

ORDINANCE NO. 2018-1538

**AN ORDINANCE OF THE CITY OF CHELAN, WASHINGTON,
ADOPTING AN INTERIM OFFICIAL CONTROL RELATING TO
CRYPTOCURRENCY MINING OPERATIONS IN THE CITY OF
CHELAN, TO BE EFFECTIVE IMMEDIATELY, AND DECLARING AN
EMERGENCY NECESSITATING IMMEDIATE ADOPTION**

WHEREAS, cryptocurrency is a term encompassing code-based protocols supporting an electronic, non-physical media for the exchange of value; and

WHEREAS, cryptocurrency mining is a continuous process where computers work to solve algorithms to maintain and build an algorithmic chain, or blockchain, and in exchange are granted cryptocurrency; and

WHEREAS, typical physical characteristics of cryptocurrency mining include specialized computer hardware, high electricity use, and the use of equipment to cool the hardware; and

WHEREAS, cryptocurrencies have an ever-fluctuating monetary value and can be exchanged for conventional currency; and

WHEREAS, the value of certain cryptocurrencies has been achieving high market prices recently; and

WHEREAS, the region's low electricity prices create a high rate of return for locating cryptocurrency mining operations in the City; and

WHEREAS, the continuous use of specialized computer hardware creates a high-density load situation which is taxing the existing electricity distribution and service infrastructure throughout various parts of the City; and

WHEREAS, the use of this specialized computer hardware, creating a high-density load situation in areas or at facilities where the electricity distribution infrastructure is not designed for its high energy loads creates a fire safety hazard; and

WHEREAS, the energy consumption characteristics of cryptocurrency mining was not envisioned in the development of the community's plans as they pertain to accommodating future growth; and

WHEREAS, if the current trends continue where cryptocurrency mining becomes increasingly prevalent, the Chelan County Public Utility District (PUD) may not be able to meet the community's electricity consumption needs in a timely manner and therefore the community

would not be able to accommodate its projected growth without the siting and construction of significant electrical infrastructure including power substations and lines; and

WHEREAS, Goal LU-XV in the Comprehensive Plan strives to “[e]ncourage development in Urban Growth Areas where adequate public facilities and services exist or can be provided in an efficient manner;” and

WHEREAS, Policy LU VII-3 in the Comprehensive Plan is to “[e]nsure utility systems and public services are designed to accommodate urban density development;” and

WHEREAS, Goal UT-I in the Comprehensive Plan strives to “[p]rovide utilities in a manner which ensures their efficient and timely placement and maintains the visual qualities of the planning area;” and

WHEREAS, Goal UT-II in the Comprehensive Plan strives to “[e]nsure that public utilities meet the projected and desired land use patterns of the study area” with the policy to “[e]nsure the extension of utilities is sized to meet anticipated growth of the study area;” and

WHEREAS, the Chelan County PUD, as a public utility, does not have economic development authority or the ability to enforce or regulate the City’s community or economic development goals; and

WHEREAS, it is the City of Chelan’s understanding that Chelan County PUD, as a public utility, has limited legal authority, beyond rates and service regulations, to ensure that the public health safety concerns are adequately addressed, or that after connecting a High-Density Load (HDL) there is sufficient capacity reserved in the electrical infrastructure to meet the City’s community and economic development goals; and

WHEREAS, the Chelan Municipal Code does not currently have a specific land use category for cryptocurrency mining; and

WHEREAS, the 2018 Comprehensive Plan Amendment docket includes an Cryptocurrency and High-Energy Users Amendment item, the purpose of which is to establish a long-term strategy for cryptocurrency and high-energy users in the City; and

WHEREAS, this interim ordinance will restrict new cryptocurrency operations in the City of Chelan; and

WHEREAS, City staff, in cooperation with Chelan County PUD staff, need time to study the impacts cryptocurrency mining has on the electricity distribution network and to develop standards to appropriately evaluate and address the impacts; and

WHEREAS, the Chelan City Council hereby finds that an emergency interim official control to regulate further establishment of cryptocurrency mining in the City until the Chelan County PUD and the City can study the appropriate land use and/or licensing regulations to address cryptocurrency mining; and

ORDINANCE NO. 2018-1538

Page 2

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 authorize the City Council to adopt an interim official control for a period of up to twelve (12) months if a public hearing on the proposal is held within at least 60 days of its adoption and immediately following the public hearing findings of fact and a work plan are adopted providing for the twelve (12) month period; and

WHEREAS, the City Council desires to impose a twelve (12) month interim official control regulating cryptocurrency mining operations in the City of Chelan; and

WHEREAS, interim official controls enacted under RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new regulations will not be rendered moot by intervening development; and

WHEREAS, in conformity with the responsibilities of the City of Chelan to meet health, safety, and general welfare requirements and provide zoning and land use regulations pursuant to state law, and the City's authority to regulate land use activities within its corporate limits, the City intends to develop appropriate zoning requirements for the regulation of cryptocurrency mining operations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHELAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the interim official control imposed by this Ordinance.

Section 2. Interim Official Control Enacted. Pursuant to Washington State law, an interim control that prohibits the acceptance of applications, conduct and permitting of new cryptocurrency mining within the City of Chelan shall be and hereby is enacted. For purposes of this ordinance, "Cryptocurrency mining" means the operation of specialized computer equipment for the primary purpose of mining one or more blockchain based cryptocurrencies such as Bitcoin or Ethereum. This activity typically involves the solving of algorithms as part of the development and maintenance of a blockchain, which is a type of distributed ledger maintained on a peer-to-peer network. Typical physical characteristics of cryptocurrency mining include specialized computer hardware; HDL electricity use; a high Energy Use Intensity (EUI) where the operating square footage as determined by the Utility is above 250kWh/ft²/year and with a high load factor in addition to the use of equipment to cool the hardware and operating space. For the purposes of the associated regulations, cryptocurrency mining does not include the exchange of cryptocurrency or any other type of virtual currency nor does it encompass the use, creation, or maintenance of all types of peer-to-peer distributed ledgers.

Section 3. Effective Period for Interim Official Control. The interim official control set forth in this Ordinance shall be in effect for a period of twelve (12) months from the date the interim control was passed and shall automatically expire at the conclusion of that

ORDINANCE NO. 2018-1538

Page 3

twelve (12) month period unless the same is extended by the City as provided in state law or unless terminated sooner by Ordinance.

Section 4. Work Program. The Mayor and other responsible staff are hereby authorized to study and address issues related to determining the impacts and necessary controls on cryptocurrency mining in the City of Chelan. Planning Commission, with the 2018 Comprehensive Plan Amendment process, will endeavor on revising the Comprehensive plan in regards to “Cryptocurrency mining” and HDL policies and potential zoning amendments.

Section 5. Public Hearing. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council held a public hearing, on the interim official control imposed, on April 10, 2018 at 6:00 p.m., upon notice. Following the public hearing, the City Council have adopted findings of fact and, through the Comprehensive Plan Amendment process, have adopted a work plan on the subject of this interim official control and either justify its continued imposition or cancelation.

Section 6. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance or its application to any other person or situation.

Section 7. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum if passed by unanimous vote of the council (RCW 35A.11.090). Without an immediate interim official control on the City’s acceptance of development applications for cryptocurrency mining within City limits, such applications could become vested, leading to development that could be incompatible with the development regulations eventually adopted by the City. Therefore, the interim official control must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of a flood of applications to the City (upon knowledge of the City’s intent to review the appropriateness of these uses in City limits) in an attempt to vest rights for an indefinite period of time.

Section 8. Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of public safety, property or welfare, shall take effect immediately upon passage by a majority plus one vote of the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF CHELAN, at a regular meeting thereof, this 24th day of April, 2018.

CITY OF CHELAN,
A Municipal Corporation

By: _____
MICHAEL COONEY, Mayor

ATTEST:

By: _____
PERI S. GALLUCCI, City Clerk

APPROVED AS TO FORM:

By: _____
QUENTIN D. BATJER, City Attorney

FILED WITH THE CITY CLERK: April 20, 2018
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.