HEMLOCK TOWNSHIP
COLUMBIA COUNTY, PENNSYLVANIA ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF HEMLOCK TOWNSHIP, COLUMBIA COUNTY, PENNSYLVANIA, TO AMEND CHAPTER 27 ZONING OF THE HEMLOCK TOWNSHIP CODE OF ORDINANCES TO DEFINE AND PROVIDE SPECIFIC REQUIREMENTS FOR DATA CENTERS, ENERGY PRODUCTION SYSTEMS, AND ENERGY STORAGE FACILITIES

WHEREAS, the Pennsylvania Municipalities Planning Code, act of July 31, 1968, as amended, 53 P.S. §§ 10101 et seq., enables municipalities through their zoning ordinance to regulate the use of property to protect and promote safety, health and morals to, promote the preservation of this Commonwealth's natural and historic resources and prime agricultural land, while fostering a business-friendly environment; and

WHEREAS, Hemlock Township seeks to promote the general health, safety and welfare of the community by adopting and implementing an amendment to the Zoning Ordinance providing for Data Centers, Energy Production Systems, and Energy Storage Systems; and,

WHEREAS, the purpose of this Ordinance is to set forth requirements for Data Centers, Energy Production Systems, and Energy Storage Systems requirements.

NOW THEREFORE BE IT ENACTED AND ORDAINED by the Board of Supervisors of Hemlock Township, Columbia County Pennsylvania, and it is enacted and ordained as follows:

SECTION 1: Part 13, Section 27-1302 of the Hemlock Township Zoning Ordinance, entitled "Definitions" shall be amended by adding the following definitions to those listed in Section 1302 thereof, to be inserted in alphabetical order:

Battery Energy Storage System (BESS) means one or more electrochemical devices that charge, or collect, energy from the grid or a generation facility, store that energy, and then discharge that energy at a later time to provide electricity or other grid services, not to include a stand-alone 12-volt car battery or an electric motor vehicle. Battery energy storage systems are typically measured in megawatts (1 megawatt = 1,000 kilowatts). Battery Energy Storage Systems that have a capacity of less than 1 megawatt are excluded from these regulations.

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 incidental 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, hyperscaler, artificial intelligence, supercomputers, data center campuses, 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; utility lines; 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 used or intended to be used to supply power to the Data Center during normal operations.

Data Center Equipment: Data Center Equipment or DCE includes any Data Center Accessory Uses that, when in an un-muffled state, generate noise in excess of the permitted maximum dB(A) and (C) in Chapter 137 at the point of generation. DCE shall be accessory to the Data Center and be located on the same tract or assemblage of adjacent parcels developed as a unified development for a Data Center.

Energy Production Facility: One or more structures, equipment or devices used for the production of heat, cooling, electricity or other forms of energy.

Energy Storage Facility: One or more structures, equipment or devices used for storing energy and releasing it at a later time.

Sensitive Receptor: Schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, community centers, places of worship, playgrounds, parks, campgrounds, prisons, dormitories, and any residence where such residence is not located on a parcel with an existing industrial, commercial, or unpermitted use as determined by the zoning officer, and any parcel where a residential use is a use permitted as a matter of right.

Warehouse: A building or group of buildings primarily used for the commercial storage, transfer and distribution of products and materials. This definition shall not include data centers or mini-storage facilities.

SECTION 2: 27 Attachment 1 of the Hemlock Township Zoning Ordinance shall be amended by adding “Data Centers, Energy Production Systems, and Energy Storage Systems” as a Conditional Uses in the I Industrial District.

SECTION 3: Part 16 Section 27-1601, 7 of the Hemlock Township Zoning Ordinance shall be amended by adding: I. Data Centers, J. Energy Production Systems, and K. Energy Storage Systems as Conditional Use in the IC Interchange Commercial Overlay District.

SECTION 4: Part 4 of the Hemlock Township Zoning Ordinance, entitled "Standard for Specific Uses" shall be amended by adding a new Section numbered 27-438, to be entitled "Data Centers" with the contents thereof to be as follows:

1. Data Centers shall be a Conditional Use.
2. Criteria Applicable to Data Centers:

    A. Data Center layout, design and construction shall conform to good industry practice. “Good industry practice” shall mean the practices, methods, standards, and acts (engaged in or approved by a significant portion of the data center industry for similar facilities in similar geographic areas that are similar in size and complexity) as the same may change from time to time, that, at a particular time, in the exercise of reasonable professional judgment in light of the facts known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with applicable law, regulation, codes, good business practices, reliability, safety, environmental protection, economy, expedition, and shall comply with the PA Uniform Construction Code and with all other applicable fire and life safety requirements.
    B. The Applicant shall demonstrate compliance with all applicable provisions and Specific and General Criteria contained of the Hemlock Township Zoning Ordinance, Hemlock Township Subdivision and Land Development Ordinance (SALDO), and all applicable local, state, and federal rules and regulations.
    C. The Applicant shall demonstrate consistency with the goals, policies, and recommendations of the Hemlock Township Comprehensive Plan, including but not limited to provisions addressing agricultural preservation, rural character, environmental protection, water resources, and infrastructure capacity. When a proposed Data Center conflicts with the Comprehensive Plan, the Applicant shall identify specific mitigation measures to offset such conflict. Applications may be denied where the Applicant fails to demonstrate that the proposal adequately advances or mitigates impacts to Comprehensive Plan objectives.

D. **Building Placement and Orientation**

(1) All principal and accessory structures associated with a Data Center shall be arranged, designed, and constructed to be harmonious and compatible with the site and with the surrounding properties. In general, Data Centers that visually approximate commercial office buildings are encouraged.

(2) Buildings shall be sited and oriented to:

a. Minimize visual impacts of the bulk of the building when examined on a line-of-sight basis from adjacent public streets and Sensitive Receptor property lines.

b. Provide safe and convenient vehicular access to the site, including sufficient on-site queuing areas at security gates.

c. Accommodate adequate parking.

d. Minimize impacts to natural resources.

e. Incorporate appropriate stormwater management practices.

(3) Data Center(s) containing more than one building are encouraged to provide a variety in building size, massing, siting, and appearance by transitioning from smaller or lower buildings along street frontages to larger and taller structures on the interior of the site. Consideration of topography shall be given to avoid placement of larger, taller, or more massive buildings in a prominent location on the property or along a public street.

E. The maximum building height for Data Centers or Data Center Accessory Uses shall be 50', inclusive of equipment on roof.

F. **Setback**

(1) All Data Centers and Data Center Accessory Uses shall be setback at as follows:

a. front setback – 100 feet from center of road;

b. side and rear setback – 50 feet from all property lines;

c. Notwithstanding the above, all Data Centers and Data Center Accessory Use(s) shall be setback 1,000 feet from a Sensitive Receptor property line; this distance may be reduced to a range of 500 to 999 feet if the applicant can successfully demonstrate to the Township how the Project will exceed other environmental performance standard, including noise that does not exceed ambient noise in the area, visual screening and/or aesthetic improvements that mask the data center use, and do not contribute to any thermal air changes that would affect the closest sensitive receptors.

G. **Noise**

(1) The Applicant shall demonstrate through a sound study conducted by a professional acoustical expert that the sound generated by a Data Center and/or Data Center Accessory Uses during normal operations shall be limited to a maximum daytime (7:00 a.m. to 8:00 p.m. Monday – Friday) decibel level of 60 dB(A)and (C) and a maximum nighttime and weekend (8:00 p.m. to 7:00 a.m. Monday – Friday and all day Saturday and Sunday) decibel level of 55 dB(A) and (C) as measured from the property line of the Use. Provided, however, the noise level shall not exceed 45dB(A) and (C)s at nighttime at the property line of any Sensitive Receptor not included as part of the site property. Such sound study shall be conducted using Sound Level Meters described in ANSI S1.4-2014, or the most up to date industry standard, and generally accepted technology. Additionally, since traditional measurements of noise in dBA is not fully capable of capturing low frequency noise, and meaningful limits using measurement techniques has not been well established, Data Center applicants shall incorporate the latest technology into the equipment/facility design and in the operating procedures, to limit low frequency noise emission beyond the site property line. A sound study shall be conducted at the following phases:

   a. A preliminary study shall be conducted as part of the Conditional 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 building permit approval process based upon the proposed user or users of the Data Center and Data Center Accessory Uses depicted on the building plans. Any sound reducing materials or systems recommended by interim sound study shall be incorporated into the construction plans for the Use.
   c. An as-built sound study shall be conducted six months after issuance of the certificate of occupancy and prior to the final escrow release for any land development phase. An as-built sound study may also be required thereafter by the Township. If it is determined by the as-built sound study that there is a violation of the aforesaid noise limits, it shall be considered a violation of this Ordinance.

(2) Maximum decibel levels specified herein shall apply during times of power outage. The sound studies shall also evaluate, and report anticipated decibel levels when all emergency power generation equipment is running, including

emergency backup generators. Emergency generator testing as required by industry standards is permitted.

(3) In the event of any complaints of noise, Applicant or Occupant shall undertake timely corrective actions. The Township, in its discretion, shall determine the timeframe for any corrective actions and what actions to take. Should the Township hire an independent noise expert to evaluate the noise, and should it be determined that Applicant or Occupant is in violation of the noise provisions of this Ordinance, Applicant or Occupant shall reimburse the Township for the full costs of the same.

H. **Negative Impacts**

(1) Any Use or activity producing air, dust, smoke, glare, exhaust, heat, or humidity in any form shall be carried on in such a manner that it is not perceptible at or beyond the property line.

(2) The emission of any smoke, odorous gases or other odorous matter or steam in quantities that are offensive or have an extremely offensive smell at any point along the boundary with an adjacent zoning district, residential property or Sensitive Receptor property line shall be prohibited.

(3) The Applicant shall provide a vibration study prepared by a qualified professional that demonstrates that no vibration from the Data Center, Data Center Accessory Uses, or associated equipment will be perceptible to the human sense of feeling beyond the property line.

I. The equipment used in any Data Center operation shall be housed in a metered, electrically grounded, and pre-engineered metal-encased structure with a fire rating designed to resist an internal electrical fire for at least 30 minutes. The containment space shall contain baffles that automatically close in the event of fire, independent of a possible electric system failure.

J. **Emergency Management**

(1) The Applicant shall submit an Emergency Response Plan (ERP) prepared by a qualified professional.

(2) The ERP shall:

a. Be reviewed and accepted by the local fire department and emergency management services as part of the [conditional use//land development] 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. Applicant shall bear the costs of any specialized training needed;
e. The Applicant shall coordinate with the East Central Emergency Network Coordinator to ensure there is adequate radio coverage for emergency responders within the building based upon the existing coverage levels of the Public Safety Radio Communications System at the exterior of the building and shall install enhancement systems as needed to meet compliance. A 911 address shall be obtained. It shall be confirmed that the local emergency departments have the proper chemicals/supplies in the event of a fire emergency. The Applicant shall submit an ERP to the Township, Columbia County Department of Emergency Services and to the local fire department(s) having jurisdiction.
f. No Data Center shall be approved unless the Applicant demonstrates that procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of public health, safety, and welfare.
g. Data Centers shall provide a 24-hour emergency contact signage visible at the access entrance. Signs shall include company name, if applicable, owner/representative name and telephone number and corresponding power provider and telephone number.

K. **Energy System/Supply**

(1) Applicant is encouraged to supply its own energy production system in accordance with Section 439.
(2) Any energy production system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel (gas or oil), or nuclear energy generating systems, shall not be considered part of the Data Center Use; such systems shall be considered a separate use and shall be approved separately under a separate application.
(3) If the Applicant proposes to use power from a commercial electric service provider, the Applicant shall provide documentation from the applicable electric service provider certifying the following:
    a. Applicant shall provide an interconnection agreement with the applicable electric service provider.
    b. Evidence that adequate capacity is available on the applicable service lines and substation to ensure that capacity is available to serve the proposed use together with the other needs of the service area and is

consistent with the normal projected load growth envisioned by the provider;

c. Evidence that utility supply equipment and related electrical infrastructure are sufficiently sized and will safely accommodate the proposed use;
d. Evidence that the use will not cause electrical interference or fluctuations in line voltage on and off the operating premises.
e. Applicant shall demonstrate that there is sufficient capacity, interconnection, power quality, reliability, and that the existing local and regional infrastructure is sufficient to accommodate the proposed Data Center and Data Center Accessory Uses.
f. Applicant or Developer shall be solely responsible to pay for the full costs of any infrastructure upgrades needed because of the proposed use.

(4) Prior to approval of the certification of completion or occupancy, the Applicant shall provide the zoning officer with written verification that the electrical work has been approved by a third-party inspector.

L. **Water Infrastructure**:

(1) The Applicant shall submit an analysis of raw water needs (groundwater or surface water) from either private or public sources, indicating quality and quantity of water required. If the source is from a municipal system; the Applicant shall submit documentation that the public authority will supply the water needed.

(2) If the Data Center is to rely upon nonpublic sources of water, a water feasibility study will be provided at the sole cost of Applicant. The purpose of the study will be 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, ground water, and surface water in the vicinity. To ensure objectivity, the Township may retain an independent hydrologist to review and verity the Applicant's study. No Data Center shall be approved without sufficient water and/or for a use that poses adverse impact on existing wells in the vicinity. A water feasibility study shall include the following minimum information:

(3) Calculations of the projected water needs and sources of water to be used.

a. A geological map of the area with a radius of at least two miles from the site property line.

b. The location of all existing and proposed wells within two miles of the site property line, with a notation of the capacity of all high-yield wells
c. The location of all surface waters, including perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps, and estuaries, within two miles of the site property line and all known point sources of pollution.
d. Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.
e. A determination of the effects of the proposed water supply system on the quantity and quality of the water in nearby wells, streams, and the groundwater table
f. Identification of how water will be recycled or released into surrounding water bodies
g. A statement of the qualifications and the signature(s) of the person(s) preparing the study
h. Applicant shall submit the study to the applicable Municipal Authority for comment and recommendation.

(4) The Applicant shall provide proof of review and approval from the Susquehanna River Basin Commission (SRBC) for projects that have:
a. Water withdrawals of one hundred thousand (100,000 gpd) gallons per day or more over a 30-day average from any water source or combination of sources within the Susquehanna River Basin
b. Any consumptive water use of twenty thousand (20,000 gpd) gallons per day or more over a 30-day average from any water source

(5) The Applicant shall demonstrate through a qualified expert that the surrounding water supplies will not be negatively impacted or dewater surrounding properties.

(6) Applicant must exhaust all reasonable efforts to utilize existing public or private waterlines for site water needs before proposing withdrawals from local aquifers or surface waters; documentation of these efforts shall be submitted with the Application.

(7) The Applicant shall demonstrate the use of the best available technology closed loop heating and cooling systems to the extent feasible.

(8) The Applicant shall demonstrate that adequate means and volume of waste disposal, including domestic wastewater and wastewater discharge from cooling or industrial uses (used for cooling or industrial purposes including but not limited to refrigerants), have been provided and approved by the

Sewage Enforcement Officer, public water supplier, Hemlock Municipal Sewer Cooperative, Susquehanna River Basin Commission, and/or Pennsylvania Department of Environmental Protection (DEP).

(9) Applicant shall comply with all local, state, and federal rules and regulations related to water quality.

M. **Environmental and Community Impact**

(1) Environmental and community impact studies shall be conducted to determine whether the proposed data center serves the public interest and to prevent undue burdens on municipal services. A qualified, independent scientist (including but not limited to geologist/hydrogeologist) shall be allowed to participate in and review all field studies/drilling events (well/logging/soils samples) on behalf of the Township.

(2) A traffic impact study shall be provided by the Applicant. A traffic impact analysis meeting the following standards of this section shall apply:

a. A professional traffic engineer shall prepare the analysis.

b. Potential traffic hazards and/or congestion identified by the analysis shall be avoided and/or mitigated in compliance with accepted traffic engineering principles, subject to approval by the Township, upon recommendation of the Township and Township's Engineer.

c. The traffic impact analysis shall provide an analysis during both construction and operation and include the following elements:

1. Traffic impact on all roadways, intersections, bridges, and interchanges within a one-half-mile radius of the site property line.
2. Description of traffic characteristics of the proposed development.
3. Traffic volumes for average daily traffic at peak hours, before and after proposed development.
4. Source of trip generation rates used.
5. Origin and destination analysis of projected traffic.

d. Documentation of on-site and off-site improvements proposed to mitigate any adverse impacts.

e. All other information, findings, conclusions and recommendations necessary to produce a complete analysis in compliance with accepted traffic engineering principles and practice.

(3) Applicant shall submit an economic community impact study from a licensed real estate agent that the proposed Data Center and accessories will not negatively impact the surrounding real estate property values.

(4) Applicant shall submit an Environmental impact study to show that the Data Center and its accessories will not impact on environmental features or wildlife.

   a. PNDI- A Pennsylvania Natural Heritage Program Study (PNDI) dated within two years of the submission of an application for conditional use as well as any state agency clearance letters required thereby, shall be provided to the Township.
   b. Compliance. The Applicant shall comply will all measures directed by clearance letters to avoid, minimize, or mitigate impacts to endangered, threatened, and special concern species and their habitat.

(5) The Applicant shall provide a Community Impact Analysis. The same shall include:

   a. A narrative description of the nature of the one-site activities and operations, including the market areas served by the facility, the hours of operation of the facility, the total number of employees on each shift, the times, frequencies, and types of vehicle trips generated, the types of material stored and the duration period of storage of materials.
   b. A site plan of the property indicating the location of proposed improvements, flood plains, wetlands, waters of the Commonwealth on the property and within 500 feet of the boundaries of the property.
   c. Detailed examination of public resources most likely impacted by the development.
   d. Historic and Cultural Resource Assessment.
      1. Identify and map all known or potential historic, cultural, and archeological resources on the property and within 500 feet of the property boundary, using:
         a. The Pennsylvania State Historic Preservation Office (SHPO) CRGIS database;
         b. Historical maps, aerial photographs, and local records;
         c. Consultation with local historical societies when applicable.
      2. Evaluate potential direct and indirect impacts of the proposed Data Center and Data Center Accessory Uses on identified historic or cultural resources.

3. Include recommended avoidance, minimization, or mitigation measures if impacts are identified.
4. Demonstrate consultation with the SHPO where the Assessment indicates the presence or high likelihood of significant historic or archaeological resources.
5. No Data Center shall be approved unless the Applicant demonstrates that historic and cultural resources will not be adversely impacted or that appropriate mitigation has been proposed and accepted by the Township.

e. Evidence that the disposal of materials will be accomplished in a manner that complies with local, state, and federal regulations.
    1. An evaluation of the potential impact of the proposed use, both positive and negative, upon:
    2. Emergency and fire protection.
    3. Water Supply;
    4. Sewage Disposal/Wastewater/Industrial Effluent Disposal;
    5. Solid waste disposal;
    6. School facilities and school district budget, and
    7. Municipal revenue and expenses.

f. Any environmental impacts that are likely to be generated (e.g. odor, noise, smoke, dust, litter, glare, heat islands, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and the specific measures employed to mitigate or eliminate any negative impacts. The Applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinances.

(6) The Applicant shall provide an Environmental Impact Assessment. The same shall include:

a. The assessment shall be prepared by a professional engineer, ecologist, environmental planner, or other qualified individual.

b. An assessment shall include a description of the proposed use, including location, relationship to other projects or proposals, with adequate data and detail for the Township to assess the environmental impact.

c. The assessment shall include a comprehensive description of the existing environment and probable future effects of the proposal.

d. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships.
e. At a minimum, the assessment shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts.
    1. Review of the project location in consideration of the Columbia County Natural Areas Inventory.
    2. Air pollution impacts emissions from vehicle operations, including from truck engines during idle time.
    3. The Applicant shall identify all stationary and mobile sources of fine particulate matter (PM2.5), volatile organic compounds, and nitrogen oxides at the site.
    4. The Applicant shall specify best management practices for preventing and reducing the concentration of air-polluting emissions at the site.
    5. The owner or operator of the facility shall have anti-idling signs prominently posted in areas where 15 or more trucks may park or congregate.
    6. The potential for public nuisance to residents resulting from operations and truck traffic, including noise, glare, light, and visual obstacles, exists.
    7. An assessment of any adverse impact of the proposed color and design of the Data Center and Data Center Accessory Uses on wildlife.
    8. The Applicant shall include an assessment of the impact of the proposed use on the goals of the Hemlock Township and Columbia County Comprehensive Plan. Where the proposed use conflicts with the comprehensive plan, the assessment report shall identify mitigation measures that may be undertaken to offset any degradation, diminution, or depletion of public natural resources.
    9. A description of alternatives to the impacts.
    10. A statement of any adverse impacts that cannot be avoided.
    11. Environmental protection measures, procedures, and schedules to minimize damage to critical impact areas during and after construction, including design considerations.

12. Steps/structural controls proposed to minimize damage to the site before and after construction.
13. Any area, condition, or feature that is environmentally sensitive or that, if disturbed during construction, would have an adverse impact on the environment, including, but not limited to, karst features, floodplains, riparian buffers, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, prime farmland soils, hydric soils, hydrologic soil group D, A/D, B/D, or C/D (USDA NRCS, 2009, or as amended) areas of high-water table, and mature stands of native vegetation and aquifer recharge and discharge areas.
14. A statement of impacts to these areas, conditions, or features and of adverse impacts that cannot be avoided.
15. Environmental protection measures, procedures, and schedules to minimize damage to these areas, conditions, or features during and after construction.
16. Any use or activity producing air, dust, smoke, glare, exhaust, heat, or humidity in any form.
17. A statement of how activity producing air, dust, smoke, glare, exhaust, heat, or humidity in any form shall be carried on in such a manner as to not be perceptible at or beyond the project boundaries.

f. The Township reserves the right to require the Applicant to perform any additional well testing; or Phase I or Phase II environmental site assessments prior to SALDO approval based upon representations in the Application.

N. **Screening and Buffering.**

(1) Data Centers shall be screened and buffered in accordance with the following standards.

a. Vegetative buffering shall be installed around the entire perimeter of the Data Center site, except where the Township determine that the retention of existing trees within the vegetative buffering area may constitute the required vegetative buffer or where the Township determines that the Data Center cannot be viewed from a public roadway or Sensitive Receptor property line.

b. The vegetative buffering shall be installed along the exterior side of the fencing. All required vegetative buffering shall be located within fifty (50) feet of the required fencing.
c. Vegetative buffering should be designed to emulate the mix of native species and appearance of existing tree lines, hedge rows, and wooded areas already in existence within the landscape of where the Data Center is proposed. The Applicant shall assess the species mix and characteristics found in the existing tree lines, hedge rows, and wooded areas surrounding the Data Center and document that the vegetative buffering is designed to emulate these characteristics. Arborvitae may be used as a vegetative buffer.
d. No less than 20% of the vegetative buffering plantings shall be pollinator friendly species.
e. Vegetative buffering shall be selected to provide year around buffering and shall be of sufficient height, density, and maturity to screen the facility from visibility to the maximum extent possible within thirty-six months of installation of the Data Center.
f. A combination of Natural topography and vegetation can serve as a buffer provided that the Data Center will not be visible from the property line of Sensitive Receptors. Earthen berms may be created to serve as a buffer wherein they are constructed to emulate or be in harmony with surrounding topography.
g. The Applicant or Occupant shall replace any dead or diseased trees in the buffer. All screening shall be properly maintained throughout the life of the project.

O. **Fences.** Fences shall not exceed eight (8) feet in height above ground and shall be of such design and materials approved by the Township.

P. **Lighting.** The Data Center site shall be dark sky compliant under the most up to date industry standard, fully shielded, and there shall be no spillover of lighting beyond the property line.

Q. **Cumulative Impact Analysis**

(1) In evaluating an Application, the Township shall consider the cumulative impacts of the proposed Data Center in combination with:
a. Existing Data Centers, power generation facilities, substations, or other high-intensity industrial uses within a five (5) mile radius;
b. Other pending or approved projects under common ownership or control; and

c. Phased development or future expansion reasonably foreseeable based on property ownership, infrastructure capacity, or submitted plans.

(2) The Township may require additional studies or deny approval where cumulative impacts pose a risk to water supply, energy reliability, environmental resources, transportation systems, or community character.

R. **Expansion, Intensification, and Change of Use.** Any expansion, intensification, change in operational capacity, change in cooling technology, increase in water or energy demand, or addition of accessory infrastructure beyond what is approved shall require separate approval. Approval of a Data Center shall not create a vested right to expand or modify the use beyond the scope expressly authorized by the Township.

S. Voluntary Development Agreements

As part of the Conditional Use process, the Township may consider voluntary development agreements addressing infrastructure improvements, emergency services support, environmental mitigation, or community benefits. Nothing in this Ordinance shall be construed to require a payment in lieu of taxes or community benefit contribution as a condition of approval, except where authorized by law.

T. **Decommissioning**

(1) Applicant shall provide a decommissioning plan as part of the land development submission and shall show how the site will be returned to a neutral state, being a condition that is easily adapted to similar uses, and the handling and removal of any Electronic Waste (also known as "E-Waste") and/or any other hazardous material, including but not limited to contaminated water, that may be present on the site.

(2) The Decommissioning Plan shall include but is not limited to:

a. Identification of all above-ground structures, equipment, and facilities that have no ongoing purpose which shall be removed;
b. Hazardous materials, including batteries, fuel, or refrigerants shall be disposed of in compliance with all local, state, and federal regulations;
c. Disturbed soil shall be stabilized and re-vegetated;
d. Any utility connections shall be safely disconnected and capped.
e. The site shall be restored to a condition compatible with surrounding land uses.

(3) Applicant shall have the burden of demonstrating which facilities and infrastructure has an ongoing purpose and the same shall be reviewed during the approval process and during the five-year updates as is set forth below.

(4) The Facility Owner or Operator is required to notify the Township immediately upon cessation or abandonment of the use. The use shall be presumed to be discontinued or abandoned if the Data Center is not operated for a continuous period of twelve (12) months.
(5) The Facility Owner or Operator shall then have six (6) months in which to dismantle and remove the Data Center and Data Center accessory equipment. The Facility Owner or Operator shall also restore the land to its original pre-construction condition. If the Facility Owner or Operator fails to dismantle or remove the Data Center and restore the land within the six (6) month time period, the Township may, but shall not be required to, complete the decommissioning and land restoration at the Owner's expense.
(6) At the time of the issuance of the permit for the construction of the Data Center, the Facility Owner or Operator shall provide financial security to the Township to secure the expense of dismantling and removing the Data Center, including accessory equipment, and restoration of the land to its original condition consistent with paragraph a above.
(7) The financial security shall be in the amount of one hundred ten (110%) percent of the cost of decommissioning.
(8) The decommissioning funds shall be posted and maintained during the life of the project in the form of a Performance Bond, Irrevocable Letter of Credit or other financial form of security acceptable to the Township.
(9) The same shall be with a financial institution acceptable to the Township.
(10) An independent and certified professional engineer shall be retained by the Township at the Facility Owner or Operator's expense to estimate the total cost of decommissioning of the Data Center.
(11) Thereafter, the Facility Owner or Operator shall retain an engineer to provide the Township with cost estimates of decommissioning after the first year of operation and every fifth year thereafter.
(12) The financial security shall be updated every five (5) years throughout the life of the project.

SECTION 5: Part 4 of the Hemlock Township Zoning Ordinance, entitled "Standard for Specific Uses" shall be amended by adding a new Section numbered 439, to be entitled "Energy Production Systems" with the contents thereof to be as follows:

1. Energy Production Systems shall be a Conditional Use
2. Energy Production Systems

A. Applicant is encouraged to supply its own power generation system not to exceed noise levels provided for Data Centers set forth in Section D above.

B. Any energy generation system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel (gas or oil), or nuclear energy generating systems, shall not be considered part of the Data Center Use. Such systems shall be considered a separate use and shall be approved according to the zoning regulations applicable to such use and shall not exceed the levels set forth in Section D during energy production.

C. If the Applicant proposes to connect the Data Center to the electric grid, the Applicant shall provide documentation from the applicable electric service provider certifying the following:

(1) Applicant shall provide an interconnection agreement with the applicable electric service provider.

(2) Adequate capacity is available on the applicable service lines and substation to ensure that capacity is available to serve the proposed Use together with the other needs of the service area and is consistent with the normal projected load growth envisioned by the provider;

(3) Utility supply equipment and related electrical infrastructure are sufficiently sized and will safely accommodate the proposed Use;

(4) The Use will not cause electrical interference or fluctuations in line voltage on and off the operating premises.

(5) Applicant shall demonstrate that there is sufficient capacity, interconnection, power quality, reliability, and that the existing local and regional infrastructure is sufficient to accommodate the proposed Data Center and Data Center Accessory Uses. Applicant or Developer shall be solely responsible to pay for the full costs of any infrastructure upgrades needed because of the proposed use.

D. Prior to approval of the certification of completion or occupancy, the Applicant shall provide the zoning officer with written verification that the electrical work has passed a third-party inspection.

E. On-site or behind the meter generation using natural gas, renewable fuels, or other clean sources when used to improve reliability, efficiency, or sustainability is permissible. All systems shall meet environmental, safety, and utility interconnection standards. The Applicant shall use Tier 4 or greater generators that are subject to stringent emission standards aimed at reducing pollutants and improving air quality and that operate at the lowest dB(A) and (C) levels.

3. 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, Sensitive Receptor property line, 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 Data Center Accessory Use 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 radiation does not exceed the prescribed radiation limits. The Township may select an entity to conduct a Radiological Land Survey to verify that the radiation does not exceed the prescribed radiation limits and the costs of the Survey shall be borne 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 of a property owner or occupant to remediate a radiation violation, the Township may revoke any zoning permits previously issued for the Data Center.

E. Applicant or Developer shall comply with all regulations of the Nuclear Regulatory Commission (NRC).

SECTION 6: Part 4 of the Hemlock Township Zoning Ordinance, entitled "Standard for Specific Uses" shall be amended by adding a new Section numbered 440, to be entitled "Energy Storage Systems" with the contents thereof to be as follows:

1. Energy Storage Systems shall be a Conditional Use

2. Energy Storage Systems: This Section applies to all land development plans that provide for Battery Energy Storage Systems to be constructed after the effective date of this amendment. Battery Energy Storage Systems constructed prior to the effective date of this amendment shall not be required to meet the requirements of this Section; provided that any physical modification to an existing Battery Energy Storage System that materially alters the size and type or other equipment shall comply with the provisions of this Section. Any future modification to a Battery Energy Storage System approved under this Ordinance that materially alters the size and type of technology or equipment shall require approval in compliance with the provisions of this Ordinance.

A. Procedures and Application Requirements
   (1) A Battery Energy Storage System shall be considered a land development as defined by the SALDO and the application for the development of a Battery Energy Storage System shall be processed in accord with all the procedures established by the SALDO for major subdivisions and land developments and shall comply with the following standards and requirements of this Section.
   (2) An application for a Battery Energy Storage System shall include the following:
      a. A list of all parcel numbers that will be used by the Battery Energy Storage System; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels (“participating parcels or parties”).
      b. An operations agreement setting forth the operations parameters, the name and contact information of the operator, the applicant’s inspection protocol, emergency procedures, and general safety documentation.

c. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, buffering and screening, drainage facilities, easements, floodplains, bodies of water, proposed access routes, and road rights of way. The site plan must be drawn to scale and must indicate how the Battery Energy Storage System will be connected to the power grid.
d. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Battery Energy Storage System.
e. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drainage facilities and addressing stormwater management, which is subject to the Township's review and approval.
f. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Battery Energy Storage System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Battery Energy Storage System and restore the subject parcels, which is subject to the Township's review and approval.
g. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.
h. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Battery Energy Storage System, which is subject to the Township's review and approval.
i. A plan for managing any hazardous waste, which is subject to the Township's review and approval.
j. A fire protection plan, which identifies the fire risks associated with the Battery Energy Storage System; describes the fire suppression system that will be implemented; describes what measures will be used to reduce the risk of fires re-igniting (i.e., implementing a "fire watch"); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.
k. A transportation plan for construction and operation phases, including any applicable agreements with the Pennsylvania Department of Transportation, which is subject to the Township's review and approval.
l. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation,

construction, maintenance, use, repair, or removal of the Battery Energy Storage System, which is subject to the Township's review and approval. o. Proof of compliance with all applicable Pennsylvania Department of Environmental Protection ("DEP") and federal NPDES regulations must be provided to the Township, which in turn will review and grant approvals at its own discretion. p. A list of all chemicals that may be used, accompanied by a plan to prevent chemicals, fire suppressant agents, or similar hazards from contaminating surface water, groundwater, and soil, and to minimize the risk of human exposure.

m. A fire suppression systems designed specific to battery storage. Documentation must be provided showing coordination with the local Fire Code Officials and Fire Services.
n. Any additional information or documentation requested by the Township.

B. General Provisions for Battery Energy Storage Systems

(1) A. Battery Energy Storage Systems shall be permitted when approved in compliance with the procedures, standards, and criteria contained in this section.
(2) All Battery Energy Storage Systems must conform to the provisions of this Ordinance and all Township, County, State, and Federal regulations and safety requirements, including applicable building codes, applicable industry standards, including Underwriters Laboratories (UL) UL 9540 (Standard for Safety of Energy Storage Systems and Equipment), and National Fire Protection Association (NFPA) Standard 855 "Standard for the Installation of Stationary Energy Storage Systems."
(3) The Township may enforce any remedy or enforcement, including but not limited to the removal of any Battery Energy Storage System pursuant to the Zoning Ordinance, SALDO or as otherwise authorized by law, if the Battery Energy Storage System does not comply with this Ordinance.

C. Dimensional Standards for Battery Energy Storage Systems

(1) The dimensional standards of Battery Energy Storage Systems and any accessory uses shall be in accordance with the Ordinance , with the following exceptions:
    a. The maximum building height for a Battery Energy Storage System shall be 50 feet, inclusive of roof-mounted equipment such as cooling and ventilation systems, HVAC units and cooling towers.
    b. Lot minimum lot size for a Battery Energy Storage System shall be 5 acres.

c. Battery Energy Storage Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:
    1. 1000 feet from buildings on nonparticipating properties.
    2. 500 feet from the edge of a public road rights-of-way.
    3. 500 feet from the Battery Energy Storage System to occupied buildings and dwellings on participating properties.

D. Landscape Buffer
(1) An area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer. The buffer shall not be used for parking, storage or any other purpose except landscaping, crossing of access roads or required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Township shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
(2) Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation in accordance with Sections 505 and 506 and shall be a minimum of twenty-five (25) feet in width. The buffer shall be dense enough to block the view of interior objects from the exterior of the lot and to assist with sound reduction as much as possible.
    a. Design details of buffers shall be included in the site plan, and buffers shall be considered improvements for the purpose of guaranteeing installation in accordance with the requirements for land developments in this Ordinance.
    b. It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

E. Security Fencing
(1) A minimum six (6) foot high security fence must be installed around all electrical equipment related to the Battery Energy Storage System.
(2) Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Battery Energy Storage System.

F. Noise Management

(1) A Noise Management Plan that address noise produced during construction and during the facilites operation, to be approved by the Township, shall be included with the SALDO application.

(2) The Plan at a minimum shall seperately address noise during construction and facility operations and include, mitigation, an assessment of the noise that will emulate at the perimeter fence and the contact information for the individual who is responsible for implimentation and compliance both during construction and opperations.
(3) The volume of sound inherently and recurrently generated shall be controlled so as not to cause a nuisance to adjacent uses.
(4) During operation the audible sound shall not exceed a maximum of 60 dB(A) and (C) during daytime hours and 55 dB(A) and (C) during nighttime hours as measured at the exterior of any occupied building on a non-participating landowner's property.
(5) Such sound study shall be conducted using Sound Level Meters described in ANSI S1.4-2104 and generally accepted methodology.
(6) All Township costs for noise studies will be paid by the applicant.

G. Water
(1) If the use will be served by a public water supply, the applicant shall submit documentation from the public authority certifying that the public authority will supply the water needed.
(2) If the use is to rely upon nonpublic sources of water, the applicant shall provide a water feasibility study that shows there is an adequate supply of water for the proposed use and to estimate the impact of the use on existing wells, groundwater, and surface waters in the vicinity.

H. Underground Transmission
(1) All power transmission or other lines, wires, or conduits from a Battery Energy Storage System to any building or other structure must be located underground at a depth that complies with current applicable national or industry standards (e.g., National Electrical Safety Code (NESC), National Electrical Code (NEC), and IEEE standards), except for power switchyards or the area within a substation.
(2) Exceptions and Waivers.
    a. Technical Impracticability: A waiver may be granted by the Township upon a written finding that undergrounding is technically impracticable due to one or more of the following:
        1. Existing subsurface utilities, geology, bedrock, groundwater conditions, or other physical constraints that make burial infeasible or unsafe.
        2. Conflicts with critical infrastructure (e.g., high-pressure gas mains, sewer interceptors) that cannot be reasonably relocated; or
        3. A serving utility's refusal to provide underground service despite reasonable design changes.

    b. Process: Requests for a waiver must be made in writing at the time of land development application and must include:

1. Detailed engineering documentation prepared by a licensed professional engineer demonstrating the basis for the waiver.
2. A statement of efforts made to avoid or mitigate impacts and to coordinate with the utility; and
3. Proposed alternative measures to protect reliability and aesthetics (e.g., screening, rerouting, buried/partially buried routes, enhanced design standards).

c. Emergency Repair Exception: Temporary above-ground installation for emergency repair of electric facilities is permitted provided that permanent underground replacement or remediation is completed within a period specified in the emergency authorization (not to exceed 180 days absent extension).

d. Financial Responsibility.
   1. The Applicant shall be responsible for all costs associated with the underground installation, including design, permitting, trenching, conduit/duct bank, cable installation, connection fees, utility coordination, and final restoration, unless otherwise provided in a written agreement with the serving utility or municipality.
   2. The Township may require financial security (performance bond, letter of credit) to guarantee completion of underground utility installation and site restoration.

I. Emergency Management

(1) No Battery Energy Storage System shall be approved unless the applicant demonstrates that procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of public health, safety and welfare.

(2) Nonavailability of emergency response services specialized equipment or materials shall be considered grounds for denying or revoking permits until such services, equipment and materials are available.

(3) The agency providing fire response services is not obligated to extend or supply such specialized services if they do not exist at the time of application.

(4) The extension of services and purchase of required specialized equipment. agents, products, materials or systems, shall be provided at the cost of the applicant.

(5) All first responders shall be provided adequate training specific to the installed system which shall be provided by the applicant.

(6) The applicant or facility operator shall approve and pay for the cost and expenses of fire department, EMS, and Emergency Management Agency training beyond the scope provided by the applicant deemed necessary by the first due fire department, and EMS chiefs, and Local and County Emergency Management Agency Coordinators at the request of the same.

(7) The applicant or facility operator shall at their cost provide to the responding emergency services providers new, special or advanced equipment or materials including but not limited to clean agents, foam, dry chemicals, CO2 or similar specialized agents, products, materials or systems included in the Plan.

(8) Battery Energy Storage Systems shall include containment systems to prevent chemicals, fire suppressant agents, or similar hazards from contaminating surface water, groundwater, and soil, and to minimize the risk of human exposure.
(9) Battery Energy Storage System that includes lithium or lithium-ion batteries shall be required to use an automatic fire suppression system designed to suppress lithium and lithium-ion fires.
    a. The design and use of the aforementioned fire suppression system shall be to the reasonable satisfaction of the Township, first due fire department, EMS, the Municipal Emergency Management Agency where the project is located, and the County Emergency Management Agency
    b. Shall include provisions to prevent the leakage of chemicals from contaminating local watersheds.
    c. If the local fire department requires the use of water in its response plan, the a severable storm drain connection must be included to ensure that leaks do not escape the system's envelope.

(10) The Battery Energy Storage System shall provide a 24-hour emergency signage visible at the access entrance to include a contact representative's name and 24- hour telephone number.
(11) If the Battery Energy Storage System experiences a failure, fire, leakage of hazardous materials, significant personal injury, or other extraordinary or catastrophic event, the Owner or Operator shall notify the Township within 24 hours of such event.
(12) Emergency Response Plan.
    a. The applicant shall submit an Emergency Response Plan (ERP) prepared by a qualified professional, which shall be reviewed and approved by the first due fire department, EMS, the Municipal Emergency Management Agency where the project is located, and the County Emergency Management Agency.
    b. A permanent copy of the approved plan shall also be placed in an approved location to be accessible to facility personnel, and emergency responders.
    c. The ERP shall:
        1. Be reviewed and approved as part of the land development process.
        2. Include a description and specifications of the fire suppression systems designed specifically for battery storage to be installed.
        3. Include detailed procedures for fire suppression, containment, ventilation, and evacuation.
        4. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site.
        5. Confirm the availablity of special or advanced fire protection equipment or solutions designed for environments where water-based systems are ineffective or destructive, such as clean agents, foam, dry chemicals, CO2 or similar specialized agents, products, materials or systems, by the local agency providing fire response service.

6. Include provisions for annual facility tours for fire department, EMS, and Emergency Management Agency personnel.
7. Include procedures for safe shutdown, de-energizing or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, personal injuries, and for safe start-up following cessation of emergency conditions.
8. Include procedures for inspection and testing of associated alarms, interlocks, and controls.
9. Demonstrate compliance with the latest version of National Fire Protection Association (NFPA) Standard 855, Installation of Stationary Energy Storage Systems, or similar standards in effect on the date of the application.
10. Include provisions for annual fire safety inspections demonstrating compliance with fire safety standards to be performed by a qualified professional on behalf of the Battery Energy Storage System to be provided to the first due fire department, EMS, the Municipal Emergency Management Agency where the project is located, and the County Emergency Management Agency.

d. The Plan shall be updated, reviewed and approved by the first due fire department, EMS, the Municipal Emergency Management Agency where the project is located, and the County Emergency Management Agency not less than every five (5) years after initial approval.

J. The Applicant shall make all efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the Battery Energy Storage System.

K. Battery Energy Storage Systems shall provide at least one parking space per 8,000 square feet of floor area designed and intended to be accessible regularly by employees, or one parking space for every one employee, based upon the maximum number of employees on site during the largest shift, whichever is lesser.

L. Lighting
   (1) The Battery Energy Storage System must implement dark sky-friendly lighting solutions.
   (2) Lighting shall be controlled in both height and intensity; and lighting design shall be an inherent part of the project design. The standards of the Illuminating Engineering Society of North America shall be used as guidelines for the said design. The applicant shall provide the specifications of the proposed lighting and its arrangement.
   (3) Lighting shall be limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Battery Energy Storage System and must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

M. Decommissioning
   (1) The Battery Energy Storage System (hereinafter “Facility”) Owner and Operator shall, at its expense, complete decommissioning of the Facility, within twelve (12) months after the end of the useful life of the Facility.

(2) The Facility will be presumed to be at the end of its useful life if it's not used for a continuous period of twelve (12) months.
(3) The Facility Owner or Operator shall report to Township in writing within 48 hours any cessation or discontinuation of use by sending notice to: Hemlock Township, 26 Firehall Rd Bloomsburg, PA 17815. If the Township becomes aware of the cessation or discontinuation of use of the Battery Energy Storage System Facility by observation or report from a third party, without receiving notification from the Facility Owner or Operator, the Township may notify the Facility Owner or Operator of the report or observation in writing or by posting a notice on the premises that decommissioning must be completed within six (6) months of said notice.
(4) Decommissioning shall include removal of all hazardous materials and contents, including cabling, electrical components, and any other associated facilities.
(5) The Facility Owner or Operator shall certify that all hazardous materials and contents have been removed at the end of the twelve (12) or six (6) month period as applicable.
(6) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
(7) Any necessary permits, such as Erosion and Sedimentation and NPDES permits, shall be obtained prior to decommissioning activities.
(8) At the time of issuance of SALDO approval for the construction of the Facility, the owner shall provide financial security in the form and amount acceptable to the Township and in favor of the Township, to secure its obligations under this Section.
    a. The Project Developer shall, at the time of the SALDO application, provide the Township with an estimate of the cost of performing the decommissioning activities required herein.
    b. The Project Owner shall provide financial security of 110% of the estimated cost of decommissioning.
    c. The estimate may include an estimated salvage and resale value, discounted by a factor of 10%.
    d. The decommissioning cost estimate formula shall be: Gross Cost of Decommissioning Activities <u>minus</u> 90% credit of Salvage and resale value <u>equals</u> the decommissioning cost estimate.
(9) On every 5th anniversary of the date of providing the decommissioning financial security the Project Owner shall provide an updated decommission cost estimate, utilized the formula set forth above with adjustments for inflation and cost and value changes.
(10) If the decommissioning security amount increases, the Project Owner shall remit the increased financial security to the Township within 30 days of the approval of the updated decommissioning security estimate by the Township.
(11) If the decommissioning security amount decreases by greater than 10%, the Township shall release from security any amounts held in excess of 110% of the updated decommission cost estimate.
(12) Decommissioning security estimates shall be subject to review and approval by the Township and the Project Developer/Owner shall be responsible for administrative, legal, and engineering costs incurred by the Township for such review.

(13) The decommissioning security may be in the form of cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow account from a federal or Commonwealth chartered lending institutions in the amount of 110% of the total proposed decommission cost estimate and in a form satisfactory to the Township and the Township Solicitor.

(14) Prior to final approval of any SALDO plans for a Facility, the Facility Developer shall enter into a Decommissioning Agreement with the Township outlining the responsibility of the parties under this Agreement as to the Decommissioning of the Facility.

(15) If the Facility Owner, Operator, or landowner fails to complete decommissioning within the periods prescribed herein, the Township may take such measures as necessary to complete decommissioning utilizing the decommissioning security.

(16) If the decommissioning security is insufficient for the decommissioning, the Facility Owner, Operator, and landowner shall reimburse the Township for any costs incurred.

(17) The escrow agent shall release the Decommissioning Funds when the Facility Owner or Operator has demonstrated and the Township concurs in writing that decommissioning has been satisfactorily completed.

(18) In the event of sale or transfer of the Facility, the acquiring agency shall assume in writing the decommissioning and financial security requirements of the Facility Owner and or Operator agreed to at the time of original SALDO approval.

N. Liability Insurance
   (1) The Project Owner shall maintain a general liability policy covering bodily injury and property damage with limits of at least $5 million per occurrence and $5 million in the aggregate.
   (2) Proof of coverage shall be made available to the Township upon request.

O. All required local, county, state, and federal permits must be obtained before the Battery Energy Storage System begins operating.

P. The Owner or Operator shall submit a report on or before January 1 of each year that includes all of the following:
   (1) Proof of insurance;
   (2) Verification of financial security;
   (3) A summary of all complaints, complaint resolutions, and extraordinary events.

Q. The Township may inspect a Battery Energy Storage System at any time by providing 24 hours' advance notice to the Owner or Operator.

SECTION 7: <u>Severability.</u> If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity, shall not effect or impair any of the remaining provisions, sentences, clauses, sections, or parts thereof. It is

expressly declared as the intent of Hemlock Township, Columbia County that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

SECTION 8: <u>Repealer.</u> All provisions of the Hemlock Township Zoning Ordinance which are contrary to this Ordinance are expressly repealed.

Section 9. Effective Date. This Ordinance shall be in full force and effect from and after its passage or the first day allowed by law thereafter.

ENACTED AND ORDAINED by the Board of Supervisor of Hemlock Township, Columbia County this _____ day of _____, 2026.

HEMLOCK TOWNSHIP, BOARD OF SUPERVISOR

ATTEST:

_____ _____

Secretary Chairman