

**COVINGTON TOWNSHIP
LACKAWANNA COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2025-03

AN ORDINANCE AMENDING THE COVINGTON TOWNSHIP ZONING ORDINANCE OF 1989, AND ALL SUBSEQUENT AMENDMENTS, TO ESTABLISH THE ZONING AND STANDARDS FOR THE ESTABLISHMENT, CONSTRUCTION, AND OPERATIONS OF DATA CENTERS, TO ALLOW FOR THE INTEGRATION OF AN ALLOWED INDUSTRY WHILE PROVIDING FOR THE PROTECTION OF THE PUBLIC'S HEALTH, SAFETY, MORALS, AND GENERAL WELFARE.

NOW BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Covington Township (the "Township"), Lackawanna County, Pennsylvania, by the authority of and pursuant to the provisions of Act of July 31, 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, as reenacted and amended, known and cited as the Pennsylvania Municipalities Planning Code, that the Covington Township Zoning Ordinance, as amended, is hereby further amended as follows:

ITEM 1 – In Article III (Definitions), the following definitions are ADDED:

Data Center – A facility used primarily for or intended to be used primarily for the housing, operation and/or co-location of computer and communications equipment and for handling, storing and backing up the data necessary for the operation of a business or organizational entity.

Data Center Accessory Uses – Generally include utilities, utility lines, power generation stations, electrical substations, pump stations, water towers, mechanical equipment, cooling systems, sound control systems, fire suppression systems, and environmental controls (emission controls, noise pollution controls, environmental impact monitoring), redundant/backup power supplies, redundant data communications connections, and security operations when located on the same parcel or assemblage of adjacent parcels developed as a unified development for a Data Center.

Data Center Equipment ("DCE") – Equipment related to utilities, utility lines, power generation stations, electrical substations, pump stations, water towers, mechanical equipment, cooling systems, and sound control systems. Fire suppression systems, and environmental controls (emission controls, noise pollution controls, environmental impact monitoring), redundant/backup power supplies, redundant data communications connections, and security operations when located on the same parcel or assemblage of adjacent parcels developed as a unified development for a Data Center.

Backup Generators: Natural Gas, diesel, hydrogen fuel cells UPC, Power Storage System or other non-coal equipment used to generate electricity during a power outage or similar emergency. Backup generators are only to be used during periods of outages, natural disasters or similar "emergency events" for power generation and for regular reliability testing and exercising.

Data Center and Energy Technology District (“DCET”) Campus: A DCET Campus includes all of the real estate owned, controlled, leased which comprises the development of Data Center(s), Data Center Accessory Uses, DCE, Backup Generators, preserved land and undeveloped land.

Power Generation Plant: A power generation plant fueled by natural gas, combined or single cycle power plant, or natural gas linear generation, fuel cell, or similar non-oil or non-coal based power generation systems and equipment, which creates electricity to be used on the DCET Campus, sold to or by a utility company, or in some combination of sale or purchase.

Power Storage System: A power storage system and the infrastructure systems and processes used to efficiently store, distribute and manage the power generated within the DCET Campus. Power Storage System may also include a BESS (Battery Energy Storage System), which provides support to the local, regional or overall power grid by storing energy during off-peak hours and releasing it back into the grid as demand warrants.

Small Modular Reactor: The **small modular reactor (SMR)** is a class of small nuclear fission reactors, designed to be built in a factory, shipped to operational sites for installation and then used to power buildings or other commercial operations. SMR designs include: pressurized water, generation IV, thermal-neutron reactors, fast-neutron reactors, molten salt, and gas-cooled reactor models, as examples. An SMR must be of a design fully licensed and permitted by the NRC (Nuclear Regulatory Commission). Nuclear Reactors similar to Three-Mile Island and The Limerick Generating Station are expressly excluded from the definition of an SMR and are not permitted in the DCET. An SMR may only be considered after approval as a Special Exception.

ITEM 2 – Article IV is AMENDED as follows:

401 General Districts: This section is amended with the following:

For purposes of this Ordinance, the Township is hereby divided into nine (9) Zoning Districts as follows:

And adding:

DCET Data Center and Energy Technology District (“DCET”)

402 Official Zoning Map:

The amended zoning map which includes the DCET District is attached hereto, adopted by reference and declared to be a part of the Zoning Ordinance together with all of the amendments included herein.

404 District Intent

404.9 DCET – Data Center and Energy Technology District

The intent of the DCET is to ensure the orderly and efficient development of future data centers, related energy generation, distribution and storage, and technology/manufacturing campuses while protecting the health, safety and welfare of the public, protecting natural resources and promoting balanced community growth by accommodating economic development.

407 Development Standards

District	Minimum Lot Area Acres	Minimum Lot Width (ft) Depth (ft)	Minimum Setback (ft.) All buildings shall be set at the greater of 400 feet from any existing primary residential structure on an adjoining lot, or the distances set below.			Maximum Building Height (ft)	Maximum Lot Coverage (%)
			Front	Rear	Side		
DCET	60 Acres (may be combined in more than 1 municipality).	750/750	200 ft from the Lot Line	200 ft from the Lot Line	200 ft from the Lot Line	Maximum height of 120 ft for principal and accessory uses; roofline shall not exceed 100 ft unless the Applicant requests a waiver of the roof line height limitation and agrees to pay for all necessary safety equipment, vehicles, ladders, etc. 200 ft for any Water Tower and Power Generation facilities	40%

PERMITTED	CONDITIONAL	SPECIAL EXCEPTION	ACCESSORY USES
1. None	<ol style="list-style-type: none"> 1. Data Centers 2. Power Storage Systems 3. Power Generation Plant 4. Substations, both air insulated and gas insulated, used by any public utility, or which are necessary for any permitted use in this facility to receive electricity. 5. Back-up/standby diesel, natural gas, and hydrogen fuel cell generators. 6. Specialized heating and cooling equipment used by any other permitted use in the DCET Zoning District including, but not limited to, chillers, fans, evaporators, air and water cooling systems. 7. Water supply, storage, management and transportation systems. 8. Fuel supply, storage, management and conveyance systems. 	<ol style="list-style-type: none"> 1. SMR (small modular reactor) energy generation stations, provided the same can demonstrate the following: <ol style="list-style-type: none"> a. Approval from the Nuclear Regulatory Commission, or similar/successor entity; b. Demonstration by developer of a Federally approved constructor and operator of the proposed facility; c. The licensed operator and developer must demonstrate that there is an adequate repository of nuclear fuel produced by the SMR with a federally licensed facility and/or agency; d. There will be no processing or enrichment activity at the SMR site; e. Any temporary fuel storage, used for refueling, or removed during refueling, will be disposed of in accordance with a plan approved by the NRC and other applicable Federal and State agencies having jurisdiction. f. Before commencement of construction the operator prepares and 	<ol style="list-style-type: none"> 1. All uses which support any conditional DCET primary use or through special exception are permitted.

	<p>9. Manufacturing operations which support/supply or develop equipment and materials used in any use permitted or otherwise approved by Conditional Use approval in the DCET Zoning District.</p> <p>10. Wastewater treatment and disposal plants, and all facilities associated therewith, including storage, irrigation and wastewater transportation facilities in accordance with the Township's Act 537 Plan.</p>	<p>submits to the Township and the NRC any required decommissioning plan, and if none is required by the NRC at time of construction, then to the Township a proposed decommissioning plan which ensures the removal of all radioactive materials when the SMR is no longer in operation.</p> <p>g. A Safety Plan is submitted in a form reasonable acceptable to the Township for the SMR. If the Safety Plan complies with the federal standards, or is approved by a Federal agency, the Safety Plan shall be deemed approved by the Township.</p> <p>h. All other uses permitted in the C-1, C-2, and M-1 Zoning Districts</p>	
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THE FOLLOWING SHALL BE ADDED TO THE SCHEDULE OF USES:

ITEM 3 – Article V is AMENDED as follows:

1. DATA CENTER STANDARDS

- a. Data Centers shall be permitted by conditional use when approved in compliance with the procedures, standards, and criteria contained herein.
- b. Master Plan: The Developer or any user of any use within a DCET Campus shall submit a master plan, as defined herein, which all parcels intended to be developed as part of a DCET Campus. Once the Master Plan is submitted, parcels may only be added or

removed from the DCET by approval of the Township.

The Plan for the DCET Campus shall contain the following:

1. A proposed plan showing the location of all proposed uses, accessory uses, preserved land, data center(s), data center accessory uses, DCE, Backup generator power storage, SMR (if permitted), energy generation stations, substations, cooling and heating equipment, water supply, storage and management systems, fuel supply, storage and management systems, wastewater treatment system(s), waste disposal systems, infrastructure of any kind, and the location of any building or structure. shall be shown. The proposed plan may be amended to comply with Federal, State, County, and Municipal laws and regulations throughout the land development process, including revisions to the foregoing.
2. The Master Plan shall show existing and proposed public and private roadways, conservation areas, floodplains, steep slopes, relationships to other properties, proposed setbacks, proposed buffers and landscaping, proposed sidewalks, proposed emergency access locations.
3. A boundary and topographic survey plan signed and sealed by a Pennsylvania-licensed surveyor.
4. Wetland and waterway delineation maps and plans.
5. Proposed traffic information. Traffic information shall include the number of employees expected per shift, and the frequency and volume of any anticipated truck traffic after construction is completed. The trip generation for these items shall be provided using the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
6. If any use permitted by conditional use is proposed, the same shall be noted on the Master Plan, but the materials required for the conditional use approval shall be submitted as part of the conditional use process, and not the Master Plan.
7. Estimated economic impact. A good faith estimate of the costs incurred to the Township related to infrastructure, emergency preparedness, administrative costs, police and fire protection shall be provided and itemized. Additionally, a good faith estimate of the revenues generated by the DCET campus shall be provided as well. The revenue estimate shall include revenues generated from

real estate sales, real estate taxes and income taxes and submitted to the Township, North Pocono School District and Lackawanna County.

8. An Environmental Impact Statement. The Applicant shall submit an environmental impact statement as set forth in Section 531 of the Zoning Ordinance.
9. Section 509, Conditional Uses and Special Exceptions, applies and the Master Plan shall contain all the information, factors, narrative(s), plot plan(s) and otherwise fully comply with the requirements of this section.

c. Conditional Use Requirements:

- i. The parcel or assemblage of adjacent parcels developed as a unified development must have direct access to an arterial or collector street. Parcels divided by a public roadway or land owned by a public utility but owned in common or otherwise developed as a unified development are deemed to be contiguous for the purpose of all area and land mass calculations.
- ii. Woodland standards:
 1. A woodland buffer of at least one hundred (100) feet in depth shall be maintained adjacent to all exterior property boundaries of the Data Center development.
 2. In the event existing woodlands are insufficient to meet the buffer requirement, additional trees of a type common in the Township and having a minimum caliper width of 2 ½ inches at planting and an anticipated minimum height of 15 feet shall be planted to meet the buffer requirement.
- iii. It shall be demonstrated that there is an adequate second means of ingress and egress suitable for emergency access to the site and such means shall be maintained for the duration of the use.
- iv. Dimensional standards shall be in accordance with section 407 herein applicable to the DCET District.

Maximum building height for all other buildings shall be in accordance with the height standards set forth in the underlying district.

1. Data Center Equipment (DCE)

- a. DCE shall not be located between the building(s) and the street upon which the parcel fronts, unless approved during the Conditional Use process.**
- b. DCE shall be substantially separated from all adjacent residential uses by principal building(s) such DCE serves.**

2. The Applicant shall submit a traffic and/or community impact study to document potential impacts and necessary mitigation measures.

3. Data Center Accessory Uses shall comply with all principal building setback standards.

v. Water Service

1. The applicant shall submit an analysis of raw water needs (groundwater or surface water) from either private or public sources conducted by certified hydrologist indicating quantity of water required. At the request of the Township, which the Township can request at any time, the Developer shall fund a water study to be conducted on behalf of the Township by an entity selected by the Township.

2. The Applicant shall provide a water feasibility study to determine if there is an adequate supply of water for the proposed Data Center and to estimate the impact of the Data Center on existing wells in the vicinity within one thousand (1000) feet of all external property lines. No Data Center shall be approved without sufficient water supply and no Data Center shall be approved that demonstrates a likelihood of adverse impacts on existing wells in the vicinity. The water feasibility study(s) shall include the following minimum information:

- a. Calculations of the projected water needs.**
- b. A geologic map of the area with a radius of at least one mile from the site.**
- c. The location of all existing and proposed wells within 1,000**

feet of the site, with a notation of the capacity of all high-yield wells.

- d. The location of all streams within 1,000 feet of the site and all known point sources of pollution.
 - e. Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.
 - f. A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.
 - g. Identification of how water will be recycled or released into surrounding water bodies and the environmental impact of each release.
 - h. A statement of the qualifications and the signature(s) of the person(s) preparing the study.
3. Depending on the specific location of the site within the Township, the applicant shall provide proof of review and approval from the Susquehanna River Basin Commission (SRBC) or the Delaware River Basin Commission (DRBC) (whichever has jurisdiction) for projects that have:
- a. Water withdrawals of 100,000 gallons per day (gpd) or more over any 30-day average from any source or combination of sources within the applicable River Basin.
 - b. Any consumptive water use of 20,000 gpd or more over any 30-day average from any other water source.

vi. Electric Use

- 1. The applicant shall provide an interconnection agreement from the applicable electric service provider indicating that the necessary capacity is available, and the data center will be served. Known impacts on electric rates or availability for other uses directly attributable to the data center project shall be set forth in the agreement. Additionally, the applicant shall demonstrate that power

consumption will be approved by the applicable utility and shall be secured by financial security required by said utility prior to the start of any Data Center building construction.

vii. Noise Control

1. For Data Center uses, it shall be demonstrated through a sound study conducted by a professional acoustical expert that the installation of one or more sound reducing materials or systems, approved by the Township, will effectively reduce the sound generated by the Data Center and associated DCE during normal operations and testing and maintenance operations (i.e. all standby emergency equipment, including but not limited to generators) to a maximum daytime (7:00 AM to 8:00 PM Monday-Friday) decibel level of 65 dB(A) and a maximum nighttime (8:00 PM to 7:00 AM Monday-Friday and all day Saturday and all day Sunday) decibel level of 55 dB(A) as measured from all external property lines of the Data Center use. At no point shall the decibel level exceed 55 dB(A) at a property line adjoining a residential structure. Such sound study or studies shall be conducted using Sound Level Meters described in ANSI S1.4-2014 and using generally accepted criteria. A sound study shall be conducted at the following phases:
 - a. A preliminary sound study for the Data Center and associated DCE shall be conducted as part of the Conditional Use process and submitted with the Zoning Permit Application. The preliminary sound study shall set forth the sound levels at representative external property boundaries and recommend the sound reducing materials or systems to meet the aforesaid sound limits. The Township may have a preliminary sound study generated on its behalf. The cost of the sound study shall be reasonable, and the Township shall solely select the entity conducting the sound study.
 - b. An as-built sound study shall be conducted six (6) months after issuance of the certificate of occupancy for any Data Center and associated DCE prior to the final escrow release for any Data Center land development phase. The Township may have a sound study generated on its behalf at any time thereafter, by an entity selected by the

Township, at the expense of the Developer.

- c. If it is determined by an as-built sound study that there is a violation of the aforesaid sound limits, then the issued Zoning Permit is rescinded until the Developer provides a sound study showing that the sound does not exceed 65Db at all external property lines of the sound generating property or 55Db of an external property line adjoining a residential structure. The Township may select an entity to conduct a sound study to verify that that the sound does not exceed the limits established by this Ordinance, and the cost of the sound study shall be borne solely by the Developer. Upon verification that the sound does not exceed the limits established by this Ordinance, the Zoning Permit shall be reinstated.
- d. In the event of a failure by the owner or occupant to remediate a sound violation, the Township may revoke any zoning permit(s) previously issued for the Data Center. Notwithstanding the foregoing, during a power outage which removes power from all or a part of any Data Center building, or the Data Center Campus, the above noise limits shall not be in effect; it being recognized that the Data Center must be able to operate 24 hours per day, and 7 days per week without power interruption. In the event of such power outage, the Data Center building, or Data Center Campus, Operator, as applicable, must re-establish compliance with the noise provisions herein within three (3) hours of the restoration of power.

viii. Nuclear

- a. The Applicant shall submit a preliminary Radiological Land Survey conducted by a qualified professional of the entire site with its application. The Radiological Land Survey must show measurements at external perimeter points of the property which must include measurements taken at perimeter points within 400 feet of residential or commercial activity. The Radiological Land Survey must make recommendations as to how to contain and minimize the release, dispersion, movement, emission and

spread of radiation from the Property. The Township may have a Radiological Land Survey generated on its behalf at any time thereafter, by an entity selected by the Township, at the expense of the Applicant.

- b. An as-built Radiological Land Survey shall be conducted six (6) months after issuance of the certificate of occupancy for any Data Center and associated DCE prior to the final escrow release for any Data Center land development phase. The Township may have a Radiological Land Survey generated on its behalf at any time thereafter, by an entity selected by the Township, at the expense of the Applicant or Developer.
- c. If it is determined that there is a violation of the prescribed radiation limits, then the issued Zoning Permit is rescinded until the Applicant or Developer provides a Radiological Land Survey showing that the sound does not exceed the prescribed radiation limits. The Township may select an entity to conduct a Radiological Land Survey to verify that that the sound does not exceed the prescribed radiation limits and the cost of the Survey shall be borne solely by the Applicant or the Developer. Upon verification that the radiation does not exceed the limits established by this Ordinance, the Zoning Permit shall be reinstated.
- d. In the event of a failure by the owner or occupant to remediate a radiation violation, the Township may revoke any zoning permit(s) previously issued for the Data Center.

2. PROCEDURE:

Upon submission of the Master Plan, each Township shall review and process the Master Plan in accordance with the Municipalities Planning Code. The Township shall review the proposed Master Plan in accordance with the criteria contained in this chapter and with other applicable ordinances/regulations. It shall provide informal dialogue with the applicant and advise him/her as promptly as possible of the extent to which the proposed subdivision or land development conforms to the respective Comprehensive Plans and relevant standards of this chapter and will discuss possible plan modifications that would increase its degree of conformity.

The applicant may request to submit alternative sketch plans. If granted, an agreement must be used to further define the roles and obligations of the applicant and Municipality in the review process. Aspects of the sketch plan that shall be specifically evaluated include but are not limited to:

- i. The location of all areas proposed for disturbance (streets, foundations, yards, stormwater management areas, etc.) with respect to notable features of natural or cultural significance as identified on the applicant's existing resources and site analysis plan.
- ii. The potential for street connections with existing streets, other proposed streets, or potential developments on adjoining parcels.
- iii. The location of proposed access points along the existing road network.
- iv. The general location and extent of open space and/or preserved land.
- v. The location and extent and configuration of buildings, parking lots, and common areas in proximity to existing, residential, multifamily and commercial developments.
- vi. The proposed building density and imperious coverage.

The Developer may submit a Preliminary Plan with or without a recommendation of approval of the Master Plan, but is encouraged to obtain such recommendation for approval from the Township prior to submission.

3. SUBMISSION FEE (MASTER PLAN):

The fee for the Master Plan submission shall be as established in the Township's published fee schedule. In addition, the fee shall include a deposit of Twenty Thousand (\$20,000.00) Dollars into the Township's escrow account to pay for the Township's professional fees incurred in processing the zoning permit application, which shall be replenished upon notification that it has been depleted by the Township in Ten Thousand Dollar (\$10,000.00) increments.

4. PRELIMINARY AND FINAL PLANS.

To avoid confusion, all Preliminary and Final Land Development Plans shall comply with the Covington Township Subdivision and Land Development Ordinances SALDO. All other supporting documents required by this DCET Zoning District Section shall also be included for Preliminary and Final Plan approval.

5. ENFORCEMENT

In the event that there are violations of this Ordinance, the Township shall notify the Owner/Operator of the Data Center, DCE or DCET of the violation and provide written notice of the violation and the actions needed to remedy the violation. If the violation(s) are not corrected within such time period, the Township may take any and all actions to compel compliance including but not limited to injunctive relief and monetary fines at an amount set by way of resolution of the Board of Supervisors. Should legal action be necessary to compel compliance, venue shall be in the Lackawanna County Court of Common Pleas or the United States District Court for the Middle District of Pennsylvania. The Township shall be entitled to all attorneys' fees, costs and expenses incurred to compel compliance.

6. SEVERABILITY

Should any section, subsection, clause, provision, or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Board of Supervisors having adopted this Ordinance as if such invalid portions had not been included therein.

7. REPEALER

All existing ordinances or parts of ordinances, which are contrary to the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

8. ENACTMENT

BE IT HEREBY ENACTED This ___Day of _____, 2025, by the Board of Supervisors of Covington Township, Lackawanna County, Pennsylvania, to be effective five days from enactment.

BY:

Melissa Kearney
Chairwoman

William Beavers

Marshall Peirce

William Willson

Wanda Andreoli

ATTEST: _____

COVINGTON TOWNSHIP LACKAWANNA COUNTY PENNSYLVANIA

ZONING MAP

ZONING DISTRICTS

- RR RURAL RESIDENTIAL DISTRICT
- R-1 LOW DENSITY RESIDENTIAL DISTRICT
- R-2 HIGH DENSITY RESIDENTIAL DISTRICT
- C-1 GENERAL COMMERCIAL DISTRICT
- C-2 HIGHWAY COMMERCIAL DISTRICT
- MP-1 MANUFACTURING DISTRICT
- MP-2 MOBILE HOME PARK / RECREATIONAL VEHICLE PARK DISTRICT
- SC SPECIAL CONSERVATION DISTRICT
- SC-1 PROPOSED DATA CENTER, ENERGY, TECHNOLOGY DISTRICT
- SC-2 "BRAINWAVE" - THE ZONING DISTRICT LINES MARKED BY "X" WERE CREATED BY CONNECTING TWO PROPERTY CORNERS

