

TOBYHANNA TOWNSHIP
MONROE COUNTY
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. _____

AN ORDINANCE AMENDING PART II, CHAPTER 155, OF THE CODE OF THE TOWNSHIP OF TOBYHANNA, MONROE COUNTY, PA TO CREATE A DATA CENTER OVERLAY DISTRICT; TO DEFINE DATA CENTER USE; AND TO ADD DATA CENTER USE AS A PERMITTED USE TO THE DATA CENTER OVERLAY DISTRICT AND SETTING FORTH SPECIFIC REGULATIONS.

WHEREAS, the Legislature of the Commonwealth of Pennsylvania enacted the Municipal Planning Code as Amended, authorizing municipalities to enact such regulations as may be necessary for the health, safety, morals and general welfare of the municipality; and

WHEREAS, the Legislature of the Commonwealth of Pennsylvania enacted the Pennsylvania Municipalities Code, 53 P.S. § 10101 et seq. as amended, which pursuant to 53 P.S. § 10601 (Entitled "General Powers") and 53 P.S. § 10609 (Entitled "Enactment of Zoning Ordinance Amendments") and P.S. § 10501 (Entitled "Grant of Power") authorizes the Tobyhanna Township Board of Supervisors to enact and amend zoning ordinances and subdivision and land development ordinances; and

WHEREAS, certain lots and tracts of real property within Tobyhanna Township are underutilized and have potential for development that would benefit the community; and

WHEREAS, the Board of Supervisors desire to amend the Tobyhanna Township Zoning Ordinance to create a Data Center Overlay District; to define Data Center Use as a new use class and to add Data Center Use as a permitted use to the Data Center Overlay District; and

WHEREAS, Tobyhanna Township recognizes that data centers provide a unique opportunity to facilitate economic growth in the municipality and would be compatible within certain areas of Tobyhanna Township; and

WHEREAS, it is the intention of the Board of Supervisors, except as modified herein, to keep intact all other provisions of Ordinance No. 557.

NOW, THEREFORE, under the authority and procedures of the Pennsylvania Municipalities Planning Code, as amended, the Board of Supervisors of Tobyhanna Township hereby ordains and annexes the following amendment to Chapter 155 of the Code of Ordinances of Tobyhanna Township, Zoning, as follows:

Article I, Section 155-3 of the Tobyhanna Township Zoning Ordinance, Statement of Objectives; Reference to Comprehensive Plan, is hereby amended to read as follows:

§155-3 Statement of Objectives; Reference to Comprehensive Plan.

For a statement of community development objectives, reference is made to the Comprehensive Plan for Tobyhanna Township.

In addition to the foregoing, the Community Development Objective for the Data Center Overlay District is to provide a set of standards for development of a Data Center project. The Data Center Overlay (“DCO”) District encourages the development of Data Centers and utility facilities designed to provide needed electricity and other utilities needed to conduct Data Center Use.

Article II, Section 155-5.B. of the Tobyhanna Township Zoning Ordinance is hereby amended to add the following definitions:

Data Center – means a structure, or group of structures, with the purpose of centralized accommodation, interconnection and operation of information technology and network telecommunications equipment (e.g. such as telecommunication and storage systems) providing data storage, processing and transport services together with all the facilities and infrastructures for power distribution and environmental control and the necessary levels of resilience and security required to provide the desired service availability, including, without limitation, providing on site or off-site electricity substations or facilities to serve the applicable structures and equipment; air conditioning and cooling towers; fires suppression; redundant back up power supplies; loading docks and parking. a building, structure or facility, or a dedicated space within a building, structure or facility, or a group or campus of such buildings, structures, or facilities used primarily for, or intended to be used primarily for, the housing, operation and/or co-location of computer and/or communications equipment and/or for the handling, storage and backing up of the data or other information necessary for the operation of a business or organizational entity, such as, by way of illustration and not by means of limitation, telecommunications systems, storage systems, internet systems and/or artificial intelligence, telecommunications and storage systems and digital currency mining systems. The term “Data Center” may also include data center equipment, and/or data center accessory uses, when located on a same tract or assemblage of adjacent parcels developed as a unified development or campus.

Article V, Section 155-6 Enumeration of Districts is amended to add the following district:

DCO Data Center Overlay District

Part II. Chapter 155. Zoning, Article IXA . Data Center Overlay District is added with the following::

§155-17.1 Data Center Overlay (“DCO”) District

A. Intended Purpose. The Data Center Overlay ("DCO") District is intended to provide areas for Data Center development within the area designated as being overlaid with the DCO District, as shown on Attachment "A" and the Zoning Map.

B. Overlay Concept. The Data Center Overlay ("DCO") District shall be an overlay to the existing underlying district, and as such, the provisions for the DCO District shall substitute certain underlying provisions as described in this section, when the owner/applicant elects the Data Center Overlay option.

C. Conflicts. Where there is any conflict or inconsistency between Sections of the Zoning Ordinance and this Section 155-17.1, the provisions of this Section 155-17.1 shall govern and control when the Data Center Overlay option is elected.

D. Sections of the Zoning Ordinance not applicable. The following Sections of the Zoning Ordinance shall not apply to the Data Center Overlay ("DCO") District:

1. §155-89

E. Permitted Uses. Permitted uses in the overlay shall be as follows:

1. Data Center

F. Accessory uses. Accessory uses and buildings customarily incidental to any principal Data Center use are permitted within the DCO District and include, without limitation:

1. Accessory uses and structures including but not limited to:

(a) Electricity Substations

(b) Water Cooling Facilities

(c) Site Power Generation, excluding wind turbines

(d) Thermal Storage

(e) Water Reuse Systems

2. Identification, directional and informational signs within the DCO District where a Data Center is located shall be approved as part of any land development application and shall meet the requirements of Chapter 155 Article XI Signs.

3. Other customary accessory uses, buildings and improvements, provided that such uses are clearly incidental to the principal use.

4. Utility accessory uses shall meet the following requirements:

(a) The proposed installation is necessary for the operation of the Data Center project and will not adversely impact public utility electric service

to the neighborhood, or locality in which the Data Center project is located.

(b) Adequate screening and sound barriers will be provided to achieve the noise levels set forth in this section.

(c) Adequate off-street parking will be provided to meet the needs of the use.

(d) All of the area, yard and coverage requirements of this section will be met

G. Off-street parking, loading and unloading spaces. Off-street parking, loading and unloading spaces shall be provided and permitted pursuant to a parking plan subject to review and approval of the Board of Supervisors at the time of land development, which shall depict off-street parking, loading and unloading spaces as reasonably necessary to serve the Data Center and supported by evidence of parking demands of other similar data centers in operation elsewhere, which parking requirement shall not exceed one (1) space per employee of the Data Center.

H. Height, Lot and Yard Regulations. The height, lot size, yard setback and other limitations for the Data Center Overlay ("DCO") District is set forth below and is substituted for the height, lot size, yard setbacks and limitations of the underlying district:

	Minimum Front, Side, Rear Setback	Residential Adjacent Property Setback	Equipment/Accessory Structures Setback	Max Bldg. Height	Min Lot Size	Max Lot Coverage	Max Impervious Coverage
Data Center Overlay District	100'	200'	300'	100'	50 acres	45%	55%

The maximum building height limit above shall not apply to rooftop equipment.

I. Special Regulations Applicable to Data Center Overlay District.

1. Data Center shall be:

- (a) A lot or tract comprised of at least fifty (50) acres; and
- (b) The lot or tract must be located in close proximity to a high voltage power transmission line or facility with the capacity to transmit 230kv or greater; and
- (c) The lot or tract shall have direct access to an arterial or collector street.

2. Water.

(a) Data Center shall:

- i. Be served by a publicly or privately owned sanitary sewage collection system or privately-owned on-site sewerage collection and disposal system. Will Serve Letter for publicly owned sewer systems shall be provided upon the submission of land development; and
- ii. Be served by a publicly or privately owned water distribution system.
- iii. If the Data Center is not served by a publicly owned water distribution system, the Developer of a Data Center Project shall obtain a water withdrawal permit issued by the Commonwealth of Pennsylvania Department of Environmental Protection for any water wells serving the Data Center and provide proof of review and approval from the Delaware River Basin Commission water withdrawals of 100,000 gallons per day or more over a 30-day average from any source or combination of sources within the Delaware River Basin. In addition, the Developer shall submit a hydrogeologic study by a qualified hydrologist demonstrating that the water withdrawal will not adversely affect the health and welfare of neighboring properties. Data Centers are strongly encouraged to deploy technologies for water conservation, including utilizing closed-loop or recirculation systems to reduce the demand for water usage.

3. Power Supply. If the applicant proposes to connect the Data Center to the electric grid, the applicant shall provide the documentation from the applicable electric service provider certifying that the necessary capacity is available, and that electric service provider will serve the Data Center.

4. Noise.

(a) Ground level mechanical equipment that are located exterior of a building shall be screened by an acoustical barrier on any side facing an existing residential use within a separate residential zoning district. For purposes of this section, an acoustical barrier is defined as an exterior solid or louvered wall containing sound-proofing materials designed to absorb noise and protect abutting residential properties from noise pollution.

(b) A noise study shall be performed and included in the land development application. The noise study shall be performed by a professional acoustic expert. Noise from a Data Center project shall not exceed 60 dBA as measured

from any exterior property line; provided, however, it shall be permissible for the noise level to exceed 60 dBa by up to an additional 10 dBa if the noise study shows existing noise levels at the applicable exterior property line (for example, caused by highway noise) when taken together with anticipated noise levels from a Data Center project would exceed 60 dBa. As a condition of land development approval, a Post Construction Noise Study shall be conducted at 18 months following the completion of construction and operational start of the Data Center.

5. Studies Required. The Developer of a proposed Data Center project shall participate in a pre-submission conference with the Board of Supervisors or staff designees to determine which of the following impact statements and/or studies are deemed necessary as a condition of preliminary land development submission.

(a) List of Impact Statements/Studies. Impact Statements/Studies may include but are not limited to:

- i. Traffic Impact;
- ii. Hydrogeologic;
- iii. Wetlands;
- iv. Environmental;
- v. Stormwater Management (See 155-16.1.J);
- vi. Fire Protection;
- vii. Police and security;
- viii. Emergency Services (to include but not firefighting response, emergency medical be limited to services and emergency management);
- ix. Geotechnical Subsurface Exploration;
- x. Sewage and waste treatment and disposal;
- xi. Solid waste disposal;
- xii. Architectural and general aesthetics;
- xiii. Landscaping and Buffering;
- xiv. Social/Economic;
- xv. Noise control/Sound study;
- xvi. Historical;
- xvii. Archaeological;
- xviii. Flood;
- xix. Air quality;
- xx. Control of radioactivity, electrical emissions and electrical disturbances;
- xxi. Airport/Airspace; and
- xxii. Public transportation.

- (b) The Board of Supervisors, upon review of any and all Impact Statements/Studies, may require the recommendations and/or action steps be implemented as described in the Impact Statements/Studies to ensure the health, safety, and welfare of the Township residents and surrounding properties.

6. Design Standards and Impact Statement/Studies Criteria. Data Centers shall adhere to the Township of Tobyhanna Design Standards as attached to Chapter 135 Subdivision and Land Development and as amended from time to time by the Board of Supervisors. In the event of a hardship with the Design Standards, the Board of Supervisors may waive certain requirements as a part of final land development approval. Criteria for Impact Statements/Studies will be set forth in an attachment to Chapter 135 Subdivision and Land Development and as amended from time to time by the Board of Supervisors.

Article IV. REPEALER.

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed, it being understood and intended that all Ordinances of Tobyhanna Township, such as are not otherwise specifically in conflict or inconsistent with this Ordinance, shall remain in full force and effect, the same being reaffirmed hereby.

Article V. SEVERABILITY.

If any provision, sentence, clause, section, term, phrase 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 of Tobyhanna Township, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

Article VI. EFFECTIVE DATE.

This Ordinance shall be effective five days after enactment.

ENACTED AND ORDAINED this ____ day of _____ 2025.

Tobyhanna Township Board of Supervisors

John Kerrick, Chair

Joseph Colyer, Vice Chair

Rachel Schickling, Treasurer

Edward Tutrone, Member

Ted Wolski, Member

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