



**SALINE COUNTY QUORUM COURT
AGENDA**

DATE-----July 17, 20223

PLACE-----Saline County Courthouse, Courtroom #3

6:30 P.M.-----Call Meeting to Order

INVOCATION

PLEDGE OF ALLEGIANCE

CLERK: Call the Roll

APPROVAL OF MINUTES

REPORTS/PROCLAMATIONS:

OLD BUSINESS:

Second Reading: Ordinance Amending Ordinance 1978 – 1, to Revise the Obligations, Duties and Powers of the Administrative Saline County Library Board

NEW BUSINESS:

Exhibit "B": Ordinance Amended Ordinance No. 2004-34, the Litter Control Ordinance

Exhibit "C": Resolution Expressing Willingness of Saline County to Utilize Federal-Aid Funds for Highway 5 & Desoto Boulevard Roundabout

Exhibit "D": Ordinance Appropriating Funds from District Court Automation Fund for District Court Related Technology Purposes

Exhibit "E": Resolution Authorization Marriage Solemnization

Exhibit "F": Ordinance Adopting Certain Rules and Regulations Concerning External Noise Attenuation of Data Centers and to Prevent Noise Disturbance

Action Item: Request to Increase New Hire at Saline County Detention Center from \$16.00 to \$17.28 Due to Experience, Retroactive to Initial Hire Date of May 15, 2023

ADD ON:

DISCUSSION:

COMMENTS:

**SALINE COUNTY QUORUM COURT
MINUTES
JUNE 19, 2023**

The Saline County Quorum Court met on Monday, June 19, 2023 at 6:30 p.m. in Courtroom #3 in the Saline County Courthouse. County Judge Matt Brumley called the meeting to order. Justice of the Peace Jim Whitley gave the invocation and Justice of the Peace C. J. Engel led the Pledge of Allegiance.

Roll call was taken with all members present.

Motion by Carlton Billingsley and seconded by Barbara Howell to approve the Minutes from the May 15, 2023 Quorum Court Meeting. Motion passed unanimously by voice vote.

REPORTS/PROCLAMATIONS:

NONE.

OLD BUSINESS:

NONE.

NEW BUSINESS:

Exhibit "A": Motion by Pat Bisbee and second by Barbara Howell for Appointment of Vicki Baldrige to Saline County Board of Equalization. Motion passed unanimously.

Exhibit "B": Motion by J. R. Walters and seconded by C. J. Engel for Appointment of Jamie Clemmer to the Saline County Public Library Board for a term to expire on June 30, 2023 in order to fill a vacancy after Caroline Miller Robinson's resignation. Motion passed unanimously.

Exhibit "C": Motion by Carlton Billingsley and seconded by J. R. Walters to approve Appointment of Jamie Clemmer to the Saline County Public Library Board for a term to expire June 30, 2028. Motion passed unanimously.

Motion by J. R. Walters and seconded by Josh Curtis to suspend the rules and read title only of Exhibit "D". Motion passed unanimously.

Exhibit "D": Motion by J. R. Walters and seconded by Barbara Howell to approve Ordinance Amending 2023 Saline County Budget Ord. 2022-36; to Appropriate/Transfer Funds therefore to the Various Budgets; and, for other Purposes. Roll call vote; motion approved unanimously. Ordinance 2023-14.

Exhibit "E": Motion by Josh Curtis and seconded by J. R. Walters to approve First Reading of Ordinance Amending Ord. 1978-1, to Revise the Obligations, Duties and Powers of the Administrative County Library Board for Saline County. Motion approved unanimously by voice vote.

COMMENTS:

Judge Brumley instructed those in attendance that had signed in for public comment that they would each have 3 minutes with a 30 second warning.

The following spoke in this order:

Greg White
Lydia Cheatum
Robin Campbell
Preston Lewis
Clay Harrison
Rachel Glenn
Fred McGraw
Rena' Allmond
Stephanie Johnson
Frank Curtis
Monica Davidson
Bryan Rousey
Frona Coldiron
Deana Nall
Shannon Everett
Gary Don Beck
Jennifer Floyd
Wayne Beech
Dusty Higgins
Kristen Netterstrum Higgins
Keith Kellum
Clint Lancaster
Varena Hammons
Alan Robinette

Motion made by Josh Curtis and seconded by J. R. Walters to adjourn. Motion passed by voice vote.

Meeting adjourned at 8:17 p.m.

ORDINANCE NO. 2023 -

BE IT ENACTED BY THE QUORUM COURT OF SALINE COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE AMENDING ORDINANCE NO. 1978-1, TO REVISE THE OBLIGATIONS, DUTIES AND POWERS OF THE ADMINISTRATIVE COUNTY LIBRARY BOARD FOR SALINE COUNTY."

BE IT ORDAINED BY THE QUORUM COURT OF SALINE COUNTY

WHEREAS, Saline County Ordinance No. 1978-1 ("Library Ordinance") established an administrative county library board for Saline County ("Saline County Library Board");

WHEREAS, Arkansas Code Annotated § 14-15-705 authorizes a county administrative board to exercise administrative powers granted by county ordinance; and,

WHEREAS, the Quorum Court of Saline County ("Quorum Court") has determined that it is in the best interest of Saline County residents that the administrative powers granted to the Saline County Library Board be amended.

NOW THEREFORE BE IT ORDAINED BY THE QUORUM COURT OF SALINE COUNTY, ARKANSAS:

Article 1. The Library Ordinance, Saline County Ordinance No. 1978-1, is hereby amended and revised by this Ordinance as set forth below.

Article 5. The Saline County Library Board created by this Ordinance shall have ~~full and complete authority, subject to oversight by the Saline County Judge,~~ to manage, operate, maintain and keep in a good state of repair any and all buildings, equipment or installations of any kind used and devoted to the purpose of the Saline County Public Library as the same exists at the time the said Board receives them or as may be added or changed hereafter. ~~The Saline County Library Board shall have the power and duty to employ or remove all employees of the Saline County Public Library and to fix, regulate and pay their salaries.~~ The Board shall have the exclusive right and power, subject to the Saline County Judge's oversight, to make purchases of all supplies and equipment and other property and things requisite and necessary for the operation and management of the Saline County Public Library. This power includes contracting for or purchasing including new construction and equipment as needed it being the intention of this Ordinance to vest in said Board the authority to operate, manage, maintain equipment and control the Saline County Public Library all subject to county purchasing all statutory and constitutional laws of Arkansas.

Article 6. The Saline County Library Board shall have authority to enter into contracts, other than for the purposes of employment, with persons, firms, corporations or organizations including all levels of government and municipal corporations for any legitimate purpose in furtherance of the operation of the Saline County Public Library, subject to all applicable state and local laws.

Article 7. The Board shall adopt such rules, policies, procedures, and regulations as it may deem necessary and expedient for the proper operation and management of The Saline County Public Library, not inconsistent with this Ordinance or the laws of the State of Arkansas, and shall have authority to alter, change or amend such rules and regulations at its discretion. Prior to adoption of any rules, policies, procedures, or regulations under this Article, the Board shall submit the proposals to the Saline County Judge for review. The Board shall have the final authority to adopt or amend any rules, policies, procedures, or regulations subject to all applicable state and local laws.

Article 8. The Board shall submit quarterly reports beginning three months after its organization, and each three months thereafter, reporting in full on the operations, including an accounting of receipts and disbursements, to the County Judge and the Quorum Court, and shall furnish such other and further reports data and information as may be requested by the County Judge and the Quorum Court. The quarterly report to the County Judge and the Quorum Court with respect to receipts and disbursements shall be certified as correct by said Board. Said Board shall also submit to the County Judge and the Quorum Court an annual third-party audit by a non-governmental accounting firm of the operations of said Saline County Public Library. The Board shall submit a detailed line-by-line library budget during the county's annual budget process, for review and approval by the Quorum Court, and subject to appropriation by the Quorum Court.

Article 9. All sums collected by said Board shall become County funds and be deposited in the County Treasury in a separate fund to be called the Saline County Public Library Fund. All county monies for the operation of the Saline County Public Library shall be provided by Quorum Court appropriation. ~~The Board members shall each furnish to the County a \$2,500.00 property bond, which shall be filed with the County Clerk, which will insure the County against any misappropriation or mishandling of funds.~~ The Board members shall receive no salary, nor other form of monetary compensation for their services. Board members shall cause to be furnished to the County, for filing with the County Clerk, subject to any statutory requirements, sufficient security, through bonding or insurance, to insure the County against any misappropriation or mishandling of funds. The Library Board shall cause to be obtained a primary payer or first payer insurance policy or policies to provide adequate security against claims that may be made due to actions or inactions of the Library Board or Saline County Public Library, against the Library Board or Saline County Public Library, with the County as an additional insured.

Article 2. Strikethroughs are words or phrases to be deleted while underlined words or phrases are to be added to Library Ordinance 1978-1. All strikethroughs or underlined additions in this ordinance are to be deemed applied upon passage but prior to publication and application of the terms set forth herein.

Article 3. A copy of the amended Library Ordinance, incorporating the additions and deletions set forth in this ordinance, and this ordinance shall be on file in the Office of the County Clerk and available for public inspection during normal business hours.

Article 4. SEVERABILITY: If any part of this ordinance is held invalid, such invalidity shall not affect any other portion of this ordinance.

Article 5. REPEALER: Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

DATE: June 19, 2023

APPROVED: _____
MATT BRUMLEY
SALINE COUNTY JUDGE

ATTEST: _____
DOUG CURTIS
SALINE COUNTY CLERK

SPONSOR: JOSH CURTIS, JP DISTRICT #7
EVERETTE HATCHER, JP #2
C J ENGEL, JP #9
BARBARA HOWELL, JP #4
ED ALBARES, JP #8
JUSTIN RUE, JP #5
CLINT CHISM, JP #11
J R WALTERS, JP #12
JIM WHITLEY, JP #10
CARLTON BILLINGSLEY, JP #3

2nd Reading

ORDINANCE NO. 2023-__

BE IT ENACTED BY THE QUORUM COURT OF SALINE COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE AMENDING ORDINANCE NO. 2004-34, THE LITTER CONTROL ORDINANCE."

WHEREAS, Saline County is a beautiful county, with many natural assets, that has its natural splendor marred by litter; and

WHEREAS, Ordinance No. 2004-34 ("Litter Control Act") has been effective for almost 20 years, but amendments are needed to ensure that the public is properly aware of the Litter Control Ordinance and the help create sufficient disincentives to littering; and

WHEREAS, the Quorum Court of Saline County is committed to the goal of the Litter Control Act, which is to improve the quality of life for all citizens of the State of Arkansas and County of Saline.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF SALINE COUNTY

Article 1. Section 3 of the Litter Control Act entitled "ENFORCEMENT OF THE ACT" is hereby amended to add the following underlined language:

The County Judge of Saline County shall, to the extent there are funds available, cause signage to be placed on County roads referencing the Litter Control Act and possible monetary penalties for violating the Act.

Article 2. Section 8 of the Litter Control Act entitled "VIOLATIONS-PENALTIES" is hereby amended to add the following underlined and delete the following struck-through language:

Every person convicted of a violation of Section 4, 5, or 6 of this Act shall be fined not less than \$500.00 ~~\$250.00~~ nor more than \$1,000.00 ~~\$500.00~~ except:

(2) That those persons who violate Section 4, 5, or 6 of this Act and who are found to have committed the prohibited acts in furtherance of or as part of a commercial enterprise, whether or not that enterprise is the disposal of wastes, shall be guilty of "commercial littering" and as such shall be fined not less than \$700.00 ~~\$350.00~~ nor more than \$1,000.00 ~~\$500.00~~. Additionally, those convicted may be required to remove any litter disposed of in violation of this Act.

Article 3. Section 10 of the Litter Control Act entitled "PENALTY" is hereby amended to add the following underlined and delete the following struck-through language:

Any person who violates any provision of Section 9 of this Act shall be fined not less than \$500.00 ~~\$250.00~~ nor more than \$1,000.00 ~~\$500.00~~.

Article 4. Section 14 of the Litter Control Act entitled "PROCEEDS FROM SALE OF JUNK MOTOR VEHICLES, OLD VEHICLE TIRES AND INOPERATIVE OR DISCARDED HOUSEHOLD APPLIANCES" is hereby amended to add the following underlined and delete the following struck-through language:

PROCEEDS FROM SALE OF JUNK MOTOR VEHICLES, OLD VEHICLE TIRES, AND INOPERATIVE OR DISCARDED HOUSEHOLD APPLIANCES. OR FINES RECEIVED PURSUANT TO THIS ACT.

Any fines received pursuant to the "Litter Control Act" shall be deposited into the "Litter Control Account" and used solely to pay for: (1) signage in Saline County informing the public of the Litter Control Act; and, (2) other educational awareness opportunities for the public associated with the Litter Control Act as deemed appropriate by the County Judge of Saline County.

Article 5. Any strikethroughs or underlined additions in Articles 1-4 above are to be deemed applied subsequent to passage but prior to publication and application of the terms set forth herein.

Article 6. The provisions of this Ordinance are to be liberally construed to accomplish the objectives and purposes hereof.

Article 7. If any section of this Ordinance shall be declared unconstitutional or unlawful, only that section of the ordinance shall be affected and all other provisions of the ordinance shall remain in full force and effect.

Article 8. Any parts of Saline County Quorum Court Emergency Ordinance 2004-34, or any other, or part of, any ordinance, resolution, rule, regulation now in effect that are in conflict with this Ordinance are herewith and hereby repealed to the extent of such conflict.

Article 9. A copy of the amended Litter Control Act, incorporating the additions and deletions set forth in this ordinance, and this ordinance shall be on file in the Office of the County Clerk and available for public inspection during normal business hours.

DATE: July 17, 2023

APPROVED: _____
MATT BRUMLEY
SALINE COUNTY JUDGE

ATTEST: _____
DOUG CURTIS
SALINE COUNTY CLERK

SPONSOR: RICK BELLINGER, JP DISTRICT # 6

RESOLUTION NO. 2023 - _____

**SALINE COUNTY QUORUM COURT
FEDERAL-AID PROJECT RESOLUTION**

A RESOLUTION EXPRESSING THE WILLINGNESS OF SALINE COUNTY TO UTILIZE FEDERAL-AID FUNDS FOR THE FOLLOWING COUNTY PROJECT: HIGHWAY 5 & DESOTO BLVD. ROUNDABOUT

WHEREAS, Metroplan has approved Federal-Aid Surface Transportation Block Grant Program – attributable funds for the project at the following Federal and County participating ratios, up to the maximum Federal-Aid available:

Type Work	Work Phase	Federal %	County %
Projects that reach construction	Preliminary Engineering	80	20
	Right-of-Way	80	20
	Utilities	80	20
	Construction	80	20
	Construction Engineering	80	20
Projects that never progress to construction	All Phases	0	100

NOW THEREFORE, BE IT RESOLVED BY THE QUORUM COURT OF SALINE COUNTY THAT:

Section I: The County will participate in accordance with its designated responsibilities in this project.

Section II: The Saline County Judge Matt Brumley or his designated representative is hereby authorized and directed, on behalf of the Saline County Quorum Court, to execute all appropriate agreements and contracts necessary to expediate the construction of this County project.

Section III: The County pledges its full support and hereby authorizes the Arkansas Department of Transportation to initiate action to implement this project.

THIS RESOLUTION adopted this 17th day of July, 2023.

APPROVED: _____
MATT BRUMLEY
SALINE COUNTY JUDGE

ATTEST: _____
DOUG CURTIS
SALINE COUNTY CLERK

APPROPRIATION ORDINANCE NO. 2023 - ____

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

"AN ORDINANCE APPROPRIATING FUNDS FROM THE DISTRICT COURT AUTOMATION FUND FOR THE PURPOSE OF DISTRICT COURT RELATED TECHNOLOGY AND FOR OTHER RELATED PURPOSES."

WHEREAS, the City of Benton and the County of Saline in cooperation and in conjunction with each other provide local access for the public to the judicial system through the District Court of Saline, Benton Division; and

WHEREAS, Ark. Code § 16-13-704 allows the District Court to collect an installment fee each month on each account that the Judge allows a defendant to make time payments on and said installment fees are collected and deposited each month in an account held by the City of Benton entitled the "District Court Automation Fund" solely for the purpose of district court-related technology, and;

WHEREAS, Ark. Code § 16-13-704 requires that expenditures from the District Court Automation Fund be approved by the District Judge and authorized by the City Council of the City of Benton and the Quorum Court of the County of Saline.

NOW THEREFORE BE IT ORDAINED BY THE QUOURM COURT OF SALINE COUNTY, ARKANSAS:

Article 1. That the amount of \$20,495.00 currently held in the District Court Automation Fund is hereby authorized and appropriated to be spent on district court-related technology, to include replacement of office and court computers and other technology used for the purpose of the District Court.

Article 2. That the City of Benton Chief Financial Officer, upon joint approval by the Quorum Court of Saline County, is authorized to transfer said amount from the District Court Automation Fund and pay for district court-related technology.

Article 3. It is hereby found and determined that the immediate passage of this Ordinance is necessary for the continued efficient maintenance of the District Court of Saline County and being necessary for the immediate preservation of the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

DATE: JULY 17, 2023

APPROVED: _____

MATT BRUMLEY
SALINE COUNTY JUDGE

ATTEST: _____
DOUG CURTIS
SALINE COUNTY CLERK

SPONSOR: J. R. WALTERS, JP DISTRICT NO.12

Exhibit "E"

RESOLUTION NO. 2023-__

SALINE COUNTY QUORUM COURT

A RESOLUTION APPOINTING STEVE COX TO SOLEMNIZE THE MARRIAGE OF JEREMY COX AND BRANDI BURTON IN SALINE COUNTY, ARKANSAS

WHEREAS, Steve Cox has petitioned the Quorum Court, requesting to be appointed for the purpose of solemnizing the marriage of Jeremy Cox and Brandi Burton in Saline County, Arkansas and;

WHEREAS, A.C.A. § 14-20-110 provides that the County Quorum Court may appoint special officials to solemnize marriages within their respective counties; and

NOW THEREFORE, BE IT RESOLVED IN THE QUORUM COURT OF SALINE COUNTY, ARKANSAS that the Quorum Court of Saline County hereby appoints Steve Cox, pursuant to A.C.A. § 14-20-110, for the purpose of solemnizing the marriage of Jeremy Cox and Brandi Burton, in Saline County, Arkansas.

DATE: JULY 17, 2023

APPROVED: _____
MATT BRUMLEY
SALINE COUNTY JUDGE

ATTEST: _____
DOUG CURTIS
SALINE COUNTY CLERK

SPONSOR: JUSTIN RULE, JP DISTRICT # 5

EMERGENCY ORDINANCE NO. 2023- _____

BE IT ENACTED BY THE QUORUM COURT OF SALINE 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 SALINE 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.

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.

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 Saline County, Arkansas.

**THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF SALINE 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 Saline County, Arkansas.

This ordinance shall apply to limit the noise disturbance originating within the unincorporated limits of Saline 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 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 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 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 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: _____
MATT BRUMLEY
COUNTY JUDGE

ATTEST: _____
DOUG CURTIS
COUNTY CLERK

SPONSOR: KEITH KECK, JP DISTRICT # 13