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MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

JOSHUA RHINES and CUBCLOUD AI, LLC Plaintiffs, v. **CITY OF MISSOULA, a Montana municipal corporation,** Defendant.	Cause No. ***COMPLAINT***

Plaintiffs Joshua Rhines ("Rhines") and CubCloud AI, LLC ("CubCloud"), through counsel, state for their Complaint against Defendant City of Missoula as follows:

INTRODUCTION

1. In 2025, the Montana Legislature enacted the Right to Compute Act, Mont. Code Ann. § 2-10-201 et seq., establishing that the fundamental constitutional rights to property and free expression embody a fundamental right to privately own and make lawful use of computational resources. Under state law, any municipal action restricting computational tools and infrastructure must be limited strictly to measures that are "demonstrably necessary and narrowly tailored to fulfill a compelling governmental interest."

2. Defendant City of Missoula has enacted an amendment to section 4.8.06-C of its Unified Development Code that directly conflicts with the Right to Compute Act. By redefining a "data center" to encompass any facility housing networked computer systems used for third-party data processing or storage, and restricting all such uses exclusively to "Heavy Industrial" (I-2) zoning districts — which do not currently exist anywhere on the City's zoning map — the City created an absolute, citywide prohibition on the establishment or expansion of commercial, third-party computational infrastructure.

3. Plaintiffs Rhines and CubCloud AI, LLC have committed nearly $3 million to establish a local, sovereign AI company whose goal is to provide critical computational services to local Missoula businesses, educational institutions, and

community organizations. The City's newly amended ordinance prevents Plaintiffs from expanding their computing operations either on their property or elsewhere in the City, solely because those resources will serve outside clients.

4. The computational resources Plaintiffs provide to clients are not a nuisance, common law or otherwise. Because the amended ordinance is neither supported by any compelling governmental interest nor narrowly tailored as required by law, Plaintiffs bring this action for declaratory and injunctive relief to enforce the Right to Compute Act and to vindicate the right expressed in that statute.

JURISDICTION AND VENUE

5. This Court has original jurisdiction pursuant to Mont. Const. art. VII, § 4(1), and Mont. Code Ann. § 3-5-302(1)(b).

6. The Court may grant declaratory relief under Mont. Code Ann. §§ 27-8-201 and 27-8-202, and injunctive relief pursuant to Mont. Code Ann. § 27-19-101 et seq.

7. Venue is proper under Mont. Code Ann. § 25-2-126(3) because the Defendant, City of Missoula, is located in Missoula County and because the facts giving rise to the Plaintiffs' claims arose in Missoula County.

PARTIES

8. Plaintiff Joshua Rhines is a resident of Missoula, Montana, and is the CEO of CubCloud. He has personally invested about $850,000 into this company.

9. Plaintiff CubCloud is a Missoula company that provides private computational resources, remote data processing, server hosting, and cloud computing services to third-party clients, including local Montana businesses, educational entities, creators, and community organizations. Founded in the fall of 2025, it now has 18 employees and holds a business license to operate at a 4.5-acre parcel located at 7151 Kestrel Drive in Missoula, Montana. CubCloud has committed approximately $2.985 million to establishing itself in the City of Missoula, including approximately $1 million to build its headquarters at the Kestrel location.

10. Defendant City of Missoula is a Montana municipal corporation and political subdivision of the State of Montana located within Missoula County, Montana, organized and existing under the laws of the State of Montana. At all times relevant to this action, Defendant City of Missoula possessed and exercised the authority to enact, amend, and enforce municipal ordinances within its jurisdictional boundaries.

FACTUAL ALLEGATIONS

11. In 2025, Montana adopted the Right to Compute Act, which has been codified at Mont. Code Ann. § 2-10-201, et seq.

12. The Right to Compute Act establishes the legislature's determination that the fundamental rights to property and free expression expressed in the Montana Constitution also include a fundamental right to the private ownership and lawful use of computational resources. Mont. Code Ann. § 2-10-202.

13. The Right to Compute Act also establishes a statewide standard regarding governmental actions that restrict computational resources, limiting government actions that restrict citizens' use of computational resources to those that are "demonstrably necessary and narrowly tailored to fulfill a compelling government interest." Mont. Code Ann. § 2-10-204.

14. The Right to Compute Act defines "government actions" to include "any law, ordinance, regulation, rule, policy, condition, test, permit, or administrative practice enacted by a government entity that restricts the common or intended use of computational resources by its owner or invitees." Mont. Code Ann. § 2-10-203(7).

15. The Right to Compute Act defines "computational resources" to include "any tools, technologies, systems, or infrastructure, whether digital,

analog, existing, or some other form, that facilitate any form of computation, data processing, storage, transmission, manipulation, control, creation, dissemination, or use of information and data. This includes but is not limited to hardware, software, algorithms, sensors, networks, protocols, platforms, services, systems, cryptography, machine learning, or quantum applications." Mont. Code Ann. § 2-10-203(3).

16. CubCloud was established for the purpose of providing computational resources for the use of local businesses, organizations, and individuals.

17. CubCloud's clients currently include fitness gyms, insurance companies, and telecom companies.

18. CubCloud purchased an office building at the Kestrel site, which included roughly 4,000 square feet of floor space, about 850 square feet of which the company devoted to electrical facilities and the servers that allow CubCloud to provide computational resources to clients.

19. Rhines and CubCloud anticipate that their business will max out the existing capacity of the computational resources at the Kestrel site sometime in 2027.

20. Rhines and CubCloud intend to expand their ability to serve clients in at least two ways: (1) by building a warehouse at the Kestrel site that would increase

the computing resources housed and operated on that site, and (2) by building small-scale, in-house computing facilities for customers in the City of Missoula (collectively, "New Facilities").

21. Specifically, Rhines and CubCloud intend to build a new stand-alone building at the Kestrel site that would house additional computing resources that they can lease to third parties.

22. Prior to March 4, 2026, the City of Missoula used a Title 20 Zoning Map that identified three types of "industrial" or "manufacturing" districts: M1R — Limited Industrial-Residential, M1 — Limited Industrial, and M2 — Heavy Industrial.

23. When CubCloud acquired the property at the Kestrel site, it was zoned M-1-2, Limited Industrial.

24. As of March 4, 2026, the City of Missoula began using a new Title 22 Unified Development Code, which identified two types of "industrial" or "manufacturing" districts: I-1 — Limited Industrial, and I-2 —Heavy Industrial.

25. Under the new Title 22 Unified Development Code, the Kestrel site is zoned as I-1, Limited Industrial.

26. Under the new Title 22 Unified Development Code, a "data center" as a primary use could only be located in an I-2 Heavy Industrial district.

27. When the City of Missoula adopted the Title 22 Unified Development Code, section 4.8.06-C defined "data center" as "[a] use involving a building or premises in which the majority of the use is occupied by computers, telecommunications, or related equipment, including supporting equipment, where information is processed, transferred, and stored, as reflected in MCA § 69-3-1."

28. Under this version of 4.8.06-C, a facility such as the one CubCloud maintains at the Kestrel site, which houses computational resources that occupy only about twenty percent of the development's floor area and which allows third parties to lease data storage and processing services enabled by the facility's computational resources, would not be defined as a "data center."

29. As such, under the version of 4.8.06-C that was operational when CubCloud began developing the Kestrel site, it could lawfully operate in a "Limited Industrial" zone.

30. The City issued CubCloud a business permit for its existing facility at the Kestrel site on September 11, 2026.

31. Based on the foregoing, Plaintiffs had a protectable property interest in these New Facilities.

32. The New Facilities would not generate noise, odors, physical intrusions, or other adverse conditions that would constitute a common-law nuisance.

33. Plaintiffs' use of the New Facilities would not unreasonably interfere with the comfortable use or enjoyment of neighboring properties. Such use is compatible with similar land uses on comparable properties within the same zoning district.

34. But on October 5, 2026, the City of Missoula passed an ordinance amending section 4.8.06-C.

35. The amended provision defines as a "data center" any "facility or portion of a facility housing networked computer systems, servers, appliances, and/or telecommunications equipment used for remote storage, processing, and distribution of data."

36. Furthermore, the new definition only permits a "data center" to be treated as an accessory to a primary use if such a facility is neither "used to lease data storage and processing services to third parties" nor "housed in a separate stand-alone structure on the parcel."

37. The newly amended ordinance would treat a new stand-alone building at the Kestrel site as a "data center" because it would be a "facility ... housing

networked computer systems, servers, appliances, and/or telecommunications equipment used for remote storage, processing, and distribution of data."

38. The newly amended ordinance would not allow a new stand-alone building at the Kestrel site to be treated as an accessory to a primary use not only because it would be "housed in a separate stand-alone structure on the parcel," but also because it would be "used to lease data storage and processing services to third parties."

39. The newly amended ordinance also would not allow CubCloud to build similar facilities anywhere within the City's limits because the City has not designated any area within the city limits as an I-2 Heavy Industrial district.

40. The practical effect of the amended version of section 4.8.06-C is to exclude commercial, third-party, or colocation computational facilities from qualifying as primary uses, while also excluding enterprise data centers that occupy their own stand-alone building.

REQUEST FOR DECLARATORY RELIEF

41. Plaintiffs incorporate the above paragraphs as if fully expressed herein.

42. The amended version of 4.8.06-C violates the Right to Compute Act, both facially and as applied to the Plaintiffs.

43. The amended version of 4.8.06-C falls within the Right to Compute Act's definition of a "government action" because it is an ordinance "enacted by a government entity that restricts the common or intended use of computational resources by its owner or invitees."

44. The amended version of 4.8.06-C restricts "computational resources" as defined by the Right to Compute Act because it limits the location of "tools, technologies, systems, or infrastructure, whether digital, analog, existing, or some other form, that facilitate any form of computation, data processing, storage, transmission, manipulation, control, creation, dissemination, or use of information and data."

45. The amended version of 4.8.06-C also restricts "computational resources" by directly limiting who is permitted to use otherwise-lawful "tools, technologies, systems, or infrastructure, whether digital, analog, existing, or some other form, that facilitate any form of computation, data processing, storage, transmission, manipulation, control, creation, dissemination, or use of information and data."

46. To the extent that the amended version of 4.8.06-C requires citizens — including Plaintiffs — to get special permission from the City before constructing a new stand-alone building at the Kestrel site specifically because the

new building would house additional computing resources that Plaintiffs can lease to third parties, the amended version of 4.8.06-C restricts Plaintiffs' "ability to privately own or make use of computational resources for lawful purposes."

47. To the extent that the amended version of 4.8.06-C requires citizens — including Plaintiffs — to get special permission from the City before constructing a new stand-alone building at the Kestrel site specifically because the new building would house additional computing resources that Plaintiffs can lease to third parties, the amended version of 4.8.06-C acts as a "prior restraint" on citizens' free expression.

48. The amended version of 4.8.06-C does not identify any compelling government interest that it purports to fulfill.

49. The amended version of 4.8.06-C is not supported by any compelling government interest.

50. Plaintiffs' construction and use of the New Facilities does not amount to a common-law nuisance because it does not create noise, odors, physical intrusions, or other adverse conditions that unreasonably interfere with the use and enjoyment of neighboring properties. Even if the City could identify a compelling government interest to be served by the amended version of 4.8.06-C, the amended

ordinance is not "demonstrably necessary" to fulfill such a compelling governmental interest.

51. Even if the City could identify a compelling government interest to be served by the amended version of 4.8.06-C, the amended ordinance is not "narrowly tailored" to fulfill such a compelling governmental interest.

52. Consequently, the amended version of 4.8.06-C is invalid both on its face and as applied to Plaintiffs.

REQUEST FOR RELIEF

Accordingly, Plaintiffs Rhines and CubCloud respectfully ask the Court to enter an order:

1. Declaring that the amended version of 4.8.06-C, which the City adopted on October 5, 2026, violates the Right to Compute Act on its face;

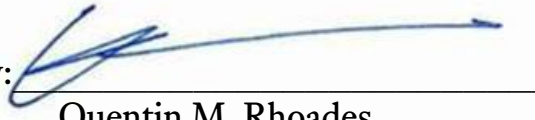
2. Declaring that the amended version of 4.8.06-C, which the City adopted on October 5, 2026, violates the Right to Compute Act as applied to CubCloud's planned use of the Kestrel site;

3. Enjoining the City from enforcing the amended version of 4.8.06-C; and

4. Awarding such further relief as the Court deems just and proper.

Respectfully submitted this 4th day of November 2026,

RHOADES & ERICKSON PLLC

By: 

Quentin M. Rhoades
Pro Querente

CERTIFICATION REGARDING USE OF GENERATIVE ARTIFICIAL INTELLIGENCE

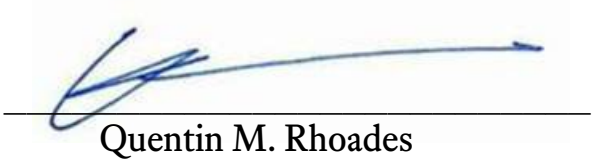
Pursuant to Local Rule 3G, the undersigned certifies as follows:

1. The undersigned discloses that one or more of the following generative artificial intelligence ("GenAI") tools were used in the preparation of the foregoing Complaint, as follows: Cocounsel (Thomson Reuters), Copilot (Microsoft Word), Grammarly, Vincent (Clio), and Claude (Anthropic).

2. The undersigned certifies that all portions of the foregoing document that were drafted or assisted by generative artificial intelligence, including all factual and procedural background, citations, and legal authority, have been independently reviewed and verified for accuracy by the undersigned and the in-house legal support team.

3. The undersigned acknowledges responsibility for the contents of the foregoing document under Montana Rule of Civil Procedure 11 and applicable rules of professional conduct and attorney discipline, regardless of the extent to which generative artificial intelligence was used in its preparation.

Respectfully submitted this 4th day of November 2026,



Quentin M. Rhoades