

ORDINANCE NO. 2217

**CITY OF MADISON HEIGHTS
OAKLAND COUNTY, MICHIGAN**

AMENDMENT TO THE CODE OF ORDINANCES

An Ordinance to amend Ordinance No. 571, being an Ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, by amending Chapter 7, titled “Business Regulations and Licenses, by adding a new Article XVIII titled, “Cryptocurrency kiosks,” and by adding new Sections 7-500 through 7-515, to protect the public health, safety, and welfare by prohibiting the installation, placement, operation and maintenance of cryptocurrency kiosks within the City of Madison Heights and to provide civil and criminal penalties and business license sanctions for violation thereof.

THE CITY OF MADISON HEIGHTS ORDAINS

SECTION 1. AMENDMENT.

That Chapter 7, titled “Business Regulations and Licenses,” of the Madison Heights Code of Ordinances, shall be amended by adding a new Article XVIII, titled “Cryptocurrency kiosks,” and by adding new Sections 7-500 through 7-515, to protect the public health, safety, and welfare by prohibiting the installation, placement, operation and maintenance of cryptocurrency kiosks within the City of Madison Heights, and to provide penalties and license sanctions for violation thereof and thereby amending the code of ordinances as follows:

Sec. 7-500. – Short Title.

This ordinance shall be known and may be cited as the “Cryptocurrency kiosks ordinance.”

Sec. 7-501. – Findings and Purpose.

The purpose of this ordinance is to protect the public health, safety and welfare of persons within the jurisdiction of the city by prohibiting the installation, placement, operation and maintenance of cryptocurrency kiosks within the city, except as otherwise stated in this ordinance, and to provide methods of enforcement through civil and criminal penalties and business licensing sanctions. The Madison Heights City Council finds and determines the following:

- (a) Cryptocurrency kiosks, sometimes commonly referred to as Bitcoin ATMs, are electronic machines that permit members of the public to purchase, sell, exchange or otherwise transact in cryptocurrency.
- (b) Cryptocurrency kiosks may facilitate transactions involving substantial amounts of money and may present risks of fraud, financial exploitation, identity theft, money laundering, and other unlawful or fraudulent activity.
- (c) Cryptocurrency kiosks may be particularly susceptible to exploitation because transactions conducted through such kiosks may be difficult for consumers to reverse and may involve anonymous or pseudonymous digital transactions.

(d) The city has an interest in protecting its residents, businesses, property owners, and visitors from criminal and fraudulent activity and in protecting the public health, safety, and welfare of the community, including those who reside, work and visit the city.

(e) The City Council further finds that regulation of cryptocurrency kiosks is distinct from regulation of cryptocurrency itself. This ordinance is intended to regulate the installation, operation and maintenance of cryptocurrency kiosks within the city and is not intended to prohibit the lawful ownership, possession, purchase, sale, or use of cryptocurrency by individuals or businesses except to the extent that such activity requires or involves the operation of a cryptocurrency kiosk prohibited by this ordinance.

(f) The purpose of this ordinance is to protect the public health, safety, and welfare by prohibiting the installation, placement, operation and maintenance of cryptocurrency kiosks within the city as defined below.

Sec. 7-502. – Definitions.

When used in this article, the following words and terms shall have the following meanings:

(a) *Cryptocurrency* means digital or virtual currency or digital assets that uses cryptography for security and that is designed to function as a medium of exchange, store of value, or unit of account, including, but not limited to, Bitcoin, Ethereum, Tether, BNB, XRP, and similar or equivalent digital currencies or assets.

(b) *Cryptocurrency kiosk* means an electronic terminal, machine, device, or other automated apparatus that is used to facilitate the purchase, sale, exchange, transfer, or other transaction involving cryptocurrency or digital assets by members of the public, whether or not the machine is connected to or resembles a conventional automated teller machine. This term includes, without limitation, any Bitcoin ATM, Bitcoin kiosk, Cryptocurrency ATM, digital-currency kiosk, or a substantially similar or equivalent device.

(c) *Operator* means any individual, person, corporation, limited liability company, partnership, association, financial institution, organization, cryptocurrency business or exchange, or other entity that owns, leases, manages, controls, operates, maintains, or provides services through a cryptocurrency kiosk, or anyone acting by or through or on behalf the entities named herein.

(d) *Person* means any individual, human being, corporation, limited liability company, partnership, association, financial institution, organization, cryptocurrency business or exchange, or other entity, or anyone acting by or through or on behalf the entities named herein.

Sec. 7-503. – Prohibited conduct.

(a) No person shall install, place, locate, maintain, operate, or permit the operation of a cryptocurrency kiosk or kiosks anywhere within the City of Madison Heights.

(b) No person who owns, leases, occupies, manages, or controls real property with the city shall knowingly permit a cryptocurrency kiosk or kiosks to be installed, placed, maintained, or operated upon such property.

(c) The prohibition in this section applies regardless of whether the cryptocurrency kiosk is located:

1. Within a commercial establishment;
2. Within a gas station or convenience store;
3. Within a restaurant or other food-service establishment;
4. Within a shopping center or other retail establishment;
5. Within an office or other private business;
6. Within a lobby or common area;
7. Within a parking area or other exterior location; or
8. At any other public or private location within the city.

(d) No person shall reactivate, relocate, replace, expand, fix, repair, or otherwise continue the operation of a cryptocurrency kiosk or kiosks after the effective date of this ordinance, except as otherwise stated herein.

Sec. 7-504. – Existing cryptocurrency kiosks.

(a) Any cryptocurrency kiosk or kiosks lawfully located with the city before the effective date of this ordinance shall cease operation and shall be removed from the city within sixty (60) days after the effective date of this ordinance.

(b) During the sixty (60) day period provided for in subsection (a), an existing cryptocurrency kiosk or kiosks shall not be relocated, replaced, expanded, fixed, repaired, or reactivated at another location within the city.

(c) After expiration of the sixty (60) day period, the continued operation or maintenance of any cryptocurrency kiosk or kiosks within the city shall constitute a violation of this ordinance.

Sec. 7-505. – Lawful cryptocurrency.

Nothing in this ordinance shall be construed to prohibit:

- (a) The lawful ownership or possession of cryptocurrency;
- (b) The lawful purchase, sale, transfer, or use of cryptocurrency through a computer, mobile telephone, or other personal electronic device, that does not involve the installation, placement, maintenance, or operation of a cryptocurrency kiosk within the city.
- (c) A person or business from accepting cryptocurrency as payment for lawful goods or services; or
- (d) Any other lawful activity involving cryptocurrency that does not involve the installation, placement, maintenance, or operation of a cryptocurrency kiosk or kiosks within the city.

Sec. 7-506.-State and Federal law.

This ordinance shall be interpreted and enforced to the maximum extent permitted by applicable federal and state law. Nothing in this ordinance shall be construed to prohibit conduct that the city is expressly preempted from regulating or prohibiting by federal or state law. If any provision of this ordinance is determined to be preempted, invalid, or unenforceable, the remaining provisions shall remain in full force and effect to the maximum extent permitted by law.

Sec. 7-507. Penalties.

(a) For a first offense, a person who violates this ordinance shall be guilty of a civil infraction, subject to a fine of \$500.00, for each cryptocurrency kiosk, together with such costs as may be authorized by law or imposed by the court.

(b) For a second offense or any subsequent offense, a person who violates this ordinance shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both. A second violation shall be defined as a violation that occurs within two (2) years of a first violation. A subsequent offense shall be defined as a violation that occurs within two (2) years after a second offense or any subsequent offense.

(c) For a second offense or any subsequent offense, a person who violates this article and who has or possesses a business license issued by the city may be subject to revocation, non-renewal, or denial of said business license, subject to the provisions of the city code of ordinances.

(d) Pursuant to lawful enforcement of this ordinance, the city police department may seize and retain any cryptocurrency kiosk or kiosks, which may be kept, maintained, preserved, tested or transferred to other appropriate government authorities, or otherwise disposed of or destroyed in accordance with applicable law and established evidence-handling procedures.

(e) Each day that a violation continues shall constitute a separate violation.

(f) Nothing in this article shall prevent the city from pursuing any other remedy authorized by law.

Sec. 7-508 to 7-515.-Reserved.

SECTION 2. REPEALER.

All ordinances, or parts of ordinances, in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. SEVERABILITY

Should any section, subdivision, clause, or phrase of this ordinance be declared by a court of law to be invalid, the validity of the ordinance, in whole or in part, shall not be affected other than the part invalidated.

SECTION 4. SAVINGS.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

SECTION 5. EFFECTIVE DATE.

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

SECTION 6. INSPECTION.

A copy of this ordinance may be inspected or purchased at the city clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between the hours of 12:30 p.m. and 4:30 p.m. on regular business days.