

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: June 28, 2023

SUBJECT: Public Hearing -- Proposed text amendment (TX-2023-03) to Land Development Ordinance concerning Cryptocurrency Mining

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Published notice; draft text amendment; Resolution of Consistency

SUMMARY OF REQUEST:

The current Land Development Ordinance (Chapter 42 of the Henderson County Code) does not specifically regulate the operation of certain high-intensity cryptocurrency mining operations. This proposed amendment will establish locations where cryptocurrency mining operations may be located and the supplemental requirements that must be met to protect the public health, safety, and general welfare of county residents.

Other jurisdictions in which such high-intensity cryptocurrency mining operations have located have cited significant negative effects of such operations. These include very high energy usage, around the clock loud noise, and electronic waste disposal issues. This draft is intended to address those negative effects.

On May 1, 2023, after public hearing you adopted a moratorium on cryptocurrency mining for 60 days, to allow the Planning Board to recommend an amendment and for the BOC to consider adoption of the amendment.

The Planning Board discussed the concerns around cryptocurrency at its April, May, and June meetings. At its June 15th meeting the Planning Board voted unanimously to recommend adoption of the proposed text amendment.

The required public notice for this hearing was published in the *Hendersonville Lightning* on June 14, 2023, and June 21, 2023. North Carolina law requires a public hearing prior to the Board of Commissioners acting on a text amendment to the County's zoning laws.

BOARD ACTION REQUESTED:

Adoption of the proposed text amendment, and the resolution of consistency with the Comprehensive Plan

If the Board is so inclined, the following motion is suggested:

I move that the Board (1) approve the proposed text amendment TX-2023-03, cryptocurrency mining with any changes as

discussed, and (2) find that the changes contained in TX-2023-03 are consistent with the County Comprehensive Plan.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN pursuant to N.C. Gen. Stat. §§ 160D-107 and 160D-601, that the Henderson County Board of Commissioners will hold a public hearing at a special meeting on June 28, 2023, at 9:30 a.m., or as soon thereafter as the Board can hear the matter, to consider either (1) the adoption of amendments to the Land Development Ordinance regarding cryptocurrency mining, or (2) in the alternative, the extension of the moratorium adopted regarding cryptocurrency mining on May 1, 2023, or (3) taking no further action on the issue.

The hearing will be held in the Commissioners Meeting Room of the Historic Courthouse, located at 1 Historic Courthouse Square, Hendersonville, NC. The public is invited to attend and comment.

Denisa Lauffer, Clerk to the
Henderson County Board of Commissioners

LDC Text Amendment (TX-2023-03)

Cryptocurrency Mining

Possible changes are highlighted.

Cryptocurrency Mining

Summary: The Henderson County LDC does not specifically address the operation of cryptocurrency mining. This amendment will establish locations where cryptocurrency mining operations may be located and the supplemental requirements that must be met to protect the public health, safety, and general welfare of county residents. The purpose of the amendment is to mitigate the negative effects of cryptocurrency mining operations. This includes, but is not limited to, very high energy usage, noise pollution, and the disposal of electronic waste. The high energy consumption of cryptocurrency mining operations has a negative impact on the power grid, and equipment at these facilities has the potential to create noise pollution that negatively impacts nearby residents, businesses, and wildlife. In addition, electronic waste from cryptocurrency mining operations contains heavy metals and carcinogens that have the potential to damage human health, and air and water quality if not handled correctly.

Amend the Table of Permitted and Special Uses as follows.

10. Manufacturing & Industrial Uses	R1	R2	R2R	R3	R4	OI	LC	CC	RC	I	SR
Cryptocurrency Mining										S	10.5

Definition:

Cryptocurrency Mining Operation(s). The operation of specialized computer equipment for the purpose of mining one or more blockchain-based cryptocurrencies, such as Bitcoin. This activity, which is also termed “proof of work,” 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 for mining operations as well as equipment to cool the hardware and operating space. For the purposes of the associated regulations, cryptocurrency mining includes the commercial “creation” (“mining”) of virtual currency not recognized as legal tender of the U.S., but does not include the exchange of cryptocurrency, the use, creation, or maintenance of all types of peer-to-peer distributed ledgers. This definition does not include use of one or not more than five computers from which cryptocurrency is mined in an enclosed structure, provided the cryptocurrency is not mined for commercial purposes.

Add SR and insert as SR 10.5:

SR 10.5. Cryptocurrency Mining

- (1) Site Plan. Major *Site Plan* required in accordance with §42-330 (Major Site Plan Review).
- (2) Perimeter Setback. One hundred (100) feet.
- (3) Separation. *Cryptocurrency mining operations* shall not be constructed or newly located within 1,000 feet (measurements from the property line of the proposed facility to the property line of the district/use) of an existing dwelling unit (not located on the same property as the use), residential zoning district, library, day care facility, park, religious institution (including accessory uses not located on the same lot, but contiguous to the principal place of worship), or within two (2) miles of a school, all distances in straight-line distance.
- (4) Hours of Operations. *Cryptocurrency mining operations* shall not be mined between the hours of 9:00 pm to 6:00 am, or anytime on Sunday.
- (5) Noise Restrictions. Noise pollution generated from *cryptocurrency mining operations* shall not exceed 50 decibels (cumulative for operation) measured within a 100-ft buffer from the facilities perimeter. The equipment in a cryptocurrency operation shall be calibrated every six (6) months and a yearly report of these calibrations shall be provided to the Henderson County Zoning Administrator.
- (6) Scenic Byways. *Cryptocurrency mining operations* shall not be permitted on sites visible from Scenic Byways as designated by the North Carolina Department of Transportation.
- (7) Security. *Cryptocurrency mining operations* shall be completely enclosed with a NCDOT approved precast sound wall. The wall shall be at least eight (8) feet in height. A B2 buffer is required on all exterior sides of the security wall.
- (8) Electrical Disconnection Switch. The electrical disconnect switch shall be clearly marked and unobstructed. Switches are permitted to be secured within a fenced area or building. Duke Energy or any other power utility provider to the operation shall have access to the disconnection switch at all times or an onsite manger must be present at all times.
- (9) Power Transmission Lines. All new power transmission lines to any building, structure or utility connection shall be located underground.
- (10) Power Grid Reductions. Duke Energy or any other power provider to the operation shall have the authority during select high power usage events to cut or significantly reduce or restrict power to any cryptocurrency mining operation. The power utility provider is requested to cut or reduce power to these operations before considering reducing power to residential homes or other commercial or industrial facilities.
- (11) Renewable Energy. *Cryptocurrency mining operations* shall be required to develop or purchase sufficient new renewable energy to offset 10 percent of the electricity consumed by the cryptocurrency mining operation. To meet this condition, the *cryptocurrency mining operation* must be able to establish that their actions will introduce new renewable energy onto the electrical grid beyond what would have been developed otherwise.
- (12) Electronic Waste. Verification must be provided to the Henderson County Zoning Administrator that all qualified recyclable materials, including electronic waste, generated at the *cryptocurrency mining operation* will be recycled including packing foam, computer chips, and cardboard.
- (13) Special Flood Hazard Area. No structures, equipment, storage, or buildings shall be located within the *Special Flood Hazard Area*.
- (14) Lighting. *Lighting mitigation* is required.
- (15) Prohibited. The use may not be applied for as a conditional rezoning application.



RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN

WHEREAS, pursuant to N.C. General Statute §160D, Article 1, the Henderson County Board of Commissioners exercises regulations relating to development within the County’s jurisdiction; and

WHEREAS, the Henderson County Board of Commissioners (Board) adopted the Land Development Code (LDC) on September 19, 2007 and has amended the LDC to address new and changing issues;

WHEREAS, the Board desires to update and revise the regulations of the LDC; and

WHEREAS, the Planning Department and Planning Board provided recommendations regarding the proposed text amendments with case #TX-2023-03; and

WHEREAS, pursuant to N.C. General Statute §160D-601, the Planning Department provided the prescribed public notice and the Board held the required public hearing on June 28, 2023; and

WHEREAS, N.C. General Statute §160D-605 requires the Board to adopt a statement of consistency with the County Comprehensive Plan (CCP); and

NOW THEREFORE, BE IT RESOLVED by the Henderson County Board of Commissioners as follows:

1. That the Board reviewed the proposed text amendments related to (#TX-2023-03 to the Land Development Code) and finds that it reasonable, in the public interest and it is consistent with the principles and goals of County Comprehensive Plan and the Growth Management Strategy located therein; and
2. That the Board determines that the proposed text amendments provide for the sound administration of the LDC while balancing property rights and promoting reasonable growth within the County; and
3. That this Resolution shall be retained in the Office of the Clerk to the Board of Commissioners.

THIS the 28th day of June, 2023.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____
REBECCA MCCALL, Chairman
Henderson County Board of Commissioners

ATTEST:

DENISA LAUFFER
Clerk to the Board of Commissioners

[COUNTY SEAL]