

## **ORDINANCE NO. 1561**

**AN ORDINANCE OF THE CITY OF LEAVENWORTH, WASHINGTON ADOPTING AN INTERIM ZONING CONTROL RELATING TO CRYPTOCURRENCY MINING OPERATIONS IN THE CITY OF LEAVENWORTH, ADDING NEW SECTIONS 18.04.040, 18.04.050 AND 18.04.060, AND AMENDING LMC 18.28.030 AND 18.45.030, 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 could be taxing to 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 energy 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 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 6 in the Capital Facilities Element of the Comprehensive Plan, states:

"Goal 6: Ensure that those public facilities and services necessary to support development are adequate to serve the development at the time the development is available for occupancy and use, without decreasing current service levels below locally established standards;" and

WHEREAS, Policy 8 in the Economic Development Element of the Comprehensive Plan, states:

"Policy 8: Encourage commercial and industrial activities to locate in areas with infrastructure capacity and the potential to provide adequate, affordable housing and /or transportation linkages to existing housing;" Policy 9 of the Economic Development Element further states: "Develop criteria for considering participation in infrastructure improvements needed to support economic development;" 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's understanding that Chelan County PUD, as a public utility, has limited legal authority, beyond rates and service regulations, to ensure that public health and 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 Leavenworth Municipal 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 Leavenworth; 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 Leavenworth City Council hereby finds that an emergency interim official control to regulate further establishment of cryptocurrency mining in the City of Leavenworth 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 are adopted and provision is made for a work plan; and

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

WHEREAS, 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; and

WHEREAS, the City Council conducted a public meeting on March 27<sup>th</sup>, 2018.

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

**Section 1.** Pursuant to Washington State law, an interim zoning control that amends the Leavenworth Municipal Code (LMC) is adopted as set out within Attachment A.

**Section 2:** The interim zoning control set forth in this Ordinance shall be in effect for a period of up to 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 3:** 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 Leavenworth. The Planning Director is directed to establish a work plan, to study issues related to cryptocurrency mining and regulation. This work plan shall be submitted to the City Council for the public hearing to occur in accordance with Section 4.

**Section 4:** 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 April 24<sup>th</sup>, 2018 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 cancelation.

**Section 5:** 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.

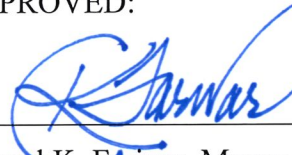
**Section 6:** The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum if passed by unanimous vote of the Council (RCW 35A.11.090). Without an immediate interim zoning 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 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 7:** 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 Leavenworth and approved by the Mayor this 27th day of March, 2018.

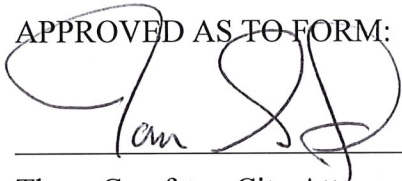
CITY OF LEAVENWORTH

APPROVED:



Cheryl K. Farivar, Mayor

APPROVED AS TO FORM:



Thom Graafstra, City Attorney

ATTEST:



Chantell R. Steiner, Finance Director/City Clerk

Attachment A

A new section is adopted:

#### **18.04.040 Definition – Cryptocurrency Mining**

“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/ft<sup>2</sup>/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.

A new section is adopted:

#### **18.04.050 Additional Requirements for Cryptocurrency Mining**

Where Cryptocurrency Mining becomes allowed as a conditional use, it shall be subject to the following

1. The use of cargo containers, railroad cars, semi-truck trailers and other similar storage containers for any component of the operation is strictly prohibited.
2. 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.

A new section is adopted:

#### **18.04.060 Prohibition on Cryptocurrency Mining**

Cryptocurrency mining is prohibited in all zones of the city except where specifically allowed as a conditional use. Cryptocurrency mining is prohibited as a home occupation or as an accessory use to any other use.

LMC 18.28.030 is amended as follows:

#### **18.28.030 Uses requiring conditional use permits.**

Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed conditional uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code. In a general commercial district, the following uses and their accessory uses are permitted when authorized in accordance with Chapter [18.52](#) LMC:

- A. Automobile or other motor vehicle repair, not including a body shop;
- B. Day care center;
- C. Cabinet or glass shop;
- D. Commercial amusement enterprise;
- E. Clinic;
- F. Coffee roasting;
- G. Electric, plumbing or heating shop;

H. Family entertainment enterprise;

I. Food bank;

J. Gasoline service station;

K. Incidental and accessory structures and uses located at the same site with and necessary for the operation of a conditional use;

L. Micro brewery, distillery, or winery;

M. Parking facilities, including structures and lots;

N. Pet care centers;

O. Private clubs and lodges;

P. Public and private libraries, art galleries, and museums;

Q. Public buildings, utilities, service structures or installations and grounds;

R. Recreational vehicle parks;

S. Veterinarian, animal hospital;

T. Public parks, including swimming pools;

U. Manufacturing, assembling, fabricating, processing, packing, repairing or storage of goods which have not been declared a nuisance by statute or city of Leavenworth resolution and provided these uses shall not cause:

1. Unreasonable dissemination of dust, smoke, visible gases or noxious gases, fumes, noise, vibration, or odor beyond the boundaries of the site on which the use is conducted;
2. Hazard to fire, explosion, or other physical damage to adjacent structures or vegetation;

V. Wireless telecommunications facilities (WTF), in accordance with the requirements of Chapter [18.74](#) LMC; and

W. Cryptocurrency mining.



LMC 18.45. 030 is amended as follows:

**18.45.030 Uses requiring conditional use permit.**

In the light industrial district, the following uses and their accessory uses are permitted when authorized in accordance with Chapter [18.52](#) LMC:

- A. Heliports and supporting aviation activities;
- B. Gas stations and bulk fuel storage;
- C. Scientific and agricultural research, testing and experimental development laboratories;
- D. Trade and/or vocational schools;
- E. Agricultural uses such as sorting, packing, storage, processing, refrigeration and shipping of agricultural products, feed stores, nursery/greenhouses or other similar uses;
- F. Recycling centers for the collection and temporary storage of materials;
- G. Wireless telecommunications facilities (WTF), in accordance with the requirements of Chapter [18.74](#) LMC;
- H. Cryptocurrency mining.