

**PROPOSED ORDINANCE 25-12**

**Sponsored by Justice Allison**

**BE IT ENACTED BY THE QUORUM COURT OF FAULKNER COUNTY, STATE OF ARKANSAS, AN ORDINANCE ENTITLED: “AN ORDINANCE TO AMEND ORDINANCE 23-20 AND TO DECLARE AN EMERGENCY”**

*WHEREAS, Arkansas state law ACA 14-14-801 specifically states the powers of a county Quorum Court include the power to “preserve the peace and order and secure freedom from dangerous or noxious activities.”*

*WHEREAS, excessive noise in rural Faulkner County can be a dangerous and noxious activity, disturbing the peace and order in the areas affected by such noise.*

*WHEREAS, Act 173 of the 2024 fiscal session of the Arkansas Legislature amended the Arkansas Data Centers Act of 2023, and repealed restrictions that previously prevented county governments from effectively protecting citizens from the harm caused by excessive noise produced by crypto-mining facilities.*

*WHEREAS, with the passage of Act 173 in 2024, state law now permits this Court greater authority to regulate crypto-mining facilities to protect Faulkner County citizens from the harmful effects of such facilities.*

*WHEREAS, the restrictions on data centers enumerated in ordinance 23-20 have proven insufficient to provide relief to affected Faulkner County citizens.*

*WHEREAS, more crypto-mining facilities have expressed interest in opening in Faulkner County, threatening to torture more Faulkner County citizens absent sufficient regulation by this Court, regulation that is now permissible under state law.*

**THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF FAULKNER COUNTY, ARKANSAS, TO AMEND FAULKNER COUNTY ORDINANCE 23-20 AS FOLLOWS,**

SECTION 1. Article 2 of Faulkner County Ordinance 23-20 is amended to add the definition of Noise Attenuation as follows.

**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 Attenuation:** The reduction of noise levels through the use of sound-absorbing material, architectural design techniques, and/or any other suitable means.

6. **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.

7. **Person:** An individual, association, partnership, or corporation, including any officer, employee, department, or agency.

8. **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.

9. **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.

10. **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.

11. **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.

SECTION 2. The following is inserted to become Article 3 in the amended version of Ordinance 23-20, and each subsequent Article in the original ordinance is appropriately renumbered.

### **ARTICLE 3: Noise Attenuation Requirements**

Before a Cryptocurrency Data Center has commenced construction or operating within this jurisdiction, the property owner and operator proposing to build a Cryptocurrency Data Center shall comply with the following:

#### **1. Notice Requirements**

The property owner and/or operator must notify all residents within a half-mile radius of the parcel, including any affiliated homeowners' association operating within the half-mile radius, that the property owner and operator intends to build and operate a Cryptocurrency Data Center on the property. The notice required in this section must be mailed to all postal addresses and homeowners' association addresses contained within a half-mile radius extending from the property line where the proposed Cryptocurrency Data Center will be built. Proof of notification shall be filed with the county clerk's office within 30 days of providing notice. The property owner and operator must notify the County Judge that the property owner and operator intends to build and operate a Cryptocurrency Data Center. The notification must include the location for the proposed Cryptocurrency Data Center.

#### **2. Noise Study Requirements**

The property owner and/or operator of the lands upon which the Cryptocurrency Data Center is to be located shall conduct a sound study performed by a third party acoustic engineer to document baseline sound levels in the area of the proposed Cryptocurrency Data Center, including noise levels measured at the property line in eight locations (north, south, east, west, northeast, northwest, southeast, southwest.) The report of the study must include sound mitigation recommendations based on the results of the sound study. The property owner must provide a copy of the report of the study to the county judge and file with the county clerk within 30 days of completion of the report.

#### **3. Noise Attenuation Plan Requirements**

The property owner and/or operator must consult with a third- party architectural or design firm to develop a building plan that includes necessary noise attenuation measures in order to prevent the external sound level emanating from the Cryptocurrency Data Center

from exceeding the sound level limitations below which will be considered a noise disturbance. The building plan is not required to adopt any or all of the noise attenuation recommendations so long as the plan includes noise attenuation measures that the architectural or design firm deems adequate to be in compliance with this Ordinance. Noise attenuation measures may include, but not limited to soundproofing walls, screens, panels, fences, or sufficient enclosures.

#### **ARTICLE 4: 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. Faulkner County Ordinance 20-23
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 5: Noise Limitations** It shall be unlawful for any Cryptocurrency 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 Cryptocurrency 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 proceeding 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 6: 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.

2. The following acts, and the causing thereof, are declared to be in violation of this Ordinance:

- a. The sound level emanating from the Cryptocurrency Data Center exceeds 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.
- b. The noise attenuation measures provided in the design plan to the county judge are not incorporated in the construction of the Cryptocurrency Data Center.

- c. Any of the required sound study results are not filed with the county judge and the county clerk within 30 days of completion of the report.
- d. The building plan is not filed with the county judge and the county clerk within 30 days of completion of the plan prior to construction.
- e. Failure to act in accordance with any other provision of this Ordinance.

3. All Cryptocurrency Data Centers shall be in compliance with the requirements of this Ordinance before commencing operation; failure to do so will be deemed in violation of this Ordinance and result in an injunction and/or a stay in commencing operation.

#### **ARTICLE 7: 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 Cryptocurrency 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.

(3) Until the Cryptocurrency Data Center is in compliance with this Ordinance and required noise attenuation measures are implemented and noise limitations met, the Cryptocurrency Data Center shall cease operations.

#### **ARTICLE 8: 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 9: 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.

Approved by the Quorum Court on May 2, 2025.

Attest:\_\_\_\_\_

Margaret Darter

Secretariat

Dated:

Affirm:\_\_\_\_\_

Allen Dodson Faulkner County

Faulkner County Judge

Dated:

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