

Ordinance No. 5 of 2026

Foster Township, Luzerne County, Pennsylvania

**AN ORDINANCE AMENDING THE FOSTER TOWNSHIP ZONING ORDINANCE TO
DEFINE, PERMIT AND REGULATE DATA CENTERS AND DATA CENTER
ACCESSORY USES.**

WHEREAS, Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10601, *et seq.*, authorizes Foster Township (the “Township”) to amend its Zoning Ordinances; and

WHEREAS, the Foster Township Board of Supervisors (the “Board”) deem it to be in the best interest and general welfare of the residents of Township to update and amend provisions of the Foster Township Zoning Ordinance (“Zoning Ordinance”) to provide for Data Centers and Data Center Accessory Uses; and

WHEREAS, the Board desires to add provisions to the Zoning Ordinance addressing Data Centers and Data Center Accessory Uses.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board as follows:

Article II, Definitions, Section 203 of the Foster Township Zoning Ordinance is amended to include the following additional terms:

SECTION 203 DEFINITION

DATA CENTER:

A building occupied primarily by computers or telecommunications and related equipment where digital information is processed, transferred 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, 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 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.

Article V, Zoning District Regulations, Section 502 of the Foster Township Zoning Ordinance is amended to include the following uses:

**FOSTER TOWNSHIP
RESIDENTIAL AND NONRESIDENTIAL USE TABLE
ZONING DISTRICTS**

SECTION 502

NONRESIDENTIAL USES	B-2	B-3	A-1	C-1	1-1	I-2	S-1	AEO
Data Center	N	N	N	N	N	N	N	C
Data Center Accessory use	N	N	N	N	N	N	N	C

Article VIII, Supplemental Regulations, Section 801 of the Foster Township Zoning Ordinance is amended to include the following:

Section 801 is hereby amended to include supplemental regulations for a Data Center and Accessory Data Center Uses as follows:

801.52 DATA CENTER AND DATA CENTER ACCESSORY USE

A. Data Centers shall maintain a setback of 2000 feet from all property lines. Data Center Accessory Uses shall maintain a setback of 2000 feet from all property lines. Data Centers shall be set back 2000 feet from residential uses, residential zoning districts, childcare facilities, day care centers, family or group care homes, schools, dormitories, personal care homes, nursing homes, community centers, places of worship, outdoor recreational facilities, and correctional facilities.

1. The building height for a Data Center or Data Center Accessory Use shall not exceed 40 feet, inclusive of roof-mounted equipment such as cooling and ventilation systems, HVAC units and cooling towers.
2. A Data Center and Data Center Accessory use shall be completely enclosed by a "Buffer Area" as so defined in Article 2 of the Zoning Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.
3. The applicant shall demonstrate through a sound study conducted by a professional acoustical expert that the sound generated by a Data Center and any Data Center Accessory Uses during normal operations shall be limited to a maximum daytime (9:00 a.m. to 5:00 p.m. Monday-Friday) decibel level of 65 dB(A) and a maximum nighttime

and weekend (5:00 p.m. to 9:00 a.m. Monday-Friday and all day Saturday and Sunday) decibel level of 55 dB(A) as measured from the property line 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:

- i. 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.
- ii. 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.
- iii. An as-built sound study shall be conducted six months after issuance of the certificate of occupancy and prior to the final land development approval or release of any bonding. If it is determined by the as-built sound study that there is a violation of the noise limits for the Data Center and any Data Center Accessory Uses, it shall be considered a violation of this Zoning Ordinance.

Maximum decibel levels specified herein shall apply during times of power outage. The sound studies must evaluate and report on anticipated decibel levels when all emergency power generation equipment is running, including backup generators. Generator testing will require a detailed statement of impact including, but not limited to, noise, emissions and vibration. Periodic testing of standby generators shall be conducted exclusively during daytime hours (9:00 AM to 5:00 PM) Monday-Friday, excluding federal holidays, to minimize disruption to surrounding properties. The schedule and duration of such testing shall be submitted to the Township for review and approval.

4. 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.
5. If the use is to 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. If the use is to rely upon nonpublic sources of water, the applicant shall provide a water feasibility study. The purpose of the study is to determine if there is an adequate supply of water for the proposed use and to estimate the impact of the use on existing wells, groundwater, and surface waters in the vicinity. No Data Center shall be approved unless the water feasibility study demonstrates that the anticipated water supply yield is adequate for the project and that the proposed water withdrawals and discharges will not endanger or adversely affect the quantity or quality of groundwater supplies or surface waters in the vicinity. The water feasibility study shall include the following information at a minimum:

- i. The projected water demands of the Data Center.
- ii. The source of water to be used.
- iii. A description of how water will be used, including the amount or proportion of water to be used for each purpose (e.g. cooling, humidity control, fire suppression, and domestic usage).
- iv. The long-term safe yield of the water source.
- v. A description of the amount or portion of water withdrawn that will be recycled or discharged and by what means.
- vi. A geologic map of the area with a radius of at least one mile from the site.
- vii. The location of all existing and proposed wells within 3,000 feet of the property boundary, with a notation of the capacity of all high-yield wells.
- viii. The location of all surface waters, including perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps or leaks, and estuaries, within 3,000 feet of the property boundary.
- ix. A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, surface waters, and the groundwater table.
- x. A drawdown test shall be conducted for all existing wells located within 3,000 feet of the property boundary to evaluate potential impacts on groundwater levels and well performance.
- xi. A statement of the qualifications and the signature of the individual performing the study, who shall be either a professional engineer licensed in the Commonwealth of Pennsylvania or a qualified hydrogeologist.

The applicant shall provide proof of review and approval from the Delaware River Basin Commission for projects proposing: Water withdrawals of 100,000 gallons per day (gpd) or more over a 30-day average from any source or combination of sources within the Delaware River Basin; or any consumptive water use of 20,000 gpd or more over a 30-day average from any water source. This requirement shall remain consistent with, and be automatically updated to reflect, all applicable Delaware River Basin Commission regulations in effect at the time of application.

6. The applicant shall demonstrate that adequate means of wastewater disposal, including domestic wastewater and wastewater used for cooling or industrial purposes, have been provided and approved by the Sewage Enforcement Officer (SEO) and/or the Pennsylvania Department of Environmental Protection (DEP).
7. 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 that the necessary capacity is available and that electric service provider will serve the Data Center. Any known impacts on electric rates or availability for other uses directly attributable to the Data Center project shall be noted. Any energy generation

system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel, or nuclear energy generating systems, shall not be considered part of the Data Center use. Such systems shall be considered a different use and shall be approved according to the zoning regulations applicable to such use.

8. The applicant shall submit an Emergency Response Plan (ERP) prepared by a qualified professional. The ERP shall:
 - i. Be reviewed and accepted by the local fire department and emergency management services as part of the conditional use process.
 - ii. Include detailed procedures for fire suppression, containment, ventilation, and evacuation.
 - iii. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site.
 - iv. Ensure that all first responders receive adequate training in installing the system.
 - v. 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.
9. Based on the approved ERP, the applicant and/or landowner shall be responsible for funding, providing, or reimbursing the Township for reasonable and documented costs directly attributable to preparing for emergency responses specific to the Data Center or the Data Center Accessory Use, which may include, without limitation:
 - i. Specialized training for Township emergency personnel directly related to Data Center systems and hazards;
 - ii. Training materials, manuals, and operational protocols specific to the Data Center;
 - iii. Specialized equipment, tools, or protective gear required to safely respond to Data Center-related incidents;
 - iv. Initial testing, commissioning, and familiarization exercise related to Data Center emergency response.

Mitigation costs under this Section shall be limited to those reasonably necessary to address emergency response impacts directly attributable to the Data Center and shall not include general emergency service operations, routine training, or equipment unrelated to Data Center-specific risks.

All mitigation obligations shall be completed prior to commencement of operations unless an alternative schedule is provided by the Township. Costs shall be supported by written documentation and, where applicable, invoices or cost estimates approved as part of the ERP.

Compliance with this Section shall not limit the Township's right to recover costs associated with an emergency response caused by the Data Center as provided elsewhere in this Ordinance.

10. 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.
11. Any Data Center and any Data Center Accessory Use shall demonstrate compliance with all applicable National Fire Protection Association (NFPA) standards, including but not limited to the following:
 - a. NFPA 75 – Standard for the Fire Protection of Information Technology Equipment.
 - b. NFPA 76 – Standard for the Fire Protection of Telecommunications Facilities.
 - c. NFPA 70 – National Electric Code.
 - d. NFPA 110 – Standard for Emergency Standby Power Systems
 - e. NFPA 855 - Any Data Center 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 NFPA 855, Installation of Stationary Energy Storage Systems, or similar standards and must include fire suppression systems designed specifically for battery storage.
 - f. NFPA 30 - All fuel storage facilities associated with standby generators, and all emissions from such generators, shall comply with all applicable federal, state, and local regulations, including those pertaining to air quality, hazardous materials, and environmental protection. Proof of compliance, necessary permits and renewals from Department of Environmental Protection (DEP), NFPA 30 and any other relevant regulatory agency shall be provided to the Township.
12. Decommissioning and Closure.
 - i. Decommissioning Plan. At the time of application, the operator 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.
 - ii. Financial assurances. As part of the Decommissioning Plan, applicants must post a bond, escrow, or other financial security acceptable to the township to cover the full cost of decommissioning and site restoration. The financial assurance shall be reviewed and adjusted bi-annually to reflect inflation and updated cost estimates. The amount of financial security shall be submitted by the applicant for review and approval by the township engineer and township board of supervisors.

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

iv. 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 law.
- 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 condition compatible with surrounding land uses or consistent with the most restrictive adjacent zoning district.

This Amendment shall take effect immediately following its adoption. The remaining Articles and Sections of the Foster Township Zoning Ordinance shall remain the same and unchanged, except as amended by this Ordinance. This Ordinance Amendment is hereby adopted and effective this 8th day of July, 2026.

ATTEST:

Secretary

Dimitry Majanski

FOSTER TOWNSHIP BOARD OF
SUPERVISORS:

Chairperson

Vice-Chairperson

Supervisor

Ed of Italy

[Signature]

[Signature]

