

ORDINANCE NO. 2018-04

AN ORDINANCE, adopting an interim official control relating to cryptocurrency mining operations in the City of Wenatchee, to be effective immediately, setting a date for the public hearing on, 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 1 in the Utilities Element of the Wenatchee Urban Area Comprehensive Plan, states: "Ensure that the utilities necessary to support development are adequate at the time they are needed without decreasing service levels below those locally acceptable", Policy 2 of Goal 1 further states: "No development will be approved that reduces the level of service of any utility below the adopted level of service"; and

WHEREAS, Goal ED 6 in the Economic Development Element of the Wenatchee Urban Area Comprehensive Plan, states: "Work with regional partners to ensure that regional and local infrastructure needs are addressed";

WHEREAS, key strategy number 10 (adopted as a policy by Goal ED 1, Policy 1) in the Economic Development Element of the Wenatchee Urban Area Comprehensive Plan begins with "Pursue data farm development" and goes on to described the benefits this type of development may bring to the community including the following passage: "Selling reliable

hydropower at market prices provides an amazing economic impact in terms of tax revenues to the schools and other governmental services”; 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;

WHEREAS, it is the City of Wenatchee’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 Wenatchee City Code does not currently have a specific land use category for cryptocurrency mining; and

WHEREAS, this interim ordinance will establish a land use category and performance standards for the review and approval of new cryptocurrency operations in the city of Wenatchee; 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 Wenatchee City Council hereby finds that an emergency interim official control to regulate further establishment of cryptocurrency mining in the City of Wenatchee until the Chelan County PUD and the City can study the appropriate land use and/or licensing regulations to address cryptocurrency mining; and

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 Wenatchee; 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 Wenatchee 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 WENATCHEE, WASHINGTON, DO ORDAIN as follows:

SECTION I
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 II
Interim Official Control Enacted

Pursuant to Washington State law, an interim control that amends the Wenatchee City Code (WCC) by the addition of the following sections to read as follows:

10.08.050 “C”

“Cryptocurrency mining” means the operation of specialized computer equipment for the primary purpose of mining one or more blockchain based cryptocurrencies such as Bitcoin. 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; High Density Load (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.

10.10.020 District Use Chart.

District Use Chart																		
<p>P = Permitted use</p> <p>P1 = Permitted, not to occupy grade level commercial street frontage</p> <p>AU = Accessory use</p> <p>C = Conditional use</p> <p>C1 = Permitted, not to occupy grade level commercial street frontage</p> <p>~ = Prohibited use</p> <p>M = Permitted use in a corridor mixed use project within the MRC overlay</p>																		
Uses	Commercial Districts				Mixed Use Districts			Residential Districts				Overlay Zones						
	CBD	NWBD/SWBD	CN	I	WMU	OMU	RMU	RF	RS	RL	RM	RH	HEO	CSO	MRC	IO	PO	RRO
Industrial																		
Cryptocurrency Mining	~	P	~	P	~	~	~	~	~	~	~	~	~	P	~	~	~	~

10.48.300 Cryptocurrency mining

All cryptocurrency mining operations where allowed by Chapter 10.10 WCC, District Use Chart, shall meet the following standards unless otherwise regulated within this code:

- (1) Applications shall be processed as a Type II administrative review with public notice under WCC 13.09.040.
- (2) The use of cargo containers, railroad cars, semi-truck trailers and other similar storage containers for any component of the operation is strictly prohibited.
- (3) Prior to commencing operations, the following information shall be provided to the City:
 - a. Written verification from Chelan County Public Utility District (PUD) will be required that:
 - i. An assessment has been made of the potential electrical consumption of the proposed use which ensures that the capacity available to serve the other needs of the planning area are consistent with the normal projected load growth envisioned by the PUD. Through this analysis the PUD can

assist the City in determining if there is a detrimental impact to the City's ability to accommodate the growth and redevelopment identified in the Wenatchee Urban Area Comprehensive Plan and the City's development codes.

- ii. If the above-mentioned assessment identifies a detrimental impact or threshold where existing electrical capacity is not sufficient, the PUD shall outline what system improvements might be necessary to mitigate any limits or system constraints to accommodate the proposed use. The PUD shall also provide general information on timelines and procedures for this work.
- iii. Utility Supply Equipment and related electrical infrastructure is sufficiently sized and can safely accommodate the proposed use; and
- iv. The use will not cause electrical interference or fluctuations in line voltage on and off the operating premises; and
- b. A copy of the Washington State Department of Labor and Industries electrical permit and written verification that the electrical work has passed a final inspection.

SECTION III **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 this Ordinance is passed and shall automatically expire at the conclusion of that twelve (12) month period unless the same is extended by the City as provided in state law or unless terminated sooner by Ordinance.

SECTION IV **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 Wenatchee.

SECTION V **Public Hearing**

Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing, on the interim official control imposed, on March 22, 2018 at 5:15 p.m.,

upon notice. Immediately after the public hearing, the City Council shall adopt both findings of fact and a work plan on the subject of this interim official control and either justify its continued imposition or cancellation.

SECTION VI

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 VII

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 VIII
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 WENATCHEE,
at a regular meeting thereof, this 22 day of February, 2018.

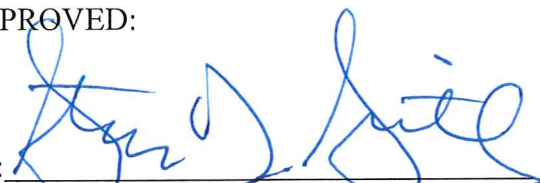
CITY OF WENATCHEE,
a Municipal Corporation

By: 
FRANK KUNTZ, Mayor

ATTEST:

By: 
TAMMY L. STANGER, City Clerk

APPROVED:

By: 
STEVE D. SMITH, City Attorney