



City of Conway, Arkansas  
Ordinance No. O-23-72



CERTIFICATE OF RECORD  
FAULKNER CO, AR FEE \$35.00

I hereby certify that this instrument was  
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NANCY EASTHAM

FAULKNER COUNTY CIRCUIT CLERK

BY: SHAWN MIX, D.C.

**ORDINANCE**

**AN ORDINANCE AMENDING THE CONWAY ZONING CODE REVISING DEFINITIONS AND PERMITTED USE TABLE  
FOR DATA CENTER (LIMITED) AND DATA CENTER (GENERAL):**

**Whereas**, current zoning regulations do not define a use in kind to data mining, data centers, crypto mining, or other similar uses in which defining an appropriate use within an existing zoning district is in the best interest of the safety and general welfare of the citizens of Conway;

**Whereas**, ordinance number O-23-55 adopted rules and regulations concerning data center and noise disturbance within the City of Conway;

**Whereas**, Arkansas Act 851, also known as the Arkansas Data Centers Act, provides guidelines and prohibits discrimination against digital asset mining businesses;

**Whereas**, Arkansas Code Annotated §14-56-416 provides authority to cities to regulate such issues;

**Whereas**, The Conway Planning Commission has prepared amendments to the Conway Zoning Code, gave proper public notice in accordance with Arkansas Code Annotated §14-56-422, held a duly authorized public hearing on **September 18, 2023**, and adopted the prepared amendments.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:**

**SECTION 1.** The Conway Zoning Code be amended as follows:

*Section 1302 - DEFINITIONS OF TERMS AND USES.*

The following terms shall be defined:

**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.

**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. This use shall include digital asset mining as defined in the Arkansas Data Centers Act, Act 851.

**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.)

**Data Center (General):** A secondary use designation for a location, primarily used in conformance with traditional zoning requirements, in which an occupant, owner, tenant, or other entity is engaged in storage, management, processing, and transmission of digital data, including facilities used for cryptocurrency mining, which houses networked computer systems which may include supporting equipment such as batteries, back-up power generators, HVAC and cooling systems, and other similar uses otherwise not permitted by right. This use shall include digital asset mining as defined in the Arkansas Data Centers Act, Act 851.

**Data Center (Limited):** A use designation for 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 which may include supporting equipment such as batteries, back-up power generators, HVAC and cooling systems, and other similar uses. This use shall include digital asset mining as defined in the Arkansas Data Centers Act, Act 851.

**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.

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

**Noise Disturbance:** 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.

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

**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 intrabuilding real property divisions.

**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.

**Sound Level:** The weighted sound pressure level obtained by the use of s 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.

**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.  
The Permitted Use Table shall be amended to include the following:

Permitted Uses	R-1	R-2A	R-2	SR	MF-1	MF-2	MF-3	RMH	HR	C-1	C-2	C-3	O-1	O-2	O-3	I-1	RU-1	I-3	A-1	S-1	TJ	
Data Center (Limited)																C		X				
Data Center (General)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	X	C	C	C	C

**Section 2. Conditional Use Permits**

*Section 802.2 – APPLICATION FOR A CONDITIONAL USE PERMIT*

The following shall be added to “The application shall include the following information and documents”:

Q. Considerations for Data Centers

1. Planning and Development Staff may request additional information upon submittal, including but not limited to, utility usage for data centers with Conditional Use Permit applications for consideration.
2. The applicant shall submit a copy of Building Plans, Noise Study and a Noise Attenuation Plan as defined in O-23-55 with the Conditional Use Permit application.



3. No condition shall further limit sound decibels beyond what is identified in O-23-55 pursuant to AR §14-1-501.
4. No condition shall require special conditions for differing types of data centers pursuant to AR §14-1-501.

### **SECTION 3. Special Provisions Conditions Applying to Uses**

The following shall be added to Article V: Special Provisions Conditions Applying to Uses:

#### *SECTION 530 – DATA CENTERS IN RESIDENTIAL AREAS*

The purpose of these provisions is to provide guidelines that balance the right for city homeowners to utilize the benefits of data centers while protecting the health, safety, and welfare of the entire community. Additionally, these provisions seek to align with provisions identified within state law and local ordinance.

Commercial use of data centers shall be restricted to non-residential zoned areas. Data Centers within residential areas zoned R-1, R-2A, R-2, SR, MF-1, MF-2, MF-3, RMH, and HR shall be for personal use and restricted herein:

#### A. Restricted Uses in Residential Areas

Data Centers and digital asset mining facilities within a residential use area defined as those zoned [select zones] shall be limited to personal, non-commercial use which does not require third-party customers or employees to physically visit the location of operation and does not require physical alterations to the exterior of an existing structure or parking. Data Centers and Digital Asset Mining shall not be considered a Home Occupation. Restrictions herein shall be in addition to any considerations provided within a Conditional Use Permit.

**SECTION 4.** Public notice requirements as defined in O-23-55 shall not replace public notice requirements for a Conditional Use Permit and shall be in addition to any public notice requirement as defined in the City of Conway Zoning Code.

**SECTION 5.** The conditions of approval for a Conditional Use Permit for any use of Data Center (Limited) may be subject to a review of the Planning Commission if 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 fails to comply with any provision of Ordinance Number O-23-55 or amendments thereof.

**SECTION 6:** The Conditional Use Permit and the conditions of approval therein, granted for any use of Data Center (General) may be subject to a review of the Planning Commission if 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 fails to comply with any provision of Ordinance Number O-23-55 or amendments thereof.

**SECTION 7.** The Director of Planning and Development or their representative shall be the authorized representative to initiate required enforcement procedures as defined herein.

**SECTION 8.** That all ordinances in conflict herewith are hereby repealed to the extent of that conflict.

**SECTION 9. *Emergency Clause.*** The City of Conway 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.

**SECTION 10. *Severability.*** Any section, subsection, subdivision, paragraph, sentence, clause, or phrase which contradicts, challenges, alters, amends, changes, disputes, or conflicts with any established state law or federal law shall be declared invalid herein. If any phrase, clause, sentence, paragraph, section, or subsection of these bylaws shall be declared invalid, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections, or subsections of this ordinance. The City Council of the City of Conway declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase herein irrespective of the fact that any

one or more subsections, subdivision, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

**PASSED** this 26<sup>th</sup> day of September, 2023.

**Approved:**

  
Mayor Bart Castleberry

**Attest:**

  
Michael O. Garrett  
City Clerk/Treasurer



**CERTIFICATE**

**STATE OF ARKANSAS  
COUNTY OF FAULKNER  
CITY OF CONWAY**

I, Michael Garrett, the duly elected, qualified, and acting: Clerk-Treasurer of the City of Conway, Arkansas, do hereby certify that the attached and foregoing is a true and correct copy of an ordinance presented to the City Council of the City of Conway, Arkansas, at a meeting of that body held on the 26<sup>th</sup> day of September, 2023 same is duly recorded in the minutes of meeting of said Council.

Witness, my hand, and seal of the City of Conway, Arkansas this 29<sup>th</sup> day of September, 2023.

  
**CITY CLERK-TREASURER**

