

ORDINANCE NO. 2026 – _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA; IMPOSING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, REVIEW, OR APPROVAL OF APPLICATIONS FOR LAND USE AMENDMENTS TO THE CLAY COUNTY 2045 COMPREHENSIVE PLAN, FOR REZONING, FOR CONDITIONAL USES, FOR PERMITS, AND FOR DEVELOPMENT REVIEW OF SITE OR BUILDING PLANS RELATED TO DATA CENTERS, DATA PROCESSING FACILITIES, DATA MINING OR CRYPTOCURRENCY MINING OPERATIONS (REFERENCED HEREIN COLLECTIVELY AS DATA CENTER FACILITIES) WITHIN UNINCORPORATED CLAY COUNTY, FLORIDA; MAKING FINDINGS IN SUPPORT; PROVIDING FOR THE STUDY AND DEVELOPMENT OF APPROPRIATE LAND USE REGULATIONS ADDRESSING SUCH DATA CENTER USES; PROVIDING FOR SEVERABILITY; PROVIDING DIRECTIONS NOT TO CODIFY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (Board) has the authority, pursuant to Chapter 125, Florida Statutes, and Article VIII of the Florida Constitution, to protect the public health, safety and general welfare of its residents and to enact ordinances for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, on May 12, 2026, the Board requested the preparation of an ordinance instituting a temporary moratorium on the acceptance, review, or approval of applications for data center facilities such that the County's comprehensive plan and land development regulations may be reviewed and updated to account for data center facilities; and

WHEREAS, Chapter 2026-65, Laws of Florida, relating to data centers, created Section 163.326, Florida Statutes, relating to large load customer considerations; and

WHEREAS, Section 163.326, Florida Statutes, recognizes that certain land uses, including facilities with substantial electric or other utility demands, such as data centers and other large load customers, may present unique planning, infrastructure, and compatibility considerations; and

WHEREAS, Section 163.326, Florida Statutes, provides that such considerations are to be addressed through local comprehensive planning and land development regulations adopted pursuant to Chapter 163, Florida Statutes, including provisions related to infrastructure capacity, land use compatibility, environmental impacts, and the efficient provision of public facilities and services; and

WHEREAS, Section 163.326, Florida Statutes, further provides that local governments maintain the authority to exercise the powers and responsibilities for comprehensive planning and land development regulation granted by law with respect to large load customers; and

WHEREAS, data center facilities may require significant and continuous electric demand, water supply, cooling infrastructure, wastewater capacity, stormwater infrastructure,

backup generation, fuel storage, fire protection, emergency response planning, security infrastructure, and related public facilities and services; and

WHEREAS, the Board finds that Clay County currently lacks specific zoning provisions or development regulations addressing the unique operational characteristics, infrastructure requirements, and environmental considerations associated with data center facilities; and

WHEREAS, the Board further finds that allowing such facilities to proceed without appropriate regulatory standards could create risks to the County's water resources, electrical infrastructure capacity, land use planning objectives, and long-term community development strategy; and

WHEREAS, local governments may enact moratoriums if the moratorium is intended to preserve the status quo and is rationally related to the government's attempt to enact changes to development regulations. (*WCI Communities Inc. v. City of Coral Springs*, 885 So. 2d 912 (Fla. 4th DCA 2004)); and

WHEREAS, Florida courts have held that permissible basis for land use restrictions include concern about the effect of the proposed development on traffic, congestion, surrounding property values, demands for public services, and on other aspects of the general welfare (*WCI Communities Inc. v. City of Coral Springs*, 885 So.2d 912 (Fla. 4th DCA 2004; *see also Corn v. City of Lauderdale Lakes*, 997 F.2d 1369, 1375 (11th Cir. 1993)); and

WHEREAS, local governments are entitled to enact moratoriums as a land-use tool to promote effective planning and preserve the status quo during this change (*Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency*, 535 U.S. 302, 337, 122 S.Ct. 1465, L.Ed.2d 517 (2002) (holding temporary moratoria are used widely among land use planners to preserve the status quo while formulating a more permanent development strategy)); and

WHEREAS, the County is actively engaged in the process of review, study, and planning to prepare and adopt amendments to its Comprehensive Plan, Land Development Regulations, and Code of Ordinances as may be necessary to address the demands of data center facilities; and

WHEREAS, a temporary moratorium on the acceptance, review, or approval of applications for land use amendments to the Clay County 2045 Comprehensive Plan, for rezoning, for conditional uses, for permits, and for development review of site or building plans related to data center facilities within unincorporated Clay County will allow time to review, study, prepare and adopt an amendment or amendments to the County Comprehensive Plan, Land Development Regulations, or Code of Ordinances, as may be required, to address such uses; and

WHEREAS, the Board wishes to establish a temporary moratorium of up to one (1) year on the acceptance, review, or approval of applications for land use amendments to the Clay County 2045 Comprehensive Plan, for rezoning, for conditional uses, for permits, and for development review of site or building plans related to data center facilities within unincorporated areas and such moratorium is reasonable and necessary to accomplish the goal of revising its regulations to ensure the community welfare is well-balanced and the public health, safety and general welfare are preserved; and

WHEREAS, the Board of County Commissioners finds this ordinance imposing a one (1) year temporary moratorium on the acceptance, review, or approval of applications for data center

facilities serves the health, safety, and welfare of the residents of and visitors to Clay County, Florida.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Clay County, Florida as follows:

SECTION 1. FINDINGS. The foregoing “Whereas” clauses are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and incorporated as part of this Ordinance.

SECTION 2. PURPOSE. The purpose of this Ordinance is to allow Clay County sufficient time to review, study, prepare and adopt an amendment or amendments to the Clay County Comprehensive Plan, Land Development Code and/or Code of Ordinances, relating to Data Center Facilities.

SECTION 3. TEMPORARY MORATORIUM ESTABLISHED. A temporary moratorium is hereby established on the acceptance, review, processing, or approval of any applications for:

- land use amendments to the Clay County 2045 Comprehensive Plan
- rezoning
- conditional uses
- permits
- development review of site or building plans

for the construction, expansion, or operation of Data Center Facilities within the unincorporated areas of Clay County.

During the moratorium period, County staff shall not accept, process, review, approve, or issue any such application or approval.

SECTION 4. DEFINITION. For the purposes of this moratorium, Data Center Facilities is a building, a dedicated space within a building, or group of buildings housing computer systems and associated components, such as telecommunication and data processing systems, to be used for remote storage, processing, or distribution of large amounts of data. Examples of such data, include but are not limited to, computationally intensive applications such as cryptocurrency mining, artificial intelligence (A.I.) computing, weather modeling, genome sequencing, application hosting, cloud storage, video and technical streaming services, etc. Such facilities may include air handlers, power generators, water cooling and storage facilities, utility substations, and other infrastructure to support operations.

SECTION 5. STUDY AND EVALUATION. During the moratorium period, Clay County staff shall conduct a comprehensive review of the potential impacts associated with data center facilities, including but not limited to:

1. Groundwater withdrawal impacts, particularly as they relate to the Floridan Aquifer management policies.
2. Water supply and wastewater treatment capacity, including potential impacts on municipal and regional water systems.

3. Electrical grid capacity and infrastructure requirements, including consultation with regional electric utilities regarding potential long-term demand impacts.

4. Land use compatibility, including appropriate zoning classifications and development standards for such facilities.

5. Environmental considerations, including impacts on wetlands, coastal ecosystems, noise, lighting, and surrounding land uses.

6. Best practices adopted by other jurisdictions in Florida and throughout the United States for the regulation of data center development.

SECTION 6. DEVELOPMENT OF REGULATORY FRAMEWORK. Following the completion of and during the review process, County staff shall present recommendations to the Board of Commissioners regarding the adoption of appropriate zoning regulations, permitting requirements, infrastructure standards, and environmental safeguards governing data center facilities within Clay County.

SECTION 7. DURATION. This temporary moratorium shall remain in effect for a period of twelve (12) months from and including the effective date of this Ordinance or until the effective date of an ordinance(s) amending the Clay County Comprehensive Plan, Land Development Regulations and/or the Code of Ordinances relating to Data Center Facilities, whichever first occurs.

SECTION 8. DIRECTIONS NOT TO CODIFY. The Board hereby directs that the provisions of this Ordinance shall not be codified in the Clay County Code, the Clay County 2045 Comprehensive Plan, or the Clay County Land Development Regulations.

SECTION 9. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 10. EFFECTIVE DATE. This Ordinance shall become effective as prescribed by Florida general law.

DULY ADOPTED by the Board of County Commissioners of Clay County, Florida, this _____ day of June, 2026.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF CLAY COUNTY, FLORIDA

By: _____
Tara S. Green
County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

Kristen Burke, Chair