

ORDINANCE NO. 2025-05
AN ORDINANCE REPEALING ORDINANCE NO. 2025-02, "AN ORDINANCE AMENDING THE ZONING CODE OF THE VILLAGE OF PERRY, OHIO SECTION 870-2 INDUSTRIAL DISTRICT USES TO ADD DATA CENTER CAMPUSES AND ARTICLE X SPECIAL REGULATIONS TO ADD A NEW SECTION 1040 REGULATION OF DATA CENTER CAMPUSES FOR THE VILLAGE OF PERRY, OHIO" AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance No. 2025-02, adopted on June 12, 2025, amended Section 870-2 of the Zoning Code of the Village of Perry, Ohio to permit Data Center Campuses and added Section 1040 to Article X Special Regulations to establish related regulatory standards; and

WHEREAS, this Council wishes to repeal Ordinance No. 2025-02 at the earliest possible time; and

WHEREAS, in accordance with Section 121.22 of the Ohio Revised Code, all deliberations and actions by Council related to this repeal have taken place in meetings open to the public.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF PERRY, COUNTY OF LAKE, STATE OF OHIO:

SECTION 1. REPEALED ORDINANCE TEXT

The following ordinance is hereby repealed in its entirety:

"ORDINANCE NO. 2025-02
AN ORDINANCE AMENDING THE ZONING CODE OF THE VILLAGE OF PERRY, OHIO SECTION 870-2 INDUSTRIAL DISTRICT USES TO ADD DATA CENTER CAMPUSES AND ARTICLE X SPECIAL REGULATIONS TO ADD A NEW SECTION 1040 REGULATION OF DATA CENTER CAMPUSES FOR THE VILLAGE OF PERRY, OHIO.

WHEREAS, pursuant to Section 610-1 of the Zoning Code of the Village of Perry, Ohio (the "Zoning Code"), amendments to the Zoning Code may be initiated in one of the following ways:

1. By the adoption of a motion by the Planning Commission;
2. By the adoption of a Resolution by Council; or
3. By the filing of an application by the owner or owners of property proposed to be changed or affected by said amendment

WHEREAS, the Planning Commission initiated amendments to the Zoning Code by adoption of a motion on May 8, 2025 and reviewed proposed text amendments related to data center campuses (the "Amendments" attached as Exhibit A to this Ordinance);

WHEREAS, the Amendments were reviewed by the Planning Commission and following such review, the Planning Commission by adopting a motion, recommended approval of the Amendments to Village Council; and

WHEREAS, Village Council considered the Amendments during a public hearing of Council held on June 12, 2025 at which time Village Council voted to adopt Planning Commission's recommendation, and approved the Amendments set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF PERRY, COUNTY OF LAKE, AND STATE OF OHIO:

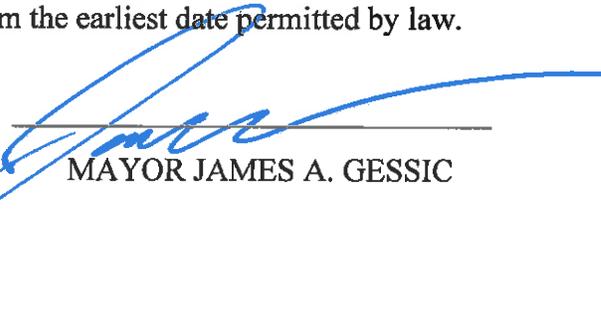
SECTION 1. That, effective June 12, 2025 the Village of Perry Zoning Code, specifically Section 870-2 Industrial District Uses and Article X Special Regulations Section 1040 Regulation of Data Center Campuses, is amended as is more specifically set forth in Exhibit A (attached hereto and made a part hereof); with all changes to the text of the Zoning Code identified in red and further, are hereby administratively recorded for departmental use.

SECTION 2. That all formal actions of this Council concerning the passage of this ordinance were adopted in an open meeting, and all deliberations of this Council, or any of its Committees, which resulted in such formal actions, were in meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance shall be effective from the earliest date permitted by law.”

SECTION 2. That all formal actions of this Council concerning the passage of this ordinance were adopted in an open meeting, and all deliberations of this Council, or any of its Committees, which resulted in such formal actions, were in meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance shall be effective from the earliest date permitted by law.


MAYOR JAMES A. GESSIC

ADOPTED: July 31, 2025

ATTEST: John H. Roskos

FISCAL OFFICER JOHN H. ROSKOS

EXHIBIT A

All changes or additions to the Zoning Code are in red with an underline and any deletions are struck through.

870 I Industrial District.

870-1 Purpose.

The purpose of the Industrial District is to provide for industrial uses for the purpose of storing, manufacturing, processing and distributing goods in areas where central sewer and water are available.

870-2 Uses.

A. Permitted Uses.

1. Manufacturing activities including: assembling component parts in manufactured products; mechanical or chemical transformation of materials into new products; transformation of materials by heat, electricity, other forms of energy; the blending of new materials; and the packaging of materials.
2. Printing and Publishing
3. Research and Testing Facilities
4. Offices
5. Public Service Facilities
6. Essential Services
7. Contracting Firms
8. Wholesale Business
9. Warehousing and Storage
10. Adult Entertainment Business subject to the provisions of this Ordinance.
11. Data Center Campuses subject to the provisions of the Ordinance.

B. Conditionally Permitted Uses.

The Planning Commission may issue a conditional use permit in accordance with the procedures set forth in Article V for the following uses:

1. Transport and Trucking Terminals
2. Restaurants
3. Mineral Extraction, Storage and Processing
4. Food Processing
5. Vehicle Sales, Service, Rental and Repair
6. Veterinary Animal Hospital or Clinics
7. Wireless Telecommunication Facilities subject to the provisions of this Ordinance
8. Substantially Similar Uses

C. Accessory Uses.

The following accessory uses shall be permitted as a subordinate use provided that such use is clearly incidental to and located on the same lot as the principal building or use:

1. Parking subject to the provisions of Article XI.
2. Signs subject to the provisions of Article XII.
3. Fences and Walls subject to the provisions of Section 980.
4. Satellite Dishes subject to the provisions of Section 1010.

ARTICLE X

SPECIAL REGULATIONS

1040 Regulation of Data Center Campuses

1040-1 Use Description.

The characteristics of a data center campus ("Data Center Campus") are as follows: a multi-building campus with buildings housing computer servers, processors, IT infrastructure switchgear and related components and equipment that store and process

data and run various software applications. Allowable ancillary uses include, but are not limited to: (i) buildings for support offices and security, (ii) buildings for maintenance and maintenance offices, (iii) all electric generation, distribution, switchyard, transmission and substation facilities (including solar facilities designed to serve the electricity or thermal needs of the data center buildings), (iv) energy, battery and fuel storage facilities, (v) office, general office, mechanical and storage spaces, (vi) logistics and maintenance facilities, (vii) water and sewer facilities, (viii) water treatment facilities, (ix) water storage and cooling facilities and associated water pumps and equipment, (x) communication, broadband, fiber optic utilities (xi) air handlers, cooling equipment and heat pumps, etc., and (xii) other private utilities, emergency generators, utilities, and other uses that relate to the primary data center campus use(s).

1040-2 Development Standards.

Notwithstanding any other requirement to the contrary in the Codified Ordinance or Zoning Code of the Village of Perry, Ohio, the following development standards, ("Data Center Campus Development Standards"), shall apply to all Data Center Campuses and be controlling if in conflict with any other portion of the Code of Ordinances or Zoning Code:

A. Lot and yard requirements and building separation:

- 1. Minimum Lot Area. No minimum lot area is required; however, lot area shall be sufficient to provide for all yards and distances set forth below.**
- 2. Front Yards. For any building, the required front yard setback shall be not less than twenty-five (25) feet from any perimeter lot line.**
- 3. Side Yards. For any building, the required side yard setback shall be not less than twenty-five (25) feet from any perimeter lot line.**
- 4. Rear Yards. For any building, the required rear yard setback shall not be less than twenty-five (25) feet from any perimeter lot line.**
- 5. Maximum Lot Coverage. For buildings and parking areas, the maximum lot coverage shall be eighty percent (80%).**
- 6. Distance From Residential Districts. In no case shall any building be located less than one hundred (100) feet from any adjacent residences.**
- 7. Elimination of Setbacks. In the event that a parcel with zoning for a data center use and an adjacent parcel zoned for data center use (a) come under common ownership or control, and (b) are zoned to allow compatible non-residential uses, but (c) cannot be combined into a single parcel due to the**

parcels being situated within separate jurisdictions or otherwise, then any minimum building, parking, or landscaping setbacks, buffers or screening set forth in this section shall no longer apply where these parcels' lot lines abut.

8. Data Center Campus buildings shall be separated by at least 25'.

B. Parking requirements:

1. One space for each employee on the main shift.
2. One off-street loading space per building.
3. One off-street visitor space per building.
4. Accessible parking shall be provided in accordance with the requirements of the Americans with Disabilities Act.

C. Maximum Height: Maximum structure height is 65' plus 15' for roof mounted equipment which shall be properly screened.

D. Fencing: Fencing shall be permitted on the perimeter lot lines of a site, and within a site, not to exceed 10' in height and shall be part of the Site Plan review.

E. Lighting:

1. A photometric plan shall be submitted as part of Site Plan review
2. Pole mounted light fixtures shall not exceed 20' in height
3. The maximum height for building mounted light fixtures shall be 35'
4. Uplighting of structures is prohibited
5. Utilize light fixtures with shrouds to reduce glare and light pollution

F. Signs: Signs shall be permitted and approved as part of the Site Plan review.

1040-3 Site Plan Approval for Data Center Campuses.

A Data Center Campus shall require that, prior to the issuance of a Zoning Permit, a site plan ("Site Plan") be submitted and approved by the Zoning Inspector. The Zoning Inspector's decision may be appealed by the applicant, to the Board of Zoning Appeals. The Site Plan will include the property boundary, existing topography, building and parking locations, signage, stormwater management features, access drives, and earthen berm, buffer and fence locations.

1040-4 Landscape Plan Approval.

A Data Center Campus shall require that, prior to the issuance of a Zoning Permit, a landscape plan be submitted and approved by the Zoning Inspector. The Zoning Inspector's

decision may be appealed by the applicant, to the Board of Zoning Appeals. The landscape plan will include the count, size, species and placement of trees and shrubs to be used. The landscape plan shall also depict the height and placement of earthen berms and screenings.

1040-5 Additional Standards that apply to all Data Center Campuses.

Notwithstanding anything to the contrary in Section 950 of the Zoning Code, the language below shall apply to any Data Center campus in the Village of Perry.

A. Objectionable, Unhealthy, Noxious, or Dangerous Uses, Practice, or Conditions (Public Nuisance).

- 1. No land or building with a Data Center Campus as a permitted use shall be occupied or used in any manner which creates conditions which are dangerous, unhealthy, injurious, harmful or noxious, such that surrounding areas or adjoining premises are affected (a "Public Nuisance Condition"), except that any use permitted by this Ordinance may be undertaken or maintained if acceptable measures and safeguards to reduce any such conditions to acceptable limits, as established in this Section, are properly exercised.**
- 2. Specifically, the occupation or use of a Data Center Campus shall be considered a Public Nuisance Condition and shall be in violation of this Ordinance if one or more of the following conditions are found to exist at any time:**
 - a. The use or storage of flammable or explosive materials is not adequately protected by fire-fighting and fire-protection equipment or by such safety features as are normally required for such activities; however, the use or storage of flammable or explosive materials shall be permitted if such use or storage is in accordance with State of Ohio requirements.**
 - b. Activities involving the use and storage of flammable and explosive materials in violation of applicable laws.**
 - c. Radioactivity or air pollution is present in violation of the regulations of the Ohio Environmental Protection Agency.**
 - d. Hazardous wastes are present in violation of the regulations of the Ohio Environmental Protection Agency.**
 - e. Excessive direct or reflected glare is present which is visible from any street or from any property not within an industrial zoning district.**

- f. Erosion caused by wind or water is carrying objectionable substances onto any adjacent lot or property.
- g. Water pollution or contamination is present in violation of the regulation of the Ohio Environmental Protection Agency.
- h. Any condition exists that poses a threat to the health, safety, and/or well-being of the community and which condition is not cured within 30 days of written notice from the Zoning Inspector and which 30 day cure period may be extended so long as the property owner is working to remedy or abate the condition.
- i. Vibration that is excess of the vibration standards set forth below:
 - i. No activity or operation shall cause or create earth borne vibrations at the property boundary line in excess of the displacement amounts for frequencies as set forth below:

| Frequency (Cycles per second) | Vibration Displacement (in Inches) | |
|----------------------------------|---------------------------------------|--------|
| | Steady State | Impact |
| Under 10 | .0008 | .0016 |
| 10-19 | .0005 | .0010 |
| 20-29 | .0003 | .0006 |
| 30-39 | .0002 | .0004 |
| 40 and over | .0001 | .0002 |

The measurements to assess Vibration Displacement, shall utilize a calibrated accelerometer. The accelerometer shall measure earth borne vibration via a stake-mounted sensor placed at the property line. Steady-state limits shall be based on a 30-second RMS vibration velocity, while impact limits shall be based on a 1-second RMS vibration velocity. The use of emergency equipment shall be excluded from the above Vibration Displacement standard.

- j. Noise that is in excess of the Noise Standards set forth in the Data Center Campus Development Standards below.

B. Noise Standards.

1. Notwithstanding anything to the contrary in Section 509.10 of the Codified Ordinance, noise levels at the Data Center Campus' property line, during normal operations will not exceed an average noise level (Leq) of 70 decibels (dBA) between the hours of 7 AM to 10 PM weekdays and between 9 AM to 10 PM on weekends and legal holidays and will not exceed an average noise level (Leq) of 65 decibels (dBA) at the Data Center Campus' property line between the hours of 10 PM to 7 AM weekdays, weekends and legal holidays. Measurements for compliance with these requirements shall be conducted 5' above the property line for a period of 20 minutes with a Class 1 Sound Level Meter per ANSI S1.4:2014. Emergency operations and the testing of emergency equipment shall not be subject to the foregoing limitations and the term "emergency" shall mean any situation arising from sudden or reasonably unforeseen events beyond the control of the facility.

2. Noise Reduction: Any external emergency equipment shall only be tested during the hours of 7 AM to 6 PM, Monday through Friday for no longer than thirty (30) minutes each, unless a longer time requirement is required by any federal, state, local or manufacturer's requirements for testing of emergency equipment.

C. Notwithstanding anything to the contrary in Section 970 of the Zoning Code, the language below shall apply to any screening or buffering for a Data Center Campus in the Village of Perry:

1. Screening or buffering in compliance with the provisions of this Section shall be provided for any Data Center Campus which abuts any sensitive edge conditions (which are defined as residential homes, libraries, and athletic fields) at the Data Center Campus property line abutting such sensitive uses, in addition to setback and yard requirements provided in the Data Center Campus Development Standards. Applicants for a Zoning Permit may request a variance from yard or setback requirements in conjunction with a plan for screening, which the Board of Zoning Appeals may consider by weighing the relationship of the proposed screening plan and the requested dimensional variance with respect to their joint impact upon sensitive edge conditions. Standards may be relaxed by the Zoning Inspector where dense existing vegetation exists or a building setback exceeds 100' from the property line.

2. The following provisions shall apply with respect to screening:

- a. Screening shall be provided for one or more of the following purposes:
 - i. A visual barrier to partially or completely obstruct the view of structures or activities.
 - ii. An acoustic screen to aid in absorbing or deflecting noise.
 - iii. A physical barrier to contain debris and litter
- b. Screening along the shared boundary of a Data Center Campus and a sensitive edge condition may consist of one of the following, or any combination of two or more as verified by the Zoning Inspector or Board of Zoning Appeals, in the event of an appeal or variance.
 - i. A solid masonry wall;
 - ii. A solidly constructed decorative fence;
 - iii. A louvered fence;
 - iv. Dense vegetative plantings (existing or new plantings);
 - v. A landscaped mounding (i.e. an earthen berm).
- c. Height of screening shall be in accordance with the following:
 - i. Visual screening walls, fences, plantings, or earthen berms shall be a minimum of five (5) feet high in order to accomplish the desired screening effect. Plantings shall be a minimum of 5 feet in height at the time of planting.
- d. Screening for purposes of absorbing or deflecting noise shall consist of an earthen berm with a height of five (5) feet and include dense plantings or a solid masonry wall in combination with plantings. Security fencing may be placed on either side of or on top of the earthen berm.
- e. Whenever required screening is adjacent to parking areas or driveways, such screening shall be protected by bumper blocks, posts, or curbing to avoid damage by vehicles.
- f. All screening shall be trimmed, maintained in good condition, and free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles.

D. Notwithstanding anything to the contrary in Section 980 of the Zoning Code, the language below shall apply to any Data Center Campus in the Village of Perry:

- 1. Fencing shall be permitted on the perimeter lot lines of a site, and within a site, not to exceed 10' in height and shall be part of the Site Plan review.

- a. Fences, walls and hedges shall be maintained in good repair and appearance and may be located in a landscape buffer or building setback area.
- b. Fences constructed of or containing barbed wire or electrical charges or having other conditions which are hazardous or harmful to persons or animals are prohibited.
- c. Where a proposed fence will present a different appearance on one side from the other, the fence shall be constructed so that the finished side faces the abutting properties and public right-of-way. Generally, that side on which the exposed posts or supporting cross members are most visible shall be faced into the lot on which the fence is located.
- d. Fences shall not be constructed in a manner that obstructs drainage.
- e. Good side facing out.