

TOWNSHIP OF _____

ORDINANCE NO. ____

**AN ORDINANCE TO REGULATE CRYPTOCURRENCY DATA MINING FACILITIES
AND DATA CENTERS**

The Township of Portland ordains:

Section 1. Addition of New Section 3.15.06 (N) to the Zoning Ordinance.

A new Section N entitled “Cryptocurrency Data Mining Facilities and Data Centers” is hereby added to the Township’s Zoning Ordinance, to read, in its entirety, as follows:

Section 3.15.06 (n) Cryptocurrency Data Mining Facilities and Data Centers.

A. Definitions.

CRYPTOCURRENCY DATA MINING FACILITY. A facility dedicated to operating data processing equipment for commercial cryptocurrency mining and the process by which cryptocurrency transactions are verified and added to digital ledgers.

DATA CENTER. A structure that houses information technology infrastructure and equipment for building, running, and delivering applications, and the storage of digital data. This includes Artificial Intelligence (“AI”) Data Centers.

L_{ASmax}. Is the sound pressure level on the A-weighted frequency representing the maximum value recorded during the measurement interval of 1-second over any period of the day or night.

B. General Provisions.

(1) Cryptocurrency Data Mining Facilities and Data Centers are permitted in the Township only as a special land use in the Industrial Zoning District.

(2) The Township may enforce any remedy or enforcement, including but not limited to, the removal of any Cryptocurrency Data Mining Facilities and Data Centers pursuant to the Zoning Ordinance or as otherwise authorized by law if the Cryptocurrency Data Mining Facility or Data Center does not comply with this Section.

C. Special Land Use Application Requirements. In addition to the requirements of Cryptocurrency Mining or Data Center, an applicant for special land use approval of a Cryptocurrency Data Mining Facility or Data Center must provide the Township with all of the following:

- (1) An application fee in an amount set by resolution of the Township Board.
- (2) A list of all parcel numbers that the Cryptocurrency Data Mining Facility or Data Center will use; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.
- (3) An operations agreement setting forth the parameters of the operation, the name and contact information of the operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.
- (4) Current photographs of the subject property.
- (5) A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Cryptocurrency Data Mining Facility or Data Center will be connected to the power grid.
- (6) A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the Township's review and approval.
- (7) A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Cryptocurrency Data Mining Facility or Data Center, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Cryptocurrency Data Mining Facility or Data Center and restore the subject parcels, which is subject to the Township's review and approval.
- (8) A deposit for an escrow account in an amount set by resolution or fee schedule approved by the Township Board. The escrow account is used to cover all costs and expenses associated with the special land use review and/or approval process, which costs can include, but are not limited to, review fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates will be required during the review and/or approval process for the application. At any point during the review process, the Township may require that the applicant place additional monies into escrow with the Township if the existing escrowed funds on account with the Township will be insufficient, in the determination of the Township, to cover any remaining costs or expenses with the review and/or approval process. If additional funds are required by the Township to be placed in escrow and the applicant refuses to do so within 14 days after receiving notice, the Township will cease the zoning review and/or

approval process until and unless the applicant makes the required escrow deposit. Any escrow amounts in excess of actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.

- (9) A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Cryptocurrency Data Mining Facility or Data Center, which is subject to the Township's review and approval.
- (10) A plan for managing any hazardous waste, which is subject to the Township's review and approval.
- (11) A fire protection plan, which identifies the fire risks associated with the Cryptocurrency Data Mining Facility or Data Center; describes the fire suppression system that will be implemented; describes what measures will be used to reduce the risk of fires re-igniting (i.e., implementing a "fire watch"); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.
- (12) A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation, which is subject to the Township's review and approval.
- (13) An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Cryptocurrency Data Mining Facility or Data Center, which is subject to the Township's review and approval.
- (14) Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL 324.36501 et. seq.); and any other applicable laws and rules in force at the time the Township considers the application.
- (15) Power and Electrical Capacity. The applicant or operator shall provide a capacity confirmation letter or certification from the electric utility provider demonstrating that sufficient electrical capacity is available to serve the proposed Cryptocurrency Data Mining Facility or Data Center.

- a) The capacity confirmation letter or certification shall also state that all costs associated with required infrastructure improvements, upgrades, interconnections, or extensions necessary to serve the facility shall be borne solely by the applicant or operator.
- b) The applicant shall be responsible for all coordination with the electric utility provider and shall comply with all applicable utility requirements and regulatory approvals.

(16)

(17) Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

D. System and Location Requirements. In addition to the requirements of Cryptocurrency data mining or Data Centers for a site plan, the site plan must include all of the following:

- (1) Applicant shall provide 360 degree scaled elevation drawings, showing adherence to the 50' maximum allowed vertical height, including all roof mounted HVAC or other pertinent mechanical structures. Vents, stacks or communication towers exceeding that height may be permitted at the sole discretion of the Township. Applicant shall also provide a scaled drawing of the rooftop and items or equipment to be located there.
- (2) Equipment. All equipment used in any Cryptocurrency Data Mining Facility or Data Center must be housed in a metered, electrically grounded, and pre-engineered or prefabricated metal-encased structure with a fire rating designed to resist an internal electrical fire for at least 30 minutes.
- (3) Structures. All principal and accessory structures used for cryptocurrency mining operations and/or data centers, shall be arranged, designed, and constructed to be harmonious and compatible with the site and with the surrounding properties. If prefabricated, pre-engineered, or modular structures are installed, the following standards are required:
 - a) All structures shall have concrete foundations.
 - b) All exterior facades shall have muted earth tone colors that will blend the facility into the natural setting and existing environment, and shall not be defective, decayed or corroded.
 - c) If intermodal shipping containers are utilized such installation shall comply with current National Electrical Code standards.

- (4) Lighting. The lighting of the Cryptocurrency Data Mining Facility or Data Center is limited to the minimum light necessary for safe operation and shall be compliant with Dark Sky guidelines, an IES TM-15-11 glare rating of G2 or better and a requirement of U0 for those with BUG ratings (<https://www.ies.org/wp-content/uploads/2017/03/TM-15-11BUGRatingsAddendum.pdf>). Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Cryptocurrency Data Mining Facility or Data Center and must not produce any glare that is visible to neighboring lots or persons traveling on public or private roads.
- (5) Security Fencing. Security fencing must be installed around all electrical equipment related to the Cryptocurrency Data Mining Facility or Data Center. Such fencing must be a minimum seven (7) feet tall and must use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.
- (6) Noise. The noise generated by the Cryptocurrency Data Mining Facility or Data Center must not exceed 45 dB $L_{A_{Smax}}$, as measured at the property line of any adjacent parcel. This limitation shall also include the use of any standby or emergency power generation from any source.
- (7) Signage. The Cryptocurrency Data Mining Facility or Data Center shall provide a 24-hour emergency contact signage visible at the access entrance. Signs shall include company name if applicable, owner/representative name, telephone number, and corresponding local power company and telephone number.
- (8) Underground Transmission. All power transmission or other lines, wires, or conduits from a Cryptocurrency Data Mining Facility or Data Center to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.
- (9) Drain Tile Inspections. The Cryptocurrency Data Mining Facility or Data Center must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tiles at least once every three years using a robotic camera, with the first inspection occurring before the Cryptocurrency Data Mining Facility or Data Center is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

(10) Applicant shall provide detailed water use and reclamation/disposal plans, including, if ground sourced, a baseline measurement of depth, flow and quality of any potable wells within 2 miles of the facility water source(s) and ongoing monitoring of same. A comprehensive plan of complaint response and mitigation shall be included for those surrounding wells. Facilities using more than 100,000 gallons of water per day will be required to recycle the water and cool it for re-use on site.

(11) Fire Protection.

- a) Before any construction of the Cryptocurrency Data Mining Facility or Data Center begins, the Township's fire department (or the fire department with which the Township contracts for fire service) will review the fire protection plan submitted with the application. The fire chief will determine whether the fire protection plan adequately protects the Township's residents and property and whether there is sufficient water supply to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is adequate, then the fire chief will notify the Township or his or her designee of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Cryptocurrency Data Mining Facility or Data Center must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board will hear the appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.
- b) The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).
- c) The Cryptocurrency Data Mining Facility or Data Center must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).
- d) The Cryptocurrency Data Mining Facility or Data Center must contain an internal fire suppression system that shall be reviewed and tested once every twelve (12) months by a third-party contractor approved by the fire chief.

- (12) Applicant must provide all Township Fire Department contractors with the appropriate equipment and training to address fires in the Cryptocurrency Data Mining Facility or Data Center.
- (13) Insurance. The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$5 million per occurrence. The Township shall be listed as an additional insured on the policy at all times.
- (14) Permits. All required county, state, and federal permits must be obtained before the Cryptocurrency Data Mining Facility or Data Center begins operating. A building permit is required for construction of a Cryptocurrency Data Mining Facility or Data Center regardless of whether the applicant or operator is otherwise exempt under state law.
- (15) Decommissioning. If a Cryptocurrency Data Mining Facility or Data Center is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Cryptocurrency Data Mining Facility or Data Center that is never fully completed or operational if construction has been halted for a period of one (1) year.
- (16) Financial Security. To ensure proper decommissioning of a Cryptocurrency Data Mining Facility or Data Center upon abandonment, the applicant must post financial security in the form of a security bond or escrow payment in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.
- (17) Extraordinary Events. If the Cryptocurrency Data Mining Facility or Data Center experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.
- (18) Annual Report. The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:

- a) Current proof of insurance;
- b) Verification of financial security; and
- c) A summary of all complaints, complaint resolutions, and extraordinary events.

(19)Inspections. The Township may inspect a Cryptocurrency Data Mining Facility or Data Center at any time by providing 24-hour advance notice to the applicant or operator.

(20)Transferability. A conditional land use permit for a Cryptocurrency Data Mining Facility or Data Center is transferable to a new owner. The new owner must register their name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.

(21)Remedies. If an applicant or operator fails to comply with this Ordinance, the Township, may pursue any remedy or enforcement, including but not limited to the removal of any Cryptocurrency Data Mining Facility or Data Center pursuant to the Zoning Ordinance or as otherwise authorized by law. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

Section 2. Amendment of Section 3.15.06.

Cryptocurrency Data Mining and Data Centers, is hereby amended to add Cryptocurrency Data Mining Facilities and Data Centers as a special land use in the Industrial zoning district.

Section 3. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 4. Repealer.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 5. Effective Date.

This Ordinance takes effect upon the expiration of 7 days after publication as required by MCL 125.3401(7).