ORDINANCE NO. 4 OF 2026
BEAR CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA

AN ORDINANCE TO AMEND THE BEAR CREEK TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO EXPAND THE I-1 INDUSTRIAL DISTRICT AND TO PROVIDE FOR ADDITIONAL USES IN SAID DISTRICT, ALONG WITH DEFINITIONS AND SPECIFIC REQUIREMENTS.

WHEREAS, Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10601, *et seq.*, authorizes Bear Creek Township to enact and repeal zoning ordinances, zoning maps, and amendments thereto within Bear Creek Township; and

WHEREAS, Bear Creek Township deems it to be in the best interest and general welfare of the residents of the Township to update and amend the Bear Creek Township Zoning Ordinance and Zoning Map such that the I-1 Industrial District comprises an adequate proportion of land to provide for industrial and other intensive or higher-impact uses in the Township as conditional uses; and

WHEREAS, the Board of Supervisors of Bear Creek Township desires to add standards and provisions to the Zoning Ordinance to reasonably regulate the land uses in said I-1 District; and

WHEREAS, The Township finds that said conditional uses may involve substantial utility demands, emergency management considerations, noise generation, water usage, and operational characteristics distinct from uses permitted in other Township districts, thereby warranting specialized zoning and performance standards to protect the public health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of Bear Creek Township as follows:

Section 1.

In Article I General Provisions of the Bear Creek Township Zoning Ordinance section 127-3, entitled "Community development objectives" is hereby amended to add the following objective and subsequently renumber the other existing objectives of the applicable subsection:

Insert 127-3.E.(2)(f). Require land uses with intense water usage and/or consumption to connect to public water and/or public sewer or to provide an alternative means of transported water supply for said land use so that in no case shall a land use adversely impact or reduce water supply and water quality for existing residences and businesses.

Section 2.

In Article II, entitled Terminology, Section 127-7 of the Bear Creek Township Zoning Ordinance, entitled "**Definitions**," is hereby amended to add the following terms and definitions.

AGRIVOLTAICS — The co-development of the same area of land for both solar photovoltaic power and normal farming operations (as defined by P.L. 454, No. 133 (1982), the Protection of Agricultural Operations from Nuisance Suits and Ordinances Act, or any successor laws).

ALL OTHER NON-RESIDENTIAL USES NOT LISTED - Any non-residential use not specifically listed within the Township Zoning Ordinance as a use that is permissible by right, by conditional use, or by special exception.

ANSI — The American National Standards Institute.

ARTIFICIAL INTELLIGENCE (AI) — A computational system that, for a given set of human-defined objectives, prompts, or inputs, can make predictions, recommendations, or decisions, simulate human intelligence to perform complex tasks, solve problems, perceive real and virtual environments, generate information based on abstract perceptions and algorithmic data analysis, and use model inference to formulate options for information or action.

BATTERY(IES) — A single cell or a module of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically.

BATTERY CELL — The basic electrochemical unit in a battery, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

BATTERY ENERGY STORAGE SYSTEM (BESS) — A facility or portion of a facility that utilizes one or more batteries, assembled together into a system and including any enclosures, cabinets, containers, and equipment, designed to store electrical energy for later use, including but not limited to battery racks, containers, inverters, transformers, switchgear, battery management and monitoring systems, fire suppression systems, ventilation systems, and related electrical and safety equipment. A BESS may be housed within a building, container, or other structure, or located outdoors, and may function as a backup or emergency power source.

BATTERY MANAGEMENT AND MONITORING SYSTEM — An electronic regulator that manages a battery energy storage system; monitors individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault, and DC surge; protects battery energy storage systems from operating outside their safe operating parameters; and disconnects electrical power to the battery energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY MODULE — A group of batteries connected together as an individual unit.

BLOCKCHAIN TRANSACTION PROCESSING — The validation and "mining" of transactions on a blockchain (defined as a shared, decentralized, immutable digital ledger that securely records transactions across a network of computers, such as the buying and selling of cryptocurrency).

CLOSED-LOOP COOLING SYSTEM — A sealed, recirculating circuit in which a fixed volume of water is circulated to absorb heat from Data Centers, Data Center Accessory Uses, and/or Data Center Equipment (DCE) and transfer it to a heat exchanger or cooling tower for release. This type of system is designed to minimize water use by reusing the same water repeatedly.

CRYPTOCURRENCY MINING — The practice of using computers ("mining rigs") dedicated to solving complex mathematical problems to validate transactions and add new blocks to a blockchain to produce newly minted cryptocurrency (defined as a digital form of currency using encryption to secure transactions).

CUT-OFF FIXTURE (FULL) - means a lighting fixture that is designed and installed in such a way that no light is emitted at or above a horizontal plane running through the lowest point of the fixture's light-emitting source.

DATA CENTER — Unless otherwise defined or classified by the Commonwealth of Pennsylvania, a building or buildings used by companies and cloud providers to store, process, and share data and applications or house, operate, manage, and/or co-locate computers, servers, network computer servers, data storage drives, network equipment, and/or telecommunications and related equipment where digital information (data) is processed, received, transferred, stored, aggregated, and/or transformed, primarily to and from off-site locations. This use does not include computers, servers, or telecommunications equipment secondary and customarily incidental to an otherwise permitted principal use on the property, unless located in a separate building on a separate lot or not clearly ancillary to the principal use. The term "Data Center" shall also include facilities used for the testing or deployment of emerging technologies such as cryptocurrency mining, blockchain transaction processing, and generation of artificial intelligence. A Data Center may include Data Center Accessory Uses and Data Center Equipment (DCE). Said term shall include commonly referenced terms as hyper-scale data center, major data center, edge data center and/or any other variation compatible in terms of service, function, and/or operation.

DATA CENTER ACCESSORY USE — Ancillary uses or structures secondary and incidental to a principal Data Center use, including but not limited to: administrative, logistical, fiber-optic, storage, and security buildings, structures, or features; sources of backup or emergency electrical power such as generators and battery energy storage systems (BESS) used when the main source of power is interrupted; utility lines; disaster recovery facilities; domestic and non-contact cooling water and wastewater treatment facilities; water holding facilities; pump stations; water towers; and environmental controls (e.g., air conditioning or cooling towers, fire suppression, and related equipment), provided that such ancillary uses and structures are located on the same Data Center Property or within the same Data Center Campus. The term "Data Center Accessory Use" shall not include energy generation and distribution facilities, including systems used or intended to be used to supply power to the Data Center during normal operations or for sale or export to the electricity grid.

DATA CENTER APPLICANT — The individual, group, or entity submitting a conditional use application for a Data Center, Data Center Campus, Data Center Accessory Uses, and/or Data Center Equipment (DCE).

DATA CENTER CAMPUS — Two (2) or more Data Centers and associated infrastructure, Data Center Accessory Uses, and Data Center Equipment (DCE) located on one (1) or more lots under common ownership or control and developed pursuant to a unified land development plan.

DATA CENTER DEVELOPER — The individual, group, or entity responsible for the development and construction of a Data Center.

DATA CENTER EQUIPMENT (DCE) — Equipment, systems, and appurtenances customarily associated with and incidental to the operations of a Data Center, including: electrical switchgear and switchyards, transformers and transformer facilities, mechanical and electrical systems, uninterruptible power supply (UPS) systems, electrical substations, cooling and heat rejection equipment (e.g., chillers, cooling towers, dry coolers, pumps, and HVAC systems), cabling, piping, fuel storage tanks, and enclosures for screening such equipment, systems, and appurtenances.

DATA CENTER OPERATOR — The individual, group, or entity responsible for the operation and management of a Data Center.

DATA CENTER OWNER — The individual, group, or entity which owns a Data Center or the Data Center Property or Data Center Campus on which it is situated.

DATA CENTER PRINCIPAL BUILDING — A building that contains data storage and processing functions for a Data Center.

DATA CENTER PROPERTY — A development tract, which may include an assemblage of individual contiguous lots, under the control of a single owner or his or her designee (i.e., a Data Center Applicant or Data Center Owner), on which one (1) or more Data Center buildings and authorized Data Center Accessory Uses and Data Center Equipment (DCE) are proposed. See also: "Data Center Campus."

DISASTER RECOVERY FACILITY — A building used to sustain operations of a Data Center during an emergency, such as a facility separate from the Data Center Principal Building or buildings used for the digital backup and storage of files.

EARTH DISTURBANCE PLAN — A plan for a land development site which identifies construction or other human activities that will disturb the land, including but not limited to clearing and grubbing; certain paving, embankments, road maintenance, filling, stripping, grading, and regrading; cutting or removal of vegetation, including natural ground covers; excavation, digging, and earthmoving; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

ELECTRIC CONVEYANCE/TRANSMISSION LINES — Electric power lines to and from power stations or any energy generation source, to and from electrical substations, or to and from the electricity grid, including collector, distribution, and transmission lines.

ELECTRICAL SUBSTATION — An assemblage of equipment, including switches, circuit breakers, capacitators, buses, and transformers, through which electric power is passed for the purpose of switching or modifying the electrical energy's characteristics to increase or decrease voltage or control frequency. Electrical substations are used for transferring electric power rather than for its generation or utilization.

EMERGENCY — Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

EMERGENCY WORK — Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

EMERGING TECHNOLOGY — A technology still in development which may have a significant impact on society and in which, because of the technology's newness, such impacts are not yet fully known. Examples of emerging technologies include, but are not limited to, artificial intelligence (AI), robotics, and blockchain technology.

ENERGY GENERATION AND/OR DISTRIBUTION FACILITY — A facility used or intended to be used to generate and supply power to a specific use during normal operations or to generate electrical energy for sale, distribution, and export to off-site users or to the electricity grid.

EQUIPMENT — Any devices or combination of devices used to accomplish a desired end and which are powered by electricity or fuel energy. Examples include such devices as construction vehicles and earth-moving machinery, generators, HVAC units, computer servers, pumps, motors, and meters.

FINANCIAL SECURITY — Security in the form of a surety bond guaranteed by a company listed in the U.S. Treasury's Department Circular 570 ("Listing of Approved Sureties"), a cash account, or an irrevocable letter of credit issued by a Federal or Commonwealth chartered lending institution insured by the Federal Deposit Insurance Corporation (FDIC), in the amount of one hundred ten percent (110%) of the proposed decommissioning cost estimate and in a form satisfactory to the Solicitor and Supervisors of Bear Creek Township.

FULLY SHIELDED- means a source of light designed or shielded in such a manner that no light is emitted, either directly or indirectly, at or above a horizontal plane running through the lowest light-emitting part of the light source.

GENERATOR — Any appliance or piece of equipment which operates during an electric power outage or shortage, whether automatically or manually, and which uses diesel, natural gas, or propane to fuel its operation. Generators can be further subcategorized as Backup/Portable Generators and Standby/Permanent Generators.

GENERATOR, BACKUP/PORTABLE — A generator characterized by its portability (i.e., not permanently affixed to the ground) and which serves to provide temporary backup electric power on an as-needed basis.

GENERATOR, STANDBY/PERMANENT — A generator affixed to the ground or to a building foundation, typically featuring automatic detection of an electric power outage, upon which the generator starts and runs until electric power returns, upon which it stops (i.e., returns to "standby" mode).

HOST COMMUNITY AGREEMENT — As permissible and regulated by the Commonwealth of Pennsylvania as part of community benefits agreement-related provisions including but not limited to Commonwealth of Pennsylvania Governor's Office Executive Order 2026-05 and related Commonwealth regulations, as amended.

HVAC — Heating, ventilation, and air conditioning.

INTENSE DEVELOPMENT — Any land development consisting of at least 100,000 square feet 100,000 square feet gross floor area (gfa) of nonresidential or mixed-use development or 20 or more dwelling units.

IMPERVIOUS SURFACE COVERAGE — The area of land, expressed as a percentage, that results from dividing the area of impervious surface, as defined by this ordinance, by the gross area of that lot.

L_{eq} — An A-weighted fast response maximum sound level, defined as the maximum sound pressure level in decibels (dB) measured over a given period of time, with A-frequency weighting and fast response time-weighting applied.

L_{max} — The equivalent continuous sound level, defined as the steady sound pressure level in decibels (dB), which, over a given period of time, has the same total energy as the fluctuating noise measured over the same period of time.

LEED — Leadership in Energy and Environmental Design, a certification system recognizing sustainability achievement in building design, construction, and operation.

LIGHT TRESPASS- means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

LUMEN- means a unit of measurement for the total amount of visible light emitted by a light source.

MUFFLER OR SOUND-DISSIPATIVE DEVICE — A device, such as an enclosure, which is designed or used for decreasing or abating the level of sound escaping from an engine, machinery system, or other equipment.

NFPA — The National Fire Protection Association.

PA DEP — The Pennsylvania Department of Environmental Protection.

PENNDOT — The Pennsylvania Department of Transportation.

PURE TONE — A sound occurring at a discrete frequency as determined by a Fast Fourier Transform measurement (narrowband analysis) of a sound using a dynamic analyzer with at least 1 Hz and preferably 1/8 Hz resolution, a Hanning window, and sufficient averaging to determine the magnitude of the pure tone level that is exceed 5% of the time.

QUALIFIED PROFESSIONAL — A person, who by education, experience, certification, or licensure, has demonstrated expertise in a particular field. For the purpose of this Ordinance, fields may include, but are not necessarily limited to, professional engineering, emergency management, acoustics, geology, hydrogeology, and soil sciences.

SENSITIVE RECEPTORS — Land uses that by nature of their human occupancy characteristics or environmental sensitivity may be particularly affected by close proximity to land uses of higher intensity or impact. For the purposes of this Ordinance, sensitive receptors shall be defined as residential uses, schools, preschools, day care centers and day care homes, long-term care facilities, retirement and nursing homes, community centers, dormitories, correctional facilities, places of worship, and Township-owned parks and recreational facilities.

SOLAR ARRAY — A group of multiple solar modules and/or panels connected together.

SOLAR CELL — The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR COLLECTION SYSTEM — A system of devices and equipment used to harvest solar energy, including solar photovoltaic cells, modules, panels, or arrays.

SOLAR ENERGY APPLICANT — The individual, group, or entity submitting a conditional use application for a Solar Energy System or Solar Energy Project.

SOLAR ENERGY DEVELOPER — The individual, group, or entity responsible for the development and construction of a Solar Energy System or Solar Energy Project.

SOLAR ENERGY OPERATOR — The individual, group, or entity responsible for the operation and management of a Solar Energy System or Solar Energy Project.

SOLAR ENERGY OWNER — The individual, group, or entity which owns a Solar Energy System, a Solar Energy Project, or the land on which such use is situated.

SOLAR ENERGY PROJECT — A grouping or two (2) or more Solar Energy Systems or Solar Energy Facilities which are physically connected to a common lessee and which are a part of a single solar energy production development project.

SOLAR ENERGY SYSTEM (SES) OR SOLAR ENERGY FACILITY (SEF) — An area of land on which is situated a solar energy collection system used principally to harvest solar energy, convert it to electrical energy, and supply power for either on- or off-site use.

SOLAR ENERGY SYSTEM, PRINCIPAL (PSES) — A solar energy system consisting of one (1) or more free-standing ground-mounted solar arrays or modules as a principal use as well as solar-

related equipment and other accessory structures such as inverters, transformers, disconnects, and other appurtenances.

SOLAR ENERGY SYSTEM, ACCESSORY (ASES) — A solar energy system consisting of one (1) or more free-standing ground-mounted or roof-mounted solar arrays or modules as well as solar-related equipment, where the system is to be used primarily as accessory power for on-site buildings or structures to reduce consumption of utility or fuel energy.

SOLAR FACILITY CONNECTION — The electric conveyance lines which connect a Solar Energy System to the Solar Project Connection.

SOLAR PROJECT CONNECTION — The electric conveyance lines which connect a Solar Energy System to the high-voltage electric interconnection grid.

SOLAR MODULE — A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR PANEL — That part or portion of a Solar Energy System containing one (1) or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating, and/or for electricity.

SOLAR-RELATED EQUIPMENT — Items accompanying a solar collection system or solar energy system, including but not limited to solar hot air or water collector device panels; inverters; pumps; batteries; mounting brackets; framing; foundations; or other structures and devices.

SWITCHYARD — A junction in an electric power system that serves as the point of interconnection where various circuits and transmission lines are connected and electric power is routed.

TRANSFORMER FACILITY — An area or group of equipment used to transform electric power from one voltage to another or from one circuit to another.

WATER, PUBLIC — Water supplied by a public water system owned and/or operated by a municipal authority, public utility, water company, or governmental entity which is regulated by the Pennsylvania Department of Environmental Protection (PA DEP) as a community or public water system and which distributes water through a centralized system of pipes for public consumption and use.

WATER, NONPUBLIC — Any water source not meeting the definition of "public water," whether permanent, temporary, primary, supplemental, or emergency in nature, including but not limited to private wells, groundwater extraction wells, aquifer withdrawals, surface water withdrawals, springs, retention ponds, cisterns, hauled water, reclaimed water systems, or any privately owned, leased, or controlled water source.

Section 3.In Article V of the Bear Creek Township Zoning Ordinance, entitled "**Zoning District Regulations**," Section 127-45, "**I-1 Industrial District**," is hereby amended as follows.

3A. § 127-45.A, "Permitted uses," is amended to add the following Subsection (19):

(19) All uses permitted by right in the B-2 General Business under §127-44.A.

3B. § 127-45.B, "Uses permitted by special exception," is amended to add the following Subsection (5):

(5) All uses permitted by special exception in the B-2 General Business under §127-44.B.

3C. § 127-46. "Area, bulk, and density regulations." (Insert the following second sentence) In addition to the setbacks included on the Area, Bulk, and Density Regulations Table, all principal buildings shall have a minimum setback of 200' from a Residential Zoning District Lot Line and 500' from a sensitive receptor.

2C. § 127-45.C, "Conditional uses (see Article VII)," is amended to add the following Subsections (15), (16), (17), (18), (19), (20), (21), (22), (23) and (24):

(15) Data centers.

(16) Data center campus.

(17) Data center accessory uses.

(18) Data center equipment (DCE).

(19) Principal solar energy systems (PSES).

(20) Accessory solar energy systems (ASES).

(21) Battery energy storage systems (BESS).

(22) Energy generation and/or distribution facilities.

(23) All uses permitted as conditional uses in the B-2 General Business under §127-44.D.

(24) All Other Non-Residential Uses not specifically listed.

Section 3.

Article III of the Bear Creek Township Zoning Ordinance, entitled "General Regulations" is hereby amended to delete the section 127-33, entitled "127-33. Uses not addressed within ordinance," in its entirety and replace it with "127-33. Reserved."

Section 4.

4.1 Article VII of the Bear Creek Township Zoning Ordinance, entitled "**Conditional Uses**," is hereby amended to revise the following section 127-57.A.9. as follows:

(9) No operations and/or activities permitted within a solid waste facility shall be permitted within ~~1,000~~ **600** feet of any property line boundary.

4.2 Article VII of the Bear Creek Township Zoning Ordinance, entitled "**Conditional Uses**," is hereby amended to add the following sections 127-68.1, 127.68.2, 127-68.3, and 127-68.4, entitled "**Data Centers, Data Center Campuses, and Data Center Accessory Uses**," "**Solar Energy Systems**," "**Battery Energy Storage Systems (BESS)**," and "**Energy Generation and/or Distribution Facilities**," respectively.

§ 127-68.1. Data centers, data center campuses, and data center accessory uses.

A. Dimensional requirements.

(1) Minimum setbacks for all Data Center Principal Buildings, Data Center Accessory Uses, Data Center Equipment (DCE), parking areas, loading/service areas, and refuse/recycling areas:

(a) From sensitive receptor : 500 feet.

(b) From Residential Zoning District Lot Line (R-1 and R-2) : 200 feet.

(2) From all other Lot Lines: 200'Maximum building area: 40,000 square feet gross floor area (gfa) per Data Center Principal Building.

(3) Maximum number of buildings on a Data Center Property or within a Data Center Campus: Two (2) Data Center Principal Buildings.

(4) Maximum structure height, principal and accessory: 55 feet, inclusive of roof-mounted equipment such as, but not limited to, cooling and ventilation systems, HVAC units, cooling towers, and accessory solar energy systems (ASES).

(5) Maximum impervious surface coverage: 15%.

B. Buffering, screening, fencing, and landscaping requirements.

(1) Buffer yard location. A landscaped buffer yard shall be located along the interior perimeter of the Data Center Property or Data Center Campus, interrupted only by entrances and exits to the site and by utility corridors (which shall be minimized within the buffer yard to the greatest extent possible).

(2) Buffer yard dimensional requirements. The landscaped buffer yard shall be between 50 and 100 feet in width and may be located within the minimum required setback.

(3) Buffer yard restrictions. No impervious surfaces are permitted within the buffer yard aside from access drives, sidewalks, identification and warning signage, and required perimeter fencing.

(4) Buffer yard landscaping and berm requirements.

(a) Buffer plantings shall consist of native species planted as follows:

[1] One (1) large evergreen tree per 25 linear feet of buffer yard. Large evergreen trees shall be a minimum of eight (8) feet in height at the time of planting.

[2] One (1) deciduous canopy (shade) tree per 75 linear feet of buffer yard. Canopy (shade) trees shall be a minimum of two-and-one-half (2½) inches in caliper at the time of planting.

[3] One (1) ornamental or flowering tree per 50 linear feet of buffer yard. Ornamental trees shall be a minimum of eight (8) feet in height for multi-stemmed varieties or two-and-one-half (2½) inches in caliper for single-stemmed varieties at the time of planting.

[4] Five (5) shrubs per 25 linear feet of buffer yard. Shrubs shall be fully branched and a minimum of three (3) feet in height at the time of planting, with a minimum composition of 50% evergreen species.

(b) A berm of five (5) feet in height above the adjacent average grade with maximum side slopes of 3:1 shall be required in buffer yards abutting residential districts and sensitive receptor uses. The planting requirements in Subsection (a) shall be the same, whether located on a berm or at the existing grade. Areas between buffer plantings shall be stabilized with all-season ground cover. Where berms are not feasible due to utilities, topography, or other valid constraints, the following alternative screening methods may be approved:

[1] Decorative walls with integrated landscaping (minimum of six (6) feet in height), as approved during the application process.

[2] Dense evergreen hedge planting (minimum of eight (8) feet in height at maturity).

[3] Combination of existing vegetation preservation and supplemental planting.

(c) Use of existing vegetation and topography to provide an equivalent visual screen is strongly encouraged and may be substituted in part for new plantings in required buffer yards if requested by the Data Center Applicant, recommended by the Township Engineer and Planning Commission, and approved by the Board of Supervisors.

(d) Stormwater management facilities may be located within required buffer yards but must be screened on the side closest to the lot line with buffer yard plantings.

(e) It shall be the responsibility of the Data Center Applicant, Developer, Operator, and/or Owner to maintain all buffer yards in good condition, free of rubbish, and to replace any dying or dead plants or deteriorating landscape material. Plantings

shall be maintained permanently, and any plant material which does not live shall be replaced at the start of the next growing season.

(5) Perimeter fencing requirements. A minimum eight (8) foot high perimeter fence located within the buffer yard shall completely enclose the Data Center Property or Data Center Campus. Such fence shall meet the following requirements:

(a) Perimeter fences shall be constructed of high-quality, security-grade materials such as black powder-coated chain link, aluminum, or wrought-iron fencing. Fences shall not include barbed, razor, or concertina wire.

(b) Fences shall feature fire-department-accessible locking gates with high-security lock boxes (e.g., a KnoxBox).

(c) Fences surrounding power infrastructure, such as electrical substations, generators, and transformers, shall include clearly visible warning signs informing individuals of potential voltage hazards.

(6) Screening requirements.

(a) Ground-mounted equipment. All ground-mounted equipment yards, electrical substations, BESS units, and above-ground fuel storage tanks shall be completely screened behind a minimum eight (8) foot high security fence or wall with controlled access gates. The use of screening vegetation is also encouraged in addition to the required fence or wall.

(b) Roof-mounted equipment. On all sides of each building, roof-mounted equipment shall be fully screened or hidden with a parapet wall or enclosed penthouse that is consistent and harmonious with the building's facade and character. Such screening shall be provided in order to conceal the equipment from off-site view and to buffer noise. Equipment that exceeds that height of the parapet wall shall be set back from the edge of the roof by a distance of no less than the height of said equipment.

(c) Except where not mechanically feasible based on manufacturer specifications, individual equipment shall be fully enclosed to mitigate noise.

(d) Loading bays, refuse collection areas, and service entrances shall be visually screened with fences, walls, and/or vegetation from public streets, sensitive receptor uses, and residential districts.

(7) Utility undergrounding. All newly constructed electrical conveyance/transmission lines, electrical distribution lines, telecommunications lines, fiber-optic lines, and similar utility infrastructure serving a Data Center or Data Center Campus shall be installed underground unless the applicant demonstrates to the satisfaction of the Board of Supervisors that underground installation is infeasible due to topography, environmental constraints, utility provider requirements, or other extraordinary conditions. Any above-ground utility infrastructure needed shall be minimized to the

greatest extent practicable, particularly in required buffer yards, and screened from public view and adjacent properties through landscaping, berms, fencing, or other methods approved by the Township.

C. Performance standards and requirements.

(1) Environmental Impact Statement. The environmental impact statement specified for all conditional uses in § 127-56 shall be required for Data Centers, Data Center Campuses, Data Center Accessory Uses, and Data Center Equipment (DCE). If the above uses will be submitted under one combined conditional use application, one environmental impact statement may likewise be submitted covering all components of the project.

(2) Noise.

(a) Noise limits. During normal operations, noise generated by a Data Center, Data Center Campus, Data Center Accessory Uses, and/or Data Center Equipment (DCE) shall be in accordance with the following requirements.

[1] Daytime noise limits (8:00 AM to 5:00 PM, Monday through Friday):

[a] Data Centers, Data Center Accessory Uses, and Data Center Equipment (DCE) shall not have an L_{eq} exceeding 60 dBA during the daytime.

[b] Daytime L_{max} shall not exceed 60 dBA at any time.

[c] Measurements shall be taken at both (1) the lot line and (2) the closest lot line of the nearest sensitive receptor.

[2] Nighttime noise limits (5:00 PM to 8:00 AM, Monday through Friday, and all day Saturday, Sunday, and holidays):

[a] Data Centers, Data Center Accessory Uses, and Data Center Equipment (DCE) shall not have an L_{eq} exceeding 50 dBA during nighttime.

[b] A nighttime L_{max} limit shall also apply and shall not exceed L_{eq} + 5 dB (i.e., 55 dBA L_{max}).

[c] Measurements shall be taken at both (1) the lot line and (2) the closest lot line of the nearest sensitive receptor.

[3] Pure tone adjustment. If a pure tone is present, as defined by ANSI S1.13, a 5 dBA penalty shall be added to the measured L_{eq} and L_{max} values for compliance purposes.

(b) Required Sound Studies.

[1] Preliminary/Predictive Sound Study. A preliminary sound study shall be submitted with the Conditional Use application, including recommended sound-reducing materials/systems to meet the limits.

[2] Interim Sound Study. An interim sound study shall be submitted during the building permit process based on proposed users/equipment; recommended attenuation materials/systems shall be incorporated into construction plans.

[3] As-Built Sound Study. An as-built sound study shall be conducted six (6) months after issuance of a certificate of occupancy for each project phase and prior to final escrow release. Completion of each required as-built sound study shall be a condition of continued approval and escrow release.

[4] Bear Creek Township may require additional as-built sound studies thereafter, to be conducted at the Data Center Applicant, Developer, Operator, or Owner's expense.

[5] Low frequency noise evaluation, when applicable. The Township may require evaluation of low-frequency noise where complaints or studies demonstrate potential impacts.

[6] Measurement standard. Compliance shall be evaluated and measured with properly calibrated ANSI S1.4 (or successor) Type 1 or Type 2 sound level meters and using generally accepted environmental noise methodology, such as ISO 9613-2 series methods.

[7] All sound studies and evaluations shall be conducted by a professional acoustical expert paid for by the Data Center Applicant.

[8] The studies shall evaluate and report anticipated decibel levels in different scenarios, examining all exterior utility functions of the buildings that produce sound and including when all emergency power generation equipment is running, including backup generators.

[9] All studies shall include a Noise Mitigation Plan identifying all building and power systems which make noise that can be heard outdoors and shall further identify all mufflers or sound-dissipative devices that are to be used to prevent such systems from exceeding the maximum permitted sound levels specified.

[10] The studies shall demonstrate that the installation of one or more sound reducing materials or systems, or by distance of a noise source to a lot line, will effectively reduce the sound generated during both normal operations and emergency operations (time of power loss) to the maximum permitted noise levels specified in Subsection (a).

(c) If a reasonable complaint is registered with the Data Center Owner and/or Operator or the Township, the Data Center Owner and/or Operator shall respond to said complaint within 24 hours of notification and take whatever reasonable means necessary to alleviate and cure said complaint, should it be found to be with merit. Reasonable complaints involving noise shall be addressed through continuous monitoring for a period of 48 hours at the lot line of the Data Center Property or Data Center Campus nearest to the complainant's property. The Data Center Owner and/or Operator shall report findings to the Township and shall mitigate the problem in a timely manner. If it is determined by the monitoring that there is a violation of the noise limits in Subsection (a), it shall be considered a violation of this Ordinance.

(3) Vibration.

(a) Vibration limits. During normal operations, vibration generated by a Data Center, Data Center Campus, Data Center Accessory Uses, and/or Data Center Equipment (DCE) shall not exceed a vibration velocity level (VdB) of:

[1] 65 VdB for any period of 30 seconds or longer.

[2] 80 VdB at any time.

(b) Required Vibration Studies.

[1] The Data Center Applicant shall provide Preliminary/Predictive and As-Built Vibration Studies prepared by a qualified professional that demonstrates that no vibration from the Data Center, Data Center Accessory Uses, or Data Center Equipment (DCE) will be perceptible to the human sense of feeling beyond the lot line of the Data Center Property or Data Center Campus.

[2] The As-Built Vibration Study shall be conducted when the facility is fully operational and when backup generators and emergency power generation equipment are running.

[3] Bear Creek Township may require additional as-built vibration studies thereafter, to be conducted at the Data Center Applicant, Developer, Operator, or Owner's expense.

(c) If a reasonable complaint is registered with the Data Center Owner and/or Operator or the Township, the Data Center Owner and/or Operator shall respond to said complaint within 24 hours of notification and take whatever reasonable means necessary to alleviate and cure said complaint, should it be found to be with merit. Reasonable complaints involving vibration shall be addressed through continuous monitoring for a period of 48 hours at the lot line of the Data Center Property or Data Center Campus nearest to the complainant's property. The Data Center Owner and/or Operator shall report findings to the Township and shall mitigate the problem in a timely manner. If it is determined by the

monitoring that there is a violation of the vibration limits of Subsection (a), it shall be considered a violation of this Ordinance.

(4) Odors, dust, smoke, and air quality.

(a) Any use or activity producing dust, smoke, or odor in any form shall be conducted in such a manner that such externalities are not perceptible at or beyond the lot line of the Data Center or Data Center Campus.

(b) Any process which causes an odor emission shall be operated in a manner such that escaping odors are eliminated. Backup odor reduction equipment shall be maintained to support primary odor reduction equipment.

(c) No system component of a Data Center, Data Center Accessory Use, or Data Center Equipment (DCE) shall discharge pollutants, vapors, or toxins into the air inconsistent with PA DEP and U.S. Environmental Protection Agency (EPA) regulations.

(d) Back-up power equipment shall minimize air pollutant emissions and meet or exceed applicable state and federal laws regulating emissions.

(e) No person shall cause, suffer, or permit the emission of fugitive particulate, vaporous or gaseous matter from any source in such a manner that the emission is visible or detectable outside the property of the person where the source is being generated.

(f) Visible air contaminants shall not be emitted in such a manner that the opacity of the emissions is equal to or greater than 20% for a period or periods aggregating more than three (3) minutes in any one (1) hour, or equal to or greater than 60% at any time, and shall comply with Pennsylvania Code Title 25, Chapter 127A(7), or its most recent update.

(g) Ongoing Air Quality Reports. Annual air quality testing shall be performed, and all reports shall be provided to the Township and other relevant state and federal agencies to ensure that Data Center Equipment (DCE) is performing as designed and emissions from the Data Center do not exceed allowable regulated limits.

(5) Heat.

(a) No Data Center, Data Center Accessory Use, or Data Center Equipment (DCE) shall generate heat or humidity that may be felt by persons of average sensitivities beyond the lot lines of the Data Center Property or Data Center Campus.

(b) Required Heat Mitigation Plan. A Heat Mitigation Plan shall be submitted and include, at a minimum:

(c) Identification of primary sources of waste heat.

(d) Evaluation of potential off-site thermal impacts under representative seasonal conditions.

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

(f) Evaluation of feasible opportunities and strategies for waste heat reuse or dissipation to offset heat island effects. Where reuse is not feasible, the reason(s) why should be given, in which case alternative mitigation shall be identified.

(g) The plan shall be prepared and certified by a qualified professional engineer and shall be subject to review and comment by the Township.

(6) Fire, explosions, and emergencies.

(a) No Data Center, Data Center Campus, Data Center Accessory Use, or Data Center Equipment (DCE) shall be approved unless the Data Center Applicant demonstrates that procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of the public's safety.

(b) An emergency shut-off device (ESD) shall be installed near the Data Center Property or Data Center Campus entry gate and also at the structures within the Property or Campus. This ESD shall be usable by emergency personnel and shall shut off power generation and render the facility safe to allow for inspection, service, and emergency services.

(c) Required Emergency Response Plan (ERP). Data Center Applicants shall submit an Emergency Response Plan (ERP) prepared by a qualified professional that meets the standards of NFPA 75, Standard for the Fire Protection of Information Technology Equipment. The ERP shall:

[1] Be coordinated with, reviewed, and accepted by local emergency management officials, including, but not limited to, the Bear Creek Volunteer Hose Company and the Luzerne County Emergency Management Agency.

[2] Include detailed procedures and plans for fire suppression; incident containment; ventilation and smoke control; evacuation; fuel and hazardous material spills; refrigerant leak response, including but not limited to chillers, ammonia systems, and hydrofluoroolefins (HFOs); designated assembly points; emergency system shutdown procedures; and emergency notification procedures.

[3] Show that the Data Center or Data Center Campus has a plan in effect to deal with emergencies resulting from fires, explosions, flooding, and catastrophic weather events.

[4] Include an evaluation of the access roads (including turning radii and internal circulation), gate controls, and hydrant locations within the Data Center Property or Data Center Campus to ensure safe emergency egress and suitable access for emergency equipment.

[5] Furnish evidence of an on-site water supply adequate for and exclusively used for firefighting purposes, including fire flow calculations and hydrant capacities. The supply must include ample water to mitigate a fire in anticipation of a 20-minute response time for fire service arrival and shall be approved by the Chief of the Bear Creek Volunteer Hose Company.

[6] Include provisions for annual fire and life-safety inspections to be performed by a qualified professional with participation of local emergency management officials, and with written inspection reports maintained by the Data Center Owner and/or Operator.

[7] Include a commitment that the Data Center Owner and/or Operator will participate in annual emergency management and fire mitigation training, including facility tour, with all first responders, who shall receive adequate training specific to the facility.

(7) Lighting and glare.

(a) Any lighting proposed at the Data Center or Data Center Campus shall demonstrate consistency with the reduction standards listed in the International Dark Sky Association Model Ordinance.

(b) Lighting shall be shielded and aimed so as not to project output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward, or onto a public roadway.

(c) The illumination projected beyond the lot line of the Data Center or Data Center Campus shall at no time exceed 0.5 foot-candles when measured from six (6) feet above the ground from any point on an adjacent property.

(d) Glare control shall be achieved using such means as cutoff luminaires, shields, baffles, and appropriate application of luminaire mounting height, wattage, aiming angle, and placement.

(e) Luminaires shall not be mounted more than 20 feet above the finished grade of the surface being illuminated. No pole-mounted lighting on building roofs shall be permitted.

(8) Floodplains. No Data Center Principal Building, electrical substation, BESS facility, fuel storage area, or critical infrastructure shall be located within a FEMA-designated 100-year floodplain. Development within a 500-year floodplain may be permitted upon demonstration by a qualified professional engineer that the proposed

development will not create flood hazards, operational risks, or adverse impacts to public safety.

(9) Surface waters and groundwater.

(a) Data Centers, Data Center Accessory Uses, and Data Center Equipment (DCE) shall include containment systems to prevent chemicals, fire suppressant agents, or similar hazards, including PFAS, from contaminating soil, surface water, groundwater and public or private wells, and to minimize the risk of human exposure.

(b) Data Center uses shall minimize impacts to surface waters and the surrounding environments that depend on them, including riparian buffers. When a riparian buffer exists on the Data Center Property or Data Center Campus, it shall, to the greatest extent possible, be left intact, undisturbed, and undeveloped at a width of no less than 150 feet as measured from the natural waterline up the slope of the bank, to allow for the natural succession of native vegetation.

(c) Required Drought Contingency Plan. A Drought Contingency Plan for the Data Center shall be submitted detailing procedures that will be undertaken if the Township, County, or Commonwealth declares a water shortage due to a drought emergency.

(10) Public water supply.

(a) Data Centers and Data Center Campuses shall utilize public water or water transported from a non-Township-based groundwater source. A letter from an existing water company or authority indicating said company or authority can adequately serve the proposed Data Center or Data Center Campus shall be provided, along with any conditions required for the provision of service.

(b) Data Centers and Data Center Campuses shall utilize closed-loop cooling systems, recirculation, or another means of water efficiency and water conservation to reduce the need for drawing on the public water supply.

(c) Required Water Demand and Supply Study. A Water Demand and Supply Source Plan shall be submitted detailing, at a minimum, the total daily intake volume and source(s) of Data Center water, discharge volumes and destinations, and cooling system type and efficiency. The plan shall be prepared and certified by a qualified professional engineer and shall be subject to review and comment by the Township.

(11) Stormwater.

(a) Data Centers and Data Center Campuses shall comply with all stormwater management requirements in § 109-92 and in the management plan of the applicable watershed (see Chapter 104). All stormwater management best management practices (BMPs) shall be designed, implemented, operated, and

maintained in accordance with PA DEP's Pennsylvania Stormwater Best Management Practices Manual and Erosion and Sediment Pollution Control Program Manual, as amended and updated.

(b) Required Stormwater Management Plan. A Stormwater Management Plan meeting the requirements of § 109-92.G shall be submitted as part of the conditional use application for a Data Center or Data Center Campus.

(12) Wastewater.

(a) Data Center Applicants shall demonstrate that adequate wastewater disposal has been provided for domestic wastewater through facilities approved by the Township Sewage Enforcement Officer and/or PA DEP, and any other agency with jurisdiction. Proposed on-lot sewage disposal systems shall complete the test pit procedure required under § 109-33 and are subject to the requirements of Chapter 101 of the Township Code, Sewers and Sewage Disposal.

(b) Required PA DEP Sewage Facilities Plan. All Data Center Applicants shall complete the PA DEP sewage facilities planning module unless approved for an exemption. A copy of the sewage facilities planning module and all accompanying data required by PA DEP shall be submitted.

(c) Required will-serve/feasibility letter. If public sewer will serve the use, the applicant shall demonstrate that capacity is available and shall provide a will-serve letter from the applicable Sewer Authority, providing notice that said Authority can adequately serve the proposed Data Center or Data Center Campus and accept the conveyance of wastewater for treatment and disposal, including any conditions required for the provision of service.

(d) Any wastewater associated with industrial processes, including but not limited to closed loop cooling system flush-out and/or backwash waste, shall be disposed off-site in accordance with a Township and PA DEP-approved water reclamation plan.

(13) Solid waste.

(a) Disposal of solid waste, including hazardous materials and electronic waste (e-waste) shall be in accordance with PA DEP and U.S. Environmental Protection Agency (EPA) regulations.

(b) Required e-Waste and Hazardous Waste Disposal Plan.

[1] Data Center Applicants shall provide the Township with a plan for managing hazardous waste, including procedures for the lawful disposal, reuse, and/or recycling of electronic waste (e-waste) and other materials including but not limited to, computers, computer servers, server infrastructure, batteries and battery components, hazardous and extremely hazardous substances, and related materials.

[2] Such plan shall include protocols for any substances used in the operation of the Data Center, Data Center Accessory Uses, and Data Center Equipment (DCE) that are included on PA DEP's Regulated Substances List, materials classified as electronic waste (e-waste) by the U.S. Environmental Protection Agency (EPA), and devices regulated by the Commonwealth of Pennsylvania's Covered Device Recycling Act (CDRA; Act of Nov. 23, 2010, P.L. 1083, No. 108, as amended).

(14) Power supply, operational and backup.

(a) On-site power generation and distribution.

[1] Any energy generation and/or distribution facilities designed or intended to supply power directly to a Data Center or Data Center Campus during normal operations, including but not limited to solar energy systems producing over 25 kWh, wind energy systems, fossil fuel energy generation systems, hydrogen generation systems, or nuclear energy generation systems, shall not be considered part of the Data Center use and shall constitute a separate principal use.

[2] Proposed energy generation and/or distribution facilities shall comply with all zoning regulations and performance standards of § 127-68.4 and with any other applicable laws, ordinances, and permitting requirements.

[3] All Data Center Principal Building roofs shall be "solar-ready," which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of roof-mounted solar energy systems at some point after the building has been constructed.

(b) Battery energy storage systems (BESS).

[1] Any Data Center or Data Center Campus proposing battery energy storage systems (BESS) capable of storing electrical energy for use at a later time shall demonstrate compliance with § 127-68.3 as well as with NFPA Standard 855, Standard for the Installation of Stationary Energy Storage Systems, including through the provision of plans, materials, and procedures meeting such standard.

[2] BESS installations shall not be located within 150 feet of a stream, wetland, or 100-year floodplain.

[3] All BESS shall be designed, erected, and installed in accordance with all applicable provisions of the Building Code and Fire Code, all applicable state and federal regulations (including applicable environmental standards), and all applicable standards in Chapter 109 of the Township Code, Subdivision and Land Development.

[4] BESS and associated equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540, Standard for Battery Energy Storage Systems and Equipment, or approved equivalent, with subcomponents meeting each of the following standards as applicable:

[a] UL 1973, Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications.

[b] UL 1642, Standard for Lithium Batteries.

[c] UL 1741 or UL 62109, Inverters and Power Converters.

[d] Certification under the applicable electrical, building, and fire prevention codes as required.

[5] All BESS shall be used with a battery management and monitoring system, with real-time information on system operation, alert systems, and automatic shut-off capabilities.

[6] BESS installations shall include suppression, fire detection, thermal monitoring, gas detection, ventilation, and emergency shutdown systems specifically designed for the installed technology.

(c) Generators.

[1] Diesel generators, whether portable or permanent, shall be used sparingly and may not be located closer than 200 feet from any residential district or sensitive receptor. There shall be a minimum separation between individual diesel generators of five (5) feet.

[2] Generator testing shall only take place between 10:00 a.m. and 4:00 p.m., Monday through Friday, unless emergency conditions require otherwise.

[3] The applicant shall provide a generator testing and maintenance schedule with projected annual hours. No more than 25% of the generators will be tested at one time. The equipment shall be containerized during the testing.

[4] Routine generator testing shall not exceed thirty (30) minutes per month.

[5] Documentation of generator runtime shall be maintained on-site and made available to the Township upon request.

[6] Diesel generators shall meet the requirements of all applicable emissions standards from DEP; the Air Pollution Control Act, 35 P.S. §§ 4001 through 4015, as amended; and National Emissions Standards for Hazardous Air Pollutants administered by the U.S. Environmental Protection Agency (EPA) under the Federal Clean Air Act (42 U.S.C. § 7412) as promulgated in 40 CFR 61, or its most recent update.

[7] Proposals for diesel generators should use U.S. Environmental Protection Agency (EPA) Tier IV with selective catalytic reduction systems or, if practical, use alternative fuels such as hydro-treated vegetable oil. Onsite battery systems can help reduce the amount of time diesel generators must be run when line voltage is insufficient.

[8] Diesel generators shall include a muffler or sound-dissipative device to limit noise. Noise shall not exceed the maximum sound levels specified in § 127-68.1.C(2)(a) when measured at the lot lines of the Data Center Property or Data Center Campus, using ANSI standard meters. Exceptions may be allowed during emergencies which must be temporary in nature.

[9] To reduce sound and exhaust, any grouping of two (2) or more non-portable diesel generators shall be surrounded by a fence or wall with a fire-department-accessible gate as well as permanent evergreen shrubbery or tree plantings of a type that will grow to not less than the heights of the fence or wall.

(d) Required Energy Management Plan. Data Center Applicants shall provide an Energy Management Plan with their conditional use application. The plan shall provide or identify, at a minimum:

[1] Annual electricity demand.

[2] Energy supply sources that will be utilized.

[3] Energy storage capacity, if applicable.

[4] Proposed sources of backup power.

[5] Energy efficiency and emissions projections based on the plan.

(e) Required will-serve/feasibility letter. Data Center Applicants shall provide verification that adequate capacity is available on the available electric conveyance/transmission lines and substation and will not negatively impact the power available to other customers within the Township. Impacts on electric rates or availability for other uses directly attributable to the Data Center project shall be documented and made available to the Township as requested.

(f) Any data center with peak demand at any given moment that is less than or equal to 25 MW shall not be required to comply with the Commonwealth of Pennsylvania GRID Requirements. Per Commonwealth of Pennsylvania Executive Order 2026-05, any data center with peak demand at any given moment that is greater than 25 MW shall be required to comply with Pennsylvania GRID Requirements.

(15) Steep slopes, soil erosion, and sedimentation.

(a) The specific measures for minimizing erosion and sedimentation listed in § 109-85.B shall be incorporated into site planning for Data Centers, Data Center Accessory Uses, and Data Center Equipment (DCE) and shall be followed during their construction.

(b) Development on and disturbance of hydric soils and slopes of 25% or greater shall be avoided to the greatest extent feasible and where required by law.

(c) Required Erosion and Sedimentation Control Plan. An Erosion and Sedimentation Control Plan shall be submitted in accordance with § 109-85.

(16) Traffic Impact Study.

(a) All Data Center and Data Center Campus applications shall be accompanied by a Traffic Impact Study (TIS) prepared by a certified professional engineer, experienced in traffic engineering studies, licensed by the Commonwealth of Pennsylvania. All costs of the traffic study shall be borne by the property owner or applicant. The following components shall be required:

[1] General site description. A detailed description of the highway network in the immediate vicinity of the site, a description of the proposed land uses, the anticipated stages of construction and the anticipated completion date of the proposed Data Center or Data Center Campus. This description shall include a map of the immediate vicinity of the site with the following items: all major intersections, all proposed ingress and egress locations, all existing and proposed streets, right-of-way and driveway widths, including cartway and shoulder widths, vertical grades, horizontal curvatures, obstructions, sight distance, posted speed limits, signage, existing traffic control devices, and other notable features.

[2] Description of the existing traffic conditions and volumes (weekday, morning, and evening peak hours and one Saturday peak hour).

[3] Transportation impact of the Data Center or Data Center Campus using the ratios and methodology contained in the current edition of the Manual of the Institute of Traffic Engineers (ITE).

[4] Determination of street and intersection service levels.

[5] Traffic accident history.

[6] Impact on pedestrians.

[7] Traffic improvements, planned or recommended (e.g., additional traffic lanes, traffic signal, traffic signage, etc.).

[8] Estimates of trip generation. Trip generation can be estimated using any one of the following three methods: analogy, trip distribution model or

surrogate data. Whatever method is used, trip distribution shall be estimated and analyzed for the horizon year and a ten-year projection (both with and without development). Consideration should also be given to whether inbound and outbound trips will have similar distributions.

(b) If the operating speed of 85% or more of the vehicles using the subject street exceeds the posted speed limit by more than 10 miles per hour, then the 85th percentile speed of vehicles shall be used by the TIS.

(c) The TIS shall be submitted to the Township Engineer for review and comments. A copy of the TIS shall also be forwarded to the PennDOT if roadways under their jurisdiction are in the study area and site access requires a highway occupancy permit.

(d) When a proposed Data Center or Data Center Campus is projected to have an adverse impact on local transportation sufficient to exceed an acceptable level of service or standard defined by the Pennsylvania Code, Title 67, Chapter 201 regulations, or its succeeding regulations, then the Township may require changes to the proposed development plan in order to ensure adequate mitigation of negative traffic impacts. These required changes may include, but are not limited to:

[1] Altering the proposed development plan to reduce impacts.

[2] The phasing of construction plans to coincide with the completion of state or municipal transportation improvements. (Phasing shall not be required unless the improvements have been budgeted for by the responsible body and scheduled for commencement no later than six (6) months after approval of the proposed Data Center or Data Center Campus and for completion no later than 18 months after said approval date.)

[3] The construction of transportation improvements within the proposed Data Center Property or Data Center Campus, or in the immediate vicinity thereof necessary for directing, providing, or controlling access to the site. (Such improvements shall be limited to the aforesaid needs which are proximately caused by and directly benefit the proposed Data Center or Data Center Campus and are to be separate and distinct from general transportation improvements contemplated under Article V-A of the Pennsylvania Municipalities Planning Code (MPC).)

(17) Security.

(a) Data Centers, Data Center Campuses, Data Center Accessory Uses, and Data Center Equipment (DCE) shall be adequately secured with fencing and tamper-resistant self-locking gates to prevent unauthorized access.

(b) Required Security Plan. A Data Center Property/Campus Security Plan shall be submitted in consultation with the Township Police (or Pennsylvania State

Police, as the situation currently exists). The Security Plan shall address the security needs to protect the health and safety of the occupants of the proposed Data Center, identify the forms of security that will normally be required, and detail the specific measures to be taken in the construction, development, and operation of the Data Center so as to provide appropriate security. At a minimum, the Security Plan shall provide for the restriction of unauthorized entry to and from the property and for a barrier by means of a combination of fencing and warning signs.

(18) Communications.

(a) Electrical and communications interference prohibited. Data Centers, Data Center Accessory Uses, and Data Center Equipment (DCE) shall not interfere with radio, television, telecommunications, or other electrical signals. There shall be no activities which emit dangerous or harmful radioactivity or that adversely affect the operation of any equipment located beyond the boundaries of the Data Center Property or Data Center Campus.

(b) Adequate radio coverage required. Data Center Applicants shall ensure there is adequate radio coverage for emergency responders at and within the Data Center Property or Data Center Campus and within the interior of all buildings, and shall install enhancement systems if needed to meet compliance.

(19) Decommissioning.

(a) Data Centers that cease operation for 12 consecutive months shall be deemed abandoned and decommissioned accordingly. The Data Center Owner and/or Operator is required to notify the Township immediately upon permanent cessation or abandonment of the Data Center.

(b) Required Decommissioning Plan. A Decommissioning Plan shall be provided as part of the conditional use application to ensure removal of improvements and restoration of the Data Center site if deemed abandoned. The Decommissioning Plan shall include the following items:

[1] Cost estimate for decommissioning and removal activities, including:

[2] Removal of all structures, pads, and equipment to a minimum depth of three (3) feet below grade.

[3] Proper disposal of all electronic equipment, battery components, and hazardous materials in compliance with DEP and U.S. Environmental Protection Agency (EPA) regulations.

[4] Disconnection and discontinuation of public utilities.

[5] Site restoration with planting or seeding of native vegetation and soil stabilization.

[6] A detailed timeline identifying the anticipated length of time necessary to complete the decommissioning process.

[7] A detailed plan for the removal, demolition, disposal, recycling, and/or repurposing of all buildings, structures, equipment, utility infrastructure, foundations, fuel storage systems, battery energy storage systems (BESS), electrical substations, cooling systems, and other above-ground and below-ground improvements associated with the Data Center.

[8] A description of the extent of site restoration proposed, including grading, stabilization, revegetation, and removal of impervious surfaces where applicable.

[9] A plan for completion of a post-decommissioning Phase I Environmental Site Assessment (ESA), and such additional environmental investigations or remediation as may be required by applicable law or recommended by the environmental professional preparing the assessment.

[10] A plan for coordination with applicable public utility providers regarding the safe disconnection, removal, relocation, abandonment, or transfer of electric, water, sewer, telecommunications, gas, and other utility infrastructure during the decommissioning process.

(c) Required financial security. Financial security provided in accordance with Section 509 of the Pennsylvania Municipalities Planning Code (MPC) in a form acceptable to the Township Solicitor to guarantee proper decommissioning, such as a posted bond. The amount of the security shall be sufficient to cover the full cost of removal of all Data Center buildings, Data Center Accessory Uses, and Data Center Equipment (DCE), and for restoration of the site. The requirements of the financial security shall be as follows:

[1] The Data Center Applicant, Developer, Owner, or Operator shall post financial security in the amount of 110% of the decommissioning cost, as approved by the Township Engineer, securing the decommissioning obligations of the Data Center and naming the Township as beneficiary, the original of which security shall be delivered to the Township. The form of the financial security shall be subject to the review and approval of the Township Solicitor.

[2] Every five (5) years after the date of providing the financial security, the Data Center Owner and/or Operator shall provide an updated decommissioning cost estimate to be approved by the Township Engineer. If the decommissioning financial security amount increases, the Data Center Owner and/or Operator shall remit the increased financial security to the Township within 30 days of the approval of the updated estimate by the Township. If the financial security amount decreases by greater than

10%, the Township shall release any amounts held in excess of 110% of the updated cost estimate.

[3] After the Data Center site is fully decommissioned and written certification is issued by the Township Engineer to the Board of Supervisors that the project parcel(s) have been restored to an environmentally stable condition substantially similar to the condition they were in prior to construction of the Data Center, the Township shall release the financial security.

[4] If the Data Center Owner and/or Operator fails to remove Data Center structures, accessory uses, and equipment in accordance with the requirements of this Section, the Township shall have the authority to execute upon the financial security, enter the property, physically remove structures, accessory uses, and equipment, and restore the property to its original, pre-construction condition. The Data Center Owner and/or Operator shall be liable for all costs incurred by the Township associated with the decommissioning, including attorneys' and engineering fees and any costs or fees associated with drawing on the financial security.

(d) Decommissioning activities.

[1] The Data Center Owner and/or Operator shall have 18 months in which to dismantle and remove Data Center Structures, accessory uses, and equipment, and to restore the site to an environmentally stable condition, in accordance with industry practice.

[2] The Data Center Owner and/or Operator is encouraged to resell or salvage materials to the fullest extent possible. However, materials that cannot be re-sold or salvaged shall be disposed of at a facility authorized to dispose of such materials in accordance with federal and state laws.

[3] Any soil exposed during the removal shall be stabilized in accordance with applicable standards.

[4] Any paved access drives from public roads shall remain for future use unless directed otherwise by the Township.

[5] Any necessary permits shall be obtained prior to decommissioning activities.

(e) Temporary ceasing of operations due to change in ownership or management. In the event that the present Data Center Owner and/or Operator has temporarily ceased its operation but is in the process of transferring ownership or operational management, the present Owner and/or Operator has the responsibility of notifying the Township. The decommissioning financial security also must be maintained during this time.

(20) Fiscal Impact Analysis. Data Center Applicants shall provide a Fiscal Impact Analysis prepared by a qualified professional with demonstrated expertise in financial and/or economic analysis which shall include the following:

(a) An estimate of the costs that may be incurred by the Township related to infrastructure, emergency preparedness, administrative costs, and police and fire protection.

(b) An estimate of the anticipated revenues to be generated by the Data Center or Data Center Campus, including revenues generated from real estate sales, real estate taxes and income taxes for the Township, school district, and Luzerne County.

(c) The educational and professional credentials and experience of the person that conducted the Fiscal Impact Analysis.

D. Other standards and requirements.

(1) Access management.

(a) Access to and from a Data Center or Data Center Campus shall be via an arterial or collector street as designated by Chapter 109 of the Township Code, Subdivision and Land Development, unless:

[1] The Data Center or Data Center Campus is to be located within an existing industrial or business park or industrial subdivision served by an existing local street; or

[2] The Data Center Applicant requests and the Board of Supervisors grants an exemption from this provision based on considerations related to the unique nature and circumstances of the site.

(b) A secondary means of ingress and egress shall be provided to the satisfaction of the Township, local fire officials, emergency management personnel, and any other emergency response agencies with jurisdiction.

(c) All Data Centers and Data Center Campuses shall provide 24-hour emergency contact signage visible at the access entrance to the property. Signs shall include the name of the company operating the Data Center, the Data Center Owner's name (if different), the telephone number, and the local electric utility company's name and telephone number.

(2) Parking and loading.

(a) Required off-street parking. 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 greater.

(b) Parking facilities shall be designed in accordance with Article XI of this Chapter.

(c) Loading and unloading areas shall be designed to limit noise, heat, and exhaust from traveling to adjacent residential districts and sensitive receptor uses.

(d) Sufficient space shall be provided around loading areas to allow for emergency vehicle access.

(3) Architectural standards and site sustainability.

(a) Any Data Center building façade facing a public roadway, residential zoning district, or sensitive receptor use shall incorporate at least two (2) of the following design elements along every 150 horizontal feet of exterior wall:

[1] A change in building material, pattern, texture, or color.

[2] A change in building height.

[3] Building step-backs or recesses having a minimum depth of five (5) feet.

(b) Data Centers are encouraged to implement low-impact development practices in site design, such as, but not limited to the following:

[1] Selection of a site that avoids sensitive lands such as wetlands, areas of intact woodland, and steep slopes.

[2] Minimization of land disturbance.

[3] Maximization of tree preservation.

[4] Minimization of impervious surfaces beyond the percentage required in § 127-68.1.A(5).

[5] Protection of existing riparian buffers in perpetuity through deed, conservation easement, permit conditions, or any other mechanisms that ensure long-term functioning and integrity of riparian buffer.

(c) Data Centers are encouraged to implement energy and resource efficiency practices, such as, but not limited to the following:

[1] Orientation of buildings to take advantage of passive cooling opportunities.

[2] Utilization of alternative energy sources (i.e., energy not derived from the burning of fossil fuels) as much as possible.

[3] Implementation of energy management best practices to monitor and regulate power consumption.

[4] Installation of water-efficient landscape materials.

[5] Utilization of reclaimed water for cooling and treatment of refuse water on-site.

[6] Pursuit of building performance benchmarking that meets LEED sustainability standards (with or without formal LEED certification).

(4) Construction phasing. Data Center Applicants proposing phased development shall submit a Construction Phasing Plan identifying each phase, timing, and supporting utility and stormwater infrastructure. Each approved phase of a Data Center or Data Center Campus shall independently comply with all applicable utility capacity, emergency management, stormwater management, traffic, noise, water supply, wastewater, and operational requirements of this Ordinance. The Township may require updated studies, reports, certifications, or agency approvals for each phase where conditions, infrastructure demands, or applicable regulations have materially changed since the approval of a prior phase.

(5) Developer's Agreement.

(a) Data Center Applicants shall, within 90 days after issuance of a conditional use permit for a Data Center or Data Center Campus, execute a Development Agreement, in a form approved by the Township, specifying all the terms and understandings relative to the construction and operation of the Data Center, the permit holder's responsibilities according to this Ordinance, and the requirements of the conditional use permit. All costs incurred by the Township, including attorney fees, in drafting and approving the Developer's Agreement, shall be paid by the Data Center Applicant.

(b) Contents of Developer's Agreement. The content of the Developer's Agreement shall, at a minimum, provide:

[1] A survey of the acreage involved in the proposed Data Center Property or Data Center Campus.

[2] A description of the ownership of the Data Center Property or Data Center Campus.

[3] General description of the Data Center facility and all associated site improvements.

[4] Written confirmation that the Data Center Owner and/or Operator shall maintain insurance coverage during development in amounts established by the Borough, naming the Township as an additional insured, and required insurance provisions after the development is completed.

[5] Written confirmation that the Data Center Owner and/or Operator will participate in annual inspections by the Township that include an inventory of the Data Center buildings to note changes in use and occupancy.

[6] A description of the timing and sequencing to complete the development of the Data Center. If the Data Center is to be developed in phases, a timeline to complete the construction of each phase shall be provided.

[7] A listing of any contingencies for removing Data Center buildings, structures, accessory uses, or equipment from service because of a reduction in needed capacity, a fire or other catastrophic event, or any other reason.

[8] A Host Community Agreement, as required under Subsection (c) below.

[9] The approved Final Land Development Plan and Conditional Use Permit shall be incorporated by reference and attached as an exhibit.

(c) Host Community Agreement. The holder of a conditional use permit for a Data Center or Data Center Campus shall enter into a Host Community Agreement with the Township. Such Host Community Agreement shall be included as part of the Developer's Agreement. The terms of the Host Community Agreement may include but are not necessarily limited to provisions related to:

[1] Environmental performance (e.g., noise, air quality, energy usage, water usage, wastewater discharge, and heat mitigation).

[2] Site design (e.g., landscaping, buffering and screening, fencing, lighting, and stormwater management).

[3] Public health, safety, welfare impact considerations (e.g., emergency management, noise testing, electronic waste, and decommissioning).

[4] Community engagement and transparency (e.g., public availability of information related to the use, complaint response processes, local hiring, and annual reporting).

E. Conditional use application requirements.

(1) Procedure. The procedure for approval of a Data Center or Data Center Campus conditional use shall be in accordance with § 127-53. Conditional use approvals required for Data Center Accessory Uses and Data Center Equipment (DCE) may be sought concurrently with those for the Data Center or Data Center Campus, with

decisions on all related conditional uses rendered at the same time under one (1) combined application.

(2) Required application materials. In addition to the materials required for a conditional use application specified in § 127-53.A and the Environmental Impact Statement specified in § 127-56, the following items shall be required for a Data Center or Data Center Campus, unless specifically exempted based upon a review of applicability:

(a) Project Narrative describing the proposed Data Center facility, Data Center Campus (if applicable), and all Data Center Accessory Uses and Data Center Equipment (DCE).

(b) Preliminary/Predictive Sound Study, in accordance with § 127-68.1.C(2)(b)[1].

(c) Preliminary/Predictive Vibration Study, in accordance with § 127-68.1.C(3)(b)[1].

(d) Heat Mitigation Plan, in accordance with § 127-68.1.C(5)(b).

(e) Emergency Response Plan (ERP), in accordance with § 127-68.1.C(6)(c).

(f) Drought Contingency Plan, in accordance with § 127-68.1.C(9)(c).

(g) Water Feasibility Study, if using nonpublic water, in accordance with § 127-68.1.C(9)(d).

(h) Water Demand and Supply Study, if using public water, in accordance with § 127-68.1.C(10)(b).

(i) Stormwater Management Plan, in accordance with § 127-68.1.C(11)(b).

(j) PA DEP Sewage Facilities Plan, in accordance with § 127-68.1.C(12)(b).

(k) e-Waste and Hazardous Waste Disposal Plan, in accordance with § 127-68.1.C(13)(b).

(l) Utility Feasibility Package with will-serve/feasibility letters (or equivalent) from all applicable utility providers (electric, water, and wastewater/sewer), in accordance with § 127-68.1.C(10)(c), § 127-68.1.C(12)(c), and § 127-68.1.C(14)(e), confirming capacity while maintaining levels of service to existing users and identifying any impacts on utility service availability, reliability, and infrastructure for other users as a result of the Data Center.

(m) Specification sheets, manuals, and certifications for any battery energy storage systems (BESS) and generators used (e.g., NFPA compliance, UL certification, U.S. EPA Tier rating, etc.).

(n) Generator testing and maintenance schedule and emissions information, in accordance with § 127-68.1.C(14)(c)[3].

(o) Energy Management Plan, in accordance with § 127-68.1.C(15)(d).

(p) Site Development Plans and Reports, including but not limited to those showing building footprints, site layout, landscaping and buffer yards, grading, parking areas, and access/circulation.

(q) Erosion and Sedimentation Control Plan, in accordance with § 127-68.1.C(16)(b).

(r) Traffic Impact Study, in accordance with § 127-68.1.C(17).

(s) Construction Phasing Plan, if the project is to be phased, in accordance with § 127-68.1.D(4).

(t) Security Plan, in accordance with § 127-68.1.C(18)(b).

(u) Decommissioning Plan, in accordance with § 127-68.1.C(20)(b).

(v) Fiscal Impact Analysis, in accordance with § 127-68.1.C(21).

(3) Determination of application completeness. No conditional use application for a Data Center or Data Center Campus shall be deemed complete until all of the required documents listed in Subsection (2) are provided in full, without any omissions, unless a specific required submission item is exempted based upon a review of applicability. No public hearings will be scheduled for the conditional use application until the Township Zoning Officer determines said application to be complete.

(4) Findings and standards for approval and denial.

(a) In addition to the criteria in the Pennsylvania Municipalities Planning Code (MPC) and this Article's conditional use criteria, the Board of Supervisors shall only approve the conditional use application for a Data Center use upon finding, based on substantial evidence, that:

[1] The Data Center Applicant's submissions demonstrate compliance with all of the standards, provisions, and requirements of this Section.

[2] The Data Center Applicant has demonstrated adequate and sustainable utility capacity (electric, water, and wastewater/sewer) for the proposed project (including each project phase, if applicable) without materially impairing service to existing users.

[3] The Preliminary/Predictive Sound Study demonstrates compliance with the applicable limits under worst-case operating conditions, including emergency generator operation.

[4] The Emergency Response Plan (ERP), site design, and other required plans and studies provide reasonable and code-compliant measures to protect public health, safety, and welfare.

[5] The proposed use will not create unreasonable or hazardous impacts to adjoining properties that cannot be avoided or mitigated by enforceable conditions.

(b) The Board of Supervisors may deny an application if it determines that any of the above findings cannot be made.

(5) Revocation of a conditional use permit. A conditional use permit may revoked for violations of the performance standards in § 127-68.1.C, including repeated exceedances of noise and vibration limits, and for failure to submit annual Ongoing Air Quality Reports as required under § 127-68.1.C(4)(g).

§ 127-68.2. Solar energy systems.

A. Accessory Solar Energy Systems (ASES).

(1) Criteria applicable to all ASES.

(a) ASES producing up to 25 kilowatt hours (kWh) shall be permitted as an accessory use by right in all zoning districts.

(b) ASES producing greater than 25 kilowatt hours (kWh) shall be permitted as a conditional use in all zoning districts.

(c) The ASES shall be designed so that the energy created by the ASES is either primarily or solely to be used on-site.

(d) All solar energy systems shall be designed and located to ensure solar access without reliance on adjacent properties.

(e) Emergency power shut-off. All ASES shall be equipped with an emergency power shut-off switch or similar mechanism to immediately stop power transmission from the ASES to the main breaker and/or batteries. Plans for the ASES shall clearly indicate the location of the emergency power shut-off switch. The emergency power shut-off switch or similar mechanism to immediately stop power transmission from the ASES to the main breaker and/or batteries. Plans for the ASES shall clearly indicate the location of the emergency power shut-off switch.

(f) Glare Prevention. All ASES shall be situated to prevent glare onto nearby residences, structures, or roadways. Exterior surfaces shall have a non-reflective finish. The applicant/operator has the burden of proving that any glare produced does not have material adverse impacts on neighboring or adjacent uses either through siting or mitigation.

(g) The ASES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the Township's Building Code (including a building permit, if required), and with all applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application, including composition, toxicological information and the physical and chemical properties of all panels and energy storage devices.

(h) ASES installers must certify they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or

that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

[1] Is certified by the North American Board of Certified Energy Practitioners (NABCEP).

[2] Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV (Photovoltaic) training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.

[3] For residential applications, the ASES installer must also be a registered home improvement contractor with the PA Attorney General's Office.

(i) All ASES shall be placed such that concentrated solar radiation or glare does not negatively impact nearby structures or roadways. Exterior surfaces shall have a nonreflective finish.

(j) Upon installation, the ASES shall be maintained in good working order in accordance with the standards of the applicable codes under which the ASES was constructed. Failure of the property owner to maintain the ASES in good working order is grounds for enforcement action by the Township Zoning Officer.

(k) All solar-related equipment shall be removed within 12 months of the date when the ASES has been discontinued or abandoned by the Solar Energy Owner and/or Operator or upon termination of the useful life of same.

(l) All on-site utility connection lines and plumbing shall be placed underground.

(2) Roof-mounted and wall-mounted ASES. A roof-mounted or wall-mounted ASES may be located on a principal or accessory building and shall comply with all underlying district setback and height requirements as well as the following provisions:

(a) A Roof-Mounted or Wall-Mounted ASES may be located on a principal or accessory building.

(b) The total height of a building with an ASES shall not exceed by more than 1 foot above the maximum building height specified for principal or accessory buildings within the applicable zoning district.

(c) The owner shall provide evidence certified by an appropriately licensed professional that the roof or wall-mounted system complies with the Uniform Construction Code and that the roof or wall is capable of holding the load of the ASES and applicable wind loads.

(d) Wall-Mounted ASES shall comply with the setbacks for structures in the applicable zoning district where the ASES will be located.

(e) Solar panels shall not extend beyond any portion of the roof edge.

(f) Solar panels shall be placed at least thirty [30] inches from the edge of the roof for emergency response purposes.

(g) Zoning/building permit applications shall document compliance with these provisions.

(3) Ground-mounted ASES. Ground-mounted ASES shall comply with applicable yard setbacks, stormwater management requirements, buffering provisions and vegetation management standards of this Ordinance, as well as the following provisions:

(a) The minimum setbacks from side and rear lot lines shall be the same as accessory building setbacks in the applicable zoning district plus an additional ten (10) feet.

(b) A Ground-Mounted ASES shall not be located in the front yard.

(c) Height. Freestanding Ground-Mounted ASES shall not exceed the permitted height of accessory structures in the applicable zoning district.

(d) Location. Ground-Mounted ASES shall not be placed within any utility easement, public right-of-way, within any stormwater conveyance system, or in any manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system, unless the Applicant can demonstrate, to the satisfaction of the Township, that the ASES will not have a detrimental impact on stormwater management, or in any manner alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

(e) Removal. If a Ground-Mounted ASES is removed, any earth disturbance as a result of the removal of the Ground-Mounted Solar Energy System shall be graded and re-seeded to return the disturbed area to its original condition.

(f) Stormwater management.

[1] Stormwater runoff from an ASES shall be managed in accordance with the requirements of the Township's Stormwater Management Ordinance.

[2] All ground-mounted ASES shall have grass or other vegetation planted and maintained beneath the panels. No bare earth or gravel is permitted.

(g) Safety signage. Appropriate safety/warning signage concerning voltage shall be placed at ground-mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be secured to prevent unauthorized access or entry.

(h) Screening and buffering. Vegetative buffering shall be installed around the Ground-Mounted ASES in a manner which will, to the greatest extent feasible based upon the topography of the land, prevent the Ground-Mounted ASES from being seen from roadways adjacent to the Ground-Mounted ASES and/or any non-participating residential properties.

(4) Advertising prohibited. The display of advertising is prohibited except for reasonable identification of the manufacturer of the system, limited to application directly on system components, which shall comply with applicable Township sign regulations.

(5) Nonconformance. ASES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Section. Any physical modification to an existing ASES, whether or not existing prior to the effective date of this Chapter that materially alters the ASES after the effective date of this Section, shall require compliance with and approval under this Section. Routine maintenance or like-kind replacements do not require a permit.

B. Principal Solar Energy Systems (PSES).

(1) Within the Energy and Technology Overlay, PSES are not permitted in the following locations:

(a) Floodways, as identified in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).

(b) Regulated natural and/or man-made drainage corridors, extending twenty-five (25) feet from the top of bank as defined by Pennsylvania Department of Environmental Protection (PA DEP) centerline of any such drainage feature, unless approved by the PA DEP.

(c) Cemeteries.

(d) Public and/or utility rights-of-way.

(e) Private rights-of-way (unless written permission is received from servient property owner(s)).

(f) Setback areas.

(2) Standards. The PSES layout, design and installation shall comply with applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other equivalent certifying organizations. It shall also comply with the PA Uniform Construction Code, Act 45 of 1999, as amended, and any regulations adopted by the Pennsylvania Department of Labor and Industry as they relate to the Uniform Construction Code (UCC), except where another applicable industry standard has been approved by the Department of Labor and Industry under its regulatory authority.

(3) The PSES layout, design and installation shall comply with all other applicable fire and life safety requirements. This includes those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the

equipment manufacturers from Underwriters Laboratories (UL), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other equivalent certifying organizations.

(4) Standards. The PSES layout, design and installation shall comply with applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other equivalent certifying organizations. It shall also comply with the PA Uniform Construction Code, Act 45 of 1999, as amended, and any regulations adopted by the Pennsylvania Department of Labor and Industry as they relate to the Uniform Construction Code (UCC), except where another applicable industry standard has been approved by the Department of Labor and Industry under its regulatory authority.

(5) Solar panels must pass the United States Environmental Protective Agency (US EPA) Toxicity Characteristic Leaching Procedure Test (TCLP) to evidence their non-toxic status and be UL listed. It is also encouraged that the Applicant purchase the solar panels from a manufacturer that participates in the US Solar Industry Association recycling program or has another specific recycling contract. The manufacturer specifications for the key components of the PSES shall be submitted as part of the application, including composition, toxicological information and the physical and chemical properties of all panels and energy storage devices. Devices (ESD) and what is rendered safe by activating these devices, and other matters as deemed necessary by the Township. The Emergency Response Plan must be submitted with Applicant's Conditional Use Application materials. The Solar Owner/Operator must provide training to emergency service professionals regarding implementation of the Emergency Response Plan. All costs associated with specialized training and any necessary specialized equipment required to implement the Emergency Response Plan shall be paid for by the Solar Owner/Operator.

(6) If the PSES is being used as an accessory use to commercial/industrial activity on another property, then the Township shall be informed of the intent of the PSES in the Applicant's application materials.

(7) No Advertising. No portion of the PSES shall contain or be used to display advertising. A small sign at the PSES vehicular entrance gate is required to state the owner of the PSES, emergency contact information including a current operating phone number that is answered 24 hours/day, 7 days/week, and address information. During construction, the name and emergency contact information for the general contractor shall also be posted at the entrance gate. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided that such signage complies with the applicable Township sign regulations.

(8) All PSES shall be designed and located to ensure solar access without reliance on and/or interference with adjacent properties.

(9) By accepting a permit issued by the Township for the PSES, the Applicant shall be deemed to have acknowledged and agreed that the issuance of said permit shall not, and does not, create in the property owner, its/his/her successors and assigns in title or permit, create in the property itself:

(a) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining property or other property or the growth of any trees or vegetation on such property; or

(b) The right to prohibit the development or growth of any trees or vegetation on such adjacent property, and that any such rights would need to be acquired by other means such as a solar easement.

(10) Noise/Noise Management. An acoustical study that addresses noise produced during construction and during the PSES's operation shall be included with the permit application for review and approval by the Township.

(a) The plan, at a minimum, shall separately address noise during construction and facility operations and include proposed mitigation measures, an assessment of the noise that will emanate at the perimeter fence, and the contact information for the individual(s) who is/are responsible for implementation and compliance both during construction and operations.

(b) During operation of the PSES, ambient sound, as measured at the lot line, shall not exceed 50 decibels, whether or not such noise is intermittent or steady.

(11) Glare. The Applicant has the burden of proving that any glare produced by the PSES does not have adverse impacts on neighboring or adjacent uses either through siting or through mitigation. The Applicant shall provide a completed Glare Study ensuring that glare created by the PSES does not fall into the "red category" of glare as used in Sandia's Solar Glare Hazard Analysis Tool (SGHAT) or equivalent commercially available glare analysis tool as approved by the Township, with a one-minute interval over the course of an entire year. All adjacent roads and non-participating property owners' residences within 1,000 feet must be included in the Glare Study.

(12) Decommissioning. The following requirements apply to decommissioning:

(a) The Solar owner/operator is required to notify the Township immediately upon permanent cessation or abandonment of the operation of the PSES. The PSES shall be presumed to be discontinued or abandoned if no commercial production of commercial quantities of electricity is generated by such system for a period of twelve (12) continuous months.

(b) The Solar Owner/Operator shall have eighteen (18) months within which to dismantle and remove the PSES, including all solar-related equipment or

appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations, solar facility connections and the associated facilities in accordance with industry practice.

(c) In the event that the present Solar Owner/Operator has temporarily ceased its operation but is in the process of transferring ownership and PSES management/operation, the present owner/operator has the responsibility of notifying the Township. The decommissioning financial security also must be maintained during this time.

(d) The Solar Owner/Operator is encouraged to resell or salvage materials to the fullest extent possible. However, materials that cannot be re-sold or salvaged shall be disposed of at a facility authorized to dispose of such materials in accordance with federal or state law.

(e) Any soil exposed during the removal shall be stabilized in accordance with applicable standards.

(f) Any paved access drives from public roads shall remain for future use unless directed otherwise by the landowner.

(g) Any necessary permits, including Erosion and Sedimentation and National Pollutant Discharge Elimination System (NPDES) permits, shall be obtained prior to decommissioning activities.

(h) Prior to the start of construction and prior to executing a Developer's Agreement with the Township, the Solar Owner/Operator shall submit a decommissioning plan prepared by a professional engineer or contractor and approved by the Township Engineer that provides the estimated cost to remove the PSES and related infrastructure, including but not limited to: (1) the cost to remove foundations; (2) cost to remove pads; (3) cost to remove and recycle the panels, wiring, and related components; (4) cost to remove underground collector lines; (5) cost to remove permanent roads built on the project parcels as part of the construction of the PSES all to a depth of four feet below the surface; and (6) estimated cost to restore the project parcel(s) to an environmentally stable condition substantially similar to the condition of the project parcel(s) prior to construction of the PSES.

(i) Prior to construction and prior to executing a Developer's Agreement with the Township, the Solar Owner/Operator shall post financial security in the amount of one-hundred and ten (110%) percent of the Decommissioning Cost, as approved by the Township Engineer, securing the decommissioning obligations of the PSES and naming the Township as beneficiary, the original of which security shall be delivered to the Township. The form of the financial security shall be subject to the review and approval of the Township Solicitor.

(j) Every five (5) years after the date of providing the decommissioning financial security, the Solar owner shall provide an updated decommission cost estimate

to be approved by the Township Engineer. If the decommissioning financial security amount increases, the Solar owner shall remit the increased financial security to the Township within 30 days of the approval of the updated decommissioning financial security estimate by the Township. If the decommissioning financial security amount decreases by greater than 10%, the Township shall release any amounts held in excess of 110% of the updated decommission cost estimate.

(k) After the PSES is fully decommissioned and written certification is issued by the Township Engineer to the Board of Supervisors that the project parcel(s) have been restored to an environmentally stable condition substantially similar to the condition they were in prior to construction of the PSES, the Township shall release the decommissioning financial security.

(l) The decommissioning financial security shall be in a form to be approved by the Township's Solicitor. If the Solar Owner/Operator fails to remove the SEF in accordance with the requirements of this section, the Township, shall have the authority to execute upon the decommissioning financial security, enter the property, physically remove the PSES, and restore the property to its original, pre-construction condition. The Owner/Operator shall be liable for all costs incurred by the Township associated with the decommissioning, including attorneys' fees and engineering fees and any costs or fees associated with drawing on the financial security.

(m) All PSES are required to comply with the Land Development processes and procedures set forth in the Township's Subdivision and Land Development Ordinance.

(13) Ground-mounted PSES.

(a) The PSES development area is equal to the total acres of land subject to lease or owned by the Solar owner/operator. Where the area of land subject to the lease or owned is greater than [75% of the parcel], the entire parcel will be considered to be the PSES development area.

(b) Minimum Lot Size. The Ground-Mounted PSES shall be located on a lot that is to be at least [20 acre(s)] in size.

(c) Setbacks. Ground-Mounted PSES shall be set back a minimum of 200 feet from lot lines and 500 feet from any sensitive receptor. Additionally, all inverters shall be set back [650 feet] from all adjacent non-participating owner's residential structures.

(d) Height. Ground-Mounted PSES and associated components shall comply with the height regulations for the zoning district in which the PSES is located.

(e) Stormwater Management.

[1] Stormwater runoff from a Ground-Mounted PSES shall be managed in accordance with the requirements of the Township's Stormwater Management Ordinance, as amended.

[2] Where Solar Panels are mounted above the ground surface allowing for vegetation below the panels, the horizontal area of the panel may be considered a Disconnected Impervious Area (DIA), and therefore, will have no increase from the pre-development to post-development runoff coefficient (pervious surface). The horizontal area of the panel can only be considered a DIA if the following conditions apply:

[a] Where natural vegetative cover is preserved and/or restored utilizing low impact protection techniques from the Pennsylvania Department of Environmental Protection Stormwater Best Management Practices Manual, including, but not limited to the following: minimizing the total disturbed area, minimizing soil compaction in disturbed areas, and re-vegetating and re-foresting disturbed areas using native species.

[b] Where the vegetative cover has a minimum uniform 80% perennial vegetative cover with a density capable of resisting accelerated erosion and sedimentation.

[c] For panels located on slopes of 0 to 15%, a minimum 4" height of vegetative cover shall be maintained.

[d] Vegetated areas shall not be subject to chemical fertilization or herbicide/pesticide application, except for those applications necessary to establish the vegetative cover or to prevent invasive species and in accordance with an approved erosion and sedimentation control plan.

[3] Agrivoltaics may be used provided that:

[a] Only crops suitable for the conditions are used.

[b] A stormwater management plan is developed for agricultural plowing or tilling activities or a portion of the overall farm conservation plan identifies BMPs (best management practices) used.

[c] A grazing, cutting or mowing of the agricultural crop is limited to the accepted best management practice height for that crop.

[d] Application of chemical fertilization or herbicides/pesticides is limited to the agronomic needs of the crop(s).

[e] If the property will be used for grazing of livestock, and/or manure application to crop land, a manure management plan must be developed.

[f] Where the Solar Panels within a Solar Array are arranged in a fashion that allows the passage of stormwater runoff between each Solar Panel, thereby minimizing the creation of concentrated runoff and/or allows for the growth of vegetation beneath the panel and between the Solar Arrays.

[4] The horizontal area of a Solar Panel or Solar Array that cannot meet all the conditions to be considered a disconnected impervious area (DIA) shall be treated as impervious area. These areas shall be included in the pre-development to post-development runoff analysis as impervious area to determine the need for Post-Construction Stormwater Management (PCSM) best management practices.

[5] Use of gravel is permissible under a panel or in the receiving downhill flow path; however, the use of gravel would not allow the horizontal area of the Solar Panel or Solar Array to be considered as a DIA.

[a] All impervious areas associated with the PSES such as roadways and support buildings cannot be considered as DIAs and shall follow normal protocols when performing the PCSM stormwater analysis.

[b] Stormwater control must be maintained for the life of the development.

[6] Screening and Buffering. Ground-Mounted PSES shall be screened and buffered in accordance with the following standards:

[a] Vegetative buffering shall be installed around the PSES in a manner which will, to the greatest extent feasible based upon the topography of the land, prevent the PSES from being seen from roadways adjacent to the PSES and/or any non-participating residential properties.

[b] The vegetative buffering shall be installed along the exterior side of the fencing. All required vegetative buffering shall be located in a manner to achieve the goal of preventing the PSES from being seen from roadways and/or adjacent residential buildings to the fullest extent practicable.

[c] Vegetative buffering should be designed to emulate the mix of non-invasive native species and appearance of existing tree lines, hedge rows, and wooded areas already in existence within the landscape where the PSES is proposed. The trees shall be of such a height when planted as to provide immediate screening and shall be a

minimum of eight feet (8') in height. The trees shall be placed in close proximity to the fenced-in area while considering maintenance of the fencing and the trees.

[d] No less than 20% of vegetative buffering plantings shall be pollinator friendly species. Vegetative buffering shall be selected to provide year-round buffering and shall be of sufficient height, density, and maturity to screen the facility from visibility, as set forth herein within thirty-six (36) months of the installation of the PSES.

[e] The Solar Owner/Operator is required to maintain (and if necessary, replace) all vegetative buffering plantings during the life of the development.

[f] Buffering shall be sufficient to manage glare on roads adjacent to the PSES so that the glare is not hazardous to drivers.

[g] The Applicant shall submit a Viewshed Analysis and Landscaping Plan with its application to show compliance with the above-listed screening and buffering provisions.

[h] Landscape plans shall include tree species, caliper size, initial planting height minimum, height at maturity, age of maturity, and spacing.

(f) Security.

[1] All Ground-Mounted PSES shall be completely enclosed by fencing with a self-closing, locking gate. A fencing detail shall be submitted to the Township for review. The detail shall include location, height, type, gate location and details, and footing details.

[2] A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES informing individuals of potential voltage hazards.

[3] The entry gate shall be accessible 24 hours a day by emergency personnel and vehicles, whether by key, or access code, which shall be provided to the Township upon completion but before the PSES begins operation.

[4] An emergency shut off device (ESD) shall be installed near to the entry gate and also at the ancillary structures installed near the center of facility. This ESD shall shut off power generation and render the facility safe to allow for inspection, service, and emergency services and be usable by emergency personnel.

[5] The Township shall be provided the updated emergency contact information for all contractors, subcontractors and site-management agencies working on the construction of the PSES until its completion.

(g) Access.

[1] Stabilized access drives/roads that are maintained in a dust-free condition from a state, County or Township road are required in order to allow maintenance (including winter maintenance) and emergency management vehicles to access the PSES site. The roads, including minimum cartway width shall comply with applicable Township ordinances.

[2] Spacing between Solar Array rows shall allow access for maintenance and emergency vehicles.

(h) Lighting.

[1] Lighting at the PSES site, either temporary or permanent, shall be directed downward and inward so as to minimize the glare on public roads and structures on adjacent, non-participating properties.

[2] A lighting plan that demonstrates compliance shall be submitted to the Township for review at the time of submittal of the Conditional Use application.

[3] Flickering or intense sources of light shall be so controlled as not to cause a nuisance across any lot lines.

(i) Maintenance. The Solar Energy Facility must be properly maintained and be kept free from all hazards including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare.

(14) Roof-mounted and wall-mounted PSES. In addition to the regulations set forth above for all PSES, the Applicant for a roof- or wall-mounted PSES must comply with the following requirements:

(a) The Applicant shall provide evidence that the plans comply with the Uniform Construction Code, including that the roof or wall is capable of holding the load imposed on the structure.

(b) The total height of a building with a Roof or Wall-Mounted SEF shall not exceed by more than 1 foot above the maximum building height specified for principal or accessory buildings within the applicable zoning district.

§ 127-68.3. Battery energy storage systems (BESS).

A. Dimensional requirements.

(1) Minimum setbacks for BESS units:

(a) From sensitive receptor : 500 feet.

(b) From Residential Zoning District Lot Line (R-1 and R-2 : 200 feet.

(c) From all other Lot Lines: 200'

(2) Maximum height of BESS units: 20 feet.

(3) Maximum height of a building housing BESS units as the principal function of the building: 55 feet.

(4) Maximum height of supporting equipment serving the BESS, including ventilation towers and cooling equipment: 20 feet.

(5) Maximum gross building area for a building housing BESS units as the principal function of the building: 50,000 square feet.

(6) Maximum impervious surface coverage: 15%.

B. Access requirements.

(1) An access road meeting the standards for a public street in Chapter 109 of the Township Code, Subdivision and Land Development, shall be installed for use as a fire and emergency vehicle access road. Such road shall be directly accessible from a public roadway, capable of supporting up to 45 tons, and maintained year-round.

(2) Additional roads shall be constructed around BESS installations, extending 30 feet out from the edge of each installation and/or building.

C. Certification and regulatory compliance requirements.

(1) All BESS shall be designed, erected, and installed in accordance with all applicable provisions of the Building Code and Fire Code, all applicable state and federal regulations (including applicable environmental standards), and all applicable standards in Chapter 109 of the Township Code, Subdivision and Land Development.

(2) BESS and associated equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540, Standard for Battery Energy Storage Systems and Equipment, or approved equivalent, with subcomponents meeting each of the following standards as applicable:

(a) UL 1973, Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications.

(b) UL 1642, Standard for Lithium Batteries.

(c) UL 1741 or UL 62109, Inverters and Power Converters.

(d) Certification under the applicable electrical, building, and fire prevention codes as required.

D. Buffering, screening, fencing, and landscaping requirements.

(1) Landscape buffer yards are required between a BESS and any adjoining property outside of the I-1 District, residential districts, sensitive receptors, public roadways, and public rights-of-way.

(2) The landscape buffer yard shall be at least a width of 100 feet and may be part of the minimum required setback distance.

(3) Utilities and equipment shall not be located in the landscape buffer yard. If a utility must cross the landscape buffer yard, it shall be the minimum traversal distance and then only if every precaution is taken to make up for the lost visual screen.

(4) The preservation of as much existing vegetation as physically feasible is preferred for the use of screening, including the preservation of mature trees of six (6) inches in caliper or greater.

(5) Buffer plantings shall consist of native species planted as follows:

(a) One (1) large evergreen tree per 25 linear feet of buffer yard. 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 yard. Canopy (shade) trees shall be a minimum of two-and-one-half (2½) inches in caliper at the time of planting.

(c) One (1) ornamental or flowering tree per 50 linear feet of buffer yard. Ornamental trees shall be a minimum of eight (8) feet in height for multi-stemmed varieties or two-and-one-half (2½) inches in caliper for single-stemmed varieties at the time of planting.

(d) Five (5) shrubs per 25 linear feet of buffer yard. Shrubs shall be fully branched and a minimum of three (3) feet in height at the time of planting, with a minimum composition of 50% evergreen species.

(e) A berm of five (5) feet in height above the adjacent average grade with maximum side slopes of 3:1 shall be required in buffer yards abutting residential districts and sensitive receptor uses. The planting requirements in Subsection (a) shall be the same, whether located on a berm or at the existing grade. Areas between buffer plantings shall be stabilized with all-season ground cover. Where berms

are not feasible due to utilities, topography, or other valid constraints, the following alternative screening methods may be approved:

[1] Decorative walls with integrated landscaping (minimum of six (6) feet in height), as approved during the application process.

[2] Dense evergreen hedge planting (minimum of eight (8) feet in height at maturity).

[3] Combination of existing vegetation preservation and supplemental planting.

(f) Use of existing vegetation and topography to provide an equivalent visual screen is strongly encouraged and may be substituted in part for new plantings in required buffer yards if requested by the Applicant, recommended by the Township Engineer and Planning Commission, and approved by the Board of Supervisors.

(g) Stormwater management facilities may be located within required buffer yards but must be screened on the side closest to the lot line with buffer yard plantings.

(h) It shall be the responsibility of the BESS owner and/or operator to maintain all buffer yards in good condition, free of rubbish, and to replace any dying or dead plants or deteriorating landscape material. Plantings shall be maintained permanently, and any plant material which does not live shall be replaced at the start of the next growing season.

(6) BESS installations shall use architectural features, earth berms, landscaping, or other screening methods that will visually screen the BESS and associated mechanical equipment from adjacent properties and function as a sound barrier. These elements shall be designed to harmonize the BESS installation with the surrounding area but shall not interfere with ventilation or exhaust ports.

(7) Rooftop equipment located on buildings housing BESS units as the principal function of the building shall be appropriately screened by a parapet wall so that such equipment is not visible from the ground level. Any required parapet walls shall be included as part of the maximum height of the building.

(8) Fencing.

(a) BESS, including all mechanical equipment, shall be enclosed by a perimeter security fence with a self-locking gate to prevent unauthorized access.

(b) Fences shall feature fire-department-accessible locking gates with high-security lock boxes (e.g., a KnoxBox).

(c) Perimeter fences shall be constructed of high-quality, security-grade materials such as black powder-coated chain link, aluminum, or wrought-iron fencing. Fences shall not include barbed, razor, or concertina wire.

(d) A minimum of 30 feet of clearance shall be maintained on both sides of the perimeter security fence in order to provide emergency vehicle access.

E. Emergency management and safety.

(1) Required battery management and monitoring system. All BESS shall be used with a battery management and monitoring system, with real-time information on system operation, alert systems, and automatic shut-off capabilities. Such system shall alert of potentially dangerous conditions, shut down equipment when necessary, and be able to automatically summon services and repair personnel.

(2) BESS installations shall include suppression, fire detection, thermal monitoring, gas detection, ventilation, and emergency shutdown systems specifically designed for the installed technology.

(3) An emergency shut-off device (ESD) shall be installed near to the entry gate and also at the ancillary structures within the property. This ESD shall be usable by emergency personnel and shall shut off power generation and render the facility safe to allow for inspection, service, and emergency services.

(4) The entry gate to the BESS shall be accessible 24 hours a day by emergency personnel and vehicles, whether by key or access code, which shall be provided to the Township.

(5) A small sign at the BESS vehicular entrance gate is required to state the owner of the BESS, emergency contact information including address information and a current operating phone number that is answered 24 hours per day, seven (7) days per week.

(6) Clearly visible warning signs shall be posted on-site informing of potential hazards.

(7) Required Emergency Response Plan (ERP).

(a) The BESS applicant shall prepare an Emergency Response Plan (ERP) and ensure that emergency service professionals can safely, effectively, and reasonably respond to an emergency involving a BESS.

(b) The ERP shall document and verify that the BESS and its associated controls and safety systems are in compliance with the Fire Code.

(c) The BESS applicant shall collaborate with all emergency service agencies servicing the location of the BESS, including the Bear Creek Volunteer Hose Company and the Luzerne County Emergency Management Agency.

(d) The Chief of the Bear Creek Volunteer Hose Company shall approve the ERP as a condition of approval.

(e) A permanent copy of the ERP shall be kept in an approved location on-site to be accessible to facility personnel, fire officials, and emergency responders.

(f) The ERP shall include site orientation, location and review of Safety Data Sheet (SDS) documentation, review of emergency vehicle access, location of significant structures including emergency shut-off devices (ESD) and what is rendered safe by activating these devices, and other matters as deemed necessary by the Township, including but not limited to:

[1] Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.

[2] Procedures for inspection and testing of associated alarms, interlocks, and controls.

[3] Procedures to be followed in response to notifications from the battery management and monitoring system that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

[4] Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying emergency services, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

[5] Response considerations similar to a Safety Data Sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

[6] Procedures for dealing with BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged BESS equipment from the facility.

[7] Other procedures as determined necessary by the Board of Supervisors to provide for the safety of occupants, neighboring properties, and emergency responders.

[8] Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the ERP and appropriate response procedures.

[9] The BESS owner and/or operator must provide training to emergency service professionals regarding implementation of the ERP. All costs

associated with specialized training and any necessary specialized equipment required to implement the ERP shall be paid for by the BESS owner and/or operator.

F. Performance standards and requirements.

(1) Environmental Impact Statement. The environmental impact statement specified for all conditional uses in § 127-56 shall be required for BESS uses.

(2) Noise.

(a) Noise limits. During normal operations, noise generated by BESS units, buildings, and equipment shall be in accordance with the following requirements.

[1] Daytime noise limits (8:00 AM to 5:00 PM, Monday through Friday):

[a] BESS units, buildings, and equipment shall not have an L_{eq} exceeding 60 dBA during the daytime.

[b] Daytime L_{max} shall not exceed 60 dBA at any time.

[c] Measurements shall be taken at both (1) the lot line and (2) the closest lot line of the nearest sensitive receptor.

[2] Nighttime noise limits (5:00 PM to 8:00 AM, Monday through Friday, and all day Saturday, Sunday, and holidays):

[a] BESS units, buildings, and equipment shall not have an L_{eq} exceeding 50 dBA during nighttime.

[b] A nighttime L_{max} limit shall also apply and shall not exceed L_{eq} + 5 dB (i.e., 55 dBA L_{max}).

[c] Measurements shall be taken at both (1) the lot line and (2) the closest lot line of the nearest sensitive receptor.

[3] Pure tone adjustment. If a pure tone is present, as defined by ANSI S1.13, a 5 dBA penalty shall be added to the measured L_{eq} and L_{max} values for compliance purposes.

(b) Required Sound Studies.

[1] Preliminary/Predictive Sound Study. A preliminary sound study shall be submitted with the Conditional Use application, including recommended sound-reducing materials/systems to meet the limits.

[2] Interim Sound Study. An interim sound study shall be submitted during the building permit process based on proposed users/equipment;

recommended attenuation materials/systems shall be incorporated into construction plans.

[3] As-Built Sound Study. An as-built sound study shall be conducted six (6) months after issuance of a certificate of occupancy for each project phase and prior to final escrow release. Completion of each required as-built sound study shall be a condition of continued approval and escrow release.

[4] Bear Creek Township may require additional as-built sound studies thereafter, to be conducted at the BESS applicant, owner, and/or operator's expense.

[5] Low frequency noise evaluation, when applicable. The Township may require evaluation of low-frequency noise where complaints or studies demonstrate potential impacts.

[6] Measurement standard. Compliance shall be evaluated and measured with properly calibrated ANSI S1.4 (or successor) Type 1 or Type 2 sound level meters and using generally accepted environmental noise methodology, such as ISO 9613-2 series methods.

[7] All sound studies and evaluations shall be conducted by a professional acoustical expert paid for by the applicant.

[8] The studies shall evaluate and report anticipated decibel levels in different scenarios, examining all exterior utility functions of the buildings that produce sound and including when all emergency power generation equipment is running, including backup generators.

[9] All studies shall include a Noise Mitigation Plan identifying all building and power systems which make noise that can be heard outdoors and shall further identify all mufflers or sound-dissipative devices that are to be used to prevent such systems from exceeding the maximum permitted sound levels specified.

[10] The studies shall demonstrate that the installation of one or more sound reducing materials or systems, or by distance of a noise source to a lot line, will effectively reduce the sound generated during both normal operations and emergency operations (time of power loss) to the maximum permitted noise levels specified in Subsection (a).

(c) If a reasonable complaint is registered with the BESS owner and/or operator or the Township, the BESS owner and/or operator shall respond to said complaint within 24 hours of notification and take whatever reasonable means necessary to alleviate and cure said complaint, should it be found to be with merit. Reasonable complaints involving noise shall be addressed through continuous monitoring for a period of 48 hours at the lot line of the BESS use nearest to the complainant's property. The BESS owner and/or operator shall report findings

to the Township and shall mitigate the problem in a timely manner. If it is determined by the monitoring that there is a violation of the noise limits in Subsection (a), it shall be considered a violation of this Ordinance.

(3) Vibration.

(a) Vibration limits. During normal operations, vibration generated by BESS units, buildings, and equipment shall not exceed a vibration velocity level (VdB) of:

[1] 65 VdB for any period of 30 seconds or longer.

[2] 80 VdB at any time.

(b) Required Vibration Studies.

[1] The BESS applicant shall provide Preliminary/Predictive and As-Built Vibration Studies prepared by a qualified professional that demonstrates that no vibration from BESS units, buildings, and equipment will be perceptible to the human sense of feeling beyond the lot line of the BESS use.

[2] The As-Built Vibration Study shall be conducted when the facility is fully operational and when backup generators and emergency power generation equipment are running.

[3] Bear Creek Township may require additional as-built vibration studies thereafter, to be conducted at the BESS applicant, owner, and/or operator's expense.

(c) If a reasonable complaint is registered with the BESS owner and/or operator or the Township, the BESS owner and/or operator shall respond to said complaint within 24 hours of notification and take whatever reasonable means necessary to alleviate and cure said complaint, should it be found to be with merit. Reasonable complaints involving vibration shall be addressed through continuous monitoring for a period of 48 hours at the lot line of the BESS use nearest to the complainant's property. The BESS owner and/or operator shall report findings to the Township and shall mitigate the problem in a timely manner. If it is determined by the monitoring that there is a violation of the vibration limits in Subsection (a), it shall be considered a violation of this Ordinance.

(4) Heat.

(a) No BESS shall generate heat or humidity that may be felt by persons of average sensitivities beyond the lot lines of the BESS use.

(b) Required Heat Mitigation Plan. A Heat Mitigation Plan shall be submitted and include, at a minimum:

[1] Identification of primary sources of waste heat.

[2] Evaluation of potential off-site thermal impacts under representative seasonal conditions.

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

[4] Evaluation of feasible opportunities and strategies for waste heat reuse or dissipation to offset heat island effects. Where reuse is not feasible, the reason(s) why should be given, in which case alternative mitigation shall be identified.

[5] The plan shall be prepared and certified by a qualified professional engineer and shall be subject to review and comment by the Township.

(5) Visual impact. The BESS applicant shall submit a Viewshed Analysis prepared by a Pennsylvania-registered architect or landscape architect illustrating the areas from which any BESS installations will be visible.

(6) Required e-Waste and Hazardous Waste Disposal Plan.

(a) BESS applicants shall provide the Township with a plan for managing hazardous waste, including procedures for the lawful disposal, reuse, and/or recycling of electronic waste (e-waste) and other materials including but not limited to, computers, computer servers, server infrastructure, batteries and battery components, hazardous and extremely hazardous substances, and related materials.

(b) Such plan shall include protocols for any substances used that are included on PA DEP's Regulated Substances List, materials classified as electronic waste (e-waste) by the U.S. Environmental Protection Agency (EPA), and devices regulated by the Commonwealth of Pennsylvania's Covered Device Recycling Act (CDRA; Act of Nov. 23, 2010, P.L. 1083, No. 108, as amended).

(7) Required Operations and Maintenance Manual. Such manual shall describe continuing BESS commissioning and maintenance, as well as property upkeep, design, construction, installation, and testing information, and shall meet all requirements set forth in the Fire Code, Electric Code, and Building Code.

G. Decommissioning.

(1) BESS that cease operation for 12 consecutive months shall be deemed abandoned and decommissioned accordingly. The BESS owner and/or operator is required to notify the Township immediately upon permanent cessation or abandonment of the BESS

(2) Required Decommissioning Plan. A Decommissioning Plan shall be provided as part of the conditional use application to ensure removal of improvements and restoration

of the Data Center site if deemed abandoned. The Decommissioning Plan shall include the following items:

(a) Cost estimate for decommissioning and removal activities, including:

(b) Removal of all structures, pads, and equipment to a minimum depth of three (3) feet below grade.

(c) Proper disposal of all electronic equipment, battery components, and hazardous materials in compliance with DEP and U.S. Environmental Protection Agency (EPA) regulations.

(d) Disconnection and discontinuation of public utilities.

(e) Site restoration with planting or seeding of native vegetation and soil stabilization.

(f) A detailed timeline identifying the anticipated length of time necessary to complete the decommissioning process.

(g) A detailed plan for the removal, demolition, disposal, recycling, and/or repurposing of all buildings, structures, equipment, utility infrastructure, foundations, electrical substations, cooling systems, and other above-ground and below-ground improvements associated with the BESS use.

(h) A description of the extent of site restoration proposed, including grading, stabilization, revegetation, and removal of impervious surfaces where applicable.

(i) A plan for completion of a post-decommissioning Phase I Environmental Site Assessment (ESA), and such additional environmental investigations or remediation as may be required by applicable law or recommended by the environmental professional preparing the assessment.

(j) A plan for coordination with applicable public utility providers regarding the safe disconnection, removal, relocation, abandonment, or transfer of electric, water, sewer, telecommunications, gas, and other utility infrastructure during the decommissioning process.

(3) Required financial security. Financial security provided in accordance with Section 509 of the Pennsylvania Municipalities Planning Code (MPC) in a form acceptable to the Township Solicitor to guarantee proper decommissioning, such as a posted bond. The amount of the security shall be sufficient to cover the full cost of removal of all improvements and for restoration of the site. The requirements of the financial security shall be as follows:

(a) The BESS applicant, developer, owner, and/or operator shall post financial security in the amount of 110% of the decommissioning cost, as approved by the

Township Engineer, securing the decommissioning obligations of the BESS and naming the Township as beneficiary, the original of which security shall be delivered to the Township. The form of the financial security shall be subject to the review and approval of the Township Solicitor.

(b) Every five (5) years after the date of providing the financial security, the BESS owner and/or operator shall provide an updated decommissioning cost estimate to be approved by the Township Engineer. If the decommissioning financial security amount increases, the BESS owner and/or operator shall remit the increased financial security to the Township within 30 days of the approval of the updated estimate by the Township. If the financial security amount decreases by greater than 10%, the Township shall release any amounts held in excess of 110% of the updated cost estimate.

(c) After the BESS site is fully decommissioned and written certification is issued by the Township Engineer to the Board of Supervisors that the project parcel(s) have been restored to an environmentally stable condition substantially similar to the condition they were in prior to installation of the BESS, the Township shall release the financial security.

(d) If the BESS owner and/or operator fails to remove BESS structures and equipment in accordance with the requirements of this Section, the Township shall have the authority to execute upon the financial security, enter the property, physically remove structures, accessory uses, and equipment, and restore the property to its original, pre-construction condition. The BESS owner and/or operator shall be liable for all costs incurred by the Township associated with the decommissioning, including attorneys' and engineering fees and any costs or fees associated with drawing on the financial security.

(4) Decommissioning activities.

(a) The BESS owner and/or operator shall have 18 months in which to dismantle and remove BESS structures and equipment, and to restore the site to an environmentally stable condition, in accordance with industry practice.

(b) The BESS owner and/or operator is encouraged to resell or salvage materials to the fullest extent possible. However, materials that cannot be re-sold or salvaged shall be disposed of at a facility authorized to dispose of such materials in accordance with federal and state laws.

(c) Any soil exposed during the removal shall be stabilized in accordance with applicable standards.

(d) Any paved access drives from public roads shall remain for future use unless directed otherwise by the Township.

(e) Any necessary permits shall be obtained prior to decommissioning activities.

(5) Temporary ceasing of operations due to change in ownership or management. In the event that the present Data Center Owner and/or Operator has temporarily ceased its operation but is in the process of transferring ownership or operational management, the present Owner and/or Operator has the responsibility of notifying the Township. The decommissioning financial security also must be maintained during this time.

H. Developer's Agreement.

(1) The BESS applicant shall, as part of the land development process , execute a Development Agreement, in a form approved by the Township, specifying all the terms and understandings relative to the construction and operation of the BESS, the permit holder's responsibilities according to this Ordinance, and the requirements of the conditional use permit.

(2) All costs incurred by the Township, including attorney fees, in drafting and approving the Developer's Agreement, shall be paid by the BESS applicant. The content of the agreement shall outline the specifics of the BESS, but shall at a minimum provide:

(a) A survey of the acreage involved in the proposed development.

(b) A description of the ownership of the subject property.

(c) General description of the BESS facility and all associated site improvements.

(d) The anticipated life of the BESS.

(e) Mechanisms to ensure the continued maintenance of the BESS, and that maintenance is assured by means satisfactory to the Borough.

(f) The method of ensuring that funds will be available for decommissioning and site stabilization in the amount determined after each annual review as required by this Section.

(g) Requirements that the BESS owner and/or operator maintain insurance coverage during development in amounts established by the Township, naming the Borough as an additional insured, and required insurance provisions after the development is completed.

(h) The approved Final Land Development Plan and Conditional Use Permit shall be incorporated by reference and attached as an exhibit.

(i) A description of the timing and sequencing to complete the development of the BESS. If the BESS is to be developed in phases, a timeline to complete the construction of each phase.

(j) A listing of any contingencies for removing an intact operational BESS from service and for removing a BESS from service that has been damaged by a fire or other catastrophic event.

(3) Host Community Agreement:

(a) The holder of a conditional use permit for a BESS shall enter into a Host Community Agreement with the Township. Such Host Community Agreement shall be included as part of the Developer's Agreement.

(b) The terms of the Host Community Agreement may include but are not necessarily limited to provisions related to:

[1] Environmental performance (e.g., noise, air quality, energy usage, water usage, wastewater discharge, and heat mitigation).

[2] Site design (e.g., landscaping, buffering and screening, fencing, lighting, and stormwater management).

[3] Public health, safety, welfare impact considerations (e.g., emergency management, noise testing, electronic waste, and decommissioning).

[4] Community engagement and transparency (e.g., public availability of information related to the use, complaint response processes, local hiring, and annual reporting).

I. Conditional use application requirements.

(1) Procedure. The procedure for approval of a BESS conditional use shall be in accordance with § 127-53.

(2) Required application materials. In addition to the materials required for a conditional use application specified in § 127-53.A and the Environmental Impact Statement specified in § 127-56, the following items shall be required for BESS uses, unless specifically exempted based upon a review of applicability:

(a) Project Narrative describing the proposed BESS project.

(b) Preliminary/Predictive Sound Study, in accordance with § 127-68.2.F(2)(b)[1].

(c) Preliminary/Predictive Vibration Study, in accordance with § 127-68.2.F(3)(b)[1].

(d) Heat Mitigation Plan, in accordance with § 127-68.2.F(4)(b).

(e) Emergency Response Plan (ERP), in accordance with § 127-68.2.E(7).

(f) Viewshed Analysis, in accordance with § 127-68.2.F(5).

(g) e-Waste and Hazardous Waste Disposal Plan, in accordance with § 127-68.2.F(6).

(h) Operations and Maintenance Manual, in accordance with § 127-68.2.F(7).

(i) Specification sheets, manuals, and certifications for any battery energy storage systems (BESS) and generators used (e.g., NFPA compliance, UL certification, U.S. EPA Tier rating, etc.).

(j) Site Development Plans and Reports, including but not limited to those showing building footprints, site layout, landscaping and buffer yards, grading, parking areas, and access/circulation.

(k) Decommissioning Plan, in accordance with § 127-68.2.G(2).

(3) Determination of application completeness. No conditional use application for a BESS shall be deemed complete until all of the required documents listed in Subsection (2) are provided in full, without any omissions, unless a specific required submission item is exempted based upon a review of applicability. No public hearings will be scheduled for the conditional use application until the Township Zoning Officer determines said application to be complete.

(4) Construction of an approved BESS must begin within one (1) year after conditional use approval is granted. The Board of Supervisors may extend this timeline at the request of the applicant without requiring a new conditional use application.

(5) Approved BESS conditional use permits may not be transferred to another landowner without another conditional use approval.

(6) Approved BESS shall remain in compliance at all times with the standards of the conditional use permit and all documentation submitted with and affirmations made in the conditional use application. No changes may be made to the conditional use permit by the BESS owner and/or operator without the written agreement of the Township.

(7) Minor changes to an approved BESS may be reviewed and approved by the Zoning Officer or their designee. The Zoning Officer may, at their discretion, determine that a proposed change to the BESS constitutes a major change that requires a new conditional use approval. The following changes shall be considered minor:

(a) Technical changes to the following application documents:

[1] Construction documents.

[2] The Emergency Response Plan (ERP).

[3] The Operations and Maintenance Manual.

(b) Modifications to, retrofits, or replacements of an existing BESS that do not substantially increase the total designed discharge duration or power rating, or that do not substantially increase the lot coverage of the BESS.

§ 127-68.4. Energy generation and/or distribution facilities.

A. Energy generation facilities.

(1) Applicability. This Subsection applies to all facilities used to generate electricity, other than Solar Energy Systems (SES) and Wind Energy Facilities, which are regulated separately in this Article.

(2) A conditional use permit shall be required for the construction, installation, and operation of energy generation facilities. Such facilities shall meet and comply with the 2017 National Electrical Safety Code, published by Institute of Electrical and Electronics Engineers (IEEE), as amended; the North American Electric Reliability Corporation (NERC) standards, as amended; all state and federal laws applicable to the project.

(3) The Board of Supervisors shall not approve a conditional use permit for an electrical substation, transformer facility, and/or switchyard unless complete plans for the siting of the proposed project, including ownership, building size and construction, ingress/egress roads, parking, fencing, and landscaping have been received for review. The Applicant shall also provide evidence of the regulatory approval process applicable for the project and shall provide final regulatory and construction approval and evidence of compliance with all state and federal regulations applicable for the project prior to the commencement of construction.

(4) All facilities and infrastructure shall be designed, erected, and installed in accordance with all applicable provisions of the Building Code, the Fire Code, all applicable state and federal regulations (including applicable environmental standards), and all applicable standards in the Township Subdivision and Land Development Ordinance.

(5) All plans, manuals, and procedures required of the energy generation facility owner and/or operator shall be compliant with federal, state, and County standards.

(6) The pathways of electric conveyance/transmission and distribution lines leading into the energy generation facility shall be as low-profile as possible to maintain the Township's rural viewsheds.

(7) Property owners within 1,000 feet of the lot perimeter of the proposed energy generation facility must be notified by mail prior to the conditional use hearing in accordance with the requirements of the Pennsylvania Municipalities Planning Code (MPC).

(8) The following project information shall be submitted to the Township for every proposed energy generation facility:

(a) Project narrative including the following: An overview of the project, project location, the approximate generating capacity, the number, representative types and heights of facilities to be constructed, including their generating capacity,

dimensions and respective manufacturers, and description of any ancillary facilities to the energy generation facility.

(b) An affidavit or similar evidence of agreement between the property owner and the energy generation facility owner or operator demonstrating permission to apply for necessary permits for construction and operation of an energy generation facility.

(c) Identification of the properties on which the proposed facility will be located and the properties adjacent to the proposed locations.

(d) A site plan showing the planned location of each proposed energy generation facility, lot lines, setback lines, access roads and the locations of any ancillary structure, including equipment, cabling, building, structure, transmission lines, and electrical substations.

(e) A Viewshed Analysis by a qualified professional consisting of sufficient information to identify where buffer screening is necessary to hide views of the facility.

(f) An inventory of toxic, corrosive, flammable, carcinogenic, and explosive materials, chemicals, liquids, gases, or solids, filed annually with the Bear Creek Volunteer Hose Company.

(9) The perimeter of an energy generation facility, including outdoor storage areas, delivery areas, and/or loading areas, shall be screened from adjoining properties. All screens shall have minimum height of eight (8) feet and shall be constructed as earthen berms, 50-foot-wide landscape buffer yards, fences, or walls with a minimum opacity of 80%.

(10) No deliveries or operations shall be permitted prior to 5:00 AM or after 10:00 PM No staging of trucks shall occur prior to 5:00 AM.

(11) Emissions shall meet all applicable state and federal regulations.

(12) Secondary containment shall be provided utilizing liquid separators to prevent hazardous or toxic chemicals from leaving the site.

(13) The height of cooling towers, smokestacks, chimneys, or other structures shall not exceed 250 feet in height.

(14) The front, rear, and side yard requirements shall be a minimum of 200 feet.

(15) Energy generation facilities shall be located at least 500 feet from any lot line of a residential district or sensitive receptor use and at least 200 feet from any other lot line or public right-of-way, as defined by this Chapter.

(16) No energy generation facility shall be located within 500 feet of an existing school, day-care center, nursing home, hospital, place of worship, place of assembly, public playground, or public park.

B. Electrical substations, transformer facilities, and switchyards.

(1) A conditional use permit shall be required for the construction, installation, and operation of an electrical substation, transformer facility, and/or switchyard. Such facilities shall meet and comply with the 2017 National Electrical Safety Code, published by Institute of Electrical and Electronics Engineers (IEEE), as amended; the North American Electric Reliability Corporation (NERC) standards, as amended; and all state and federal laws applicable to the project.

(2) The Board of Supervisors shall not approve a conditional use permit for an electrical substation, transformer facility, and/or switchyard unless complete plans for the siting of the proposed project, including ownership, building size and construction, ingress/egress roads, parking, fencing, and landscaping have been received for review. The Applicant shall also provide evidence of the regulatory approval process applicable for the project and shall provide final regulatory and construction approval and evidence of compliance with all state and federal regulations applicable for the project prior to the commencement of construction.

(3) Minimum setbacks required:

(a) From lot edges along public roads: 100 feet.

(b) From all adjoining landowner's lot lines, unless agreed to by the landowner: 100 feet.

(4) Property owners within 1,000 feet of the lot edges of the proposed electrical substation, transformer facility, and/or switchyard must be notified by mail prior to the conditional use hearing in accordance with the requirements of the Pennsylvania Municipalities Planning Code (MPC).

(5) Access must be on an all-weather driveway with appropriate highway access permits. The operator of the facility shall keep the driveway, lot, and parking areas maintained at all times.

(6) On-site parking for service vehicles shall be provided.

(7) Perimeter fencing shall be provided and must be sufficient to secure against human and animal incursion. Fences shall feature fire-department-accessible locking gates with high-security lock boxes (e.g., a KnoxBox) and clearly visible warning signs informing individuals of potential voltage hazards.

(8) Landscaping comprised of a dense evergreen hedge planting (minimum of eight (8) feet in height at maturity) providing a year-round opaque visual screen shall be required. A landscaped berm of five (5) feet in height above the adjacent average grade

with maximum side slopes of 3:1 shall additionally be required along lot lines abutting residential districts and sensitive receptor uses. All landscaping used for screening purposes shall be located outside the perimeter fence.

(9) The Board of Supervisors may impose additional requirements or restrictions as it deems necessary to ensure that the standards listed herein are met. The Board of Supervisors may utilize the assistance of the Planning Commission and qualified experts as necessary to evaluate all information submitted by the Applicant.

§ 127-68.5. All Other Non-Residential Uses Not Otherwise Listed.

All Other Non-Residential Uses Not Otherwise Listed. Any non-residential use not specifically listed within the Township Zoning Ordinance as a use that is permissible by right, by conditional use, or by special exception may be permitted by conditional use. The following criteria, at a minimum, shall be considered:

A. The proposed use shall:

(1) Be consistent with the comprehensive plan of the Township.

(2) Be consistent with the adjoining and surrounding zoning and uses.

(3) Be consistent with the scale and density of neighboring uses and structures.

(4) Comply with all applicable signage regulations of the most restrictive criteria otherwise assigned to the Zoning District.

(5) Shall be setback from:

(a) Residential Zoning District Lot - 200'

(b) Sensitive receptor - 500'

(c) Right-of-way or other Lot Line – 200'

(6) Comply with parking and loading/unloading standards for related uses specified in this code.

B. The proposed use shall not:

(7) Substantially increase traffic congestion, create traffic safety hazards or endanger the safety of persons or property by improper location or design of facilities for ingress or egress

(8) Change the basic functional characteristics of the streets and lands on which it is located, as identified by the Township comprehensive plan and/or Street-related Ordinance(s).

(9) Increase any danger of fire or otherwise involve activities or processes which would tend to endanger the public health or safety.

(10) Overcrowd the land or create an undue concentration of population or structures

(11) Impair an adequate supply of light and air to adjacent property.

(12) Create stormwater hazards or drainage problem.

(13) Create vibrations, glare, heat, electrical disturbance, smoke, odor or noise which would jeopardize the integrity of pre-existing uses in the immediate vicinity.

(14) Unduly burden water, sewer, school, park or other facilities.

(15) Be detrimental to or adversely affect the reasonable use of adjacent property.

(16) Otherwise adversely affect the public health, safety, morals or general welfare.

(17) Unreasonably interfere with pre-existing or planned residential, historic or economic development.

Section 5.

Amend Article V. Zoning District Regulations to add § 127-45.1 Development Scale – Water Resources Impacts as follows in the I-1 Industrial District:

A. To ensure quality potable drinking water supply remains available to the residents of Bear Creek Township, any use shall not adversely impact ground water supply nor ground water quality.

B. For any land use requiring any water system(s) to be flushed at any time, the landowner shall provide a certificate issued by a State-qualifying agency(ies)/entity(ies) stating any wastewater resulting from said system has been properly held and disposed so as no ground water within the Township is adversely impacted.

Section 6.

Amend Article V. Zoning District Regulations to add § 127-45.2 Reserved.

Section 7.

Zoning Map. Amend the Official Zoning Map of Bear Creek Township, dated May 6, 2011, as amended, to rezone lots and corresponding/adjacent rights-of-way so as to designate the boundary of the I-1 Zoning District (District) in accordance with the attached "Proposed I-1 Zoning District" map. Lots, per available 2026 Luzerne County and Township mapping resources, included within said District include the following (parcel identification numbers):

04J11S3 001011000, 04J11S4 001002000, 04J11S4 001001000, 04J11 00A34A000, 04J11 00A17S000, 04J11S4 001006000, 04J11S4 00106A000, 04J11S4 00105A000, 04J11S4 001005000, 04J11S4 00103A000, 04J11S4 00103B000, 04J11S4 001003000, 04J11 00A036000, 04J11 00A36A000, 04J11S6 005003000, 04J11 00A34T000, 04J11 00A05A000, 04J11 00A34R000, 04J11 00A34N000, 04J11 00A34L000

Section 8.

Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance and of the Zoning Ordinance. 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. If any specific operational standard, dimensional standard, or performance standard is held invalid, the remaining provisions shall remain in full force and effect.

Section 8.

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 9.

Codification. Pursuant to the Bear Creek Township Code of Ordinances and the Pennsylvania Municipalities Planning Code (MPC), the Bear Creek Township Zoning Ordinance (Chapter 127 of the Township Code) shall hereby be codified to incorporate the above-referenced amendments. Any change in the Section Numbers of the Zoning Ordinance which are necessary to properly address and include these provisions are hereby authorized and directed.

ENACTED BY THE BEAR CREEK TOWNSHIP BOARD OF SUPERVISORS ON THIS

_____ DAY OF _____, 2026.

_____
MARK PETLOCK

_____
ROBERT SUCHOCKI

_____
JOHN F. ONDICH

_____
RYAN O'HARA

_____
GEORGE WEITZ

ATTEST:

_____
TOWNSHIP SECRETARY