

**NEWBERRY TOWNSHIP
YORK COUNTY, PENNSYLVANIA
ORDINANCE NO. 442**

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NEWBERRY TOWNSHIP, YORK COUNTY, PENNSYLVANIA, AMENDING CHAPTER 380, ZONING, OF THE CODE OF ORDINANCES OF NEWBERRY TOWNSHIP TO DEFINE AND ADD SPECIFIC REQUIREMENTS FOR DATA CENTERS AND DATA CENTER ACCESSORY USES; TO ESTABLISH DATA CENTERS AS CONDITIONAL USES IN THE GENERAL INDUSTRIAL (I) AND RURAL INDUSTRIAL (RI) ZONING DISTRICTS; AND TO PROVIDE FOR RELATED DEVELOPMENT, OPERATIONAL, INFRASTRUCTURE, EMERGENCY MANAGEMENT, DECOMMISSIONING, REPEALER, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE PROVISIONS.

WHEREAS, Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10601 et seq., authorizes Newberry Township to enact, amend, and repeal zoning ordinances within the Township;

WHEREAS, Newberry Township has adopted Chapter 380, Zoning, of the Code of Ordinances of Newberry Township;

WHEREAS, advances in technology, cloud computing, artificial intelligence, high-performance computing, blockchain processing, and related digital services have resulted in increased demand for data center facilities;

WHEREAS, the Board of Supervisors finds that Data Centers constitute a unique land use that may have substantial impacts upon electrical infrastructure, water resources, sewer capacity, stormwater facilities, emergency services, transportation facilities, noise levels, lighting, visual character, and surrounding properties;

WHEREAS, the Board of Supervisors desires to provide for Data Centers in appropriate zoning districts through the Conditional Use process while establishing reasonable safeguards to protect the public health, safety, and welfare of the Township and its residents;

WHEREAS, the Board of Supervisors desires to define Data Centers as a separate and distinct land use so that such facilities are not regulated as warehouses, offices, laboratories, business parks, utility facilities, telecommunications facilities, research and development facilities, or similar uses; and

WHEREAS, the Board of Supervisors finds that the amendments contained herein are consistent with the purposes of the Pennsylvania Municipalities Planning Code, the Newberry Township Comprehensive Plan, and the intent of Chapter 380, Zoning.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of Newberry Township, York County, Pennsylvania, and it is hereby ordained and enacted as follows:

Section 1. Section 380-14, Word usage; language interpretation; definitions, of Chapter 380, Zoning, is hereby amended to add the following definitions:

BATTERY ENERGY STORAGE SYSTEM or BESS: One or more devices, systems, or assemblies capable of storing electrical energy for later use, together with all associated equipment, controls, cabinets, containers, inverters, fire suppression systems, monitoring systems, safety systems, and appurtenant facilities.

CLOSED-LOOP COOLING SYSTEM: A cooling system that circulates a contained coolant or fluid that is not discharged to the environment as a normal part of operation, including plate-and-frame heat exchangers, rear-door heat exchangers, immersion cooling, or other sealed liquid cooling approaches.

DATA CENTER: A facility, building, structure, or campus of buildings used primarily for the storage, management, processing, transmission, hosting, mining, verification, or distribution of digital information, data, software, internet services, cloud computing services, artificial intelligence computing operations, machine learning operations, high-performance computing operations, colocation services, network services, cryptocurrency mining, blockchain processing, digital asset verification, server farms, or similar electronic data processing activities. A Data Center may include Data Center Accessory Uses and Data Center Accessory Equipment when located on the same tract or assemblage of adjacent parcels developed as a unified development.

DATA CENTER ACCESSORY EQUIPMENT: Equipment, systems, structures, or facilities that are accessory to and used in support of a Data Center, including but not limited to mechanical equipment, generators, transformers, cooling systems, HVAC equipment, water cooling systems, fire suppression systems, fuel storage, Battery Energy Storage Systems, substations, utility infrastructure, security systems, fencing, and similar equipment.

DATA CENTER ACCESSORY USE: Ancillary uses or structures that are secondary and incidental to a Data Center, including but not limited to administrative offices, security facilities, fiber optic lines, utility lines, electrical substations, domestic and non-contact cooling water and wastewater treatment facilities, water holding facilities, pump stations, water towers, heating, ventilation, air conditioning and cooling towers, fire suppression facilities, emergency or temporary backup power generators, Battery Energy Storage Systems, and related equipment, provided such accessory uses or structures are located on the same tract or assemblage of adjacent parcels developed as a unified development with a Data Center. The term shall not include an energy generation system used or intended to supply power directly to the Data Center during normal operations. The term may include de minimis or emergency-only on-site energy systems, including rooftop solar or similar resiliency infrastructure, that are not designed or intended to supply the Data Center during normal operations, subject to compliance with all otherwise applicable Township regulations.

ENERGY GENERATION SYSTEM: Any energy generation system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel, fuel cell, natural gas, nuclear, or other energy generating systems. An Energy Generation System shall not be considered a Data Center Accessory Use unless expressly authorized by this Chapter.

SENSITIVE RECEPTOR: Any dwelling not located on the host parcel, school, preschool, daycare facility, in-home daycare, place of worship, park, playground, campground, nursing home, retirement community, hospital, community center, or similar use intended for human occupancy, congregation, or vulnerable populations.

Section 2. Section 380-25, General Industrial (I), of Chapter 380, Zoning, is hereby amended to add the following use as a Conditional Use:

A. Data Center [§ 380-59A(65)].

Section 3. Section 380-29, Rural Industrial (RI), of Chapter 380, Zoning, is hereby amended to add the following use as a Conditional Use:

A. Data Center [§ 380-59A(65)].

Section 4. Section 380-59A, Supplementary use provisions, of Chapter 380, Zoning, is hereby amended to add the following new subsection:

(65) Data Centers.

A. Applicability and classification.

1. Data Centers may be permitted by Conditional Use in the General Industrial (I) and Rural Industrial (RI) Zoning Districts when approved in compliance with the procedures, standards, and criteria contained in this section and § 380-84, Conditional Uses.
2. A Data Center shall be considered a distinct and separate land use classification. A Data Center shall not be classified as a warehouse, warehousing and wholesale trade establishment, distribution facility, fulfillment center, logistics center, office building, business park, laboratory, research facility, research and development facility, utility facility, telecommunications facility, manufacturing facility, industrial storage facility, essential service, or any other use unless specifically authorized pursuant to this section.
3. Any use meeting the definition of a Data Center shall be regulated exclusively pursuant to this section, regardless of how such use may otherwise be characterized by an applicant.
4. Approvals issued pursuant to this section shall not relieve the applicant from obtaining any permit, license, approval, or authorization required by any Township, County, Commonwealth, Federal, regional, or utility agency.
5. In the event of a conflict between this section and any other provision of the Code of Ordinances of Newberry Township, the provision imposing the more restrictive standard shall apply.
6. The standards contained in this section are intended to provide specific and measurable criteria for Conditional Use review under § 380-84, Conditional Uses. In applying this section, the Board of Supervisors shall base its findings upon the evidence presented and the applicant's demonstrated compliance with the objective requirements of this section, together with any other applicable requirements of this Chapter.

B. Conditional Use application requirements.

In addition to the requirements of § 380-84, Conditional Uses, an applicant for Conditional Use approval for a Data Center shall submit the following information and plans in sufficient detail to demonstrate compliance with this Chapter and all other applicable Township ordinances:

1. Written narrative describing the proposed Data Center, Data Center Accessory Uses, Data Center Accessory Equipment, hours of operation, phasing, construction schedule, anticipated number of employees, security procedures, and related operational characteristics.
2. Site plan depicting all existing and proposed buildings, structures, access drives, parking areas, loading areas, security facilities, fencing, utility facilities, substations, generators, fuel storage areas, Battery Energy Storage Systems, cooling equipment, stormwater facilities, water facilities, sewer facilities, buffer yards, screening, landscaping, and all proposed limits of disturbance.
3. Building elevations and renderings of all principal buildings and significant accessory structures visible from adjacent properties, public roads, or Sensitive Receptors.
4. Landscaping, buffering, and screening plan demonstrating compliance with § 380-49, Buffering; § 380-50, Landscaping; § 380-51, Screening; and this section.
5. Lighting plan demonstrating compliance with § 380-37J, Lighting, and this section.
6. Noise Impact Study and acoustical analysis prepared by a qualified acoustical professional.
7. Utility and Water Feasibility Report.
8. Utility Infrastructure Impact Study.
9. Electrical demand analysis identifying peak demand, projected annual demand, backup generation capacity, Battery Energy Storage System capacity, and utility interconnection requirements.
10. Water supply analysis identifying water sources, projected water demand, cooling methods, water conservation measures, and impacts on water resources.

11. Hydrogeologic study where private wells, groundwater withdrawals, or nonpublic water sources are proposed.
12. Emergency Response Plan.
13. Fire Safety Plan.
14. Hazardous Materials Management Plan.
15. Traffic Impact Study prepared in accordance with § 380-57 and Chapter 344, Subdivision and Land Development.
16. Construction Traffic Management Plan, including proposed truck routes, oversized load routes, hours of construction traffic, staging areas, and measures to protect Township roads.
17. Generator information, including number, type, location, fuel source, fuel storage, testing schedule, emissions information, screening, and noise mitigation.
18. Battery Energy Storage System information, including technology type, location, capacity, fire suppression systems, thermal runaway mitigation, emergency shutoff systems, and safety protocols.
19. Cooling system information, including cooling methodology, water use, chemical use, heat rejection methods, and discharge or recycling methods.
20. Decommissioning Plan.
21. Engineer-prepared decommissioning cost estimate.
22. Proposed financial security documentation.
23. Environmental and Community Impact Analysis.
24. Preliminary Land Development Plan containing sufficient detail to permit evaluation of compliance with Chapter 380, Zoning; Chapter 344, Subdivision and Land Development; Chapter 332, Stormwater Management; Chapter 214, Fire Prevention and Protection; and all other applicable Township ordinances.
25. Conditional Use review and Land Development review may proceed concurrently. The Board of Supervisors may require additional information reasonably necessary to determine compliance with this section and § 380-84, Conditional Uses.

C. Dimensional standards.

1. Principal Data Center buildings shall comply with the following minimum setbacks and height limitations:
 - a. Minimum setback from all property lines: 200 feet.
 - b. Minimum setback from any Residential Zoning District: 400 feet.
 - c. Minimum setback from any existing dwelling not located on the host parcel: 400 feet.
 - d. Maximum building height: 50 feet, inclusive of roof-mounted mechanical equipment, cooling equipment, ventilation systems, HVAC units, and cooling towers.
 - e. Building height may be increased up to 65 feet as part of the Conditional Use approval where the applicant demonstrates, through competent evidence, that compliance is achieved with applicable noise, setback, buffering, screening, emergency access, and visual mitigation requirements, and where the Board of Supervisors finds that the additional height will not result in a material adverse impact upon adjoining properties or Sensitive Receptors.
 - f. Visual Impact Mitigation.
 - (1) Where a principal Data Center building is visible from a public road, Residential Zoning District, existing dwelling, Agricultural District, or Sensitive Receptor, the applicant shall utilize building orientation, landscaping, berming, screening, setbacks, or similar

site-design measures to reasonably mitigate the visual impact of the facility upon surrounding properties and uses.

2. Generators, Data Center Electric Utility Substations, transformers, cooling equipment, Battery Energy Storage Systems, fuel storage facilities, and similar Data Center Accessory Equipment shall comply with the following minimum setbacks:
 - a. Minimum setback from all property lines: 200 feet.
 - b. Minimum setback from any dwelling not located on the host parcel: 300 feet.
3. Guard houses, gate houses, security checkpoints, utility lines, fiber optic lines, signage, and access control facilities may be located within required setbacks where approved by the Board of Supervisors and where such facilities do not create a hazard or adverse impact.
4. All other dimensional standards shall be governed by the underlying zoning district unless specifically modified by this section. In the event of a conflict, the more restrictive provision shall apply.
5. The Board of Supervisors may approve a reduction of a required setback or buffer by not more than twenty-five percent (25%) where the applicant demonstrates, through competent evidence, that equal or greater protection will be achieved by reason of existing topography, berming, evergreen screening, building orientation, enclosure of equipment, sound attenuation, or other site-specific mitigation measures. Any such modification shall be supported by written findings and may be conditioned upon installation and perpetual maintenance of the proposed mitigation measures.

D. Landscape buffer.

1. A landscape buffer shall be required between Data Centers, Data Center Accessory Uses, Data Center Accessory Equipment, and adjoining properties or uses as set forth in this section.
2. A minimum 100-foot-wide landscaped buffer shall be provided adjacent to any Residential Zoning District, existing dwelling, Agricultural District, school, park, place of worship, campground, or Sensitive Receptor.
3. A minimum 50-foot-wide landscaped buffer shall be provided adjacent to public roads, General Industrial properties, and Rural Industrial properties.
4. All buffering, landscaping, and screening shall comply with § 380-49, Buffering; § 380-50, Landscaping; and § 380-51, Screening, including Level 3 Standards, except where this section imposes a more restrictive standard.
5. Required buffer plantings shall consist of Pennsylvania native species where practicable and shall include a minimum of 50% evergreen material to provide year-round screening.
6. Existing vegetation may be used to satisfy all or a portion of the required buffer where the Township Engineer, Planning Commission, and Board of Supervisors determine that existing vegetation and/or topography provides screening equal to or greater than the required buffer.
7. No structures, storage, parking, loading, generator testing area, fuel storage area, Battery Energy Storage System, or other active operational area shall be located within a required landscape buffer, except for approved access drives, utility crossings, stormwater facilities, fencing, signage, and similar improvements approved by the Township.

E. Screening and fencing.

1. Ground-mounted and roof-mounted mechanical equipment, cooling equipment, ventilation equipment, generators, Battery Energy Storage Systems, transformers, substations, fuel storage

facilities, and similar equipment shall be fully screened from view from public roads, adjoining residential properties, Agricultural Districts, and Sensitive Receptors.

2. Screening may include required landscape buffers, existing vegetation, berms, walls, fences, parapets, enclosures, architectural screening, or other methods approved by the Board of Supervisors.
3. Where equipment cannot be fully enclosed due to manufacturer specifications or safety requirements, the applicant shall demonstrate that screening, orientation, setbacks, and sound mitigation measures will minimize visual and noise impacts to the maximum extent practicable.
4. Fencing shall comply with § 380-37A, Accessory Uses and Structures - Fences and Walls. Fencing shall not contain barbed wire, razor wire, or similar visually intrusive deterrent devices unless required by law or specifically approved by the Board of Supervisors based upon documented security needs.
5. Fencing shall not obstruct required clear sight triangles and shall be located so as not to interfere with required buffer plantings.

F. Noise and vibration.

1. Data Centers shall comply with § 380-55, Operations and Performance Standards, and all applicable operations and performance standards of this Chapter.
2. The applicant shall demonstrate through a sound study prepared by a qualified acoustical professional that sound generated by the Data Center, Data Center Accessory Uses, Data Center Accessory Equipment, generators, substations, HVAC equipment, cooling systems, and related equipment shall not exceed the following limits:
 - a. 50 dBA at any Sensitive Receptor.
 - b. 60 dBA at any nonresidential property boundary.
3. The Noise Impact Study shall include pre-construction modeling, recommended sound-reducing materials or systems, and mitigation measures necessary to meet the required sound limits.
4. Post-construction acoustical study shall be submitted prior to issuance of any certificate of occupancy or use and occupancy permit. An additional post-construction study may be required by the Township upon request if complaints, operational changes, expansion, or equipment changes indicate potential noncompliance.
5. If a sound study determines that the facility exceeds applicable limits, the owner or operator shall promptly implement mitigation measures necessary to achieve compliance.
6. The applicant shall provide a vibration analysis prepared by a qualified professional demonstrating that vibration generated by the facility will comply with applicable industry standards identified in the report and will not create a nuisance, hazard, or structural impact upon adjoining properties.

G. Lighting.

1. All lighting shall comply with § 380-37J, Lighting, and all applicable Township standards relating to glare, shielding, illumination levels, mounting height, light trespass, and lighting plan submission.
2. Exterior lighting shall be designed and constructed with fully shielded fixtures that direct light downward and into the interior of the property and away from adjacent roads and properties.
3. The illumination projected onto a residential use shall at no time exceed 0.1 footcandle, measured line-of-sight from any point on the receiving residential property.
4. The illumination projected onto a nonresidential use shall at no time exceed the applicable standard set forth in § 380-37J, Lighting.

5. LED light sources shall have a correlated color temperature that does not exceed 3000K unless otherwise approved by the Township.
6. No pole-mounted lighting shall be permitted on a roof.

H. Water and sewer.

1. Data Centers shall utilize public water and public sewer where available and where required by Chapter 380, Zoning; Chapter 344, Subdivision and Land Development; Chapter 310, Sewers and Sewage Disposal; or other applicable Township regulations.
2. Where the use will be served by a public water supply, the applicant shall submit documentation from the public authority or provider certifying that the authority or provider will supply the water needed for the proposed use.
3. Where the use will rely upon nonpublic sources of water, private wells, groundwater withdrawals, or surface water withdrawals, the applicant shall submit a water feasibility study and hydrogeologic study prepared by qualified professionals. No Data Center shall be approved unless the studies demonstrate that the anticipated water supply is adequate for the proposed use and that potential impacts to groundwater supplies, surface waters, wetlands, streams, and nearby wells have been avoided or mitigated to acceptable levels in compliance with applicable Township ordinances and applicable County, Commonwealth, Federal, and Susquehanna River Basin Commission requirements.
4. The water feasibility study shall include, at a minimum:
 - a. Projected water demands of the Data Center and all Data Center Accessory Uses.
 - b. The source or sources of water to be used.
 - c. A description of how water will be used, including cooling, humidity control, fire suppression, domestic use, landscaping, and other purposes.
 - d. The long-term safe yield of the water source.
 - e. The amount or portion of water withdrawn that will be recycled, reused, consumed, discharged, or otherwise released.
 - f. Geologic map of the area with a radius of at least one mile from the site.
 - g. The location of existing and proposed wells within 1,000 feet of the property boundary, with available information regarding high-yield wells.
 - h. The location of surface waters, including perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, and natural seeps within 1,000 feet of the property boundary.
 - i. Determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, surface waters, and groundwater resources. The study shall identify the methodology used, the assumptions relied upon, and the basis for concluding that potential impacts are avoided or mitigated to acceptable levels.
 - j. Statement of the qualifications and signatures of the persons preparing the study.
5. Any water-based cooling system associated with a Data Center shall utilize a Closed-Loop Cooling System. Air-cooled systems and hybrid systems that incorporate closed-loop liquid cooling may also be utilized. Once-through cooling systems and other systems that continuously discharge cooling water as part of normal operations are prohibited. Nothing in this subsection shall prohibit the use of public water, groundwater, surface water, reclaimed water, or another lawful water source for makeup water or other facility needs, provided all applicable Township, County, Commonwealth, Federal, and Susquehanna River Basin Commission requirements are satisfied.

6. Where approval, review, registration, or authorization by the Susquehanna River Basin Commission or any other agency is required, evidence of such approval, review, registration, or authorization shall be provided prior to issuance of Township permits authorizing construction.
7. The applicant shall demonstrate that adequate means of wastewater disposal, including domestic wastewater and wastewater used for cooling or industrial purposes, have been provided and approved by the appropriate Township, County, Commonwealth, or Federal agency.

I. Power supply and utility infrastructure.

1. The applicant shall submit a Utility Infrastructure Impact Study identifying electrical demand, water demand, sewer demand, cooling demand, backup generation capacity, fuel storage capacity, Battery Energy Storage System capacity, substation requirements, transmission improvements, communication infrastructure, and off-site infrastructure impacts necessary to serve the proposed facility.
2. If the applicant proposes to connect the Data Center to the electric grid, the applicant shall provide written documentation from the applicable electric service provider certifying that:
 - a. Adequate capacity is available to serve the proposed facility.
 - b. Utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed use.
 - c. Necessary upgrades, substations, transmission facilities, communication facilities, or other infrastructure improvements have been identified.
 - d. The proposed use can be served without unreasonable impairment of service reliability within the utility service area, to the extent such information is reasonably available from the provider.
 - e. Known or reasonably identifiable infrastructure, interconnection, or capacity impacts directly attributable to the proposed project have been identified, together with the upgrades or improvements required to serve the proposed use.
 - f. Any required approvals from PJM, the Pennsylvania Public Utility Commission, or other applicable agencies have been obtained, initiated, or identified, as applicable.
3. Any utility, electrical, water, sewer, stormwater, roadway, transmission, communication, substation, pipeline, or related infrastructure improvements required to serve the proposed Data Center shall be designed, permitted, constructed, operated, maintained, repaired, replaced, and upgraded at the sole cost and expense of the applicant, owner, operator, or utility provider, as applicable, unless otherwise expressly approved by the Board of Supervisors.
4. No approval granted pursuant to this Chapter shall obligate Newberry Township to construct, finance, operate, maintain, repair, replace, or upgrade any public or private utility, roadway, stormwater, sewer, water, communication, electrical, or other infrastructure improvements required to serve the proposed facility.
5. The applicant shall be responsible for obtaining all permits, easements, licenses, agreements, and approvals required for the construction and operation of any off-site or on-site infrastructure improvements associated with the proposed Data Center.
6. Where infrastructure improvements are proposed within Township rights-of-way or on Township-owned property, the applicant shall enter into such agreements, provide such financial security, and satisfy such conditions as the Township may reasonably require to protect public facilities and infrastructure.
7. Any damage to Township roads, rights-of-way, stormwater facilities, utilities, or other public infrastructure resulting from construction, operation, maintenance, or expansion of the Data

Center shall be repaired or restored by the applicant to the satisfaction of the Township Engineer at the applicant's sole cost and expense.

8. The Board of Supervisors may require pre-construction and post-construction condition surveys of Township roads and infrastructure and may require financial security to guarantee restoration of any damage attributable to the project.
9. Any Energy Generation System designed or used to supply power directly to a Data Center during normal operations shall be considered a separate principal use unless the Board of Supervisors determines, based upon the scale, function, and operational characteristics of the system, that the proposed system is clearly incidental and subordinate to the Data Center and is not intended to serve as a primary source of operating power. This subsection shall not apply to emergency backup generation, temporary emergency power systems, or de minimis resiliency infrastructure not used during normal operations.

J. Emergency generators and fuel storage.

1. Emergency or backup generators shall be located within a fully enclosed building or shall be screened and enclosed to the maximum extent practicable, subject to manufacturer specifications, fire safety requirements, and applicable codes.
2. Routine generator testing shall be limited to the hours of 7:00 a.m. through 7:00 p.m., Monday through Saturday, except during emergencies, utility interruptions, commissioning, or maintenance necessary to protect equipment, public safety, or continuity of service.
3. Fuel storage facilities shall provide secondary containment and shall comply with all applicable Township, County, Commonwealth, and Federal regulations.
4. The applicant shall identify the type, location, capacity, and safety features of all fuel storage systems associated with the Data Center.

K. Battery Energy Storage Systems.

1. Any Data Center proposing Battery Energy Storage Systems, or any other device or group of devices capable of storing energy for later use, shall demonstrate compliance with applicable editions of National Fire Protection Association Standard 855, National Fire Protection Association Standard 75, National Fire Protection Association Standard 76, the International Fire Code, and all applicable Township, County, Commonwealth, and Federal requirements.
2. Battery Energy Storage Systems shall include fire suppression systems designed specifically for the technology proposed, thermal runaway mitigation measures, emergency shutdown systems, monitoring systems, and emergency response protocols.
3. No Data Center containing Battery Energy Storage Systems shall be approved unless the applicant demonstrates that procedures for fire suppression, containment, ventilation, evacuation, emergency shutdown, and emergency response are sufficiently protective of public health, safety, and welfare.

L. Hazardous materials.

1. The applicant shall submit a Hazardous Materials Management Plan identifying all fuel storage, battery systems, cooling chemicals, fire suppression agents, hazardous materials, regulated substances, and similar materials associated with the facility.
2. The Hazardous Materials Management Plan shall describe storage, handling, containment, spill prevention, emergency response, disposal, and reporting procedures.
3. All hazardous or regulated materials shall be stored, managed, removed, and disposed of in accordance with all applicable Township, County, Commonwealth, and Federal requirements.

M. Emergency management and fire protection.

1. The applicant shall submit an Emergency Response Plan prepared by a qualified professional. The plan shall:
 - a. Be submitted for review and comment to the local fire company, emergency medical services provider, Township Emergency Management Coordinator, and such other emergency response agencies as the Township may identify. Failure of any such agency to provide comments shall not, by itself, delay action on the application, provided the applicant has supplied the plan for review in a timely manner.
 - b. Include detailed procedures for fire suppression, containment, ventilation, evacuation, hazardous materials response, battery fire response, utility shutoff, and site access.
 - c. Identify access roads, fire lanes, hydrant locations, Knox Box locations, utility shutoff locations, emergency staging areas, and areas containing hazardous materials.
 - d. Demonstrate suitable access for emergency equipment within the site.
 - e. Include provisions for training or familiarization of first responders regarding the specific systems installed at the facility. The applicant shall be responsible for the reasonable and documented costs of facility-specific training or familiarization reasonably required for local emergency responders.
 - f. Include 24-hour emergency contact information for the owner, operator, facility manager, utility providers, and responsible emergency contacts.
2. The applicant shall comply with Chapter 214, Fire Prevention and Protection, including but not limited to hydrant, supplemental hydrant, fire lane, emergency access, and Fire Chief review requirements.
3. Prior to issuance of a certificate of occupancy or use and occupancy permit, the applicant shall provide 24-hour emergency contact signage visible at the access entrance. The signage shall include the company name, owner or representative name, telephone number, and corresponding utility company contact information.
4. The owner or operator shall provide for an annual fire safety inspection by a qualified professional or other person acceptable to the Township and shall provide the inspection report to the Township. The Board of Supervisors may require emergency response updates, additional inspections, or other reasonable measures where necessary due to a credible complaint, material operational change, emergency, suspected violation, or other documented public health or safety concern.

N. Traffic, access, and construction impacts.

1. Traffic Impact Studies shall be prepared in accordance with § 380-57 and Chapter 344, Subdivision and Land Development.
2. Access drives shall comply with § 380-46 and Chapter 344, Subdivision and Land Development.
3. The Board of Supervisors may require roadway improvements, turning lanes, truck routes, oversized-load routing plans, traffic control measures, construction traffic management plans, off-site road improvements, and other transportation-related improvements where necessary to protect public safety and infrastructure.
4. The applicant shall prevent construction traffic, truck staging, loading, unloading, queuing, and parking from obstructing public roads or creating unsafe conditions.

O. Parking.

1. Data Centers shall provide at least one parking space per employee on the largest shift, plus such additional parking as is reasonably necessary to accommodate visitors, vendors, service personnel, and peak operational needs demonstrated by the applicant.

2. Parking shall comply with § 380-47, Parking Requirements, and Chapter 344, Subdivision and Land Development, unless specifically modified by this section.

P. Environmental and Community Impact Analysis.

1. Prior to the commencement of the Conditional Use hearing, the applicant shall submit an Environmental and Community Impact Analysis prepared by qualified professionals demonstrating the potential impacts of the proposed Data Center upon Township infrastructure, public services, environmental resources, and surrounding properties.
2. The Environmental and Community Impact Analysis shall include, at a minimum, an evaluation of:
 - a. Emergency services impacts, including fire protection, emergency medical response, emergency management requirements, hazardous materials response capabilities, specialized training requirements, and equipment needs.
 - b. Water resource impacts, including water demand, water source availability, groundwater impacts, surface water impacts, stream impacts, wetland impacts, aquifer impacts, and cumulative impacts upon regional water supplies.
 - c. Wastewater impacts, including sanitary sewer demand, wastewater treatment requirements, existing system capacity, and impacts upon Township sewer facilities.
 - d. Stormwater impacts, including impervious coverage, peak runoff, flooding impacts, watershed impacts, and consistency with Chapter 332, Stormwater Management.
 - e. Transportation impacts, including construction traffic, oversized equipment deliveries, employee traffic, emergency access, and roadway impacts.
 - f. Fiscal impacts, including estimated municipal revenues, estimated municipal expenditures, public service demands, emergency service costs, and infrastructure impacts.
 - g. Community compatibility, including consistency with the Newberry Township Comprehensive Plan, compatibility with surrounding land uses, visual impacts, noise impacts, lighting impacts, and potential nuisance impacts.
 - h. Environmental impacts, including air emissions, noise, heat generation, electronic waste management, hazardous materials management, energy consumption, solid waste disposal, and other potential environmental effects.
3. The Board of Supervisors may require independent review of the Environmental and Community Impact Analysis by qualified consultants selected by the Township where the Board determines that such review is reasonably necessary to evaluate compliance with this section. The reasonable cost of such review may be charged to the applicant in accordance with the Pennsylvania Municipalities Planning Code and applicable Township fee schedules.

Q. Expansion or modification.

1. Conditional Use approval shall be required for any expansion or modification resulting in:
 - a. More than a 25% increase in building footprint.
 - b. More than a 25% increase in electrical demand.
 - c. More than a 25% increase in generator capacity.
 - d. More than a 25% increase in Battery Energy Storage System capacity.
 - e. A material change in water demand, cooling method, utility infrastructure, emergency response needs, hazardous materials inventory, or other operational characteristic that, in the written determination of the Zoning Officer based upon specific facts, may materially affect compliance with this section.

2. Any subsequent change to the use or site not reflected on the approved site plan shall require approval in accordance with § 380-84D, Site Plan Approval, and this section.

R. Annual reporting.

1. The owner or operator shall annually provide the Township with current ownership information, operator information, 24-hour emergency contact information, and certification that the Emergency Response Plan and Fire Safety Plan remain current. The required annual information shall be provided by January 31 of each year.
2. The owner or operator shall provide notice to the Township of any material changes to generators, Battery Energy Storage Systems, fuel storage, utility infrastructure, water supply, hazardous materials, emergency response procedures, or ownership/operator information.

S. Decommissioning.

1. Applicability and cessation of operations.

- a. This subsection applies to any facility permitted under Chapter 380, Zoning, that is used primarily as a Data Center.
- b. A Data Center shall be deemed to have ceased operations when data processing, storage functions, or server operations have been discontinued for a continuous period of twelve (12) months, unless the owner or operator demonstrates to the Zoning Officer that good-faith efforts are underway to resume operations within a reasonable time.
- c. The owner or operator shall provide written notice to the Township within thirty (30) days after permanently ceasing Data Center operations.

2. Decommissioning Plan.

- a. At the time of land development application, the applicant shall submit for review and approval a Decommissioning Plan. The Decommissioning Plan shall be updated prior to final land development approval and thereafter when required by the Township as part of a decommissioning cost review, material expansion or modification, other material change affecting the scope or cost of decommissioning, or as otherwise reasonably required by the Township.
- b. The purpose of the Decommissioning Plan is to provide for the safe removal, reuse, recycling, or lawful disposal of Data Center-specific equipment, materials, and infrastructure upon cessation of the Data Center use and to leave the principal building and property in a safe condition capable of reuse or redevelopment for another lawful use.
- c. The Decommissioning Plan shall be reviewed by the Township Engineer, recommended by the Planning Commission as applicable, and approved by the Board of Supervisors as part of subdivision and land development approval.
- d. The Decommissioning Plan shall include, at a minimum:
 - i. Identification of conditions or events that trigger decommissioning.
 - ii. Proposed methods and schedule for removal, reuse, recycling, or lawful disposal of Data Center-specific equipment and components, including computer servers, racks, electronic equipment, specialized cabling and electrical components, Battery Energy Storage Systems and batteries, emergency or backup generators not proposed for reuse, fuel storage tanks and associated fuel systems, Data Center-specific cooling equipment, hazardous or regulated materials, electronic waste, Data Center-specific telecommunications equipment, and other specialized equipment or accessory structures primarily associated with the Data Center use that will not be reused as part of a subsequent lawful use.

- iii. Methods for disconnection, capping, abandonment, or removal of electric, telecommunication, water, sanitary sewer, storm sewer, and other utilities serving equipment or improvements that are required to be removed.
- iv. Schedule for completing decommissioning and stabilization or restoration of areas disturbed by required removal activities, including final grading, revegetation or landscaping, debris removal, and final inspection.
- v. Site stabilization and restoration plan identifying areas that will be disturbed by decommissioning, proposed grading and stabilization, vegetation restoration, required buffer and screening restoration, and improvements proposed to remain for a subsequent lawful use.
- vi. Identification of principal buildings, roads, parking areas, stormwater facilities, utilities, foundations, fencing, substations, and other site improvements proposed to remain for a subsequent lawful use.
- vii. Cost estimate prepared, sealed, and signed by a professional engineer licensed in Pennsylvania.
- viii. Identification of responsible parties, including name, address, contact information, and a statement accepting responsibility for decommissioning and required site stabilization or restoration.
- ix. Statement describing how financial security will be maintained and updated over time.

3. Financial Security.

- a. Prior to issuance of a building permit, the owner or operator shall post financial security for decommissioning in a form acceptable to the Township Solicitor, including but not limited to an irrevocable letter of credit, bond, cash escrow, or other form acceptable to the Township.
- b. The financial security shall equal one hundred ten percent (110%) of the estimated decommissioning cost, without adjustment or reduction for the anticipated salvage, resale, recycling, or residual value of any Data Center-specific components, equipment, or materials, as supported by the engineer-prepared decommissioning cost estimate and approved by the Township Engineer.
- c. The decommissioning cost estimate shall not include demolition of a principal building or removal of roads, parking areas, stormwater facilities, utilities, foundations, fencing, substations, or other improvements that are permitted to remain under this subsection for a subsequent lawful use.
- d. The financial security shall remain in effect for the life of the facility and shall be reviewed and adjusted at least once every five (5) years, or sooner following a material expansion or modification or if otherwise required by the Township, to ensure that the security remains adequate to complete the required decommissioning work.
- e. If the owner or operator fails to complete required decommissioning and site stabilization or restoration, the Township may draw upon the security and undertake the required work, recovering any additional costs in accordance with the Pennsylvania Municipalities Planning Code and Township ordinances.
- f. To the extent permitted by law and approved by the Township Solicitor and Township Engineer, decommissioning financial security may be coordinated with or consolidated into other financial security posted in connection with subdivision, land development, or related approvals, provided that the Township determines the combined security fully protects the Township's interests.

4. Decommissioning, reuse, and site stabilization requirements.

- a. Upon decommissioning, Data Center-specific equipment, components, materials, and accessory structures identified in the approved Decommissioning Plan and not proposed for a lawful subsequent use shall be removed, reused, recycled, or lawfully disposed of in accordance with the approved plan and applicable laws and regulations.
- b. The cessation or abandonment of a Data Center use shall not, by itself, require demolition or removal of a structurally sound principal building. A principal building may remain following decommissioning provided it is secured, maintained in a safe condition, and remains in compliance with applicable Township codes and ordinances.
- c. Roads, parking areas, stormwater facilities, utilities, foundations, fencing, substations, and other site improvements may remain where the Township Engineer determines that the improvement is safe, does not create a public health, safety, or environmental hazard, and may reasonably serve a subsequent lawful use of the property.
- d. Utilities serving equipment or improvements that are removed shall be properly disconnected, capped, abandoned, or removed in accordance with applicable codes and standards.
- e. Areas disturbed by required removal activities shall be regraded as necessary and stabilized with sod, groundcover, native vegetation, landscaping, or other stabilization measures approved by the Township.
- f. Required landscaping, buffering, and screening shall be maintained or restored following decommissioning, unless modified or removed as part of an approved subsequent lawful use or land development approval. Disturbed soils shall be revegetated with native species where practicable.
- g. All hazardous or regulated materials required to be removed shall be disposed of in accordance with all applicable Township, County, Commonwealth, and Federal requirements, with proof of disposal submitted to the Zoning Officer.
- h. Electronic equipment and electronic waste required to be removed shall be recycled or disposed of through appropriately licensed or certified facilities in accordance with applicable laws and regulations.
- i. Upon completion of required decommissioning, a Certificate of Decommissioning Completion shall be submitted to the Zoning Officer. The Township Engineer may inspect and verify completion before release of financial security.

T. Nuisance and continuing compliance.

1. Operation of a Data Center shall comply with the applicable operations and performance standards of this Chapter and shall not create nuisance conditions, including noise, vibration, glare, odor, dust, smoke, heat, humidity, electrical disturbance, or hazardous conditions, in excess of the standards expressly established by this Chapter or, where no express standard exists, to a degree that materially endangers public health or safety or materially interferes with the reasonable use and enjoyment of adjoining property.
2. The owner and operator shall maintain continuing compliance with all approved plans, Conditional Use conditions, land development approvals, emergency plans, fire safety plans, hazardous materials plans, decommissioning plans, and this section.
3. Failure to comply with this section or any condition of approval shall constitute a violation of Chapter 380, Zoning, and shall be subject to enforcement under Article VIII, Enforcement and Penalties.

Section 5. Severability.

If any sentence, clause, section, or part of this Ordinance 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 of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part not been included herein.

Section 6. Repealer.

All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

Section 7. Codification.

Pursuant to the Code of Ordinances of Newberry Township and the Pennsylvania Municipalities Planning Code, the amendments contained herein shall be codified to incorporate the above-referenced amendments into Chapter 380, Zoning, of the Code of Ordinances of Newberry Township.

Section 8. Effective Date.

This Ordinance shall take effect five (5) days after adoption as provided by law.

ADOPTED, this ____ day of _____, 2026.

ATTEST:

**NEWBERRY TOWNSHIP
BOARD OF SUPERVISORS**

Secretary

Chairman

Vice Chairman

Supervisor