

BILL NO. 4858

ORIGINAL

ORDINANCE NO. 4058

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FESTUS, MISSOURI, AMENDING CHAPTER 405 OF THE CODE OF ORDINANCES OF THE CITY OF FESTUS, MISSOURI, TO ENACT REGULATIONS RELATING TO DATA CENTERS; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, § 77.260, RSMo provides that the City Council of the City of Festus may enact and ordain any and all ordinances not repugnant to the constitution and laws of this state, and such as they shall be deemed expedient for the good government of the City, the preservation of peace and good order, the benefit of trade and commerce, and the health of the inhabitants thereof; and

WHEREAS, § 89.020 RSMo authorizes the City Council to divide the City into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of Chapter 89, RSMo, and within such districts, to regulate and restrict the erection, construction, reconstruction, alteration or use of buildings, structures, or land; and

WHEREAS, the City has received an application to amend Chapter 405 of the Code of Ordinances of the City of Festus, Missouri to adopt regulations regarding data centers; and

WHEREAS, this amendment was presented to the Planning and Zoning Commission on October 16, 2025 for its report and recommendation, and the Planning and Zoning Commission recommended that the City Council approve such amendment, with certain proposed revisions; and

WHEREAS, notice of a public hearing before the City Council on October 27, 2025, regarding this Ordinance was published at least fifteen (15) days in advance of such hearing in a newspaper of general circulation in the City, in accordance with § 89.050 RSMo, and § 405.840 of the Code of Ordinances of the City of Festus; and

WHEREAS, the City Council of the City of Festus finds that the proposed changes to Chapter 405 of the Code of Ordinances of the City of Festus would promote the health, safety, morals, and general welfare of the City of Festus and its inhabitants.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FESTUS, MISSOURI, AS FOLLOWS:

SECTION I. Section 405.010 of the Code of Ordinances of the City of Festus, Missouri is hereby amended to read as follows (with new language in red and deleted language struck through; unaffected provisions indicated by ellipsis):

TITLE IV. LAND USE

CHAPTER 405. ZONING REGULATIONS

ARTICLE I. IN GENERAL

SECTION 405.010. DEFINITIONS

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Words used in the present tense include the future; words in the singular number indicate the plural and words in the plural number indicate the singular; the word “building” includes the word “structure”; the word “shall” or the word “must” is mandatory and not directory; the word “lot” includes the word “plot”; the term “used for” includes the meaning “designed for” or “intended for.”

...

DATA CENTER

A facility, or a portion of a facility, of which the primary service is data processing or data storage, and is used to house computer systems and associated components, such as central processing units, graphical processing units, neural networks, quantum bits, quantum processors, memory, data routing, data storage, server farm, bitcoin mining, crypto processing, virtual private networks, virtual servers, artificial intelligence training or processing, image processing, cloud computing, email servicing, a telecom hotel, telehouse co-location, or any other term applicable to facilities which are used for such purposes, shall be deemed to be a data center. A data center shall not be housed in whole or in part in storage containers or other temporary or movable structures.

...

SECTION II. Section 405.390 of the Code of Ordinances of the City of Festus, Missouri is hereby amended to read as follows (with new language in red and deleted language struck through; unaffected provisions indicated by ellipsis):

TITLE IV. LAND USE

CHAPTER 405. ZONING REGULATIONS

ARTICLE II. DISTRICT REGULATIONS

SECTION 405.390. DISTRICT "I-1" INDUSTRIAL DISTRICT

- A. No building, structure or land shall be erected, altered or used in an “I-1” district which is arranged or designed for other than one (1) of the following uses, except as provided herein and in Section 405.160:

...

10. Data centers.

...

SECTION III. The Code of Ordinances of the City of Festus, Missouri is hereby amended to add a new section, to be designated as Section 405.185, which reads as follows:

TITLE IV. LAND USE

CHAPTER 405. ZONING REGULATIONS

ARTICLE I. IN GENERAL

SECTION 405.185. REGULATION OF DATA CENTERS

- A. *Purpose.* The general purpose of this section is to regulate the placement and construction of data centers in the districts where this code permits the same while promoting the health, safety, and welfare of city residents.
- B. *Location; Ancillary data centers.* All data centers shall be contained within a principal building or accessory structure. Data centers that are ancillary to another primary use are permitted as an accessory use if they: (i) occupy no more than ten percent (10%) of the building footprint; (ii) are used to serve the enterprise functions of the on-site property owner or tenant and are not used to lease data storage and processing services to third parties; and (iii) are not housed in a separate, stand-alone structure on the parcel.
- C. *Application requirements.* Before a data center is constructed, the property owner or interested party proposing to build or operate a data center must submit documentation to the city showing it has done the following:
1. The data center operator, property owner, or interested party, must notify, via certified U.S. mail, return receipt requested, the owners of all properties within one thousand feet (1,000') of the property line of the parcel(s) upon which the data center will be operated, including any affiliated homeowners' association operating within the one thousand foot (1,000') radius, that the property owner intends to build and operate a data center on the parcel(s), and informing the owners of the informational meeting described in subdivision 2 of this subsection.
 2. The data center operator must schedule and attend one informational neighborhood meeting with the residents within one thousand feet (1,000') of the parcel(s) to describe the project and the proposed sound-mitigation

aspects of the project design. The data center operator must post a four foot (4') by eight foot (8') minimum sign on the property fifteen (15) days prior to the meeting. Notice of the meeting must be mailed to all property owners within one thousand feet (1,000') of the parcel at least fifteen (15) days before the meeting. An additional sign shall be posted on the property for any proposed data center development that would utilize more than one-hundred (100) acres of real property. A representative of the developer or owner, with decision-making authority on the design of the data center, must attend. This meeting shall be informational only, and shall not constitute a zoning hearing, nor confer zoning-related rights or obligations.

- D. *Pre-build compliance study.* Prior to issuance of a building permit, the applicant shall submit a sound study prepared by a qualified third-party acoustic engineer. The study must confirm, based on the approved site plan and proposed mechanical/electrical systems, that the facility can be designed and constructed to meet the adopted noise thresholds.
- E. *Sound Standards.* The data center shall be designed, constructed, and operated so that sound levels measured at the property line of the nearest parcel do not exceed sixty (60) dBA at or adjoining any property zoned or used for residential or other sensitive purposes; or sixty-five (65) dBA at or adjoining any property zoned or used for commercial or industrial purposes. All measurements shall be performed by a qualified third-party acoustic engineer using ANSI/ASA industry standards.
- F. *Post-build confirmation study.* Upon commencement of operations, the applicant shall conduct a sound study at peak equipment operation to confirm compliance with the adopted noise thresholds. The results shall be submitted to the City within thirty (30) days of commencement.
- G. *Ongoing Monitoring.* The operator shall conduct ongoing monitoring as follows: quarterly sound studies for the first two (2) years of operation; annually thereafter, provided no substantiated complaints are recorded in the prior monitoring period. If a substantiated complaint occurs that is not otherwise mitigated by the operator, the City may require additional monitoring at the operator's expense.
- H. *Corrective Plan.* If a sound study or City investigation documents an instance exceeding the adopted noise thresholds, the operator shall promptly prepare and submit a Noise Mitigation and Correction Plan to the City. The plan must outline specific measures and a timeline to achieve compliance, subject to the Director of Building and Planning's approval. If, after approval of a corrective plan, there is another instance of exceeding the adopted noise thresholds, the operator shall have thirty (30) days to submit a revised corrective plan which must meet the Director of Building and Planning's approval. If the operator fails to do so, or if, after approval of a revised corrective plan, there is another instance exceeding the adopted noise thresholds, a hearing shall be scheduled before the City Council for the operator to show cause why the City should not revoke its authorization to operate within the City. At such hearing, the operator may present a second revised corrective plan, and demonstrate how it will comply with adopted noise thresholds, or present other testimony or evidence showing that its authorization to operate should not be revoked. The operator may be represented by counsel. The Director of Planning may present evidence as to why the operator's authorization should be

revoked. Any member of the public shall be permitted to speak before the Council, and may be questioned by the City and/or the operator.

- I. *Build-Out Expansion.* If the data center expands beyond the original approved footprint, or installs additional equipment that may materially alter sound emissions, the operator shall submit an updated sound analysis demonstrating continued compliance with the adopted noise thresholds before permit approval for the expansion.
- J. *Back-up generators.* If a data center operator intends to use backup power generators on the property, the operator must coordinate the schedule for any routine testing or operation of the generators with the City. Such testing may only occur between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday, excluding holidays. The City may request documentation of generator test schedules upon reasonable notice. In the event of a power outage or other emergency requiring generator use, the operator may activate the generators as needed without prior coordination. Notwithstanding anything to the contrary herein, the operation of emergency power systems during an emergency condition shall be exempt from the sound standards otherwise applicable under this Section 405.185, and this exemption shall only apply for the duration of the emergency and shall cease once normal utility power is restored.
- K. *Lighting.* A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixtures shall be required. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at three feet (3') above the grade. All fixtures shall be designed and installed to minimize glare, light trespass, and spillover onto adjoining residential properties.
- L. *Parking and loading.* All parking areas, drive aisles, service areas, storage, and loading docks shall be constructed of a hard surface (i.e., asphalt/concrete), conforming to all Festus Municipal Code requirements, provided, however, that this requirement shall not apply to any portion of parcel(s) for which gravel or a partially pervious surface is required pursuant to the National Electrical Code 2020, as amended, for grounding purposes.

SECTION IV. All remaining provisions of Chapter 405 remain unchanged and in full force and effect. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION V. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of this Ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of

the remaining sections, paragraphs, sentences, clauses, phrases and words or this Ordinance since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional or invalid portion of the Ordinance.

SECTION VI. This Ordinance shall be and become in full force and effect from and after the date of its passage by the City Council and the approval of the Mayor.

READ TWO TIMES AND PASSES THIS 27th DAY OF October, 2025.

Saml F. Richard
President of the City Council

APPROVED THIS 27th DAY OF October, 2025.

Saml F. Richard
Mayor of the City of Festus

ATTEST:

[Signature]
City Clerk

