BILL NO. 26-05 **ORDINANCE NO. 924**

AN ORDINANCE OF THE CITY OF FORISTELL, MISSOURI, IMPOSING A TEMPORARY MORATORIUM ON THE DEVELOPMENT OF INFORMATION TECHNOLOGY AND DATA PROCESSING FACILITIES DURING THE PENDENCY OF A REVIEW OF REGULATIONS AND STANDARDS FOR DEVELOPMENT OF SUCH INFORMATION TECHNOLOGY AND DATA PROCESSING FACILITIES; AND OTHER MATTERS RELATING THERETO

WHEREAS, residents have raised concerns pertaining to the impact of information technology and data processing facilities in the City of Foristell, Missouri (the "City") on public infrastructure, electricity, water supply, noise, and property values, among other things; and

WHEREAS, the Planning and Zoning Commission is currently reviewing substantive and significant amendments and additions to the City's Comprehensive Plan, which includes, but is not limited to, the study and review of the intensity of use of property, street layout, preservation of open space, protection of natural resources, public infrastructure and utility capacity and the preservation of property values; and

WHEREAS, it is to the benefit of the health, safety, and general welfare of all residents of the City that the City maintain regulations, policies, and standards for information technology and data processing facilities that avoid negative impacts on public infrastructure and residents' quality of life; and

WHEREAS, the Board of Aldermen, through the Planning and Zoning Commission, desires to study, review, and consider policies, regulations, and standards for development of information technology and data processing facilities within the City; and

WHEREAS, the Planning and Zoning Commission declared its intention to study and review the impact of information technology and data processing facilities on public infrastructure, electricity, water supply, noise, and property values, among other things, and how best to address any negative impacts, and considered implementing a moratorium on all information technology and data processing facilities which first requires rezoning, a special use permit, site plan approval and/or a building permit; and

WHEREAS, after providing notice per the requirements of the Municipal Code of the City of Foristell, Missouri (the "City Code"), the Planning and Zoning Commission conducted a public hearing on this proposed moratorium whereat residents, property owners, and other interested parties were given the opportunity to be heard; and

WHEREAS, the Planning and Zoning Commission recommended to the Board of Aldermen the adoption of a moratorium not exceeding one (1) year in duration from the effective date of this Ordinance to review, study and consider policies, regulations, and standards for development of information technology and data processing facilities within the City; and

WHEREAS, the Board of Aldermen hereby finds that it is to the benefit of the health, safety, and welfare of the residents of the City to impose a moratorium not to exceed one (1) year on the acceptance and consideration of applications for zoning amendments, conditional use permits, site plan approvals, final plan approvals and building permits that include requests for information technology and data processing facilities to allow for the Planning and Zoning Commission and the Board of Aldermen to study and review of information technology and data processing facilities' effects on the community, and how to best approach challenges related thereto.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FORISTELL, MISSOURI, AS FOLLOWS:

Section 1. Findings of Fact. The recitals set forth above are hereby ratified and incorporated as legislative findings of fact in support of this Ordinance.

Section 2. Information Technology and Data Processing Facility Defined. For purposes of this ordinance, "information technology and data processing facility" shall mean a facility used primarily for the storage, management, processing, or transmission of digital information and data for any purpose. Such facilities typically contain computers, computer servers, digital storage devices, networking equipment, and associated infrastructure, including mechanical and electrical systems such as backup power supplies, cooling systems, and security controls. The term includes, but is not limited to, data centers, cloud computing facilities, web hosting facilities, and colocation facilities. This term does not include facilities already existing and operating within the City, wireless support structures, or facilities that contain only incidental computer equipment used for internal business or administrative purposes, such as standard office spaces, hospitals, small-scale computer repair shops, or similar operations.

Section 3. Moratorium Imposed. During the time that this Ordinance is in effect as specified in Section 7 of this Ordinance, there shall be a moratorium on the review and approval of plans and development for properties requiring zoning amendments, site plans, special use permits, and building permits that include requests for information technology and data processing facilities.

Section 4. Waivers. In the event that an owner of real property suffer immediate and irreparable harm for the duration of this Ordinance, any such property owner may request a waiver under this Section 4 by filing an application with the Board of Aldermen within ninety (90) days after the effective date of this Ordinance. The Board of Aldermen, after hearing, may grant a waiver to the moratorium and permit review of and approval of plans and of development on a specific parcel where the Board of Aldermen determines, based upon substantial competent evidence, that the property owner will suffer immediate and irreparable harm for the duration of this Ordinance and that the plan or development adequately addresses public health concerns, will not be detrimental to the public health, safety, or welfare of the residents of the City, and otherwise complies with the requirements of the City Code. Except as otherwise set forth in this Ordinance, hearings conducted pursuant to Section 4 shall be conducted as set forth in Section 6 of this Ordinance.

Section 5. Determination of Vested Rights or Denial of All Economic Use.

A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to continue development of a parcel where the property owner can demonstrate by substantial competent evidence each of the following:

1. A governmental act of approval for the development was obtained prior to the effective date of this Ordinance; and

2. Actual use or a substantial step toward the use authorized by such approval.

B. Nothing in this Ordinance shall be construed or applied to prevent development of a particular parcel where the property owner can demonstrate by substantial competent evidence that because of the moratorium no economic use can be made of the parcel.

C. Any property owner claiming vested rights or denial of all use under this Section 5 must file an application with the Board of Aldermen for a determination within ninety (90) days after the effective date of this Ordinance. The application shall be accompanied by an application fee of Three Hundred and

00/100 Dollars ($300.00) and contain a sworn statement as to the basis upon which the vested rights or denial of all use are asserted together with documentation required by the City and other documentary evidence supporting the claim. The Board of Aldermen shall hold a hearing on the application and, based upon the competent substantial evidence submitted, shall make a determination as to whether the property owner has established vested rights or a lack of all economic use for the parcel. Except as otherwise set forth in this Ordinance, hearings conducted pursuant to this Section 5 shall be conducted as set forth in Section 6 of this Ordinance.

Section 6. Hearing Procedures. Where a hearing has been requested pursuant to this Ordinance, the Board of Aldermen shall set the matter for hearing within a reasonable time.

A. Notice Of Hearing.
   1. The City Administrator shall cause a notice of the date, time and place of the hearing to be served upon the property owner that filed the application.
   2. The City Administrator shall serve a copy of the application and a notice of the date, time and place of the hearing upon the City Clerk.

B. Evidence; Witnesses.
   1. The Property Owner and a representative of the City shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses and impeach any witness.
   2. Oral evidence shall be taken only on oath or affirmation.
   3. All evidence shall be suitably recorded and preserved.
   4. The technical rules of evidence shall not apply, except the Board of Aldermen may exclude evidence which is irrelevant or repetitious.
   5. The Property Owner and a representative of the City shall be entitled to present oral arguments or written briefs at or after the hearing.

C. Procedures and Preliminary Matters. The Mayor is authorized to establish procedures for case management schedules, the conduct of hearings, deadlines for filing briefs and time limits for the testimony and oral arguments that are not inconsistent with this ordinance and to rule on any motions filed by the property owner or the City relating to the hearing.

D. Findings. The Board of Aldermen shall make written findings of fact and conclusions of law. Such findings shall be based upon competent and substantial evidence found in the record as a whole. A copy of the Board of Aldermen's findings of fact and conclusions of law shall be delivered to the City Clerk and to the property that filed the application.

Section 7. Term. The moratorium imposed by this Ordinance is temporary and shall be effective for a period of no longer than one (1) year from the effective date of this Ordinance unless dissolved earlier by the Board of Aldermen. Further, the moratorium shall automatically dissolve upon the adoption of such regulations and standards as may be recommended by the Planning and Zoning Commission consistent with this Ordinance.

Section 8. Savings Clause. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant, or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

Section 9. Severability Clause. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in

applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section 10. Effective Date. This Ordinance shall take effect and be in force from and after its passage by the Board of Aldermen and its approval by the Mayor of the City of Foristell, Missouri.

READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF FORISTELL, MISSOURI THIS 15TH DAY OF JUNE 2026

Constance Palmer
PRESIDENT OF THE BOARD

Attest: _____
CITY CLERK

APPROVED BY THE MAYOR OF THE CITY OF FORISTELL, MISSOURI THIS 15th DAY OF JUNE 2026.

Constance Palmer
PRESIDENT OF THE BOARD

Attest: _____
CITY CLERK