ORDINANCE NO. _____

HATBORO BOROUGH

MONTGOMERY COUNTY, PENNSYLVANIA

AN ORDINANCE OF HATBORO BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 27, TITLED "ZONING" OF THE GENERAL LAWS OF HATBORO TO AMEND PART 2 RELATING TO DEFINITIONS AND TO AMEND PART 14, LI LIMITED INDUSTRIAL, SUBSECTIONS 27-202 AND 27-1402 USE REGULATIONS, AND CREATING A NEW SUBSECTION 27-1409 RELATING TO REGULATIONS APPLICABLE TO ALL DISTRICTS AND TO ESTABLISH AND REGULATE DATA CENTER USES BY CONDITIONAL USE IN THE LI LIMITED LIGHT INDUSTRIAL DISTRICT.

WHEREAS, the Borough Code vests the Hatboro Borough Council with the authority to adopt ordinances necessary for the proper management, care and control, and welfare of the Borough; and

WHEREAS, data centers are a rapidly expanding use that is not regulated at the state level in Pennsylvania and may exert significant impacts related to energy demand, water consumption, noise, vibration, and environmental quality; and

WHEREAS, local regulation of data centers through conditional use in the designated industrial zone is necessary to ensure any development is compatible with the surrounding community and infrastructure.

NOW, THEREFORE, be it **ORDAINED** that the Hatboro Council amends its General Laws as follows:

SECTION I. Chapter 27, titled "Zoning," Part II Definitions, § 27-202, is hereby amended to include the following definition for 'Data Center':

Data Center: A building(s) which is occupied primarily by computers, electronics, and/or telecommunications and/or related equipment where digital information is processed, stored, and/or transferred primarily to and from offsite locations; or a facility primarily used for housing and operating computer systems and associated equipment, including servers, data storage and processing systems, and accessory infrastructure such as cooling systems, power generators, electrical substations, and network hardware. This definition shall include, but is not limited to, cryptocurrency mining, blockchain transaction processing, server farms, or cloud environments. This definition does not include

computers, electronics, and/or telecommunications and/or related equipment that is customarily incidental to an otherwise permissible use on the property, such as servers associated with an office building or similar technology.

DATA CENTER ACCESSORY USE: Ancillary uses or structures secondary and incidental to a Data Center Use. Accessory uses secondary and incidental to a data center are allowed, including but not limited to: a. energy generation systems used or intended to be used to supply power to the data center during normal operations; b. Administrative; c. Security; d. Fiber optic lines; e. Utility lines; f. Electrical substations; g. Domestic and non-contact cooling water and wastewater treatment facilities; h. Water towers; i. Pump stations; or j. Heating, ventilation, air conditioning, and cooling towers.

DATA CENTER CAMPUS: A data center campus includes all of the structures and real estate owned, controlled, leased or otherwise occupied primarily for the use and purpose as Data Center(s), including: (i) Data Center(s); (ii) Data Center Accessory Uses; and (iii) all other systems, equipment, piping, conduit and other ancillary equipment, structures, and other appurtenances that are incidental to and/or needed for the construction, support, operation, repair, maintenance, and/or protection of the Data Center(s) and/or the data center campus.

SENSITIVE RECEPTOR: Buildings used for residences (including institutional uses with a residential component), schools, daycare centers, preschools, hospitals, community centers, and similar institutional uses.

SECTION II. Chapter 27, titled "Zoning," Part 14 LI Limited Light Industrial District § 27-1402 is hereby amended to a new subsection "Q" as follows:

Q. Data Centers, when permitted by conditional use in accordance with criteria set forth in § **27-1409** of this article.

SECTION III. Chapter 27, titled "Zoning," Part 14 LI Limited Light Industrial District is hereby amended to a new subsection "§ 27-1409" titled "Data Center conditional use criteria" as follows:

Data Center Conditional Use criteria. The following uses when authorized by the Board of Commissioners as a conditional use in accordance with the standards set forth in § 27-2209 (relating to conditional use standards) and any additional criteria as set forth herein:

(1) Data Centers and Data Center Accessory Uses provided that such use and operation are in accord with the following additional criteria:

a. Street Access. Data Centers and Data Center Accessory Uses shall take access from an arterial or collector road and shall have secondary access suitable for emergency response purposes.

b. Bulk Standards.

[1] Minimum Lot Size: Data centers over 100,000 square feet in gross floor area shall have a minimum lot area of 5 acres.

[2] Maximum Height: Data Centers and freestanding accessory uses may not exceed 60 feet in height. For data center principal buildings, the maximum height shall be inclusive of rooftop appurtenances and rooftop accessory uses.

[3] Minimum Setbacks: Data Center principal buildings, accessory uses, and truck idling areas shall have a minimum setback from all property lines of 250 feet, with the exceptions of utility lines, fiber optic lines, and security stations.

[4] Data centers shall be a minimum of 1,000 feet from residential uses, residential districts, and/or other sensitive receptors. This distance may be reduced to a range of 500 – 999 feet if the applicant can successfully demonstrate how it will exceed other environmental performance standards including noise levels that do not exceed ambient noise for that 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.

[5] Maximum Building Coverage: 40% (or consistent with eligible zoning district)

[6] Maximum Impervious Coverage: 50% (or consistent with eligible zoning district)

c. Design.

[1] Principal building facades shall require a horizontal offset of at least ten feet at intervals of no more than 150 linear feet (measured horizontally) of principal building facade.

[2] No more than 80 percent of a principal building facade may consist of one building material.

[3] No more than 80 percent of a principal building facade may consist of one color, texture, or pattern.

[4] Principal building facades shall require fenestration, step-back(s), cantilever(s), projection(s), or architectural elements extending horizontally across at least 60 percent of the facade.

[5] Each principal building shall include an articulated main entrance. This entrance shall be differentiated from the rest of the building with a change in building material, pattern, texture, color, or architectural accent. It shall also either project or be recessed from the adjoining building plane.

[6] Roof-mounted equipment shall be set back from the parapet at least as far as the equipment's height above the roof surface.

[7] Elevations/renderings of all principal building facades visible from off-site shall be submitted with the conditional use application.

[8] Fencing shall not include barbed or razor wire and shall be subject to municipal fence standards.

[9] Projects shall be designed and constructed to meet the current USGBC LEED BD+C: Data Centers rating system, or equivalent design standard, as approved by the municipal engineer.

d. <u>Energy Usage Plan</u>.

[1] The applicant for a Data Centers and Data Center Accessory Uses shall provide an Energy Usage Plan with the Conditional Use application, which Plan shall provide or identify at a minimum the following:

a. Annual electricity demand;

b. Energy supply sources that will be utilized;

c. Energy storage capacity as applicable;

d. Proposed sources of back-up power;

e. Documentation of efforts to maximize use of renewable and/or clean energy for all electrical and cooling needs, including: (1) those to reduce the need for new electric generation by incorporating the best available energy efficiency into the design of data center servers, cooling units, and the building structure; (2) cover 50-80% of all unused roof space with solar arrays to offset a portion of the demand on the electric grid and reduce onsite emissions; (3) explore battery storage as a backup energy source for 50-100% of total onsite back-up energy needs to reduce or eliminate the pollution associated with diesel backup generators; (4) support off-site renewable energy generation through a power purchase agreement or other arrangement that will result in new renewable energy generation within the PJM region; and (4) Monitor and report energy efficiency and emissions data to the municipality on a regular basis.

f. If interconnecting to the energy grid, documentation of the energy utility interconnection approval process with answers to the following: (1) documentation that an application for the project has been filed with the electric utility provider, and the required fee has been paid; (2) documentation that a transmission security agreement has been received by the applicant; (3) documentation that the transmission security agreement has been signed by all necessary parties; and (4) the date that the electric utility provider provided for the proposed energization of the data center.

g. The Energy Usage Plan will be prepared and certified by a professional engineer. The plan shall be subject to review and comment by the municipality. The municipality shall have the right to require supplemental or amended plans based upon comments by the municipality prior to any zoning approval.

[2] A proposed Data Center whose Energy Usage Plan shows power demand of over 50 megawatts (MW) and that proposes to connect to the power grid shall be required to procure a minimum of 10% of its power from renewable generation sources generated withing the PJM region, which include solar, wind, hydroelectric power, geothermal, and waste heat from data center cooling processes. Electricity supply shall be procured through a power purchase agreement or similar mechanism as opposed to purchasing renewable energy credits (RECs) only.

e. <u>Energy Generation Systems Usage.</u>

[1] For purposes of the criteria for Data Centers and Data Center Accessory Uses, the term Energy Generation System shall mean Any energy generation system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel, fuel cells, or nuclear energy generating systems.

[2] Any energy generation system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel, fuel cells, or nuclear energy generating systems, shall not be considered part of the Data Center use but shall be subject to existing municipal or utility regulations. Such systems shall be considered a separate principal use and shall be approved according to all applicable state and federal regulations along with municipal zoning regulations applicable to such use. The applicant shall select, design, and locate the energy generation systems to limit noise, emissions, and visual impacts to adjacent and nearby uses as much as possible. Data center principal buildings shall be located between energy generation systems and residential districts or any other sensitive receptors.

[3] Electric Utility Substations on the same property as the Data Center they serve shall be located on the side or rear of a Data Center principal building so they are screened from

public view and shall not be located in a required front yard. On-site substations do not require a buffer or screening between the Data Center Principal Building and the substation.

[4] Data Center electric utility substations visible from an arterial roadway shall include a combination of year-round opaque landscaping and screening walls to minimize visual impact.

[5] Burying power lines serving the property is strongly encouraged. On-site power lines of 34.5 kV and below shall be buried.

[6] Proposed substations on a parcel that abuts a zoning district boundary other than industrial, and/or a boundary with a property with a sensitive receptor shall be set back a minimum of 800 feet from the property line. If abutting both another industrial-zoned parcel and use, substations shall meet the requirements for accessory uses in the underlying zoning district.

f. <u>Backup Power Usage</u>.

[1] Diesel generators shall meet Tier 4 emission standards of the U.S. Environmental Protection Agency.

[2] Diesel generators shall undergo annual testing, and reports shall be provided to the municipality to ensure that data center equipment is performing as designed and that emissions from the data center do not exceed permitted limits.

[3] Emergency energy generation that uses diesel, gasoline, or another fossil fuel shall be used only at the following times:

(a). When the primary source of energy is not available due to an emergency outage.

(b). During routine maintenance, or readiness testing for a short duration of time and capped at 100 hours per year.

(c). Routine maintenance testing of back-up fossil fuel-powered generators is restricted to the hours of 9 am through 3 pm Monday through Friday.

[4] Use for peak shaving or supplying power to the grid is prohibited. The applicant shall design and locate emergency energy generation systems to limit noise and visual impacts as much as possible.

g. <u>Water Usage</u>.

[1] No principal use on a data center site shall use private groundwater wells or direct withdrawals from surface watercourses as its primary source of water for cooling purposes if a public water source is available.

[2] Data Centers shall be designed to include a closed-loop water circulation system to cool data center processing equipment. An applicant may propose an alternative cooling system that can be demonstrated to use less water and energy than closed-loop systems to the satisfaction of the municipal engineer.

[3] If the proposed source is from a public system, the applicant shall submit certified documentation that the public authority has the capacity to supply the water needed.

[4] If the data center will utilize nonpublic water sources, the applicant shall provide a water feasibility study, prepared by a qualified professional. The purpose of the water feasibility study is to determine if an adequate supply of water is present to support the proposed data center's water use and to evaluate the potential adverse effects on the quantity and quality of existing wells or nearby surface waters. The water feasibility study shall include, at minimum, the following information:

(a). Calculations of the projected water needs, including seasonal fluctuations.

(b). A geologic map of the proposed project area within a radius of at least one mile from the site property boundary.

(c). The location of all existing and proposed wells within 1,000 feet of the site property boundary with a notation of the capacity of all high-yield wells.

(d). The location of all surface waters within 1,000 feet of the site property boundary and all known point sources of pollution.

(e). A determination of the long-term safe yield of the water source.

(f). A determination that the proposed water supply system poses no adverse impacts on the quantity and quality of water in nearby wells, streams, and the groundwater table

(g). Identification of how water will be recycled, treated, or released into surrounding water bodies.

(h). A statement of the qualifications and the signature(s) of the person(s) preparing the study.

[5] No approvals shall be granted until all required state and regional permits have been obtained (i.e., PADEP, SRBS, DRBC).

[6] The applicant shall provide a drought response plan to demonstrate compliance with state, water supplier, and local drought declaration requirements.

[7] Wastewater disposal analysis:

(a). The applicant shall submit an analysis of wastewater disposal needs to either a public sewer system or private system, indicating the quantity of wastewater generation expected. Wastewater shall include sewage and water discharged as part of the data center's HVAC system.

(b). Any untreated wastewater generated is prohibited to be discharged to stormwater systems or surface waters.

(c). If wastewater will be conveyed and/or treated by a public system, the applicant shall submit documentation certified by the public authority that the public authority can support the conveyance and treatment needed.

(d). If the data center is to rely upon a private system of wastewater disposal, a wastewater feasibility study shall be required. The purpose of the study is to determine if there is an adequate capacity to dispose of wastewater and that the disposal technique does not pose adverse impacts on surrounding water bodies. A wastewater feasibility study shall include the following information at a minimum:

(1) calculations of the projected wastewater generation including the sources of wastewater;

(2) a geologic map of the area with a radius of at least one mile from the site property boundary;

(3) the location of all existing and proposed wells within 1,000 feet of the property boundary, with reference to the capacity of all high-yield wells;

(4) the location of all surface waters within 1,000 feet of the property boundary and all known point sources of pollution;

(5) identification of the process by which water will be recycled or released into surrounding water bodies;

(6) a determination that the proposed wastewater disposal system has no adverse impact on the quantity and quality of water in nearby wells, surface waters, and the groundwater table; and

(7) a statement of the qualifications and the signature(s) of the person(s) preparing the study.

h. Thermal Impact. A Thermal Impact Mitigation Plan shall be submitted with the zoning application, including, at a minimum:

[1] Identification of primary sources of waste heat (air- and water-based).

[2] Evaluation of potential off-site thermal impacts (including plume/heat discharge and localized heat islands) under representative seasonal conditions.

[3] Description of design measures to minimize heat impacts (e.g., equipment siting, shielding, landscaping, cool roofs/paving where applicable).

[4] Evaluation of feasible opportunities for waste heat reuse. Where reuse is not feasible, the reason(s) why should be given, in which case alternative mitigation shall be identified (e.g., vegetative or green roof and/or site design modifications).

[5] Inclusion of a monitoring/verification approach if required by conditions of approval based on proximity to sensitive receptors or site constraints.

[6] The Plan shall be prepared and certified by a professional engineer.

[7] The Thermal Impact Mitigation Plan shall be subject to review and comment by the municipality. The municipality shall have the right to require supplemental or amended plans based upon comments by the municipality prior to any zoning approval.

i. Noise.

[1] The applicant shall provide and, as applicable, agree to provide the following noise studies:

(a). Pre-construction Noise Study. The applicant shall submit a pre-construction noise study prepared by an acoustical engineer establishing baseline ambient noise and vibration levels and shall include different times of day. The noise study shall include a narrative describing anticipated operational impacts to sound levels and it shall include an octave band analysis. The noise study shall account for any proposed electrical substations, onsite power generation facilities, and other data center accessory uses that may generate noise.

(b). Post-construction Noise Study. The applicant shall submit a noise study of existing operations no sooner than one month but no more than 12 months after the issuance of the first Certificate of Occupancy.

(c). Sound shall be measured at all property lines. The studies shall use full spectrum modeling to address low-frequency noise.

(d). If the pre-construction Noise Study establishes a baseline ambient noise level in excess of the maximum sound level permitted under this Chapter, the Post-Construction Study shall demonstrate that operations of the proposed use do not materially increase the baseline ambient noise level as measured at the property line. Any increase above the established baseline shall be deemed a violation unless specifically authorized as a condition of approval.

(e). Noise mitigation measures may be required by the zoning officer when noise studies show that the use is generating noise approaching established limits.

[2] Sound level.

(a). Sound levels at the property line shall not exceed 40 dB(A) and 50 dB(C) from 7:00pm to 7:00 am, nor shall they exceed 45 dB(A) and 60 dB(C) from 7:00am to 7:00pm.

(b). Where baseline ambient noise measured for the pre-construction noise study exceeds that of the maximum sound level above, sound levels at the property line shall not exceed the baseline ambient noise level (for dB(A) and dB(C)).

j. <u>Air Pollution</u>.

[1] Applicant shall submit an air pollution and plume study or report that shall be prepared by a qualified professional. Such study or report shall at a minimum evaluate the existing and proposed site conditions as it relates to air pollutant emissions and applicable state and federal standards. Applicant shall minimize air pollutant emissions and meet or exceed applicable state and federal laws regulating emissions.

[2] Applicant shall agree as a condition of approval that annual testing shall be performed and reports shall be provided to the municipality and other relevant state and federal agencies to ensure that data center equipment is performing as designed and emissions from the data center do not exceed allowable limits

k. <u>Emergency Response</u>.

[1] An emergency response plan shall be required as part of the conditional use application and shall be prepared by a qualified professional. The Emergency Response Plan shall:

(a). Evaluate the impacts, both positive and negative, of the proposed data center upon emergency services and fire protection.

(b). Be reviewed by and acceptable to the local fire department and emergency management services as part of the conditional use process.

(c). Include detailed procedures for fire suppression, containment, ventilation, and evacuation.

(d). Ensure that all first responders receive adequate training specific to the installed system at the expense of the applicant.

(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.

[2] Each Data Center shall provide 24-hour emergency contact signage that is visible at the main entrance. Such signage shall include the company name (if applicable), the owner/ representative's name, the telephone number, and the corresponding local power company's name and telephone number.

[3] The applicant shall coordinate with the municipal emergency management coordinator to ensure there is adequate radio coverage for emergency responders within all on-site buildings and facilities, based upon existing coverage levels of the municipal public safety radio communications system exterior to on-site buildings. The applicant shall install enhancement systems, as needed, to achieve compliance.

[4] Data Centers and any 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 shall include fire suppression systems designed specifically for battery storage.

[5] 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

l. <u>Electronic Waste</u>.

[1] An Electronic Waste Plan shall be submitted with the zoning application outlining procedures for safe removal and recycling and/or disposal of server infrastructure, hazardous materials, batteries, electronic waste, and related products that meet all state and federal requirements, which will apply in cases when the equipment within the data center is updated or decommissioned. The Report shall be subject to review and comment

by the municipality. The municipality shall have the right to require supplemental or amended reports based upon comments by the municipality prior to any zoning approval.

m. Parking.

[1] One parking space shall be required for each employee, based upon the number of employees projected to work during the largest shift, plus 5 spaces for visitors.

[2] The municipality may ask for an additional 25 percent of required parking spaces to be held in reserve.

n. Decommissioning.

[1] A Decommissioning Plan prepared by a qualified professional shall be submitted. The plan shall outline the procedures for safe shutdown, removal of equipment, disposal or recycling of materials, and site restoration.

[2] The owner shall submit a notification of closure if operations are permanently ceased.

[3] Decommissioning shall begin within 1 year of cessation of data center operations, or upon notice of abandonment by the operator, whichever occurs first. An extension of 1 year may be granted by the municipality if the property owner can demonstrate that they are actively marketing the site for a compatible replacement use. Decommissioning shall be completed within 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 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

[5] Decommissioning Financial Security. Prior to issuance of the permit for the construction of the Data Center, the owner, operator or developer shall provide financial security in the form and amount acceptable to the Municipality to secure its decommissioning obligations under this section, which decommissioning financial

security shall be separate from and in addition to any other financial security obligations as may be applicable by other law.

(a) The amount of financial security required for decommissioning shall be based on an estimate of the cost of completion of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs") as prepared by a professional engineer licensed as such in the Commonwealth and certified by such engineer to be a fair and reasonable estimate of such costs.

(b) The facility owner or operator shall then post and maintain decommissioning financial security in an amount equal to Net Decommissioning Costs plus 10%, provided that at no point shall decommissioning funds be less than 50% of Decommissioning Costs. The decommissioning financial security shall be in any form as permitted by the Municipality's Subdivision and Land Development Ordinance or the Municipalities Planning Code, 53 P.S. §§ 10101 et seq, as amended.

(c) On every fifth anniversary of the date of providing the decommissioning financial security the then existing facility owner or operator shall provide an updated decommission cost estimate, with adjustments for inflation and cost and value changes. If the decommissioning financial security amount changes, the facility owner or operator shall remit the increased financial security to the Borough within 30 days of the approval of the updated decommissioning security estimate by the Borough.

(d) In addition to posting a decommissioning financial security, the Data Center owner, operator or developer shall enter into a decommissioning agreement with the Borough as prepared by the Borough Solicitor outlining the decommissioning responsibility including the posting and maintenance of a decommissioning financial security, which agreement may be recorded against the property as an ongoing obligation or covenant running with the land.

(e) All decommissioning costs estimates as provided for herein shall be subject to review and approval by the Borough and the owner or operator submitting such costs estimates shall be responsible for administrative, legal, and engineering costs incurred by the Borough for such review and for the preparation of any associated agreements or documents.

(f) In the event of a sale or transfer of the property or Data Center, the acquiring individual, entity, or agency shall adhere to all applicable zoning requirements as contained herein including all financial security and operational requirements.

o. <u>Public Engagement, Meeting and Information</u>.

[1] The applicant shall hold a public meeting at least fourteen (14) days prior to the first conditional use hearing. The purpose of the meeting shall be to inform the public about the nature of the proposed development, including the location, scale, and general characteristics. A representative(s) of the applicant with knowledge of the project and the ability to answer general questions from the public about the project's general location, scale, and parameters shall participate in the meeting. The public meeting shall be advertised consistent with "public notice" as defined by the Pennsylvania Municipalities Planning Code (PA Act 247).

[2] The applicant shall create and maintain a project website for viewing by the general public. The site shall explain the project parameters, including maps and elevations/renderings, beginning at least two weeks prior to the meeting discussed above, and until the time of final land development approval. The site shall provide a description of the proposed use, construction timelines and phasing plans, dates of public meetings with municipal bodies, and status of permits.

SECTION IV: SEVERABILITY

In the event that any section, sentence, clause, or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose the validity of the remaining portions of this Ordinance.

SECTION V: EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its approval as required by the law.

ENACTED AND ORDAINED this _____ day of _____, 2026

Attest: **HATBORO BOROUGH**

COUNCIL

By:

_____ _____

Diane Hegele, Manager Nicole Reichner, Council President