ORDINANCE NUMBER 79

MUDDY CREEK TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE ESTABLISHING SPECIFIC REGULATIONS FOR THE PLANNING, CONSTRUCTION, OPERATION, MODIFICATION, AND DECOMMISSIONING OF DATA CENTERS AND ACCESSORY DEVELOPMENTS.

WHEREAS, Article V of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10501, *et seq.*, authorizes the Muddy Creek Township Board of Supervisors to regulate land use and development within the Township; and

WHEREAS, the Board of Supervisors believes that data centers are becoming an important component of modern-day infrastructure that helps to drive our increasingly digitally oriented lives and economy; and

WHEREAS, the Board of Supervisors has determined that modern data centers are a unique land use that may place significant burdens on the natural environment and local air quality, electrical power supply, water, and roads; and

WHEREAS, the Board of Supervisors has decided to provide a regulatory framework **for Data Centers and accessory developments t**o protect the Township's rural, agricultural, and residential character, and clean water and air, and health, safety, and general welfare of its residents while offering predictability for property owners, residents, and developers; and

WHEREAS, the Board of Supervisors deems it to be in the best interest and general welfare of the residents of Mudy Creek Township to provide specific regulations for Data Centers and accessory **developments.**

NOW THEREFORE, BE IT ORDAINED AND ENACTED that the Muddy Creek Township Subdivision and Land Development, Ordinance Number 56, adopted on February 20, 2007, is hereby revised by adding Article XI, Data Centers and Accessory Developments, as follows:

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ARTICLE XI

DATA CENTERS AND ACCESSORY DEVELOPMENTS

SECTION 1101. PURPOSE.

A. The purpose of this **Article** is to set forth reasonable regulations governing the planning, construction, operation, modification, and decommissioning of Data Centers and accessory **developments** within Muddy Creek Township (Township).

B. These regulations are intended to protect the welfare, safety, character, and integrity of the agricultural, residential, rural, environmental, natural, and historic resources in the Township while providing for the appropriate location and development of Data Centers and **accessory developments** within the Township; to minimize adverse visual impacts of the facilities through careful planning, siting, and screening; to avoid potential harmful impacts on adjacent properties from operations at the facilities; and to provide for safe and proper siting, construction, modification, and decommissioning of all such facilities.

SECTION 1102. APPLICABILITY.

A. This **Article** applies to all Data Centers and accessory **developments**, to be proposed, constructed, operated, modified, or decommissioned within Muddy Creek Township after the effective date of this Ordinance.

B. After the effective date of this Ordinance, no Data Center or accessory **development** shall be constructed within the Township unless a land development permit has been issued by the Township.

C. Any physical modification to an existing Data Center or accessory **development** that materially alters the size, type, or number of buildings, structures, or uses at the facility shall require **a** permit modification under this **Article**.

D. Like-kind replacements shall not require a permit modification.

SECTION 1103. DEFINITIONS. As used in this **Article** the following terms shall have the meanings indicated:

DATA CENTER: A facility primarily used for housing and operating computer systems and ancillary equipment, including servers, data storage, and processing systems, and accessory infrastructure such as cooling systems, power generators, electrical substations, and network hardware, where digital information is processed, transferred and/or stored, primarily to and from offsite locations. The **term** includes but is not limited to cryptocurrency mining, blockchain transaction processing, and server farms. The **term** does not include computers or telecommunications related equipment that is secondary and customarily incidental to **another** use of the property, such as servers associated with an office building.

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A Data Center may include Data Center Accessory Development and all other systems, equipment, piping, conduit, and other ancillary equipment, structures, and other appurtenances that are incidental to and/or needed for the construction, support, operation, repair, maintenance, and/or protection of the Data Center.

DATA CENTER **ACCESSORY DEVELOPMENT: Ancillary structures or developments** secondary and incidental to a Data Center development, including but not limited to: administrative, logistical, storage and security structures; fiber optic lines; backup energy generation sources of electrical power such as generators used to provide temporary power when the main source of power is interrupted; electrical substations; utility lines; domestic and non-contact cooling water and wastewater treatment facilities; water holding facilities; pump stations; water towers; **environmental controls** (heating, ventilation, air conditioning, and cooling towers); and fire suppression and related equipment, provided such **ancillary structures or developments** 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 energy generation systems used or intended to be used to supply power to the Data Center during normal operations.

DATA CENTER OPERATOR: The person or entity responsible for the post-construction day-to-day operation of a Data Center.

IMPERVIOUS SURFACE AREA: The total area of a property covered by surfaces that prevents the infiltration of water into the ground — such as buildings, roofs, roof overhangs, patios, decks, streets, driveways, sidewalks, parking lots, and other hard surfaces.

SENSITIVE RECEPTOR: Any residential use, school, preschool, child or adult day-care center, hospital, assisted-living facility, long term care facility, nursing home, personal care home, retirement community, treatment center, community center, place of worship, park (excluding trails), campground, dormitory, and similar institutional uses with a residential component.

SECTION 1104. APPLICATION AND INITIAL DEPOSIT REQUIREMENTS.

A. A Land Development Plan Application shall be submitted to the Township on forms provided by the Township, together with an initial administrative fee deposit established by the Board of Supervisors by resolution.

B. In addition, applicant shall be responsible for posting with the Township an initial deposit of **Twenty-Five Thousand Dollars ($25,000)** to cover engineering, legal, and qualified professional consultant review fees, and related inspection fees when the application is submitted to the Township. **Should the deposit balance fall below the sum of Ten Thousand Dollars ($10,000), applicant shall deposit the sums required**

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to bring the financial security balance to the initial deposit amount within thirty (30) days of receipt of written notice from Township.

C. The applicant shall be responsible for reimbursing the Township for all additional administrative costs, and engineering, legal, and professional consultant review fees, and inspection fees incurred by the Township in reviewing the application.

D. No permit shall be issued and no other related petition or request or permit application shall be acted upon by the Township unless all applicable application administrative costs, and engineering, legal, and professional consultant review fees, and inspection fees have been paid in full.

SECTION 1105. SPECIFIC LAND DEVELOPMENT PLAN REQUIREMENTS.

A. No Data Center shall be located within any 100-year or 500-year floodplain as shown in the most recent Flood Insurance Map Rate Maps prepared by the Federal Emergency Management Agency for the Township.

B. The development of Data Centers and/or accessory **developments** in the Township shall conform to all applicable general requirements set forth in the Township's Subdivision and Land Development Ordinance. In addition, the proposed land development plan shall comply with the following specific meeting, application, design, performance, bonding, and decommissioning requirements.

SECTION 1106. INITIAL CONCEPT (SKETCH) PLAN MEETING AND WEBSITE.

A. The developer shall hold a meeting in the Township for the general public at least ten (10) days prior to the first public meeting when the proposed development plan is first publicly presented to the Township Planning Commission. The purpose of the meeting shall be to inform the public about the nature of the proposed development, including the location, scale, and general characteristics.

B. The developer shall publish notice of the meeting once each week for two (2) consecutive weeks in a newspaper of general circulation in the Township. The first publication shall be no more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the meeting.

C. A representative(s) of the developer with knowledge of the project and the ability to answer questions from the public about the project's general location, scale, and parameters shall participate in the meeting.

D. At the meeting the developer shall also present a site plan identifying, at a minimum, ownership, tax identification numbers, street addresses and ground water well locations for the proposed site and all abutting properties; site property and setback lines; on-site access roads and turnout locations; substation(s) and electrical cabling from the facility to the substation(s); and locations of all buildings, structures, wells, and ancillary equipment.

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E. At least two (2) weeks prior to the concept plan meeting, the developer shall create and maintain a project website for viewing by the public. Initially, the website shall provide general information on project parameters, including electrical and water supply sources, wastewater disposal methods, location (showing all abutting parcels, roads and waterways) and site maps, and elevations/renderings of building facades.

F. The developer shall update the website no later than ten (10) days after its proposal was first publicly presented to the Township Planning Commission to include detailed descriptions of the proposed use, construction timelines, phasing plans, and status of all required permits, inspections, well testing, noise and vibration studies, and required reports.

G. The website shall remain active and current until one (1) month after the final certificate of occupancy is issued.

SECTION 1107. FINAL PLAN HEARING. Prior to a final determination on the proposed land development plan, the Board of Supervisors shall hold at least one (1) public hearing to afford the developer a formal opportunity to present its final plan and answer the Township's and residents' questions and address any concerns.

SECTION 1108. APPLICATION PACKAGE REQUIREMENTS.

A. The permit application package shall contain, at a minimum, the following:

(1) A narrative describing a detailed overview of the project and timeline.

(2) Maps, site plans and drawings showing parcel ownership, location, number of acres, site boundary lines, **setbacks**, and parcel tax identification number; abutting parcels and ownership; adjacent waterways; location of all on-site buildings and structures, roads, parking areas, and on-site wells and septic systems; location of all wells and septic systems on abutting parcels; adjacent public and private roads; and parking and truck idling areas.

(3) Traffic study (existing, construction phase and day-to-day traffic) and off-site routes.

(4) Elevations/renderings of **all building** facades visible from off-site.

(5) Landscaping, Screening, L**ighting**, and Fencing Plans.

(6) Projected electrical demand and power sources.

(7) Proposed backup power systems and testing schedules.

(8) Estimated water consumption and groundwater usage and monitoring reporting.

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(9) Pre- and post-construction well testing, monitoring, reporting, and bonding.

(10) Wastewater Disposal Plan and Feasibility Study.

(11) Thermal Impact Mitigation Plan.

(12) Pre- and post-construction noise and vibration studies.

(13) Emergency Response Plan.

(14) Decommissioning Plan.

SECTION 1109. SPECIFIC DESIGN, PERFORMANCE, BONDING, AND DECOMMISSIONING REQUIREMENTS.

A. ACCESS.

(1) A traffic study shall be submitted as part of the land development plan.

(2) Data Centers shall take access from an arterial or collector road and shall have secondary access suitable for emergency response purposes.

(3) The land development plan shall identify all state and local public roads to be used to transport equipment, material and parts during the construction and operating phases. Data Centers may be required to bond state and/or local public roads prior to the start of construction and/or operations.

B. DIMENSIONAL STANDARDS.

(1) Minimum Lot Size. The minimum lot area for a Data Center shall be **15 acres.**

(2) Maximum Height:

(a) Data Center **buildings** and structures shall not exceed **45 feet** in height, **plus up to fifteen (15) additional feet for roof mounted equipment such as cooling and ventilation systems, HVAC units, and cooling towers.**

(b) The maximum height of freestanding **accessory** buildings and structures shall not **exceed 45 feet in height, plus up to fifteen (15) additional feet for roof mounted equipment.**

(3) Minimum Setbacks.

(a) Data Center **and accessory buildings**, structures, and truck idling areas shall have a minimum setback from all abutting property lines and public road rights-of-way of 300 feet, with the exceptions of utility lines, fiber optic lines, and security stations.

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(b) Data Center **and accessory buildings**, structures, and truck idling areas shall have a minimum set back of **1,500 feet** from the property line of any adjacent residential or agricultural use and/or Sensitive Receptor.

(c) Roof-mounted equipment shall be set back from the parapet at least as far as the equipment's height above the roof surface.

(4) Maximum New Impervious Surface Area Limit: 200,000 square feet, cumulative.

C. PARKING.

(1) At least one (1) parking space shall be required for each employee, based upon the maximum number of employees projected to work during the largest shift, or one (1) parking space for each eight thousand (8,000) square feet of floor area designed and intended to be accessible regularly by employees, plus five (5) spaces for visitors, whichever is lesser.

(2) The Township may request up to an additional twenty-five percent (25%) of required parking spaces/area to be held in reserve for future parking.

(3) Efforts shall be made to build only the necessary amount of parking for day-to-day operations and to minimize the amount of impervious parking surface.

D. FACADE, LANDSCAPING, SCREENING, LIGHTING, AND FENCING PLANS AND BOND.

(1) Elevations/renderings of all building facades visible from off-site shall be submitted with the land development plan.

(2) A landscape buffer is required between a Data Center property and any adjacent public roadway, residential, or agricultural use or Sensitive Receptor.

(3) A Landscaping Plan shall be submitted as part of the land development plan. The Plan shall comply with the following requirements:

(a) One (1) large evergreen tree per twenty-five (25) linear feet of buffer. The size of large evergreen trees shall be a minimum of eight (8) feet in height at the time of planting.

(b) One (1) deciduous canopy (shade) tree per seventy-five (75) linear feet of buffer. Size of canopy (shade) trees shall be a minimum of 2½ inch caliper at the time of planting.

(c) One ornamental/flowering tree per fifty (50) linear feet of buffer. The size of ornamental/flowering trees shall be a minimum of eight (8) feet in height for

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multi-stemmed varieties, or 2½ inch caliper at the time of planting for single-stemmed varieties.

(d) Five (5) shrubs per twenty-five (25) linear feet of buffer. Size of shrubs shall be fully branched and minimum of three (3) feet in height at the time of planting. Shrubs shall be a combination of evergreen and deciduous species, with a minimum of 50% being evergreen.

(4) All such plans shall be approved by the Township engineer or designated representative (i.e., Pennsylvania-registered landscape architect or certified arborist).

(5) A variety of species shall be used in order to prevent monocultural plantings. American arborvitae and similar weak-stem plants shall not be used to meet the buffer yard requirements. If more than twenty (20) evergreen plants are proposed, no more than fifty percent (50%) shall be of one species.

(6) A monotonous straight row of the same species shall not be permitted. A more naturalistic form of planting with a mix of species shall be provided.

(7) In the event that existing topography and/or vegetation is adequate to meet the intent of the required buffer yard, such existing topography and/or vegetation may constitute all or part of the required buffer.

(8) All buffer yard screening shall be assured by a performance guarantee posted with the Township in an amount equal to the estimated cost of all such trees, shrubs, plantings, and installation. Such guarantee shall be released only after passage of the second growing season following the completion of the planting plan.

(9) All buffer yard plantings shall be perpetually maintained. Any plant material that dies or is removed, diseased, or severely damaged shall be replaced on a one-to-one basis, as soon as is practical considering growing seasons, within a maximum of one hundred and fifty (150) days.

(10) Lighting Plan. A lighting plan shall be submitted as part of the land development plan. The facility shall not be artificially illuminated except to the extent required for safety, security, or by applicable Federal, State, or local authorities. Site lighting shall be directed downward and shielded to avoid glare on public roads and all adjacent properties. All outdoor lighting shall be aimed, located, designed, fitted, and maintained so as not to create glare, light pollution, or light trespass. Cutoff shields of less than 60° shall be utilized as appropriate.

(11) Fencing. Fencing of the property is permitted, provided that fencing along public and private roadways is not chain-link, with or without slats or inserts, and does not include barbed or razor wire or other similarly visibly intrusive deterrence device. A Data Center shall not be required to comply with this requirement if fencing is fully

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screened from view by the landscape buffer, existing vegetation, buildings, or structures.

(12) Equipment Screening.

(a) To provide visual screening and reduce noise levels, ground-mounted and roof-mounted equipment used for cooling, ventilating, or otherwise operating the facility, including backup power generation equipment, which is located within 300 feet of a public roadway or **1,500** feet of the property line of any adjacent residential or agricultural use and/or Sensitive Receptor, must be fully enclosed, except where not mechanically feasible based on the manufacturer's specifications.

(b) If it is not mechanically feasible to fully enclose the equipment, it must be fully screened from view by:

[1] The landscape buffer,

[2] Existing vegetation,

[3] Buildings or structures,

[4] A berm averaging a minimum of five (5) feet in height above the adjacent average ground level with a maximum side slope of 3:1, provided that the berm shall be covered by a well-maintained all season natural ground cover and any required screening plantings shall be arranged on the outside and top of the berm, or

[5] A visually 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 **main** building.

E. ENERGY USAGE PLAN.

(1) Projects shall be designed and constructed to meet the current USGBC LEED BD+C: Data Center rating system, or equivalent design standard, as approved by the Township engineer.

(2) An Energy Usage Plan shall be submitted as part of the land development plan. The Energy Usage Plan shall provide or identify, at a minimum:

(a) Annual electricity demand.

(b) Energy supply sources that will be utilized.

(c) Energy storage capacity (if applicable).

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(d) Proposed sources of back-up power.

(e) Documentation of efforts to maximize use of renewable and/or clean energy for all electrical and cooling needs and reducing the need for new electric generation by incorporating the best available energy efficiency into the design of Data Center servers, cooling units, **buildings and structures** including:

[1] Covering 50-80% of all unused roof space with solar arrays to offset a portion of the demand on the electric grid and reduce onsite emissions.

[2] Exploring battery storage as a backup energy source for 50-100% of total onsite back-up energy needs to reduce or eliminate the pollution associated with diesel backup generators.

[3] Supporting off-site renewable energy generation through a power purchase agreement or other arrangement that will result in new renewable energy generation.

[4] Monitoring and reporting energy efficiency and emissions data to the Township on an annual basis.

(f) If interconnecting to the energy grid, documentation of the energy utility interconnection approval process with:

[1] Documentation that an application for the project has been filed with the electric utility provider, and the required fee has been paid.

[2] Documentation that all necessary parties have signed the transmission security agreement.

[3] The date that the electric utility provider provided for the proposed energization of the Data Center.

(g) The Energy Usage Plan will be prepared and certified by a professional engineer.

(h) A proposed Data Center whose Energy Usage Plan shows power demand of over 50 megawatts (MW) and that proposes to connect to the power grid shall be required to procure a minimum of ten percent (10%) of its power from renewable generation sources, which include solar, wind, hydroelectric power, geothermal, and waste heat from Data Center cooling processes. Electricity supply shall be procured through a power purchase agreement or similar mechanism as opposed to purchasing renewable energy credits (RECs) only.

F. ENERGY GENERATION SYSTEMS.

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(1) Any energy generation system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel, or nuclear energy generating systems, shall **NOT** be considered part of the Data **Center.** Such systems shall be considered a separate primary commercial use and shall require separate land development plan approval. The developer shall select, design, and locate the energy generation systems to limit noise, emissions, and visual impacts to adjacent and nearby uses as much as possible. Data Center **buildings** shall be located between energy generation systems and residential or agricultural uses and/or Sensitive Receptor.

(2) On-site electric utility substations shall be located on the side or rear of a Data Center **building** so they are screened from public view and shall not be located in a required front yard. On-site substations do not require a buffer or screening between the Data Center **building** and the substation.

(3) Electric utility substations visible from a public roadway shall include a combination of year-round opaque landscaping and screening walls to minimize visual impact.

(4) **On-site transmission and power lines shall, to the maximum extent practicable, be placed underground.** On-site power lines of 34.5 kV and below shall be buried.

(5) Proposed substations on a parcel **adjacent to** a property line of any residential or agricultural use and/or Sensitive Receptor shall be set back a minimum of **One Thousand Five Hundred (1,500)** feet from the property line.

G. BACKUP POWER.

(1) All emergency energy generation systems shall be designed and located to limit noise and visual impacts as much as possible.

(2) Diesel generators shall meet Tier 4 emission standards of the U.S. Environmental Protection Agency.

(3) Diesel generators shall undergo annual testing, and reports shall be provided to the Township to ensure that equipment is performing as designed and that emissions do not exceed permitted limits.

(4) Emergency energy generation systems that use diesel, gasoline, or another fossil fuel shall be used only at the following times:

(a) When the primary source of energy is not available due to an emergency outage.

(b) During routine maintenance, or readiness testing for a short duration of time and capped at one hundred (100) hours per year.

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(c) Routine maintenance testing of back-up fossil fuel-powered generators is restricted to the hours of 9:00 am through 3:00 pm Monday through Friday.

(5) Use for peak shaving or supplying power to the grid is prohibited.

H. WATER FEASIBILITY PLAN.

(1) No Data Center shall be approved unless there is an adequate supply of water for the proposed use and that proposed water withdrawals and discharges will not endanger or adversely affect the quantity or quality of groundwater supplies, or existing wells, or surface waters.

(2) No **building** or structure on a Data Center site shall use private groundwater wells or direct withdrawals from surface watercourses as its primary source of water for cooling purposes if a public water source is available.

(3) Data Centers shall be designed to include a closed-loop water circulation system to cool Data Center processing equipment. An alternative cooling system that can be demonstrated to use less water and energy than closed-loop systems may be approved by the Township engineer.

(4) If the proposed water source is from a public system, certified documentation that the public authority has the capacity to supply the water needed shall be submitted with the land development plan.

(5) If nonpublic water sources are utilized, the Data Center shall not cause an adverse impact to the water rights or water supply **of other property owners**, including, but not limited to, by reducing the existing rate of flow of wells, causing contamination of wells, or depleting surface water resources of surrounding properties.

(6) If nonpublic water sources are utilized, a Water Feasibility Plan, prepared by a qualified professional, shall be submitted as part of the land development plan. The purpose of the Water Feasibility Plan is to determine if an adequate supply of water is present to support the proposed water use and to evaluate the potential adverse effects on the quantity and quality of existing wells or nearby surface waters.

(7) The Water Feasibility Plan shall include, at minimum, the following information:

(a) Calculations of the projected water needs, including seasonal fluctuations.

(b) A geologic map of the proposed project area within a radius of at least one (1) mile from the site property boundary.

(c) The location of all existing and proposed wells within 3,000 feet of the site property boundary with a notation of the capacity of all high-yield wells.

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(d) The location of all surface waters within 3,000 feet of the site property boundary and all known point sources of pollution.

(e) A determination of the long-term safe yield of the water source.

(f) A determination that the proposed water supply system poses no adverse impacts on the quantity and quality of water in nearby wells, streams, and the groundwater table.

(g) Identification of how water will be recycled, treated, or released into surrounding water bodies.

(h) A statement of the qualifications and the signature(s) of the person(s) preparing the study.

(i) Documentation that all required state and regional permits have been obtained.

I. GROUND WATER USAGE REPORTS. The Data Center Operator shall submit quarterly Ground Water Usage Reports to the Township in a manner prescribed by the Township. Reports shall include, at a minimum, the following:

(1) The quantity of all withdrawals, measured by means of a continuous-recording device, flow meter, or other method accurate to within five percent (5%) of actual flow, on a daily basis or such other frequency as may be approved by the Township.

(2) Groundwater levels at all monitoring wells, measured on a daily basis or such other frequency as may be approved by the Township.

(3) Precipitation data, measured on a daily basis or such other frequency as may be approved by the Township.

(4) Certification of the accuracy of all measuring devices and methods to within five percent (5%) of actual flow.

(5) Any loss of measuring or recording capabilities that occurred during the reporting period.

(6) A running comparison of monitoring data comparing the data for the recording period to the data for the same period in each of the previous five (5) years.

(7) Any additional information the Township deems necessary to determine whether the water withdrawal adversely impacts water supply.

J. PRE-CONSTRUCTION WELL TESTING.

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(1) If the Data Center is to rely upon a nonpublic groundwater source and will withdraw and/or discharge twenty-five thousand (25,000) gallons per day (gpd) or more over any consecutive thirty (30) day period, the applicant shall notify each property owner within 3,000 feet of the nearest property boundary or within the horizontal extent of the any production well's cone of depression, as determined by a hydrogeologic study, whichever is greater, of the proposed project and shall offer to test the owners' wells for, **at a minimum**, baseline water quality, total depth of the well, static water level, operating pumping water level, **fecal coliform, carbonaceous biological oxygen demand, suspended solids, and disinfectant residual.**

(2) Notifications shall be sent via certified mail and shall include the name and contact information of the person to whom to respond and shall allow sufficient time for property owners to respond and for testing to be conducted prior to commencement of aquifer testing.

(3) If the property owner grants permission to allow for water quality and well testing, the applicant shall hire and pay the full cost of a certified lab and professional geologist with a focus on hydrogeology to collect the laboratory samples and well information. The applicant shall provide each owner **and Township** with a copy of all such reports for their property within thirty (30) days of receipt.

(4) Alternatively, property owners may elect to hire a certified lab and professional geologist of their own choosing to collect the laboratory samples and well information, in which case the applicant shall pay the full cost of such services. **The applicant shall provide each owner and Township with a copy of all such reports for their property within thirty (30) days of receipt.**

(5) All pre-construction well testing results shall be included in the Water Feasibility Plan.

(6) The Operator shall repeat the process of collecting and analyzing water samples at the site and all adjacent properties every five (5) years on the anniversary of the facility's initial startup date. All results shall be submitted to the Township and individual property owners. The Operator shall provide each owner and Township with a copy of all such reports for their property within thirty (30) days of receipt.

K. POST-CONSTRUCTION WELL MONITORING AND REPORTING.

(1) For purposes of this sub-section, area of influence (AOI) shall mean the greater of the horizontal extent of the production well(s)' cone of depression, as determined by the hydrogeologic study, or the area within 3,000 feet of the property boundary of the proposed project, or, in the case of an assemblage of parcels, within 3,000 feet of the exterior lines of the assembled parcels.

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(2) Groundwater Monitoring Plan. A Groundwater Monitoring Plan, prepared by a professional licensed hydrogeologist with expertise in groundwater resource planning and management or another qualified professional or professionals, shall be submitted as part of the land development plan. The Groundwater Monitoring Plan shall include:

(a) An inventory of existing wells, springs, and other groundwater resources within the AOI, including information on the location, ownership, depth to water, and usage for all wells.

(b) Description of a groundwater monitoring system that ensures accurate characterization of groundwater flow, groundwater quantity and quality, and flow systems within the AOI. The system shall consist of the following at a minimum:

[1] At least one (1) monitoring well at a point hydraulically upgradient from the point(s) of withdrawal in the direction of increasing static head that is capable of providing representative data of groundwater not affected by the facility, except when the facility occupies the most upgradient position in the flow system. In that case, sufficient downgradient monitoring wells shall be placed to determine the extent of adverse effects on groundwater from the facility.

[2] At least three (3) monitoring wells at points hydraulically downgradient in the direction of decreasing static head from the point(s) of withdrawal.

(c) Benchmark data collected prior to commencement of water withdrawal against which the impact of the water withdrawal may be compared in the future. Benchmark data shall include groundwater levels in all monitoring wells recorded as a distance from the elevation at the well head referenced to mean sea level based on United States Geological Survey datum.

(d) Any additional information the Township deems necessary to effectively assess the impact of the proposed development on groundwater supplies.

(3) Inspection of Monitoring Wells.

(a) The Data Center Operator shall inspect monitoring wells, including water level loggers, at least monthly to ensure that they are not damaged and are functioning properly.

(b) If a damaged or malfunctioning well is identified, the Township shall be contacted immediately in writing, and the well shall be restored to its design specifications within two (2) weeks, unless weather conditions do not permit and/or this period is extended in writing by the Township.

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(c) In the event that the water table falls below the bottom of a monitoring well and the water level logger in that well becomes inoperable, the well shall be inspected at a minimum of once every two (2) weeks and the data logger shall be re-installed once the water table is again observed in the well.

(4) Remediation. In the event that the Board of Supervisors finds that a Data Center is responsible for an adverse impact on the water supply of others, the Data Center Operator shall alleviate the adverse impact, at no expense to the affected property owner(s), so as to furnish reasonable quantity and quality of water. Remediation may include deepening the impacted well, drilling a new well, connecting the affected property to a public water supply, or any other measures as the Board of Supervisors may approve as just and equitable under the individual circumstances. **Remediation also includes providing temporary emergency drinking water and/or prompt temporary water service in case of contamination.**

(5) In the event that that the Data Center Operator does not commence to remedy the adversely impacted water supply within five (5) days of when the Board of Supervisors finally determine that the Operator is responsible for an adverse impact, the Township may draw down the financial security posted and apply such security as the Township deems necessary to cure the problem. In the event that the financial security is not sufficient to cure the problem, the Operator shall be responsible for any additional expenses and costs, including administrative engineering, inspection, legal, and qualified professional consultants, which are incurred by the Township in curing the problem.

L. GROUNDWATER SUPPLY BOND REQUIREMENT.

(1) If the Data Center will utilize nonpublic water sources or rely upon a private system of wastewater disposal, financial security in an amount determined by the Township by multiplying **Twenty Thousand Dollars ($20,000**) by the number of all **off-site** groundwater wells within the hydrologic environment shall be deposited **and maintained until completion of decommissioning** with the Township at the time of land development plan final approval. The security shall be in the form of a term bond or the deposit of funds in escrow or a federal- or commonwealth-chartered lending institution irrevocable letter of credit or restrictive or escrow accounts.

(2) **After completion of decommissioning** the Data Center's last well, the Township shall return all financial security upon written request, except such security as may be necessary to remedy any pending claims of adversely impacted wells which have not been finally determined.

(3) **The existence or use of the security or a portion thereof shall not relieve the Data Center of responsibility to fully reimburse the Township for any and all related fees, costs, or expenses in excess of the face amount of the security.**

M. WASTEWATER DISPOSAL PLAN.

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(1) A Wastewater Disposal Plan shall be submitted as part of the land development plan. The analysis of wastewater disposal needs, to either a public sewer system or private system, shall indicate the quantity of wastewater generation expected. Wastewater shall include, at a minimum, sewage, gray water, and water discharged from the HVAC system.

(2) Untreated wastewater shall not be discharged to stormwater systems or surface waters.

(3) If wastewater will be conveyed and/or treated by a public system, documentation certified by the public authority that the authority can support the conveyance and treatment needed shall be submitted with the land development plan.

N. WASTEWATER FEASIBILITY STUDY. If the Data Center is to rely upon a private system of wastewater disposal, a Wastewater Feasibility Study shall be submitted as part of the land development plan. The purpose of the study is to determine if there is an adequate capacity to dispose of wastewater and that the disposal technique does not pose adverse impacts on surrounding water bodies. A Wastewater Feasibility Study shall include the following information at a minimum:

(1) Calculations of the projected wastewater generation including the sources of wastewater.

(2) A geologic map of the area with a radius of at least one (1) mile from the nearest site property boundary.

(3) The location of all existing and proposed wells within 3,000 feet of the property boundary, with reference to the capacity of all high-yield wells.

(4) The location of all surface waters within 3,000 feet of the property boundary and all known point sources of pollution.

(5) Identification of the process by which wastewater will be recycled or released into surrounding water bodies.

(6) A determination that the proposed wastewater disposal system has no adverse impact on the quantity and quality of water in nearby wells, surface waters, and the groundwater table.

(7) A statement of the qualifications and the signature(s) of the person(s) preparing the study.

O. THERMAL IMPACT MITIGATION PLAN.

(1) A Thermal Impact Mitigation Plan shall be submitted with the land development plan, including, at a minimum:

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(a) Identification of primary sources of waste heat (air- and water-based).

(b) Evaluation of potential off-site thermal impacts (including plume/heat discharge and localized heat islands) under representative seasonal conditions.

(c) Description of design measures to minimize heat impacts (e.g., equipment siting, shielding, landscaping, cool roofs/paving where applicable).

(d) Evaluation of feasible opportunities for waste heat reuse. Where re use is not feasible, the reason(s) why should be given, in which case alternative mitigation shall be identified (e.g., vegetative or green roof and/or site design modifications).

(e) Inclusion of a monitoring/verification approach if required by conditions of approval based on proximity to Sensitive Receptors or site constraints.

(f) The Plan shall be prepared and certified by a professional engineer.

P. NOISE AND VIBRATION STUDIES.

(1) Noise shall be measured at all property lines. The studies shall use full spectrum modeling to address low-frequency noise.

(a) Pre-Construction Noise and Vibration Study. A Pre-Construction Noise and Vibration Study prepared by an acoustical engineer establishing baseline ambient noise and vibration levels at various times of day shall be submitted as part of the land development plan. The study shall include a narrative describing anticipated operational impacts to sound levels and it shall include an octave band analysis. The study shall account for any proposed electrical substations, on-site power generation facilities, and other Data Center accessory uses that may generate noise.

(b) Post-Construction Noise and Vibration Study. The Data Center Operator shall submit a Post-Construction Noise and Vibration Study of existing operations no sooner than six (6) months but no later than (18) months after the issuance of each Certificate of **Occupancy and annually on the date of the initial study.**

(c) If the Pre-Construction Study establishes a baseline ambient noise level in excess of the maximum sound level permitted below, the Post-Construction Study shall demonstrate that operations do not materially increase the baseline ambient noise level as measured at the property line. Any increase above the established baseline shall be deemed a violation unless specifically authorized as a condition of approval.

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(d) Noise mitigation measures may be required by the Township when noise studies show that the use is generating noise approaching or exceeding established limits.

(2) Sound Level.

(a) Sound levels at all property lines shall not exceed 45 dB(A) and 60 dB(C), **measured at a height of six (6) feet and fifteen (15) feet above the ground surface,** from 7:00 am to 7:00 pm.

(b) Sound levels at all property lines shall not exceed 40 dB(A) and 50 dB(C), **measured at a height of six (6) feet and fifteen (15) feet above the ground surface,** from 7:00 pm to 7:00 am.

(c) Where baseline ambient noise measured for the Pre-Construction Study exceeds that of the maximum sound level above, post-construction sound levels at all property lines shall not exceed the baseline ambient noise level (for dB(A) and dB(C)).

(d) If the Pre-Construction Study establishes a baseline ambient noise level in excess of the maximum sound level permitted above, the Post-Construction Study shall demonstrate that site operations do not materially increase the baseline ambient noise level as measured at all property lines. Any increase above the established baseline shall be deemed a violation.

(3) Vibration. No source of mechanical vibration or acoustically induced vibration shall cause or induce vibration on **any nearby property or in any nearby building or structure** (ground-borne or structural vibration) that exceeds the ISO 2631-2 Residential Day criteria. Vibration shall be measured as particle velocity in any one-third octave band and shall not exceed two hundred (200) μm/s RMS in any band.

Q. EMERGENCY RESPONSE PLAN.

(1) An Emergency Response Plan, prepared by a qualified professional, shall be submitted as part of the land development plan. The Plan shall, at a minimum:

(a) **Provide a site specific water supply analysis and** evaluate the impacts, both positive and negative, of the proposed **development** upon **local** fire and emergency services, and the **adequacy of such services' manning, equipment, training, and supplies** to respond to on-site emergencies.

(b) Be reviewed by and acceptable to the local fire and emergency management services as part of the application process.

(c) Include detailed procedures for fire suppression, containment, ventilation, and evacuation.

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(d) Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency vehicles and equipment.

(e) Ensure that all **local** first responders receive adequate training specific to the installed **fire suppression, containment, and ventilation systems and evacuation plans** at the expense of the Data Center Operator.

(f) Include provisions for annual fire safety inspections demonstrating compliance with fire safety standards to be performed by a qualified professional at the expense of the Data Center Operator. A copy of the report shall be provided to the Township within thirty (30) days of receipt by the Operator.

(2) The Data Center Operator shall post and maintain 24-hour emergency contact signage that is visible at the main entrance. Such signage shall include the company name, owner/representative's name, and telephone number, and the corresponding local power company's name and telephone number.
(3) The Data Center Operator shall coordinate with the Township emergency management coordinator to ensure there is adequate radio coverage for emergency responders within all on-site buildings and facilities, based upon existing coverage levels of the municipal public safety radio communications system exterior to on-site buildings. The Operator shall install enhancement systems, as needed, to achieve compliance.

(4) The Data Center Operator shall enter into a community benefits agreement with the Township to provide certain annual contributions to the local fire and emergency services to provide funding for priorities identified by the services for the specialized equipment, training, and supplies that are necessary to respond to on-site emergencies.

(5)The Data Center Operator shall maintain a current inventory of all hazardous materials stored on site and update the inventory annually and provide a copy to the local fire company.

(6) Each Data Center utilizing battery storage or any other device or group of devices capable of storing energy in order to supply electrical energy at a later time, whether the energy is stored for use on-site or off-site, shall demonstrate compliance with National Fire Protection Association (NFPA) Standard 855, Installation of Stationary Energy Storage Systems, or similar standards and shall include fire suppression systems designed specifically for battery storage.

(7) No Data Center shall be approved unless the procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of public health, safety, and welfare.

R. DECOMMISSIONING PLAN.

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(1) A Decommissioning Plan, prepared by a qualified professional, shall be submitted as part of the land development plan. **The Plan shall provide a detailed outline and timeline of the procedures for safe shut down, removal of equipment, disposal or recycling of materials, and site restoration.**

(2) During operation of the facility, the decommissioning plan shall be reviewed and revised by the Data Center Operator every five (5) years and submitted to the Township.

(3) The Data Center Operator shall notify the Township at least six (6) months prior to cessation or abandonment of operations. The Data Center shall be presumed to be discontinued or abandoned if it is not operational for a period of twelve (12) consecutive months and the Operator has not initiated remedial actions to return the Data Center to a functioning site.

(4) Decommissioning shall begin within one (1) year of cessation or abandonment of Data Center operations. An extension of one (1) year may be granted by the Township if the **Operator**/property owner can demonstrate that they are actively marketing the site for a compatible replacement use. Decommissioning shall be completed within eighteen (18) months thereafter, unless extended by the Township for good cause.

(5) Any additional costs and expenses incurred by the Township during decommissioning, including but not limited to reasonable administrative engineering, inspection, legal and professional consulting fees and court costs, are the responsibility of the Operator/property owner and/or may constitute a lien on the property.

(6) If the Data Center is deemed to be abandoned or there is a business cessation as defined above, and there is a request by the Data Center **Operator** to continue operations, the Data Center must renew all applicable agreements and re-apply to the Township for all building, occupancy, and land use permits, as required.

SECTION 1110. NOTICE OF VIOLATION AND DUTY TO REMEDY.

A. Noncompliance with any provision of this **Article** constitutes a violation. The Township or its designated representative shall issue a written notice of violation to be served by personal service or by registered or certified mail upon the property owner, lessee, contractor, and/or Data Center Operator and by posting the notice conspicuously upon the facility.

B. The violation notice shall specify the nature of the violation and require the property owner, lessee, contractor and/or Data Center Operator to commence necessary remedial actions within twenty four (24) hours of posting or delivery of the notice and to fully comply with the requirements of the notice within thirty (30) calendar days.

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C. The Township may at its option, in addition to any other remedies available to it, institute an action in equity to enjoin, or any other appropriate action or proceedings, to restrain or prevent any violation of the provisions of this Ordinance.

SECTION 1111. VIOLATIONS AND PENALTIES. Any person, owner, firm, company, corporation, operator, or lessee violating any of the provisions of this **Article** shall, upon being found liable therefor in a civil enforcement proceeding before a magisterial district judge, pay a judgement of not more than $600 per violation, plus all court costs, including reasonable attorneys' fees incurred by the Township in the enforcement proceedings. **A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of the Article which is found to have been violated.**

SECTION 1112. The Township reserves the right to require supplemental information or amended documents, plans, studies, or reports that it may, from time to time, deem necessary and proper.

SECTION 1113. The Township reserves the right to adopt, from time to time, additional rules, regulations, and standards as it may deem necessary and proper to regulate Data Center sites in the Township to encourage orderly, coordinated, and compatible growth and development.

SECTION 1114. The adoption of this **Article** does not make legitimate development activity in the Township illegal under provisions of prior regulations, nor does it annul any litigation currently being pursued or that may be pursued in the future against such illegal activity.

SECTION 1115. CONFLICTING REGULATIONS. Where a conflict exists between any of the regulations or limitations prescribed in this Article and any other regulation applicable to the same area, the more stringent limitation, or requirement shall govern and prevail.

SECTION 1116. SEVERABILITY. If any sentence, clause, part, or section of this **Article** is found to be unconstitutional, illegal, invalid, or contrary to any provisions of Federal or State law, that sentence, clause, part, or section shall not affect the validity of the remaining provisions of this **Article**. It is hereby declared that the intent of the Board of Supervisors to have enacted this **Article** as if such unconstitutional, illegal, or invalid sentence, clause, part, or section had not been included therein.

SECTION 1117. REPEALER. All ordinances, or parts of ordinances, which are inconsistent with this Ordinance are repealed to the extent necessary to give effect to the provisions of this Ordinance.

SECTION 1118. EFFECTIVE DATE. This Ordinance shall become effective immediately after enactment and shall remain in force until amended, revised, or rescinded by the Board of Supervisors.

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ENACTED AND ORDAINED this _____ day of _____ 2026, by the Board of Supervisors in lawful session duly assembled.

ATTEST:

MUDDY CREEK TOWNSHIP
BOARD OF SUPERVISORS

_____
Abbie M. Flinner
Secretary

By: _____
Dale R. Kerr, Chair

(SEAL)

By: _____
Eric Saunders, Vice Chair

By: _____
Dale Hall, Supervisor

I hereby certify that the foregoing Ordinance was advertised in the Butler Eagle, a newspaper of general circulation in the Township, on _____, 2026 and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors on _____, 2026.

_____
Secretary

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