

Garland County, Arkansas
Public Health, Welfare & Safety Committee Meeting
Courtroom 200
June 26, 2023 – 5:30 PM

Agenda

Committee Members: Chairman Larry Raney, Vice Chairman Jimmy Young, Justices Esther Dixon, Dayton Myers, Debbie McGrew, Jason Braziel, and Thomas Anderson

All Justices of the Peace are welcome and encouraged to attend.

1. Call to order and invocation.
2. Consideration of an ordinance adopting certain rules and regulations concerning external noise attenuation of Data Centers and to prevent noise disturbance in Garland County and within its unincorporated limits.
3. Consideration of an ordinance to amend Garland County Code, Chapter 46- Master Road Plan and Specifications, ordinance O-13-55, regarding the operation of tracked vehicles on county-maintained roads.
4. Consideration of an ordinance to amend Garland County Code, Chapter 25 – Fire Prevention and Protection ordinance O-01-29, regarding open burning.
5. Adjourned

**BE IT ENACTED BY THE QUORUM COURT OF GARLAND 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 IN GARLAND COUNTY AND WITHIN ITS 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 Garland County Quorum Court 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 Garland County, Arkansas; and

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF GARLAND COUNTY, ARKANSAS, AS FOLLOWS:

ARTICLE 1. Purpose and Applicability

All data centers constructed within this jurisdiction shall be designed and built to incorporate external noise attenuation measures in order to minimize the impact of noise disturbance on the residents of Garland County, Arkansas.

This ordinance shall apply to limit the noise disturbance originating within the unincorporated limits of Garland 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*: A facility constructed and operated that is engaged in storage, management, processing, and transmission of digital data, including facilities used for cryptocurrency mining, which houses networked computer systems along with supporting equipment such as batteries, back-up power generators, HVAC and cooling systems.
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 real 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 real property owned by one person from that owned by another person, but not including intra-building real 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.

ARTICLE 3: Noise Attenuation Requirements

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

1. *Notice Requirements*

- a. The property owner and 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 data center on the property. The property line(s) of the parcel shall not be manipulated to avoid or evade compliance with this ordinance. 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 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 data center. The notification must include the location for the proposed data center.

2. *Noise Study Requirements*

- a. The property owner of the lands upon which the 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 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*

- a. The property owner 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 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 are not limited to:
 - i. Soundproofing walls, screens, panels, fences, or enclosures
 - ii. Buffer yards
 - iii. Other noise attenuation measures recommended by the third-party acoustic engineer
- b. Mechanical equipment must be shown on any proposed plan and must be fully screened on all sides. Mechanical equipment not screened by a facade of the building must be screened by a visually solid fence, screen wall or panel, or

parapet wall and constructed with a design, materials, details, and treatment compatible with those used on the nearest facade of the building.

- c. The property owner must provide a copy of the building plan to the county judge and file with the county clerk within 30 days of completion of the plan prior to construction.
- d. Any additions, changes, or expansions of the data center must comply with the noise attenuation requirements of this ordinance and must be designed and submitted to the county judge and file with the county clerk within 30 days of completion of the report.

4. *Post Completion Noise Study Requirements*

- a. Upon the data center's completion, the data center operator must conduct a post-construction noise study performed by a third-party acoustic engineer to document noise levels emanating from the data center when mechanical equipment is running at full capacity, including all HVAC units and generators necessary for peak operation. Noise levels are to be measured at the property line in the original eight locations used during the baseline study. The data center operator must provide a copy of the report to the county judge and file with the county clerk within 30 days of completion of the study.
- b. The data center shall not begin operations until the completion of the post-construction noise study and submission to the county judge and county clerk as required above. In order for the data center to be in compliance, the noise study results must show that its operation is in compliance with this ordinance. If the results show that the data center is not in compliance with this ordinance, the data center will be unable to commence operation until the required noise attenuation measures and noise limitations are met.
- c. Furthermore, the data center operator must conduct annual noise studies under the baseline and post-construction studies specifications in accordance with subsections (a) and (b) above. The data center operator must provide the results to the county judge and file with the county clerk within 30 days after the anniversary date of the first sound study report.

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.
2. *Normal Monitoring*: When the measurement procedure is in the normal course of monitoring sound, the measurements will be taken at the real property line of the source of the sound.

3. *Outdoor Conditions:* No outdoor measurements must be taken while winds exceed (including gusts) 15 miles per hour; under conditions that will allow the sound level meter to become wet; or when the ambient temperature is out of range of tolerance on the sound meter.
4. *Calibration:* The sound level meter must be verified and calibrated according to the manufacturer's specifications immediately prior to taking the measurements.
5. *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.
6. *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.
7. *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,
 - c. Temperature and wind speed the time of measurement,
 - 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.
8. *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 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 disturbing to a person, reasonably calculated to disturb the peace and unreasonably offensive and injurious to the public, or their property, if the sound level is:

1. 65 dBa or higher during the hours of 8 A.M. to 10 P.M. or 55 dBa or higher during the hours of 10 P.M. to 8 A.M. (as determined by a third-party acoustic engineer) measured at the property line of the receiving property.
2. The standard which may be considered in determining whether a violation of this ordinance exists 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
- 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 or entity operating the equipment or creating the noise;
 - b. The person or entity who employs the person operating the equipment or creating the noise at the time of the violation;
 - c. The person or entity 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 data center exceeds 65 dBA or higher during the hours of 8 A.M. to 10 P.M. or 55 dBA or higher during the hours of 10 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 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 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 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 \$1,000 for any one specified offense or violation, or double that sum for repetition of the offense or violation. If the act prohibited is continuous in time, the fine or penalty for allowing the continuance thereof, in violation of this ordinance, shall be \$500 for each day that it may unlawfully continue. If the prohibited act continues after conviction of violation, an injunction in court of proper jurisdiction to abate the nuisance and violation of the ordinance may be sought and awarded.

- (3) 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.
- (4) Until the data center is in compliance with this ordinance and required noise attenuation measures are implemented and noise limitations met, the 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 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.

PASSED AND APPROVED this _____ day of _____, 2023.

APPROVED: _____
GARLAND COUNTY JUDGE
DARRYL MAHONEY

ATTEST: _____
GARLAND COUNTY CLERK
SARAH SMITH

SPONSOR: _____
JUSTICE OF THE PEACE

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

**“AN ORDINANCE TO AMEND GARLAND COUNTY CODE, CHAPTER 46 –
MASTER ROAD PLAN AND SPECIFICATIONS (O-13-55), REGARDING THE
OPERATION OF TRACKED VEHICLES ON COUNTY-MAINTAINED ROADS, AND
FOR OTHER PURPOSES.”**

WHEREAS, O-13-55 was enacted by the Garland County Quorum Court on August 12, 2013, and which is codified in the Garland County Code at SECTION 46 -- MASTER ROAD PLAN AND SPECIFICATIONS, and which established standards for the construction and maintenance of county roads; and

WHEREAS, the operation of tracked vehicles on county-maintained roads and the rights of way thereof causes damage to public property; and

WHEREAS, amendments are needed to regulate the use of tracked vehicles on county-maintained roads and the rights of way thereof, and establish fines, penalties, enforcement and civil liability; and

WHEREAS, the Public Health, Safety and Welfare Committee has previously considered this ordinance and recommended approval; and

**NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF GARLAND
COUNTY, ARKANSAS:**

ARTICLE 1.

A new section shall be added to SECTION 46 – MASTER ROAD PLAN AND SPECIFICATIONS and shall read as follows:

(a) DEFINITIONS

(1) The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this subsection, except where context clearly indicates a different meaning:

(A) County-maintained road: Any road bed, ditch, or adjacent right of way upon which the county road department is responsible to perform maintenance.

(B) Tracked vehicle: Any motor vehicle having metal tracks or metal tires.

(b) PROHIBITED

It shall be unlawful for any person to operate any tracked vehicle on any county road, including loading and unloading such a vehicle from a trailer or other transport.

(c) PENALTY

Any person or entity violating any provision of this section shall be fined not less than \$100.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed for each specific violation or for each day on which a violation occurs or continues.

(d) ENFORCEMENT

The Garland County Sheriff's Office shall enforce this ordinance.

(e) CIVIL LIABILITY

In addition to any penalties set forth section (c) herein, civil liability shall be incurred by any person or entity responsible for all damage caused by violation of this section.

(f) EXCEPTION

The county judge or the road commissioner shall have the authority to issue a permit to operate a tracked vehicle related to bona fide construction, repair, maintenance and demolition work on roads, bridges, utilities and rights of way. It shall not be a violation of this section to operate a tracked vehicle pursuant to a permit issued by the county judge or the road commissioner. Any person or entity seeking to operate a tracked vehicle on a county road shall apply to the county judge or the road commissioner in writing, in advance, and receive said permit prior to operating the vehicle. Issuance of a permit shall be at the discretion of the county judge and shall not be mandatory. The county judge or the road commissioner shall have the authority to charge a permit fee of not more than \$_____. The county judge or the road commissioner shall have the authority to require a surety bond to be posted to cover any damage from the operation of a tracked vehicle on a county road, and to determine the amount of said bond.

ARTICLE 2. CODIFICATION

This section shall be codified in the Garland County code and the sections shall be renumbered and re-lettered as necessary.

ARTICLE 3: 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 remain valid and enforceable.

ARTICLE 4: EMERGENCY CLAUSE

The Garland County 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 _____ day of _____, 2023.

APPROVED: _____
GARLAND COUNTY JUDGE
DARRYL MAHONEY

ATTEST: _____
GARLAND COUNTY CLERK
SARAH SMITH

SPONSOR: _____
JUSTICE OF THE PEACE

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

“AN ORDINANCE TO AMEND GARLAND COUNTY CODE, CHAPTER 25 – FIRE PREVENTION AND PROTECTION (O-01-29), REGARDING OPEN BURNING, AND FOR OTHER PURPOSES.”

WHEREAS, O-01-29 was enacted by the Garland County Quorum Court on August 13, 2001, and which is codified in the Garland County Code at SECTION 25 – FIRE PREVENTION AND PROTECTION, and which authorized the county judge to declare a burn ban in certain conditions, established a process to obtain a burning permit during a burn ban, and established procedures and penalties for burning during a burn ban without a permit; and

WHEREAS, unregulated burning of certain materials creates air pollution, ground and water pollution, and creates a safety hazard, and

WHEREAS, amendments are needed to regulate the burning of certain materials in the unincorporated areas of the county, and

WHEREAS, the Public Health, Safety and Welfare Committee has previously considered this ordinance and recommended approval; and

NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF GARLAND COUNTY, ARKANSAS:

ARTICLE 1.

A new section shall be added to SECTION 25 – FIRE PREVENTION AND PROTECTION and shall read as follows:

(a) OPEN BURNING PROHIBITED

1. No person or entity shall burn or cause to be burned any of the following items in the unincorporated areas of Garland County at any time without a permit issued by the county judge:
 - A. Household waste
 - B. Construction debris
 - C. Furniture or household goods
 - D. Lumber, sawdust or processed wood products
 - E. Cardboard or paper products
 - F. Tires, roofing, plastics, rubber, styrofoam, or other petroleum-based products
 - G. Animal carcasses.

(b) EXCEPTION

Any person or entity may burn yard waste, leaves, limbs, brush, trees and stumps originating on his or her or its own real property at any time without a permit, unless a burn ban is in effect.

(c) PENALTY

Any person or entity violating any provision of this section shall be fined not less than \$100.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed for each specific violation or for each day on which a violation occurs or continues.

(d) ENFORCEMENT

The Garland County Sheriff's Office shall enforce this ordinance. The Garland County Environmental Inspections Division shall have concurrent authority to enforce this ordinance.

(e) PERMIT

The county judge or his designee shall have the authority to issue a permit to burn certain items set forth in Section (a)(1) in cases of emergency or conditions where such burning is determined to be in the public interest. Any person or entity seeking a permit shall apply to the county judge or his designee in writing, in advance, and receive said permit prior to burning. Issuance of a permit shall be at the discretion of the county judge or his designee and shall not be mandatory. The county judge or his designee shall have the authority to charge a permit fee of not more than \$_____.

ARTICLE 2. CODIFICATION

This section shall be codified in the Garland County code and the sections shall be renumbered and re-lettered as necessary.

ARTICLE 3: 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 remain valid and enforceable.

ARTICLE 4: EMERGENCY CLAUSE

The Garland County 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 _____ day of _____, 2023.

APPROVED: _____
GARLAND COUNTY JUDGE
DARRYL MAHONEY

ATTEST: _____
GARLAND COUNTY CLERK
SARAH SMITH

SPONSOR: _____
JUSTICE OF THE PEACE