

ORDINANCE # _____

A NEW ORDINANCE ENTITLED,
DATA CENTERS - BEING ADDED TO TITLE 4 ZONING ORDINANCES OF BROWN COUNTY. CHAPTER 4.01 - DEFINITIONS; CHAPTER 4.16 – H-I DISTRICT; AN ADDITION TO TITLE 4 ZONING ORDINANCES OF BROWN COUNTY WITH CHAPTER 4.38 - DATA CENTERS; ALL ADOPTED BY ORDINANCE # _____, AS AMENDED IN TITLE 4 ZONING ORDINANCE OF BROWN COUNTY, SOUTH DAKOTA.

Purpose and intent:

The Brown County Planning/Zoning Department and the Brown County Planning/Zoning Commission, recommend approval for the following changes to Title 4 Zoning Ordinance to the Board of County Commissioner's for the jurisdictional areas of Brown County Planning/Zoning Department.

*BE IT ORDAINED by the Board of County Commissioners of Brown County, South Dakota: that CHAPTER 4.01 – Definitions; adopted by Ordinance # _____ on _____, 2025 for Title 4 Zoning Ordinance of Brown County to amend the following portions in **bold font**:*

CHAPTER 4.01 DEFINITIONS.

Data Processing Center. A building, ~~dedicated space within a building~~, or group of structures primarily used to house and maintain electronic hardware, computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, management, processing or distribution of electronic data. Examples of such data include, but are not limited to, computationally intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, genome sequencing, etc. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations and other associated utility infrastructure to support operations.

*BE IT ORDAINED by the Board of County Commissioners of Brown County, South Dakota: that CHAPTER 4.06 – Agriculture Preservation District (AG-P); adopted by Ordinance # _____ on _____, 2025 for Title 4 Zoning Ordinance of Brown County to amend the following portions in **bold font**:*

CHAPTER 4.06 AGRICULTURE PRESERVATION DISTRICT (AG-P).

4.0604 Conditional Uses. After notice and appropriate safeguards, the Zoning Board of Adjustment (BOA) may permit the following as special exceptions/conditional uses in the Agriculture Preservation District (AG-P).

23. Pipeline Facility

24. Cannabis Dispensary (Subject to Section 4.20)

25. Wind Energy System (WES – Subject to Chapter 4.36).

26. Data Centers (Subject to Chapter 4.38).

BE IT ORDAINED by the Board of County Commissioners of Brown County, South Dakota: that CHAPTER 4.16 – Heavy Industrial District (H-I); adopted by Ordinance # _____ on _____, 2025 for Title 4 Zoning Ordinance of Brown County to amend the following portions in **bold font**:

CHAPTER 4.16 HEAVY INDUSTRIAL DISTRICT (H-I).

4.1604 *Conditional Uses* After the provisions of this Title have been fulfilled, the Zoning Board of Adjustment (BOA) may permit as conditional uses in the Heavy Industrial District (H-I), the manufacturing, assembling, compounding, packaging, processing, or treatment of products or raw materials conducted within a structure or enclosed within a metal container, except those industries which are injurious, noxious, or hazardous by reasons of emission of odors, dust, fumes, smoke, noise, or vibrations, including but not limited to the following:

28. Pipeline Facility

29. Cannabis Dispensary (Subject to Section 4.20)

30. Data Centers (Subject to Chapter 4.38).

BE IT ORDAINED by the Board of County Commissioners of Brown County, South Dakota: that Title 4 Zoning Ordinance of Brown County, adopted by Ordinance # _____ on _____, 2025 be amended by adding the following Chapter 4.38:

CHAPTER 4.38 DATA CENTERS

4.3801 Purpose.

Data centers are intensive land uses that can consume large quantities of water and electricity. Buildings often include industrial HVAC systems or water cooling/storage systems to prevent computer servers from overheating. Such systems commonly generate continuous sound that can spread across property lines. The low-frequency sounds emitted by data centers consist of long wavelengths that are not easily absorbed by the air or blocked by a sound barrier. Long-term exposure to noise impacts the health of Brown County residents. This Chapter is adopted to allow data centers in appropriate locations in Brown County and minimize the potential off-site impacts of development to protect public health, safety, and the general welfare of Brown County residents.

4.3802 Permitting.

The installation or construction of a data center, or any modification to a lawfully existing data center beyond routine maintenance, requires a Conditional Use Permit. Installation or construction of a data center, or any modifications to a lawfully existing data center beyond routine maintenance, also requires a Brown County Building Permit obtained from the Planning & Zoning Office. Data centers may only be permitted in the Heavy Industrial (H-I) District and Agriculture Preservation District (AG-P) with a Conditional Use Petition.

4.3803 Design Standards.

Data processing centers shall comply with the following requirements:

Separation from sensitive properties. Data centers shall be set back at least one (1) mile from all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks as measured from the nearest property line of any of these sensitive properties to the data center's exterior property lines.

Security fencing. A secured chain link or solid wood or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility.

Noise reduction walls. All electrical generators shall be enclosed behind a solid wall made of concrete or another equivalent sound absorbing material a minimum of four (4) feet higher than the highest point on the generator.

Setbacks. All structures and equipment shall meet the setback requirements of the zoning district they are located in.

Electrical wiring. All electrical wiring shall be buried underground, except where wiring is brought together for interconnection to system components or the local utility power grid, provided that all electrical wiring shall comply with the South Dakota State Electrical Commission, and any of its rules and regulations.

Roads. Exterior road construction or improvements shall be subject to approval by the government entity having jurisdiction. A haul road maintenance agreement with any government entity having jurisdiction over the adjacent exterior access roads shall be required during installation, during construction of the data center, or during modification of a lawfully existing data center beyond routine maintenance. All interior roads serving the data center shall be subject to review by the Brown County Emergency Management along with emergency responders of the jurisdictional area as to ensure safe and adequate access for emergency services personnel.

Storage containers. The use of cargo containers, railroad cars, semi-truck trailers and other similar storage containers for any component of the operation is strictly prohibited.

Signage. No signage shall be permitted on the perimeter fence, except for one (1) sign not to exceed thirty-two (32) square feet that displays the name, address, emergency contact information of the facility as well as appropriate warning signs.

4.3804 Utility Notifications.

1. No grid-connected data processing center shall be issued a permit until evidence has been provided by the operator that installation of the system has been approved by the electrical utility provider. Off-grid systems shall be exempt from this requirement. Written verification from the Electric Utility provider shall state the following:
 - A. Adequate capacity is available on the applicable supply lines and

substation to ensure that the capacity available to serve the other needs of the planning area is consistent with the normal projected load growth envisioned by the data center.

- B. Utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed use.
- C. The use will not cause electrical interference or fluctuations in line voltage on and off the operating premises.

4.3805 Noise.

1. All proposed data centers, after acquiring a written waiver, and are within one-quarter mile (1,320 feet) of a residence, church, or school shall submit a noise mitigation plan in accordance with the following:
 - A. Name and qualifications of the person who measured the decibel levels.
 - B. Equipment used.
 - C. Location of the noise measurements depicted on a scaled site plan. The points of measurement shall be at all property lines and other noise receptors (residences, etc.).
 - D. A list of all sound sources that contribute to the overall sound emissions from the site and the following for each source.
 - i. Peak sound levels, in decibels, emitted by each source; and,
 - ii. Sound levels, in decibels, for sound continuously emitted by each source for a duration exceeding thirty (30) minutes; and,
 - iii. The frequencies of the sound emissions from each source.
 - iv. A site diagram showing the location of each sound source.
 - E. A description of all methods, systems, devices or structures intended to be used to mitigate sound emissions, including technical specifications, descriptions of materials and/or engineering specifications.
 - F. A certification, signed by the preparer of the document, certifying the accuracy of the materials contained within the noise mitigation plan and that the plan will effectively reduce sound emissions to levels required by Brown County.
 - G. The county reserves the right to require independent verification of noise measurements and/or to request additional measurements at different points on the property.
 - H. The maximum sound level allowed as measured from the receiving physical structure of any occupied residence, church or government building is fifty-five (55) dBA after any applicable adjustments provided for herein are applied.
 - i. Between the hours of 10:00 p.m. and 7:00 a.m. the maximum sound level allowed as measured from the receiving physical structure of any occupied residence, church or government building of forty-five (45) dBA after any applicable adjustments provided for herein are applied.
 - ii. At any hour of the day or night the applicable noise limitations in (h) and (i) above may be exceeded for any receiving property by no more than:

- a) 5 dBA for a total of 15 minutes in any, one-hour period; or
- b) 10 dBA for a total of 5 minutes in any, one-hour period; or
- c) 15 dBA for a total of 1.5 minutes in any, one-hour period.

4.3806 Submittal Requirements.

The application for the installation or construction of a data center, or for modifications to a lawfully existing data center beyond routine maintenance, shall follow the application procedures for Conditional Use Petitions and any other procedures as may be required by this Ordinance for data centers, such as zoning map amendments, platting, or variances. In addition, applications shall include the following:

1. Applicant name(s) and contact information. The applicant must also identify on the application, if different than the applicant, the record owner of the property, the occupant or lessee of the property, and the operator of the data center.
 2. A narrative describing the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs.
 3. A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.
 4. A site plan, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.
 5. A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks located within one (1) mile of the exterior boundaries of the property where the data center will be located.
 6. All application fees, including the required fees for a Conditional Use Petition (CUP) and Building Permits, are in the amounts approved annually by the Board of County Commissioners for the planning and zoning office application and permit fee tables.
 7. Copies of signed permits or other documentation that indicates compliance with all applicable State and Federal laws, statutes, rules, regulatory standards, including but not limited to the South Dakota State Electrical Commission and the South Dakota State Electrical Code, and any amendments thereto.
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