ORDINANCE NO. 2026-_____

AN ORDINANCE TO AMEND AND MODIFY THE UNIFIED DEVELOPMENT ORDINANCE OF HUNTINGTON COUNTY, INDIANA, TO REGULATE DATA CENTERS

WHEREAS, pursuant to Indiana Code § 36-7-4-602, the Huntington County Plan Commission (the "HCPC") initiated a proposal to amend the text of the Unified Development Ordinance of Huntington County, Indiana (the "UDO"); and

WHEREAS, the HCPC prepared the proposed text amendment and conducted a duly noticed public hearing on _____, 2026, regarding Petition PC-26-_____; and

WHEREAS, following the public hearing, the HCPC certified its recommendation regarding Petition PC-26-_____ to the Board of Commissioners of Huntington County, Indiana (the "Board"); and

WHEREAS, the Board finds that data centers may create substantial impacts on public infrastructure, electric and water utilities, transportation facilities, emergency services, natural resources, nearby property, and the public health, safety, and general welfare; and

WHEREAS, the Board desires to allow data centers only in the Heavy Manufacturing (M-2) District, subject to special-exception approval, mandatory written findings, Development Plan review, and use-specific standards designed to avoid or mitigate adverse impacts; and

WHEREAS, Ordinance No. 2026-04 established a temporary moratorium on data centers, battery energy storage systems, and carbon sequestration projects while the HCPC developed appropriate regulations, and the Board now desires to terminate that moratorium solely as it applies to data centers and to adopt permanent regulations governing data centers;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF HUNTINGTON COUNTY, INDIANA, as follows:

SECTION 1. AMENDMENT TO CHAPTER 2, SECTION L.

Chapter 2, Section L of the UDO is hereby amended to classify "Data Center*" as a use allowed only by special exception in the Heavy Manufacturing (M-H) District, and not as a use permitted by right. The asterisk shall denote that specific development standards apply under Chapter 4, Section 4.2 of the UDO. Approval by the Huntington County Board of Zoning Appeals (the "BZA") and subsequent Development Plan approval are required. A Data Center shall not be permitted in any other zoning district.

SECTION 2. AMENDMENT TO CHAPTER 2, SECTION 2.3.

Chapter 4, Section 4.2 of the UDO is hereby amended to add a new subsection I, which reads as follows:

I. Data Centers.

1. Purpose and Intent.

a. The purposes of this subsection are:

i) To provide reasonable standards for the siting, construction, operation, expansion, and decommissioning of Data Centers; to protect public infrastructure, utility capacity, water resources, transportation facilities, emergency services, neighboring land uses, and the public health, safety, and general welfare; and to promote orderly economic development; and

ii) To support and facilitate economic opportunities for local residents that are consistent with public health, safety, and general welfare.

b. It is the intent of this Data Center ordinance to provide the basic siting regulations to properly allow Data Center placement throughout Huntington County. Siting is subject to reasonable restrictions. These regulations are intended to preserve the health and safety of the citizens of Huntington County. The provisions of this Ordinance are part of the UDO and are adopted pursuant to IC 36-7-4. The Board of Commissioners of Huntington County, Indiana, further intends that provisions that do not specifically involve where a Data Center can be located are adopted pursuant to Huntington County's general police powers for the health, safety, welfare, and benefit of the citizens of Huntington County, Indiana. All such provisions that deal with how a Data Center must be operated shall be deemed a duplicate ordinance adopted independently of the UDO to the extent permitted by Indiana law.

2. Applicability and Approval.

a. A Data Center is allowed only by special exception in the M-2 District. The BZA shall conduct a public hearing under applicable notice and hearing requirements and shall approve or deny the application under the UDO, IC 36-7-4-918.2, and the additional criteria of this subsection. Special-exception approval shall precede final Development Plan approval under Chapter 5, Section B and Section C of the UDO. The body or official assigned Development Plan authority by the UDO shall retain that authority; this subsection does not transfer that authority to the BZA.

b. These requirements apply to every new Data Center and to expansions increasing gross floor area, generator capacity, developed site area, or the approved design capacity of water, wastewater, or electrical infrastructure. Review shall encompass the entire Data Center Campus at full buildout, all phases, and dedicated supporting facilities to the extent within County jurisdiction. Related development shall not be divided among parcels, phases, leases, applications, owners, operators, or affiliated entities to avoid an applicable standard or cumulative-impact review. Existing lawful uses and vested rights remain governed by applicable law and the UDO's nonconforming-use provisions.

c. If another provision of the UDO imposes a more restrictive standard, the more restrictive standard controls.

d. The applicant bears the burden of demonstrating each applicable special-exception criterion and each standard of this subsection through competent evidence. The BZA shall issue written findings identifying the evidence supporting its determination that:

(i) The use will not injure or disrupt the normal and orderly development of permitted uses in the vicinity;

(ii) Adequate access, ingress, egress, and traffic controls will serve the full campus;

(iii) Establishment, maintenance, and operation will not injure public health, safety, or general welfare;

(iv) The use is not inconsistent with the Comprehensive Plan;

(v) Full-buildout and cumulative impacts satisfy the noise, water, infrastructure, and other standards herein; and

(vi) Required mitigation and decommissioning security are enforceable and adequately funded.

The BZA shall deny the application if the evidence fails to support any required finding. Independent reviewers advise the BZA and do not exercise its decision-making authority.

e. Each approval shall identify campus boundaries, parcels, phases, maximum building area, developed area, generator capacity, approved infrastructure design capacities, mitigation, and sequencing requirements. A proposed change exceeding the approved development envelope, adding a parcel or phase, or materially increasing an off-site impact requires amended special-exception approval and corresponding Development Plan approval under the applicable procedures before the change is implemented. A purely administrative change that does not exceed any approved limit or alter a required finding may be processed under the UDO's existing administrative amendment procedures. Approval does not authorize a separate use prohibited by the UDO or an applicable moratorium.

3. Application Requirements.

In addition to all materials otherwise required for Development Plan review, an applicant shall submit the following, prepared by qualified professionals where appropriate:

a. A site plan showing all existing and proposed buildings, equipment yards, substations, generators, fuel storage, cooling equipment, utility corridors, access points, parking, loading areas, fencing, lighting, landscaping, stormwater facilities, and limits of disturbance.

b. A full-campus master plan and phasing schedule identifying all parcels, ownership and control relationships, shared infrastructure, maximum development, design capacities, and reasonably foreseeable expansions. Each impact study shall analyze the campus at full buildout, overlapping construction and operation, and cumulative effects with existing and approved development sharing affected roads, drainage systems, water resources, utility infrastructure, or noise receptors. The study shall identify its assumptions, data sources, and proposed mitigation.

c. Written verification from each applicable electric, water, wastewater, and natural gas utility describing the utility's ability to serve the proposed development and any required system improvements.

d. A water supply, water use, and wastewater plan stating anticipated average-day and peak-day demands, the proposed cooling technology, sources of supply, wastewater characteristics, conservation measures, and effects on existing users and water resources.

e. A noise study establishing existing ambient sound levels, modeling anticipated operational sound at property lines and nearby dwellings, and identifying mitigation measures.

f. A traffic impact analysis and construction traffic management plan identifying haul routes, construction access, peak construction traffic, roadway improvements, traffic control, and measures for repairing damage attributable to the project.

g. A landscape, buffering, screening, lighting, drainage, and stormwater management plan.

h. A fire protection, hazardous materials, spill prevention, and emergency response plan developed in consultation with the fire department and other applicable emergency service providers.

i. A generator plan identifying the number, type, location, rated capacity, fuel, emissions controls, testing schedule, and anticipated non-emergency use of all generators.

j. A decommissioning and site restoration plan with a cost estimate and proposed financial assurance.

k. Before final action on a special exception or material amendment, the County shall obtain independent technical review of the acoustic, water-resource, transportation, drainage, infrastructure, emergency-response, and decommissioning submissions by qualified professionals selected by the County who have no financial interest in the project. The selected disciplines shall correspond to the impacts presented. Written reviews, applicant responses, and unresolved deficiencies shall be included in the public record, subject to lawful disclosure exemptions. The applicant shall reimburse reasonable, documented review costs only under a lawfully adopted fee schedule or other authorized reimbursement mechanism; no unauthorized fee is created by this subsection. Review shall be completed within applicable statutory decision deadlines unless a lawful extension is obtained.

4. Site and Building Standards.

a. The minimum lot area shall be fifty (50) acres.

b. A principal building, generator, substation, cooling facility, fuel storage area, battery system, or other exterior mechanical equipment associated with a Data Center shall be set back at least:

(i) Two hundred (200) feet from a public road right-of-way;

(ii) Five hundred (500) feet from any property line in an agricultural or residential zoning district; and

(iii) One thousand five hundred (1,500) feet from an existing dwelling, school, child care facility, hospital, nursing home, or other occupied institutional use not located on the same lot or under common ownership.

The setback shall be measured from the nearest exterior wall or equipment boundary to the nearest property line or structure, as applicable.

c. Maximum building height shall be sixty (60) feet, excluding antennas, lightning protection, and similar appurtenances required for safety or operation.

d. Buildings shall use durable exterior materials and muted, nonreflective colors. Long, uninterrupted façades visible from a public road or dwelling shall incorporate changes in plane, material, color, landscaping, or other design features sufficient to reduce apparent mass.

5. Buffering, Screening, and Security.

a. A landscaped buffer at least one hundred (100) feet wide shall be provided along a lot line adjoining an agricultural or residential zoning district. The buffer shall include a continuous earthen berm, evergreen plantings, or a combination sufficient to provide year-round visual screening within five (5) years after planting.

b. Generators, substations, cooling equipment, mechanical yards, fuel storage, loading areas, and waste facilities shall be screened from public roads and adjoining property by buildings, opaque fencing, berms, landscaping, or a combination thereof.

c. Security fencing shall be located and designed to minimize visibility, shall comply with the UDO, and shall not substitute for required landscaping.

6. Noise.

a. Aggregate sound attributable to the entire Data Center Campus, including cooling equipment, transformers, substations, and non-emergency generator testing, shall not exceed fifty-five (55) dBA from 9:00 a.m. to 5:00 p.m. or fifty (50) dBA from 5:00 p.m. to 9:00 a.m. at any exterior campus property line or existing off-campus dwelling receptor. Sound level measurements shall be conducted using the A-weighted equivalent continuous sound level over a fifteen (15)-minute measurement period (LAeq,15min), with a calibrated Class 1 sound level meter. Weather conditions and facility operating conditions at the time of measurement shall be documented. Internal parcel lines shall not divide a campus for sound analysis. Unrelated background sound shall be documented and excluded through professionally supported measurements or calculations; compliance shall not be established by masking project sound with unrelated sources.

b. Routine testing of generators shall occur only between 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding legal holidays. This limitation does not apply during an outage, emergency, or testing required by a governmental authority at another time.

7. Lighting.

Exterior lighting shall be fully shielded, directed downward, limited to the minimum intensity necessary for safe operation and security, and designed to prevent glare or light trespass onto adjoining property and public rights-of-way. Except for lighting required for safety or security, lighting shall be reduced when an area is not in active use.

8. Water and Wastewater.

a. A Data Center shall use a closed-loop, dry-cooled, or other water-efficient cooling system. Once-through cooling is prohibited.

b. Every application shall include an independently reviewed water-availability and wastewater-capacity study for full campus buildout, peak-day conditions, and drought conditions. A qualified hydrogeologist shall analyze groundwater effects where groundwater is a proposed source or may be affected. The study shall consider existing and approved withdrawals, domestic and agricultural wells, public supplies, surface waters, aquifer recharge, wastewater treatment capacity, and required fire flows. Utility supply shall be supported by a provider certification identifying available firm capacity and required improvements; groundwater supply shall be supported by professionally appropriate testing and analysis.

c. Approval requires findings that:

(i) Documented dependable supply is at least equal to proposed peak-day design demand and required fire flow;

(ii) Wastewater treatment and conveyance capacity equals or exceeds proposed peak design discharge;

(iii) Required infrastructure is available before the applicable phase operates; and

(iv) Modeled withdrawal will not lower groundwater below the intake of an existing lawful well, prevent that well from supplying its documented existing use, or cause a violation of an applicable withdrawal permit or water-quality standard.

The approved plans shall specify cooling technology, supply arrangements, design capacities, conservation measures, and project-specific monitoring and response thresholds supported by the study. An application that cannot satisfy these standards shall be denied rather than approved subject to a future capacity study.

d. Where supported by identified groundwater risks, the approved plan shall require baseline water-level and water-quality testing, monitoring locations, and measurable protective-action thresholds. Testing on another owner's property requires consent or other lawful authority. The plan shall identify operational reductions or cessation of the affected withdrawal necessary to prevent the impacts prohibited by subsection 8(c), and lawful procedures for investigating alleged project-caused interference. These requirements concern supply adequacy, resource protection, and approved physical development; they shall not require disclosure of customer utility-usage data prohibited by Indiana law or displace state permitting authority.

9. Electric and Generator Infrastructure.

a. Before special-exception approval, each serving utility shall provide written verification that the proposed full-buildout design can be served, identifying the capacity, required improvements, applicable regulatory approvals, and anticipated completion schedule. Before issuance of an Improvement Location Permit, the applicant shall provide final service approval for the applicable phase. Before that phase operates, its necessary service infrastructure and required improvements shall be complete and lawfully authorized. Local approval neither establishes utility rates nor allocates systemwide utility costs and does not substitute for utility or state regulatory approvals or expand County jurisdiction over utility facilities.

b. Backup generators shall be used only during an interruption or instability of utility service, an emergency, commissioning, maintenance, or testing, and shall not be used for routine peak shaving or the regular sale of electricity to the grid unless separately approved as a permitted use under the UDO.

c. Fuel storage and generator installations shall comply with all applicable fire, building, environmental, and spill-prevention requirements.

10. Transportation and Construction.

a. Construction access and haul routes shall be approved before land disturbance. The County may require turn lanes, intersection improvements, traffic controls, dust and debris controls, limits on delivery hours, a road use agreement, and financial assurance for repair of public roads damaged by construction traffic.

b. Temporary offices, worker facilities, staging areas, concrete plants, storage yards, and similar temporary uses shall be shown on the approved Development Plan and removed no later than ninety (90) days after completion of the construction phase for which they were approved.

c. Construction activity shall comply with all applicable County requirements governing noise, dust, erosion, drainage, traffic safety, and hours of work.

d. Development Plan approval requires an independently reviewed traffic analysis demonstrating that, after required mitigation, project traffic will not cause any affected public intersection to operate below Level of Service D (LOS D), defined as an operating condition characterized by significant traffic delays and approaching unstable traffic flow, during the design peak hour. At intersections already operating below LOS D (Level of Service E or F), the project shall not further degrade the existing level of service. The analysis shall evaluate construction and operating phases and cumulative approved development using recognized Highway Capacity Manual methods. Required road, intersection, access, drainage, and emergency-access improvements attributable to the project shall be complete before the traffic or operating phase that requires them. Any exaction or security shall be authorized by law and proportionate to documented project impacts; unrelated improvements shall not be required.

11. Environmental and Emergency Protection.

a. Any Data Center shall obtain and maintain all required federal, state, and local permits and approvals.

b. Development shall avoid floodways and minimize disturbance to wetlands, regulated drains, streams, and other environmentally sensitive areas.

c. The operator shall maintain current emergency contact information and provide annual site-orientation and emergency-response coordination, if requested by the applicable fire department or emergency management agency.

12. Reporting and Inspection.

a. By March 1 of each year, the operator shall submit an independent professional compliance certification addressing applicable approved plans and conditions, noise testing, generator testing and emergency runtime, reportable spills or releases, required environmental monitoring, material operational or ownership changes, corrective actions, and maintenance and adequacy of financial assurance. The certification shall identify each known deficiency and its corrective-action schedule. No report under this subsection shall compel customer utility-usage data when prohibited by Indiana law. Confidentiality and public access shall be determined under applicable Indiana law, not solely by an applicant's designation.

b. Upon reasonable notice, the Zoning Administrator or the official assigned enforcement authority by the UDO may inspect the site and review reasonably necessary, lawfully obtainable compliance records, subject to owner consent, an administrative warrant, or other lawful authority. Inspection shall follow applicable safety requirements. A refusal of consent alone does not authorize warrantless entry.

c. Before unrestricted operation of each phase, the applicant shall submit commissioning certifications by qualified independent professionals verifying completed mitigation, required road and drainage improvements, utility-service authorization, applicable water-protection measures, emergency access and fire-water capacity, noise compliance, and effective financial assurance. Required permits and approval conditions shall be satisfied. The official responsible for administering the Development Plan shall issue a written compliance determination based on those certifications and the County's independent review; that determination does not replace a building or occupancy approval. Temporary commissioning shall occur only under a written testing protocol specifying duration, equipment, load limits, permitted activities, and corrective-action procedures, and shall comply with applicable standards.

d. A material violation of this subsection, an approved plan, an enforceable condition, or a required financial-assurance obligation is a zoning violation subject to the UDO's enforcement procedures. The enforcement official shall provide written notice stating the violation, supporting facts, corrective action, reasonable compliance deadline, and applicable appeal rights. Unless a shorter lawful period is necessary to address an imminent hazard, the recipient shall have thirty (30) days to correct the violation; a written extension may be allowed for work diligently pursued under an enforceable schedule. The operator shall promptly notify the enforcement official of a

known material violation and immediately notify appropriate emergency authorities of an imminent hazard.

e. For an uncured material violation or repeated material noncompliance, the County may pursue authorized UDO remedies, permit enforcement, judicial injunctive relief, and available penalties within statutory limits. An activity causing a violation shall be curtailed as necessary to restore compliance through an authorized order or court process. Suspension, modification, or revocation of a special exception or permit may occur only through a procedure and decision-maker authorized by law. The procedure shall include notice, an opportunity to be heard, written findings, and applicable review rights. This subsection does not create an automatic shutdown power, enlarge administrative revocation jurisdiction, or eliminate applicable appeal or stay rights. Emergency relief shall be pursued under existing lawful authority.

13. Decommissioning and Abandonment.

a. A Data Center, or a separately identifiable building or phase of a Data Center Campus, is abandoned when substantially all authorized data-processing operations therein cease for six (6) consecutive months. Minimal activity elsewhere on the campus does not prevent partial abandonment. A temporary cessation caused by force majeure, active repair or renovation, or a documented operator transition may receive a written extension from the official administering the approved Development Plan upon evidence of a funded, diligently pursued return-to-service schedule. Each extension shall not exceed six (6) months and shall include written findings and progress milestones. Financial assurance and site-maintenance obligations shall remain effective during any cessation or extension.

b. Within six (6) months after abandonment, the owner shall complete removal and site restoration under the approved decommissioning plan, including obsolete buildings, generators, fuel tanks, cooling equipment, dedicated substations, underground improvements identified for removal, waste and hazardous materials, and other abandoned improvements. The plan shall provide for lawful disposal, grading, drainage, stabilization, and restoration. Infrastructure necessary to a lawful continuing use may remain only under an approved plan amendment supported by a professional safety assessment. Partial decommissioning shall not impair continuing operations or their required protections.

c. Before issuance of an Improvement Location Permit, the owner shall provide an enforceable surety bond, irrevocable standby letter of credit, cash escrow, or equivalent security approved by the County as to amount, issuer, form, and draw conditions. Security shall equal the independently reviewed full third-party cost of decommissioning and restoration, with no deduction for salvage value, plus a contingency of at least fifteen percent (15%). The estimate shall include mobilization, demolition, removal, hauling, disposal, hazardous-material management, grading, stabilization, professional services, and administration. Security shall cover installed and approved improvements before their construction, remain effective through accepted restoration, and not depend solely on the owner's or an affiliate's unsecured promise. Cost estimates shall be adjusted annually for documented construction-cost inflation and independently re-estimated at least every three (3) years and upon material amendment. Increased security shall be delivered before expanded construction or within sixty (60) days after an updated estimate is approved.

d. The security instrument shall name the County as beneficiary or obligee, provide automatic renewal or at least one hundred twenty (120) days' advance written cancellation or nonrenewal notice, and permit a protective draw if acceptable replacement security is not delivered at least sixty (60) days before expiration. Following written default notice and a thirty (30) day opportunity to cure, the County may draw for an uncured failure to perform required decommissioning in accordance with the instrument and applicable law. A protective draw preserves funds and does not authorize premature site entry or demolition. Any County entry or work requires owner consent, an enforceable recorded access right, court authorization, or other lawful authority.

e. A transfer of ownership or operation shall not release existing obligations or security. Replacement security shall be effective and accepted before prior security is released. Reduction or release requires independent verification of completed work and written County acceptance; sufficient funds shall remain for remaining work and reasonably identified deficiencies. The owner remains responsible for lawful decommissioning obligations exceeding the available security. County review or acceptance of security does not guarantee its sufficiency or assume the owner's obligations.

14. Conditions of Approval.

The BZA may impose reasonable special-exception conditions supported by the record to secure compliance with the foregoing standards. The body or official assigned Development Plan authority may impose conditions only within that authority and applicable development requirements. Conditions shall identify the responsible party, required improvement or performance, completion deadline, verification method, and continuing maintenance obligation. Required commitments shall be executed and recorded under applicable UDO procedures and Indiana law. Conditions may implement a mandatory standard but shall not waive it absent relief lawfully granted under applicable variance procedures. Conditions shall not defer an essential approval finding to a future study, regulate utility rates, or compel a fee, disclosure, or activity prohibited by state or federal law. Approval findings and conditions shall address cumulative full-campus impacts and remain applicable to successors as provided by law.

SECTION 3. AMENDMENT TO CHAPTER 10, SECTION 10.3.

Chapter 10, Section 10.3 of the UDO is hereby amended to add the following definitions, in alphabetical order:

DATA CENTER: A building, facility, or portion thereof primarily used to house networked computer servers, data storage systems, telecommunications equipment, or related information-technology equipment for the remote processing, storage, management, transmission, or distribution of electronic data, together with associated offices and mechanical, electrical, cooling, security, and utility equipment. The term does not include equipment that is incidental and subordinate to the principal use of a building or a telecommunications facility regulated separately by this UDO.

DATA CENTER CAMPUS: One or more Data Centers and dedicated supporting facilities operated or planned as a coordinated development on contiguous or functionally related parcels,

including parcels separated by roads, rights-of-way, or utility corridors. Common ownership or control, affiliated applicants, a common master plan, shared dedicated infrastructure, coordinated phasing, or integrated operations shall be considered in determining whether development constitutes one campus; shared service from a public utility alone is insufficient. For application of the Data Center use standards, references to a Data Center include its Data Center Campus unless the context expressly concerns an individual building or phase. Aggregation does not confer jurisdiction over facilities otherwise beyond County authority.

SECTION 4. TERMINATION OF DATA CENTER MORATORIUM.

The moratorium established by Ordinance No. 2026-04 is terminated solely with respect to Data Centers upon the effective date of this Ordinance. Nothing in this Ordinance terminates, alters, or otherwise affects the moratorium established by Ordinance No. 2026-04 with respect to Battery Energy Storage Systems or Carbon Sequestration Projects.

SECTION 5. CONFLICTING PROVISIONS.

All provisions of the UDO that conflict with this Ordinance are repealed to the extent of the conflict. All provisions not amended by this Ordinance remain in full force and effect.

SECTION 6. SEVERABILITY.

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall be in full force and effect upon adoption and publication as required by law.

ADOPTED this _____ day of _____, 2026.

BOARD OF COMMISSIONERS OF HUNTINGTON COUNTY, INDIANA

_____
Commissioner

_____
Commissioner

_____
Commissioner

ATTEST:

_____
Huntington County Auditor