades shall be consistent in terms of design, materials, details, and treatment.

B. Green-Wall Treatment.

i. A green-wall treatment may be provided in lieu of up to 50% of the fenestration surface coverage of the façade requirements. The owner or the owner's agent is responsible for the repair, replacement and maintenance of the Green-wall for the duration of the use.

- ii. Green-Wall Surface Coverage. Green-wall areas must be a minimum of 30% total surface coverage area of the Principal Building Facade and must be distributed horizontally and vertically across the Principal Building Facade.
- C. Fenestration. Fenestration must comprise a minimum of 15% of the Principal Building Façade.

811.4 Screening and Landscaping.

- A. **Screening of Mechanical Equipment.** In order to minimize visibility from adjacent roads and adjacent properties, ground level and roof top mechanical and electrical equipment shall be screened. This screening may be provided by a principal building or existing vegetation that will remain on the property or is within a landscaping/buffer easement on an adjacent property. Mechanical and electrical equipment not screened by a principal building or existing vegetation shall be screened visually by vegetation, 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 and be designed to absorb noise and protect neighboring properties from noise pollution.
- B. **Landscaping and Buffering.** Data Center, Disaster Recovery Facilities, and Data Center Accessory Uses shall be screened and buffered in accordance with the standards set forth below. A preliminary landscaping plan shall be submitted with conditional use application showing anticipated landscaping. A landscaping plan, prepared by a licensed Pennsylvania landscape architect, meeting the criteria set forth below shall be submitted with the land development plan application. The landscaping plan shall meet the following criteria:
 - i. Vegetative buffering of not less than: (a) one hundred (100) feet in width along Pennsylvania State Route 93 and each side yard; and (b) fifty (50) feet in width along Pennsylvania State Route 3036 shall be installed around the entire perimeter of the Data Center site. The Board of Supervisors may approve waivers for such requirements where existing topographic or geological features render the area unfeasible for planting, where easements prevent planting, where the Board of Supervisors determine that the retention of existing trees within the vegetative buffering area may constitute the required vegetative buffer or where the Board of Supervisors determine that the Data Center cannot be viewed from a public roadway or a Sensitive Receptor. Required plantings shall be installed prior to issuance of the first certificate of occupancy for the applicable phase, unless seasonal conditions require deferral to the next planting season, in which case the Applicant shall install plantings within the next available planting season and may be required to post financial security. The buffer shall be maintained for the life of the use. Dead or diseased plant material shall be replaced in kind within ninety (90) days of Township notice or by the end of the next planting season, whichever is later.

- ii. Vegetative buffering shall be designed to emulate the mix of native species and appearance of existing tree lines, hedge rows, and wooded areas already in existence within the landscape of where the Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses are proposed. The Applicant shall assess the species mix and characteristics found in the existing tree lines, hedge rows, and wooded areas surrounding the Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses and document that the vegetative buffering is designed to emulate these characteristics. Arborvitae may be used as a vegetative buffer. Buffer plantings shall be provided at the following minimum rates (per linear feet of buffer length):
 - a. **Evergreen Trees:** one (1) large evergreen tree per **twenty-five (25)** linear feet; minimum **eight (8) feet** height at planting.
 - b. **Deciduous Canopy Trees:** one (1) canopy (shade) tree per **seventy-five (75)** linear feet; minimum **2.5-inch caliper** at planting, with the caliper measured at 4.5 feet above the soil.
 - c. **Ornamental/Flowering Trees:** one (1) ornamental/flowering tree per fifty (50) linear feet; minimum eight (8) feet height for multi-stemmed varieties or 2.5-inch **caliper** for single-stemmed varieties at planting, with the caliper measured at 4.5 feet above the soil.
 - d. **Shrubs:** five (5) shrubs per **twenty-five (25)** linear feet; fully branched, minimum eighteen (18) inches height at planting; a mixture of evergreen and deciduous shrubs with at least **fifty percent (50%) evergreen**
- iii. Vegetative buffering shall be selected to provide year-round buffering and shall be of sufficient height, density, and maturity to screen the facility from visibility to the maximum extent possible within thirty-six (36) months of installation of the Data Center, Disaster Recovery Facilities, and/or Data Center Accessory Uses.
- iv. A combination of natural topography and vegetation can serve as a buffer provided that the Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses will not be visible from the front set back line of state roads and from Sensitive Receptors. Earthen berms may be created to serve as a buffer wherein they are constructed to emulate or be in harmony with surrounding topography.

Other than accessway cuts, a berm averaging a minimum of twenty five (25) feet in height above the final grade level, with a maximum slope of 4:1, shall be installed along the front, rear and side yards of the property and between the Data Center and any adjacent Sensitive Receptor and existing residential parcels along SR 93. The remaining berm in other

areas shall be a minimum of fifteen (15) feet in height above the final grade level with a maximum slope of 3:1. The required screening is to be placed on the berm or as otherwise necessary to provide an effective visual buffer. Fencing may be used to augment the required vegetative screening.

- v. All screening shall be properly maintained throughout the life of the project.
- vi. The buffering requirements of this section shall supersede the provisions of the Nescopeck Subdivision and Land Development Ordinance.
- vii. A landscape bond shall be required in the amount of 125% of the initial submitted estimate for replacement costs of any vegetative materials. The bond shall be renewed on a yearly basis upon review of the vegetation by the zoning officer. Any vegetation that has not survived shall be replaced within forty-five (45) days of notice, subject to applicable planting season from the zoning officer. No waivers shall be approved for the landscape bond.
- viii. Existing vegetation and/or topography may be credited toward the buffer requirements where the applicant demonstrates, through plans and field verification, that the existing conditions provide substantially equivalent year-round screening. The applicant shall submit: (i) a plan identifying vegetation/topography to remain, (ii) construction protection measures (including limits of disturbance and tree protection), and (iii) any supplemental planting required to achieve equivalent screening. Any credited vegetation removed or destroyed shall be replaced to meet the requirements of this Section.

C. **Fencing.** Fencing of the property is permitted. To the extent practicable and with Board of Supervisors approval which approval shall not be unreasonably withheld, conditioned or delayed, buffering shall be placed between a public street and the fence for purposes of screening; provided that, any such screening does not create a security risk jeopardizing the Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses. All required buffering shall be placed in a location acceptable to the Board of Supervisors.

D. **Refuse Collection and Loading Bay Screening.** Refuse collection areas shall be fully screened on all sides and loading bays must be screened from view at the ground level from all adjacent non-participating parcels and existing public roads.

811.5 Traffic Study. A traffic impact study prepared by a Pennsylvania licensed professional traffic engineer shall be prepared to address both daily operational traffic and emergency response access, to demonstrate that the facility will not significantly adversely affect local road capacity. If a PennDOT Highway Occupancy Permit is required, the approval may be

conditioned upon Applicant providing the HOP permit issued by PennDOT to satisfy this requirement.

811.6 Noise. Data Center, Disaster Recovery Facilities and Data Center Accessory Use shall be required to comply with the Noise standards set forth.

- A. Data Centers, Disaster Recovery Facilities, and Data Center Accessory Uses shall meet the maximum daytime equivalent decibel level of 65 dBA during daytime hours (8:00 am-6:00 pm) and a maximum nighttime equivalent decibel level of 60 dBA (6:00 pm-8:00am), at each property line. Each Data Center, Disaster Recovery Facilities and Data Center Accessory Use shall meet the maximum daytime equivalent decibel level of 50 dBA and a maximum nighttime equivalent decibel level of 40 dBA, as measured at the occupied Sensitive Receptor structure. The daytime level generally corresponds to interference with normal conversation. The nighttime level generally corresponds to interference with sleep. A study will be conducted as part of the Land Development application to recommend sound reducing materials or systems to meet these standards. A pre-construction or baseline noise study shall be performed within a twelve hundred (1,200) foot radius before construction activities. An as-built sound study will be conducted six (6) months following the issuance of the final Certificate of Occupancy for the Project or for a completed phase of the Project, and if phased, a final noise study shall be conducted six (6) months following the issuance of the final Certificate of Occupancy. Emergency back-up generator testing or recharge shall not occur during nighttime hours. Emergency use of redundant generators shall be exempt from all provisions related to noise. An applicant's protocols for its emergency generator testing and recharge shall be set forth by the applicant during the land development process for review and approval of the Township which approval shall not be unreasonably withheld, conditioned, or delayed. To the extent that diesel-powered generators are used, they shall meet the qualifications of a Tier IV compliant or better generator.
- B. Any proposal for a Data Center shall include a pre-construction sound study which examines noise at the property boundaries and identified Sensitive Receptors. The sound studies shall demonstrate compliance with Section 811.6 A. An "as-built" sound study shall be submitted six (6) months following the issuance of the final Certificate of Occupancy for the project or for a completed phase of the project. The sound study shall be conducted by an Institute of Noise Control Engineering (INCE) elected member. The study shall be subject to review and approval by an engineer with experience in noise control selected by the Township.
- C. The pre-construction sound study for the Data Center, Disaster Recovery Facilities, and Data Center Accessory Uses shall be submitted with the preliminary land development application. The pre-construction sound study shall recommend the sound reducing materials or systems to meet the aforesaid sound limits.
- D. The as-built sound study shall be conducted six (6) months following the issuance of the final certificate of occupancy for the project or for a completed phase of the project, and if phased, a final noise study for the entire project shall be conducted six (6) months following the issuance of the final Certificate of Occupancy. If it is determined by the

as-built sound study that there is a violation of the aforesaid sound limits, then the owner or occupant of the Data Center, Disaster Recovery Facilities, and/or Data Center Accessory Uses shall promptly remediate the violation to achieve compliance with the aforesaid sound limits.

- E. Prior to the issuance of the first final occupancy permit for a Data Center or a Disaster Recovery Facility, Applicant and Township shall agree to select a third-party Institute of Noise Control Engineering (INCE) elected member to review and approve the “as built” sound study and all remedial measures (if any) as identified by that study under Section 811.6.B. While the development is operating and after the approval of the “as-built” sound study, The Township may in its reasonable discretion deploy the third-party acoustical expert to investigate legitimate noise complaints raised to and verified by the zoning officer in the zoning officer’s reasonable exercise of discretion. Applicant shall pay all reasonable fees and costs associated with the deployment of the third-party acoustical engineer under this ordinance. All fees and costs of the third-party acoustical engineer arising under the ordinance shall be documented and provided to the Applicant or its successor. If a dispute arises as to the legitimacy of the complaint or the reasonableness of the fee, the dispute shall be subject to the arbitration provisions of Article V of the Pennsylvania Municipalities Planning Code.
- F. A Vibration Study shall be provided that demonstrates that vibration resulting from sources material to the Data Center, Disaster Recovery Facilities, or Data Center Accessory Uses does not extend past the property line. This study shall be prepared by a qualified professional obtained by the Township at the developer’s cost.

Nescopeck Township reserves the right to confirm any of the data and/or conclusions contained within the submitted noise/sound study and/or to retain its own third-party sound analysis/study.

811.7 Environmental Impact Statement.

- A. All Data Center, Disaster Recovery Facilities and/or any Data Center Accessory Uses must submit an Environmental Impact Statement as part of the final land development application.
- B. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of any proposed action concerning Data Center and/or Data Center Accessory Uses. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. Furthermore, the intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers, and the general quality of life throughout Nescopeck Township and its environs.
- C. The assessment shall be prepared by a professional engineer, ecologist, environmental planner, or other qualified individual acceptable to the Nescopeck Township Board of

Supervisors. An assessment shall include a description of the proposed use, including location, relationship to other projects or proposals, with adequate data and detail to assess the environmental impact. The assessment shall also include a comprehensive description of the existing environment and scope of proposed project and its impacts. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships. At a minimum, the assessment shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts. The assessment shall also include a detailed examination of public resources most likely impacted by the development plan and include the following focus areas:

1. The applicant shall provide the Township with copies of any air quality permit applications to any state or federal agencies prior to final certificate of occupancy. The applicant should provide copies of final air quality permits to the Township prior to issuance of occupancy for any buildings or structures requiring such permits.
2. The potential for public nuisance to residents resulting from operations and truck traffic during operations, including noise, glare, light, and visual obstacles, exists.
3. Additional considerations. At the Board of Supervisor's discretion, the following may also be addressed:
 - a. Alternative analysis. A description of alternatives to the impacts.
 - b. Adverse impacts. A statement of any adverse impacts that cannot be avoided.
 - c. Impact minimization. Environmental protection measures, procedures, and schedules to minimize damage to critical areas during and after construction, including design considerations.
 - d. Mitigation steps. A listing of steps/structural controls proposed to minimize damage to the site before and after construction.
 - e. Critical impact areas. In addition to the above, plans should include any area, condition, or feature that is environmentally sensitive or that, if disturbed during construction, would have an adverse impact on the environment. Critical impact areas include, but are not limited to, floodplains, riparian buffers, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, hydric soils, hydrologic soil groups, areas of high-water table, and mature stands of native vegetation and aquifer recharge and discharge areas. The EIS shall include:

A statement of impact upon critical areas and of adverse impacts that cannot be avoided and environmental protection measures, procedures,

and schedules to minimize damage to critical impact areas during and after construction.

811.8 Utilities.

Utilities & Infrastructure: Applicant shall provide the following.

- A. Will serve letter from the utility confirming availability of power to the applicant at the time of preliminary land development application.
- B. Applications shall clearly demonstrate to the greatest extent possible how electricity will be provided to accommodate the project's development and how the project's overall power demand relates to the overall regional network. This should include any on-site or off-site need for a new electrical substation, expansion of an existing substation, switching station, and/or any other electric infrastructure.

811.9 Water Supply.

Water for the Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses shall be provided from: (a) a water supplier regulated by the Pennsylvania Public Utility Commission; or (b) through approval of a water withdrawal by the Susquehanna River Basin Commission for projects proposing (i) water withdrawal of 100,000 gallons per day or more over a 30-day average for any source or combination of sources within the Susquehanna River Basin; or (ii) any consumptive water use of 20,000 gallons per day or more over a 30-day average from any water source. If public water is to be used, Applicant shall provide a will serve letter from the appropriate water authority to the Board of Supervisors with the preliminary land development plan application. If a water withdrawal is permitted through the Susquehanna River Basin Commission, applicant shall submit evidence of approval to the Board of Supervisors prior to issuance of a building permit and construction.

Groundwater either from the site comprising the Data Center, Disaster Recovery Facilities and/or Data Center Accessory Use or from an off-site source shall not be utilized unless approved by the Board of Supervisors. If groundwater is sought, applicant shall submit a water feasibility study. The water feasibility study must demonstrate there is an adequate supply of water for the proposed use and to estimate the impact of the use on all existing wells, groundwater and surface waters in the vicinity.

Each water feasibility study shall include the following information at a minimum:

- i. The projected water demands for the Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses.
- ii. The source of water to be used;
- iii. A description of how water will be used, including the amount or proportion of water to be used for each purpose (cooling, humidity control, fire suppression and domestic usage).
- iv. The long-term safe yield of the water source;

- v. A description of the amount or portion of water withdrawn that will be recycled or discharged and by what means;
- vi. A geologic map of the area with a radius of at least one mile from the proposed site;
- vii. 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;
- viii. 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;
- ix. A statement of the qualifications and the signature(s) of the person(s) preparing the study.

811.10 Wastewater Management.

The applicant shall demonstrate to the Township that adequate means of wastewater disposal have been provided for and approved by the Sewage Enforcement Officer, Pennsylvania Department of Environmental Protection and/or Susquehanna River Basin Commission. This would include wastewater management from any domestic wastewater as well as any wastewater used for cooling or industrial purposes. If public sewer will serve the use, then the applicant shall prove that capacity is available. Applicant shall provide the Township copies of any third-party permits related to wastewater management.

811.11 Power.

Internal electrical lines from the Substation to each Data Center, Disaster Recovery Facilities and/or Data Center Accessory Use shall be installed underground unless otherwise approved by the Board of Supervisors.

811.12 Air Quality.

Air quality and emissions controls for the Data Center, Disaster Recovery Facilities, and/or Data Center Accessory Uses will meet the requirements applicable to data centers and stand-by generator usage established by the federal and state regulations. Applicant shall provide the Township with all federal or state permits regulating air quality for the project as a condition of approval.

811.13 Fire Safety and Emergency Response.

An Emergency Response Plan shall be prepared by a qualified professional and submitted to the Township's designated local fire department and emergency management services. Applicant shall work cooperatively with the local fire department and emergency management services to develop the emergency response plan subject to the parameters established in mutual discussions. Such Plan shall include detailed information regarding fire suppression, containment, ventilation and evacuation, as well as access and hydrant locations, as applicable. In reviewing the adequacy of a Fire Safety and Emergency

Response Plan, the following shall be considered, in addition to Building Code Requirements:

- A. Use of fire-resistant rated construction materials
- B. Location of IT equipment and restricted access to it
- C. Openings and penetrations
- D. Aisle containment and hot air systems
- E. Limitation of materials in and around IT equipment
- F. Construction of IT materials
- G. Design and installation of automatic fire protection systems, such as sprinkler systems or gaseous extinguishing systems
- H. Automatic detection systems
- I. Portable extinguishers and hose lines
- J. Staff training
- K. Emergency and recovery procedures, and Maintenance and auditing plan for fire safety
- L. Ensure all first responders receive adequate training specific to the installed systems.
- M. Include provisions for annual fire safety inspections demonstrating compliance with the fire safety standards to be performed by a qualified professional on behalf of the Data Center.
- N. Any Data Center proposing battery storage or any other devices or equipment capable of storing electrical energy for a later use for either on-site or off-site shall demonstrate compliance with the National Fire Protection Association (NFPA) standard NFPA855. Battery storage systems must include fire suppression systems designed specifically for battery storage.
- O. All fire hydrants shall be equipped with Storz fittings approved by the local fire department.
- P. A Knox Box shall be installed at each entrance to any building or structure and keys shall be provided to the local Fire Department
- Q. Prior to approval of the data center project, Applicant will provide the Township a letter from the relevant fire department and/or Emergency Management Agency indicating compliance with this requirement.

- S. Any Utility-Scale Battery Energy Storage System shall comply with NFPA 855, “Standard for the Installation of Stationary Energy Storage Systems”, as amended.

Prior to issuance of a final certificate of occupancy, applicant shall submit a writing signed by the designated representatives certifying that procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of public health, safety and welfare, including compliance with all local, state, and federal fire safety codes.

811.14 Nuclear.

Any applicant who proposes to utilize a SMR to provide any source of power to a Data Center shall provide the following:

- A. A preliminary Radiological Land Survey conducted by a qualified professional of the entire site with its application. The Radiological Land Survey must show measurements at external perimeter points of the property which must include measurements taken at perimeter points within 400 feet of residential or commercial activity. The Radiological Land Survey must make recommendations as to how to contain and minimize the release, dispersion, movement, emission and spread of radiation from the property.

The Township may have a Radiological Land Survey generated on its behalf at any time thereafter, by an entity selected by the Township, at the expense of the applicant or developer.

- B. An as-built Radiological Land Survey shall be conducted six (6) months after issuance of the certificate of occupancy for any Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses prior to the final escrow release for any Data Center land development phase. The Township may have a Radiological Land Survey generated on its behalf at any time thereafter, by an entity selected by the Township, at the expense of the applicant or developer.

- C. If it is determined that there is a violation of the radiation limits prescribed in the Radiological Land Survey, either pre or post-construction and occupancy, then the Township shall rescind the zoning permit, consistent with applicable local, state, and/or federal law, until such time that the applicant, landowner or developer provides a Radiological Land Survey showing that the radiation does not exceed the prescribed radiation limits. The Township may select an entity to conduct a Radiological Land Survey to verify that the radiation does not exceed the prescribed radiation limits and the cost of such survey shall be borne solely by the applicant, landowner, or the developer. Upon verification that the radiation does not exceed the limits established by this Amendment, the zoning permit shall be reinstated.

811.15 Lighting.

A. A preliminary lighting plan shall be submitted with conditional use application showing anticipated lighting. A lighting plan meeting the criteria set forth below shall be submitted with the land development plan application. The provisions of this Section supersede Section 616 of the Nescopeck Township Subdivision and Land Development Ordinance. The information submitted shall contain the following:

- i. A plan of the proposed site for the Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses depicting all outdoor lighting for all structures, parking spaces, traffic areas (both pedestrian and vehicular), building entrances, existing and proposed vegetation, and any adjacent property and/or uses that may be adversely impacted by the lighting. The plan shall contain a layout of all proposed fixtures by orientation, aiming direction, mounting height, type and location.
- ii. A 30' x 30' illuminance grid (point by point) plot of maintained horizontal footcandles overlaid on the site plan, plotted out to 0.00 footcandles, which demonstrates compliance with light trespass, illuminances and uniformity requirements set forth herein. When the scale of the plan, as determined by the Township Supervisors and Planning Commission, as applicable, makes a 30'x 30' grid plot illegible a larger grid may be permitted.
- iii. Light loss factors, IES (Illuminating Engineering Society) candela test, initial lamp lumen ratings and specific lamp manufacturer's lamp ordering nomenclature, used in calculating the plotted illumination levels shall be provided.
- iv. Description of the proposed equipment, including luminaire catalog cuts, photometrics, glare reduction devices, lamps, on/off control devices, mounting heights, pole foundation details, pole protection means and mounting methods shall be provided.
- v. Any landscaping plans shall contain luminaire locations, demonstrate the site lighting and landscaping have been coordinated to minimize conflict between vegetation and intended light distribution, both initially and at vegetation maturity.
- vi. When requested by the Board of Supervisors and/or Nescopeck Township Planning Commission, as applicable, the applicant shall submit a visual impact plan that demonstrates measures have been taken to mitigate the potential consequences of offsite glare. This plan may require the inclusion of initial vertical footcandle values and neighboring offsite venues.

B. Outdoor lighting shall be installed in accordance with the following standards:

- i. Light shall be directed only where needed and oriented downward.

- ii. Where lighting is needed for security or convenience, illumination shall be limited to the area needed.
- iii. Illumination levels and glare control shall conform with IES (Illuminating Engineering Society) standards as recorded in the IES Lighting Handbook in effect at the time of preliminary land development approval.
- iv. Luminaires for outdoor lighting of horizontal surfaces, including, but not limited to parking areas, driveways, sidewalks, and loading docks shall be aimed straight down, have no up-light and shall meet IESNA (Illuminating Engineering Society of North America) full cut-off/fully shielded criteria.
- v. Luminaires for outdoor lighting of non-horizontal surfaces, including, but not limited to facades, walls, poles, fencing, signs, and landscaping shall be adequately shielded, designed and installed to illuminate the object or the immediate area desired and not project into the windows of neighboring residences, adjacent areas, skyward or onto public areas or roadways.
- vi. All outdoor lighting shall provide adequate lighting without hazard to drivers or nuisance to adjacent property owners.
- vii. All lighting plans, fixtures, standards and foundations shall be approved by the Board of Supervisors and Nescopeck Township Planning Commission, as appropriate and shall be designed in accordance with the National Electrical Code.

811.16 Community Incentive Package.

A Community Incentive Package (CIP) may be submitted to the Township. The Community Incentive Package must be mutually agreed upon, in writing between the applicant and the Nescopeck Township Board of Supervisors.

811.17 Decommissioning.

Prior to issuance of the final certificate of occupancy, the applicant shall provide a decommission plan addressing removal and disposal of all electronic equipment associated with the Data Center and/or Disaster and/or Disaster Recovery Facility at the end of the useful life of the equipment or upon the discontinuance of the use of the facility as a Data Center and/or Disaster Recovery Facility. Such plan shall provide that all electronic equipment and related personal property shall be removed within twelve (12) months of the date at which such facility ceases to operate as a Data Center and/or Disaster Recovery Facility. The Applicant shall post financial security in the amount of 110% of the estimated costs for the removal and disposal requirements of this Section. Financial security shall be maintained continuously in effect, shall be reviewed every five (5) years by the applicant with such review provided to the Board of Supervisors and adjusted if the cost of removal and disposal increases. The amount of the financial security shall be reviewed and approved the Board of Supervisors, such approval not to be unreasonably withheld, conditioned or delayed. If the Applicant or its successor fails to complete the removal and

disposal requirements, the Township may draw upon the financial security and undertake the work and recover any additional costs as may be permitted by applicable law.

811.18 Auxiliary On-Site Accessory Bulk Fuel Storage.

Any auxiliary on-site accessory bulk fuel storage associated with replenishing the fuel tanks for the redundant generators shall not exceed the amount of fuel necessary to support a continuous operating period of twenty-four (24) hours. Bulk fuel storage facilities shall only be permitted at locations acceptable to the Board of Supervisors when less than 1,200 feet from a Sensitive Receptor. Applicant shall provide the Township any permits for any auxiliary on-site accessory bulk fuel storage.

811.19 Conditional Use Process.

A. In addition to the requirements of this Section 811, Applicants for a conditional use for a Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses shall also be subject to and comply with the provisions of Article 12 of the Ordinance. An applicant for a Data Center, Disaster Recovery Facilities and/or Data Center Accessory Uses shall provide all of the information required by Section 1202.3.C at the time the application for conditional use is submitted.

B. The plot plan required by Section 1202.3.C.6. shall be drawn to a scale not more than 50 feet to the inch and shall be on a sheet no smaller than 18" x 24" and no larger than 24" x 36". If the plot plan is drawn in two (2) or more sections, a key map showing the locations of the sections shall be placed on each sheet.

C. For clarification purposes, to ensure that the application for conditional use is a complete submission, the applicant shall submit the following:

1. Completed conditional use application and Plot Plan in compliance with 1202.3.C and payment of fee;
2. Narrative of how the project complies with the requirements of this Amendment and where applicable the Ordinance;
3. Narrative of how the project complies with the criteria for conditional uses set forth in Section 1208.4 of the Ordinance;
4. All studies and assessments required by this Amendment including, but not limited to:
 - a. Pre-construction noise study;
 - b. Water feasibility study (if applicable);
 - c. Preliminary landscaping plan;
 - d. Preliminary lighting Plan;

- e. Traffic Impact Study;
- f. Radiological Land Survey (if applicable); and
- g. Any other studies or assessments required by this Amendment; provided that the applicant may defer a study permitted in the land development plan approval process or as otherwise provided for in this Amendment.

G. Severability If any sentence, clause, section, or part of this Amendment is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity, shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts thereof. It is expressly declared as the intent of Nescopeck Township that this Amendment would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

H. Repealer. All provisions of Nescopeck's Ordinances which are contrary to this Amendment with respect to the regulation of Data Centers, Data Center Accessory Uses and/or Disaster Recovery Facilities are expressly repealed, including without limitation, Ordinance 25-3.

I. Effective Date. This Amendment shall be in full force and effect from and after its passage or the first day allowed by law thereafter.

This Ordinance shall take effect immediately upon adoption by the Board of Supervisors of the Township of Nescopeck.

Adopted this _____ day of _____, 2026.

NESCOPECK TOWNSHIP BOARD OF SUPERVISORS:

Chairperson, Board of Supervisors

Supervisor

Supervisor

Attest:

Carolyn Superko

Secretary/Treasurer