

ORDINANCE #243__

AN ORDINANCE ENTITLED, AN ORDINANCE TO AMEND PORTIONS OF TITLE 4 ZONING: CHAPTER 4.01, “DEFINITIONS”; CHAPTER 4.06, “AGRICULTURE PRESERVATION DISTRICT (AG-P)”; CHAPTER 4.07 “MINI AGRICULTURE DISTRICT (M-AG)”; CHAPTER 4.15, “LIGHT INDUSTRIAL DISTRICT (LI)”; CHAPTER 4.16, “HEAVY INDUSTRIAL DISTRICT (HI)”; ALL ADOPTED BY ORDINANCE #243, AS AMENDED OF 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 Title 4 Zoning Ordinance changes within the jurisdictional areas of Brown County Planning/Zoning Department to the Board of County Commissioner’s.

BE IT ORDAINED by the Board of County Commissioners of Brown County, South Dakota: that CHAPTER 4.01, “DEFINITIONS” adopted by Ordinance #243 on _____, 2023 for Title 4 Zoning Ordinance of Brown County to be amended by the following Section:

CHAPTER 4.01 DEFINITIONS

4.0101 General. For the purpose of this Title, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall is mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

4.0102 For the purpose of this Title, certain terms or words used herein shall be interpreted as follows:

Hazardous liquids: petroleum or a petroleum product; nonpetroleum fuel, including biofuel, that is flammable, toxic, or corrosive; or would be harmful to the environment if released in significant quantities; carbon dioxide transported by a hazardous liquid pipeline facility; and any substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state; and not subject to the Natural Gas Act (15 U.S.C. 717 et seq.)

Gas: any flammable, toxic, or corrosive gas not subject to the Natural Gas Act (15 U.S.C. 717 et seq.).

Pipeline Facility: pipeline, facility, or building used in transporting or treating hazardous liquid, gas, or carbon dioxide not subject to the Natural Gas Act (15 U.S.C. 717 et seq.).

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 #243 on _____, 2023 for Title 4 Zoning Ordinance of Brown County to be amended by the following Section:

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 Conditional Uses in the Agriculture Preservation District (AG-P).

23. Pipeline Facility.
24. Cannabis Dispensary (subject to Section 4.20).

4.0606 Minimum Setback Requirements.

1. All structures shall be built on parcels adjacent to regular maintenance roads, improved roads, or if the Township and Emergency Management approve site as an accessible road location.
2. Front Yard: All structures shall be set back not less than one hundred (100) feet measured from road right-of-way line or property lines.
3. Side Street on Corner Lot: All structures shall be set back not less than one hundred (100) feet measured from road right-of-way line or property lines.
4. Side Yard: All structures shall be set back not less than twenty (20) feet measured from side yard property lines.
5. Rear Yard: All structures shall be set back not less than twenty (20) feet measured from rear yard property lines.
6. A Pipeline Facility shall be setback a minimum of 1500 feet from the following “cautionary uses” (*when used in this section*) of schools, daycares, churches, residential dwelling, or any structure that has residential living quarters within.
 - A. The setback distance shall be measured from the center line of the proposed pipeline to the closest measurement of a parcel property line of the “cautionary uses” above.
 - i. A property owner may decide to sign a *setback waiver* to the minimum setback distance required from the piping to their property line and submit a proposed *setback waiver* to the Zoning BOA.
 - ii. The Zoning BOA may approve or deny each individual submittal of a *setback waiver* based on project location, area, size, and the properties use.
 - iii. If an overall pipeline facility project is approved, any *setback waiver* submitted through Zoning BOA must be filed at the Register of Deeds Office by the owner, towards each individual parcel’s legal description for a *setback waiver* to be approved, final and permanent.
 - B. The Zoning BOA may reduce minimum setbacks of a pipeline facility after a review of setback waivers and submission of project plans to the Zoning BOA ***in conjunction with an application for*** a conditional use permit.

BE IT ORDAINED by the Board of County Commissioners of Brown County, South Dakota: that CHAPTER 4.07, “MINI AGRICULTURE DISTRICT (M-AG)” adopted by Ordinance #243 on _____, 2023 for Title 4, Zoning Ordinance of Brown County to be amended by the following Section:

CHAPTER 4.07 MINI-AG DISTRICT (M-AG)

4.0704 Conditional Uses. After notice and appropriate safeguards, the Zoning Board of Adjustment (BOA) may permit the following as Conditional Uses in the Mini-Agriculture District (M-AG).

16. Pipeline Facility
17. Cannabis Dispensary (subject to Section 4.20).

4.0706 Minimum Setback Requirements.

1. All structures shall be built on parcels adjacent to regular maintenance roads, improved roads, or if the Township and Emergency Management approve site as an accessible road location.
2. Front Yard: All structures shall be set back not less than one hundred (100) feet measured from road right-of-way line or property lines.
3. Side Street on Corner Lot: All structures shall be set back not less than one hundred (100) feet measured from road right-of-way line or property lines.
4. Side Yard: All structures shall be set back not less than twenty (20) feet measured from side yard property lines.
5. Rear Yard: All structures shall be set back not less than twenty (20) feet measured from rear yard property lines.
6. A Pipeline Facility shall be setback a minimum of 1500 feet from the following “cautionary uses” (when used in this section) of schools, daycares, churches, residential dwelling, or any structure that has residential living quarters within.
 - A. The setback distance shall be measured from the center line of the proposed pipeline facility project to the closest measurement of a parcel property line of the “cautionary uses” above.
 - i. A property owner may decide to sign a *setback waiver* to the minimum setback distance required from the piping to their property line and submit a proposed *setback waiver* to the Zoning BOA.
 - ii. The Zoning BOA may approve or deny each individual submittal of a *setback waiver* based on project location, area, size, and the properties use.
 - iii. If an overall pipeline facility project is approved, any *setback waiver* submitted through Zoning BOA must be filed at the Register of Deeds Office by the owner, towards each individual parcel’s legal description for a *setback waiver* to be approved, final and permanent.
 - B. The Zoning BOA may reduce minimum setbacks of a pipeline facility after a review of setback waivers and submission of project plans to the Zoning BOA **in conjunction with an application for** a conditional use permit.

BE IT ORDAINED by the Board of County Commissioners of Brown County, South Dakota: that CHAPTER 4.15, "LIGHT INDUSTRIAL DISTRICT (L-I)" adopted by Ordinance #243 on _____, 2023 for Title 4 Zoning Ordinance of Brown County to be amended by the following Section:

CHAPTER 4.15 LIGHT INDUSTRIAL DISTRICT (L-I)

4.1502 Permitted Principal Uses and Structures. The Zoning Board of Adjustment (BOA) shall review plans for the use, site, open storage on site and multiple uses on one site. The following principal uses, and structures shall be permitted in the Light Industrial District (LI)

4.1504 Conditional Uses. After the provisions of this Title relating to conditional uses have been fulfilled, the Zoning Board of Adjustment (BOA) may permit as conditional uses in Light Industrial Districts (L-I) any use, which is consistent with the intent of this district.

1. Pipeline Facility
2. Cannabis Establishment

4.1507 Minimum Yard Requirements.

1. All structures shall be built on parcels adjacent to regular maintenance roads, improved roads, or if the Township and Emergency Management approve site as an accessible road location.
2. Front Yard: All structures shall be set back not less than one hundred (100) feet measured from road right-of-way line or property lines as measured from the outermost edge of structures.
3. Side Street on Corner Lot: All structures shall be set back not less than one hundred (100) feet measured from road right-of-way line or property lines as measured from the outermost edge of structures.
4. Side Yard: All structures shall be set back not less than twenty (25) feet measured from side yard property lines as measured from the outermost edge of structures.
5. Rear Yard: All structures shall be set back not less than twenty (25) feet measured from rear yard property lines as measured from the outermost edge of structures.
6. A Pipeline Facility shall be setback a minimum of 1500 feet from the following "cautionary uses" (when used in this section) of schools, daycares, churches, residential dwelling, or any structure that has residential living quarters within.
 - A. The setback distance shall be measured from the center line of the proposed pipeline facility project to the closest measurement of a parcel property line of the "cautionary uses" above.
 - i. A property owner may decide to sign a *setback waiver* to the minimum setback distance required from the piping to their property line and submit a proposed *setback waiver* to the Zoning BOA.
 - ii. The Zoning BOA may approve or deny each individual submittal of a *setback waiver* based on project location, area, size, and the properties use.
 - iii. If an overall hazardous liquid pipeline project is approved, any *setback waiver* submitted through Zoning BOA must be filed at the Register of Deeds Office by the owner, towards each individual parcel's legal description for a *setback waiver* to be approved, final and permanent.
 - B. The Zoning BOA may reduce minimum setbacks of a pipeline facility after a review of setback waivers and submission of project plans to the Zoning BOA **in conjunction with an application for** a conditional use permit.

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 #243 on _____, 2023 for Title 4 Zoning Ordinance of Brown County to be amended by adding the following Section.

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 Establishment (subject to Section 4.20).

4.1607 Minimum Yard Requirements.

1. All structures shall be built on parcels adjacent to regular maintenance roads, improved roads, or if the Township and Emergency Management approve site as an accessible road location.
2. Front Yard: All structures shall be set back not less than one hundred (100) feet measured from road right-of-way line or property lines as measured from the outermost edge of structures.
3. Side Street on Corner Lot: All structures shall be set back not less than one hundred (100) feet measured from road right-of-way line or property lines as measured from the outermost edge of structures.
4. Side Yard: All structures shall be set back not less than twenty (25) feet measured from side yard property lines as measured from the outermost edge of structures.
5. Rear Yard: All structures shall be set back not less than twenty (25) feet measured from rear yard property lines as measured from the outermost edge of structures.
6. A Pipeline Facility shall be setback a minimum of 1500 feet from the following "cautionary uses" (when used in this section) of schools, daycares, churches, residential dwelling, or any structure that has residential living quarters within.
 - A. The setback distance shall be measured from the center line of the proposed pipeline facility project to the closest measurement of a parcel property line of the "cautionary uses" above.
 - i. A property owner may decide to sign a *setback waiver* to the minimum setback distance required from the piping to their property line and submit a proposed *setback waiver* to the Zoning BOA.
 - ii. The Zoning BOA may approve or deny each individual submittal of a *setback waiver* based on project location, area, size, and the properties use.
 - iii. If an overall pipeline facility project is approved, any *setback waiver* submitted through Zoning BOA must be filed at the Register of Deeds Office by the owner, towards each individual parcel's legal description for a *setback waiver* to be approved, final and permanent.
 - B. The Zoning BOA may reduce minimum setbacks of a pipeline facility after a review of setback waivers and submission of project plans to the Zoning BOA **in conjunction with an application for** a conditional use permit.

Passed and adopted on _____, 2023.

County Commission Chairperson
Brown County, SD

County Auditor
Brown County, SD

ORDINANCE 243


AN ORDINANCE AMENDING TITLE 4, SECOND REVISION
BROWN COUNTY ORDINANCES AMENDED TO
BROWN COUNTY ORDINANCE TITLE 4

Notice is hereby given that Ordinance #243, An Ordinance Amending portions of Title 4 Zoning: Chapter 4.01, "definitions"; Chapter 4.06, "Agriculture Preservation District (AG-P)"; Chapter 4.07 "Mini Agriculture District (M-AG)"; Chapter 4.15, "Light Industrial District (LI)"; Chapter 4.16, "Heavy Industrial District (HI)"; was duly adopted by the Brown County Board of Commissioners on the 25th day of April and that Ordinance #243, shall be in full force and effect on 23rd day of May, 2023. (Copies of the full Ordinance are available at the Brown County Auditor's Office or Brown County Planning and Zoning Office during regular business hours).

Notice of Hearing _____ March 15, 2023
Passed First Reading _____ March 28, 2023
Passed Second Reading _____ April 25, 2023
Adopted _____ April 25, 2023
Published _____ May 3, 2023
Effective Date _____ May 23, 2023



Duane Sutton, Chair
Brown County Commission

ATTEST: 

Lynn Heupel, Brown County Auditor



Published once at the total approximate cost \$ _____