

CITY OF ELLIJAY
STATE OF GEORGIA

ORDINANCE NO. 06172024

AN ORDINANCE TO AMEND ZONING

A RESOLUTION AND ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ELLIJAY, GEORGIA, IN ORDER TO AMEND APPENDIX A FOR THE PURPOSES OF AMENDING THE ZONING PROCEDURES PROVISIONS IN ORDER TO BETTER PROTECT AND IMPROVE THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE CITY OF ELLIJAY, GEORGIA.

WHEREAS, the duly elected governing authority of the City of Ellijay, Georgia is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, welfare and aesthetics of the citizens of the City of Ellijay, Georgia; and,

WHEREAS, The Mayor and Council of the City of Ellijay have previously adopted the Code of Ordinances, City of Ellijay, Georgia; and,

WHEREAS, the City of Ellijay desires to amend its Code of Ordinances to amend the Zoning ordinances as it relates to provisions on certain changes to the procedures in order to address the current trends in crypto-currency and data mining;

WHEREAS, it is requisite and proper for the security, welfare, health, and safety of the citizens of the City of Ellijay, Georgia, that the following provisions be adopted and authorized; and,

WHEREAS, the Mayor and Council of the City of Ellijay wish to modify and amend the Code of Ordinances;

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the City Council of Ellijay, Georgia, and the council of the City of Ellijay hereby ordains that:

SECTION 1

Article 20 shall be created in Appendix A-Zoning, of the Code of Ordinances of the City of Ellijay, Georgia shall be amended and the following shall be added:

Sec. 20-1. – Purpose.

To establish standards relating to cryptocurrency and data mining in order to protect the public health, safety, and welfare, while avoiding unintended impacts on resources and adjacent

uses, while enabling the development of Cryptocurrency Mining and Data Centers, to the extent possible, in areas where any potential adverse effects on the community will be minimized.

Sec. 20-2. – Definitions.

Code Enforcement Officer. Any person contracted with or employed by a state, county, or municipality who has enforcement authority for health, safety, or welfare requirements and is authorized to issue citations or file formal complaints regarding the same as contemplated by O.C.G.A. § 36-74-21(1).

Cryptocurrency. A digital currency in which encryption techniques are used to regulate the generation of units of currency and to verify the transfer of funds while operating independently of a central bank.

Cryptocurrency Data Center. Leased or owned boundaries of floor space devoted to the operating data processing equipment for Commercial Cryptocurrency Mining; excludes spaces for data centers not otherwise engaged in commercial cryptocurrency mining, commercial offices, storage, shipping and receiving, warehousing, or any other space that is not electronic processing.

Commercial Cryptocurrency Mining. The commercial process by which cryptocurrency transactions are verified and added to the public ledger, known as the block chain, and also the means through which new units of cryptocurrencies are released through the use of server farms. Any equipment requiring a High-Density Load Service, for the purpose of operating a cryptocurrency mining server farm will constitute a commercial cryptocurrency mining operating.

Cryptocurrency Server Farm. Three or more interconnected computers housed together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.

Data mining. The commercial process by which volumes of data are analyzed to find patterns, discover trends, and gain insight into how the data can be used will constitute a commercial data mining operating.

High-density Load Service. Any individual service at or above 600 amps in which the Energy Use Intensity (EUI) is calculated as greater than 250kWh/feet²/year in total for all operating square feet.

Manufacturing. Manufacturing means the converting of raw, unfinished materials or products, or any or either of them, into an article or articles or substance of a different character, or for use for a different character, or for use as a different purpose. Manufacturing does not include Cryptocurrency Mining, Farming or Data mining.

Office. A building, or portion thereof, wherein a predominately administrative, professional, or clerical operations are performed, and not involving retail sales or Cryptocurrency Mining, Farming or Data mining.

Recycling Center. Any facility utilized for the purpose of collecting, sorting and processing materials to be recycled, including but not limited to, plastics, glass, papers and aluminum materials and not involving or related to Cryptocurrency Mining, Farming, or Data mining.

SOC 2. A voluntary compliance standard for service organizations, developed by the American Institute of CPAs (AICPA), which specifies how organizations should manage customer data. The

standard is based on the following Trust Services Criteria: security, availability, processing integrity, confidentiality, and privacy.

Sec. 20-3. – Applicability and Location.

20-3.1. This ordinance shall apply to all commercial cryptocurrency mining and data mining operations installed, constructed, or modified after the effective date of this Ordinance.

20-3.2. All commercial cryptocurrency and data mining operations shall be designed, erected, and installed following all applicable Local, State and Federal codes, regulations and standards.

20-3.3. Commercial Cryptocurrency Mining, a Cryptocurrency Data Center and a Cryptocurrency Server Farm shall only be located and conducted on property zoned I-2 (Crypto-currency/Data Mining) within the City limits and only after the application for, and the grant of, conditional use permit by the Mayor and City Council. Within said I-2, part of the conditional use permit will require the following setbacks: 200 feet front, 200 feet sides, 200 feet rear. It may not be located within a flood plain within the City limits.

Sec. 20-4. – Standards for Commercial Cryptocurrency Mining Operations.

20-4.1. All principal and accessory structures used for cryptocurrency mining operations, server farms, and/or data mining 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, and shall not be defective, decayed, or corroded.
- c. If intermodal shipping containers are utilized, such installations shall comply with the requirements of the most recent edition of the Industrialized Building Rules and Bulletins of the Georgia Department of Community Affairs, and O.C.G.A Title 8, Chapter 2, Article 2. Part 1.

20-4.2. The operators shall not cause, allow, or permit the operation of any source of sound which creates at an occupied residential building or defined sensitive receiver, as may exist at the time of the issuance of a certificate of completion or occupancy, a sound level that exceeds a daytime continuous sound level of 50dBA or a nighttime continuous sound level of 45dBA.

20-4.3. The operators shall not cause, allow, or permit the operation of any source of sound or vibration which creates a pure tone where the one-third (1/3) octave band sound pressure level in the band of interest exceeds the arithmetic average of the sound-pressure levels for the two adjacent one-third (1/3) octave bands by the corresponding decibel (dB(Flat)) values as follows:

- a. 5dB for center frequencies of 500 Hertz and above;
- b. 8dB for center frequencies between and including 160 and 400 Hertz; and
- c. 15dB for center frequencies less than or equal to 125 Hertz.
- d. A pure tone shall be deemed present by measurement.

20-4.4. For permitting and compliance purposes, measurements shall be performed using a calibrated Type 1 Sound Level Meter, configuring to log and record one-third (1/3) octave flat-weighted equivalent sound pressure levels, and A-weighted equivalent level (Leq), slow time weighting, with a 15-minute averaging interval. Measurements shall be made proximate to, but no closer than 100 feet from any adjacent property line. Transient background sounds must be excluded from the measurement period by post-processing or other means. Compliance is indicated if the noise solely generated by the operator cannot be discriminated from the equivalent-continuous background sound pressure level, or if the noise levels solely generated by the operator otherwise conform to the requirements of Section 20-4.3 and 20-4.4.

20-4.5. Prior to the issuance of a certificate of completion or occupancy, a report with noise level test results shall be submitted for approval by the applicant from a noise control engineering professional for the purpose of demonstrating compliance. The expense for testing and reporting the results, in written format, to the City will be the responsibility of the applicant.

20-4.6. A noise reduction barrier or device may be required at the discretion of the City when it is conclusive that noise level tests do not conform to Section 20-4.3 and 20-4.4. If this is required of the applicant of facility, the expense of compliance shall be the applicant's and not the City's.

20-4.7. Terminology as used herein related acoustic levels and measurements follow American National Standard ANSI S12:9: "Quantities and Procedures for Description and Measurement of Environmental Sound – Part 1: Basic Quantities and Definitions," and ANSI S12:9: "Quantities and Procedures for Description and Measurement of Environmental Sound. Part 3: Short-term measurements with an observer present".

20-4.8. All servers, computers, processors, materials, and equipment must be enclosed within buildings. These buildings will be subject to commercial design standards.

20-4.9. The equipment used in any Commercial Cryptocurrency Mining operation shall be housed in a metered (either individually or collectively in primary-metered services), electrically grounded, and pre-engineered metal-encased structure with a fire rating designed to resist an internal electrical fire for at least 30 minutes. The containment space shall contain baffles that will automatically close in the event of fire independent of a possible electric system failure.

20-4.10. Prior to issuance of a building permit, the applicant shall provide written verification from the power provider (Georgia Power or Amicalola EMC) that the applicant has calculated the maximum potential electrical consumption of the proposed use and has verified the utility supply equipment and related electrical infrastructure is sufficiently sized and can safely accommodate the proposed use during power provider's peak consumption hours.

20-4.11. Power shall only be provided by either Georgia Power or Amicalola EMC. No use of alternative power, such as wind, or hydro, is permitted, whether on-site or off-site. Solar panels, however, may be used as an alternative source of power.

20-4.12. Commercial Cryptocurrency Mining Data Center will undergo SOC 2 auditing resulting in successful certification. The data center will also maintain the SOC 2 certification for the duration of operation. Validation of certification will be provided to the City within 13 months of beginning operating and annually thereafter.

20-4.13. Any use or activity producing air, dust, smoke, glare, exhaust, heat, or humidity in any form shall be carried on in such a manner that it is not perceptible at or beyond the property line.

20-4.14. Any use of ISO shipping containers or similar as housing, whether horizontally combine or independent of other structures for the commercial cryptocurrency mining operation, shall not be vertically combined to exceed a height of greater than nine (9) feet.

20-4.15. A security fence with a minimum height of eight (8) feet must be installed around the perimeter of the server farm building. Each commercial cryptocurrency mining and data operation 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.

20-4.16. No façade of any commercial cryptocurrency mining operation shall have more than twenty (20%) percent of the area exposed with apparatus (e.g., vents, fans, HVAC systems, etc.).

20-4.17. An active clean agent fire protection system must be provided and maintained in good working order within any structure which contains a server farm. High sensitivity smoke detectors shall be installed and operational in order to activate the clean agent fire suppression system.

20-4.18. There shall be an emergency electrical termination switch installed outside of any containment structure which contains the server farm. The switch shall be appropriately signed so that responding public safety officials can quickly identify it.

20-4.19. All building requirements in this section, including but not limited to heat transfer apparatuses, fire detection/suppression systems, or containment structures shall be designed by a State of Georgia licensed engineer and in accordance with all applicable codes and standards.

20-4.20. Prior to issuance of a building permit, the applicant shall provide written verification of a waste management plan for any waste water and/or other technology waste products.

20-4.21. The ambient temperature inside of a containment space which houses a server farm shall not exceed 120 degrees Fahrenheit at any time. No person shall be permitted to regularly inspect and work within the containment area which houses a server farm if the ambient temperature within the containment areas exceeds 90 degrees Fahrenheit.

20-4.22. Any Server Farm shall ensure that no more than twenty (20%) percent of the heat dissipated by the mining activity shall be released directly to the outside when the average daily temperature is less than 40 degrees Fahrenheit.

20-4.23. All requirements of Section 20-4 must be maintained after the issuance of a certificate of occupancy. Any violation of such will be handled in accordance with Section 20-6.

Sec. 20-5. – Application and Approval.

No commercial cryptocurrency or data mining operation may be developed without site plan review and verification by the City that all requirements within this ordinance are met.

Sec. 20-6. – Violations.

20-6.1. Any section of this ordinance that is not followed constitutes a violation of the same. Each incident is a separate violation such that multiple violations may occur on the same date and subsequent dates.

20-6.2. The Code Enforcement Officer or any City police officer has the discretion to issue a warning or a citation on a case-by-case basis.

20-6.3. Any violation shall have a maximum punishment not to exceed a fine of \$1,000.00, imprisonment for 60 days, or both.

Sec. 20-7. Effectiveness, Interpretation, Separability.

20-7.1. This Article shall become effective immediately upon its adoption.

20-7.2. All Ordinances, or parts of Ordinances, in conflict herewith are replaced.

20-7.3. If any part of this Ordinance conflicts with any other applicable federal, state, or local regulation, the more restrictive regulation shall control.

20-7.4. If any section, clause, portion or provision of this Ordinance is found unconstitutional, such invalidity shall not affect any other portion of this Ordinance.

SECTION 2

The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3

Penalties for a violation of current Code of Ordinances sections applicable to the amendment described herein in effect upon the adoption date of this ordinance are adopted herein as if completely set out herein.

SECTION 4

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

SECTION 5

Nothing in this ordinance or in the ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as city in Section 4 herein; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

This Resolution and Ordinance is hereby adopted on this date, it being so ordained

This 17 day of June, 2024.



ATTEST:

Lori Pierce
City Clerk

Al Hoyle, Mayor

Al Fuller
Al Fuller

Thomas Griffith
Thomas Griffith

Tom Crawford
Tom Crawford

Kevin Pritchett
Kevin Pritchett

Claudia Penland
Claudia Penland