

**BE IT ENACTED BY THE CITY OF HARRISON, 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 THE CITY OF HARRISON;**

**TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES**

**WHEREAS**, the City has undertaken and continues to study, assess and consider the issues relating to land use regulation and data centers in the City of Harrison.

**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.

**THEREFORE, BE IT ORDAINED BY THE CITY OF HARRISON, ARKANSAS, AS  
FOLLOWS:**

**ARTICLE 1. Purpose and Applicability**

The City Planning and Zoning Commission (hereinafter “Commission”) has been directed by the Council to study, assess and consider the Zoning Code and Land Use Regulations of the City and recommend to Council modifications, additions or deletions (if any) for the use of “data center” as set out in Act 851 of the 2023 General Session of the Arkansas State Legislature. Issues relating to noise disturbance are hereafter governed by this Ordinance.

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 Harrison, Arkansas.

This ordinance shall apply to limit the noise disturbance originating within the municipal limits of Harrison, Arkansas.

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 city clerk's office within 30 days of providing notice. The property owner and operator must notify the mayor 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 mayor and file with the city 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

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) 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 city 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 City of Harrison 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 July, 2023.

APPROVED: \_\_\_\_\_  
MAYOR

ATTEST: \_\_\_\_\_  
CITY CLERK