

ORDINANCE NO. 2026-_____

AN ORDINANCE AMENDING THE WARRICK COUNTY COMPREHENSIVE ZONING ORDINANCE TO ESTABLISH A DATA CENTER OVERLAY DISTRICT, PROJECT-LEVEL LEGISLATIVE APPROVAL PROCESS, AND RELATED DEVELOPMENT, MONITORING, ENFORCEMENT, PROJECT-FAILURE REVERSION, AND DECOMMISSIONING REQUIREMENTS

WHEREAS, principal data centers and data center campuses may impose significant demands on land, electric infrastructure, water and wastewater systems, roads, drainage, emergency services, public safety, neighboring property, and other public and private infrastructure; and

WHEREAS, the Board of Commissioners desires a neutral and reusable zoning framework under which principal data centers may be considered only at locations determined appropriate through the legislative zoning process, after Area Plan Commission review and recommendation, and subject to enforceable maximum-buildout and lifecycle protections; and

WHEREAS, the Board intends that the legislative body, rather than the Board of Zoning Appeals, make the project-level zoning decision whether a principal data center may be established at a particular site, while preserving lawful BZA functions for true development-standard variances and administrative appeals; and

WHEREAS, the Warrick County 2045 Comprehensive Plan distinguishes Industry Hubs from Reclaimed Mine Lands, supports strategic industrial development, and encourages productive reuse of retired mine lands, but neither reclaimed-mine status nor any single Future Land Use designation alone determines data-center suitability; and

WHEREAS, data-center eligibility and site-specific approval should be supported by neutral land-use, infrastructure, compatibility, public-service, environmental, and geotechnical facts;

WHEREAS, data-center technology, scale, electrical demand, cooling methods, water use, generation, energy-storage systems, infrastructure requirements, and related impacts vary substantially among projects and continue to evolve, making it impracticable and potentially contrary to the public interest to prescribe in advance a single numerical standard for every material project characteristic; and

WHEREAS, the Board therefore intends this Ordinance to establish baseline requirements, mandatory subjects of review, and enforceable procedural guardrails while requiring material project-specific limits and performance standards to be established through the legislative zoning process based upon the site, proposed technology, maximum reasonably foreseeable buildout, technical evidence, independent expert review where appropriate, and the resulting land-use and public-service impacts;

WHEREAS, a site-specific DC-O approval is intended to authorize the approved Data Center project rather than to leave property permanently subject to project-specific zoning after the project has failed or been abandoned, and the Board intends, to the fullest extent permitted by Indiana law, that affected property return to the zoning classification in effect before the site-specific Data Center rezoning upon an objectively determined Project Failure; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Warrick County, Indiana, that the Warrick County Comprehensive Zoning Ordinance is amended as follows:

SECTION 1. ARTICLE II - DEFINITIONS

The existing Article II, Section 2 definition of “USE AND DEVELOPMENT COMMITMENTS” is amended by replacing the reference to I.C. 36-7-4-613, as amended, with I.C. 36-7-4-1015, as amended, or any successor provision governing written commitments.

Article II, Section 2, “TERMS DEFINED,” is amended by adding the following definitions. Existing definitions not expressly amended remain in effect.

APPROVED PROJECT ENVELOPE.

The maximum campus-wide scope of a Principal Data Center or Data Center Campus authorized through the applicable site-specific DC-O legislative zoning action and included in or incorporated into the Use and Development Commitment entered into as a condition of the DC-O zoning approval. The Approved Project Envelope shall identify, as applicable, maximum electrical demand, campus acreage, aggregate building area, principal-building count and locations, phasing, substations and transmission facilities, generation, BESS, fuel storage, maximum water demand parameters, cooling systems, wastewater discharge, major road and access improvements, drainage and stormwater facilities, critical buffers, building height, and other material project components. Application materials and technical studies may establish the factual basis for the zoning decision but do not, standing alone, enlarge the authorized project scope or substitute for an operative instrument required to establish or enforce a project-specific limitation.

BATTERY ENERGY STORAGE SYSTEM OR BESS.

A device, facility, structure, container, equipment assembly, or associated component used to store electrical energy for later use. Ordinary uninterruptible power supplies located within a building and used solely for short-duration ride-through during an interruption of electric service are excluded if not used or intended for peak shaving, demand response, economic dispatch, routine load support, grid export, or another normal-operation load-management purpose.

DATA CENTER.

A building, structure, facility, or group of facilities whose principal or predominant purpose is to house networked computer servers, data-storage equipment, telecommunications equipment, artificial-intelligence or high-performance-computing equipment, or similar information-technology equipment used for data processing, storage, transmission, cloud services, colocation, digital services, or related computational functions, together with associated cooling, electrical, mechanical, security, communications, and support systems.

DATA CENTER CAMPUS.

All parcels, buildings, phases, facilities, and associated infrastructure that constitute or are reasonably intended to constitute one functionally integrated Data Center project. Common or affiliated ownership, control, lease, management, financing, development or operation; a common or coordinated development plan; shared project-specific substations, interconnection requests, access, roads, water, cooling, generation, fuel, BESS, security, communications, drainage, wastewater, or similar infrastructure; or other facts demonstrating functional integration may establish a single campus. Subdivision, separate affiliates, utility accounts, permits, phases, or related-party transfers do not divide a functionally integrated campus.

DC-O DATA CENTER OVERLAY DISTRICT.

A floating overlay zoning district available for site-specific application throughout the territory governed by this Ordinance. DC-O may be applied by site-specific zoning-map amendment only to property classified M-2 General Industrial. M-2 classification alone creates no right or entitlement to DC-O approval. A Principal Data Center or Data Center Campus is permitted only where M-2 and DC-O both apply and Article XX(B) is satisfied.

EMERGENCY BACKUP GENERATION.

Generation used solely during a bona fide utility outage or emergency and for testing, maintenance, commissioning, repair, or operation reasonably necessary to maintain operability or comply with applicable legal, regulatory, permit, utility, or manufacturer requirements. It does not include bridge power, routine load support, peak shaving, economic dispatch, demand response, scheduled displacement of utility-supplied electricity, routine grid export, or another Normal-Operation Generation purpose. Temporary, portable, mobile, leased, substitute, affiliate-owned, or third-party equipment is classified according to its actual or reasonably anticipated operating purpose rather than ownership, label, or temporary status.

MATERIAL EXPANSION.

An increase beyond an Approved Project Envelope maximum that the site-specific DC-O action identifies as a legislative use or project-scope limitation, including maximum electrical demand, campus area, principal-building count, aggregate building area, generation or BESS capacity, water demand, or another maximum project-scope parameter included in the Approved Project Envelope. A Material Expansion requires renewed legislative zoning review and may not be authorized solely through administrative approval or a development-standard variance.

MATERIAL MODIFICATION.

A change that does not necessarily enlarge a maximum project parameter but materially changes the approved project's land-use, infrastructure, public-safety, environmental, noise, traffic, water, power, generation, BESS, phasing, Sensitive-Receptor, or decommissioning profile. Material Modification includes material relocation of major components; changes in cooling technology, generator fuel or operating purpose, or material generator/BESS configuration; equipment substitutions that materially alter impacts; material increases in modeled noise or water use; material changes in access or haul routes; or another change to a fact material to the legislative zoning decision.

MAXIMUM ELECTRICAL DEMAND.

The maximum reasonably foreseeable electrical demand of the entire Data Center Campus at full buildout, determined without artificial segmentation from the best available evidence, including utility service requested or reserved, aggregate transformer or substation capacity intended to serve the project, demand stated in utility or interconnection documents, expected coincident campus demand, and utility-supplied capacity together with Normal-Operation Generation intended to serve project load.

MINOR ADMINISTRATIVE CHANGE.

A change consistent with the Approved Project Envelope, Project Standards Schedule, recorded commitments, approved plans and applicable objective requirements that is not a Material Expansion or Material Modification and does not materially increase off-site impacts.

NORMAL-OPERATION GENERATION.

Electric generation associated with a Data Center Campus that is used or intended for bridge power before permanent utility service, routine load support, peak shaving, economic dispatch, demand response, scheduled displacement of utility-supplied electricity, routine grid export or sale or export to the grid, or any purpose other than Emergency Backup Generation. It shall be separately disclosed as a

material campus component and, to the extent County land-use or zoning authority lawfully applies, expressly evaluated and authorized through the site-specific DC-O legislative action. Temporary, portable, mobile, leased, substitute, affiliate-owned, or third-party equipment is classified according to its actual or reasonably anticipated operating purpose rather than ownership, label, or temporary status. If controlling state or federal law preempts local approval of a facility or aspect, no local approval is required for that preempted facility or aspect.

OPERATOR.

The person or entity having operational control of a Principal Data Center or Data Center Campus, whether or not the Operator owns the underlying real estate. The use of the defined term is denoted as “Operator” and only applies in the context of a Data Center or Data Center Campus, and not to any other uses of the term “operator” elsewhere in the Consolidated Zoning Ordinance.

PRINCIPAL DATA CENTER.

A Data Center that is the principal or predominant use of a lot, parcel, facility, or Data Center Campus. The term excludes computing, server, data-storage, or telecommunications equipment that is accessory and incidental to another lawful principal use and does not independently function as a Data Center Campus.

PROJECT ENVELOPE SCHEDULE.

The schedule included in or incorporated into the site-specific DC-O legislative zoning action that lists operative maximum project-scope parameters, the objective unit or criterion for each parameter, and the ordinance provision, recorded commitment, or other lawful operative instrument through which each limitation is established and enforced.

PROJECT STANDARDS SCHEDULE.

The schedule incorporated into the Use and Development Commitment entered into as a condition of approval of the site-specific DC-O legislative zoning action that states objective project-specific development, performance, operating, monitoring, testing, mitigation, or lifecycle requirements. Each material standard shall identify, as applicable, the regulated subject, measurable requirement, measurement location and method, relevant operating condition, and testing or reporting protocol. Project-specific substantive standards required as part of the zoning decision via the Use and Development Commitment shall be established before final legislative approval; later staff or consultant review may verify compliance but may not create new substantive zoning standards left open at the legislative stage.

SENSITIVE RECEPTOR.

A residence, residential zoning district, school, licensed child-care facility, hospital, nursing or residential-care facility, park or recreation area, place of worship, or another use expressly identified by this Article as warranting enhanced protection from Data Center impacts.

SECTION 2. ARTICLE III - ZONING DISTRICTS

Article III, Section 1, “DESIGNATION OF DISTRICTS,” is amended by adding immediately after the INDUSTRIAL district listings:

OVERLAY DISTRICTS

DC-O Data Center Overlay District

Article III, Section 2, “ZONING DISTRICT MAPS,” is amended by adding the following paragraph:

DC-O is a floating overlay district that may apply simultaneously with M-2 throughout the territory governed by this Ordinance. DC-O is not pre-mapped. Property shall not be shown as DC-O on the Official Zoning District Maps unless and until the applicable legislative body adopts a site-specific zoning-map amendment applying DC-O to that property.

SECTION 3. ARTICLE XIX - LIGHT INDUSTRIAL “M-1” DISTRICT

Article XIX, Section 1, “USE REGULATIONS,” is amended by adding a new subsection (C) immediately after subsection (B)(56):

- (C) A Principal Data Center or Data Center Campus is not a permitted use in M-1 and shall not be deemed permitted under computer programming, data processing, business-machine or electrical use, similar-use, accessory-use, unlisted-use, or other general categories. Ordinary accessory computing infrastructure remains governed by otherwise applicable provisions.

SECTION 4. ARTICLE XX - GENERAL INDUSTRIAL “M-2” DISTRICT

Article XX, Section 1, “PRINCIPAL PERMITTED USES,” is amended by adding a new subsection C immediately after item 92 under subsection B:

- C. Principal Data Centers and Data Center Campuses. A Principal Data Center or Data Center Campus is not permitted solely by M-2 zoning. It is permitted only where the property is also mapped DC-O and the use remains within the Approved Project Envelope and complies with Article XX(B). No general or unlisted use category independently authorizes the principal Data Center use.

SECTION 5. NEW ARTICLE XX(B) - DATA CENTER OVERLAY “DC-O” DISTRICT

A new Article XX(B) is added immediately after existing Article XX(A) as follows:

ARTICLE XX(B) DATA CENTER OVERLAY “DC-O” DISTRICT

SECTION 1. PURPOSE AND INTENT.

The DC-O District allows legislative consideration of Principal Data Centers and Data Center Campuses only at locations demonstrated to be appropriate for extraordinary industrial-scale digital infrastructure. The District is intended to protect public health and safety, surrounding property, County infrastructure and finances, utility and public-safety capacity, environmental resources, and responsible development through clear maximum-buildout, performance, monitoring, change-control, and lifecycle requirements.

SECTION 2. NATURE OF DISTRICT; MANDATORY PREREQUISITES.

- A. DC-O is an overlay district and does not replace M-2.
- B. A Principal Data Center or Data Center Campus is not permitted unless the property on which the principal use and material project infrastructure subject to County zoning authority are located is classified M-2 and mapped DC-O through site-specific legislative zoning action. Property not already classified M-2 may seek M-2 rezoning and site-specific DC-O mapping concurrently to the extent permitted by applicable law and required procedures.
- C. Eligibility, application completeness, technical sufficiency, or satisfaction of minimum standards does not create a right to DC-O zoning.
- D. A Principal Data Center or Data Center Campus shall not be processed as a special exception, special use, conditional use, contingent use, or other project-level BZA approval.

SECTION 3. SITE-SPECIFIC SITING CONSIDERATIONS; NO GEOGRAPHIC ENTITLEMENT.

- A. DC-O is a floating overlay district available for site-specific application throughout the territory governed by this Ordinance. DC-O is not pre-mapped and no geographic eligibility area is established.
- B. M-2 classification, existing or potential utility infrastructure, prior industrial or mining disturbance, satisfaction of application requirements, or compliance with baseline technical standards does not establish site suitability, create an entitlement to DC-O zoning, or compel a favorable recommendation or legislative decision.
- C. Each site-specific DC-O petition shall be evaluated on its own legislative record. Relevant land-use considerations include the factors required by Indiana law and, as applicable, the Comprehensive Plan; existing zoning and land use; industrial suitability; parcel and campus configuration; transportation access and construction traffic; electric and other utility infrastructure; water and wastewater conditions; separation from Sensitive Receptors; drainage and environmental conditions; geotechnical constraints; public-safety and public-service capacity; conservation of property values and compatibility; responsible development and growth; and other lawful site-specific land-use considerations.

- D. The applicable legislative body retains the legislative zoning discretion to approve or deny a site-specific DC-O request after consideration of the record and applicable law. Eligibility to apply, M-2 classification, completeness, technical sufficiency, or satisfaction of minimum standards does not itself require approval.

SECTION 4. APPLICATION FOR SITE-SPECIFIC DC-O ZONING.

- A. An owner or other person authorized by law may request a site-specific zoning-map amendment applying DC-O to M-2 property.
- B. The request shall be filed with the Area Plan Commission and processed as a zoning-map amendment under applicable Indiana law and this Zoning Ordinance. If property is not already M-2, M-2 rezoning and DC-O mapping may be processed together if applicable law and all required notice, hearing, recommendation, and legislative action permit consolidated processing.
- C. The application shall identify the entire Data Center Campus and full reasonably foreseeable buildout. Piecemeal applications shall not be used to avoid disclosure or review of functionally integrated facilities or later phases.

SECTION 5. REQUIRED APPLICATION MATERIALS.

An application shall contain information reasonably sufficient for the Area Plan Commission, County reviewers, independent consultants, and legislative body to evaluate the full-buildout project and lifecycle impacts. For each material impact area addressed under this Section, the application shall, to the extent applicable, identify: (a) what the project proposes at full reasonably foreseeable buildout; (b) the existing County, utility, transportation, environmental, public-service, or other system or facility on which the project relies; (c) the demand, hazard, constraint, off-site effect, or other impact the project creates; (d) new or upgraded infrastructure, equipment, staffing, capacity, service, or other resources reasonably expected to be needed because of the project; (e) proposed mitigation, operating controls, or alternatives; (f) the entity expected to fund, construct, own, operate, maintain, monitor, or otherwise be responsible; and (g) the study, provider statement, plan, agreement, permit, or other evidence supporting the representation and the current status of that evidence. When material information is preliminary, conditional, unresolved, unavailable despite reasonable inquiry, or dependent on later approval, the application shall identify that status, the material assumption or limitation, the entity controlling the information, and the anticipated path to resolution. Required materials include, as applicable:

- 1. applicant, owner, developer, proposed Operator, proposed or anticipated end user, parent, affiliate, and control information, together with evidence of site control, legal descriptions, and parcel identification;
- 2. a maximum-buildout master site plan, phasing and construction schedule, and proposed Project Envelope Schedule identifying maximum electrical demand, campus acreage, building area and count, major component locations and

- capacities, generation, BESS, fuel storage, peak-day and other material water-demand maxima, cooling configuration, wastewater, major access and road improvements, and other material project-scope parameters;
3. electric-service and interconnection information, including requested capacity, service voltage, substations, transmission needs, energization schedule, and ownership or responsibility for related facilities;
 4. generation and BESS information, separately identifying Emergency Backup Generation and Normal-Operation Generation and addressing equipment count, type, chemistry or fuel, nameplate capacity, location, actual or anticipated operating purpose and conditions, testing and commissioning, emissions, fire protection, emergency response, containment, and material temporary, leased, rented, mobile, affiliate-owned, third-party-owned, replacement, or substitute equipment reasonably foreseeable for the project;
 5. cooling technology and heat-rejection configuration; full-buildout potable, nonpotable, and evaporative water demand, including peak-day and annual demand where material; initial fill and refill; drought and shortage implications; provider capacity and required improvements; conservation; wastewater; blowdown; discharge; temperature; chemistry; and related operating information;
 6. baseline and predictive noise analysis for full buildout and peak operating conditions, plus lighting/photometric, screening, landscaping, berming, viewshed, building-massing, and rooftop/exterior-equipment plans;
 7. mine-history, reclamation, geotechnical, subsidence, groundwater, hydrogeologic, foundation, drainage, stormwater, floodplain, wetlands, erosion-control, and environmental information appropriate to site conditions;
 8. permanent and construction access, traffic, haul routes, oversized loads, worker parking, staging, concrete operations, pavement and bridge conditions, road-restoration, and emergency-access plans;
 9. required and available fire flow; on-site emergency water; hydrants and suppression; fire lanes and secondary access; fire/EMS and emergency-management capability; responder and incident-command access; shutdown and isolation procedures; communications; BESS, generator, fuel, transformer-oil, refrigerant, and other hazardous-material risks; spill and runoff containment; pre-incident planning; responder familiarization or training needs; specialized equipment or capability; mutual-aid assumptions; project-created staffing or service demands; incident reporting; site security and law-enforcement access or coordination; emergency contacts; and emergency-response plans;
 10. a permit matrix identifying material federal, state, utility, and local approvals and current status; a monitoring and annual-compliance plan; and a decommissioning, removal, restoration, and proposed financial-assurance plan;

11. a proposed Project Standards Schedule stating the measurable project-specific standards proposed for matters requiring site-specific regulation, together with proposed written commitments or other operative instruments where applicable;
12. a current technical-submission index identifying material studies by subject, author, date/version, buildout scenario, assumptions, and status, together with certifications in forms prescribed for administrative use confirming after reasonable inquiry the completeness of campus disclosure, current submission versions, and the continuing duty to supplement. Requests for additional information shall identify the ordinance requirement, statutory zoning factor, completeness issue, technical subject, or other lawful review criterion to which the information relates. Nothing in this paragraph requires disclosure of privileged or otherwise legally protected material;
13. current written utility or provider coordination or capacity information, including provider letters or other provider-originated documentation to the extent reasonably available, for electric, water, wastewater, and other material utility systems identifying the project demand assumptions reviewed; the provider's present or anticipated ability to serve; material infrastructure improvements expected to be required; timing; the status of studies, agreements, approvals, tariffs, regulatory review, and other dependencies; and material conditions or contingencies. Preliminary, conditional, or nonbinding provider information may be submitted when final determinations are not reasonably available, but its status, assumptions, limitations, and remaining dependencies shall be clearly identified. Nothing in this paragraph requires disclosure of information protected by the attorney-client privilege or another applicable legal protection; provided, however, the applicant shall identify the categories withheld, supply reasonably available nonprivileged factual information necessary for project review, and establish that the application remains sufficient for meaningful evaluation;
14. identification of material electric, water, wastewater, road, drainage, and other infrastructure reasonably expected to be required because of the project and, to the extent reasonably available, estimated costs or cost ranges; the party presently expected to fund, construct, own, operate, or maintain each item; and known or proposed reimbursement mechanisms, construction advances, contribution-in-aid-of-construction arrangements, special contracts, tariffs, rate or cost-recovery mechanisms, or other means by which project-related costs could be allocated;
15. for material utility infrastructure constructed, expanded, or reserved to serve the project, disclosure of known or proposed contractual, tariff, regulatory, security, or other mechanisms addressing delay, reduction, substantial underbuild, abandonment of a phase, termination of service, or cessation of operations, including, where applicable, minimum-demand or minimum-payment provisions, take-or-pay structures, early-termination or exit payments, construction advances, deposits, letters of credit, guarantees,

reimbursement obligations, or other protections against unrecovered project-specific infrastructure costs; and

16. any other reasonably foreseeable material County, utility, public-service, neighboring-property, or community impact not adequately addressed above.

The disclosures required by items 13 through 16 are for land-use and infrastructure-impact review. Nothing in those items authorizes the County to establish utility rates, tariffs, service obligations, or regulated cost allocation, or to exercise authority reserved by law to a utility, the Indiana Utility Regulatory Commission, or another regulatory body.

SECTION 6. COMPLETENESS AND TECHNICAL REVIEW.

- A. The Executive Director shall determine whether required application materials have been submitted in accordance with applicable law and adopted Area Plan Commission procedures. Completeness allows review to proceed but is not a finding of compliance or entitlement.
- B. The Executive Director may coordinate review by County departments, the Technical Review Committee, fire/EMS, emergency management, highway, drainage, stormwater, law enforcement, health, and other appropriate governmental or technical reviewers.
- C. To the extent authorized by law, the County may obtain independent legal, planning, engineering, electric, water/wastewater, traffic, fire/EMS, environmental, geotechnical, noise, appraisal/tax, security, or other expert review. Costs imposed through a fee schedule shall be limited to those lawfully recoverable through that mechanism; broader project-specific cost recovery shall be governed by a separate lawful reimbursement agreement and shall not constitute consideration for zoning approval.
- D. Applicant, developer, consultant, or utility studies and representations may be considered but do not bind the County and may be independently verified.

SECTION 7. AREA PLAN COMMISSION HEARING AND RECOMMENDATION.

The Area Plan Commission shall conduct the hearing and make the recommendation required for the site-specific zoning-map amendment under applicable Indiana law and this Zoning Ordinance. The Commission shall evaluate the request using applicable statutory zoning factors, the Comprehensive Plan, this Article, the application and technical record, public evidence, and site-specific land-use considerations, and may recommend approval, denial, or other lawful action. Its recommendation is not final project approval.

SECTION 8. LEGISLATIVE DECISION.

- A. For unincorporated Warrick County property, the Board of Commissioners shall make the final legislative zoning decision on a site-specific DC-O zoning-map amendment. For property within a participating municipality, the applicable legislative body shall act as provided by Indiana law.

- B. The legislative body shall give reasonable regard to the factors required by Indiana law and may consider, among other land-use matters: consistency with the Comprehensive Plan; existing zoning and conditions; prior mining, reclamation, disturbance, and geotechnical suitability; surrounding uses and Sensitive Receptors; setbacks and buffers; acreage and campus configuration; road access and construction traffic; electric, transmission, substation and generation infrastructure; water, cooling, wastewater and drought implications; fire/EMS, emergency-management, law-enforcement and security capability; drainage, floodplain, wetlands, groundwater and environmental conditions; cumulative infrastructure and public-service demand; conservation of property values and compatibility; responsible development and growth; and other facts reasonably related to the land-use consequences of the proposed campus.
- C. The legislative body may approve or deny the request in the exercise of legislative zoning authority. Compliance with application or technical minimums does not compel approval.
- D. If approved, the site-specific zoning action shall identify the property mapped DC-O and approve and identify the final Project Envelope Schedule and Project Standards Schedule by title, date, and version. The schedules shall be included in or incorporated by reference into the final form of the Use and Development Commitment required as a condition of zoning approval. The final schedules and all material terms of that commitment shall be before the legislative body at the time of its zoning vote, and each operative limit or standard shall be stated objectively. Applicant-proposed values, studies, plans, staff reports, or earlier schedule versions are not independently operative merely because they appear in the record. The site-specific action shall also identify the Prior Zoning Classification and the objective Project Failure events subject to Section 16. No material change to a final schedule or commitment after the zoning vote shall take effect without the zoning or commitment-modification procedure required by law.
- E. Before approving a site-specific DC-O zoning-map amendment, the legislative body shall review the final proposed Project Envelope Schedule and Project Standards Schedule, the final proposed form of the Use and Development Commitment, and the status of any related project agreements, including road-use, infrastructure, decommissioning, restoration, financial-assurance, and economic-development agreements. Any material land-use obligation upon which zoning approval relies shall be established through a lawful operative instrument. Separate agreements and incentives remain subject to their own required approvals and do not constitute consideration for zoning approval.

SECTION 9. APPROVED PROJECT ENVELOPE; ANTI-SEGMENTATION.

- A. Every approved project shall remain within its Approved Project Envelope, which shall be based on full reasonably foreseeable buildout and may not be divided by parcels, phases, affiliates, related owners, separate utility accounts, permits, or shared infrastructure to avoid disclosure or review of the integrated campus. Site

work, grading, permitting, and construction may proceed in phases within the Approved Project Envelope, subject to applicable approvals and the Project Standards Schedule. A later zoning amendment or expansion beyond the Approved Project Envelope requires the applicable legislative review.

- B. Material project-scope limitations shall be stated with objective units or criteria in the site-specific legislative action and, where authorized and appropriate, recorded commitments or other legally operative instruments.
- C. Development of an approved phase remains subject to the campus-wide Project Envelope and Project Standards Schedule incorporated into the Use and Development Commitment required as a condition of DC-O zoning approval, commitments, development-plan approval, Improvement Location Permit, and other approvals required for that phase. The Project Envelope is a ceiling, not automatic construction approval for future phases.
- D. A material campus component or operating mode required to be disclosed is not authorized merely because a general use category elsewhere in the Zoning Ordinance could be read to encompass it. Temporary, portable, mobile, leased, rented, affiliate-owned, third-party-owned, replacement, substitute, or phased equipment shall be classified according to function and actual or reasonably anticipated operating purpose.

SECTION 10. WRITTEN COMMITMENTS.

- A. When authorized by Indiana law and Article XXV(A), the owner shall be required to tender written commitments concerning use and development of the property as a condition of the zoning decision. Commitments shall address maximum buildout, electrical demand, phasing, major-component locations and capacities, generation and BESS, water and cooling limits, critical buffers, infrastructure obligations, monitoring, reporting, decommissioning, restoration, financial assurance, and other project-specific restrictions material to the zoning decision or otherwise required as a condition of the zoning decision.
- B. Commitments shall be in writing, approved or accepted as required by I.C. 36-7-4-1015 and Article XXV(A), and executed and recorded before final development-plan approval or issuance of an Improvement Location Permit for the project, whichever occurs first. Commitments shall bind successors to the extent authorized by law and shall be modified, released, terminated, or enforced only through authorized procedures. A development-standard variance does not by itself modify or release a separate recorded commitment.
- C. Offering commitments does not obligate the Area Plan Commission or legislative body to recommend or approve a request.

SECTION 11. DEVELOPMENT PLAN AND POST-ZONING REVIEW.

- A. Every Principal Data Center and Data Center Campus shall require development-plan review regardless of acreage. During review of a site-specific DC-O zoning petition, the applicant may submit development-plan-level plans, engineering

materials, and conformity information as part of the zoning application for preliminary technical review and legislative-record development. Before the required M-2 and DC-O zoning is effective, those materials shall be identified and administered solely as exhibits to the legislative zoning application, shall not be accepted or docketed by the County as the formal application for development-plan approval, and shall not receive a permit-application completeness determination or final Area Plan Commission development-plan action. Preliminary technical review does not constitute approval of the Principal Data Center use, DC-O zoning, or a development plan.

- B. After the required M-2 and DC-O zoning is effective, the applicant may file the formal development-plan application under Article XII(C). The formal application may incorporate unchanged plans, studies, or other materials previously submitted and reviewed during the zoning process. Final Area Plan Commission action approving the development plan shall occur only on the formal post-zoning application and shall determine conformity with the final site-specific DC-O legislative action, Approved Project Envelope, Project Standards Schedule, recorded commitments, and other applicable requirements. Applicable statutory completeness and decision procedures govern the formal application.
- C. Development-plan, Improvement Location Permit, and other post-zoning review shall determine objective conformity with this Article, the Approved Project Envelope, Project Standards Schedule, approved plans, recorded commitments, permits, and other applicable requirements. The maximum-buildout master site plan used during legislative review is not itself development-plan approval.
- D. Post-zoning review may implement and supply objective engineering or design detail within the legislatively authorized scope but may not reconsider whether the Principal Data Center use should exist, enlarge the Approved Project Envelope, create a new substantive project-specific zoning standard left open at legislative approval, or modify or release a recorded commitment except through an authorized process.
- E. Each phase shall update technical materials as reasonably necessary to demonstrate continued compliance and shall identify the work covered by that phase approval. Nothing in this Article determines, enlarges, waives, or impairs vested rights except as provided by Indiana law.

SECTION 12. GENERAL DEVELOPMENT AND PERFORMANCE STANDARDS.

The following baseline requirements apply to every Principal Data Center and Data Center Campus. These requirements are minimum protections and are not safe harbors, presumptions of site suitability, or guarantees of approval. Compliance does not prevent denial of DC-O zoning or the imposition of more restrictive project-specific requirements supported by the project record and established through a lawful operative instrument. Where a numerical, design, operating, monitoring, mitigation, or lifecycle requirement reasonably depends on site or project conditions, the applicant shall provide technical analysis and the County may obtain independent review; any

resulting substantive project-specific zoning standard shall be objectively fixed in the Project Standards Schedule or another lawful operative instrument before final legislative approval. Administrative forms, later technical review, or staff determinations may implement or verify an established objective standard but may not create a substantive project-specific zoning standard left open at final legislative approval.

- A. Setbacks and Buffers. Material project components, including server buildings, cooling equipment, transformers, substations, generators, exhaust points, BESS, fuel tanks, loading areas, and truck-idling areas, shall comply with all generally applicable setbacks and buffers, including applicable M-2 development standards, together with any additional or more restrictive setback or buffer established in the Project Standards Schedule, recorded commitments, or other lawful operative instruments. No Data Center building shall be located within one hundred (100) feet of an external Data Center Campus property line, and no exterior generator yard, outdoor cooling-equipment yard, transformer bank, substation equipment, BESS, fuel-storage area, truck-idling area, or similar intensive outdoor component shall be located within two hundred (200) feet of an external Data Center Campus property line. No Data Center building shall be located within three hundred (300) feet of a Sensitive Receptor or residential zoning district existing on the date of final legislative DC-O approval, and no such intensive outdoor component shall be located within five hundred (500) feet of a Sensitive Receptor or residential zoning district existing on that date. Later establishment of a Sensitive Receptor shall not, by itself, render an approved and compliant project component nonconforming; site-specific protections may be imposed through the final legislative action. The application shall identify component-specific and Sensitive-Receptor setbacks, measurement rules, screening, berms, landscaping, preserved vegetation, and other mitigation. Setbacks from Sensitive Receptors shall not be reduced by common ownership or control of intervening land unless expressly authorized by the final legislative action. Project-specific requirements material to the zoning decision shall be stated in the Project Standards Schedule and, where appropriate, a recorded commitment or other lawful instrument.
- B. Building Height and Massing. Buildings and structures shall comply with otherwise applicable height limits unless a different lawful requirement is established. The application shall identify rooftop and exterior mechanical equipment and evaluate visual and noise impacts. Any project-specific height, massing, orientation, screening, or enclosure requirement shall be objectively fixed before final legislative approval.
- C. Noise and Vibration. The applicant shall provide baseline measurements and predictive modeling for full buildout and peak operating conditions addressing continuous, intermittent, tonal, low-frequency, and impulsive sources, including cooling equipment, transformers, substations, generators, BESS inverters, loading areas, and reflective surfaces. Project-attributable operational sound shall not exceed fifty-five (55) dBA or sixty-five (65) dBC at a Sensitive Receptor or residential zoning boundary and shall not exceed sixty-five (65) dBA or seventy-

five (75) dBC at another external Data Center Campus property boundary, except along a boundary with a compatible industrial or utility use where another applicable lawful standard governs. Where project-attributable sound contains a prominent discrete tone, the applicable dBA limit shall be reduced by three (3) dBA. Operation of Emergency Backup Generation during a bona fide utility outage or emergency is exempt from these numerical noise limits only for the duration reasonably necessary to address that outage or emergency. Scheduled testing, maintenance, commissioning, and repair remain subject to the applicable project-specific noise and operating standards, including testing windows and mitigation requirements. Before final legislative approval, the Project Standards Schedule or other lawful operative instrument shall establish the applicable project-specific noise standards, including any day/night limits, dBA/dBC or other low-frequency metrics, tonal or impulsive adjustments, measurement locations and methodology, meteorological and operating conditions, generator or commissioning provisions, monitoring, and compliance-verification protocol. Post-operation acoustic verification and required retesting shall be conducted under Section 13(D). Additional pre-operation, periodic, complaint-based, or other testing may be required when objectively established before final legislative approval or triggered by this Article.

- D. Lighting. Exterior lighting shall be fully shielded and directed to minimize spill, glare, and sky glow while allowing legitimate security needs. Except where otherwise required for safety, emergency, utility, or regulatory purposes, exterior lighting shall not exceed three thousand (3,000) Kelvin. Project-attributable illumination shall not exceed 0.5 foot-candle at a Sensitive-Receptor property boundary or residential zoning boundary and shall not exceed 1.0 foot-candle at another external Data Center Campus property boundary. A photometric plan is required. Project-specific light-trespass, color-temperature, operating-hour, or similar measurable requirements shall be fixed before final legislative approval where material.
- E. Screening and Visual Impacts. Equipment yards, generators, fuel systems, BESS, loading/service areas, and other visually intensive components shall be addressed in a screening and viewshed plan. A minimum one-hundred-foot (100-foot) landscaped, vegetated, natural, or otherwise effectively screened buffer shall be maintained between the developed portion of a Data Center Campus and property containing a Sensitive Receptor or a residential zoning district. Except at approved entrances, utility crossings, drainage facilities, emergency access, or similar necessary interruptions, a minimum fifty-foot (50-foot) landscaped, vegetated, natural, or otherwise effectively screened buffer shall be maintained between the developed portion of the Data Center Campus and a public-road right-of-way. Generators, BESS, fuel systems, outdoor mechanical and cooling equipment, loading and service areas, and similar visually intensive components shall be screened from ordinary ground-level view from Sensitive Receptors and public rights-of-way to the extent reasonably practicable. Project-specific berm, wall, landscaping, vegetation-preservation, architectural-treatment, or similar

requirements shall be objectively stated. Existing mature vegetation may be credited where the approved plan provides for maintenance or replacement.

- F. Electric Infrastructure, Substations, Transmission, and Utility Coordination. The applicant shall disclose aggregate requested or reserved utility capacity, service voltage, interconnection assumptions, substation and transmission needs, energization schedule, ownership or responsibility for related facilities, and the current utility or provider coordination and capacity information required by Section 5. Preliminary, conditional, or nonbinding provider information may support review when its status, assumptions, limitations, and dependencies are clearly identified. The County may consider project-created utility infrastructure needs, timing, ownership and maintenance responsibility, funding responsibility, and known or proposed mechanisms addressing underbuild or cessation as land-use and infrastructure-impact facts. Zoning approval does not guarantee utility service, require a utility to serve, determine utility rates, tariffs, service obligations, or regulated cost allocation, approve a state-regulated utility facility, or obligate the County to finance utility infrastructure. Material changes in the disclosed service configuration are subject to change-control review.
- G. Generation, Generators, Fuel, and Testing. Emergency Backup Generation and Normal-Operation Generation shall be separately identified and evaluated according to actual or reasonably anticipated operating purpose. Generator count, location, nameplate capacity, fuel, storage, operating purpose, anticipated hours, testing and commissioning, emissions controls, and emergency procedures shall be disclosed. Emergency Backup Generation may operate during a bona fide utility outage or emergency and for testing, maintenance, commissioning, repair, or activity reasonably necessary to maintain operability or comply with applicable legal, regulatory, permit, utility, or manufacturer requirements. It shall not be used for bridge power, routine load support, peak shaving, economic dispatch, demand response, scheduled displacement of utility-supplied electricity, routine grid export, or another Normal-Operation Generation purpose. Normal-Operation Generation is a separately disclosed material campus component and, to the extent County land-use or zoning authority lawfully applies, requires express evaluation and authorization through the site-specific DC-O legislative action. Temporary, portable, mobile, leased, substitute, affiliate-owned, or third-party equipment shall be classified according to its actual or reasonably anticipated operating purpose.

Routine generator testing shall occur only between 8:00 a.m. and 6:00 p.m., Monday through Friday, excluding federal holidays. The final Project Standards Schedule shall state the exact routine-testing window and may impose more restrictive limits where Sensitive Receptors, noise modeling, emissions analysis, cumulative generator operation, or other site conditions warrant. The Project Standards Schedule shall also establish, where material, objective limits on simultaneous generator operation, aggregate testing duration, sequencing, and related noise or emissions impacts. Testing outside the routine window may occur only when reasonably necessary for commissioning, emergency repair, a bona fide utility outage or emergency, compliance with an applicable legal, regulatory, or

permit requirement, a utility requirement, a manufacturer requirement, or another objectively defined circumstance established in the final Project Standards Schedule based on the project record. Such testing does not authorize Normal-Operation Generation. The Project Standards Schedule may establish objective project-specific generator-emission control-technology or performance requirements where supported by the project record and lawful authority.

To the extent County land-use or zoning authority applies, the applicable generation facility or aspect shall comply with the Approved Project Envelope, objective performance standards, approved plans, and enforceable commitments or other lawful operative instruments. An applicant asserting state or federal preemption shall identify the legal basis and the facility or aspect claimed to be exempt to the extent the County may lawfully require that information. Preemption of a generation facility or discrete aspect does not independently authorize the Principal Data Center use or enlarge non-generation portions of the Project Envelope.

- H. Battery Energy Storage Systems. The applicant shall address BESS chemistry, capacity, layout, thermal-runaway and explosion risk, fire suppression, emergency isolation, access, drainage/containment, monitoring, replacement, incident reporting, and end-of-life removal. Applicable fire, building, electrical, environmental, and safety requirements remain controlling. Any project-specific BESS setback, capacity, separation, monitoring, access, containment, or similar land-use requirement shall be objectively fixed before final legislative approval.
- I. Water, Cooling, and Wastewater. Once-through cooling shall not be used for routine Data Center heat rejection. Routine heat rejection shall use water-efficient cooling technology, which may include closed-loop, recirculating, dry, hybrid, direct-to-chip, immersion, or future technology with comparable or superior water-use efficiency. All evaporative water use shall be included in project water-demand calculations. The application shall evaluate full-buildout potable, nonpotable, and evaporative water demand; peak-day demand and annual demand where material; initial fill and refill; cooling and heat-rejection configuration; drought and shortage implications; provider capacity and required improvements; wastewater and blowdown volume; temperature; chemistry; discharge or disposal; and conservation or alternative-supply measures. Where water use is material to the zoning decision, the Project Envelope Schedule shall establish an enforceable maximum peak-day water-demand parameter and, where appropriate, annual, potable, nonpotable, evaporative, or other relevant water-demand limits. The Project Standards Schedule or other lawful operative instrument may establish objective project-specific metering, reporting, conservation, drought or shortage response, wastewater, blowdown, discharge, temperature, chemistry, and related operating controls. Provider letters and capacity information are evidence of provider facts, assumptions, conditions, and current status but do not bind the County or replace County land-use review.
- J. Roads, Traffic, and Construction. The applicant shall identify permanent and construction access, haul and oversized-load routes, worker parking, staging, concrete operations, and expected traffic by phase. Baseline pavement and bridge

conditions may be required. Where Sensitive Receptors, noise, traffic, access, or other site conditions warrant, the final Project Standards Schedule, recorded commitment, approved plan, road-use agreement, or other lawful operative instrument may establish objective project-specific construction-hour, delivery-hour, staging, idling, haul-route, or similar operating limitations. Project-attributable road mitigation, restoration, monitoring, security, and cost recovery shall be imposed only through lawful approvals, permits, commitments, road-use agreements, or other authorized instruments. Emergency access shall be maintained throughout construction and operation.

- K. Drainage, Stormwater, Floodplain, Wetlands, and Environmental Protection. The project shall comply with applicable drainage, stormwater, erosion-control, floodplain, wetlands, groundwater, spill-prevention, and environmental requirements. Site-specific modeling may address cumulative maximum-buildout conditions. Mitigation shall be grounded in applicable law, ordinance, permit, approved plan, commitment, or other lawful authority.
- L. Former Mine Land and Geotechnical Conditions. Where the site includes or may be affected by former mining, reclamation, mine spoil, subsidence, gas migration, acid drainage, differential settlement, groundwater pathways, or similar conditions, the applicant shall provide investigation and design by appropriately qualified professionals. Independent peer review may be required. A general environmental site assessment does not substitute for site-specific mine or geotechnical analysis where those risks are present.
- M. Fire, EMS, Emergency Management, Hazardous Materials, and Security. The application shall address required and available fire flow; on-site emergency water; hydrants and suppression; fire lanes and secondary access; incident-command and responder access; shutdown and isolation procedures; communications; BESS, generator, fuel, transformer-oil, refrigerant, and other hazardous-material risks; spill and runoff containment; emergency response and pre-incident planning; specialized equipment or capability; mutual-aid assumptions; project-created staffing or service demands; law-enforcement and security coordination; emergency contacts; and incident reporting. Where supported by the project record and applicable law, the final Project Standards Schedule, recorded commitment, approved plan, agreement, or other lawful project-specific mechanism may establish objective requirements concerning emergency access or water, responder information, responder familiarization or training, pre-incident planning, shutdown or communication protocols, specialized equipment or capability, hazardous-material controls, incident reporting, or other project-created public-safety impacts, as appropriate to the legal function of the obligation. The Operator shall maintain current emergency contacts and facility information and promptly report material fires, explosions, spills, releases, or BESS thermal events to the appropriate public-safety authorities and the Executive Director for zoning-compliance purposes. Nothing in this subsection obligates a public-safety agency to commit staffing, equipment, or service capacity or obligates the County to fund project-created needs absent separate lawful action.

SECTION 13. MONITORING, REPORTING, INSPECTION, AND AUDIT.

- A. The Operator shall submit an annual compliance report in a form approved by the Executive Director. The Project Standards Schedule shall establish the reporting period and due date before final legislative approval. The administrative form may prescribe format, certifications, and supporting documentation but may not create new substantive obligations.
- B. The report shall address, as applicable, actual peak electrical demand, generator testing and operating hours, Normal-Operation Generation, BESS status, peak-day and annual water use, wastewater, noise testing, complaints and responses, fires/spills/releases, equipment substitutions, ownership or Operator changes, construction/phasing status, and compliance with commitments.
- C. Subject to applicable law, reasonable safety requirements, and protection of legally confidential information, the County may inspect the property and review records reasonably necessary to determine compliance. Independent testing or audit may be required where reasonably necessary to verify compliance or investigate a documented potential violation, with cost responsibility governed by applicable law, fee schedule, reimbursement agreement, or commitment. Records required to demonstrate compliance shall be retained for the period stated in the Project Standards Schedule, recorded commitment, or other applicable requirement.
- D. Post-Operation Acoustic Verification. Each material operating phase identified in the Approved Project Envelope or approved phasing materials shall undergo operational acoustic testing by a qualified acoustical professional after the phase reaches the representative operating condition objectively defined in the final Project Standards Schedule. Testing shall occur within ninety (90) days after that condition is first achieved and, in all events, no later than twelve (12) months after material operations for the phase begin. If the defined representative operating condition has not been achieved by the twelve-month deadline, testing shall be performed at the most representative operating condition reasonably achieved by that deadline and repeated within ninety (90) days after the defined representative condition is first achieved. The final Project Standards Schedule or other lawful operative instrument shall establish the applicable noise standards, measurement locations and methodology, meteorological and operating conditions, tonal and low-frequency treatment, reporting, and other compliance criteria. Additional testing shall be required, as applicable, after a Material Modification reasonably capable of increasing off-site sound; installation or operation of substantial new sound-producing equipment reasonably capable of materially increasing off-site sound; a documented potential violation; or another objectively defined trigger established before final legislative approval. If testing demonstrates noncompliance, the Operator shall implement required corrective measures and retest under the applicable compliance protocol after correction.

SECTION 14. MINOR ADMINISTRATIVE CHANGES; MATERIAL MODIFICATIONS; MATERIAL EXPANSIONS.

- A. The Executive Director may approve a Minor Administrative Change only if the change: (1) remains within all applicable Project Envelope maxima, location ranges, operating conditions, Project Standards, commitments, approved plans, permits, and objective requirements; (2) does not constitute a Material Expansion or Material Modification or add a material campus component or operating mode outside the reasonably foreseeable scope evaluated in the legislative decision; (3) does not require a commitment modification, development-standard variance, or other nonadministrative approval; and (4) does not materially increase off-site noise, light, traffic, water, wastewater, drainage, environmental, public-safety, infrastructure, Sensitive-Receptor, or other impacts.
- B. Relocations, equipment substitutions, sequencing adjustments, utility routing, landscaping, grading, drainage, and similar implementation changes may qualify as minor only if they remain within approved ranges and assumptions, do not reduce required setbacks or buffers, do not materially change external access or service connections, and do not bypass a condition precedent.
- C. If the Minor Administrative Change criteria are not met, the Executive Director shall issue a written routing determination identifying the applicable review path. A Material Expansion requires a new or amended site-specific DC-O legislative zoning action. A change within the legislatively authorized Project Envelope that affects a development plan, permit, or other post-zoning requirement shall proceed through the amendment process applicable to that approval. A request for relief from a development standard shall proceed through any lawfully available variance process; modification or release of a recorded commitment shall proceed through the process authorized by law. More than one process may apply.
- D. A routing determination does not itself approve the change, amend another approval, modify or release a commitment, enlarge the Approved Project Envelope, or determine vested rights. Administrative forms or matrices may restate these criteria but may not create new substantive classification standards.
- E. No violation or change-control determination automatically terminates or forfeits the M-2 or DC-O zoning classification unless expressly authorized by Indiana law.

SECTION 15. OWNERSHIP, OPERATOR, ASSIGNMENT, AND CHANGE OF CONTROL.

- A. The owner and Operator shall provide written notice to the Executive Director of any transfer of ownership, assignment of material project rights, change in Operator, change of control, or initial identification of or change in the end user at least thirty (30) calendar days before the effective date when known and reasonably practicable, or no later than five (5) business days after the effective date if advance notice was not reasonably practicable. The notice shall identify the affected entity, effective date, successor contacts, and any resulting change in operation, equipment, financial assurance, or other regulated matter.

- B. A successor owner or Operator takes the property subject to the zoning classification, Approved Project Envelope, Project Standards Schedule, recorded commitments, approved plans, and continuing obligations that run with the land or otherwise bind the successor under applicable law. Transfer does not itself expand the Project Envelope or release a binding obligation.
- C. Any validly required financial assurance or other continuing security shall remain effective through ownership or Operator changes. If the transaction will replace or terminate an instrument, evidence of continuous replacement coverage shall be provided before the predecessor instrument ends. A transfer or end-user change that also produces a Material Expansion, Material Modification, commitment modification, or other regulated project change must follow the applicable review process.

SECTION 16. PROJECT FAILURE; REVERSION TO PRIOR ZONING CLASSIFICATION.

- A. Each site-specific DC-O legislative action shall identify, for each affected parcel, the zoning classification in effect immediately before the site-specific Data Center rezoning (the “Prior Zoning Classification”). If M-2 zoning is granted concurrently with DC-O as part of the same Data Center rezoning, the Prior Zoning Classification is the classification in effect before the concurrent M-2 and DC-O action.
- B. Each site-specific DC-O legislative action shall establish objective Project Failure events appropriate to the approved project. Those events shall address, as applicable, failure to obtain required post-zoning approvals within a stated period; failure to commence material construction within a stated period after required approvals; abandonment of the approved Data Center project before material operations begin; and cessation of material Data Center operations for a stated period. The site-specific action shall also identify objectively defined exclusions or extensions appropriate for casualty, force majeure, utility outage or delay beyond the owner’s reasonable control, repair, maintenance, legally required shutdown, active construction or recommissioning, or other circumstances supported by the project record.
- C. Following a final determination that a Project Failure event has occurred, the County may pursue termination or removal of the DC-O classification and, where M-2 was granted concurrently as part of the same Data Center rezoning, restoration of the Prior Zoning Classification, only in a manner permitted by Indiana law. A zoning-map amendment, public hearing, or additional legislative action shall occur if required by applicable law. Any self-executing reversion stated in a site-specific legislative zoning action shall operate only to the extent permitted by controlling law. A Project Failure determination alone does not amend the zoning map where Indiana law requires legislative action. Pending any required process, use and development remain subject to the zoning classification then in effect, valid commitments and other applicable requirements, and any rights recognized by law.

- D. Before a Project Failure determination becomes final, the owner and Operator shall receive written notice identifying the asserted trigger and a reasonable opportunity to submit information showing that the trigger has not occurred or that an applicable exclusion or extension applies. The determination, effective date, and any administrative or judicial review shall follow applicable Indiana law and this Zoning Ordinance.
- E. Zoning reversion does not extinguish accrued or continuing obligations arising from project activity before reversion, including enforcement, decommissioning, removal, restoration, road restoration, environmental remediation, reporting, cost responsibility, or valid financial-assurance obligations. Any lawful nonconforming-use or vested-right claim is governed by Indiana law and is not created, enlarged, waived, or determined by this Section.

SECTION 17. DECOMMISSIONING, REMOVAL, RESTORATION, AND
FINANCIAL ASSURANCE.

- A. Every Principal Data Center and Data Center Campus shall maintain a decommissioning and restoration plan addressing cessation or phased abandonment, removal of equipment and structures as required, batteries, fuel, refrigerants, transformer oil, hazardous materials, foundations, utility facilities, roads, drainage, contaminated materials, and restoration of disturbed areas. The owner and Operator shall review the decommissioning and restoration plan at least once every five (5) years and following any Material Expansion, Material Modification, partial abandonment, or other material change affecting decommissioning or restoration obligations. Following each review, they shall submit an updated plan or written certification that the existing plan remains accurate and adequate.
- B. The application shall identify proposed abandonment or decommissioning events, implementation schedules, and phase-specific triggers where appropriate. Where supported by the project record, the final Project Standards Schedule may establish an objective project-specific inactivity or cessation trigger associated with decommissioning. Any project-specific cessation period or trigger, removal deadline, restoration milestone, or lifecycle requirement established through the zoning decision shall be stated in the Project Standards Schedule and, where appropriate and lawful, a recorded commitment or other operative instrument.
- C. To the extent authorized by Indiana law, the site-specific DC-O approval, recorded commitments, or a separate enforceable agreement shall require financial assurance sufficient to secure decommissioning and restoration obligations, with periodic updates based on current independent cost estimates. The governing instrument shall address amount, form, update frequency, draw, replenishment, partial release, final release, and continuity through ownership changes. Financial assurance shall be reassessed at least once every five (5) years, and following any material change affecting decommissioning or restoration costs, based on a current independent cost estimate, and shall be adjusted as necessary to maintain adequate coverage.

SECTION 18. ENFORCEMENT.

- A. Violations of this Article, an approved development plan, Approved Project Envelope, Project Standards Schedule, permit, or enforceable written commitment may be enforced through remedies authorized by Indiana law and this Zoning Ordinance.
- B. The Executive Director may issue notices of violation and require corrective action. For material or continuing violations, the County may pursue authorized civil or judicial enforcement, injunctions, fines or penalties where authorized, commitment enforcement, prospective permit or phase-control remedies where conformity requirements or express conditions precedent are not satisfied, stop-work or emergency relief where separately authorized, and recovery against valid financial assurance.
- C. Enforcement shall distinguish immediate protective action from violations for which a reasonable cure period is appropriate. Nothing limits lawful emergency authority of fire, law-enforcement, environmental, health, building-safety, or other public agencies.
- D. An Improvement Location Permit or later-phase approval may be withheld or denied when the proposed work is not in conformity with the Zoning Ordinance, Approved Project Envelope, Project Standards Schedule, approved development plan, recorded commitments, permits, or an express condition precedent applicable to that work. This does not create a general power to retroactively revoke a final legislative zoning action.
- E. No violation automatically terminates or forfeits the M-2 or DC-O zoning classification. Enforcement shall proceed only through remedies and procedures authorized by law.

SECTION 19. BOARD OF ZONING APPEALS; NO PROJECT-LEVEL BZA APPROVAL.

- A. No BZA approval is required to establish a Principal Data Center or Data Center Campus, apply DC-O, approve the Approved Project Envelope or Project Standards Schedule, or approve a Material Expansion. Those are legislative zoning matters under this Article.
- B. Nothing in this Article creates a special exception, special use, conditional use, contingent use, or similar BZA project approval, or abolishes a BZA function independently required by Indiana law for variance of a true development standard contained in the Comprehensive Zoning Ordinance, or administrative appeal.
- C. A development-standard variance otherwise authorized by law does not, by itself, amend M-2 or DC-O zoning, create a Principal Data Center use where the required classification is absent, alter a separate legislative use or project-scope limitation, modify or release a recorded commitment, or authorize a Material Expansion requiring legislative review. Any lawfully available variance remains subject to subsection D below and applicable Indiana law.

- D. DC-O Development-Standard Variances. To the fullest extent permitted by I.C. 36-7-4-918.5 and other applicable Indiana law, the BZA shall not grant a development-standard variance from a requirement set forth in the Comprehensive Zoning Ordinance and applicable to a Principal Data Center or Data Center Campus unless, in addition to the findings otherwise required by Article XXVI, it finds that: (1) the practical difficulty arises from conditions peculiar to the property and was not materially created through site selection, project design, parcel configuration, phasing, or another voluntary project choice; (2) the difficulty cannot reasonably be avoided through redesign, relocation, reconfiguration, phasing, reduction of project scope, equipment substitution, use of reasonably available additional land, or another feasible compliant alternative; (3) economic convenience, preferred layout, lost development potential, cost savings, construction convenience, schedule considerations, or operational efficiency, standing alone, are insufficient; (4) the relief is the minimum reasonably necessary; (5) the variance will not materially impair the protections or purposes of the applicable DC-O requirement; and (6) the variance will not amend or release a separate recorded commitment, enlarge the Approved Project Envelope, authorize a Material Expansion, or accomplish a change requiring a separate legislative, commitment-modification, or other process.

SECTION 20. RELATIONSHIP TO OTHER REQUIREMENTS; DOCUMENT HIERARCHY; PREEMPTION.

- A. Approval under this Article does not relieve an applicant from any other applicable federal, state, County, utility, building, fire, drainage, stormwater, highway, environmental, or other requirement.
- B. This Article, the generally applicable Zoning Ordinance, the site-specific DC-O legislative action, Approved Project Envelope, Project Standards Schedule, recorded commitments, approved development plans, permits, and other legally operative instruments shall be read according to their legal function and specific terms. Administrative actions may implement objective detail within the authorized scope but do not waive, amend, enlarge, or create the Principal Data Center use or Project Envelope, or modify or release a recorded commitment, except through an authorized process. Where two lawful requirements regulate the same subject without a true conflict, both apply.
- C. If controlling state or federal law preempts a discrete local requirement or aspect of regulation, the remaining lawful portions of this Article continue to apply to the fullest extent permitted.

SECTION 21. SEPARATION FROM ECONOMIC-DEVELOPMENT AGREEMENTS AND INCENTIVES.

DC-O zoning is a land-use decision. Nothing in this Article promises, requires, or guarantees a tax abatement, TIF benefit, infrastructure subsidy, economic-development payment, public-finance arrangement, utility commitment, community-benefit

arrangement, or other incentive. Any reimbursement, infrastructure, economic-development, utility, incentive, or community-benefit agreement must rest on its own lawful authority and approval process, and no payment or economic package shall be consideration for zoning approval.

SECTION 6. ARTICLE XII(C) - DEVELOPMENT PLANS

Article XII(C), Section 2, “DESIGNATION OF DISTRICTS REQUIRING DEVELOPMENT PLANS,” is amended by adding at the end:

Notwithstanding the otherwise applicable five-acre threshold, every Principal Data Center and Data Center Campus shall require a development plan before issuance of an Improvement Location Permit.

Article XII(C), Section 3, “PROCEDURE,” is amended by adding at the end:

Notwithstanding the preceding development-plan approval procedure in this Section, for a Principal Data Center or Data Center Campus, Section 2 establishes that a development plan is required. After the required M-2 and DC-O zoning is effective and a formal development-plan application is filed under Section 8, the Technical Review Committee shall review the development plan and submit its recommendation to the Plan Commission. The Plan Commission shall take final action on the formal development plan. The Executive Director shall not issue final development-plan approval for a Principal Data Center or Data Center Campus. No Improvement Location Permit shall issue before final development-plan approval and satisfaction of other applicable prerequisites.

Article XII(C), Section 4, “STANDARD OF REVIEW,” is amended by adding at the end:

Notwithstanding the foregoing provisions of this Section, for a Principal Data Center or Data Center Campus, the Plan Commission’s action under Section 3 is the final development-plan decision, subject to applicable Indiana law. The review remains limited to the development standards in Section 5, including the DC-O criterion in subsection g), and shall not reconsider the legislative zoning decision whether the Principal Data Center use should be permitted.

Article XII(C), Section 5, “DEVELOPMENT STANDARDS,” is amended by adding:

g) For property classified DC-O, development-plan review is limited to objective compliance with Article XX(B), the site-specific legislative zoning action, Approved Project Envelope, Project Standards Schedule, commitments, approved plans, and other requirements applicable to the proposed phase and shall not reconsider the legislative decision whether the Principal Data Center use should be permitted.

Article XII(C), Section 7, “VOLUNTARY UTILIZATION OF DEVELOPMENT PLANS IN CONJUNCTION WITH APPLICATIONS FOR AMENDMENT OF THE ZONING MAPS (REZONINGS),” is amended as follows:

In Article XII(C), Section 7, subsection (1), the reference to “I.C. §36-7-4-613” is replaced with “I.C. §36-7-4-1015.” The balance of subsection (1) is unchanged.

Existing subsection (2) is not amended by this Ordinance.

A new subsection 3 is added:

3) For a Principal Data Center or Data Center Campus seeking M-2 and/or DC-O zoning, subsection 1 does not authorize the filing, acceptance, docketing, or completeness determination of a formal development-plan application before the required M-2 and DC-O zoning is effective. Development-plan-level plans and technical materials submitted while the zoning request is pending shall be administered only as preliminary zoning-application exhibits under Section 8.

Article XII(C) is further amended by adding a new Section 8:

SECTION 8. DC-O DEVELOPMENT-PLAN PROCEDURE

- (1) During a pending site-specific DC-O zoning proceeding, development-plan-level plans, engineering materials, and conformity information may be submitted as part of the zoning application for preliminary technical review and legislative-record development. Before the required M-2 and DC-O zoning is effective, those materials shall be identified and administered solely as exhibits to the legislative zoning application, shall not be accepted or docketed as the formal application for development-plan approval, and shall not receive a permit-application completeness determination or final development-plan action.
- (2) After the required M-2 and DC-O zoning is effective, the applicant may file the formal development-plan application. The formal application may incorporate unchanged plans, studies, or other materials previously submitted and reviewed during the zoning process. Applicable statutory and local completeness and decision procedures govern the formal application.
- (3) Development-plan review for DC-O property shall determine objective compliance with Article XX(B), the final site-specific legislative zoning action, Approved Project Envelope, Project Standards Schedule, approved plans, recorded commitments, and other applicable requirements. Preliminary technical review does not constitute approval of the Principal Data Center use, DC-O zoning, or a development plan.

SECTION 7. ARTICLE XXIV - ADMINISTRATION

Article XXIV, Section 1.5, “STRATEGIC DEFERRAL,” as added by section 2 of Ordinance No. 2026-18, is repealed in its entirety effective upon the effective date of this Ordinance.

Article XXIV is amended by adding a new Section 7 immediately after existing Section 6:

SECTION 7 DATA CENTER ADMINISTRATION AND IMPROVEMENT LOCATION PERMITS

- A. No Improvement Location Permit shall be issued for a Principal Data Center or Data Center Campus unless the property is lawfully classified M-2 and DC-O and the proposed work conforms to the Approved Project Envelope, Project Standards Schedule, approved development plan, recorded commitments, permits, and other applicable requirements. All otherwise applicable Improvement Location Permit application, nonresidential site-review, driveway, drainage, and other approval requirements under Article XXIV, including Section 3, remain in effect.
- B. Plans submitted for a permit shall identify the applicable phase and demonstrate that cumulative campus buildout remains within the Approved Project Envelope.

- C. The Executive Director may approve a Minor Administrative Change only as authorized by Article XX(B). A Material Expansion or other change requiring legislative review shall not be approved administratively.
- D. No preliminary zoning-review submission, permit, approved development plan, staff determination, staff correspondence, certificate, or other administrative action shall be construed to waive, amend, enlarge, or create project scope or substantive project-specific requirements beyond those lawfully established through the legislative zoning action and applicable modification processes. Materials reviewed before effective DC-O zoning are preliminary zoning-review exhibits only, are not accepted or docketed as a formal development-plan application, and are not subjected to a permit-application completeness determination.

SECTION 8. ARTICLE XXV - AMENDMENTS

Article XXV, Section 5, “CONDITIONAL REZONING,” is amended by adding the following paragraph at the end, without changing the existing paragraph:

Notwithstanding the preceding limitation, a site-specific zoning-map amendment establishing or amending the Data Center Overlay “DC-O” district may establish an Approved Project Envelope and Project Standards Schedule under Article XX(B) and may be accompanied by written Use and Development Commitments under Article XXV(A), in each case to the extent authorized by Indiana law. This exception applies only to DC-O zoning and does not modify the general conditional-rezoning rule for other districts. Any Project Failure determination or resulting zoning change under Article XX(B), Section 16 remains subject to all procedures required by Indiana law; this paragraph does not authorize administrative or automatic reversion when further legislative action is required.

SECTION 9. ARTICLE XXV(A) - COMMITMENTS: ENFORCEMENT

Article XXV(A) is amended by adding a new paragraph 2 immediately after existing paragraph 1(b)(10):

2. DC-O COMMITMENTS.

- (a) For a DC-O action, commitments shall be made, accepted, modified, released, recorded, and enforced as authorized by current Indiana law and this Article XXV(A). No DC-O commitment shall be made to the Board of Zoning Appeals merely as a substitute for the legislative zoning decision. Nothing in this paragraph changes the decision-maker or procedures for accepting, ratifying, modifying, releasing, or terminating a commitment under paragraph 1 or applicable Indiana law, including required notice and public hearings.
- (b) When a DC-O zoning action relies on a commitment to establish or enforce a material Approved Project Envelope or Project Standards Schedule requirement, the commitment shall identify the property and owner; contain or incorporate the same final, dated schedules considered in the zoning decision; state obligations objectively; and address duration, successor effect, and authorized modification or release. The commitment shall be accepted or approved through the procedure authorized by Indiana law and Article XXV(A), and shall be executed and recorded before final development-plan approval or issuance of an Improvement Location Permit for the project, whichever occurs first. No material post-

decision change is effective without any separately required legislative zoning action or commitment-modification procedure. A commitment does not substitute for an independently required zoning amendment, variance, permit, or other approval.

SECTION 10. TABLE “B” NOTATION.

Table “B”, which is incorporated by reference into the Consolidated Zoning Ordinance under Article XXI Section 2, is amended to add the following notation below the table:

10. For property classified DC-O, the standards applicable to the M-2 district remain in effect together with the requirements of Article XX(B), the Approved Project Envelope, and the Project Standards Schedule. Where two lawful requirements can both be satisfied, both apply. An expressly adopted DC-O requirement supersedes an M-2 requirement only to the extent of a direct conflict and only where authorized by law. No M-2 requirement is waived or superseded by implication.

SECTION 11. SEVERABILITY

If any provision, phrase, clause, subsection, application, or portion of this Ordinance is held invalid or preempted, the remaining provisions and lawful applications shall remain in effect to the fullest extent permitted by law.

SECTION 12. CONFLICTING PROVISIONS

All provisions of the Warrick County Comprehensive Zoning Ordinance inconsistent with this Ordinance are amended only to the extent necessary to give effect to this Ordinance. Existing provisions not expressly modified remain in effect.

SECTION 13. EFFECTIVE DATE

Except for any provision prescribing a penalty or forfeiture that is subject to I.C. 36-7-4-610(e), this Ordinance shall take effect upon its adoption in accordance with I.C. 36-7-4-607 and I.C. 36-7-4-610. The Area Plan Commission and appropriate officials shall thereafter complete the printing, codification, filing, and other administrative actions required by applicable law.

**APPROVED AND ADOPTED by the Board of Commissioners of Warrick County,
Indiana, this ____ day of _____, 2026.**

**BOARD OF COMMISSIONERS OF
WARRICK COUNTY, INDIANA**

Sarah Seaton

Stacey Franz

Terry Phillippe

ATTEST:

Warrick County Auditor