

# ORDINANCE NO. 200

**AN ORDINANCE OF KIDDER TOWNSHIP, CARBON COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE KIDDER TOWNSHIP ZONING ORDINANCE TO DEFINE AND ADD SPECIFIC REQUIREMENTS FOR DATA CENTERS AND DATA CENTER ACCESSORY USES.**

*WHEREAS*, Kidder Township is a political subdivision of the County of Carbon, Commonwealth of Pennsylvania and is a Second-Class Township with offices located at 10 Lake Harmony Road, Lake Harmony, Pennsylvania 18624; and

*WHEREAS*, the Kidder Township Zoning Ordinance No. 179, amended by Ordinance No. 181, Chapter 180 Code of the Township of Kidder, further amended by Ordinance No. 193; §180-12 contains definitions for terms and uses referenced in the Ordinance; and

*WHEREAS*, the Kidder Township Zoning Ordinance No. 179, amended by Ordinance No. 181, further amended by Ordinance No. 193, Chapter 180 Code of the Township of Kidder; §180-96 provides additional specific regulations and requirements for uses; and

*WHEREAS*, the Kidder Township Zoning Ordinance No. 179, amended by Ordinance No. 181, further amended by Ordinance No. 193, Chapter 180 Code of the Township of Kidder; §180-17 Schedule of Uses establishes uses and/or classes of uses that are permitted and/or conditional in certain Zoning Districts; and

*WHEREAS*, the Township is of the opinion that regulations and definitions related to data centers must be updated to preserve and maintain land uses in conformance with the goals of the Kidder Township Comprehensive Plan; and

***NOW, THEREFORE, BE IT ENACTED AND ORDAINED*** by the Board of Supervisors of Kidder Township, Carbon County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

**SECTION 1:** Kidder Township Zoning Ordinance Section 180-12, Definitions, shall be amended as follows:

**Battery Storage Systems:** A building or buildings which are intended for the storage and/or use of battery systems, which is a system consisting of one or more rechargeable batteries, battery modules, or battery packs, together with associated control systems, inverters, transformers, thermal management systems, and other equipment, used to store electrical energy for later use. This use does not allow outdoor storage of batteries. Battery storage systems shall be required to provide emergency management and decommissioning requirements as indicated in Section 180-96 in addition to other Township ordinance requirements.

**Closed-Loop Water Cooling System:** A mechanical system in which water circulates through a continuous, sealed piping network to remove heat from equipment and transfer it to a heat exchanger or cooling tower, without direct discharge of water to the environment or withdrawal of potable groundwater or surface water except for make-up, as permitted under state law.

**Data Center:** A building, buildings, or attached structure to any data center building which are occupied primarily by computers and/or telecommunications and related equipment where digital information is processed, transferred and/or stored, primarily to and from offsite locations. This use does not include computers or telecommunications related equipment that is secondary and customarily incidental to an otherwise permitted use on the property, such as servers associated with an office building. This use shall also include cryptocurrency mining, blockchain transaction processing, and server farms. A Data Center may include Data Center Accessory Uses.

**Data Center Accessory Use:** Ancillary uses or structures secondary and incidental to a Data Center use, including but not limited to: administrative, logistical, fiber optic, storage, and security buildings or structures; 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 (air conditioning or cooling towers, fire suppression, and related equipment); security features, provided such data center accessory uses or structures are located on the same tract or assemblage of adjacent parcels developed as a unified development with a Data Center.

**Data Center Campus:** An integrated development of multiple data centers that may include data center accessory uses on a unified site or assemblage of adjacent parcels.

**Make-up Water:** Water added to a closed-loop system to replace losses due to leakage, evaporation, or blowdown, limited to the quantity necessary to maintain system pressure and heat transfer efficiency.

**Water Withdrawal:** The removal of water from groundwater or surface water sources for the purpose of use, subject to permitting under 25 Pa. Code Chapter 110 (Water Resources Planning).

**SECTION 2:** Kidder Township Zoning Ordinance Section 180-17, Schedule of Uses, shall be amended to add “Data Centers, Data Center Campus, and Data Center Accessory Uses” and “Battery Storage Systems” to Section 180-17. H. (3) in the business development/light industrial district conditional uses.

**SECTION 3:** Section 180-17 (Standards for Specific Uses) is amended to add Section 180-96, Data Centers, Data Center Campus, and Data Center Accessory Uses:

**180-96 — Data Centers, Data Center Campus, and Data Center Accessory Uses**

- A. Data Centers shall be permitted by conditional use in the BD/LI Zoning District when approved in compliance with the procedures, standards, and criteria contained in this section.
- B. For purposes of this section, sensitive receptors shall be defined as residential uses, schools, preschools, daycare centers, in-home daycares, long term care facilities, retirement and nursing homes, community centers, places of worship, parks (excluding trails), campgrounds, prisons, and dormitories.

C. **Dimensional Standards.** The dimensional standards of Data Centers, Data Center Campus, and Data Center Accessory Uses shall be in accordance with Section 180-19 with the following exceptions:

1. The maximum building height for a Data Center shall be 45 feet, not including up to 15 feet for roof-mounted equipment such as cooling and ventilation systems, HVAC units and cooling towers.
2. The maximum height of Data Center Accessory Uses shall be no greater than the height of the principal building height, excluding the height allotted for roof mounted equipment.
3. Data Centers and Data Center Accessory Uses shall be set back 500 feet (500') from the boundary of residential zoning district(s) or the lot line of any property developed with a sensitive receptor or front lot line and shall be set back 300 feet (300') from any other property line.
4. The minimum lot area shall be 20 acres.

D. **Landscape Buffer.** A landscape buffer is required between Data Centers, Data Center Campuses, and Data Center Accessory uses and all adjoining property lines. The landscape buffer shall comply with the following requirements:

1. The landscape buffer shall be at least 100 feet in width and may be part of the minimum setback distance.
2. The buffer yard shall be free of structures, dumpsters, storage or display areas, materials, loading and unloading areas, or vehicle parking. Any signs shall be in accordance with the zoning ordinance requirements.
3. The buffer yard shall include a landscaped screening buffer. Buffer plantings shall be arranged to achieve a dense, opaque, four-season buffer to the satisfaction of the Board of Supervisors and Township Engineer.
4. The buffer yard vegetative visual screen shall extend the full length of the lot line, except for:
  - a. Township-approved points of approximately perpendicular vehicle or pedestrian ingress and egress to the lot. In such case, the buffer yard may be interrupted to accommodate the minimum area required for ingress and egress.
  - b. Locations necessary to comply with safe sight distance requirements where the plantings cannot feasibly be moved farther back; and
  - c. Locations needed to meet other specific state, Township and utility requirements, such as stormwater swales. If a utility must cross the buffer yard, it shall be by the minimum required traversal distance and width, and then only if every precaution is used to replace any lost visual screen.
5. Buffer plantings shall consist of native species planted as follows:

- a. One (1) large evergreen tree per 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 75 linear feet of buffer. Size of canopy (shade) trees shall be a minimum of 2 ½ inch caliper at the time of planting.
  - c. One (1) ornamental/flowering tree per 50 linear feet of buffer. The size of ornamental/flowering trees shall be a minimum of eight (8) feet in height for multi-stemmed varieties, or 2 ½ inch caliper at the time of planting for single-stemmed varieties.
  - d. Five (5) shrubs per 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 fifty percent (50%) being evergreen.
  - e. The plantings shall be maintained to ensure survivability. The property owner shall be responsible for replanting, within 30 days, any buffer plantings that do not survive.
6. In the event that existing vegetation is adequate to meet the intent of the required buffer yard to screen the Data Center and Data Center Accessory Uses from adjoining residential zoning districts, sensitive receptors, and public roadways, the Board of Supervisors, upon recommendation by the Township Engineer and Planning Commission, may determine that existing topography and/or vegetation constitutes all or part of the required buffer yard.
7. All plantings shall conform to the standards of the Township's list of acceptable plant species, or shall be approved by the Board of Supervisors upon recommendation by the Township Engineer, and/or Pennsylvania-registered landscape architect or certified arborist. A variety of species shall be used in order to prevent monocultural plantings. A monotonous straight row of the same species shall not be permitted. No more than fifty percent (50%) shall be of one species.

**E. Screening and Fencing**

- 1. To provide visual screening and reduce noise levels, ground-mounted and roof-mounted equipment used for cooling, ventilating, or otherwise operating the facility, including power generation or other power supply equipment that is located within 300 feet (300') of a public roadway, residential zoning district(s), or the lot line of any sensitive receptor must be fully enclosed. It must be fully screened from view using one or more of the following means:
  - a. The landscape buffer required by subsection (D) above.
  - b. By existing vegetation that will remain on the property.
  - c. 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.

- d. 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 principal building. Fencing shall be six (6) feet in height.
2. Fencing of the property is permitted, provided that fencing along public and private roadways is not chain-link, with or without slatted inserts, and does not include barbed wire or other similarly visibly intrusive deterrence devices. An applicant shall not be required to comply with this requirement if fencing is fully screened from view by one or more of the means identified in subparagraph 1 above.

**F. Noise and Vibration**

- 1. **Noise.** Sound levels shall be maintained at a level that does not exceed the standards established by this section. Where there is a conflict between this section F and any other section of this chapter, the provision of this section F shall apply.

- a. **Equivalent Continuous Sound Level Limits (5-minute  $L_{Aeq}$  and  $L_{Ceq}$ ).** The sound levels (5-minute, A and C weighted equivalent continuous sound levels,  $L_{Aeq}$  and  $L_{Ceq}$ ) as measured at any location on a receiving property, shall not exceed the limits in the following table, as measured with a Type 1 sound level meter, and measured according to ANSI/ASA S1.13-2020 and ANSI/ASA S12.18-1994 (R2009) methodologies (or the most recent revisions). Sound levels shall be measured by an acoustical engineer. Regardless of the zoning classification of the noise source, the noise emitted by any source shall not exceed the limits for any property and corresponding zoning classification onto which it propagates, except as exempted by subsection d., below.

**Equivalent Continuous Sound Level Limits (5-minute  $L_{Aeq}$  and  $L_{Ceq}$ )**

<b>Zoning District of Receiving Land Use</b>	<b>Day (7:00 a.m. to 7:00 p.m.)</b>	<b>Night 7:00 p.m. to 7:00 a.m., Sundays and Holidays</b>
Residential	50 dB(A) / 60 dB(C)	45 dB(A) / 55 dB(C)
Recreational/Commercial	60 dB(A)	55 dB(A)
Industrial/Manufacturing	67 dB(A)	65 dB(A)

- b. **Maximum Sound Level Limits (Slow Response  $L_{ASmax}$  and  $L_{CSmax}$ ).** The Maximum Sound Levels (Slow Response, A- and C-weighted maxima) as measured at any location on a receiving property, shall not exceed the limits in the following table, as measured with a Type 1 sound level meter, and measured according to ANSI/ASA S1.13-2020 and ANSI/ASA S12.18-1994 (R2009) methodologies (or the most recent revisions). Sound levels shall be measured by an

acoustical engineer. Regardless of the zoning classification of the noise source, the noise emitted by any source shall not exceed the total limits for any property and corresponding zoning classification onto which it propagates, except as exempted by subsection d., below.

**Maximum Sound Level Limits (Slow Response LASmax and LCSmax)**

<b>Zoning District of Receiving Land Use</b>	<b>Day (7:00 a.m. to 7:00 p.m.)</b>	<b>Night 7:00 p.m. to 7:00 a.m., Sundays and Holidays</b>
Residential	60 dB(A) / 60 dB(C)	55 dB(A) / 55 dB(C)
Recreational/Commercial	70 dB(A)	65 dB(A)
Industrial/Manufacturing	75 dB(A)	70 dB(A)

- c. When required in accordance with this chapter or any other chapter of the Township Code, a sound study(s) shall be conducted in accordance with §240-68.
  - d. The sound limits contained in this subsection F shall not apply to the following noise sources:
    - i. Sounds for emergency preparedness and response, or sounds created by emergency backup power supply during times of power outage; however, compliance with the sound limits specified herein shall be re-established within three hours of the cessation of such event or restoration of power.
    - ii. Work to provide, repair, or replace electricity, water or other public utilities involving public health or safety.
    - iii. Normal and legally permitted residential activities customarily associated with residential use.
    - iv. Domestic power tools.
    - v. Temporary activities involving construction and demolition activities.
    - vi. Agriculture.
    - vii. Hunting activities.
    - viii. Motor vehicle operations on public streets. Such noise shall be regulated by Pennsylvania Transportation Regulations governing established sound levels.
    - ix. Public celebrations or activities authorized by the Township.
    - x. The unamplified human voice.
    - xi. Bells, chimes or carillons, which may include electronic devices that imitate the sounds of bells, chimes or carillons, while being used in conjunction with religious services.
2. The applicant shall provide a vibration study prepared by a qualified professional that demonstrates that no vibration from the Data Center, Data Center Campus, Data Center Accessory Uses, or associated equipment will be perceptible to the human sense of feeling beyond the property line.

## G. Water and Sewer

1. If the use will be served by a public water supply, the applicant shall submit documentation from the public authority certifying that the public authority will supply the water needed.
2. If the use is to rely upon nonpublic sources of water, the applicant shall provide a water feasibility study. The purpose of the study is to determine if there is an adequate supply of water for the proposed use and to estimate the impact of the use on existing wells, groundwater, and surface waters in the vicinity. No Data Center shall be approved unless the water feasibility study demonstrates that the anticipated water supply yield is adequate for the project and that the proposed water withdrawals and discharges will not endanger or adversely affect the quantity or quality of groundwater supplies or surface waters in the vicinity. The water feasibility study shall include the following information at a minimum:
  - a. The projected water demands of the Data Center(s);
  - b. The source of water to be used;
  - c. A description of how water will be used, including the amount or proportion of water to be used for each purpose (e.g., recirculation, cooling, humidity control, fire suppression, and domestic usage);
  - d. The long-term safe yield of the water source;
  - e. A description of the amount or portion of water withdrawn that will be recycled or discharged and by what means;
  - f. A geological map of the area with a radius of at least three (3) miles from the site;
  - g. The location of all existing and proposed wells within 1,000 feet of the property boundary, with a notation of the capacity of all high-yield wells;
  - h. Identify how water will be recycled, released, or disposed of including potential discharge contaminants;
  - i. The location of all surface waters, including perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps, and estuaries, within 1,000 feet of the property boundary;
  - j. A determination of the effects of the proposed water supply system on the quantity and quality of water in wells within three (3) miles of the site of extraction, surface waters, sub-watersheds, and the groundwater table;
  - k. Identify how water discharge shall be cooled to ambient temperature 20' from discharge.
  - l. A statement of the qualifications and the signature(s) of the person(s) preparing the study.

3. The applicant shall provide proof of review and approval from the Delaware River Basin Commission for projects proposing:
  - a. 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 River Basin; or
  - b. Any consumptive water use of 20,000 gpd or more over a 30-day average from any water source.
4. 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.
5. If alternative cooling methods are proposed, an alternative cooling feasibility study shall be provided in accordance with requirements of §180-96.G.(2) for that proposed cooling method.

#### **H. Power Supply**

1. If the applicant proposes to connect the Data Center to the electric grid, the applicant shall provide documentation with the conditional use application from the applicable electric service provider certifying that the necessary capacity is available, and that electric service provider will serve the Data Center. Known impacts on electric rates or availability for other uses directly attributable to the Data Center project shall be analyzed and a power supply report shall be provided as part of the conditional use.
2. 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 be considered part of the Data Center use. Any such design of an energy system shall be considered in conjunction with the Data Center Application and a permit approving the use of such energy system for the supply of energy to the proposed Data Center shall be required according to federal, state and local statutes and regulations applicable to such use including, but not limited to approval by the Nuclear Regulatory Commission, etc. and compliance with the Clean Water Act, Nuclear Safety Act, etc. as applicable. The Supervisors shall require an Environmental Impact Study be performed to assess any possible effect upon the environment from the use of an energy generation system.
3. All ground fuel storage areas above require secondary containment and spill-prevention measures.
4. All new or upgraded power transmission lines serving a Data Center or Data Center Accessory Use shall be designed and constructed to minimize visual impact on surrounding properties and public rights-of-way. It is strongly suggested that the applicant install underground power transmission lines where feasible and appropriate.

5. The applicant shall demonstrate what burden, if any, the proposed power transmission infrastructure will place on existing electrical supply infrastructure serving the community.
6. All emissions from backup generators, and all fuel storage facilities associated with backup generators, shall comply with all applicable federal, state, and local regulations, including, but not limited to, those pertaining to air quality, hazardous materials, and environmental protection.

#### **I. Emergency Management**

1. The applicant shall submit an Emergency Response Plan (ERP) and/or a Fire Protection Plan prepared by a qualified professional. The ERP shall:
  - a. Be reviewed and accepted by the local fire department and emergency management services as part of the conditional use process;
  - b. Include detailed procedures for fire suppression, containment, ventilation, and evacuation;
  - c. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site;
  - d. Ensure that all first responders receive adequate training specific to the installed system;
  - e. Ensure there is adequate radio coverage for emergency responders at and within the Data Center property(ies) and within the interior of buildings, and shall install enhancement systems if needed to meet compliance.
  - f. Identify the location of all hydrants and other on-site and off-site firefighting equipment.
  - g. A Knox-type box shall be installed on all access gates for emergency access by the Township Fire Company and other emergency responders.
  - h. Identify all potential on site hazards and their locations.
  - i. Include contact information for facility representatives available 24 hours per day.
  - j. Electronic and other waste. Documentation shall be provided with the conditional use application outlining procedures for safe removal and recycling or disposal of electronic waste and other waste including, but not limited to, computers, computer servers, server infrastructure, batteries, hazardous and extremely hazardous substances, and related materials.
  - k. Include provisions for annual fire safety inspections demonstrating compliance with fire safety standards to be performed by a qualified professional on behalf of the Data Center.

2. Any Data Center use proposing 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 must include fire suppression systems designed specifically for battery storage.
3. All proposed battery energy storage systems shall be located entirely within an enclosed building or enclosed buildings. The building(s) shall be located a minimum distance of five hundred feet (500') from any front property or street right-of-way line and three hundred feet (300') from any other property line.
4. The Applicant shall propose containment facilities on the site to store any leakage from stored battery cells, the cascading failure of battery cells, or the release of the stored energy during an incident. The facilities shall have the capacity to completely contain all released materials within an earthen impoundment, an underground tank, or other storage-type facility. All earthen containment facilities shall be completely lined with a composite liner made of a geomembrane along with a geosynthetic clay liner to prevent infiltration in the underlying soils. No more than one (1) such facility is allowed to be installed on the site. All materials stored within containment facilities shall be disposed of in accordance with applicable United States Environmental Protection Agency (EPA) regulations.
5. No Data Center shall be approved unless the applicant demonstrates that procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of public health, safety and welfare.
6. Provide specialized emergency services equipment if deemed necessary by the Township emergency services.
7. Applicant shall provide a fire lane around the building in accordance with 2021 International Fire Code Chapter 5 and Appendix D – Fire Apparatus Access Road.

**J. Appearance**

1. Any Data Center and Data Center Accessory Use building facade that faces a road, residential zoning district, or existing residential use must incorporate at least two (2) of the following design elements every 150 horizontal feet:
  - a. A change in building material, pattern, texture, or color;
  - b. A change in building height;
  - c. Building step-backs or recesses having a minimum depth of five (5) feet.
2. Applicant shall provide architectural rendering and plot plan of the proposed building.

## **K. Parking**

1. Data Centers are to be provided with at least one (1) parking space per 8,000 square feet of floor area designed and intended to be accessible regularly by employees, or one (1) parking space for every one (1) employee, based upon the maximum number of employees on site during the largest shift, whichever is less.

## **L. Woodlands and Riparian Buffer Requirements**

1. Woodland Disturbance. Existing vegetation shall be preserved in accordance with § 153-59(B). In addition, in no case shall more than fifty percent (50%) of any existing tree masses, treelines, hedgerows, or individual freestanding trees with six (6) inch or greater DBH be removed.
2. Threatened and Endangered Species.
  - a. Where conditional use approval is required, a Pennsylvania Natural Heritage Program study (PNDI Receipt) dated within two (2) years of the submission of an application for conditional use or subdivision and land development, whichever is first, as well as any state agency clearance letters required thereby shall be provided to the Township.
  - b. The landowner shall comply with all measures directed by the clearance letters to avoid, minimize or mitigate impacts to endangered, threatened and special concern species and their habitat.
3. Specimen trees shall not be removed from any lot or tract except where the land owner demonstrates to the satisfaction of the Township that such removal is essential to eliminate a hazardous condition or otherwise permit lawful use of the lot or tract. Where permitted, removal of specimen trees shall be minimized.
4. Riparian Forest Buffer Area
  - a. For purposes of this section:
    - i. A riparian buffer is an area of permanent vegetation along a waterway that is left undisturbed to allow for natural succession of native vegetation.
    - ii. A riparian forest buffer is a riparian buffer that consists predominantly of native trees, shrubs, and forbs that provide at least sixty percent (60%) uniform canopy cover.
  - b. Persons proposing a Data Center use must satisfy the requirements of this Subsection (3) or of 25 Pa. Code §102.14, Riparian Buffer Requirements, as amended, whichever is more restrictive.
  - c. Where the project site contains, is along, or is within 150 feet of a perennial or intermittent river, stream, or creek, lake, wetlands, pond or reservoir, whether natural or artificial, the person proposing a Data Center Use shall, in accordance with the requirements of this subsection, do one of the following:
    - i. Protect an existing riparian forest buffer.

- ii. Convert an existing riparian buffer to a riparian forest buffer.
  - iii. Establish a new riparian forest buffer.
- d. Protecting existing riparian forest buffers. Where a riparian forest buffer exists, it shall be left intact to meet the width requirements in paragraphs (g) and (h). An existing riparian forest buffer need not be altered to establish individual Zones 1 and 2 under subparagraph (iii).
  - e. Converting an existing forest riparian buffer. Riparian buffers that consist predominantly of native woody vegetation that do not satisfy the composition requirements in paragraph (1) or the width requirements in paragraph (g) and (h) shall be enhanced or widened, or both, by additional plantings in open spaces around existing native trees and shrubs to provide at least sixty percent (60%) uniform canopy cover for the required width and shall be composed of zones in accordance with paragraph (j).
  - f. Establishing new riparian forest buffer. On sites without native woody vegetation, a riparian forest buffer providing at least sixty percent (60%) uniform canopy cover shall be established to meet the width requirements in paragraphs (g) and (h) and be composed of zones in accordance with paragraph (j).
  - g. The width of the riparian forest buffer shall be a minimum of 100 feet on each side of the water body as measured from the top of the bank. The riparian buffer area must be measured horizontally and perpendicularly to the bank with no more than a ten percent (10%) variation below the minimum width from the normal pool elevation for lake, pond or reservoir and from top of streambank. The boundary of the buffer shall follow the natural streambank or shoreline.
  - h. The following additional distances shall be added to the minimum width in paragraph (g) based on the following formula:
    - i. forty (40) feet if slope is 15–25%;
    - ii. seventy (70) feet if slope exceeds 25%

Where a combination of the above slopes occurs within the buffer, the greater of the two shall apply for that segment of the stream.

- i. In the case of the presence of a nontidal wetland or vernal pond wholly or partially within the riparian buffer area, an additional twenty-five (25) feet shall be added to the width of the riparian forest buffer area for that portion of the buffer area along the wetland or pond.
- j. A new riparian forest buffer or a converted riparian forest buffer shall be composed of zones as follows:
  - i. Zone 1 shall begin at the top of the streambank or normal pool elevation of a lake, pond or reservoir and occupy a strip of land fifty (50) feet in width, measured horizontally on a line perpendicular from the top of streambank or

normal pool elevation of a lake, pond or reservoir. Predominant vegetation must be composed of a variety of native riparian tree species identified in Appendix C.1 of PA Department of Environmental Protection Guidance Document 394-5600-001, entitled Riparian Forest Buffer Guidance, as amended.

- ii. Zone 2 shall begin at the landward edge of Zone 1 and occupy an additional strip of land a minimum of fifty (50) feet in width, measured horizontally on a line perpendicular from the top of streambank or normal pool elevation of a lake, pond or reservoir. Predominant vegetation must be composed of a variety of native riparian tree and small tree/shrub species identified in Appendix C.1 of PA Department of Environmental Protection Guidance Document, 394-5600-001, entitled Riparian Forest Buffer Guidance, as amended.
- k. No earth disturbance, land development or storing or stockpiling of materials shall occur within the riparian forest buffer area.
- l. Management of riparian buffers.
  - i. Stormwater and accelerated erosion and sedimentation shall be managed in accordance with 25 Pa. Code §§ 102.4(b)-(e) and 102.8 (relating to erosion and sediment control requirements; and PCSM requirements) to ensure that stormwater enters the area up and along the riparian buffer as sheet flow or shallow concentrated flow during storm events up to and including the 2 year/24-hour storm.
  - ii. Invasive species shall be removed or controlled to the maximum extent possible.
- m. Existing, converted and newly established riparian buffers, including access easements, must be protected in perpetuity through deed restriction, conservation easement, permit conditions or any other mechanisms that ensure the long-term functioning and integrity of the riparian buffer.
- n. The riparian forest buffer shall be designated on the final subdivision and/or land development plan.

#### **M. Decommissioning**

1. Decommissioning Plan Required – At the time of application, the operator shall submit a Decommissioning Plan prepared by a qualified professional. The plan shall outline the procedures for safe shutdown, removal of equipment, disposal or recycling of materials, and site restoration.
2. Financial Assurance – As part of the Decommissioning Plan, applicants must post a bond, escrow, letter of credit or other financial security acceptable to the municipality to cover the full costs of decommissioning and site restoration in the amount of one hundred and ten percent (110%) of the total cost estimate as approved by the Township

Engineer. The financial assurance shall be reviewed and adjusted biannually to reflect inflation and updated costs and estimates.

3. Time Frame for Decommissioning – Decommissioning must begin within one (1) year of cessation of data center operations, or upon notice of abandonment by the operator, whichever occurs first. Decommissioning shall be completed within 18 months thereafter unless extended by the municipality for good cause.
4. Standards for Decommissioning
  - a. All above-ground structures, equipment, and accessory facilities shall be removed.
  - b. Hazardous materials, including batteries, fuel, or refrigerants, shall be disposed of in compliance with state and federal laws.
  - c. Disturbed soils shall be stabilized and revegetated.
  - d. Any utility connections shall be safely disconnected and capped.
  - e. The site shall be restored to a condition compatible with surrounding land uses or consistent with the most adjacent zoning district.

#### **N. Public Inquiries/Complaints**

1. The facility operator is required to maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints through the life of the project. The facility operator shall be required to respond within ten (10) working days to the public's inquiries and complaints.

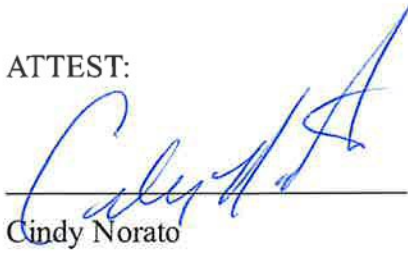
**Section 4: Severability.** If any sentence, clause, section, or part of this Ordinance or of the Zoning Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance and the Zoning Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**Section 5: Repealer.** All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**Section 6: Codification.** Pursuant to the Second-Class Township Code and the Pennsylvania Municipalities Planning Code, the Kidder Township Zoning Ordinance shall hereby be codified to incorporate the above-referenced amendments.

**Section 7: Effective Date.** This Ordinance shall take effect five (5) days after its adoption by the Board of Supervisors of the Township of Kidder held on this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

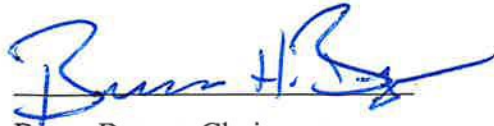
ATTEST:



Cindy Norato

Township Secretary

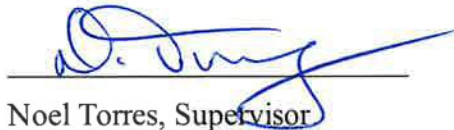
KIDDER TOWNSHIP  
BOARD OF SUPERVISORS



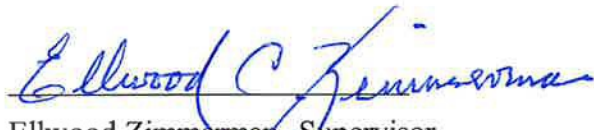
Bruce Berger, Chairperson



Wilson Klotzman, Vice Chairperson



Noel Torres, Supervisor



Ellwood Zimmerman, Supervisor



Louis Pantages, Supervisor