

BAXTER COUNTY CODE OF ORDINANCES
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Chapter 3: LAW ENFORCEMENT

Article

I. COUNTY POLICIES

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Article I. COUNTY POLICIES

Section

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| 300.00 | Portion of fines from drug related convictions to go towards Sheriff's K-9 program. |
| 300.01 | Portions of fine money from driving while intoxicated to go towards alcohol related services. |

§ 300.00 PORTION OF FINES FROM DRUG RELATED CONVICTIONS TO GO TOWARDS SHERIFF'S K-9 PROGRAM.

- 1) Thirty dollars (\$30.00) from each and every fine levied in the District Court against a defendant upon plea of guilty, nolo contendere, or conviction for the offenses of violating the Arkansas Uniform Controlled Substance Act A.C.A. § 5-64-401, Possessing Drug Paraphernalia A.C.A. § 5-64-403, and Possessing Instruments of a Crime A.C.A. § 5-73-102 and subsequently paid to the County Treasurer by the District Court, shall be designated for use by the Sheriff for the purposes of maintaining the operations of the Sheriff's canine program and operations.
- 2) Upon receipt of said fines by the County Treasurer, it is the intent of the Quorum Court that the fine money identified and designated in Section 1 hereinabove for use by the Sheriff shall be routinely added to the Sheriff's projects budget: #3400-0400-2061, K-9 Relief Fund.
- 3) The Sheriff, Treasurer, and District Clerk are hereby authorized to promulgate and implement any reasonable procedures they may jointly deem necessary to properly identify, track, and earmark the portion of fine money being so designated to the Sheriff herein.

([Ord. 2010-044](#), passed 8-3-2010; Am. [Ord. 2015-071](#), passed 10-13-2015)

§ 300.01 PORTIONS OF FINE MONEY FROM DRIVING WHILE INTOXICATED TO GO TOWARDS ALCOHOL RELATED SERVICES.

- 1) Thirty dollars from each and every fine levied in the District Court or Circuit Court against a defendant upon conviction for the offense of driving while intoxicated, A.C.A. § 5-65-103, and subsequently paid to the County Treasurer by the respective Court, shall be designated for use by the Sheriff for the purposes of maintaining the operations of the Sheriff's Office state certified breathalyzer installation, for the purpose of implementing educational programs, concerning alcohol abuse, and for the purpose of implementing

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programs or purchasing equipment to be used toward preventing or reducing the number of Driving While Intoxicated offenses committed in the County, as well as the enforcement of the Driving While Intoxicated statutes.

- 2) One half (\$15.00) of the fine money designated in Section 1 hereinabove shall be used for the purpose of maintaining the operations of the Sheriff's Office state certified breathalyzer installation, including the purchase of replacement equipment and supplies, and for the purpose of implementing education programs concerning alcohol abuse, and also for preventing or reducing the number of Driving While Intoxicated Offenses committed in the County, while the other one half (\$15.00) of the fine money designated in Section 1 hereinabove shall be used for the purpose of the enforcement of the Driving While Intoxicated statutes, including paying for supplies, fuel and equipment dedicated to those purposes.
- 3) Upon receipt of said fines by the County Treasurer, it is the intent of the Quorum Court that the portion of the fine money identified and designated in Section 1 hereinabove for use by the Sheriff shall be routinely added to the Sheriff's operating budget, half being designated for the "breathalyzer fund" and half being designated to the "DWI enforcement fund", in line items so designated, and being considered Special Funds.
- 4) The Sheriff, Treasurer, Circuit Clerk, and District Clerk are hereby authorized to promulgate and implement any reasonable procedures they may jointly deem necessary to properly identify, track and earmark the portion of fine money being so designated to the Sheriff herein.

([Ord. 2005-065](#), passed 5-3-2005)

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Article II. COUNTY JAILS

A.C.A. § 12-41-502. Supervision.

The county sheriff of each county in this state shall have the custody, rule, and charge of the jail within his or her county and all prisoners committed in his or her county, and he or she may appoint a jailer for whose conduct he or she is responsible.

A.C.A § 12-41-503(a)-(b). Management of local jail populations.

- (a) County sheriffs and other keepers or administrators of jails within the State of Arkansas are responsible for managing the populations and operations of their respective facilities in compliance with the laws and the Arkansas Constitution and within the requirements of the United States Constitution.
- (b) Neither a county sheriff nor another keeper or administrator of a jail shall refuse to accept any prisoner lawfully arrested or committed within the jurisdiction of the supporting agency of the jail except as necessary to limit prisoner population in compliance with subsection (a) of this section.

A.C.A. § 12-41-506(a). Municipal prisoners; expenses.

- (a) (1) In the absence of an agreement on jail costs between a county and all municipalities having law enforcement agencies in the county, the quorum court in a county in this state may by ordinance establish a daily fee to be charged municipalities for keeping prisoners of municipalities in the county jail.
- (2) The fee shall be based upon the reasonable expenses which the county incurs in keeping such prisoners in the county jail.

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Section

320.00	Fee for keeping prisoners from other political subdivisions and municipalities in the county jail.
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**§ 320.00 FEE FOR KEEPING PRISONERS FROM OTHER POLITICAL
SUBDIVISIONS AND MUNICIPALITIES IN THE COUNTY JAIL.**

- 1) The Baxter County Quorum Court will amend section § 320.00 of the Baxter County Code of Ordinances, and will no longer bill or collect any fees from any town or incorporated city or municipality located in Baxter County, Arkansas, for the housing of a prisoner from their jurisdiction.
- 2) All references to municipal law enforcement, fees, or collections from the same in Baxter County for housing prisoners or inmates, be stricken from the Baxter County Code § 320.00.
- 3) All such bills submitted by Baxter County Sheriff since July 1, 2019, shall be forgiven, and no such bill is to be submitted from the date of passage and addition of this Ordinance.
- 4) SEVERABILITY CLAUSE. If any provision or section of this Ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions and sections of the Ordinance or Baxter County Code §320.00 and shall be severable.
([Ord. 1977-021](#), passed 07-11-1977; Am. [Ord. 1978-055](#), passed 11-14-1978; Am. [Ord. 1980-106](#), passed 10-07-1980; Am. [Ord. 1987-008](#), passed 04-07-1987; Am. [Ord. 1988-009](#), passed 07-05-1988; Am. [Ord. 1994-037](#), passed 10-05-1994; Am. [Ord. 1996-057](#), passed 12-04-1996; Am. [Ord. 1997-057](#), passed 10-08-1997; Am. [Ord. 2000-086](#), passed 11-06-2000; Am. [Ord. 2010-019](#), passed 04-06-2010; Am. [Ord. 2019-038](#), passed 10-01-2019)

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Article III. COURT COSTS

A.C.A. § 16-10-305(a), (c)-(d). Court costs.

(a) There shall be levied and collected the following court costs from each defendant upon conviction, each plea of guilty or nolo contendere, or each forfeiture of bond:

(1) In circuit court, one hundred fifty dollars (\$150) for a misdemeanor or felony violation of state law, excluding a violation of:

(A) The Omnibus DWI or BWI Act, § 5-65-101 et seq.;

(B) The Underage DUI or BUI Law, § 5-65-301 et seq.;

(C) Section 5-75-101 et seq.;

(D) Section 27-23-114;

(E) Section 15-42-127; or

(F) Section 27-37-701 et seq.;

(2) In district court, one hundred dollars (\$100) for an offense that is a misdemeanor or violation of state law, excluding a violation of:

(A) The Omnibus DWI or BWI Act, § 5-65-101 et seq.;

(B) The Underage DUI or BUI Law, § 5-65-301 et seq.;

(C) Section 5-75-101 et seq.;

(D) Section 27-23-114;

(E) Section 15-42-127; or

(F) Section 27-37-701 et seq.;

(3) In circuit court or district court, seventy-five dollars (\$75.00) for a traffic offense that is a misdemeanor or violation under state law or local ordinance, excluding a violation of:

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- (A) The Omnibus DWI or BWI Act, § 5-65-101 et seq.;
 - (B) The Underage DUI or BUI Law, § 5-65-301 et seq.;
 - (C) Section 5-75-101 et seq.;
 - (D) Section 27-23-114;
 - (E) Section 15-42-127; or
 - (F) Section 27-37-701 et seq.;
- (4) In district court, for a nontraffic offense that is a misdemeanor or violation under local ordinance, twenty-five dollars (\$25.00);
- (5) In circuit court or district court, three hundred dollars (\$300) for violations of:
- (A) The Omnibus DWI or BWI Act, § 5-65-101 et seq.;
 - (B) The Underage DUI or BUI Law, § 5-65-301 et seq.;
 - (C) Section 5-75-101 et seq.;
 - (D) Section 27-23-114;
 - (E) Section 15-42-127; or
- (6)
- (A) In circuit court or district court, twenty-five dollars (\$25.00) for a violation of the mandatory seat belt use law, § 27-37-701 et seq.
 - (B) A defendant is not required to pay the court costs under subdivision (a)(6)(A) of this section if he or she pays the applicable fines under §§ 27-37-706 and 16-17-129 before his or her first appearance and shall not be assessed any additional court costs associated with the violation; and
- (7) In circuit court or district court, twenty-five dollars (\$25.00) for failure to present proof of insurance at the time of a traffic stop, §§ 27-22-103, 27-22-104, and 27-22-111.

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- (b)
- (1) The costs set forth in this section shall be imposed at the conclusion of any criminal case enumerated in subsection (a) of this section that does not end in an acquittal, dismissal, or, with the consent of the prosecution, an order nolle prosequi.
 - (2) The costs shall be imposed at the conclusion of cases involving a suspended or probated sentence even though that sentence may be expunged or otherwise removed from the defendant's record.
- (c) No county, city, or town shall be liable for the payment of the costs taxed under this section in any instance where they are not collected, or in any case in which the defendant pays the costs by serving time in a jail, on a county farm, or at any other official place of detention or work.
- (d) No town, city, or county shall authorize and no district court or circuit court shall assess or collect any other court costs other than those authorized by this act, unless specifically provided by state law.

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Section

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| 340.00 | Additional \$20.00 fine to help defray the expense of incarcerating prisoners. |
| 340.01 | Additional \$5.00 fine for City Court cases to defray the cost of incarcerating prisoners. |

§ 340.00 ADDITIONAL \$20.00 FINE TO HELP DEFRAY THE EXPENSE OF INCARCERATING PRISONERS.

- 1) Under authority of Act 209 of 2009, there is hereby levied and shall be collected an additional fine in the amount of twenty dollars (\$20.00) from each defendant upon each conviction, each plea of guilty or nolo contendere, or each bond forfeiture in all cases in the first and second class of accounting records as described in A.C.A. § 16-17-707. The additional fine shall apply to each charge, count, violation, or offense that a defendant pleads guilty or nolo contendere to, if found guilty of, or forfeits bond for, including each misdemeanor or violation.

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- 2) The additional fine levied in Section 1 hereinabove shall apply to all applicable cases brought before all District Courts and departments thereof that now exist and are in operation, or may hereafter be created and placed into operation, within Baxter County.
- 3) All additional fines levied and collected under the provisions of this Ordinance shall be deposited into a special fund within the County Treasury to be used for the maintenance, operation, and capital expenditures of the County Jail or as otherwise specifically permitted under the provisions of Act 209 of 2009.
- 4) REPEALER. All ordinances or parts of ordinances found to be in conflict herewith, including specifically Ordinance 2003-052 in its entirety, are hereby repealed.
- 5) EMERGENCY CLAUSE. This Ordinance shall take effect and be in full force and effect immediately upon its passage, approval, and publication as required by law.
([Ord. 2003-052](#), passed ; Am. [Ord. 2009-039](#), passed 7-13-2009)

§ 340.01 ADDITIONAL \$5.00 FINE FOR CITY COURT CASES TO DEFRAY THE COST OF INCARCERATING PRISONERS.

- 1) Pursuant to Act 1188 of 2003 of the General Assembly of the State of Arkansas, an additional fine of five dollars shall be levied and collected from each defendant who pleads guilty or nolo contendere to, is found guilty of, or forfeits bond on any misdemeanor or traffic violation in any of the City Courts within Baxter County, Arkansas, including specifically the City Courts of Gasville, Cotter, Lakeview, and Briarcliff, Arkansas, as well as any other City Courts that may hereafter be created or otherwise exist within Baxter County.
- 2) The additional fine levied by the County under this Ordinance shall be deposited into a special fund within the County Treasury, and the revenues generated by the additional fine shall be used exclusively for maintenance, operation, and capital expenditures of the Baxter County Jail and Detention Center.
- 3) Revenues derived from the additional fines levied under this Ordinance shall not offset funding from other sources for the maintenance, operation and capital expenditures of the Baxter County Jail and Detention Center.
- 4) EMERGENCY CLAUSE. An emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage.
([Ord. 2003-052](#), passed 6-2-2003; Am. [Ord. 2007-017](#), passed 2-6-2007)

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Article IV. COUNTY LAW

Section

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| 360.00 | Election to authorize the sale of alcoholic beverages on Sunday. |
| 360.01 | Persons under 21 years of age are prohibited from attempting to purchase or obtain alcohol from retail dealers, or other public or private clubs or establishments within the County. |
| 360.02 | Burn Ban. |
| 360.03 | Restricting sexually oriented businesses. |
| 360.04 | Authority to regulate unsanitary conditions. |
| 360.05 | Electronic recordkeeping and reporting by owners and operators of pawn shops and pawn brokers. |
| 360.06 | Prohibition on the possession, sale and offering for sale of a synthetic cannabinoid commonly known as “K-“or “SPICE”. |
| 360.07 | Rules and regulations concerning external noise attenuation of data centers. |

§ 360.00 ELECTION TO AUTHORIZE THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAY.

- 1) Subject to the approval of a majority of the electors, the sale of alcoholic beverages shall be authorized on Sunday between the hours of 12:00 noon and 10:00 p.m.; said sales to be authorized in all permitted outlets located within Baxter County.

- 2) This issue shall be referred to the electorate at the November 7, 2006, General Election, and that the ballot shall be printed substantially as follows:

FOR the sale of alcoholic beverages on Sunday in Baxter County, Arkansas, as authorized by law.

AGAINST the sale of alcoholic beverages on Sunday in Baxter County, Arkansas, as authorized by law.

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- 3) REPEALER. All ordinances or resolutions, and parts thereof, in conflict herewith are hereby repealed to the extent of such conflict by passage of this Ordinance.
- 4) SEVERABILITY CLAUSE. Each of the provisions of this Ordinance are severable and the decision of any court having jurisdiction as to the validity of any provision shall not affect the remaining provisions.
([Ord. 2006-024](#), passed 3-7-2006)

§ 360.01 PERSONS UNDER 21 YEARS OF AGE ARE PROHIBITED FROM ATTEMPTING TO PURCHASE OR OBTAIN ALCOHOL FROM RETAIL DEALERS, OR OTHER PUBLIC OR PRIVATE CLUBS OR ESTABLISHMENTS WITHIN THE COUNTY.

- 1) From and after the enactment of this Ordinance, it shall be unlawful for any person under the age of twenty-one years to attempt to purchase or otherwise obtain any alcoholic beverage from a retail dealer who sells such beverages for off-premises consumption or from a public tavern, restaurant, private club, or other establishment which sells such beverages for on-premises consumption.
- 2) A person violating this Ordinance may be detained in a reasonable manner and for a reasonable length of time by the Sheriff, or by the owner, operator, or an employee of a public establishment or private club where alcoholic beverages are sold or dispensed for off-premises or on-premises consumption. Such detention shall not render the detainer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.
- 3) The Sheriff may arrest, without a warrant, on probable cause for believing the suspect has committed the offense of attempting to purchase or otherwise obtain an alcoholic beverage. Sufficient probable cause may be established by the written affidavit of the owner, operator, or employee of a public establishment or private club where alcoholic beverages are sold or dispensed for off-premises or on-premises consumption to the Sheriff or any Sheriff's Deputy that the affiant has observed the person accused of committing the offense of attempting to purchase or otherwise obtain an alcoholic beverage.
- 4) The manager of any public establishment which sells alcoholic beverages for on-premises or off-premises consumption and the manager of any private club which serves alcoholic beverages for on-premises consumption shall be required to post in a conspicuous place a notice stating:

NOTICE TO PERSONS UNDER 21 YEARS OF AGE

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You are subject to a maximum \$500.00 fine for:

- a. Misrepresenting your age for the purpose of obtaining liquor, beer, or any alcoholic beverages.
- b. Purchasing or attempting to purchase or otherwise obtaining liquor, beer, or any alcoholic beverage.

The size of said notice shall not be less than 8 ½ inches by 11 inches.

- 5) Any person found to be violating the provisions of Section 1 hereinabove shall be deemed guilty of a misdemeanor and subject to arrest therefore and shall be issued a citation to appear before the District Court of Baxter County, Arkansas. Any person convicted of violating this Ordinance shall be punished by a fine of not less than \$100.00 and not more than \$500.00, together with any other remedial action that the Judge of the District Court may deem appropriate. No portion of the minimum fine may be suspended or held in abeyance.
- 6) Any fines assessed by the District Court of Baxter County against any person for violating the provisions of this Ordinance shall be remitted to the County Treasurer.
- 7) \$25.00 from each fine levied and assessed by the District Court as provided for in Section 5 hereinabove shall be designated for the exclusive use of the Office of the Sheriff for the sole purpose of initiating drug and alcohol education and awareness programs for the youth of the county. Appropriations to the Sheriff for this purpose from the County General Fund shall be provided for by Ordinance as needed, as these fines are assessed and collected.
- 8) SEVERABILITY CLAUSE. If any part or section of this Ordinance is declared to be invalid, or held void, it shall not affect the validity of the remainder, but the remainder shall stand.
([Ord. 2005-028](#), passed 2-1-2005)

§ 360.02 BURN BAN.

- 1) During periods of dry weather when conditions for dangerous burning exist, a burning ban may be declared by the County Judge, under the provisions of Act 511 of 1973, as amended.
- 2) Burning ban declarations issued by the County Judge and released to the public through regular news media press releases shall establish the periods of time during which burning in the unincorporated areas of the County is prohibited.

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- 3) The Arkansas Forestry Commission county headquarters shall also be notified of the burning ban to provide for coordination of activities.
- 4) Failure to comply with the burning shall constitute a misdemeanor. A misdemeanor allows the Municipal Judge to set the fine from zero to \$500.00 for the first offense and up to \$1,000 for each subsequent offense.
- 5) This Ordinance shall be enforced through the Baxter County Sheriff's Department.
- 6) EMERGENCY CLAUSE. An emergency is hereby declared to exist, and this Ordinance, being necessary for the immediate preservation of the public peace, health, safety and welfare, shall be in full force and take effect immediately from and after its passage and approval.
(Ord.1996-016, passed 3-5-1996)

§ 360.03 RESTRICTING SEXUALLY ORIENTED BUSINESSES.

- 1) PURPOSE AND FINDINGS. It is the purpose of this Ordinance to restrict sexually oriented businesses in order to promote the health, safety and general welfare of the citizens of the County, and to establish reasonable and uniform restrictions to prevent the deleterious location and concentration of sexually oriented businesses within the county. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor the effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.
- 2) DEFINITIONS.
 - a. ***Adult Cabaret, Theatre, Arcade, or Motion Picture Theater*** – means a club, bar, theater, restaurant, auditorium, or similar commercial establishment which regularly features:
 - i. Persons who appear in a state of nudity or semi-nude, either in person or by film; or
 - ii. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

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- b. ***Establishment*** – means and includes any of the following:
- i. The opening or commencement of any sexually oriented business as a new business.
 - ii. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.
 - iii. The additions of any sexually oriented business to any other existing sexually oriented business; or
 - iv. The relocation of any sexually oriented business.
- c. ***Nude Model Studio*** – means any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude Model Studio” shall not include a proprietary school licensed by the State of Arkansas or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
- i. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
 - ii. Where in order to participate in a class a student must enroll at least three days in advance of the class.
- d. ***Nudity or State of Nudity*** – means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering or any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
- e. ***Person*** – means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- f. ***Semi-Nude or in a Semi-Nude Condition*** – means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the

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showing of the male or female buttocks. This definition shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

- g. ***Sexual Encounter Center*** – means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
 - i. Physical activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- h. ***Sexually Oriented Business*** – means an adult cabaret, adult motion picture theater, adult theatre, nude model studio, sexual encounter center, adult arcade, adult bookstore, adult novelty store, or adult video store.
- i. ***Specified Anatomical Areas*** – means;
 - i. The human male genitals in a discernibly turgid state, even if completely or opaquely covered; or,
 - ii. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above top of the areola.
- j. ***Specified Sexual Activities***- means any of the following:
 - i. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast, or,
 - ii. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy.

3) CLASSIFICATION. Sexually oriented businesses are classified as follows:

- a. Adult arcades;
- b. Adult bookstores, adult novelty stores, or adult video stores;
- c. Adult cabarets;

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- d. Adult motion picture theaters;
 - e. Adult theatres;
 - f. Nude model studios; and
 - g. Sexual encounter centers.
- 4) **APPLICABILITY.** This Ordinance shall be applicable to all of the unincorporated areas of Baxter County, Arkansas.
- 5) **PERMITS.** Every owner of a sexually oriented business shall apply for a permit prior to the opening of any new sexually oriented business in the unincorporated areas of Baxter County, Arkansas. The permit application shall be accompanied by a one-thousand-dollar, non-refundable permit and investigation fee. The permit application and fee shall be delivered to the office of the Baxter County Judge. The Baxter County Judge shall issue the permit within ten business days from the receipt of the application and fee unless the county judge determines that the owner's proposed business location is in conflict with this Ordinance. If the proposed business location is in conflict with this Ordinance, the County Judge shall notify the applicant of the conflict within ten business days from the receipt of the application and fee. The applicant shall have the right to appeal any adverse decision to the quorum court at its next regularly scheduled monthly meeting. The decision of the Quorum Court shall be final.
- 6) **LOCATION OF SEXUALLY ORIENTED BUSINESSES.**
- a. A person commits an offense if the person operates or causes to be operated a sexually oriented business within two thousand feet of:
 - i. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities; or
 - ii. A public or private educational facility including, but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; ***school*** includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; or,

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- iii. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within Baxter County which is under the control, operation, or management of any governmental authority; or,
 - iv. The property line of a lot devoted to residential use when said lot is in a platted subdivision; if said residential use is not in a platted subdivision, then for purposes of this Ordinance, the property line shall be one hundred feet in any direction from a residence.
- b. A person commits an offense if that person owns, operates, or establishes a sexually oriented business within one mile of another sexually oriented business.
- c. For the purpose of subsections A and B of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection A or B. Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
- d. A sexually oriented business lawfully operating in accordance with this Ordinance will not be considered as a violation of this Ordinance by the subsequent location of those uses outlined in subsections A and B of this section.
- 7) **ADDITIONAL RESTRICTIONS FOR NUDE MODEL STUDIOS AND SEXUALLY ORIENTED BUSINESSES.**
- a. No person under the age of twenty-one years shall be employed by a person to appear semi-nude or in a state of nudity in a sexually oriented business or in a nude model studio. Any person who knowingly violates this subsection shall be guilty of an offense.
 - b. A person under the age of twenty-one year's commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio or a sexually oriented business. It is a defense to prosecution under this subsection if the person under twenty-one years was in a restroom not open to public view or visible to any other person.

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- c. A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio or a sexually oriented business premises which can be viewed from the public right-of-way.
- 8) **ADDITIONAL RESTRICTIONS CONCERNING PUBLIC NUDITY.** It shall be an offense for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.
- 9) **EXEMPTIONS.**
 - a. It is a defense to prosecution under Section 7 that a person appearing in a state of nudity did so in a modeling class operated by:
 - i. A proprietary school, licensed by the State of Arkansas, a college, junior college, or university supported entirely or partly by taxation; or
 - ii. In a structure:
 - 1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and,
 - 2. Where, in order to participate in a class a student must enroll at least three days in advance of the class.
- 10) **INJUNCTION.** A person who operates or causes to be operated a sexually oriented business in violation of this Ordinance will be subject to a suit or injunction as well as prosecution for criminal violations.
- 11) **CRIMINAL PENALTIES.** A person who operates or causes to be operated a sexually oriented business in violation of any provision of this Ordinance shall be guilty of a misdemeanor and shall be fined in an amount not to exceed two hundred and fifty dollars. Each day or part of a day during which a violation is continued or repeated shall constitute a separate offense.
- 12) **SEVERABILITY CLAUSE.** If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

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13) **CONFLICTING ORDINANCES REPEALED.** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

14) **CODIFICATION.** This Ordinance shall be codified in the Baxter County Code of Ordinances and the sections may be renumbered and re-lettered to accomplish such intention.

([Ord. 1999-087](#), passed 12-7-1999)

§ 360.04 AUTHORITY TO REGULATE UNSANITARY CONDITIONS.

1) **DEFINITIONS.**

- a. ***Agricultural Property*** –Real property used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands, including but not limited to raising, shearing, feeding, caring for, training, and management of animals; and the handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its un-manufactured state, planting, cultivation, caring for, or cutting of trees, or otherwise preparing of trees for market.
- b. ***Person*** – A person means any one or more of the following: an owner, occupant, or agent; an assignee, or collector of rents; a contract for deed vendee; a mortgagor in possession; a receiver, executor or trustee; a lessee; a mortgager in possession; other individual(s), firm or corporation exercising apparent control over a property.
- c. ***Waste*** – a solid or liquid combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:
 - i. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
 - ii. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- d. ***Rubbish*** – Refuse or garbage items or materials discarded or rejected as useless or worthless.
- e. ***Junk*** – As defined in A.C.A. § 27-74-402 (2) – junk means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, and waste or junked,

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dismantled, or wrecked automobiles, or parts thereof, or iron, steel and other old or scrap ferrous or nonferrous materials.

- 2) That it shall be unlawful for any person(s), firm, corporation, partnership, association of persons, owners, agent, occupant, or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the limits of Baxter County, Arkansas, to maintain, use, place, deposit, leave, or permit to be, or remain on any public or private, any items, conditions or actions or continuous violations, of which are declared to be and consist of an unsanitary condition; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive.
 - a. Garbage, rubbish, and/or other unsanitary articles, of whatever nature.
 - b. The storage of one or more junk or abandoned motor vehicles for a period of more than thirty days unless reasonably out of public view. Junk or abandoned vehicles may not be stored for any length of time, unless all latches and locks are removed or made inoperative in a manner to ensure the safety of all persons.
 - c. Accumulation of stagnant pools of water in such a manner as to be a breeding area for mosquitoes or any condition that might provide harborage for rates, mice, snakes, or vermin of any kind.
 - d. Any building, or other structure, kept in such an unsanitary condition that it is a menace to the health and safety of people residing in the vicinity thereof, or presents a more than ordinary health hazard.
 - e. The open storage of ice boxes, refrigerators, and/or other appliances or furniture for a period of more than thirty days unless reasonably out of public view. The same shall not be stored for any length of time unless all doors, latches, and locks are removed or made inoperative in a manner to ensure the safety of all persons.
- 3) THIS ORDINANCE DOES NOT APPLY TO:
 - a. Agricultural property that is being farmed or otherwise used for agricultural purposes; or
 - b. A parcel of land ten acres or larger if the unsanitary condition on the parcel is not visible from a public road or highway.

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- 4) NOTICE OF VIOLATION. Wherever the County Judge or his agent, or representative, determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, they shall give notice of such alleged violation to the person responsible. Such notice shall:
- a. Be put in writing.
 - b. Include a statement of the reasons why it is being issued, and a copy of this Ordinance shall be provided to the responsible person(s).
 - c. Allow a period of thirty days for any performance of any act it requires.
 - d. Further state, that if such alleged violations are not voluntarily corrected within the stated time as set forth in the notice, the Sheriff or other law enforcement agent, or their duly authorized agent or representative, shall institute legal proceedings, charging the person(s), firm, corporation or agent with a violation of this Ordinance.
 - e. The County Judge or a duly authorized agent or representative, shall provide photographs and other documentation deemed appropriate to the Prosecuting Attorney in order to successfully prosecute any case in court.
- 5) METHOD OF NOTIFICATION. One or more of the following methods shall notify the person(s) responsible for the violation.
- a. By delivery to the owner, agent or responsible party, personally.
 - b. By leaving the notice at the usual place of abode, or business of the owner, agent, or responsible party, with a person fourteen (14) years of age or older.
 - c. By depositing the notice in the United States Post Office, addressed to the owner, agent, or responsible party, at his last known address by certified mail, restricted delivery, postage prepaid thereon.
 - d. Posted upon the property and mailed to the last known address of the property owner by the Sheriff, or their duly authorized agent or representative or published in accordance with A.C.A. §14-14-104 if there is no last known address for the property owner.

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- 6) GRIEVANCE. Any person notified of a violation of this Ordinance who disagrees with said violation may file a sworn affidavit under penalty of perjury within fifteen days from the citation. The affidavit should be mailed or hand-delivered to the County Judge.
- 7) PENALTIES. Any person(s), firm, corporation, partnership, association of person(s), owner, occupant, agent or anyone having supervision or control, which shall violate a provision of this Ordinance, or fail to comply therewith, shall be guilty of a misdemeanor. Upon conviction of any such violation, such person(s) shall be punished by a fine of at least five hundred dollars and not to exceed one thousand dollars. Any fines collected pursuant to this Section of this Ordinance shall be credited to costs incurred by Baxter County under Section 9 of this Ordinance.
- 8) VIOLATIONS. An enforcement officer shall seek from the prosecutor the issuance of a citation or summons for violations of the provisions of this Ordinance. Prosecutions under this section are supplemental to any other remedies available under state law, including the Litter Control Act, A.C.A. §§ 8-6-401—416.
- 9) ABATEMENT BY THE COUNTY. In addition to other penalties described herein, upon failure of the person upon whom notice to abate an unsanitary condition was served pursuant to the provisions of this Ordinance, the County Judge, or other enforcement agent, or their duly authorized agent or representative of the County, may proceed to abate such conditions and prepare a statement of costs incurred in the abatement thereof, and that person shall be responsible for all costs. The County may take any necessary corrective actions, including repairs to bring the property into compliance with the Ordinance, or remove or raze any structure ordered by the County to be removed or razed and charge for the cost of actions under (c)(1) of Act 1984 of 2005 enforcement as provided in A.C.A. § 14-54-904, in addition to interest at the maximum legal rate. In all successful suits brought to enforce liens granted under this section, the County shall be reimbursed for its costs, including title search fees and reasonable attorney's fee.
- 10) SEVERABILITY CLAUSE. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.
- 11) EFFECTIVE DATE. This Ordinance shall take effect on January 1, 2008, after its passage and approval.
([Ord. 2007-073](#), passage 10-2-2007)

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§ 360.05 ELECTRONIC RECORDKEEPING AND REPORTING REQUIRED BY OWNERS AND OPERATORS OF PAWNSHOPS AND PAWNBROKERS.

- 1) That each and every owner or operator of a pawnshop or pawnbroker doing business in the County of Baxter shall maintain an electronic inventory tracking system of the type and kind designated by the Baxter County Sheriff's Office which is capable of delivery and transmission of all statutorily-required information via computer to the Baxter County Sheriff's Office.
- 2) That the owner or operator of a pawnshop or pawnbroker will be required to upload the information to the Baxter County Sheriff's Office within two business days of receipt of the goods purchased (pawned).
- 3) That failure or refusal on the part of any owner or operator of a pawnshop or pawnbroker to comply with the provisions of this Ordinance shall be deemed a misdemeanor. Upon conviction thereof in the District Court of Baxter County, the offender shall be punished by a fine of not more than twenty-five dollars (\$25.00) for each separate offense. Each day of non-compliance with this Ordinance shall constitute and be deemed a separate offense.
- 4) REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.
- 5) SEVERABILITY CLAUSE. That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall be declared or held invalid, such invalidity shall not affect the remainder, but the remainder shall stand.
- 6) EFFECTIVE DATE. This Ordinance shall take effect and be in full force and effect on October 1, 2011.
([Ord. 2011-044](#), passed 8-2-2011)

§ 360.06 PROHIBITION ON THE POSSESSION, SALE, AND OFFERING FOR SALE OF A SYNTHETIC CANNABINOID COMMONLY KNOWN AS “K-2” OR “SPICE”.

- 1) DEFINITIONS. For the purpose of this Ordinance, the following terms are herein defined:
 - a) **“Person”** means any person, firm, partnership, corporation, wholesaler, or retailer.

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b) ***“Illegal smoking product”*** includes any substance, whether called tobacco, herbs, incense, spice, or any blend thereof, which includes any one or more of the following chemicals:

- i. 2-[9IR,3S)-3-hydroxyecyclohexyl]-5-(2-methyloctan-2-yl)phenol);
- ii. (dexanabinol, (6aS,10nS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);
- iii. 1-Pentyl-3-(1-naphthyl)indole; or
- iv. Butyl-3-(1-naphthyl)indole;

Which products are sometimes known as “k2” or “Spice.”

c) ***“Salvia divinorum or salvinorum”*** includes all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

- i. (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo{c} chromen-1-ol some other trade names: HU-210;
- ii. 1-Pentyl-3-(1-naphthyl)indole-some trade or other names: JWH-018/spice;
- iii. 1-Butyl-3-(1-naphthyl) indole- some trade or other names: JWH-073;
- iv. 1-(3-[trifluoromethyl]phenyl) piperazine- some trade or other names: TFMPP;
- v. Or any similar structural analogs which products are sometimes known as “k2” or “Spice.”

2) It is unlawful for any person to sell or barter, offer to sell or barter, or publicly display for sale or barter any illegal smoking product or salvia divinorum or salvinorum as defined in Section 1 hereinabove.

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- 3) It is unlawful for any person to knowingly possess any illegal smoking product or salvia divinorum or salvinorum as defined in Section 1 hereinabove.
- 4) Any person who has violated Section 2 of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof in the District Court of Baxter County, shall be subject to pay a fine of up to \$500.00, together with the costs of the action, and/or be imprisoned in the County Jail for a period not to exceed thirty (30) days.
- 5) Any person who has violated Section 3 of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof in the District Court of Baxter County, shall be subject to pay a fine of up to \$200.00, together with the costs of the action, and/or be imprisoned in the County Jail for a period not to exceed seven (7) days.
- 6) SEVERABILITY CLAUSE. If any part or section of this Ordinance is declared to be invalid or held void, it shall not affect the validity of the remainder, but the remainder shall stand.
- 7) REPEALER. All ordinances or parts of ordinances found to be in conflict herewith are hereby repealed.
([Ord. 2010-037](#), passed 6-1-2010)

**§ 360.07 RULES AND REGULATIONS CONCERNING EXTERNAL NOISE
ATTENUATION OF DATA CENTERS.**

- 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 Baxter County, Arkansas.

This Ordinance shall apply to limit the noise disturbance originating within the unincorporated limits of Baxter County, Arkansas.

- 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 that 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

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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 cause 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

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(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 average, output meter, and weighting networks used to measure sound pressure levels.

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' associations 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.*

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- a. The property owner must consult with a third-party architectural or design firm to develop a building plan that includes necessary noise attenuation measure 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:
 1. Soundproofing walls, screens, panels, fences, or enclosures;
 2. Buffer yards;
 3. 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 façade 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 façade 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 filed 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

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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 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.

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.

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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 the 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.
- 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;

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- 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.

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 measure 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 provisions of this Ordinance.

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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.

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 \$1,000.00 dollars 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 \$500.00 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.

- 8) **SEVERABILITY CLAUSE.** If any provisions 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.

- 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.

([Ord. 2023-040](#), passed 07-11-2023)