

ORDINANCE NO. 2026 - _____

AN ORDINANCE OF THE BOROUGH OF NEW MORGAN, BERKS COUNTY, PENNSYLVANIA, AMENDING THE BOROUGH OF NEW MORGAN ZONING ORDINANCE TO ESTABLISH A DATA CENTER OVERLAY DISTRICT AND TO INCLUDE PROVISIONS SUPPLEMENTARY TO THE FOREGOING.

WHEREAS, the Borough Council (the “Council”) desires to amend the New Morgan Borough Zoning Ordinance, as heretofore amended (the “Ordinance”), by enacting this Ordinance to create a Data Center Overlay District for Parcel No.: 56531102497468, within Borough of New Morgan (the “Borough”) and create provisions specific to the development of a Data Center; and

WHEREAS, the Council also desires to amend the Ordinance to provide for provisions that are supplementary or incidental to the creation of the Data Center Overlay District; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby adopted, enacted and ordained by the Council of the New Morgan Borough, Berks County, Pennsylvania, as follows:

1. The Ordinance is hereby amended to add the following language to Section 27-201 of the Ordinance (the “Definitions” section):

Data Center – as defined in Section 27-201 of the Ordinance.

2. The Ordinance is hereby amended to add “Data Center Overlay District” to Section 27-401.F of the Ordinance.

3. The Ordinance is hereby amended to add “Data Center Overlay District” to Section 27-903.L of the Ordinance.

4. The Zoning Map of the Borough is hereby amended to include the Data Center Overlay District, as shown in Exhibit “A,” attached hereto and incorporate herein by reference.

5. The Ordinance is hereby amended to include the following provisions as a new Section 27-903.L of the Ordinance:

Section 27-903.L. Data Center Overlay District.

(A) Intent

1. The Data Center Overlay (DCO) District shall be a special overlay to the underlying zoning district within New Morgan Borough. Any application for the intended use as a Data Center shall meet all requirements specified for the DCO District and may only be located within the DCO District.

2. Data Centers require significant energy, water, and land resources, which may impact public infrastructure, natural resources, and the Borough's rural character. Data Centers commonly use large-scale backup power supplies and require large-scale cooling systems that, if not properly installed and maintained, can create noise, air quality and other environmental concerns. The Borough has a responsibility to protect the public health, safety, and welfare of its residents by establishing environmental, performance and other standards, including, but not limited to, limits on noise, water use, energy demand, and monitoring, reporting, and enforcement mechanisms to ensure compliance with Borough ordinances and state and federal law, and consistent with Pennsylvania's Clean Energy Goals, and the Southern Berks Area Joint Comprehensive Plan. The Borough recognizes that the protection of residents' quality of life — including peace, quiet, clean air, and safe water — is a compelling governmental interest that justifies the adoption of these regulations.
3. The objectives of this special overlay district are outlined as follows:
 - a. Establish standards for the specific uses as defined;
 - b. Minimize the potential negative impacts on neighboring properties;
 - c. Provide uniform criteria for the development of such uses; and
 - d. Plan for and aid in the regulation and enforcement of such uses.

(B) Applicability: Zoning Map

1. The Zoning Map is hereby amended to reflect the addition of the Data Center Overlay District as reflected in Zoning Map. An applicant who submits plans for development of land with intended use as a Data Center within the DCO District shall submit plans under these DCO provisions and under the provisions of the underlying zoning district.
2. All of the provisions of this Section and other Borough regulations shall remain in full force. Where Section 27-901 and another Zoning Ordinance or Subdivision and Land Development Ordinance provision apply to the exact same matter or are in direct conflict, Section 27-903.L shall apply and take precedence.

(C) Use Approval

1. Data Centers will be permitted by conditional use with the DCO District as defined by the official zoning map.

(D) Definitions

1. **Data Center** – A facility used primarily for or intended to be used primarily for the housing, operation, and/or co-location of (i) computer, communications, and/or data processing equipment, and equipment for handling, storing, and

backing up the data necessary for the operation of a business or organizational entity; (ii) Data Center Accessory Structures as defined below; (iii) Data Center Equipment (“DCE”) as defined below; (iv) Data Center Accessory Structures and DCE when located on the same tract or assemblage of adjacent parcels developed as a unified development; (v) cogeneration equipment and related pumps, conduit, piping, and other equipment to be used for transporting heat or other power sources for use in heating or generating power for other buildings; and (vi) 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 and its surroundings. Any facility that functions in a manner similar to one or more of the ways described herein but is clearly accessory to a prevailing principal use located on the same lot, shall not be considered a “Data Center” for the purpose of applying the requirements of this ordinance.

2. **Data Center Accessory Structures** – Ancillary structures which are secondary or otherwise incidental to a Data Center use, including but not limited to: administrative, logistical, fiber optic, storage, office and security buildings or structures; energy generation systems used or intended to be used to supply power to the Data Center during normal operations; renewable energy systems; sources of electrical power such as generators used to provide temporary power when the main source of power is interrupted; electrical substations; solar energy systems; utility lines; domestic and non-contact cooling water and wastewater treatment facilities; water cooling or holding facilities; pump stations; water towers; external environmental controls (emission controls, noise pollution controls, environmental impact monitoring); internal environmental controls (air conditioning or cooling towers, fire suppression, and related equipment); security features, cogeneration equipment and related piping and appurtenant equipment and structures, provided that such Data Center accessory uses/structures are located on the same tract or assemblage of adjacent parcels developed as a unified development with a Data Center. The use shall not include energy generation systems used or intended to be used to supply power to the Data Center during normal operations. Data Center accessory use structures shall comply with the height limits specified in this Section.
3. **Data Center Equipment (DCE)** - Equipment related to the Data Center Use or Data Center Accessory Structure including, but not limited to, water towers, mechanical equipment, cooling systems, and sound control systems, fire suppression systems, and environmental controls (emission controls, noise pollution controls, environmental impact monitoring), redundant/backup power supplies, redundant data communications connections, security operations, and all other facilities, equipment, parts, systems, renewable energy systems, conduit, piping, structures, appurtenances and materials needed for any one or more of the functions, uses or purposes stated in the definitions of “DATA CENTER,” and/or, as the case may be “DATA CENTER ACCESSORY

STRUCTURES” as stated above when located on the same parcel or assemblage of adjacent parcels developed as a unified development for a Data Center.

4. **Battery Energy Storage Systems (BESS)** - A device or group of devices assembled together, such as an Uninterrupted Power Supply (UPS) using lead-acid batteries, lithium-ion batteries, or other energy storage devices capable of storing energy in order to supply electrical energy at a later time.
5. **Substation** - A facility used for the transformation or transmission and/or switching of voltages to distribution voltages which switch circuits and distributes usable/consumable electric power, specifically for Data Center users on the same or adjacent site, or on a site immediately across a road right-of-way.
6. **Sensitive Receptor** - Buildings or structures occupied for any of the following uses: residential uses, schools, preschools, daycare centers (adult or child), long term care facilities, retirement and nursing homes, community centers, places of worship, parks with active recreation improvements (excluding trails), campgrounds and dormitories.
7. **eWaste** - any discarded electrical or electronic device, including broken, surplus, or end-of-life items like computers, data processing equipment, phones, TVs, batteries, and appliances, which are often hazardous due to toxic materials (lead, mercury) but also may contain valuable resources (gold, copper) that need proper recycling to prevent environmental harm.

(E) **General Requirements**

The following requirements shall be met for the development of a Data Center:

1. Area Regulations.

- a. The lot area shall be a minimum of two (2) acres of contiguous net lot area.
- b. The width of any lot shall not be less than 100 feet at the building setback line.

2. Required Yard/Setback Regulations.

- a. Front Yard Setback: 50 feet from the right-of-way line.
- b. Side Yard Setback: 50 feet.
- c. Rear Yard Setback: 50 feet.
- d. Accessory above ground structures and facilities, shall be setback at least 50 feet from all property lines.
- e. Corner lots shall have two (2) front yards, one (1) side yard, and one (1) rear yard.

- f. Buffer Yards: A buffer yard shall be provided where a Data Center and/or accessory facilities abut a residential or agricultural zone or use and shall consist of an earthen berm installed in the following manner:
 - i. The leading toe of slope shall be no more than 10 feet from the property line.
 - ii. The height shall be a minimum of 6 feet and shall have a 2:1 slope measured from the top leading edge of the berm to the toe of slope.
 - iii. Shall be landscaped with a screen planting located on the top of the berm. Such planting shall be designed by a landscape architect, registered as such with the Commonwealth of Pennsylvania, with proper species for the purpose that are native to the region.
 - iv. Screen plantings shall be 12 feet in height.
 - v. Screen plantings shall be permanently maintained so as to provide the minimum required screening at all times.
 - vi. A sight line plan shall be submitted as part of the conditional use filing, showing how these provisions are to be fulfilled and provide a proper screen planting.
 - vii. These requirements may be subject to modification by the Council if an applicant can show, as part of a conditional use hearing that the existing vegetation can adequately act as a plant screening or that same result can be achieved through modification to these requirements.

3. Height Regulations.

- a. Maximum permitted height of any structure is 50 feet with the ability to increase up to 80 feet at the discretion of the Council through the conditional use review process.
 - i. Building height shall be calculated from the lowest adjacent grade to the top edge of the roof and excludes any mechanical or accessory equipment, facades and/or parapets.
- b. No mechanical or accessory equipment mounted on the roof, including solar energy systems or other renewable energy systems, may exceed 25 feet in height from the top edge of the roof.

4. Cover Regulations.

- a. Impervious cover may not exceed 75% of the total lot area.
- b. At least 10% of the total lot area, excluding stormwater management facilities, must be designated green or open space.

- 5. Screening Requirements.** Visual and audible screening shall be provided to all Data Centers and Data Center Accessory Structures and shall include but not be limited to cooling system components including, fans, blowers, water or other liquid cooling pumps, power supply systems, electrical sub-stations,

transformers, fuel cells, generators, solar energy systems, renewable energy systems, and similar systems and components. The requirements shall apply to both ground and roof mounted equipment and components and be in addition the required buffer yards of this Section 27-903.L(E)(2)(F).

a. Ground and Roof Mounted Requirements

i. Ground Mounted

1. Visual screening shall be provided directly adjacent to the structure and be provided at a minimum height of 3 feet higher than the highest accessory on the structure.
2. Screening must be provided on all sides of the structure except when one side is facing and completely enclosed by the primary Data Center building.
3. Audible screening shall be provided as to prohibit objectionable or nuisance sound levels at neighboring property lines in accordance with Section 27-903.L(E)(7). Screening must be provided on all sides of the structure except when one side is facing and completely enclosed by the primary Data Center building.

ii. Roof Mounted

1. All screenings shall be provided at a minimum height of 12 feet and be set back an equal distance to the height for a 1:1 Ratio.
2. All roof-mounted screening will be provided with access doors or gates to allow maintenance and emergency access to roof mounted systems.
3. Screening shall be provided on all sides of the structure.

- b. Electrical Substations installed specifically for the transmission of power to a Data Center shall be visually screened with a man-made, opaque barrier at a minimum height of 12 feet to lessen visual impact. Such screening shall be provided with proper access and ventilation to allow for the proper maintenance and functioning of the substation.
- c. When noise producing equipment is abutting a residential or agricultural district or use, such equipment shall be placed so that the Data Center is between the affected lot and the equipment.
- d. If the Data Center has more than one (1) lot line that abuts a residential or agricultural district or use, the sound producing equipment shall be placed on the side of the Data Center that does not abut the residential or agricultural district or use or the side that has greatest setback from the affected property line(s). Sound producing equipment should be placed as far from any residential use as possible.

6. Façade Standards

- a. Facades:
 - i. Facades shall be consistent in terms of design, material, detail, and treatments.
 - ii. Facades shall avoid the use of undifferentiated surfaces that result in a monolithic appearance by including two of the following design elements:
 - 1. Changes in building height
 - 2. Building step-backs or recesses
 - 3. Building projections, risalits, or avant-corps Fenestrations
 - 4. Change in material, pattern, texture, color, or accents
- b. Secondary Facades (defined as a Façade that is not the front of the building and/or facing a public or private street):
 - i. Facades shall be consistent in terms of design, material, detail, and treatments.
 - ii. Facades shall avoid the use of undifferentiated surfaces by including the following design elements:
 - 1. Fenestrations
 - 2. Change in material, pattern, texture, color, or accents

7. Sound/Noise. Noise requirements for data centers are subject to these regulations, or the general noise regulations contained in the Ordinance, whichever are more restrictive.

- a. The sound generated by the Data Center shall, in any instance, be limited to a maximum daytime decibel level of 65 dB(A) or 10 dB(A) above, ambient noise, whichever is greater, from 7:00 AM to 8:00 PM on Mondays through and including Fridays and a maximum decibel level of 55 dB(A) from 8:00 PM to 7:00 AM on Mondays through and including Fridays and all day on Saturdays, and Sundays, excluding periods of emergency power due to power outages. Decibel levels shall be measured at the property line of a sensitive receptor. Additionally, no vibration generated by the Data Center that is discernible to the human sense of feeling shall be perceptible without instruments at any point beyond the property lines of the Data Center. Generators and back-up power systems which generate noise in excess of the limits set forth above, shall not be tested between 8:00 PM and 7:00 AM.
- b. The following sound studies shall be conducted by and at the exclusive cost to the applicant or, as the case may be, owner or occupier(s) of the Data Center:

- i. At the exclusive cost of the prospective owner or occupant(s) of a Data Center, a prospective sound study shall be conducted by a professional acoustical engineer and presented to the Council. The study shall assess the existing ambient noise levels at the property lines of a proposed Data Center and all noise, vibrations and other audible phenomena that may be created by operation of the Data Center (including, but not limited to, during periods of emergency power, testing and maintenance, fire, and fire suppression and control). Sound impacts that are identified in the study shall be prevented or, as the case may be, mitigated through use of sound attenuation and/or absorption panels, materials or systems on the interior and exterior of each building and on interior and exterior equipment (including, but not limited to, standby generators and related equipment) to the satisfaction of the Borough Engineer and, as the case may be, sound consultant.
 - ii. An interim sound study shall be conducted during the building permit process based upon the proposed user or users of the Data Center and associated DCE depicted on the building plans. The sound attenuation and/or absorption panels, materials or systems recommended by the interim sound study shall be incorporated into the construction plans for the Data Center.
 - iii. At the exclusive cost of the owner or occupant(s) of a Data Center, an as-built sound study shall be conducted six (6) months after issuance of the certificate of occupancy for any Data Center and associated DCE prior to the final escrow release for any Data Center land development phase. If the as-built sound study shows that decibel levels exceed those stated above, then the owner or occupant of the Data Center shall promptly add, and/or improve the sound attenuation and/or absorption panels, materials or systems and take such other actions as are necessary to comply with all the required decibel levels stated above. Additional as-built sound studies shall be conducted to confirm compliance with all the required decibel levels stated above.
- c. Where applicable, the aforesaid sound studies shall be conducted using sound level meters described in ANSI S1.4-2014 and using criteria that are generally accepted by the professional acoustical engineering profession. To measure the decibel levels stated above, a sound level meter shall be used that is capable of measuring A-weighted decibels in accordance with applicable ANSI standards.
- d. From time to time, at the exclusive cost of the owner or occupant(s) of a Data Center, upon request by the Borough (up to one (1) time every twelve (12) months), the owner or occupant(s) of the Data Center shall conduct a noise monitoring study (and submit the results to the Borough at the

conclusion thereof) which continuously monitors noise at the Data Center property boundaries for period of two (2) weeks to determine if the Data Center is complying with the sound limits set forth in Section 27-903.L(E)(7)(a), above. The results of said study shall be provided to the Borough within fourteen (14) days of completion thereof.

- e. In the event of a power outage, the Data Center must reestablish compliance with the sound limits set forth in Section 27-903.L(E)(7)(a), above, within eight (8) hours of the restoration of power to the Data Center.

8. Utility Review. The proposed use shall be serviced by public utilities or approved private utilities. The applicant shall provide the Borough:

- a. A will-serve letter by the appropriate public and/or private utility provider that will service the proposed use and/or a written assessment by a certified professional in the field of engineering and utility design has been made of the potential electrical, water, and/or sewer consumption of the proposed use which ensures that there is sufficient capacity available to serve the proposed use as well as the projected service needs for future growth.
- b. If the above-mentioned assessment identifies a detrimental impact or threshold where utility capacity is not sufficient, the applicant shall provide, at their own expense, the necessary system improvements necessary to mitigate any limits or system constraints to accommodate the proposed use. The necessary system improvements shall conform to all specifications, procedures, and timelines required for the public utility such as the relevant provisions of the Borough Code. If the necessary system improvements are determined by both the Borough Engineer and the respective public utility provider to be infeasible, then on-site utility methods may be considered in compliance with all Borough ordinances.

9. Water and Sewer.

- a. Well Withdrawal Impact Study

When any new or existing wells are proposed for the purpose of supplying water for cooling, a Well Withdrawal Impact Study shall be submitted by the applicant. The purpose of the Well Withdrawal Impact Study is to evaluate the proposed Data Center's potential impacts on the quantity and quality of the groundwater and surface water resources of the Borough and existing wells in the Borough. The Well Withdrawal Impact Study shall be prepared by a professional hydrogeologist, who shall submit to the Borough for approval, the scope of the analysis prior to initiation thereof. The Well Withdrawal Impact Study shall contain, at a minimum the following:

1. A map indicating the property boundaries of the proposed development and all existing wells and surface water bodies located within the radius, specified in this subsection, of the water withdrawal points of the proposed development.
2. The proposed thirty (30) day average rate and maximum daily rate of withdrawal from each source and from all sources in total.
3. A geologic map indicating the property boundaries of the proposed development, the location of the proposed water withdrawal point(s) and the radius, as specified in this subsection, of the proposed water withdrawal point(s).
4. A hydrogeologic analysis of the well withdrawals (tests to be conducted concurrently at all wells where multiple wells are proposed for concurrent use) that includes, but is not limited to, the following:
 1. A constant rate well test for a minimum of forty-eight (48) hours taken during a period of no recharge using the proposed maximum day withdrawal rate for each well. A peak-rate demand pump test may also be required. The water level against the elapsed time shall be recorded throughout the forty-eight (48) hour well test period and appropriately plotted. Additional information shall include:
 - a. Static, pumping and recovery water level measurements from all observed wells and perennial streams with a sufficient number of measurements taken to adequately characterize drawdown, recovery and stream flow.
 - b. Date and time of all water level measurements.
 - c. Record of pumping rate measured throughout the test.
 2. Observations of water levels from any monitoring wells located on the subdivision or land development property.
 3. Observations of water levels and pumping rate available from existing wells within the specified radius. The monitoring wells shall be representative of the entire area within the required radius. The radius from the location of the proposed water withdrawal point shall be as follows:

Proposed 30 Day Average Withdrawal Rate (Gallons per Day)	Radius (Miles)
2,000 – 10,000	0.40
10,001 – 50,000	0.50
50,001 – 100,000	0.75

4. Well log data for monitoring wells, if available, to identify significant water bearing zones. A significant water-bearing zone is one capable of providing at least ten (10) percent of the pump capacity rate.
 5. Observations of perennial stream levels at points expected to be impacted by withdrawal.
 6. An analysis of expected impacts on intended water source uses caused by continual withdrawals on existing wells, flows of perennial streams and long-term lowering of the groundwater levels.
 7. Documentation, based upon historical water table measurements, of drought condition water table elevation approximating a fifty (50) year drought, if available.
 8. All field notes and observations, including weather conditions throughout the well test.
 9. All methods and/or sources used to obtain data and draw conclusions.
- b. Well water may not be used for cooling if the Well Withdrawal Impact Study indicates that the proposed well water usage will adversely impact groundwater quantity and quality. The Borough reserves the right to require post-construction groundwater monitoring to confirm that a Data Center is not adversely impacting the groundwater quantity and quality. The Borough may require monitoring only once per year provided that the monitoring reveals that the use is not adversely impacting the groundwater quantity and quality. In the event that the monitoring reveals that the use is adversely impacting the groundwater quantity or quality, the Borough will require continuous monitoring until such time that the groundwater quantity and/or quality is no longer being adversely impacted. Any adverse impacts that are identified and not resolved within thirty (30) days will result in the revocation of conditional use approval, unless a time extension is granted by the Council. All costs associated with post-construction groundwater monitoring, including those incurred by the Borough, will be the responsibility of the owner.

- c. The applicant shall provide proof of review and approval from the Delaware and Susquehanna River Basin Commission, including the Hay Creek Watershed, if necessary or required, for projects proposing:
 - i. Water withdrawals of 100,000 gallons per day (gpd) or more over a 30-day average from any source or combination of sources within the Delaware and Susquehanna River Basin; or
 - ii. Any consumptive water use of 20,000 gpd or more over a 30-day average from any water source.
- d. No data center use shall obtain water service, water capacity, or emergency water supply through the interconnection between the Borough Utilities Authority and the Caernarvon Township Authority (the "Caernarvon Water Interconnect"). The interconnect shall not be utilized to satisfy the water demands, peak demands, redundancy requirements, or fire protection requirements of any data center development. No data center Applicant shall be permitted to connect to, receive water from, or rely upon the interconnection for any portion of its proposed water demand. The Borough-Caernarvon water interconnection is established solely for emergency system resiliency and municipal water system operations. No new data center use, whether principal or accessory, shall connect to, reserve capacity from, purchase water through, or otherwise utilize the interconnection directly or indirectly. The interconnection shall not be used in calculating available water capacity for any data center application.
- e. 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 Sewage Enforcement Officer and/or the Pennsylvania Department of Environmental Protection.

10. Power Supply.

- a. As a condition of land development approval, the applicant shall demonstrate the availability of a dedicated electric power supply and shall construct, or cause to be constructed, a utility-approved electrical substation capable of serving 100 percent of the facility's operational and emergency power requirements. No certificate of occupancy shall be issued until such facilities are operational.
- b. Each data center use shall be served by a dedicated electrical substation designed to meet the maximum anticipated electrical load of the facility. The applicant shall be solely responsible for all costs associated with the planning, engineering, permitting, acquisition of easements and rights-of-way, construction, interconnection, operation, maintenance, repair,

replacement, and future expansion of the substation and associated electric infrastructure. Under no circumstance shall the Borough be required to finance, construct, own, or maintain electrical infrastructure necessary to serve a data center development.

- c. The data center applicant shall not rely upon speculative future electrical capacity improvements in demonstrating compliance with this section. Required electrical service and substation capacity shall be committed by the electric utility and available prior to issuance of a building permit.
 - d. Any energy generation system proposed that is capable of generating more than 25MW designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel, nuclear energy generating systems, or other renewable energy systems shall not be considered part of the Data Center. Such systems shall be considered separate use and shall be approved according to the zoning regulations applicable to such use. Nuclear energy generating systems shall be considered a renewable energy system and shall be subject to all other provisions of the Ordinance regarding renewable energy systems, and public, community and private utilities.
 - e. No electrical disturbances which adversely impact the operation of any equipment beyond the property line shall be permitted.
 - f. The applicant proposing the Data Center shall provide evidence to the Borough that the power supply to be utilized by the Data Center will not affect the health, safety or welfare of the public, and will not cause unreasonable disruptions or outages in any utility service to the public.
- 11. Utility Lines.** To the extent practical, utility lines, including but not limited to electronic, fiber optic, cable, and telephone lines, from substations to a Data Center shall be placed underground. This requirement shall not apply if the utility company requires above-ground lines, or the placement of under-ground lines is not feasible. Utility lines to the substations from off-site may be placed above ground.
- 12. Environmental Impact Study.**
- a. As part of an application for a conditional use for a proposed Data Center, an applicant shall submit an environmental impact study in accordance with all the terms, conditions and provisions of Borough's Subdivision and Land Development Ordinance (SALDO), which shall be performed by an environmental engineer. In addition to the SALDO requirements, the environmental impact study shall meet the following criteria:

- i. Assess potential impacts of operation, maintenance, and/or repair or trouble-shooting of the Data Center (including, but not limited to, during periods of emergency power, fire, and fire suppression and control) on groundwater, nearby creeks and streams, the Schuylkill River, the air and the grounds of the Data Center and those adjacent to the Data Center; storage of oil-based or other combustible materials; and release of gasses and/or other contaminants into the air, ground, surface water or groundwater. Environmental impacts that are identified in the study shall be prevented or, as the case may be, mitigated in accordance with a plan that is approved in writing by the Council upon recommendation of the Borough Engineer and the Borough Stormwater Engineer.
- ii. Identify all stationery and mobile sources of fine particulate matter (PM_{2.5}), volatile organic compounds, and nitrogen oxides at the Data Center.
- iii. Identify environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, heat islands, vibration, electrical disturbance, etc.) and specific measures employed to mitigate or eliminate any negative impacts.

13. Emergency Contact. There shall be a 24-hour emergency contact signage located conspicuously at the access entrance(s) to the facility. The signage shall include the facility company name, owner/representative name, telephone number, and the local power company's name and telephone number. All emergency contact information shall be updated and current within three (3) days of such information changing in any manner.

14. Emergency Access. It shall be demonstrated that there is an adequate second means of ingress and egress suitable for emergency access to the site. Written approval from the Borough's then current Fire Chief shall be provided demonstrating there is adequate emergency access, truck turning, fire suppression, fire hydrant availability on the site.

15. Emergency Management. The applicant shall submit an Emergency Response Plan (ERP) prepared by a qualified professional. The ERP shall:

- a. Document compliance with NFPA 75, NFPA 72, NFPA 855 and other similar guidelines for fire safety;
- b. Be reviewed and accepted by the Borough's then current Fire Chief and emergency management services as part of the conditional use and/or land development process;

- c. Include detailed procedures for fire suppression, containment, ventilation, and evacuation;
- d. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site;
- e. Ensure that all first responders receive adequate training specific to the installed system and any systems that are typically used in a Data Center environment and all accessory uses planned or anticipated;
- f. Include provisions for annual fire safety inspections demonstrating compliance with fire safety and hazardous material safety;
- g. Include standards to be performed by a qualified professional on behalf of the Data Center or Data Center Accessory Use; and
- h. Include provisions ensuring the continuity of essential operations during an emergency.

16. Hazardous Materials

- a. Applicants shall submit a detailed Hazardous Materials Safety Plan subject to approval by Council and engineers to demonstrate facility procedures and safeguards for storage, handling, and disposal for all anticipated hazardous materials to be present during construction and operations in compliance with applicable state and federal regulations including RCRA, OSHA, DEP, and DOT. Elements to be addressed shall include, but not limited to:
 - i. Battery Energy Storage Systems (BESS). Sites must be in compliance to NFPA 855 or similar standards and must include fire suppression systems designed specific to battery storage. Documentation must be provided showing coordination with the local Fire Code Officials and Fire Services. Lead-acid and lithium-ion batteries must be stored in labeled containers and recycled through a licensed vendor. They cannot be discarded as general waste due to RCRA and DOT regulations.
 - ii. Fuels for backup generators. A Spill Prevention, Control, and Countermeasure Plan (SPCC Plan) is required. Diesel-containing backup generators are typically constructed with belly tanks. If the total aggregate capacity of a facility's diesel storage exceeds 1,320-gallons, federal SPCC regulations apply and a facility-specific SPCC Plan is required. If the total aboveground diesel storage capacity exceeds 10,000-gallons, the Plan will need to be certified by a licensed Professional Engineer. The plan shall mandate specific fuel transfer and secondary containment

processes, periodic inspections and recordkeeping, spill prevention training, formal reviews every five years, etc. No underground storage of fuels shall be permitted.

- iii. EPCRA Reporting. A plan for compliance with the Emergency Planning and Community Right-to-Know Act (EPCRA) for emergency planning, emergency notification, and hazardous substance inventory reporting at the facility level as part of the Data Center operations. This is intended to help prevent catastrophic incidents by requiring emergency planning, reporting of hazardous substance storage to first responders, and notification of spills or releases to the environment.
- iv. Waste Management Handling. A Waste Management Handling plan to include eWaste regarding generating and storing hazardous waste onsite is required to ensure that it is handled, stored, and subsequently shipped in accordance with applicable state and local guidelines. Federal and state registrations are typically required as part of compliance standards.
- v. Chemical Management Compliance. Evidence of planned and ongoing Chemical Management compliance shall be submitted for approval. Data Centers contain high volumes of lead-acid batteries and diesel. It is common to also find coolants, water treatment chemicals, and other small-quantity process chemicals such as cleaners, solvents, acids, fuels, and paints. With storage of these hazardous chemicals comes requirements for:
 - 1. Registrations
 - 2. Permitting
 - 3. Inventory
 - 4. Global Harmonization Standard (GHS) management
 - 5. Safety Data Sheet (SDS) management
 - 6. Pollution prevention
 - 7. Spill reporting
 - 8. Storage area design
- vi. Air Emissions. Backup generators, which can be powered by diesel or natural gas, create emissions during periods of testing and when backup power draws are required to continue operation. These emissions typically include diesel exhaust and nitrogen oxides (NO_x). Planned emissions sources should be catalogued, emissions need to be calculated, and the totals should be evaluated against applicable regulatory limits. Emissions calculations shall be evaluated to determine the need for any additional federal, state, or local permits.

- vii. Material storage. The Data Center or BESS shall not have any tank for the storage of flammable or otherwise hazardous material closer than fifty (50') feet from any property line, nor closer to any property than one hundred (100') feet. Any storage of hazardous materials must demonstrate compliance with all applicable PA DEP standards and shall implement all necessary spill containment systems and environmental protection measures to prevent groundwater or soil contamination.
- b. Applicants shall also develop an Emergency Response Plan and/or a Hazard Mitigation Plan in coordination with the Berks County Department of Emergency Services (“DES”) if nuclear power systems (including small modular units) will be utilized at the site.

17. Decommissioning.

- a. Unless the Data Center site/property is purchased to be reused or redeveloped within (1) year of the cessation of the Data Center’s activities, it shall be the facility owner's responsibility, upon cessation of active use of the facility as a Data Center, to restore the site/property to a condition that existed prior to the existence of the Data Center. This includes the removal of all equipment, structures, containment ponds, etc. that are no longer in use or cannot be reasonably reused.
- b. A decommissioning agreement will be required to be executed between the Borough and the facility owner to ensure the requirements within this section are met within twelve (12) months of the date at which the facility ceases to operate as a Data Center.

18. Specifications.

- a. Unless otherwise agreed to by Council, a Data Center design must meet or exceed the Uptime Institute Tier 3 or equivalent standard, which shall be determined by the Borough Engineer and/or any outside consultant that the Borough selects to ensure compliance with this Section of the Zoning Ordinance. Generally, Uptime Institute Tier III Data Centers must be concurrently maintainable, meaning that every component (power, cooling, distribution) of the Data Center can be removed from service for planned maintenance or replacement without the Data Center having to shut down or be interrupted, and without impact to the functionality of the Data Center’s operations.

6. The Zoning Officer, the Engineer and the Solicitor of the Borough are hereby authorized to take such actions as may be necessary to cause the Zoning Ordinance to be amended in accordance with the terms and provisions of this Ordinance and shall take such other actions as may be necessary to effectuate the terms of this Ordinance.

7. This Ordinance shall take precedent over any portion of any other Ordinance that is inconsistent with this Ordinance.

8. The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any other remaining provisions of the Ordinance shall not be affected thereby. It is hereby expressly declared as the intent of the Council that this Ordinance would have been adopted had such unconstitutional or illegal provision or provisions had not been included herein.

9. This Ordinance shall become effective on the earliest date permitted by law after enactment.

ENACTED AND ORDAINED as an Ordinance of the Borough of New Morgan, Berks County, Pennsylvania this ____ day of _____, 2026.

COUNCIL OF THE BOROUGH OF NEW MORGAN, BERKS COUNTY, PENNSYLVANIA

By: _____
President

Attest: _____
Secretary

Approved:

Mayor

Exhibit “A”
Zoning Map