

TOWN OF DRYDEN

LOCAL LAW NO. ___ FOR THE YEAR 2024

A LOCAL LAW AFFECTING A MORATORIUM ON COMMERCIAL CRYPTOCURRENCY MINING OPERATIONS AND DATA PROCESSING CENTERS

Be it enacted by the Town Board of the Town of Dryden as follows:

Section 1. Enactment and Title

The Town Board of the Town of Dryden does hereby enact a moratorium on Commercial Cryptocurrency Mining operations and Data Processing Centers in the Town of Dryden. This Local Law shall impose a moratorium on applications or proceedings, or the issuance of approvals or permits for Commercial Cryptocurrency Mining operations and Data Processing Centers within the Town.

Section 2. Authority and Purpose

This Local Law is enacted pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law of the State of New York, and all other powers and authority vested in the Town Board of the Town of Dryden to regulate and control land use and to protect the health, safety and welfare of its residents.

It is the purpose of this Local Law to provide the Town of Dryden time to address through planning and legislation, the promotion of the protection, order, conduct, safety health and well-being of the residents of the Town which are presented as heightened risks associated with commercial cryptocurrency mining operations and Data Processing Centers. Further, it is the purpose of this Local Law to facilitate the adoption of land use and zoning regulations and laws to protect and enhance the Town's natural, historic, cultural and electrical resources.

Section 3. Definitions

"Cryptocurrency" is defined herein as a digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

"Commercial Cryptocurrency Mining" is defined herein as 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 Data Processing Centers employing data processing equipment.

"Data Processing Center" is defined herein as a facility housing multiple banks of computers within a building, modular facilities containing processors in multiple storage-like containers, server clusters commonly known as "Data Processing Centers" and other operations related to cryptocurrency mining, blockchain authenticating, Artificial Intelligence (A.I.) processing,

general data computing, processing and storage, and other large-scale electronic-based centers of the like.

Section 4. Scope of Controls

During the effective period of this local law:

- A. The Code Enforcement Officer, Building Inspector, Review Board, or Zoning Board of Appeals shall not accept an application for a Data Processing Center or Commercial Cryptocurrency Mining operation.
- B. The Code Enforcement Officer, Building Inspector, Review Board, or Zoning Board of Appeals shall not grant any permit for a Data Processing Center or Commercial Cryptocurrency Mining operation.

Section 5. No Consideration of New Applications

No applications for either Commercial Cryptocurrency Mining operations or Data Processing Centers, or for related approvals for a site plan, special use permit, building permit, or any other permit shall be approved by any board, officer, employee or agent of the Town of Dryden while the moratorium imposed by this Local Law is in effect. Nothing in this Local Law shall be construed such as to result in any default approval for any application heard or considered during the moratorium imposed by this Local Law. This moratorium shall apply to all such applications, whether pending or received prior to the effective date of this law.

Section 6. Term

The moratorium imposed by this Local Law shall be in effect for a period of eighteen (18) months from the effective date of this Local Law unless terminated earlier by the Town Board of the Town of Dryden. During the period of the moratorium, the Town Board of the Town of Dryden shall endeavor to amend the local zoning code and related laws to address and regulate Commercial Cryptocurrency Mining operations and Data Processing Centers.

Section 7. Location

The moratorium imposed by this local law shall apply to the territorial limits of the Town of Dryden.

Section 8. Penalties.

- A. Compliance Orders. The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in violation of this Local Law. If the condition or activity is not remedied after the issuance of a compliance order, then an appearance ticket may be issued as provided hereinafter.
- B. Appearance Tickets. The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this Local Law. Any person who violates any provision of this

Local Law shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both such fine and imprisonment. Each week's continued violation shall constitute a separate, additional violation.

- C. Civil Penalty. In addition to those penalties prescribed herein, any person who violates any provision of this Local Law shall be liable to a civil penalty of not more than \$2,500 for each day or part thereof during which such violation continues. The civil penalties provided by this section shall be recoverable in a civil action instituted in the name of the Town of Dryden.
- D. Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Dryden, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Local Law. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of the Town of Dryden.
- E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation of this Local Law. Any remedy or penalty specified in this section and/or any other remedy or penalty provided by law, may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section. In addition to the above-provided remedies, the Town Board may also seek reimbursement to the Town for costs incurred by the Town in identifying and remedying each violation, including but not limited to, reasonable attorney's fees.

Section 9. Grandfathering of Legal, Pre-Existing Non-Conforming Use

Notwithstanding any provision hereof to the contrary, any Commercial Cryptocurrency Mining operations or Data Processing Centers in the Town of Dryden that have been duly approved as of the effective date of this Local Law, which are being operated in accordance with all applicable laws and regulations and in compliance with all valid permits required to be issued by all federal, state and local regulating agencies, shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of this Section.

Any expansion of a lawful, pre-existing nonconforming use shall not be grandfathered under this Section, and instead shall in all respects be prohibited as contemplated by this Local Law. "Grandfathered" and lawful pre-existing uses neither have nor possess any right to expand such non-conforming use, whether above or below ground, and no such right shall be deemed, construed, or implied to exist.

Section 10. Hardship Use Variance

The Town Board of the Town of Dryden is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this Local Law) requests for a hardship use variance from application of the provisions of this Local Law by any person aggrieved hereby.

No such use variance shall be granted without a showing by the applicant that applicable regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located: (i) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (ii) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (iv) that the alleged hardship has not been self-created.

In the event a hardship use variance from the provisions of this Local Law is granted to the applicant, the applicant shall be required to comply with all provisions of the Town of Dryden's then applicable land use laws and other laws and regulations. The Town Board of the Town of Dryden, in the granting of a hardship use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Section 11. Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board of the Town of Dryden hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

Section 12. Superseding Intent and Effect

It is the specific intent of the Town Board that this Local Law shall supersede any inconsistent provisions of Sections 267, 267-a, 267-b, 274-a, 274-b and 276 of the Town Law of the State of New York, as well as all other inconsistent provisions of local ordinances, local laws, or local resolutions or policies of the Town of Dryden, including but not limited to provisions of the aforementioned state and local laws, ordinances, resolutions or policies that require the approval, or affect a default approval of land use applications within certain statutory time periods.

Section 13. General Provisions

- A. The Code Enforcement Officer is hereby designated as the enforcement officer for purposes of interpreting and enforcing this Local Law.

- B. The section and other headings and titles to clauses and phrases in this Local Law are for convenience only, and shall not be used or construed to limit or define the scope or application of the clauses and phrases so following such headings or titles. Each section of this Local Law, whether in the nature of a preamble or otherwise, is a material part of this Local Law.

Section 11. Effective Date

This Local Law shall take effect immediately upon filing with the New York Department of State in accordance with Section 27 of the Municipal Home Rule Law.