

SCRUBGRASS TOWNSHIP BOARD OF SUPERVISORS

Venango County, Pennsylvania

Response to Section-by-Section Comments — Data Center Ordinance No. 2026-3

(Responses to Comments)

1. Comprehensive Plan Findings (Section 2)

Comment: *Add findings that reference the Venango County Comprehensive Plan and any Township comprehensive or open space plan directly, since Section 15(A)(5) requires a consistency assessment but does not name the plan.*

Response: The Ordinance is separate from the Venango County comprehensive plan and, while requiring an assessment of how a proposal is consistent with that plan, the Township cannot tie the permit to such County level regulation. If the Township were to enact zoning, it would need to develop a comprehensive plan, and any such plan could be a relevant factor in determining if a data center, under a zoning ordinance, fit in its proposed location.

2. Findings Regarding Power Generation and Pipelines (Section 2)

Comment: *Add a finding acknowledging that on-site power generation and natural gas pipeline infrastructure are reasonably anticipated uses associated with Data Centers and require their own standards.*

Response: As drafted, the Ordinance would allow the Township to review and consider conditions on how pipeline facilities tie-in to a data center. Adding this language would support an argument that the facilities are separate uses that should not be regulated as part of the data center.

3. Consolidated Permit Application Checklist (Section 3)

Comment: *Consolidate the application requirements now scattered throughout the Ordinance into a single itemized list so completeness can be verified against one checklist.*

Response: The Township has added language that clarifies the list of studies and plans that are required in a Permit application.

4. Pre-Application Meeting and Mandatory Attendance (Section 3)

Comment: *Require a pre-application public informational meeting and mandatory personal attendance by the developer and the engineer of record at the formal hearing.*

Response: The Township has added a pre-application meeting requirement to verify administrative completeness of an application. The Township should not sponsor or hold any kind of public informational meeting or pre-hearing prior to the public hearing at which the data center permit will be decided. The purpose of the public hearing process is to create a decisional record. Information presented at a proceeding conducted outside the actual public hearing would not be part of the hearing record and should not be considered in any decision.

5. Final As-Built Plans Before Occupancy (Section 4)

Comment: *Require submission of final as-built site, landscaping, utility, and building plans before issuance of a certificate of occupancy, with updated plans required upon any modification.*

Response: The Township has added a requirement that copies of as-built plans submitted to Venango County or the Venango County Conservation District also be submitted to the Township.

6. Power Generation and Pipelines Under Utility Connections (Section 5)

Comment: *Section 5 addresses electric and water and sewer capacity but does not address on-site power generation as its own use and does not address pipelines at all.*

Response: Section 5 is drafted as a capacity and verification provision: it asks whether the existing system can carry the proposed load. That framing is well within Township authority. Rewriting Section 5 to govern the siting and operation of generation facilities and pipelines would shift the section from regulating impacts, which the Township may do under its police powers, toward regulating utility siting, where the Township's authority is materially narrower and, for certain facilities, absent. Furthermore, electrical generation and pipelines are likely to be separate, off-site uses altogether. Should the Township want to regulate these fields, it should enact separate ordinances to do so. The Township will regulate what it can defend: noise, emissions, setback, buffering, water usage, and restoration.

7. Operational-Phase Trucking and Hours of Operation (New Section)

Comment: *Add a section restricting heavy truck deliveries, backup generator testing, and other high-noise maintenance activity to defined daytime hours, with consideration of school start and dismissal times, and with exceptions limited to genuine emergencies.*

Response: Section 19 requires a construction transportation plan. The Township is limited in its ability to regulate traffic on PennDOT roads. By requiring a construction transportation plan the Township can evaluate traffic impacts and place reasonable conditions on traffic routes and hours, but those conditions must be related to an identified health and safety concern.

8. Review Fee and Escrow Section (New Section)

Comment: *Add a section requiring an escrow deposit at application, itemized billing for actual professional time, replenishment when the escrow falls below a threshold, and a defined dispute-resolution process.*

Response: The Township has added provisions in the Ordinance to expressly provide for escrow funds, and for ensuring an applicant pays for the engineering and consultant review involved in evaluating their application. The fees for an application, more broadly, will need to be set by the Township, but in a separate resolution.

9. Annual Inspection and Replacement Reporting for Plantings (Section 6)

Comment: *Require replacement of dead, dying, or diseased required plantings within the next planting season, and an annual written compliance report documenting buffer condition, for the life of the use.*

Response: The Township has added a report on landscaping and the replacement of dead, diseased, or missing plant material in the annual compliance reporting.

10. Pipeline Buffer and Replanting Standards (Section 6)

Comment: *Add a pipeline-specific subsection requiring post-construction revegetation of any pipeline corridor, a permanently cleared corridor no wider than fifteen (15) feet, and a replanting plan, timeline, and financial security specific to the right-of-way.*

Response: Interstate transmission facilities are subject to federal jurisdiction, and a fixed numeric limit on permanently maintained corridor width is the sort of provision that draws a preemption challenge, because operator maintenance and access widths are frequently set by the operator's own federally-reviewed integrity management obligations.

11. Fencing and Security Standards (New Section)

Comment: *Add a section addressing maximum fence height, prohibiting barbed or razor wire, prohibiting chain-link fencing along public rights-of-way, and clarifying that security fencing does not itself satisfy the buffer and screening requirements.*

Response: The Township has added a fence provision which states a preference against barbed or razor wire except where an applicable federal or state security standard requires it.

12. Measurement Point for Setback, Sound, and Visual Standards (Sections 7 and 10)

Comment: *Specify that all sound, lighting, and visual-impact setbacks and buffer requirements are measured from the nearest corner or exterior wall of any Data Center building or Data Center Equipment to the property line or sensitive receptor boundary, whichever is more protective.*

Response: A single measurement rule applied uniformly across Sections 6, 7, 9, and 10 does not work, because those sections measure different things. Sound and illumination are measured at the receiving property under Sections 9(C), 9(D), and 10(A)(1). Rewriting those provisions to measure from the source would weaken them. Buffer widths under Section 6, by contrast, are properly measured from a fixed physical reference, and Section 6(F) and 6(G) already supply rules for roadway and easement conditions.

13. Response Time for Light Shield Adjustment (Section 9)

Comment: *Add a defined response time, for example fifteen (15) days, for adjusting light shields following a substantiated complaint.*

Response: The Township could add a specific deadline, but it could actually give a violator more time than at present. Section 9(G)(2) as drafted states the obligation. As currently written, under Section 22, the Township could go after a light shield violation even quicker than fifteen days.

14. Time-of-Day Sound Limits and Ambient Baseline (Section 10)

Comment: *Supplement the CNEL standard with absolute time-of-day sound limits measured at all property lines, and provide that where the pre-construction ambient level is below the applicable limit, operations may not raise noise above that lower baseline.*

Response: As written, the noise limits do apply at the property line and beyond of all properties, not just sensitive receptors. Furthermore, in a rural township, measured ambient levels can fall low enough that such a rule functions as a prohibition on operation rather than as a standard governing it, and it is that character, not the numeric value, that makes it vulnerable. Lastly, CNEL (Community Noise Equivalent Level) is an energy average of sound levels over a full day, but with weighting penalties added for the hours when noise bothers people more (from 7:00 p.m. to 7:00 a.m.). Specifically, CNEL adds a 5 dBA weighting penalty to operations between 7:00 p.m. and 10:00 p.m. and a 10 dBA weighting penalty to operations occurring between 10:00 p.m. and 7:00 a.m. This means that the Ordinance already addresses sound at different times of the day, and that the standards in the Ordinance need to be met as measured over 24 hours with the harsh weighting penalties for nighttime use included as part of that calculation. The Board addressed a similar question at its Special Meeting on July 8, 2026, and voted to keep the standards as drafted. The Board's reasoning was that an unreasonably low standard invites a challenge, and that if the challenge succeeds the Township is left with no noise standard at all, which is a worse outcome than a defensible 55 dBA. That reasoning applies with equal force to a baseline rule that reaches the same practical result by a different route.

15. Ongoing Periodic Sound Monitoring (Section 10)

Comment: *Add fixed-schedule ongoing sound monitoring rather than relying only on a single six-month post-construction study and the equipment-change trigger in Section 10(C).*

Response: The Ordinance already requires preliminary, interim, as-built, and post-construction studies, and Section 10(B)(4) permits the Township to require further studies at will, without notice.

16. Public Access to Sound Monitoring Data (New Section)

Comment: *Require that sound monitoring data, particularly from permanent monitoring stations, be published on a publicly accessible website at a stated interval, with historical data retained.*

Response: The Township lacks the resources to constantly monitor noise and have a corresponding public website to that effect. The Township can provide the noise reports it possesses in any specific Right-To-Know Request.

17. NFPA 855 (New Section)

Comment: *Add a reference to NFPA 855 and Battery Energy Storage Systems.*

Response: The Township has added a reference to this standard. Battery Energy Storage Systems (BESS) are a separate use, so the Township's Ordinance for Data Centers will, inherently, be non-exhaustive on BESS regulation. If the Township were to enact further ordinances or a zoning ordinance, it could provide for greater regulation of BESS there.

18. Standing Annual Compliance Report (New Section)

Comment: *Add an Annual Compliance Report covering noise, vibration, EMF, lighting, buffer condition, water usage relative to the feasibility study, and generator testing hours and emissions, with Township Engineer verification at the operator's expense.*

Response: The Township has added annual compliance reporting in Section 21. Section 21(C) provides for what needs to be included in those reports (statements of compliance for noise, vibration, EMF, actual water consumption, actual electric consumption, emergency/backup generator hours of operation, effective federal, state and county permits, etc.).

19. Ongoing EMF and Vibration Monitoring (Section 12)

Comment: *Tie ongoing EMF and vibration monitoring into the Annual Compliance Report rather than addressing them only at the pre- and post-construction stages.*

Response: The Township has included a certification of compliance with EMF and vibration standards in the annual compliance report. Sections 12(B)(6) and 12(C)(4) already impose an immediate corrective-action duty that is not conditioned on how an exceedance is discovered, and Section 12(C)(2)(b) already permits the Township to require further vibration studies after the as-built stage.

20. Drought Response Plan and Well Remediation (Section 13)

Comment: *Require a drought response plan demonstrating compliance with state, water supplier, and local drought declarations, and add an explicit obligation to remediate adverse impacts to nearby wells at no cost to the affected property owner.*

Response: Section 13 is among the most detailed sections of the draft, requiring a hydrogeologic report, aquifer testing, cone-of-depression analysis, and an assessment of effects on nearby wells, and Section 13(B)(4) already requires the applicant to address how impacts will be mitigated or remediated. The Township can add specifically to this section a provision that the report include a drought contingency plan and description of water use curtailment plans in the event of a drought emergency. However, the Township is not equipped to get in the middle of disputes between a data center operator and a water supply owner/provider about private wells; such a dispute is the purview of DEP or a private cause of action.

21. Applicant Funding for Specialized Fire and EMS Equipment (Section 14)

Comment: *Require the applicant to fund specialized firefighting or rescue equipment, PPE, and extinguishing agents that the local fire department determines are necessary, including agents suited to battery energy storage system fires.*

Response: The Ordinance requires that an applicant provide any specialized equipment which may be necessary. Recurring operational costs to the fire service could be addressed through a Community Benefits Agreement under Section 20. The Township cannot require that an applicant absolutely make a financial contribution to the Township.

22. Steep-Slope Disturbance Limit and Woodland Clearing Cap (Section 15)

Comment: *Add a firm limit prohibiting disturbance on slopes exceeding 25%, permit disturbance on 15 to 25% slopes only with a sealed slope stability analysis, and set a maximum percentage limit on removal of mature woodland outside the building footprint, supported by a tree survey.*

Response: Section 15(A)(7)(a) identifies slopes over 15% and mature native stands as critical impact areas requiring description and mitigation. The Township has to be careful with regulation setting firm limits and standards for land, as the Township has no zoning and the Data Center Ordinance is not a land use ordinance. Given the requirement to address this in the Environmental Impact Assessment, the Township can address these concerns on a case-by-case basis during its review of an application.

23. Community Benefits Agreement as a Permit Condition (Section 20)

Comment: *Section 20 currently recommends a Community Benefits Agreement rather than requiring one, which limits its practical effect. Either make such an agreement a required condition of Permit approval, with specific categories addressed, including contribution toward emergency services equipment and training beyond what Section 14 separately requires, infrastructure contribution for road maintenance, and consideration of tax base impact; or at minimum require that, if no agreement is reached, the applicant submit a written explanation addressing each category of community impact the agreement would otherwise have covered, before the Permit is approved.*

Response: The Township should not make a Community Benefits Agreement a condition of Permit approval. Section 20 is framed as a recommendation deliberately. A permit under this Ordinance must be granted or denied against the objective health, safety, and welfare standards the Ordinance sets out. Any required financial contributions must be tied to actual impacts assessed on a case-by-case basis. Each Community Benefit Agreement should be independently negotiated based on the scope and impact of the project.

24. Clarified Waiver Standard (Section 21)

Comment: *Clarify that cost or convenience to the applicant, standing alone, does not constitute exceptional hardship, and require a heightened showing and specific written findings for waivers of core public-safety provisions.*

Response: This was already assumed in the waiver provision, but the Ordinance now explicitly states that an exception hardship cannot be self-created or purely financial.

25. Stop-Work Authority (Section 22)

Comment: *Add explicit stop-work authority for uncorrected violations discovered during construction.*

Response: The Township's existing abatement and entry powers under Section 22(A), the Second-Class Township Code, and the Uniform Construction Code are broad enough to reach this. Stop-work orders are typically Uniform Construction Code remedies as would be the case for a data center under construction.

26. Penalty Cap (Section 22)

Comment: *The maximum fine amount reflects the statutory cap that applies generally to this type of ordinance violation and cannot be increased by local ordinance.*

Response: Under Section 1601 of the Second-Class Township Code, 53 P.S. § 66601, the maximum fine for a summary offense under a health, safety, or pollution ordinance is \$1,000 per violation, and the Township has no authority to raise it. Section 22(B) makes each day and each section violated a separate offense, and Section 22(A) adds abatement costs, expert fees, attorneys' fees, and court costs as a municipal lien with a 10% penalty.

27. Power Generation Facility as a Defined and Regulated Use (Section 23)

Comment: *Add a standalone definition of Power Generation Facility, provide that a facility supplying electricity substantially or exclusively to a Data Center is regulated under this Ordinance regardless of parcel, ownership, or corporate structure, and add a definition of Natural Gas Pipeline or Gas Transmission or Gathering Line.*

Response: Power Generation Facilities should be regulated under a separate ordinance. Should the Township decide to adopt zoning, it would be able to regulate such a use, and impose stricter, more specific standards than are allowed under the Second-Class Township code alone. The regulation of pipelines was addressed previously in Response 6.

28. Grandfathering the Existing Power Plant (New Section)

Comment: *Add a section recognizing the existing power plant as a lawful existing use, while providing that any physical expansion, capacity increase, fuel-source change, new interconnection to serve a Data Center, or structural alteration triggers full compliance, as does a change in ownership or a new agreement to supply a new or expanded Data Center.*

Response: The Data Center Ordinance is not a land use ordinance and the Township does not have zoning. Furthermore, the Ordinance is not specific to a property or existing use, nor could it lawfully be. Any existing facility in the Township that is not a data center is therefore not a regulated use.

29. Conflict With Other Township Ordinances (New Section)

Comment: *Add a provision that where this Ordinance imposes a more restrictive or higher standard than another applicable Township ordinance, the more restrictive standard controls.*

Response: Section 24 includes repealer language that is typically used in Ordinance drafting. The Township has also added language stating that less restrictive Ordinance provisions inconsistent with any of the provisions of the Ordinance are explicitly repealed.

(Responses to Carrie Worsk – July 14, 2026 Comment Letter)

1. County SALDO References (Sections 4, 6.E)

Comment: *The Venango County SALDO does not have verbiage or regulations in place regarding Data Centers.*

Response: The cross-references to the Venango County Subdivision and Land Development Ordinance (“SALDO”) do not assume that the SALDO contains Data-Center-specific standards. The SALDO governs subdivision and land development generally (stormwater management, plan submission, improvements, and similar site requirements). Accordingly, the SALDO would apply to a Data Center as it would to any land development. The Ordinance layers Data-Center-specific standards on top of that general framework. Section 4 requires compliance with the SALDO's existing, generally applicable requirements. As land development is administered at the County level for Scrubgrass Township, this provision requires that a Township Permit applicant have already completed that step.

2. "Negatively Impact" and "Electrical Interference" (Section 5.A(2)(c), (d))

Comment: *"Negatively impacted" needs to be defined; case studies must be referenced. The term can be subjective. Likewise, "electrical interference or fluctuations" must be defined.*

Response: If the Township sets standards that are too specific, it risks limiting enforcement under this provision. By stating that the cooling, water, and electrical systems will not “negatively impact” the surrounding regions, the Township allows flexibility in policing a wider variety of offensive impacts.

3. Local Contractor for Buffer Maintenance (Section 6.M)

Comment: *Specific language should be added to ensure a LOCAL business (within the county, or at least state-registered) is used for buffer maintenance.*

Response: A mandate that maintenance be performed only by county or in-state contractors raises a serious legal concern under the Dormant Commerce Clause of the U.S. Constitution, which restricts local governments from discriminating against out-of-state economic actors. A geographic-preference requirement of this kind would expose the Ordinance to challenge and is not necessary to achieve the Township's actual objective, which is reliable, enforceable maintenance. That objective is already secured by Section 6.M's requirement of financial security for ongoing maintenance and by the landscape management plan. The Township can lawfully require that any maintenance contractor be properly licensed and registered to do business in the Commonwealth, and can encourage local hiring through a Community Benefits Agreement under Section 20, but cannot convert that preference into a mandatory permit condition.

4. Noise Limits and One-Minute Allowance (Section 10.A)

Comment: *Lower the 55 dBA Sensitive-Receptor limit to 45 dBA (business hours) / 25 dBA (5pm–8am); lower the 65 dBA limit to 55 / 35; and remove the one-minute exceedance allowance.*

Response: At the Special Meeting held on July 8, 2026, the Township Board of Supervisors decided to keep the noise standards presently in the Ordinance. In reviewing data center ordinances from multiple municipalities in Pennsylvania and other states, the most common decibel levels are 67 dBA daytime and 57 dBA nighttime. Many are even higher. The 55 dBA standard set by this ordinance is as strict as any ordinances we have reviewed. Additionally, CNEL (Community Noise Equivalent Level) is an energy average of sound levels over a full day, but with weighting penalties added for the hours when noise bothers people more (from 7:00 p.m. to 7:00 a.m.). Specifically, CNEL adds a 5 dBA weighting penalty to operations between 7:00 p.m. and 10:00 p.m. and a 10 dBA weighting penalty to operations occurring between 10:00 p.m. and 7:00 a.m. This means that the Ordinance already addresses sound at different times of the day, and that the standards in the Ordinance need to be met as measured over 24 hours with the harsh weighting penalties for nighttime use included as part of that calculation. The Township wants to enact an enforceable Ordinance that does not have provisions that are outliers, heightening the risk of being stricken in a challenge. In such a scenario where a challenge did invalidate the Township's "unreasonably" low standard, the Township would be left with no noise standard at all. Reducing the noise standard below 55 dBA risks inviting a challenge, and one would be almost certain to come should the maximum allowable dBA be reduced to 25 dBA.

5. Specific Sound Barrier Devices (Section 10.A(2))

Comment: *Specific examples need to be sited (sic) for acceptable noise barrier or device options.*

Response: As written, this provision gives the Township more discretion for what noise barriers can be required. With changing technology, if the Township is too specific, it risks locking itself out of future options. The provision, as it is written now, allows the Township flexibility in its requirements for mitigation.

6. Sound Studies With or Without Notice (Section 10.B(4))

Comment: *Add verbiage that post-construction sound studies can be done WITH or WITHOUT notice; advance notice lets operators adjust operations to appear compliant.*

Response: The right to conduct compliance monitoring without advance notice is consistent with the Township's abatement and entry authority under the Second Class Township Code, 53 P.S. § 66601, and Section 22 of the Ordinance. As is, there is nothing in the Ordinance which prevents the Township from doing a post-construction sound study whenever they desire.

7. Sound Study Updates at Operator Expense (Section 10.C)

Comment: *Sound study updates should be done at the operator's (Data Center's) expense.*

Response: As written, the updated sound study is required to be performed by the Data Center Operator.

8. "Nearest" vs. "Responding" Fire Station (Section 11.B)

Comment: *Should be "responding station," not "nearest." The nearest station may not be the one with jurisdiction.*

Response: The Township will consider this change in proposed amendments. The Township, during the review process, can also direct a Data Center applicant to consult with whoever is the most appropriate point of contact under Section 14(A). This could be the closest fire station, the fire station whose jurisdiction it falls under, a number of fire stations, or all of the above.

9. Local Fire Resources (Section 11.D)

Comment: *This requirement is lacking resources; current local assets are not equipped for this increase in responsibility.*

Response: Section 11.D places the burden of providing specialized training and firefighting equipment on the applicant because a Data Center imposes fire-response demands the local companies do not currently carry. Section 14 reinforces this by requiring an applicant-funded emergency-responder training plan and an Emergency Response Plan developed in consultation with local responders. The Township can also use a potential Community Benefits Agreement (Section 20) to address recurring operational costs to the local fire service.

10. Independence of Testers (Sections 12.B(3)(b), 12.C(2)(a), 13.A)

Comment: *The Township should administer these tests and bill the operator; the operator should not control the relationship with the tester. The expert should be appointed by the Township, not the Data Center.*

Response: Pursuant to its powers under the Second-Class Township Code, the Township has the right to conduct its own review of any studies submitted by a Data Center applicant and to have those studies reviewed by a Township hired expert at the Applicant's expense. The Township will

also strengthen the ordinance provisions for the review and public hearing to very clearly require the Applicant to pay all fees and costs associated with application review.

11. Corrective-Action Deadline and Penalties (Section 12.B(5))

Comment: *A corrective-action time limit needs to be set — within 24 hours of the complaint. If not met, what fines or stoppage of operations apply?*

Response: Section 22.A of the Ordinance gives the Data Center owner or operator ten (10) days to correct a violation. The time period was set at ten (10) days, which is still a short cure period for industrial facilities.

12. Numeric EMF Limit — 0.3 Microtesla (Section 12.B(6))

Comment: *No EMF levels are specified. Statistical data shows a correlation between childhood leukemia and long-term EMF exposure exceeding 0.3 microteslas. Set the limit below 0.3 μ T at the facility property line.*

Response: The Ordinance incorporates quantitative limits by reference, the IEEE C95.6 and ICNIRP exposure standards in Section 12.B(2). These are specific, expert set limits that are defensible under the Township's police powers.

13. Water Discharge Temperature Limits (Section 13.A(4))

Comment: *We need to set these temperature limits within this Ordinance.*

Response: The Township can require disclosure of discharge temperature (as Section 13.A(4) already does), but can address thermal impacts only to the extent that they are not regulated by the State or Federal Governments. Thermal discharge to waters of the Commonwealth is regulated by the Pennsylvania Department of Environmental Protection. Any regulation in excess of their requirements is beyond the authority of the Township.

14. Bonding for Roads Outside the Township (Section 19.D)

Comment: *Bonding needs to be called out for roads outside the township that will be used — Old Lisbon Rd (Clinton Twp.) and Kennerdell Rd (Rockland Twp., river crossing).*

Response: The Township cannot directly require bonding for state roads that it does not own or control; bonding authority only runs to Township roads under the Township's jurisdiction. What the Township can lawfully do, and what the Ordinance already contemplates in Section 19.B, is require the Construction Transportation Plan to identify all haul routes (including Old Lisbon Road and Kennerdell Road), require evidence of coordination with PennDOT, Venango County, and affected adjacent municipalities, and ask an applicant to enter into road-maintenance or bonding agreements with those neighboring jurisdictions as a condition of permit approval.

15. Community Benefits Agreement as Permit Condition (Section 20)

Comment: *Unwillingness to participate in a Community Benefits Agreement prior to permit should be grounds for permit dismissal.*

Response: Section 20 is intentionally framed as a recommendation because a permit must be granted or denied against the Ordinance's objective health, safety, and welfare standards. Conditioning permit approval on the applicant's agreement to a separately negotiated, discretionary financial agreement is an unlawful condition or de facto exaction untethered from the specific impacts of the project. The Township's leverage is better secured by ensuring that every impact addressed by the CBA (road bonding, fire-service costs, buffer maintenance security, decommissioning security, environmental mitigation) is captured as an objective, enforceable standard within the Ordinance itself, which this Ordinance already does extensively.

16. Waivers / Modifications Provision (Section 21)

Comment: *This verbiage is unnecessary and needs to be removed, because it gives operators the opportunity to fight for variances.*

Response: Removing Section 21 would likely weaken the Ordinance rather than strengthen it. Pennsylvania law requires that regulations provide a relief mechanism; the availability of hardship relief is a constitutional due-process backstop that helps insulate an ordinance from a facial challenge that it is confiscatory or unreasonable as applied. Removing the waiver provision would not prevent an applicant from seeking relief, it would simply push that fight into court on the argument that the Ordinance provides no lawful safety valve, which is a weaker position for the Township. Additionally, Section 21, as drafted, is protective: it requires the applicant to prove good and sufficient cause and exceptional hardship, limits any relief to the minimum necessary, authorizes the Township to attach conditions and safeguards, and prohibits relief that threatens public safety or creates public expense. The Township retains full discretion to deny a waiver that does not meet these criteria.

17. Township-Appointed Data Center Inspector (Section 22.A)

Comment: *With passage of any permit, the Township must be able to appoint a Data Center inspector who may at any time monitor the regulations outlined in this Ordinance.*

Response: The Township already has the right to monitor the regulations of the Ordinance at all times. This is consistent with the Township's Second-Class Township Code powers, and the enforcement provisions of Section 22.

18. Penalty Amount — \$1,000 vs. \$25,000 (Section 22.B)

Comment: *Adjust the fine to \$25,000. \$1,000 is not substantial enough for a company of this size and financial backing to be held accountable.*

Response: Under Section 1601 of the Second-Class Township Code, 53 P.S. § 66601, the maximum criminal fine a second-class township may impose for a summary offense under a health, safety, or pollution ordinance is capped at \$1,000 per violation. A flat \$25,000 fine would exceed the Township's statutory authority and would be struck down. The Ordinance is drafted to

reach the same practical result lawfully: Section 22.B provides that *each day* a violation continues is a separate offense, and *each section* violated is a separate offense — so a continuing or multi-provision violation accumulates rapidly well beyond \$25,000. In addition, Section 22.A imposes the full costs of abatement, expert fees, attorneys' fees, and court costs as a municipal lien plus a 10% penalty, and Section 22.C preserves the Township's right to injunctive and equitable relief. Between daily-accruing fines, cost recovery, liens, and the decommissioning financial security (Section 18, set at 110% of estimated cost), the Ordinance creates substantial financial accountability without exceeding the \$ 66601 cap.

(Responses to Susan Hill – July 9, 2026 Comment Letter)

1. Wild and Scenic Rivers Act Policy and Intent (Sections 2 and 6)

Comment: *The proposed draft could more forcibly incorporate matters of serious concern to the local community, particularly land uses inconsistent with the policy and intent of the Wild and Scenic Rivers Act, 16 U.S.C. § 1271 et seq., given the protected status of the adjacent Allegheny River.*

Response: The Ordinance carries the Act into both its statement of purpose and its operative standards. Section 2(5) identifies the safeguarding of waterways designated as part of the National System of Wild and Scenic Rivers, with an express citation to 16 U.S.C. §§ 1271–1287, as a purpose of the Ordinance. Section 6(C) contains an enforceable numeric standard by requiring a 300-foot enhanced buffer strip between any Data Center site and the ordinary high water mark of any such designated waterway. That buffer is independent of, and additional to, the buffer required where a site abuts a sensitive receptor or residential use under Section 6(A).

Notably, the Wild and Scenic Rivers Act does not regulate private land and does not give the federal government control over private lands within a designated corridor; the federal government has no authority to zone or regulate them. Approximately eighty percent of the designated Allegheny corridor is in private ownership, and the protection of those lands is left by the federal scheme to state and local land use controls, a relationship formalized in Section 6(c) of the Act. The Township does not have zoning, removing a key land use control pertaining to the Allegheny River. Accordingly, the best that the Township can do is to pass an Ordinance such as this, which regulates Data Centers and their impact on the health and safety of the community.

2. Prohibition on Withdrawal From or Discharge to Public Waterways (Section 13)

Comment: *No Data Center may withdraw water from or discharge water or other materials into any public waterway, at a minimum the Allegheny River.*

Response: A flat prohibition in these terms is not available to the Township. Discharge to waters of the Commonwealth is regulated by the Pennsylvania Department of Environmental Protection under the Clean Streams Law and the delegated NPDES program, and regulation in excess of those requirements is beyond the Township's authority. Unlike the Susquehanna and Delaware basins, the Ohio basin has no compact commission exercising permitting authority over withdrawals.

That being said, the Ordinance does contain provisions intended to protect both the Allegheny River, as well as other water sources within the Township. Section 13.A(4) requires a description of the amount or portion of water withdrawn that will be recycled or discharged, by what means, and at what temperature. Section 13.A(10) requires identification of how water will be recycled or released into surrounding water bodies. Section 13.B(4) requires a determination of the effects of the proposed withdrawal on the quantity and quality of surface waters within the horizontal extent of the cone of depression and how those impacts will be mitigated or remediated. Section 21.C(6) carries all of this into annual reporting, including actual discharge volume and temperature and any deviation exceeding fifteen percent from projected demand.

3. Closed-Loop Cooling as the Required Standard (Section 17)

Comment: *If closed loop cooling systems are the best practice currently for data centers, can this simply be the required standard, subject to updating should safer mechanisms be devised?*

Response: Section 17 already achieves this result, and does so in a form that updates itself without amendment. Section 17(A) requires best available cooling technology as determined at the time of Permit application, which is the updating mechanism the comment asks for. Section 17(A)(2) requires that the technology selected minimize potable water consumption and prioritize water-efficient technologies and closed-loop or semi-closed loop cooling systems. Sections 17(A)(1) and (4) add lowest reasonably achievable Power Usage Effectiveness and least environmental impact as governing criteria, and Section 17(A)(5) subordinates the cooling selection to the noise limits in Section 10.

Naming a single technology in the text of the Ordinance would create the problem the comment seeks to avoid, in reverse. The Ordinance would be fixed to present technology and would require amendment before the Township could require anything better.

4. Visual and Acoustic Separation From the Allegheny River (Sections 6, 7 and 10)

Comment: *Pursuant to the policy and intent of the Act, no data center may be within sight of the Allegheny River and no noise from a data center shall be audible from the Allegheny River, in addition to the sound dampening and decibel requirements now described.*

Response: As to visibility, Section 6(C) establishes the 300-foot enhanced buffer measured from the ordinary high water mark. Section 7(A)(1) requires that buildings be sited and oriented to minimize visual impact of building bulk on a line-of-sight basis. Section 7(A)(6) requires that topography be considered to avoid placing larger or more massive buildings in prominent locations. Section 7(F) requires that cooling, ventilating and power equipment be enclosed within a building where located closer to an adjacent public road or residential use than the principal building. Section 7(G) requires architectural depictions of the building and associated equipment

as viewed from all lot lines and street lines. A flat prohibition on any Data Center visible from the river is different in kind. It operates as a siting prohibition rendering an indeterminate and unmapped portion of the Township unavailable for the use. This is an unfeasible addition, as the Township has no zoning and this Ordinance is not a land use ordinance. The phrase “within sight of” also supplies no ascertainable standard against which an applicant, the Township Engineer, or the Codes Enforcement Officer could measure compliance, and a provision that cannot be measured cannot be enforced.

As to audibility, an audibility standard is not a measurable standard, and in a rural setting it functions as a prohibition on operation rather than as a standard governing it. That being said, the standards that the Township has set for sound would apply to any property along the river, giving the Township the opportunity to, functionally, regulate the noise which could be heard on the Allegheny.

5. Power Source Reporting, Contracts, Costs, and Supplier Compliance (Sections 5 and 21)

***Comment:** The developer shall report to the Township on the planned power source and update within 30 days any change to the power source or prior reported information, including costs of power, power operator ownership, summary or copies of contracts, evidence of compliance of the power supplier with all applicable law, and all other reasonable business information and reports or studies reasonably requested to insure the health and safety of Township residents and local wildlife.*

Response: Section 21.C(1) already requires the Annual Compliance Report to identify any change in ownership or operational control occurring during the reporting period. The Township cannot adopt the commercial portion of this suggestion. The cost of power, copies or summaries of supply contracts, and evidence of a generator’s compliance with laws the Township does not administer are not within the Township’s police power. They bear on the commercial terms of a transaction between private parties rather than on any impact the Ordinance regulates, and the Township has no mechanism and no jurisdiction to adjudicate a third party’s compliance with Public Utility Commission, Department of Environmental Protection, or Federal Energy Regulatory Commission requirements.

6. Coverage of Power Generation Facilities and Pipelines, Whether Related or Not

***Comment:** In retrospect, ideally this Ordinance would expressly include any power plants and data centers, whether related or not, but at least it would be beneficial to cover current data center power supply concerns. Various sources reflect that the development plan for the Scrubgrass site is to discontinue coal waste fuel and convert to natural gas using the Tennessee Gas Pipeline in Venango County, and there would be concerns that this construction and maintenance be environmentally safe.*

Response: The Ordinance is not specific to a property or to an existing use, nor could it lawfully be made so. A facility in the Township that is not a Data Center is not a regulated use under this Ordinance. The conversion of an existing generating facility from one fuel to another, and the construction of a lateral from an interstate transmission line, are not Data Center activities and would not become Data Center activities by virtue of a supply relationship with a Data Center.

Interstate transmission facilities are, in any event, subject to federal jurisdiction. Rewriting Section 5 to govern the siting and operation of generation facilities and pipelines would move the Ordinance from regulating impacts, which the Township may do, toward regulating utility siting, where the Township's authority is materially narrower and in places absent.

What the Ordinance does reach is the tie-in to the Data Center, and the review and conditioning of how pipeline facilities connect to it. This concern would be more properly addressed either by a separate ordinance directed at power generation facilities or by the adoption of zoning, under which the Township could regulate such uses directly and impose standards more specific than the Second-Class Township Code alone permits.

7. Decommissioning and Financial Assurance (Section 18)

Comment: *Other ordinances have included provisions on use discontinuance or decommissioning, since there is speculation that these centers could become outmoded and abandoned, leaving the community with a waste site. Consider bonding or financial assurances for costs of decommissioning, referencing the Hermitage, Pennsylvania ordinance.*

Response: Section 18 addresses this in full and is among the more protective provisions in the draft. Section 18(B)(1) requires a decommissioning plan at the time of application, reviewed by the Township Engineer and approved by the Board as part of the Permit under Section 18(B)(2). Section 18(A)(2) and Section 18(B)(3)(a) establish a defined cessation trigger at twenty-four months of non-operational status. Section 18(B)(3)(f) requires a cost estimate prepared, sealed and signed by a Pennsylvania licensed professional engineer. Section 18(C)(1) requires financial security acceptable to the Township Solicitor as a condition of Permit issuance, and Section 18(C)(2) sets it at 110 percent of the estimated cost expressly without adjustment for salvage value. Section 18(C)(3) requires the security to remain in effect for the life of the facility with adjustment every five years or sooner. Section 18(C)(4) authorizes the Township to draw on the security and perform the work. Section 18(D)(1) requires removal of below-ground foundations to a minimum of three feet below final grade, Section 18(D)(4) requires revegetation with native species, and Section 18(D)(6) conditions release of the security on a Certificate of Restoration and Township Engineer verification.

8. Organizational and Contractual Layering (Sections 18, 21 and 24)

Comment: *There will likely be various organizational and contract layers to the activities at the site, such as a separate power company, an operator, and a lease to a separate data center operator. Consider how that structure may weaken the Ordinance.*

Response: The Ordinance presently addresses the issue. Section 18(A)(1) applies the decommissioning obligations to any facility used primarily as a Data Center, without regard to who owns or operates it. Section 18(B)(3)(g) requires identification of the responsible parties and a statement accepting responsibility for decommissioning and restoration. Section 18(B)(4) requires the decommissioning plan to be updated upon a major change in ownership or facility operations. Section 21.C(1) requires the Annual Compliance Report to identify the current owner,

operator and compliance contact and any change in ownership or operational control during the reporting period.

9. Regulation of Timber Harvesting Within the River Corridor

Comment: *The commenter referenced a regulation concerning logging along the Allegheny River but was unable to locate it, noting that four federal agencies and several state agencies have interaction with the Wild and Scenic Rivers system and its corridor.*

Response: There is no federal regulation restricting timber harvesting on private land within the Allegheny corridor, because the Wild and Scenic Rivers Act does not confer that authority. Federal guidance is explicit that timber management on non-federal land within a designated corridor is governed by state and local authorities, and that the only mechanism available to the federal government to restrict private timber management is the purchase of timber rights by easement or in fee. Of the agencies identified in the comment, the Allegheny segments are administered by the Secretary of Agriculture through the Forest Service under Public Law 102-271; the other federal agencies named administer other components of the system and have no role here.

Within the Ordinance, Section 15(A)(7)(a) already identifies floodplains, riparian buffers, streams, wetlands, slopes and mature native stands as critical impact areas requiring description and mitigation in the Environmental Impact Assessment, and Section 6(C) supplies an enforceable numeric buffer measured from the ordinary high water mark.