North Franklin Township

Washington County

ORDINANCE NO. 3-2026

AN ORDINANCE OF THE TOWNSHIP OF NORTH FRANKLIN, WASHINGTON COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP CODE, SPECIFICALLY CHAPTER 27, ZONING, TO ESTABLISH DEFINITIONS AND REGULATIONS FOR FOSSIL FUEL ELECTRIC GENERATING FACILITIES IN THE TOWNSHIP AS A CONDITIONAL USE IN THE TOWNSHIP'S INDUSTRIAL ZONING DISTRICT (I-1) AND PLANNED ECONOMIC DEVELOPMENT DISTRICT (PED).

WHEREAS, the Municipalities Planning Code, 53 P.S. §10101 et seq. (the "MPC"), authorizes the Township of North Franklin (the "Township") to create ordinances providing for Township zoning ordinances, codes, etc.; and,

WHEREAS, pursuant to its authority under the MPC, the Board of Supervisors of the Township (the "Board") has the authority to adopt and amend a Township Zoning Ordinance and Official Zoning District Map setting forth various zoning districts for properties throughout the Township; and,

WHEREAS, the Board of Supervisors of the Township seeks to promote the general health, safety, and welfare of the community by adopting and implementing an amendment to the Zoning Ordinance providing for access to and use of fossil fuel electric generating facilities; and

WHEREAS, the purpose of this Ordinance is to set forth requirements for fossil fuel electric generating facilities;

NOW THEREFORE, the Board hereby ordains and enacts as follows, incorporating the above recitals by reference:

SECTION 1 - INTRODUCTION

The intent of this Ordinance is to establish additional definitions and regulations related to the construction and operation of Electric Generating Facilities in the Township.

SECTION 2 – DEFINITIONS

When used in this chapter, the following words shall have the following meanings:

APPLICANT: The person or entity who submits an application to the Township for a permit under this chapter.

BUFFER: A landscaped area, or an area of preserved vegetation, intended to be used as a means of limiting the potentially adverse effects created by a use onto adjoining properties, streets, and uses.

D-BA (DECIBELS): Decibels reflect the sensitivity of the human ear and are the most commonly used metric for measuring environmental and community noise.

DECOMMISSIONING: The procedure to disconnect, remove, and properly dispose of all above and underground infrastructure, equipment, facilities, electrical components or devices, and to restore the property to prior use or future use consistent with the Comprehensive plan and future zoning.

FINANCIAL SECURITY: A form of security including a cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow account from a federal or Commonwealth chartered lending institution in the amount of 125% of the total proposed decommissioning costs and in a form satisfactory to the Township and Township solicitor. Post removal, the owner shall post a security of fifteen (15%) percent of the final decommissioning cost for two (2) years to ensure no issues remain.

OPERATOR: The person responsible for the overall operation and management of the facility.

OWNER: Any Applicant, person, or entity who has an equitable interest or legal interest in the land or property, whether owning all or a portion of the facility.

PERMIT(S): Any permit required by North Franklin Township, the Commonwealth of Pennsylvania, or statutes of the United States of America, including but not limited to a Township Zoning Permit and/or a Township Building Permit pursuant to the Township's Construction Code.

PHOTOVOLTAIC or PV: Relating to materials and devices that absorb sunlight and convert it directly into electricity.

PROTECTED STRUCTURE – Any (public/private) hospital, school, cemetery, religious institution or other public building located within 1,000 feet of an Data Center.

SITE PLAN: A plan showing all proposed improvements to the site. The site plan shall include the location of all easements and right-of-way and other conditions in relation to use, location, and bulk of buildings, density of development, open space, public facilities, and such other information as is required in applicable sections of this chapter such as with conditional land use, rezoning, or variance applications.

FOSSIL FUEL ENERGY: An energy source formed in the Earth's crust from decayed organic material. The common fossil fuels are petroleum, coal, and natural gas..

FOSSIL FUEL ELECTRIC GENERATING FACILITY: A facility whose primary purpose is for the generation of electric power in excess of 100 megawatt powered by fossil fuel for offsite use.

FOSSIL FUEL ELECTRIC GENERATING PROJECT: A grouping of two or more Fossil Fuel Electric Generating Facilities which are held by owner or leased to a common lessor, and which are part of a single fossil fuel production development project.

FOSSIL FUEL ELECTRIC GENERATING PROJECT OWNER: The individual, group, entity, or Applicant responsible for the permitting, construction, and/or operation for a Fossil Fuel Electric Generating Facility.

FOSSIL FUEL ELECTRIC GENERATION: Electric generation in which the prime mover is an internal combustion engine or a turbine rotated by high-pressure steam produced in a boiler or by a hot exhaust gas produced from the burning of fossil fuels.

FOSSIL FUEL PLANT: A plant using coal, petroleum, or gas as its source of energy.

FOSSIL FUEL STEAM-ELECTRIC POWER PLANT: An electricity generation plant in which the prime mover is a turbine rotated by high-pressure steam produced in a boiler by heat from burning fossil fuels.

FOSSIL FUEL RELATED EQUIPMENT: Items including appliances that burn fossil fuels for heating, cooking, or power, such as furnaces, boilers, water heaters, and stoves, as well as industrial machinery used in fossil fuel power stations, such as steam or gas turbines, and the infrastructure for extraction, processing, and transport, like extraction rigs, pipelines, and fueling systems or other structures used or intended to be used for collection of fossil fuel energy.

TOWNSHIP: North Franklin Township, Washington County, Pennsylvania.

SECTION 3 - CONDITIONAL USE PERFORMANCE REGULATIONS FOR FOSSIL FUEL ELECTRIC GENERATING FACILITIES

Fossil Fuel Electric Generating Facilities shall only be authorized in the Township's Industrial (I-1) Zoning District and Planned Economic Development (PED) Zoning District as a Conditional Use. The Township may not grant a conditional use permit for the construction or operation of a fossil fuel power generating facility, unless it shall first find and determine:

A. The nature of the probable environmental impact, including a specification of the predictable adverse effect on the environment, public health and safety, aesthetics, scenic, historic and recreational value, forest and parks, air and water quality, fish and other marine wildlife. All Conditional Use applications for a Fossil Fuel Electric Generating Facility shall meet the following standards and criteria, in addition to all other applicable criteria:

A. Conditional Use: The following specific development standards shall apply to fossil fuel power generating facilities. They are systems used for fossil fuel power generating facility generation and shall be permitted by Conditional Use in the PED & I-1 Zoning Districts in accordance with this section.

B. Lot Coverage: The lot coverage for fossil fuel electric generating facility shall be no more than 50% in the PED Zoning Districts.

C. Fossil Fuel Power Generating Facility Modifications: Any physical modification to an existing and permitted fossil fuel power generating facility that materially alters the size, type, or configuration of such facilities or other equipment shall require a permit modification under this Ordinance. Like-kind replacements and routine maintenance shall not require a permit modification.

D. Conditional Use Application: The conditional use application shall demonstrate that the proposed fossil fuel power generating facility will comply with this Ordinance.

(1) Among other applicable and relevant requirements, the application shall contain the following:

a. A narrative identifying the Applicant, owner of the proposed plant, a substantive history of the owner's fossil fuel power generating project developments, including all previous and current fossil fuel electric generating projects, any legal challenges or claims in which they were named or identified, and the name of any proposed entity under which they intend to operate, if different. The narrative shall further describe the proposed fossil fuel power generating facility project, including an overview of the project and its location, maximum rated capacity of the fossil fuel power generating facility project, the approximate number of panels, representative types, expected footprint of fossil fuel power generating equipment to be constructed, and type and location of interconnection to electrical grid.

b. Documents demonstrating the ownership of the subject parcel(s) and, if applicable, proof that a valid land lease agreement otherwise exists.

c. Proof that the Applicant has been authorized to act upon the owner's behalf.

d. A letter of commitment from the utility company who will interconnect to the fossil fuel power generating facility and a statement of line capacity before and after interconnection.

e. List of all adjacent property owners, their tax parcel ID numbers, and addresses.

f. A description of the current use and physical characteristics of the subject parcel(s).

g. A description of existing uses of nearby properties.

h. Payment of the application fee and any additional review costs, advertising, or other required staff time.

i. A preliminary site plan prepared by a Pennsylvania licensed engineer, which shall include the following:

1. A description of the subject parcels.

2. Property lines and setback lines. A land survey by a Pennsylvania licensed surveyor is required.

3. Existing and proposed buildings and structures, including preliminary locations of the proposed related equipment, the location of proposed fencing, driveways, internal roads, and structures, and the location of points of ingress/egress.

4. The location and nature of proposed buffers and screening elements, including vegetative and constructed buffers.

5. Existing and proposed access roads, drives, turnout locations, and parking.

6. Location of substations, electrical cabling from the fossil fuel electric generating facility systems to the substations, ancillary equipment, buildings, and structures, including those within any applicable setback.

7. Limits of all water conveyance systems and wetlands.

(2) Throughout the process, the Applicant shall promptly notify the Township of any changes to the information contained in the application.

E. A proposed grading plan shall be submitted with the conditional land use application, with a final grading plan to be approved prior to any construction activity commencing on the project site.

F. A proposed landscaping maintenance plan shall be submitted with the conditional land use application to shield to the extent possible, adjoining property owners from sight lines to the facility which takes into account the requirements set forth in this Ordinance, if any. A final landscaping maintenance plan shall be submitted and must be approved prior to any construction activity commencing on the project site.

G. A proposed decommissioning plan shall be submitted with the conditional land use application. A completed decommissioning plan, certified by an engineer, shall be submitted and approved prior to, or along with, the conditional land use application, detailing how the Applicant proposes to decommission the facility. The proposal shall include the following information:

(1) The anticipated life of the project.

(2) At the expense of the owner/operator, a cost estimate for the decommissioning of the facility shall be prepared by a third-party Pennsylvania licensed professional engineer who has expertise in the removal of large-scale fossil fuel electric generating facilities. The decommissioning cost estimate shall detail the current cost in dollars and projected costs over the life of the project without any reduction in salvage value.

(3) How the estimate was determined.

(4) The manner and method of ensuring the funds will be available for decommissioning.

(5) The proposed methods and steps required for removal of structures, materials, buildings, roads, cabling, electrical components, operational equipment, and any other associated facilities at the end of the anticipated life of the project.

(6) Steps to restore the site to conditions prior to the commencement of the project, including soil stabilization and revegetation (if applicable).

(7) Impacts, if any, on the surrounding properties when decommissioned; and

(8) The name and physical address of the person or entity responsible for the decommissioning plan.

H. The following shall also be submitted with the application for conditional land use:

(1) The Applicant shall provide copies of any permit applications and associated materials submitted to the Pennsylvania Department of Environment Protection, Washington County Conservation District, and other governmental agencies required for the project when the same are filed with those agencies. This shall include evidence that the Pennsylvania Natural Diversity Inventory process has been completed, and that the Applicant has received clearance from the Pennsylvania Game Commission, Pennsylvania Fish and Boat Commission, Pennsylvania Department of Conservation and Natural Resources, Pennsylvania Historical and Museum Commission, and the United States Fish and Wildlife Service. Submission of all such governmental agency approvals and/or clearances shall be provided to the Township prior to the commencement of construction.

(2) An environmental site assessment and impact study prepared by a Pennsylvania certified engineer experienced in landscapes, including, but not limited to, site investigations and an erosion and sediment control plan confirming that the project will not adversely affect groundwater.

I. A construction stormwater permit may be required if the panels disturb greater than one acre, per National Pollution Discharge Elimination Services ("NPDES").

J. Fossil fuel power generating facilities, or systems are not permitted on lands subject to Conservation Reserve Program ("CRP") or Conservation Reserve Enhancement Program ("CREP") contracts.

K. There are no restrictions or limitations related to commercial fossil fuel electric generating development on a property that is simply enrolled in an Agricultural Security Area ("ASA"). However, the property may be removed from the ASA when the township does a seven-year review if it no longer meets the minimum criteria for eligibility in the ASA. There is no penalty for changing use or removing property. However, the ASA is a prerequisite for the state farmland preservation program. Unlike ASA designation alone, if the farm is also subject to a permanent agricultural conservation easement, fossil fuel electric generating development may not be engaged upon the land. The deed of easement is in perpetuity and may not be extinguished.

L. If the farm is enrolled in Clean and Green, fossil fuel development may not be engaged upon the land unless the landowner triggers rollback taxes on the entire enrolled acreage. However, unlike the Farming Preservation Program ("FPP"), the landowner may break the covenant and pay rollback taxes and be removed.

M. Additional information may be required to be submitted with the application, as determined by the Board of Supervisors, such as a scaled elevation view of the property and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the project from potentially sensitive locations as deemed necessary by the Township to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.

SECTION 4 - DESIGN AND INSTALLATION OF FOSSIL FUEL ELECTRIC GENERATING FACILITIES

A. The design and installation of fossil fuel electric generating facilities and systems shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"), Underwriters Laboratories ("UL"), the American Society for Testing and Materials ("ASTM"), or other similar certifying organizations and shall comply with all fire and safety requirements as well as the Uniform Construction Code ("UCC").

B. Fossil Fuel Electric Generating Facilities shall be constructed and operated in substantial compliance with the approved site plan. Any change related to the location of structures or related to a change resulting in a 10% increase in overall acreage coverage shall require the plan to be amended and approved by the Board of Supervisors.

C. If the fossil fuel electric generating facility does not receive a building permit within 1 year of the approval of the conditional land use, any and all conditional use applications and permits shall expire or be terminated without notice to the Applicant, unless granted an extension, in writing, by the Board of Supervisors. Such extension request shall set forth the basis for the extension.

D. Setbacks for a Fossil Fuel Electric Generating Facility:

a. All fossil fuel electric generating facilities shall not be closer than 500 feet from an existing residential building (measured from the main building and/or any exterior equipment to the protected structure), unless the owner of the building provides written consent.

b. All fossil fuel electric generating facilities shall not be closer than 1,000 feet from a protected structure (measured from the main building and/or any exterior equipment to the protected structure) whether in an I-1 or Planned Economic Development (PED) Zoning District or not.

This shall not be applicable to power lines, substations, and other parts of the equipment required for the interconnection process.

E. For any fossil fuel electric generating facility, a baseline soil report shall be prepared prior to any clearing or construction activity, with the findings reported to North Franklin Township. In addition to the baseline testing, testing to monitor soil contamination shall be conducted every two years for the duration of the permit. In addition, a final soil report shall be prepared at the time of decommissioning. Soil testing shall be completed at the expense of the Applicant or the owner/operator, as applicable.

F. Baseline water testing shall be completed at the expense of the Applicant, or owner/operator, as applicable. In addition to the baseline testing, testing to monitor water contamination from runoff shall be conducted every 12 months that the fossil fuel electric generating facility remains in operation, or upon written request by the Board of Supervisors. Findings may be submitted to appropriate state agencies for review and/or enforcement in case of any violation.

G. Fossil fuel electric generating facilities, including fencing, shall meat the applicable Township buffer requirements.

H. Applicant shall provide a viewshed impact analysis illustrating views of the proposed SEF from multiple angles.

I. Fossil fuel electric generating facilities shall be enclosed by security fencing on the interior of the buffer area (not to be seen by other properties) not less than eight (8) feet in height. The fence shall not be topped with razor/barber wire. A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. Failure to maintain the security fencing shall result in revocation of the conditional land use and the facility's decommissioning.

J. A fossil fuel electric generating facility shall comply with all permitting and other requirements of the Pennsylvania Department of Environmental Protection, Public Utility Commission, UCC, and all other local, state, and federal regulations.

K. A fossil fuel electric generating facility shall be designed and maintained in compliance with standards contained in applicable local, state, and federal building codes and regulations that were in force at the time of the permit approval.

L. Knox-Boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed on high voltage electrical equipment and facility entrances.

M. Any other condition approved by the Township's Board of Supervisors as part of the conditional land use process.

SECTION 5 - LIGHTING FIXTURES/GLARE

A. Lighting fixtures for fossil fuel electric generating facilities, as approved by the Township, shall be the minimum necessary for safety and/or security purposes to protect the night sky by facing downward and to minimize off-site glare and must demonstrate compliance with the applicable provisions of the Township Code.

SECTION 6 - LOCAL EMERGENCY SERVICES

A. The Applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer Fire Department(s).

B. Prior to commencement of operations, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the fossil fuel electric generating facility.

C. The Applicant shall be responsible for all costs associated with specialized training and specialized equipment necessary to execute the emergency response plan.

SECTION 7 - LIABILITY INSURANCE

A. The Applicant shall provide proof of adequate liability insurance for a fossil fuel electric generating facility prior to beginning construction and before the issuance of a zoning or building permit from North Franklin Township.

B. The Applicant shall provide proof of said liability insurance policy upon request by the Township.

SECTION 8 - SOUND AND NOISE

A. Prior to the issuance of a conditional land use or building permit for a fossil fuel electric generating facility, the Applicant shall submit a sound study prepared by a qualified acoustical engineer or firm that demonstrates the ability to comply with the applicable sound/noise regulations provisions of the Township Code.

B. Within thirty (30) days of the commencement of operation, provide a sound study to confirm compliance after system activation.

C. If any sound study identifies that noise levels are likely to exceed permissible levels, the Applicant must implement mitigation strategies such as

(1) Acoustic enclosures

(2) Vegetative buffers or sound walls

(3) Equipment placement adjustments

D. The local agency may require a post-installation sound study within sixty (60) days of system operation to verify compliance. If violations are found, the owner/operator shall implement corrective measures within thirty (30) days.

SECTION 9 - DECOMMISSIONING OF FOSSIL FUEL ELECTRIC GENERATING

A. A fossil fuel electric generating facility which has reached the end of the term of the conditional land use permit and has not been granted an extension shall be deemed abandoned.

B. The fossil fuel electric generating project shall be presumed discounted or abandoned if no production of commercial quantities of electricity is generated by such system for twelve (12) continuous months.

C. Decommissioning Plan:

(1) The decommissioning plan shall be prepared by a professional engineer or contractor and approved by the Township engineer, and shall provide the estimated cost to remove fossil fuel electric generating systems and related infrastructure from the fossil fuel electric generating facility, including, but not limited to:

a. Cost to remove foundations

b. Cost to remove pads

c. Cost to remove underground collector lines

d. Cost to remove permanent roads built on the project parcels as part of the construction of the system all to a depth of four feet below the surface

e. Estimated cost to restore the project parcel(s) to an environmentally stable condition substantially similar to the condition of the project parcel(s) prior to the construction of the fossil fuel electric generating facility.

(2) The decommissioning plan shall be submitted to the Township during land development and prior to executing a Developer's Agreement.

(3) The decommissioning plan shall be updated every three (3) years.

D. Updated Decommissioning Plan:

(1) A revised and updated decommissioning plan shall be provided to the local Planning Commission for review and recommendation five years after the building permit was issued for the fossil fuel electric generating project and each three (3) year anniversary thereafter until the fossil fuel power generating facility has been fully decommissioned and the project parcel has been restored as required.

E. Decommissioning Security:

(1) Prior to construction, the Applicant shall post financial security in the amount of one-hundred twenty-five (125%) percent of the decommissioning cost, as approved by the Township Engineer securing the decommissioning obligations of the fossil fuel project and naming the Township as beneficiaries, the original of which security shall be delivered to the Township. The form of the security shall be subject to the review and approval of the Township Solicitor.

(2) The financial security shall be updated to reflect the revised decommissioning cost every three (3) years and/or upon transfer of ownership of the property or the fossil fuel electric generating facility.

(3) The financial security shall be in a form consistent with the requirements of the Pennsylvania Municipalities Planning Code and is subject to review and approval by the Township Solicitor.

F. Project Abandonment:

(1) The fossil fuel project has not for twelve (12) continuous months:

(i) generated commercial production of commercial quantities of electric energy and delivered such energy to the utility grid;

(ii) been decommissioned in accordance with this Zoning Order; and

(iii) such cessation of operations is not attributable to an event beyond the reason control of property owner or Applicant, as the case may be.

SECTION 10 - OTHER CONDITIONS

The Board of Supervisors shall consider conditions when considering a proposed fossil fuel power generating facility, including, but not limited to, the following:

A. Maximum generation capacity of the fossil fuel power generating facility.

B. More restrictive criteria pertaining to location and proximity of facility to other uses, including, but not limited to, residential uses, highways, entry corridors, scenic highways, etc.

C. More restrictive criteria pertaining to buffer zones and wildlife corridors.

D. More restrictive criteria pertaining to prime soils, soil analysis, and deforestation.

E. Job fairs, hours of construction, public safety, and EMS training.

SECTION 11 - VIOLATIONS.

In the event of a violation of any provision herein and failure of owner to correct said violation in the time period provided by the Township and/or its designated agent, said failure shall constitute a Civil Violation, as defined in the laws of the Commonwealth, and shall be prosecuted in accordance with the laws of the Commonwealth and the Rules of Civil Procedure adopted by the Pennsylvania Supreme Court.

Except where specific maximum penalties are provided elsewhere, in a law of the Commonwealth uniformly effective for political subdivisions or in another ordinance of the Township for a particular violation, any person/entity who shall violate any provision of this Code, any provision of any code or other regulation adopted by reference by this Code or any provision of any other Township ordinance, including applicable general performance standards for said use, shall, upon an adjudication and a finding of a violation, pay a civil penalty not to exceed **One Thousand Dollars ($1,000.00)** for a violation of building, housing, property maintenance, health,

fire, and public safety codes and for water, air and noise pollution violations; and a civil penalty not exceeding **Six Hundred Dollars ($600.00)** for any violation of the Township Code, costs of prosecution, attorneys' fees where authorized; all collectible as provided by law.

SECTION 12 - SEVERABILITY

The provisions of this Ordinance shall be severable and if any court of proper jurisdiction holds any provision of this Ordinance or the application of any provision to be illegal or unconstitutional, then the other provisions of this Ordinance or other applications of such other provisions to other circumstances, shall remain in full force and effect.

SECTION 13 - EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage.

ORDAINED AND **ENACTED** this 14 day of April, 2026, by the Board of Supervisors of North Franklin Township in lawful session duly assembled.

ATTEST:

Jacqueline M Kotchman
Township Secretary
(SEAL)

NORTH FRANKLIN TOWNSHIP

By: _____
Chairman, Board of Supervisors