

**MAHONING TOWNSHIP
LAWRENCE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2 of 2026

**AN ORDINANCE OF MAHONING TOWNSHIP, LAWRENCE COUNTY,
PENNSYLVANIA, AMENDING THE MAHONING TOWNSHIP ZONING ORDINANCE,
TO PROVIDE DEFINITIONS AND REGULATIONS FOR POWER GENERATION
FACILITY USES AND PERMITTING SUCH USES IN THE I - INDUSTRIAL ZONING
DISTRICT AS A CONDITIONAL USE**

WHEREAS, the Township of Mahoning, Lawrence County, Pennsylvania (hereinafter "Mahoning Township") is a Second-Class Township in the Commonwealth of Pennsylvania.

WHEREAS, Mahoning Township has enacted a zoning ordinance pursuant to its statutory authority, the Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968 as amended; and

WHEREAS, Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10601, et seq., authorizes the Board of Supervisors to enact, amend and repeal Zoning Ordinances within Mahoning Township; and

WHEREAS, Mahoning Township seeks to promote the general health, safety and welfare of the community by adopting and implementing an amendment to the Zoning Ordinance to provide for Power Generation Facility Uses; the purpose of this ordinance is to protect the rural, conservation, agricultural, residential, scenic, historic and environmental character of the municipality; be cohesive to the Mahoning Township Ordinance section 104, Community Development Objectives while permitting reasonable energy development under standards designed to minimize the industrial impact upon residents, natural resources, groundwater, surface water, agricultural operations, and community infrastructure. Preservation of rural character, quiet enjoyment, nighttime darkness, protection of property values, scenic vistas, agricultural viability, ground water protection, and low density settlement patterns shall be prioritized as community development goals; and

WHEREAS, Mahoning Township desires to add provisions to the Zoning Ordinance relating to Power Generation Facility Uses; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Mahoning Township, Lawrence County, Commonwealth of Pennsylvania, as follows:

Section 1: DEFINITIONS

Article 2 of the Mahoning Township Zoning Ordinance is hereby amended to add the following Definitions:

POWER GENERATION FACILITY - A facility or group of facilities designed for the production of electrical power for transmission, distribution, private consumption, wholesale market participation, grid stabilization, backup generation, cryptocurrency operations, data center support, industrial support or any combination thereof. For the purpose of this ordinance, Power Generation Facility will be regulated on function not name and will include (but not limited to) the following categories:

1. **Electric utility:** generate power that serves customers on their own distribution
2. **Merchant Generation Facility (Independent Power Producers):** A power generation facility primarily engaged in the sale of electricity into wholesale energy markets or to private entities rather than serving retail utility customers under a regulated public utility structure
3. **Behind the Meter Generation:** A generation facility intended primarily to serve an on-site industrial, commercial, manufacturing, data processing, or similar operation, whether or not excess power is exported to the electrical grid.
4. **Utility-Scale Power Generation:** Any facility exceeding 25MW of generating capacity

Power Generation Accessory Structures: Associated substations, switchyards, and transmission infrastructure shall be considered part of the principal use and subject to all applicable standards herein.

Section 2: ZONING DISTRICT

Section 306.1 of the Mahoning Township Zoning Ordinance is hereby amended to add "Power Generation Facility" to the list of Conditional Uses in the I – Industrial Zoning District.

Section 3: SUPPLEMENTARY REGULATIONS

Article 3 of the Mahoning Township Zoning Ordinance, is hereby amended to add a new Section 308.381, as follows:

308.381 – POWER GENERATION FACILITY

Power generation facilities shall be allowed only in those districts as specified in Section 306.1. In addition to the performance standards and all other applicable standards of this Ordinance, the requirements of this Section shall apply.

a) LOCATION REQUIREMENTS

The facilities shall comply with the following location requirements:

1. **Minimum Parcel Size** - The minimum parcel size shall be the larger of Sixty (60) acres or 0.105 Acres per Megawatt of proposed power to be produced for a Power Generation Facility use. For each generator in excess of the first electrical generator, the parcel size shall be increased by ten (10) acres per generator.
2. **Setbacks** - The following setbacks shall be maintained:
 1. Property Lines, Road rights-of-Way - Five Hundred (500) feet from any adjoining properties and public road Rights-of-way.
 2. Residential Structures – One Thousand (1,000) feet from any existing residential structure not located on the project parcel.
 3. Water Bodies - Three hundred (300) feet from any body of water, perennial or intermittent stream, or wetland.
3. **Buffer**
 1. An undisturbed area of not less than one hundred (100) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Township shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 2. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of one hundred (100) feet wide.
 3. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land development in the Mahoning Township Subdivision and Land Development Ordinance.
 4. It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
 5. The required number of plant units shall be calculated in accordance with other municipal screening requirements.
 6. Buffer yards along roadways shall be measured from the street right-of-way line.
 7. Where a lot line drainage or utility easement is required, the buffer yard shall be measured from the inside edge of the easement.
 8. Buffer yards shall not include environmental encumbrances such as, but not limited to, wetlands, wetland transition areas, riparian buffers, and flood

hazard areas as may be imposed by outside agencies.

9. Buffer plantings shall consist of native species planted as follows:
 - a. One (1) large evergreen tree per twenty-five (25) linear feet of buffer. The size of large evergreen trees shall be a minimum of eight (8) feet in height at the time of planting.
 - b. One (1) deciduous canopy (shade) tree per seventy-five (75) linear feet of buffer. Size of canopy (shade) trees shall be a minimum of 2½ inch caliper at the time of planting.
 - c. One ornamental/flowering tree per fifty (50) linear feet of buffer. The size of ornamental/flowering trees shall be a minimum of eight (8) feet in height for multi-stemmed varieties, or 2½ inch caliper at the time of planting for single-stemmed varieties.
 - d. Five (5) shrubs per twenty-five (25) linear feet of buffer. Size of shrubs shall be fully branched and minimum of three feet in height at the time of planting. Shrubs shall be a combination of evergreen and deciduous species, with a minimum of fifty percent (50%) being evergreen.
 - e. Include a minimum of one (1) acre of native wildflower plantings.
10. In the event that existing vegetation is adequate to meet the intent of the required buffer yard to screen the Power Generation Facility from adjoining Residential Zoning Districts (to include the Residential District, the Village 1 Zoning District and the Village 2 Zoning District, collectively the "Residential Zoning Districts") or the Conservation Zoning District, Sensitive Receptors, and public roadways, the Board of Supervisors, upon recommendation by the Township Engineer and Planning Commission, may determine that existing topography and/or vegetation constitutes all or part of the required buffer yard.
11. The landscape buffer shall be located along the outer edge of the buffer yard. To ensure visibility at intersections, no object, including without limitation, fences, hedges, trees and other plantings, which may be required by this Section, exceeding a height of three (3) feet as measured from the lowest elevation of the centerline of any abutting street, shall be temporarily or permanently placed, erected, installed or parked within the clear sight triangle required on a corner lot. The required clear sight triangle on a corner lot shall be determined as follows:
 - a. The street line abutting the corner lot shall form the legs of the clear sight triangle. Each of the legs shall extend a distance of fifty (50) feet from the point of intersection of the street lines abutting the corner lot. The hypotenuse of the clear sight triangle shall be formed by drawing a straight line joining the legs at their farthest point from the vertex of the triangle.

12. Plant material within buffer plantings shall meet the following requirements:
 - a. Be resistant to diesel exhaust.
 - b. Not identified on the most current DCNR invasive species or watch lists.
 - c. Be hardy within USDA hardiness Zones 6 and 7.
 - d. Shall be planted on the top and the exterior of any berm in order to provide effective screening.
 - e. Shall be arranged in groupings to allow for ease of maintenance and to provide a natural appearance.
 - f. Shall provide a diversity in plant species, such that no one species accounts for more than 25% of each plant type.
 - g. The plantings shall be arranged to provide a complete visual screen of the property at least 12 feet in height, measured in addition to the height of any required berm, within three (3) years.
13. The buffer yard may be located within the required building setback lines. No impervious surface is permitted within the buffer yard aside from access drives, sidewalks, and associated improvements.

4. Maximum Height

- a. The maximum building height for a Power Generation Facility shall be Eighty (80) feet, inclusive of roof-mounted equipment such as cooling and ventilation systems, HVAC units and cooling towers.
- b. The maximum height of any Power Generation Facility Accessory Use(s) shall be no greater than Eighty (80) feet.

5. Screening and Fencing

- a. To provide visual screening and reduce noise levels, ground-mounted and roof-mounted equipment used for cooling, ventilating, or otherwise operating the facility, including power generation or other power supply equipment, that is located within Three Hundred (300) feet of a public roadway, Residential Zoning Districts, or the lot line of any Sensitive Receptor must be fully enclosed, except where not mechanically feasible based on the manufacturer's specifications. If it is not mechanically feasible to fully enclose the equipment, it must be fully screened from view using one or more of the following means:
 - i. The landscape buffer required by subsection D above.
 - ii. By existing vegetation that will remain on the property, subject to subsection D above.
 - iii. By the principal Power Generation Facility building or an accessory

- building
- iv. By a berm averaging a minimum of five (5) feet in height above the adjacent average ground level with a maximum side slope of 3:1, provided that the berm shall be covered by a well-maintained all season natural ground cover and any required screening plantings shall be arranged on the outside and top of the berm.
 - v. By a visually solid fence, screen wall or panel, parapet wall, or other visually solid screen that shall be constructed of materials compatible with those used in the exterior construction of the principal building.
- b. Fencing of the property is permitted, provided that fencing along public and private roadways conforms with the regulations of Section 408. A Developer shall not be required to comply with this requirement if fencing is fully screened from view by one or more of the means identified in subparagraph (a) above.

6. Noise and Vibration

- a. The Developer shall demonstrate through a sound study conducted by a professional acoustical expert that the broadband sound pressure generated by a Power Generation Facility during normal operations or transient states (including, but not limited to, startup, shutdown, testing, and maintenance cycles) shall not exceed a maximum of 55 dB(A) and 65 dB(C) during Daytime Hours, and 45 dB(A) and 55 dB(C) during Nighttime Hours, measured as an Equivalent Continuous Sound Level (L_{eq}) over any continuous 15 minute-period, per ISO 1996-2 protocol, at the property line of any Receiving Property within a Residential Zoning District or Conservation Zoning District, any Receiving Property containing Sensitive Receptors, and at the right of way boundary of public roadways if the roadway boundary is within 100 feet of an occupied structure. In addition to the L_{eq} limits previously specified, Maximum Sound Level (L_{max}) as measured using the Fast time-weighted response shall not exceed 70 dB(A) and 80 dB(C) during Daytime Hours and 60 dB(A) and 70 dB(C) during Nighttime Hours. If the ambient background noise level in the absence of the Power Generation Facility already exceeds these limits, the total combined broadband sound pressure level measured as L_{eq} including the Power Generation Facility and ambient background noise shall be capped at 3 dB(A) and 5 dB(C) above the pre-existing ambient background level and total combined broadband sound pressure measured as L_{max} including the Power Generation Facility and ambient background noise shall be capped at 5 dB(A) and 5 dB(C) above the ambient background noise level. Such a sound study shall be conducted using Type 1 / Class 1 Precision Sound Level Meters described in ANSI/ASA S1.4, and shall meet the following parameters.

1. The applicant shall retain a qualified independent acoustical engineer experienced in utility-scale energy infrastructure sound analysis for sound study. The municipality may retain its own acoustical consultant at the applicant's expense to independently review all sound studies, modeling assumptions, mitigation measures, and compliance reports.
 2. The facility shall incorporate all reasonably available noise mitigation technologies and best management practices necessary to minimize pure tones, impulsive noise, infrasound, low frequency noise, vibration and cyclic noise.
 3. The acoustical study shall model sound propagation under worst-case meteorological and operational conditions, including temperature inversions, nighttime stable atmosphere conditions, and simultaneous full-load equipment operation.
- b. The sound study shall be conducted at the following phases:
- i. Noise compliance will be measured at the nearest occupied residential structure or residentially zoned property, regardless of property ownership by the applicant or affiliated entities.
 - ii. A preliminary study shall be conducted prior to the submission of the zoning or land development application. The preliminary sound study shall include recommended sound reducing materials or systems as needed to meet the aforesaid sound limits.
 - iii. An interim sound study shall be conducted during the building permit approval process based upon the proposed capacity of the Power Generation Facility and Power Generation Facility Accessory Uses depicted on the building plans. Any sound reducing materials or systems recommended by interim sound study shall be incorporated into the construction plans for the use.
 - iv. An as-built sound study shall be conducted six months after issuance of the certificate of occupancy and prior to the final escrow release for any land development phase. An as-built sound study may also be required thereafter by Mahoning Township. If it is determined by the as-built sound study that there is a violation of the aforesaid noise limits, it shall be considered a violation of this Ordinance.
- c. Maximum decibel levels specified herein shall not apply during times of power outage, however the sound studies shall also evaluate and report anticipated decibel levels when all emergency power generation equipment is running, including backup generators.
- i. The municipality may require operational modification, curtailment,

or shutdown of specific equipment demonstrated to exceed ordinance sound limitations.

- d. The operator shall maintain a documented noise complaint resolution process including 24-hour contact information, response within 48 hours, investigation by independent, qualified acoustical personnel and written findings submitted to the municipality.
- e. The Developer shall provide a vibration study during the building permit approval process prepared by a qualified professional that demonstrates that no vibration from the Power Generation Facility, or associated equipment will be perceptible to the human sense of feeling beyond the property line, nor exceed the following measurable vibration thresholds. No source of mechanical vibration or acoustically induced vibration shall cause or induce vibration on any property outside of the property boundaries or in any occupied residential structure (ground-borne or structural vibration) that exceeds a particle velocity of 200 $\mu\text{m/s}$ RMS during Daytime Hours or 140 $\mu\text{m/s}$ RMS during Nighttime Hours in all individual one-third octave bands within the continuous frequency spectrum of 1 Hz to 80 Hz, measured according to ISO 2631-2 protocols.
- f. No source of airborne low-frequency noise or infrasound shall cause or induce sound pressure levels on any property outside of the property boundary or in any occupied residential structure that exceed the maximum root-mean-square (RMS) unweighted sound pressure levels specified below in all individual one-third octave bands within the continuous frequency spectrum of 8 Hz to 200 Hz, measured according to ISO 1996-2 protocols. During Daytime Hours, the unweighted sound pressure level shall not exceed 60 dB in any individual band from 8 Hz to 31.5 Hz, and 45 dB in any individual band from 40 Hz to 250 Hz. During Nighttime Hours, these limits shall be 50 dB in any individual band from 8 Hz to 31.5 Hz and 45 dB in any individual band from 40 Hz to 250 Hz to protect residential sleep environments.
- g. If a prominent tonal noise is present, a 5dB penalty shall be added to measured sound levels for compliance determination.
- h. Electric fields and magnetic fields shall not be created that adversely affect the public health, safety, and welfare, including but not limited to interference with the normal operation of equipment or instruments or normal radio, telephone, television reception from off the premises.
- i. The Zoning Officer may require a noise reduction barrier or device when it is inconclusive that noise level tests do not conform to acceptable noise levels.

- j. No Power Generation Facility or Power Generation Facility Accessory Use, or any combination of Power Generation Facility and Power Generation Facility Accessory Uses developed as part of a unified development, shall cause or contribute to sound levels in violation of the standards established by this section. Where there is a conflict between this section and any other section of this chapter, the provisions of this section shall apply.
- k. Definitions. The following definitions shall apply to this section:
 - i. Daytime Hours: the hours between 7:00 am and 6:00 pm on weekdays and between 9:00 am and 5:00 pm on weekends and holidays
 - ii. Nighttime Hours: the hours between 6:00 pm and 7:00 am on weekdays and between 5:00 pm and 9:00 am on weekends and holidays.
 - iii. Receiving Property: Real property impacted by noise generated by a Power Generation Facility and/or Power Generation Facility Accessory Uses. A Receiving Property need not be directly adjacent to the parcel or collection of parcels on which the Power Generation Facility or Power Generation Facility Accessory Use(s) are located but shall not include any real property incorporated as part of a unified design with the Power Generation Facility whose compliance is being evaluated.
- l. Exceptions. The above sound level limits do not apply to sound originating from:
 - i. Motor vehicles operated legally and in compliance with the noise regulations of the Pennsylvania Department of Transportation
 - ii. Safety and protective devices where noise suppression would defeat the safety intent of the device when being used for its intended purpose
 - iii. Any device intended to provide public warning of potentially hazardous, emergency, or illegal activities such as commercial, residential, or vehicle burglar alarms; back-up signals on regulated and licensed motor vehicles; fire alarms; law enforcement and fire vehicles, and similar devices
 - iv. Emergency equipment and emergency work necessary in the interest of public health, safety, or welfare or law enforcement
 - v. Emergency standby generators during emergency use. Routine testing of generators shall comply with the sound level limits.

- vi. Construction noise, including site preparation, assembly, erection, demolition, substantial repair, maintenance, alteration or similar action for structures or other site improvements, provided that such construction occurs during Daytime Hours and that reasonable noise controls such as proper muffling of all engines, motors, or turbine-driven equipment, and pneumatic devices; noise enclosed air compressors and generators; sound barriers; and lagging are employed.

m. Measurement

- i. Terminology and measurement practices shall follow applicable ANSI/ASA S1.4 standards. Compliance measurements shall be made using a calibrated ANSI Type 1/Class 1 integrating sound level meter with a dynamic range of at least 60 dB.
- ii. The contribution of wind noise to each compliance measurement shall not exceed 5 dBA (or dB). Measurements shall be made with properly installed windscreens, and any measurement influenced by wind noise exceeding this limit shall be discarded or repeated under acceptable conditions.

7. Lighting

- a. All outdoor lighting shall comply with the Township's outdoor lighting regulations.
- b. Lighting shall be designed to minimize glare and light trespass onto adjacent properties.
- c. Full cut-off fixtures shall be used for all outdoor lighting.
- d. A photometric plan shall be provided as part of any Land Development submission showing all exterior lighting for the Power Generation Facility and shall be designed to not produce more than the maximum permitted foot candles at all property lines consistent the requirements below.
- e. Horizontal Surfaces
 - i. For the lighting of predominantly horizontal surfaces, such as, but not limited to, parking areas, roadways, vehicular and pedestrian passage areas, loading docks, building entrances, sidewalks, bicycle paths, and site entrances, luminaires shall be aimed down, and shall meet Illuminating Engineering Society of North America (IESNA) full cut-off/fully shielded criteria.
- f. Non-Horizontal Surfaces
 - i. For the lighting of predominantly non-horizontal surfaces, such as,

but not limited to, facades, landscaping, and signs, luminaires shall be shielded and shall be installed and aimed to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward, or onto a public roadway.

g. Adjacent Residential Uses

- i. The illumination projected onto a residential use shall at no time exceed 0.1 footcandle(s), measured line-of-sight and from any point on the receiving residential property.

h. Adjacent Non-Residential Uses

- i. The illumination projected from any property onto a non-residential use shall at no time exceed 0.5 initial footcandle, measured line-of-sight from any point on the receiving property.

i. Glare

- i. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily using such means as cutoff luminaires, shields and baffles, and appropriate application of luminaire mounting height, wattage, aiming angle, and luminaire placement.

j. LED Lights

- i. LED light sources shall have a correlated color temperature that does not exceed 3000K.

k. Luminaires

- i. Luminaires shall not be mounted more than 20 feet above the finished grade of the surface being illuminated. No pole-mounted lighting on the roof shall be permitted.

l. Lighting After Hours

- i. Lighting for parking areas and vehicular traffic ways shall be automatically extinguished nightly within ½ hour of the close of the facility. On/off control shall be by an astronomic programmable controller with battery or capacitor power-outage reset. When after-hours site safety/security lighting is proposed, such lighting shall not exceed 25% of the number of fixtures required or permitted for illumination during regular business hours. Where there is reduced but continued onsite activity throughout the night that requires site-wide even illumination, the use of dimming circuitry to lower illumination levels by at least 50% after 11 PM or after regular business hours, or the use of motion sensor control, shall be permitted.

8. Parking and Infrastructure

- a. Power Generation Facilities are to be provided with at least one parking space per 8,000 square feet of floor area designed and intended to be accessible regularly by employees, or one parking space for every one employee, based upon the maximum number of employees on site during the largest shift, whichever is lesser.
- b. Developer shall identify all impacts on local infrastructure including but not limited to traffic impacts, as well as all necessary infrastructure improvements, if applicable. Prior to commencement of construction, Developer must coordinate with the local school districts to coordinate construction and equipment traffic to ensure that there is no impact on school drop-off and pick-up times.
- c. Off Street Loading. A minimum of one loading space is required. Loading spaces/bays are only permitted to be located on one façade of the Power Generation Facility Principal Building
- d. Sensitive Receptors
 - i. To the greatest extent feasible, loading docks, truck entries, and truck drive aisles shall be located away from nearby Sensitive Receptors. Screening as described in herein shall be provided. When making feasibility decisions, the municipality must consider existing laws and regulations and balance public safety with the site development's potential impacts on nearby Sensitive Receptors.

9. Emergency Management

- a. The Developer shall submit an Emergency Response Plan (ERP) prepared by a qualified professional. The ERP shall:
 - i. Be reviewed and accepted by the local fire department and emergency management services as part of the zoning approval process.
 - ii. Be reviewed and accepted by the Lawrence County Department of Public Safety as part of the zoning approval process.
 - iii. Include detailed procedures for fire suppression, containment, ventilation, and evacuation.
 - iv. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site.
 - v. Ensure that all first responders receive adequate training specific to the installed system.

- vi. Include provisions for annual fire safety inspections demonstrating compliance with fire safety standards to be performed by a qualified professional on behalf of the Power Generation Facility.
 - vii. Any gated emergency access route or secondary access route shall be fitted with the "knox-box" type device dictated by the fire department.
 - viii. Signage: Approved signs shall be provided on all exterior doors and around the perimeter of the complex notifying of all hazards.
 - ix. Energy Management System: An approved energy management system shall be provided for monitoring and balancing voltages, temperatures, and other functions within the manufacturer's specifications. This system shall transmit an alarm signal to an approved location if potentially hazardous conditions are detected.
 - x. Smoke Detection System: An approved automatic smoke detection system shall be installed. This system will alert emergency responders.
 - xi. Fire Extinguishing System: All rooms within the structure shall be equipped with an automatic sprinkler system. This system will alert emergency responders.
 - xii. Alternative Fire Extinguishing System: Areas that utilize reactive water materials or equipment shall be protected with an approved alternative automatic fire extinguishing system. This system will alert emergency responders.
 - xiii. Emergency Shutdown: An emergency shutdown switch shall be located outside of the structure readily available for emergency responders.
 - xiv. Spill Control and Neutralization: In areas that contain liquid electrolytes, acids or other hazardous materials, an approved method shall be provided to control, contain and neutralize spills.
 - xv. Gas Detection System: A gas detection system shall be provided if natural gas is used. The system shall be designed to detect natural gas leaks in concentrations of not more than 25% of the lower flammable limit. The system will close all supply valves, shut down all fuel cell power systems, initiate local audible and visual alarms, and notify emergency response automatically.
 - xvi. Vehicle Impact Protection: Protection from impact by a motor vehicle shall be provided around the perimeter of the structure.
 - xvii. Waste Management: All E-waste and recycling shall be handled and disposed of at an approved disposal site.
- b. Any Power Generation Facility use proposing battery storage or any other device or group of devices capable of storing energy in order to supply electrical energy at a later time, whether the energy is stored for use on-site or off-site, shall demonstrate compliance with National Fire Protection Association (NFPA) Standard 855, Installation of Stationary Energy Storage Systems, or similar standards and must include fire suppression

systems designed specifically for battery storage.

- c. No Power Generation Facility shall be approved unless the Developer demonstrates that procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of public health, safety and welfare.
- d. Safety. The equipment used in any Power Generation Facility operation shall meet all NFPA and Electrical Code requirements, or must be housed in a metered, electrically grounded, and pre-engineered metal-encased structure with a fire rating designed to resist an internal electrical fire for at least 30 minutes, whichever requirement provides the greatest safety protection. The containment space shall contain baffles that automatically close in the event of fire, independent of a possible electric system failure.
- e. Emergency Contact Information. Each Power Generation Facility operation shall provide 24-hour emergency contact signage visible at the access entrance. Signs shall include the company name (if applicable), the owner/representative's name, the telephone number, and the corresponding local power company's name and telephone number.
- f. Emergency Responders. The Developer shall coordinate with the Lawrence County Emergency Management Coordinator to ensure there is adequate radio coverage for emergency responders within the building based upon the existing coverage levels of the Mahoning Township Public Safety Radio Communications System at the exterior of the building, and shall install enhancement systems as needed to meet compliance.

10. Water and Sewer

- a. Connection to public water and public sewer is required for all Power Generation Facility or Power Generation Facility Accessory Uses. The Developer shall submit documentation from the public authority certifying that the public authority will supply the water needed to meet the projected water demands of the Power Generation Facility and/or Power Generation Facility Accessory Use. Power generation facilities shall utilize public water service as the sole permitted source of water supply. In the event that any alternative water source is proposed, permitted, or otherwise authorized by a court, regulatory agency, or other governing authority, the applicant shall comply with all additional water study, impact analysis, reporting, and review requirements set forth herein prior to approval, construction, or operation. Nothing in this section shall be interpreted as authorizing non-public water sources unless otherwise required or permitted by applicable law or judicial order.
- b. Prior to building permit issuance, the Developer shall demonstrate that adequate means of wastewater disposal, including domestic wastewater

and wastewater used for cooling or industrial purposes, have been provided and approved by the Sewage Enforcement Officer and/or the Pennsylvania Department of Environmental Protection. The Developer shall provide a letter from PA DEP and/or the municipal authority accepting, treating, or conveying such wastewater, confirming adequate wastewater disposal.

- c. The Developer shall provide a water feasibility study. The purpose of the study is to determine if there is an adequate supply of water for the proposed use and to estimate the impact of the use on the water table and on existing public and private water sources in the vicinity. No Power Generation Facility shall be approved unless the water feasibility study demonstrates that the anticipated water supply yield is adequate for the project and that the proposed water withdrawals and discharges will not endanger or adversely affect the quantity or quality of groundwater supplies or surface waters in the vicinity. The water feasibility study shall include the following information at a minimum:

- i. The projected water demands of the Power Generation Facility;
- ii. The source of water to be used;
- iii. A description of how water will be used, including the amount or proportion of water to be used for each purpose (e.g. cooling, humidity control, fire suppression, and domestic usage);
- iv. The long-term safe yield of the water source;
- v. A description of the amount or portion of water withdrawn that will be recycled or discharged and by what means;
- vi. A geologic map of the area with a radius of at least one mile from the site;
- vii. The location of all existing and proposed wells within 3,000 feet of the property boundary or in the case of an assemblage of parcels, 3,000 feet from the exterior lines of the assemblage or parcels including test wells and monitoring wells, with a notation of the capacity of all high-yield wells. This distance shall be increased to encompass the diversion and recharge areas of the proposed groundwater source if the hydrological setting analysis required by subsection below indicates either area will extend beyond 3,000 feet from the property boundary;
- viii. The location of all existing and proposed on-lot sewage disposal systems as well as all sewage treatment system surface water discharges;
- ix. The location of all surface waters, including perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps, and estuaries and the use classification the roof (Cold Water Fishes, High Quality, Exceptional Value, etc.) and if applicable, as set forth in Chapters 93 and 105 of Title 25 of the Pennsylvania Code;
- x. Any known of potential habitats for threatened or endangered

- species
- xi. A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, surface waters, and the groundwater table;
 - xii. A statement of the qualifications and the signature(s) of the person(s) preparing the study.
- d. Groundwater Withdrawals (Site preparation, construction and operational)**
- i. For groundwater sources, the water feasibility study shall include a hydrogeologic report prepared by a registered professional geologist licensed by the Commonwealth of Pennsylvania analyzing the long-term sustainable yield of the water source. The hydrogeologic report shall include:
 - ii. A hydrological setting analysis which includes a hydrogeologic cross section, delineation of the portion of the aquifer through which water is diverted to the well (area of diversion), delineation of the area providing groundwater recharge to the diversion area (recharge area), and identification of water resources located within the diversion and recharge areas.
 - iii. The results of an aquifer test conducted in accordance with Pennsylvania Department of Environmental Protection, Bureau of Safe Drinking Water, Document No. 394-2125-001, Aquifer Testing Guidance for Public Water Systems, or other generally accepted methodology. Data shall include, at a minimum, precipitation data, static water levels immediately prior to yield testing, linear hydrographs of water levels and test responses of all monitoring points through background, testing, and recovery monitoring periods, residual drawdown graphs and logarithmic hydrographs of the production well and any monitoring points that had observable drawdown as a result of operating the production well. Field notes showing original observations, water levels and flow readings and the time readings were taken shall be included.
 - iv. Analysis and interpretation of the aquifer test data, including a determination of the aquifer's hydraulic conductivity and specific capacity; aquifer transmissivity and storage coefficient; estimation of the horizontal extent of the cone of depression; and determination of a safe yield for the well, including analysis of the effects of 180 days of pumping with no recharge; and a groundwater availability analysis providing potential availability in a one-in-ten year drought.
 - v. Test results from any wells tested in accordance with applicable sections contained in this ordinance
 - vi. A determination of the effects of the proposed withdrawal on the quantity and quality of water in wells, surface waters, and the groundwater table within the horizontal extent of the cone of depression and how those impacts will be mitigated or remediated.

vii. Any known or potential habitats of or threatened or endangered species.

- e. **Surface Water Withdrawals (Site preparation, construction, and operational)** For surface water sources classified by PADEP as Exceptional Value (EV), High Quality (HQ), or Cold Water Fishes (CWF), the water feasibility study shall demonstrate using the Pennsylvania-Maryland Instream Flow Study (PA-MD IFS) model that withdrawals will not cause habitat loss in excess of the following:
1. For Exceptional Value and High Quality streams, withdrawal shall not cause annual instream habitat loss greater than 5%
 2. For streams classified as Cold Water Fishes and Class B wild trout streams by the PA Fish and Boat Commission, withdrawal shall not cause annual instream habitat loss greater than 10%
 3. For streams classified as Cold Water Fishes and as Class C or D wild trout streams by the PA Fish and Boat Commission, withdrawal shall not cause instream annual habitat loss greater than 15%
 4. In no case shall passby flow in any stream be less than the lowest seven-day average flow that occurs on average once every ten years (Q7-10) at the point of withdrawal
 5. For surface water sources classified by the PADEP as Warm Water Fishes (WWF), the water feasibility study shall demonstrate that passerby flow shall meet or exceed 20% of annual average daily flow (ADF) for the surface water of the lowest seven-day average flow that occurs on average once every ten years (Q7-10) at the point of withdrawal, whichever is higher.

f. Water Supply — Pre-construction well testing

1. If the use is to rely upon a nonpublic groundwater source and will withdraw and/or discharge 20,000 gallons per day (gpd) or more over any consecutive 30-day period, the applicant shall notify each property owner within 3,000 feet of the property boundary or within the horizontal extent of the any production well's cone of depression, as determined by the hydrogeologic study, whichever is greater, of the proposed project and shall offer to test the owner's well for baseline water quality, total depth of the well, static water level and operating pumping water level.
2. If the property owner grants permission to allow for water quality and well testing, the applicant shall hire and pay the full cost of a certified lab and professional geologist with a focus on hydrogeology to collect the laboratory samples and well information. Alternatively, the property owner may elect to hire a certified lab and professional geologist of his own choosing to collect the laboratory samples and well information, in which case the applicant shall pay the full cost of such services.
3. Notifications shall be sent via certified mail, shall include the name and contact information of the person to whom to respond, and shall allow sufficient time for property owners to respond and for testing to be conducted prior to commencement of the constant-rate aquifer test.

4. The applicant shall include all test results obtained pursuant to this section in the water feasibility study.

g. Water Supply – Post-construction monitoring and reporting

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

2. Groundwater monitoring plan. The applicant shall submit a Groundwater Monitoring Plan prepared by a professional licensed hydrogeologist with expertise in groundwater resource planning and management or another qualified professional or professionals approved by the Mahoning Township. The Groundwater Monitoring Plan shall include:

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

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

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

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

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

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

3. Inspection of wells. The Power Generation Facility shall inspect monitoring wells, including water level loggers, at least monthly to ensure that they are not damaged and are functioning properly. If a damaged or malfunctioning well is identified, Mahoning Township shall be contacted immediately in writing, and the well shall be restored to its

design specifications within two weeks, unless weather conditions do not permit and/or this period is extended in writing by the Mahoning Township. In the event that the water table falls below the bottom of a monitoring well and the water level logger in that well becomes inoperable, the well shall be inspected at a minimum of once every two weeks and the data logger shall be re-installed once the water table is again observed in the well.

4. Reporting. The Power Generation Facility shall submit to Mahoning Township quarterly reports on forms and in a manner prescribed by Mahoning Township. Reports shall include the following:

- a. The quantity of all withdrawals, measured by means of a continuous-recording device, flow meter, or other method accurate to within 5% of actual flow, on a daily basis or such other frequency as may be approved by Mahoning Township;
- b. Groundwater levels at all monitoring wells; measured on a daily basis or such other frequency as may be approved by the Mahoning Township;
- c. Precipitation data, measured on a daily basis or such other frequency as may be approved by Mahoning Township;
- d. Certification of the accuracy of all measuring devices and methods to within 5% of actual flow;
- e. Any loss of measuring or recording capabilities that occurred during the reporting period;
- f. A running comparison of monitoring data comparing the data for the recording period to the data for the same period in each of the previous five years;
- g. Any additional information the [municipality] deems necessary to determine whether the data center's water withdrawal adversely impacts water supply.

h. Adverse Groundwater Impacts; Presumptions; Hearing

1. Adverse Impacts.

The Power Generation Facility shall not cause an adverse impact to the water rights or water supply of others, including, but not limited to, by reducing the existing rate of flow of wells, causing contamination of wells, or depleting surface water resources of surrounding properties.

2. Process for Complaints.

- a. Any owner of a well or other person who believes a Power Generation Facility in the Mahoning Township has caused an adverse impact to such person's water rights or water supply may file a complaint in writing with the Mahoning Township on a form prescribed by Mahoning Township.

b. Upon receiving a complaint pursuant to paragraph (a), the Mahoning Township shall notify the Power Generation Facility Operator in writing within five (5) business days.

c. Within 60 days from the date of receipt of the complaint, the Mahoning Township shall decide whether the Power Generation Facility has caused the alleged adverse impact unless the complainant has agreed in writing to an extension of time or a hearing has been requested pursuant to paragraph (e), in which case the timelines set forth in paragraph (4) shall govern.

3. Presumptions; burdens. The following presumptions shall apply to Mahoning Township's decision:

a. A Power Generation Facility shall be presumed to be responsible for any adverse impacts to any water supply well within the AOI that occurs within 60 months following the date the data center is put into operation.

b. The Power Generation Facility shall not be presumed to be responsible for any adverse impact to any well that is located outside the AOI or which takes place more than 60 months from the date the data center is put into operation. In such cases, any person claiming adverse impacts shall have the burden of proving said adverse impacts and that they are caused by the Power Generation Facility's withdrawal.

4. Hearing.

a. A Power Generation Facility Operator who asserts that an alleged adverse impact is not caused by the Power Generation Facility's well(s), any owner of a well outside the AOI who alleges an adverse water supply impact, and any owner of a well within the AOI who alleges an adverse impact more than 60 months from the date the data center is put into full production, may request a hearing to be held before Mahoning Township pursuant to the Pennsylvania Local Agency Law, 2 Pa. C.S.A. § 551, et seq., to overcome the presumption(s) set forth in Paragraph 3 by offering such evidence as they believe rebuts the presumption(s).

b. If the complainant requests a hearing, such request shall be made at the time of the filing of the complaint. If the Power Generation Facility Operator alleged to have caused the adverse impact requests a hearing, the request shall be made within 30 days of the mailing of the notice required by paragraph 2(b). The hearing request shall include proof of service thereof on either the Power Generator Facility Operator or upon the complainant, as the case may be. Mahoning Township shall schedule and conduct a hearing and make a decision in accordance with, and pursuant to the timeline set forth in, Section 908 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10908.22 except references therein to the zoning hearing board shall be construed as references to the Mahoning Township.

5. Decision.

a. Mahoning Township shall decide, based on presumptions set forth in Paragraph 3, and the testimony and evidence presented at any hearing conducted pursuant to Paragraph 4, whether the Power Generation Facility has caused the alleged adverse impact.

b. Each decision shall be accompanied by written findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

6. Remediation. In the event that Mahoning Township determines pursuant to the provisions of this Section that a Power Generation Facility is responsible for an adverse impact to the water supply of others, the Power Generation Facility Operator shall alleviate the adverse impact, at no expense to the affected property owner(s), so as to furnish reasonable quantity and quality of water. Remediation may include deepening the impacted well, drilling a new well, connecting the affected property to a public water supply, or any other measures as Mahoning Township may approve as just and equitable under the individual circumstances.

i. Enforcement

1. In the event that that the Power Generation Facility Operator does not commence to remedy the adversely impacted water supply within [5] days of when the Mahoning Township finally determines that the Power Generation Facility Operator is responsible for an adverse impact, Mahoning Township may draw down the financial security posted pursuant to this Section and apply such security as Mahoning Township deems necessary to cure the problem. In the event that the financial security is not sufficient to cure the problem, the Data Center Operator shall be responsible for any additional expense, including legal, engineering and administrative costs, which are incurred in curing the problem.

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

j. Financial Security

1. The Applicant shall deposit with the Mahoning Township at the time of land development approval financial security in an amount determined by multiplying \$5,000 by the number of all other groundwater wells within the Hydrologic Environment. The security shall be in the form of a term bond or the deposit of funds in escrow or a federal- or commonwealth-chartered lending institution irrevocable letter of credit and restrictive or escrow accounts.

2. Sixty (60) months after the date that the Power Generation Facility's well(s) reaches full production, Mahoning Township shall return to the Applicant all financial security posted pursuant to this Section upon written request, except such security as may be

necessary to remedy any pending claims of adversely impacted wells which have not been finally determined

k. Prior to building permit issuance, the Developer shall provide proof of review and approval from the Pennsylvania Department of Environmental Protection, the Department of Conservation and Natural Resources, or any other Commonwealth Agency as may be required by law, for projects proposing:

Any consumptive water use of 20,000 gpd or more over a 30-day average from any water source.

11. Mandatory Cooling System Requirements

- a. All new power generation facilities and qualifying expansions must employ closed-loop cooling for server racks and IT equipment and operational equipment. Use of open, evaporative cooling towers for facility heat rejection is prohibited unless an applicant demonstrates by clear and convincing evidence that closed-loop technology is infeasible for the specific project and the applicant obtains a conditional exemption under this Section and all applicable state permits.
- b. Conditional Exemption. An exemption may be granted by Mahoning Township upon a written request made at the time of land development or permit application and must include:
 - i. Detailed engineering documentation prepared by an independent licensed professional engineer demonstrating that closed-loop technology is infeasible for the specific project.
 - ii. Proposed alternative technologies such as geothermal, air-cooled, direct- to-chip liquid cooling, or waste-heat recovery systems so long as they meet water-use, noise, and environmental standards set forth herein.
- c. Mahoning Township may impose reasonable conditions on any exemption.
- d. Prohibition on private well dependency. Power Generation Facilities may not be designed to draw primary cooling make-up water from private potable wells.
- e. Once through cooling prohibited
- f. When feasible as determined by a qualified professional, treated wastewater reuse shall be used as part of the closed loop cooling system to aid in reliability of water supply for operational uses. The Developer shall apply for the applicable permit through the Pennsylvania Department of Environmental Protection for the use of treated wastewater. The Developer shall be responsible for the costs associated with supplying treated wastewater to the facility for use.

12. Power Supply

- a. If the Developer proposes to connect the Power Generation Facility to the electric grid, the Developer shall provide documentation from the applicable electric service provider certifying that the necessary capacity is available and that electric service provider will serve the Power Generation Facility. Known impacts on electric rates or availability for other uses directly attributable to the Power Generation Facility project shall be noted.
- b. All primary and backup power systems shall be identified in the application.
- c. Prior to approval of the certificate of completion or occupancy, the applicant shall provide written verification from the applicable service provider stating the following:
 - i. Adequate capacity is available on the applicable supply lines and substation to ensure that the capacity available to serve the other needs of the service area is consistent with the normal projected load growth envisioned by the provider,
 - ii. Utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed use,
 - iii. Any system designed for cooling and operation of the facility (electricity, water, or other means) will be adequate and will not negatively impact the surrounding region
 - iv. The use will not cause electrical interference or fluctuations in line voltage on and off the operating premises
 - v. Prior to approval of the certification of completion or occupancy, the applicant shall provide the municipality with written verification that the electrical work has passed a third-party final inspection.
 - vi. Absent conflicting Pennsylvania Public Utility Commission regulations or rulings, applicant shall provide proof that there will be no impact on the infrastructure rates of the surrounding community. Documentation will include cost and financial responsibility of
 - 1. Interconnection
 - 2. Transmission (planning, execution, and maintenance)
 - 3. Upgrades or additions to gas lines, water lines, sewage lines
 - 4. Access or surrounding road maintenance.

13. Backup Power

- a. Diesel generators shall meet Tier 4 emission standards of the U.S. Environmental Protection Agency.
- b. Diesel generators shall undergo annual testing, and reports shall be provided to the township ensure that data center equipment is performing as designed and that emissions from the data center do not exceed permitted limits.
- c. Use for peak shaving or supplying power to the grid is prohibited. The applicant shall design and locate emergency energy generation systems to limit noise and visual impacts as much as possible.

- d. Emergency energy generation that uses diesel, gasoline, or another fossil fuel shall be used only at the following times:
 - i. When the primary source of energy is not available due to an emergency outage.
 - ii. During routing maintenance, or readiness testing for a short duration of time and capped at 100 hours per year.
 - iii. Routine maintenance testing of back-up fossil fuel-powered generators is restricted to the hours of 9 am through 3 pm Monday through Friday.

14. FAA Compliance - Any Power Generation Facility shall comply with all applicable requirements of the Federal Aviation Administration (FAA) Model Zoning Ordinance. The owner or developers shall provide the Township with an FAA approval letter indicating compliance with the same.

15. Security and Access

- a. Security.
 - i. All Power Generation Facility shall be secured against unauthorized entry and safeguarded in an approved manner, including but not limited to secure gate(s) at all access points.
- b. Access:
 - i. The Applicant shall provide a map showing the public roads in the Township proposed to be used to access the facility and provide an evaluation of the condition of any Township road which will be used and the potential damage which may occur from such use.
 - ii. All access roads, including emergency access roads, shall have a total lane width of not less than Twenty Four (24) feet, excluding any on street parking areas and shoulder. All access roads shall be improved to a dustless all-weather surface which prevents stormwater erosion or sedimentation from being carried on to public roadways and/or adjoining properties. All access roads and/or driveways shall be constructed to buffer adjoining properties from headlights and to minimize traffic noise.
 - iii. It shall be demonstrated that there is an adequate second means of ingress and egress suitable for emergency access to the site.
 - iv. A minimum of one (1) fire lane intended for aerial apparatus access to roof structures shall be provided. The lane shall be:
 - 1. A minimum of Twenty Four (24) feet wide restricted to travel and not including any street parking or shoulder.
 - 2. Clearly identified with ground markings and post-mounted signs.
 - 3. Free from any overhead obstructions; and
 - 4. Able to access the area not less than 15 feet or greater than 30 feet from the Power Generation Facility and be on the

same side of the structure as the access road.

16. Environmental Impact Assessment.

- a. An Environmental Impact Assessment shall be performed. The assessment shall be prepared by a professional engineer, ecologist, environmental planner, or other qualified individual. An assessment shall include a description of the proposed use, including location, relationship to other projects or proposals, with adequate data and detail to assess the environmental impact. The assessment shall also include a comprehensive description of the existing environment and probable future effects of the proposal. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships. At a minimum, the assessment shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts. This assessment shall evaluate cumulative environmental impacts from the Developer's project along with other activities within and impacting the Township. The assessment shall also include a detailed examination of public resources most likely impacted by the development plan and include the following focus areas:
 - i. Air pollution impacts emissions from vehicle operations, including from truck engines during idle time. The Developer shall identify all stationary and mobile sources of fine particulate matter (PM_{2.5}), volatile organic compounds, and nitrogen oxides at the site. The Developer shall specify best management practices for preventing and reducing the concentration of air-polluting emissions at the site. The owner or operator of the facility shall have anti-idling signs prominently posted in areas where 15 or more trucks may park or congregate.
 - ii. The potential for public nuisance to residents resulting from operations and truck traffic, including noise, glare, light, and visual obstacles, exists.
 - iii. A stormwater management plan will be required.
 - iv. Consistency with the municipal and county comprehensive plan. The Developer shall submit an assessment report of the impact of the proposed use on the goals of the respective plans. Where the proposed use conflicts with the comprehensive plan, the assessment report shall identify mitigation measures that may be undertaken to offset any degradation, diminution, or depletion of public natural resources.
 - v. Adverse impacts. A statement of any adverse impacts that cannot be avoided.
 - vi. Impact minimization. Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction, including design considerations.
 - vii. Mitigation steps. A listing of steps/structural controls proposed to minimize damage to the site before and after construction.

- b. Critical impact areas. In addition to the above, plans should include any area, condition, or feature that is environmentally sensitive or that, if disturbed during construction, would have an adverse impact on the environment. Critical impact areas include, but are not limited to, floodplains, riparian buffers, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, hydric soils, hydrologic soil groups, areas of high-water table, and mature stands of native vegetation and aquifer recharge and discharge areas.
- c. A statement of impact upon critical areas and of adverse impacts that cannot be avoided.
- d. Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction.
- e. Any area with a Pennenviro score of greater than or equal to eighty (80) shall be prohibited as a primary site.
- f. Applicant will submit from a licensed real estate agent a community impact assessment confirming that Power Generation Facilities or accessory structures will not negatively impact surrounding property values.
- g. Environmental and Community Impact Analysis
 - i. Prior to the commencement of the conditional use/special exception hearing, the applicant shall provide an environmental and community impact analysis. The environmental and community impact analysis shall include:
 - 1. A narrative description of the nature of the on-site activities and operations, including the market area served by the facility, the hours of operation of the facility, the total number of employees on each shift, the times, frequencies, and types of vehicle trips generated, the types of materials stored and the duration period of storage of materials.
 - a. A site plan of the property indicating the location of proposed improvements, flood plains, wetlands, waters of the Commonwealth and cultural and historic resources on the property and within 500 feet of the boundaries of the property.
 - b. Evidence that the disposal of materials will be accomplished in a manner that complies with state and federal regulations.
 - i. An evaluation of the potential impacts of the proposed use, both positive and negative, upon:
 - ii. Emergency services and fire protection
 - iii. Water supply
 - iv. Sewage disposal

- v. Solid waste disposal
 - vi. School facilities and school district budget
 - vii. Municipal revenues and expenses.
2. Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, heat islands, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinances.

17. Thermal Impact Mitigation Plan

- a. A Thermal Impact Mitigation Plan shall be submitted with the zoning application, including, at a minimum
 - A. Identification of primary source of waste heat (air and water based).
 - B. Identification of primary sources of waste heat (air and water-based).
 - C. Evaluation of potential off-site thermal impacts (including plume/heat discharge and localized heat islands) under representative seasonal conditions.
 - D. Description of design measures to minimize heat impacts (e.g., equipment siting, shielding, landscaping, cool roofs/paving where applicable).
 - E. Evaluation of feasible opportunities for waste heat reuse. Where reuse is not feasible, the reason(s) why should be given, in which case alternative mitigation shall be identified (e.g. vegetative or green roof and/or site design modifications).
 - F. Inclusion of a monitoring/verification approach if required by conditions of approval based on proximity to sensitive receptors or site constraints.
 - G. The Plan shall be prepared and certified by a professional engineer.

The Thermal Impact Mitigation Plan shall be subject to review and comment by the municipality. The municipality shall have the right to require supplemental or amended plans based upon comments by the municipality prior to any zoning approval.

18. Decommissioning of Power Generation Facilities

- a. A decommissioning plan which addresses each of the requirements in Section (b) below, shall be submitted as part of any Land Development submission and shall show how the site will be returned to a neutral state, being a condition that is easily adapted to similar uses, and the handling and removal of any Battery Energy Storage System and/or Electronic Waste (also known as "E-Waste") and/or other hazardous material that may be present on the site.

- b. The following Decommissioning Requirements shall apply to any Power Generation Facility ("Covered Facility"):
- i. The owner of a Covered Facility is required to notify the Township within thirty (30) days following permanent cessation or abandonment of the Covered Facility. The operations shall be presumed to be discontinued or abandoned if the Covered Facility is not in operation for a period of twelve (12) continuous months and the owner of the Covered Facility has evidenced its intent to permanently discontinue operation of the Covered Facility.
 - ii. The owner of the Covered Facility shall then have twelve (12) months in which to dismantle and remove any and all Battery Energy Storage Systems or their constituent components, or any Electronic Waste, including all related equipment or appurtenances related thereto, including, but not limited to, cabling, electrical components, and other associated facilities, from the property. If the owner fails to dismantle and remove the portions of the Covered Facility to the extent required by this paragraph within the established time frames, the Township may complete the decommissioning at the owner's expense. The costs of such decommissioning together with a penalty of ten (10%) percent to be charged upon the land upon which the Covered Facility exists as a municipal lien, or alternatively to recover such costs and penalty together with reasonable attorney fees incurred by the Township, in a suit at law against the owner or owners, but, failing to recover same, the judgment therefore shall be charged upon the land as a lien; and, this subsection is separate from and in addition to the fine, penalty, and costs which may be imposed by any other subsection of this Ordinance.
 - iii. Prior to the issuance of a permit by the Township, the owner shall provide financial security in the form of cash, a letter of credit, bond, escrow, or other financial security acceptable to the Township, in the amount of one hundred and ten percent (110%) of the estimated cost of decommissioning based on an estimate provided by a professional engineer registered in the Commonwealth of Pennsylvania to secure the expense of dismantling and removing the required portions of the Covered Facility and stabilizing the land for storm water management purposes (the "Decommissioning Security"). The Township shall be required to hold a public hearing on the amount and form of the Decommissioning Security, which

shall be approved by the Township at a public meeting. The decommissioning cost estimate shall be updated by a professional engineer registered in the Commonwealth of Pennsylvania at the developer/owner's expense every five (5) years thereafter and the financial security shall be adjusted accordingly.

- iv. Prior to any transfer of the property by owner, the Township shall hold a public hearing on the transfer of the Decommissioning Security set forth in Section (c) above. The owner shall provide sufficient notice of any proposed transfer(s) of the property to enable to Township to advertise and hold any public hearing required under this Section.

19. APPLICATION

Applications for a power generation facility shall be accompanied by a clear purpose statement that best defines the intended function of the power generation facility as utility, merchant, behind the meter or any other applicable intended use as well as a site development plan prepared by a registered professional engineer, which shall include the following minimum information:

- a. A copy of any permit application related to the permitting requirements for this use submitted to the PA Department of Environmental Protection (PADEP) shall be submitted with the application for zoning approval;
- b. A survey by Registered Land Surveyor or Professional Engineer showing the location of structures, all public and private streets and all driveways on or within 200 feet of the proposed property;
- c. The survey to be submitted shall also demonstrate the following information:
 - i. The proposed location of the power generation station;
 - ii. The proposed means of access to the power generation station;
 - iii. The proposed gathering or transmission lines;
 - iv. The distance from any existing structures on the subject property or the immediately adjacent properties;
 - v. Location of local water supply wells or systems; and
 - vi. Contours, existing and proposed, drawn at two foot vertical intervals
- d. The applicant shall provide logs or other documentation showing the estimated deepest fresh groundwater.
- e. The applicant shall provide the location of site streams, wetlands and flood plains within five hundred (500) feet of power generation facility location shall be set forth in the plan;
- f. The applicant shall report all soils and slopes over 1:4 grade and landslide prone areas and other geological hazards.
- g. The applicant shall locate all oil, natural gas and electrical transmission lines.
- h. A site specific erosion and sedimentation control plan at a legible true scale, specific to the site, shall be submitted.
- i. The applicant shall provide a proposed schedule indicating the following dates:

- j. Site preparation begins and ends;
- k. Anticipated construction activity begins and ends;
- l. Anticipated generation and electric production to begin.
- m. The Applicant shall provide copies of all applications for a highway occupancy permit submitted to the PA Department of Transportation.
- n. The applicant shall provide a copy of the erosion and sedimentation control plan submitted to PADEP.
- o. The applicant shall submit copies of other permit applications submitted to any state, local or federal public agency.
- p. Proposed security including fencing and access controls and monitoring systems for the facility.

20. LOCAL, STATE, FEDERAL REGULATIONS

All operations shall comply with all applicable local, state and federal laws, rules and regulations. Applicant shall supply the Township with evidence of compliance with state and federal regulations.

21. INFORMATIONAL REQUIREMENTS

The applicant shall provide the information required by this Section and all other necessary information to enable the Township to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The Applicant shall provide the following:

- H. Application Information - The information required by this Section, all required application information and all other necessary information to enable the Township to assess compliance with this Ordinance.
- I. PADEP Application Information - A copy of all applications and information required by the applicable PADEP Rules and Regulations.

22. REPORTING REQUIREMENTS

For any facility approved by the Township, the operator shall submit to the Township copies of all PADEP required or PADEP-issued documents and reports associated with the operation, within seven (7) days of the date of the document or report.

23. EMERGENCY RESPONSE PLAN

The applicant shall submit an emergency response plan to the Township, Lawrence County emergency management agency, local police departments and the local fire companies providing at a minimum the recommended first response by the fire companies and first responders to address the following:

- A. Potential accident discharge of environmental contaminants;

- B. Control and disposal plan for effluence and waste;
- C. Emergency traffic control plan;
- D. A proposed response plan containing a N.I.M.S. compliant emergency management protocol; and,
- E. Electrical transmission line malfunction, breakdown or failure.'

24. EMERGENCY CONTACT INFORMATION

The applicant shall provide contact information for company representatives in the event of the occurrence of an emergency. The applicant shall meet with representatives of all first responders, applicable Township personnel and county emergency management departments to establish an acceptable emergency response plan.

25. EMERGENCY EVACUATION PLAN

The applicant shall provide a plan for evacuation of the employees and other occupants of the facility in the event of an emergency. The applicant shall also provide a plan for transportation of injured individuals from its facility to a facility which can provide the required emergency services.

26. VIOLATIONS

- a. Violations of any provision of this Ordinance shall be addressed pursuant to Section 504 of the Mahoning Township Zoning Ordinance, as amended.
- b. Pursuant to Section 502.4 of the Zoning Ordinance, the Zoning Officer is authorized to institute civil enforcement proceedings as a means of enforcing this Ordinance.
- c. The Failure to comply with any provision of this Section, and/or any condition imposed by the Board of Supervisors pursuant to any Conditional Use approval, shall be grounds for revocation of the Conditional Use approval.

27. PERMITTING

- a. The Conditional Use Application shall demonstrate that the proposed Power Generation Facility will comply with this ordinance.
- b. Applications will include nonrefundable fee as determined by Township fee schedule.
- c. The Application shall contain:
 - i. Detailed and complete set of both the construction and operating plans, narrative description including and overview of project, project location, dimensions and descriptions of constructed equipment and ancillary facilities to include number, type, height and placement.
 - ii. Affidavit or similar evidence of agreement between landowner of real property of which Power Generation Facility is to be located

- and Facility owner/operator demonstrating participating landowner agreement
- iii. Identification of the properties or portions thereof on which the proposed Power Generation Facility will be located, and the properties, including the name of the landowners and addresses, adjacent to where the Power Generation Facility will be located, and the names and addresses of those properties in direct line of sight of where the Power Generation Facility will be located
- iv. Site plan showing planned location of each Power Generation Facility property lines, setback lines, access roads and turnaround locations, substations, electrical cabling from the Power Generation Facility to the substations, ancillary equipment, buildings and structures, including associated distribution and/or transmission lines, and layout of all structures within the geographical boundaries of any applicable set back
- v. Documents related to decommissioning, a detailed decommissioning plan, other relevant and pertinent documents, and a schedule for decommissioning.
- vi. Other relevant studies, reports, certifications, and approvals as may be required by the Applicant or by Mahoning Township to ensure compliance with this Ordinance
- d. Within sixty (60) days of receipt of the Application, the Township will schedule a public hearing in accordance with the MPC, unless the Applicant agrees to an extension of time in writing. The Hearing shall be conducted in accordance with the MPC and the Applicant shall participate in the hearing and be afforded an opportunity to present the project to the public and Township officials, and answer question about the project. Neighbors living in the vicinity of the project shall be afforded an opportunity to participate as a part, ask questions, and provide comments on the proposed project. The public will be afforded an opportunity to provide public comments.
- e. Within forty-five (45) days after the close of the final hearing, the Township shall issue a written decision in accordance with the MPC. A Permit Application shall be denied where the Applicant fails to comply with the provisions of this Ordinance.
- f. Throughout the Permit process, the Applicant shall promptly notify the Township of any changes to the information contained in the Permit Application
- g. Changes to the pending Application that do not materially alter the initial site plan may be adopted without an additional public hearing. The Board

of Supervisors, in their sole discretions, shall determine whether there is a material alteration of the initial site plan.

28. Community Benefit Agreement

- a. A Community Benefit Agreement (CBA) shall be determined separate from this ordinance for high impact project in order to ensure the effects of development are balanced by investment to the resources supporting Mahoning Township

Section 4: SEVERABILITY

The provisions of this Ordinance are declared to be severable, and if any provision of this Ordinance shall, for any reason be held to be invalid, such invalidity shall not affect the Ordinance as a whole or any other part or part thereof. If any provisions of this Ordinance shall conflict with or be inconsistent with other provisions of the Zoning Ordinance, the provisions of this Ordinance shall control.

Section 5: REPEALER

Any and all ordinances/resolutions, or parts thereof, conflicted herewith, are repealed insofar as the matters herein are affected.

Section 6: EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this _____ day of _____, 2026.

ATTEST:

**MAHONING TOWNSHIP
BOARD OF SUPERVISORS**

Jean Greco, Secretary

Vito Yeropoli, Chairman

Gary Pezzuolo, Supervisor

Mark Sackin, Supervisor
