

**NESQUEHONING BOROUGH
CARBON COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF NESQUEHONING BOROUGH, CARBON COUNTY, PENNSYLVANIA, TO AMEND THE NESQUEHONING BOROUGH ZONING ORDINANCE TO DEFINE AND ADD SPECIFIC REQUIREMENTS FOR DATA CENTERS, DATA CENTER CAMPUSES, AND DATA CENTER ACCESSORY USES.

WHEREAS, Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10601, et seq., authorizes the Council Members of Nesquehoning Borough to enact, amend and repeal Zoning Ordinances within Nesquehoning Borough; and

WHEREAS, the Council Members of Nesquehoning Borough deem it to be in the best interest and general welfare of the residents of Nesquehoning Borough to update and amend provisions of the Nesquehoning Borough Zoning Ordinance to provide for Data Centers, Data Center Campuses, and Data Center Accessory Uses; and

WHEREAS, the Council Members of Nesquehoning Borough desire to add provisions to the Zoning Ordinance relating to Data Centers, Data Center Campuses, and Data Center Accessory uses;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Council Members of Nesquehoning Borough as follows:

Section 1. Part 2, Section 27-202. of the Nesquehoning Borough Zoning Ordinance, entitled Definitions, is hereby amended to add the following definitions:

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

Data Center Accessory Use - Ancillary uses or structures secondary and incidental to a Data Center use, including but not limited to: administrative, logistical, fiber optic, storage, and security buildings or structures; sources of electrical power such as generators used to provide temporary power when the main source of power is interrupted; electrical substations; domestic and non-contact cooling water and wastewater treatment facilities; water holding facilities; pump stations; water towers; environmental controls (air

conditioning or cooling towers, fire suppression, and related equipment); security features, provided such data center accessory uses/structures are located on the same tract or assemblage of adjacent parcels developed as a unified development with a Data Center. The use shall not include energy generation systems such as nuclear power generation used or intended to be used to supply power to the Data Center during any operations.

Data Center Campus - An integrated development of multiple data centers that may include data center accessory uses on a unified site or assemblage of adjacent parcel(s).

Section 2. Part 4, Section 22-404.1. (Schedule 27-1) of the Nesquehoning Borough Zoning Ordinance, entitled Zoning Schedule of Use Controls, is hereby amended to add a row beneath F. Transportation, Communication, and Utilities (SIC 40-49) having a Land Use Activity Category as 4. Data Centers, Data Center Campuses, and Data Center Accessory Uses with an “S” in the Manufacturing, Industrial, Communication, Utilities (I-1) Zoning District column representing a Special Use Permitted by Special Exception by the Nesquehoning Borough Zoning Hearing Board.

Section 3. A new Section 27-609.D. *Data Centers, Data Center Accessory Uses, and Data Center Campuses.* in Part 6 shall be added and shall contain the following regulations.

A. Data Centers, Data Center Campuses, and Data Center Accessory Uses shall be permitted by as a Special Use (“S”) in the Conditional Use in the Manufacturing, Industrial, Communication, Utilities (I-1) Zoning District when approved in compliance with the procedures, standards, and criteria contained in this section. Data Centers, Data Center Campuses, and Data Center Accessory Uses shall not be permitted whatsoever in any other Zoning District. A Site Plan review is required for all Data Centers, Data Center Campuses, and Data Center Accessory Uses.

B. Dimensional Standards.

The dimensional standards of Data Centers, Data Center Campuses, and Data Center Accessory Uses shall be in accordance with the following regulations:

1. The maximum principal building height for a Data Center shall be one hundred feet (100’), from the lowest adjacent grade to the top edge of the roof inclusive or roof-mounted equipment such as cooling and ventilation systems, HVAC units and cooling towers.
2. The maximum height of Data Center Accessory Uses shall be no greater than the height of the principal building, excluding utility lines and towers.
3. All buildings, cooling systems, accessory facilities and associated accessory structures intended for use for Data Centers, Data Center Campuses, and Data Center Accessory Uses shall be set back fifty feet (50’) from all property and

street right-of-way lines, unless adjacent to a residential use or Residential Zoning District where the setback shall be two hundred fifty feet (250').

4. All buildings, cooling systems, accessory facilities, and associated accessory structures must be located a minimum of one hundred feet (100') from any stream and a minimum of twenty-five feet (25') from any wetland, unless permitted by the Pennsylvania Department of Environmental Protection.
5. Minimum Required Lot Area: Ten (10) contiguous Acres
6. Impervious surfaces may not exceed eighty percent (80%) of the total lot area and at least fifteen percent (15%) of the total lot area, including stormwater management facilities, must be designated green or open space.

C. Landscape Buffer.

A landscape buffer is required along all property lines and street right-of-way lines to provide screening from adjacent uses and streets. The landscape buffer shall comply with the following requirements:

1. The landscape buffer shall be at least twenty-five (25) feet in width and may be part of the minimum setback distance. Where the twenty-five foot (25') width cannot be provided, screening shall be provided in accordance with the applicable requirements within subsection (D) below.
2. Buffer plantings shall consist of native species planted as follows:
 - a. One (1) large evergreen tree per twenty five linear feet (25 lf) of buffer. The size of large evergreen trees shall be a minimum of eight feet (8') in height at the time of planting.
 - b. One (1) deciduous canopy (shade) tree per seventy five linear feet (75 lf) of buffer. Size of canopy (shade) trees shall be a minimum of two and one half inch (2.5") caliper at the time of planting.
 - c. One ornamental/flowering tree per fifty linear feet (50 lf) of buffer. The size of ornamental/flowering trees shall be a minimum of eight feet (8') in height for multi-stemmed varieties, or two and one half inch (2.5") caliper at the time of planting for single-stemmed varieties.
 - d. Five (5) shrubs per twenty five linear feet (25 lf) 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. The plantings shall be maintained to ensure survivability for a minimum of two (2) years. The Data Center Owner/Operator will be responsible for replacing any plantings listed in a. through d. that do not survive in the first two (2) years. Ongoing maintenance of plantings shall continue throughout the life of the project.
3. In the event that existing vegetation is adequate to meet the intent of the required buffer yard, the Nesquehoning Borough Zoning Hearing Board, upon recommendation of the Borough Engineer and Planning Commission, may determine that existing topography and/or vegetation constitutes all or part of the required buffer yard.

D. Screening and Fencing.

1. To provide visual screening and reduce noise levels, ground-mounted and roof-mounted equipment used for cooling, ventilating, or otherwise operating the facility, including power generation or other power supply equipment, must be fully screened by an acoustical barrier from view using one or more of the following means:
 - a. The landscape buffer required by subsection (C) above.
 - b. By existing vegetation that will remain on the property.
 - c. By the principal Data Center building or an accessory building.
 - d. A berm averaging a minimum of five feet (5') 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.
 - e. 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.
2. Fencing is required around the Data Center property surrounding all site improvements. Fencing shall be a minimum of eight foot (8') high.

E. Noise and Vibration.

1. The Applicant/Developer shall demonstrate through a Sound Study conducted by a professional acoustical expert that the sound generated by a Data Center, Data Center Campuses or Data Center Accessory Uses during operations which includes but is not limited to the use of a backup generator shall be limited to

- a maximum decibel level of **65 dB(A)** between the hours of 7:00 a.m. and 10:00 p.m., every day, or the ambient level during that time period, whichever is greater,

and

- a maximum decibel level of **55 dB(A)** between the hours of 10:00 p.m. and 7:00 a.m., every day, or the ambient level during that time period, whichever is greater,

as measured from all property lines and street right-of-way lines of the use. Such sound study shall be conducted using Sound Level Meters described in ANSI S1.4-2104 and generally accepted methodology. A sound study shall be conducted at the following phases:

- a. A preliminary study shall be conducted as part of the Special Exception use process. The preliminary sound study shall include recommended sound reducing materials or systems as needed to meet the aforesaid sound limits.
 - b. An interim sound study shall be conducted during the Land Development Plan approval process based upon the proposed user or users of the Data Center, Data Center Campuses, and Data Center Accessory Uses depicted on the Land Development Plan. Any sound reducing materials or systems recommended by the interim sound study shall be incorporated into the construction plans for the use.
 - c. An as-built sound study shall be conducted six (6) months after issuance of the Certificate of Occupancy and prior to the final escrow release for any land development phase. Following that study, studies shall be conducted on an annual basis. Each study shall be performed during the daytime hours and during the nighttime hours. Copies of all study findings shall be provided to the Nesquehoning Borough Zoning Officer. If it is determined by any as-built sound study that there is a violation of the aforesaid noise limits, it shall be considered a violation of this Ordinance. The Owner/Operator of the Data Storage Center Data Center Campus, or Data Center Accessory Use shall promptly remediate the violation.
2. 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 equipment is running, including backup generators.

F. Water and Sewer.

1. All uses shall connect to the Borough's water supply system. The Applicant/Developer shall submit documentation to the Zoning Officer stating that the Borough's system has adequate water capacity to supply the water needed and will supply the water needed. The complete design of the water supply system showing connection to the existing system shall also be provided and approved by the Engineer for the Borough's water supply system.
2. If capacity does not exist in the Borough's water supply system, then the Applicant/Developer will be responsible for upgrading the necessary system components for the project to proceed. This shall include all costs associated with design, permitting, and construction.
3. 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, domestic usage, etc.).
4. A description of the amount or proportion of water used that will be recycled or discharged and by what means.
5. A 'Closed-Loop Cooling System' is required for all Data Center, Data Center Campus, and Data Center Accessory Uses.
6. All uses shall connect to the Borough's sanitary sewer system. The Applicant/Developer shall submit documentation to the Zoning Officer stating that the Borough's system has adequate wastewater collection, conveyance, and treatment capacity for the project. The complete design of the sanitary sewer system showing connection to the existing system shall also be provided and approved by the Engineer for the Borough's sanitary sewer system.
7. The Applicant/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 Pennsylvania Department of Environmental Protection (PA DEP). Copies of all necessary planning documents shall be provided.
8. If capacity does not exist in the Borough's sanitary sewer system, then the Applicant/Developer will be responsible for upgrading the necessary system components for the project to proceed. This shall include all costs associated with design, permitting, construction, etc.

G. Power Supply.

1. If the Applicant/Developer proposes to connect the Data Center, Data Center Campus, or Data Center Accessory Use to the electric grid, the Applicant/Developer shall provide an interconnection agreement/documentation from the applicable electric service provider certifying that the necessary capacity is available and that electric service provider will serve the Data Center, Data Center Campus or Data Center Accessory Use.
2. All design, permitting, construction costs, etc. associated with any necessary off-site or on-site improvements to the electric grid shall solely be that of the Applicant/Developer.
3. Known impacts on electric rates or availability for other uses within the Borough limits directly attributable to the Data Center, Data Center Campus, or Data Center Accessory Use project shall be noted.
4. Any energy generation system designed or used to supply power directly to a Data Center, Data Center Campus, and Data Center Accessory Use during normal operations, including solar, wind, fossil fuel, or nuclear energy generating systems, shall not be considered part of the Data Center, Data Center Campus, or Data Center Accessory Use. Such systems shall be considered a separate use and shall be reviewed and approved according to the zoning regulations applicable to such use.
5. All above ground fuel storage areas require secondary containment and spill prevention measures.

H. Utility Lines.

1. Utility lines, including but not limited to electronic, fiber optic, cable, and telephone lines, from substations to a Data Center and/or Data Center Campus shall be placed underground. This requirement shall not apply if the utility company requires above-ground lines, or the placement of under-ground lines is not feasible pursuant to a determination, in writing, by the Utility Company.

I. Emergency Management.

1. The Applicant/Developer shall submit an Emergency Response Plan (ERP) and/or a Fire Protection Plan (FPP) prepared by a qualified professional. The ERP and/or FPP shall:
 - a. Be reviewed and accepted by the local fire department and emergency management services as part of the conditional use process;

- b. Include detailed procedures for fire suppression, containment, ventilation, and evacuation;
 - c. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site;
 - d. Ensure that all first responders receive adequate training specific to the installed system;
 - e. Include provisions for annual fire safety inspections demonstrating compliance with fire safety standards to be performed by a qualified professional on behalf of the Data Center, Data Center Campus and Data Center Accessory Use;
 - f. Include provisions to demonstrate compliance with National Fire Protection Association (NFPA) 75 (Standard for the Fire Protection of Information Technology Equipment) and NFPA 76 (Standard for the Fire Protection of Telecommunications Facilities), 2024 editions.
2. Any Data Center, Data Center Campus or Data Center Accessory Use proposing battery storage or any other device or group of devices capable of storing energy in order to supply electrical energy at a later time, whether the energy is stored for use on-site or off-site, shall demonstrate compliance with National Fire Protection Association (NFPA) Standard 855, Installation of Stationary Energy Storage Systems, or similar standards and must include fire suppression systems designed specifically for battery storage.
3. All proposed battery energy storage systems shall be located entirely within an enclosed building or enclosed buildings. The building(s) shall be located a minimum distance of fifty feet (50') from any property or street right-of-way line.
4. The Applicant/Developer shall provide containment facilities on the site to store any leakage from stored battery cells, the cascading failure of battery cells, or the release of the stored energy during an incident. The facilities shall have the capacity to completely contain all released materials within an earthen impoundment, an underground tank, or other storage-type facility. All earthen containment facilities shall be completely lined with a composite liner made of a geomembrane along with a geosynthetic clay liner to prevent infiltration into the underlying soils. No more than one (1) such facility is allowed to be Installed on the site. All materials stored within containment facilities shall be disposed of in accordance with applicable United States Environmental Protection Agency (EPA) regulations.

5. No Data Center, Data Center Campus, or Data Center Accessory Use shall be approved unless the Applicant/Developer demonstrates that procedures for fire suppression, containment, ventilation and evacuation are sufficiently protective of public health, safety and welfare.

J. Aesthetics.

1. Architectural renderings (of elevation views) shall be provided for all Data Center and Data Center Accessory Use buildings showing building materials, patterns, textures and colors.

K. Access.

1. All Data Center, Data Center Campus, and Data Center Accessory Uses shall have access to an existing Borough street.
2. A Street & Drainage Impact Study shall be presented that documents the existing conditions of surrounding streets and drainage facilities, explains the number of anticipated trips from the Data Center, Data Center Campus, and Data Center Accessory Uses, and describes the potential impact to streets and drainage facilities from the proposed use. The Owner/Operator shall be responsible for alleviating any negative impacts to these facilities when deemed warranted by the Nesquehoning Borough Council upon recommendations from the Borough Engineer, Zoning Officer, and/or other Borough designee at any time throughout operations.

L. Parking.

1. Data Center, Data Center Campus, and Data Center Accessory Uses are to be provided with at least one (1) parking space for every one (1) employee, based upon the maximum number of employees on site during the largest shift, plus one (1) parking space for every one (1) anticipated visitor. The maximum number of employees and number of visitors shall be clearly specified.
2. A Data Center, Data Center Campus, and Data Center Accessory Use shall provide Handicapped Parking spaces that comply with the Americans with Disabilities Act.
3. All facilities shall be equipped with gated entrances across access drives and shall provide an on-site queuing area for the stacking of a minimum of one (1) tractor-trailer. The gated entrances shall also be provided with knox-box type devices dictated by the Fire Company servicing Nesquehoning Borough.
4. No parking or loading/unloading shall be permitted on or along any public street. A minimum of one (1) off-street loading/unloading space/dock shall be

provided for each Data Center(s).

M. Environmental Impact Statement.

1. An Environmental Impact Assessment (EIA) report shall be prepared and submitted. The EIA report shall be prepared by a professional environmental engineer, ecologist, environmental planner, or other qualified individual. The EIA report shall include a description of the proposed use including location relationship to other projects or proposals, with adequate data and detail for the Borough to assess the environmental impact. The EIA report shall also include a comprehensive description of the existing environment and the probable future effects of the proposal. The description shall focus on the elements of the environment (air pollution, hazardous air emissions and dust, dirt, smoke, vapor, and odor control) most likely to be affected as well as potential regional effects and ecological interrelationships. It shall show any potential for public nuisances to residents resulting from operations, including noise, glare, light, and visual obstacle. It shall also explain the proposed methods to control stormwater management.
2. In addition to the above, the EIA report shall include any critical impact area, condition, or feature which is environmentally sensitive, or which if disturbed during construction would adversely affect the environment. Critical impact areas include, but are not limited to, floodplains, riparian buffers, streams, wetlands, slopes greater than 15%, highly acidic or highly erodible soils, hydric soils, areas of high water table, mature stands of native vegetation, and aquifer recharge and discharge areas.

N. Outdoor Lighting.

1. A photometric plan shall be provided showing all exterior lighting for the Data Center and/or Data Center Campus. The plan shall be designed so as to not produce more than zero (0) foot-candles at any abutting lot line or street right of way line.
2. Exterior lighting shall not be mounted higher than twenty five feet (25') feet on a standard or other freestanding support or the exterior of a structure from the lowest adjacent grade. The fixture shall be fully shielded or cutoff so as to direct light at a downward angle and towards the interior of the lot and not equal to or higher than the horizontal plane of the bulb, bulb enclosure, or light shielding.

O. Construction Hours.

1. Construction and related operation of heavy machinery, operating, or permitting the operation of any tools, equipment, or heavy machinery used in construction, drilling, or demolition work associated with or for a Data Center and/or Data

Center Campus may only occur between the hours of 7:00 a.m. and 6:00 p.m.

P. Signs.

1. All signs shall comply with the applicable sections of the Nesquehoning Borough Zoning Ordinance.

Q. Decommissioning.

1. Plan.

A Decommissioning Plan shall be provided. The Applicant/Developer shall submit a Decommissioning Plan prepared by a qualified professional. The Plan shall outline the procedures for safe shutdown, removal of equipment, disposal or recycling of materials, and site restoration.

2. Financial Assurance.

As part of the Decommissioning Plan, the Applicant/Developer must post a bond, escrow, letter of credit, or other financial security acceptable to the Borough to cover the full costs of decommissioning and site restoration. The financial assurance shall be reviewed by the Borough Engineer or other Borough designee and adjusted annually or when deemed necessary by the Nesquehoning Borough Council to reflect inflation and updated costs.

3. Time Frame for Decommissioning.

Decommissioning must begin within one (1) year of cessation of data center operations, or upon notice of abandonment by the operator, whichever occurs first. Decommissioning shall be completed within eighteen (18) months thereafter unless extended by the municipality for good cause.

4. Standards for Decommissioning.

- a. All above-ground structures, equipment, and accessory facilities shall be removed.
- b. Hazardous materials, including batteries, fuel, or refrigerants, shall be disposed of in compliance with state and federal laws.
- c. Disturbed soils shall be stabilized and re-vegetated.
- d. Any utility connections shall be safely disconnected and capped.
- e. The site shall be restored to a grass or meadow condition.

- f. The buildings erected for use as a Data Center, Data Center Campus, and/or Data Center Accessory Use may be considered for re-purposing. Any building may be re-used or re-purposed as part of a plan to be submitted by the Owner/Operator of the site to be approved by the Nesquehoning Borough Council after review by the Borough Zoning Officer, Borough Engineer, or other Borough designee.

R. Public Inquiries/Complaint

1. The facility operator is required to maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints through the life of the project which information shall be provided to the Nesquehoning Borough Zoning Officer. The facility operator shall be required to make reasonable effort to respond to the public's inquiries and complaints.

S. Severability.

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

Section 4. Repealer. All Ordinances or parts of Ordinances conflicting with any provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective upon adoption by Borough Council. **DULY ORDAINED AND ENACTED** by the Council of the Borough of Nesquehoning, Carbon County, Pennsylvania, this _____ day of _____, 2026.

BOROUGH OF NESQUEHONING:

President of Council

ATTEST: _____
Secretary

AND NOW, this _____ day of _____, 2026, the foregoing ordinance is approved.

Mayor