

FILED

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MARGARET DARTER
FAULKNER COUNTY CLERK
BY  DC

**ORDINANCE 23-20
SPONSORED BY JUSTICE MAREE COATS**

**BE IT ENACTED BY THE QUORUM COURT OF FAULKNER COUNTY, ARKANSAS,
AN ORDINANCE TO BE ENTITLED:**

**AN EMERGENCY ORDINANCE ADOPTING CERTAIN RULES AND REGULATIONS
CONCERNING EXTERNAL NOISE ATTENUATION OF DATA CENTERS AND TO
PREVENT NOISE DISTURBANCE WITHIN FAULKNER COUNTY'S
UNINCORPORATED LIMITS; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES**

WHEREAS, the equipment associated with the cooling systems and generators required to operate Data Centers generate broadband noise and low-frequency hums that result in noise disturbance. Noise disturbance is the cause of degradation and may produce negative impacts on public health, property and the environment; and

WHEREAS, noise attenuation should be an integral part of the design and construction of Data Centers in order to prevent noise pollution and noise disturbance; and

WHEREAS, the county finds that the public interest is served by the prevention of unreasonable noise emanating externally from the Data Centers and the provisions of this Ordinance are enacted for the purpose of preserving and protecting the public health, safety, welfare and property of the citizens of Faulkner County, Arkansas.

**THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF FAULKNER
COUNTY, ARKANSAS, AS FOLLOWS:**

ARTICLE 1. Purpose and Applicability

This ordinance shall only apply to noise disturbances originating within the unincorporated areas of Faulkner County, Arkansas.

ARTICLE 2: Definitions

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. *Ambient Noise*: The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excusing the alleged offensive noise, at the

locations and approximate time at which comparison with the alleged offensive noise is to be made.

2. *Data Center*: Industrial or commercial building or facility that houses IT infrastructure for building, running, and delivering applications and services, and for storing and managing the data associated with those applications and services includes but is not limited to commercial crypto mining facilities.
3. *Decibel (dB)*: A unit for measuring the volume of a sound, equal to twenty (20) times to the base 10 (10) of the ratio of the pressure of the sound measured to the referenced pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter.)
4. *Mechanical Equipment*: The networked computer systems along with supporting equipment such as batteries, backup generators, and cooling systems housed on the Data Center's property.
5. *Noise Disturbance* is any sound which:
 - a. Endangers or injures the safety or health of humans or animals; or
 - b. Annoys or disturbs a reasonable person of normal sensitivities; or
 - c. Endangers or injures person or property.
6. *Person*: An individual, association, partnership, or corporation, including any officer, employee, department, or agency.
7. *Property Line*: An imaginary line along the ground surface, and its vertical extension, which separates the property owned by one person from that owned by another person, but not including intra-building property divisions.
8. *Sound*: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
9. *Sound Level*: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI SI. 4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
10. *Sound Level Meter*: An instrument which includes a microphone, an amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

ARTICLE 3: Procedure for Measurement

All tests shall be conducted according to the following procedures:

1. *Complaint Driven*: When the measurement is the result of a complaint, measurements will be taken at the property line of the receiving property.

2. *Normal Monitoring:* When the measurement procedure is in the normal course of monitoring sound, the measurements will be taken at the property line of the source of the sound.
3. *Calibration:* The sound level meter must be calibrated at least every two years.
4. *Meter Placement:* The sound level meter must be placed a minimum of four feet above the ground or from any reflective surface. The microphone must be pointed at the sound source.
5. *Measurements:* Measurements must include “high”, “average”, and “low” readings. If the sound level meter does not provide these multiple readings, a minimum of three separate measurements must be taken at a single location at varying time intervals. The average sound level reading shall be used to determine whether there has been a violation of this Ordinance.
6. *Monitoring Report:* The report for each measurement session must include:
 - a. The day, date and time of the measurements,
 - b. Date and time of recent calibration of the sound meter,
 - c. Temperature,
 - d. Identification of the monitoring equipment,
 - e. Location, land use, and description of the source,
 - f. Location and land use of the listener, and
 - g. Sound level measurements.
7. *Extraneous Sounds:* If there are extraneous sound sources that are unrelated to the measurements and increase the monitored sound level, the measurement shall be postponed until these noises subside.

ARTICLE 4: Noise Limitations

It shall be unlawful for any Data Center to make, or continue to cause or permit to be made or continued, noise levels constituting a noise disturbance.

For the purposes of this section, the external noise level emanating from Data Centers shall be deemed a noise disturbance per se, if the sound level is 60 dBa or higher during the hours of 8 A.M. to 8 P.M. or 55 dBa or higher during the hours of 8 P.M. to 8 A.M. measured at the property line of the receiving property.

The standard which may be considered in determining whether a violation of this Ordinance exists for a noise disturbance not meeting the threshold set forth in the immediately preceding sentence includes, but is not limited to the following:

- a. The level or volume of the noise;
- b. The time of day or night the noise occurs;
- c. The duration of the noise;
- d. Whether the noise is recurrent, intermittent or constant; and

- e. Whether proper and reasonable noise attenuation methods were followed and maintained

ARTICLE 5: Violations

1. Any or all of the following persons may be held responsible for noise violations:
 - a. The person operating the equipment or creating the noise;
 - b. The person who employs the person operating the equipment or creating the noise at the time of the violation;
 - c. The person who owns or rents the property where the violation occurs.

ARTICLE 6: Penalties

- (1) Any person(s), firm, corporation, partnership, association, owner, occupant, agent or anyone having ownership in the subject property or supervision or control over the Data Center that violates or fails to comply with any provision of this Ordinance, shall be guilty of a misdemeanor.
- (2) Upon conviction of such violation, any offending party shall be punished by fine of up to \$1,000 for any one specified offense or violation. Each day of a continuing violation constitutes a separate violation. Furthermore, if the prohibited act continues after the conviction of a violation, a court may issue a fine in an amount up to \$500 for each day that the unlawful conduct continues. Additionally, the County may petition for an injunction in a court of proper jurisdiction to abate the nuisance. The county or any citizen shall be entitled to pursue all legal and equitable remedies available under the law in order to abate the nuisance and compel compliance with this Ordinance, including injunctive relief and any civil damages the court deems appropriate.

ARTICLE 7: Severability

If any provision of this Ordinance is found to be invalid by the decision of any court of competent jurisdiction, such invalidity shall not affect the remaining sections, phrases, and provisions of this Ordinance which shall remain valid and enforceable.

ARTICLE 8: Emergency Clause

The Quorum Court finds that the immediate implementation of this ordinance is necessary for the preservation of the public's peace, health, safety, welfare, and property, an emergency is hereby declared to exist and that this Ordinance is to be in effect immediately after its adoption.

PASSED AND APPROVED this 18th day of July, 2023.

APPROVED: 
COUNTY JUDGE

ATTEST: 
COUNTY CLERK