

ORDINANCE NO. 2899 OPTION 1

AN ORDINANCE ADOPTING INTERIM OFFICIAL CONTROLS RELATING TO CRYPTOCURRENCY MINING, SERVER FARM, AND DATA CENTER OPERATIONS IN THE CITY OF MOSES LAKE, TO BE EFFECTIVE IMMEDIATELY, AMENDING MLMC SECTIONS 18.06.680, 18.40.030, AND 18.77, TO BE EFFECTIVE FOR ONE YEAR, SETTING A DATE FOR THE PUBLIC HEARING ON THE INTERIM OFFICIAL CONTROLS, 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, a server farm, server cluster, or data center is a collection of computer(s) and/or server(s) used for the purpose of data storage; and

WHEREAS, server farms, server clusters, or data centers consist of a computer(s) and/or server(s) which require a large amount of power to run and to keep cool; and

WHEREAS, typical physical characteristics of cryptocurrency mining, server farms, and/or data centers include specialized computer hardware, high electrical power 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 Grant County Public Utility District (PUD) low electrical power utility rate structure creates a high rate of return for locating cryptocurrency mining operations, server farms, and/or data centers in the City; and

WHEREAS, the continuous use of specialized computer hardware creates a high-density load situation which is taxing the existing electrical power 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, server farms, and/or data centers were 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, server farms, and/or data centers becomes increasingly prevalent, the PUD may not be able to meet the community's electrical power 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 Moses Lake Urban Area Comprehensive Plan, states: "Facilitate the development of all utilities at the appropriate levels of service to accommodate growth that is anticipated to occur in the City"; and

WHEREAS, Goal 1 in the Land Use Element of the Moses Lake Urban Area Comprehensive Plan, states: "Growth shall occur in a manner that balances the pace of development with the City's ability to provide public facilities and services in with the Urban Growth Area", Policy 1.5 of Goal I states "The City shall not issue any development permits which result in a reduction of the Level of Service (LOS) standard for the public facilities identified in the Capital Facilities Element, Utilities Element, and/or Transportation Element", including Policy 1.7 stating that "Development regulations should provide for an appropriate level of flexibility while balancing community goals and the need for predictability in decision making", and

WHEREAS, Goal 10 in the Land Use Element of the Moses Lake Urban Area Comprehensive Plan encouraging industry states "the development of diversified industrial and manufacturing activities to provide employment in the area, strengthening the economy and the tax base" by Policy 10.2 as The City shall continue to coordinate with the Grant County Economic Development Council, Port of Moses Lake, Public Utility District, and other regional agencies' efforts to retain and attract industrial and manufacturing activities in the area"; and

WHEREAS, the 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 Moses Lake's understanding that the 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 Moses Lake City Code does not currently have a specific land use category for cryptocurrency mining, server farms, and/or data centers; and

WHEREAS, this interim ordinance will establish a land use category and performance standards for the review and approval of new cryptocurrency operations, server farms, and/or data centers in the City of Moses Lake; and

WHEREAS, City staff, in cooperation with PUD staff, need time to study the impacts cryptocurrency mining, server farms, and/or data centers has on the electricity distribution network and to develop standards to appropriately evaluate and address the impacts; and

WHEREAS, the Moses Lake City Council hereby finds that emergency interim official controls to regulate further establishment of cryptocurrency mining, server farms, and/or data centers in the City of Moses Lake until the City of Moses Lake and the PUD can study the appropriate land use and/or licensing regulations to address cryptocurrency mining, server farms, and/or data centers; and

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 authorize the City Council to adopt interim official controls 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, server farms, and/or data centers in the City of Moses Lake; 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 Moses Lake 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, server farms, and/or data centers.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOSES LAKE, 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 controls imposed by this Ordinance.

Section 2. Interim Official Controls Enacted

Pursuant to Washington State law, interim controls that amends the Moses Lake City Code (MLMC) by the addition of the following sections to read as follows:

18.06.680

"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/fr²/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.

"Data Center/Server Farms/Cluster" means networked computer(s) and/or server(s) typically used for the remote storage, processing, or distribution of large amounts of electronic data.

18.40.030 Table 1.

USE CATEGORIES	MLIP	L-I	H-I
Primary uses			
Cryptocurrency Mining	X	A	A
Data Center/Server Farms/Cluster	X	A	A

18.77 Cryptocurrency mining, Data Center, Server Farms/Cluster

All cryptocurrency mining operations, data centers, and/or server farms/cluster where allowed by Chapter 18.40 MLMC, Allowed Uses Table 1, shall meet the following standards unless otherwise regulated within this code:

- (1) Applications shall be processed as a Planning Commission review with public notice under MLMC 20.09.020.
- (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 Grant 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 Moses Lake 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 3. Effective Period for Interim Official Controls

The interim official controls 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 4. Work Program

The Community Development Director/Deputy City Manager and other responsible staff are hereby authorized and directed to study and address issues related to determining the impacts and necessary controls on cryptocurrency mining, server farms, and/or data centers in the City of Moses Lake.

Section 5. Public Hearing

Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing within 60 days of its adoption or on July 10, 2018 at 7:00 p.m. on the interim official controls imposed. 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 controls 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 controls on the City's acceptance of development applications for cryptocurrency mining, server farms, and/or data centers 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 controls 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.

Adopted by the City Council and signed by its Mayor on May 22, 2018.


Karen Liebrecht, Mayor

ATTEST:


Debbie Burke, City Clerk

APPROVED AS TO FORM:


Katherine L. Kenison, City Attorney

Vote:	Riggs	Liebrecht	Myers	Jackson	Curnel	Leonard	Hankins
Aye	✓	✓		✓	✓	✓	✓
Nay			✓				
Abstain							
Absent							

Date Published: May 29, 2018

Date Effective: May 22, 2018