

Kendra Eng

From: mcphersondoe@valleytel.net
Sent: Friday, July 15, 2022 9:00 AM
To: Kendra Eng
Subject: McPherson County Zoning
Attachments: doc01063620220715075427.pdf

Kendra,

Good Morning, here are the minutes of our zoning board that pertain to the pipeline. Hope this will be helpful to you. Please let us know if you need anything else.

Sharon Guthmiller
DOE Administrative Assistant
PO Box 50
Leola, SD 57456
mcphersondoe@valleytel.net

-----Original Message-----

From: mcphersondoe@valleytel.net <mcphersondoe@valleytel.net>
Sent: Friday, July 15, 2022 8:55 AM
To: mcphersondoe@valleytel.net
Subject: scan from copier

see attached file

TASKalfa 4003i
[00:17:c8:8c:cc:c3]

McPherson County Zoning Board
Unapproved Meeting Minutes
January 11, 2022 at 9:00 AM

The McPherson County zoning board meeting was called to order by Chairman Jeff Neuharth at 9:05 AM. Members present included George Hulscher, Richard Kolb and Alvin Kallas. Dan Mettler joined via phone. Citizens present included Mark Lapka, Jodi Waltman, Gary Schauer, Lloyd Schaunaman and Chuck Schaunaman. Also present were Austin Hoffman, McPherson County state's attorney and Lanette Butler, zoning administrator.

Motion to approve the December 9, 2021 meeting minutes was made 1st by Richard Kolb and 2nd by George Hulscher. Motion passed.

Conflicts of interest were discussed. Dan Mettler mentioned that if the carbon pipeline followed the Northern Border pipeline corridor, he has land that it would cross. Due to this, he would abstain from the voting on any proposed moratorium on pipelines. No other conflicts were presented.

Business included implementing a pipeline moratorium. Open discussion was held with the public that was present. Specific concerns brought forward included the time it would take to shut off the pipeline if a rupture occurred and how much CO₂ would be released, that CO₂ is heavier than air and would stay in low lying areas until it dissipates, corrosion of the pipeline because of contaminants that may exist with CO₂ and who is responsible for the rupture and repair of the pipeline.

Richard Kolb made a motion that a moratorium be put on hazardous liquid transmission pipelines as defined in Title 49 CFR Section 192.3 and Title 49 CFR 195.2 and Title CFR 193.2007. Alvin Kallas 2nd that motion. Motion passed with 4 yes votes and Dan Mettler abstained.

George Hulscher made a motion that the commissioners vote due pass on the hazardous liquid transmission pipeline moratorium. Richard Kolb 2nd the motion. Motion passed with 4 yes votes and Dan Mettler abstained.

Motion by Richard Kolb that the hazardous liquid transmission pipeline moratorium shall be in effect until the approval of the revised zoning ordinance can take effect. Alvin Kallas 2nd the motion. Motion passed.

Zoning board continued work on the bylaws to govern the board by.

The next meeting will be February 8, 2022 at 9:00 AM.

Motion to adjourn the meeting was made 1st by George Hulscher and 2nd by Alvin Kallas. Motion passed.

Respectfully submitted by
Lanette Butler
Zoning Administrator

McPherson County Zoning Board and Board of Adjustment

February 8, 2022

9:00 AM

Commissioner's Room

Unapproved Meeting Minutes

The meeting of the McPherson County zoning board was called to order by chairman Jeff Neuharth via phone at 9:01 AM. Members present included Richard Kolb, George Hulscher, Alvin Kallas and Dan Mettler. Also present were Austin Hoffman, McPherson County States Attorney, Lanette Butler, zoning administrator, Shane and Katie Moser, Neil Geffre and Glenn Spitzer, county highway supervisor. Jeff relinquished meeting control to vice chairman Richard Kolb.

Motion to approve the agenda as published was made 1st by George Hulscher and 2nd by Alvin Kallas. Motion passed unanimously.

Motion to move into the Board of Adjustment was made 1st by Dan Mettler and 2nd by George Hulscher. Motion passed unanimously. No conflicts of interest were brought forward in regards to variance 22-V-01 Moser shelterbelt setback. Discussion opened up on the 22-V-01 Moser shelterbelt setback. Concerns were raised with snow drifts onto the county road as well as the section line road.

Motion to approve variance 22-V-01 with the stipulation that if snow becomes an issue, the property owner will be responsible for snow removal and potential tree removal per the discretion of the highway department supervisor was made 1st by Alvin Kallas and 2nd by Jeff Neuharth passed unanimously. Motion passed. Shane and Katie Moser and Neil Geffre left the meeting at 9:11 am.

Motion to move out of the Board of Adjustment was made 1st by Dan Mettler and 2nd by George Hulscher. Motion passed unanimously. Jeff Neuharth left the meeting at 9:12 am.

Some discussion took place on airports and the potential of 1 mile jurisdiction as the airport property at Eureka is owned by the city. Is jurisdiction on the city proper or does it include any land owned by the city.

Discussion took place on pipelines. Specifics included protection of county infrastructure and the protection of the citizens of the county. Board recommendations included pipeline depth of 6 feet to top of the pipe, haul road agreements will be done by a 3rd party engineer chosen by the county to do pre and post construction and the cost of the engineer to be paid by the pipeline owner, setback from a residence of 1 mile, setback from a property line of 1,000 ft, setback from a substation/lift station of 1,000 ft from the center of the right of way, boring of the pipeline under county and township roads.

The next meeting of the zoning board will be March 8, 2022 at 9 AM.

Motion to adjourn the meeting was made 1st by George Hulscher and 2nd by Dan Mettler. Motion passed unanimously. Meeting adjourned at 11:20 AM.

Respectfully submitted by
Lanette Butler
Zoning administrator

McPherson County Zoning Board
March 8, 2022
9:00 AM
Unapproved Meeting Minutes

The McPherson County Zoning Board meeting was called to order by Chairman Jeff Neuharth at 9:01 A.M. in the Commissioner's Chambers. Members present were Richard Kolb, George Hulscher, Alvin Kallas and Dan Mettler. Others present were Austin Hoffman, State's Attorney, Lindley Howard, McPherson County Auditor, Brooke Graves, Zoning Administrator, Bruce Mack and Dan Lederman. In addition, twenty-three people were in attendance.

Dan Mettler made a motion for the agenda approval with a second by George Hulscher. Motion passed. Richard Kolb made a motion to approve the January 11th, 2022 meeting minutes as published and seconded by Alvin Kallas. Motion passed. George Hulscher made a motion to approve the February 8, 2022 meeting minutes and seconded by Alvin Kallas. Motion passed.

Conflicts of interest were discussed. Richard Kolb mentioned that Bruce Mack had asked him how to get on the next zoning board meeting agenda, and he told him. No other conflicts of interest were presented.

Bruce Mack discussed a potential solar farm with the board. Current solar regulations were discussed along with changes that are being considered for the revised ordinance. Concerns were raised on battery-storage, drainage, transmission lines and weed control.

Dan Mettler made a motion to put a moratorium on battery energy storage for McPherson County with a second by Richard Kolb. Motion carried. Jeff Neuharth said that this moratorium will be presented to the commissioners at the April 5th commissioners meeting.

Dan Lederman with Summit Carbon Solutions discussed his companies' plans for a carbon pipeline in McPherson County. The proposed project hopes to construct a pipeline that connects participating ethanol plants, captures the ethanol plant's carbon dioxide emissions, compresses the carbon dioxide into a liquid which is transported through the pipeline network to North Dakota. Here, it is stored underground permanently. Several questions and concerns raised by county residents were heard and discussed.

Eric Odenbach will be contacted to possibly attend a future meeting to discuss South Dakota FAA guidelines.

Additional discussion took place on solar energy. Board recommendations included 1 mile setback from a residence, setback from a property line of 1,000 feet and setback of 1,000 feet from a public road.

The next meeting will be April 7th at 9:00 A.M.

McPherson County Zoning Board

April 7, 2022

9:00 A.M.

Unapproved Meeting Minutes

The McPherson County Zoning Board meeting was called to order by Chairman Jeff Neuharth at 9:05 A.M. in the Commissioner's Chambers. Members present were Richard Kolb, George Hulscher, Alvin Kallas and Dan Mettler. Others present were Austin Hoffman, State's Attorney and Brooke Graves, Zoning Administrator.

Dan Mettler made a motion for the agenda approval with a second by George Hulscher. Motion passed. Dan Mettler made a motion to approve the March 8, 2022 meeting minutes as published and seconded by Alvin Kallas. Motion passed.

No conflicts of interest were mentioned.

Jeff Neuharth said that the commissioners were in support of the proposed moratorium on battery energy storage and voted yes at the April 5th commissioners meeting.

Brief discussion took place on airports. The board will wait until next meeting to make a decision on airports.

Some discussion took place on solar energy. Specifics included glare, eminent domain and decommissioning of a solar farm. Permits will be good for one year. If eminent domain is used, still have to follow the local zoning setbacks. With glare, trees could be required for a special conditional use permit.

Building permits 22-01 through 22-05 were discussed. Building permits were for Sid Feickert – garage addition, Nick Kallas – finish basement, James Fischer – bathroom remodel, Jack Waltman – bathroom remodel, and Glenn Beutler – grain bin and tower dryer.

Discussion took place on pipelines. Setbacks and definitions were discussed. Board recommendations include 1 mile from any residence, setback from a property line from non-participating at 1,000 ft., setback from a pump station at 1,000 ft. from the center of the right of way, 6 ft. depth from top of pipe, 8 ft. depth from top of pipe from improved right of way, and 8 ft. from lowest point in the ditch.

There will be no May zoning board meeting. The June date will be determined at a later date. George Hulscher made a motion to adjourn the meeting with a second by Alvin Kallas. Motion passed. Meeting adjourned at 11:00 A.M.

Brooke Graves
Zoning Administrator

Jeff Neuharth
Chairman of the Zoning Board

Kendra Eng

From: McPherson DOE <mcphersondoe@valleytel.net>
Sent: Wednesday, September 14, 2022 3:48 PM
To: Kendra Eng
Subject: FW: scan from copier
Attachments: doc01138020220914144355.pdf

Kendra,

Good afternoon! Attached is Meade County's pipeline ordinance.

Thanks,

Brooke Graves, CAA
McPherson Director of Equalization
PO Box 50
Leola, SD 57456
mcphersondoe@valleytel.net
Phone # 605-439-3663

-----Original Message-----

From: mcphersondoe@valleytel.net <mcphersondoe@valleytel.net>
Sent: Wednesday, September 14, 2022 3:44 PM
To: mcphersondoe@valleytel.net
Subject: scan from copier

see attached file

TASKalfa 4003i
[00:17:c8:8c:cc:c3]

ORDINANCE NO. 35
MEADE COUNTY
PIPELINE ORDINANCE



An application fee must accompany the Pipeline Construction Permit Form and be delivered to the Equalization and Planning Department at the time of the Pre-Construction filing requirement. The application fee is set by the Meade County Commission by Resolution. Pipelines that are directly regulated under the South Dakota Public Utilities Commission are exempt from the permit and permit fees.

Section 2.2: Pipeline owners, operators and/or contractors must have an approved Meade County Haul Road Agreement which includes bonding requirements for haul routes that will be used in Meade County; the amount of the bonding will set by the Meade County Commission by Resolution. Meade County must approve all crossings within Meade County public right-of-ways and each crossing of a Meade County public road will count as equal to one (1) mile of haul road, either gravel or asphalt depending on the surface material at the crossing. The bond will insure the County for any damage that may occur beyond the normal wear to public roads and will be in effect for one year after the pipeline project is completed to cover unforeseen damages to roads used for haul routes or crossings within Meade County. Pipelines that are directly regulated under the South Dakota Public Utilities Commission requiring road/street bonding statewide are exempt from bonding requirements under this Ordinance; if the South Dakota Public Utilities Commission requires a statewide bond which insures Meade County.

A. Pipeline owners, operators and/or contractors must provide detailed maps of all cross-cuts and haul routes on roads within Meade County, which will need to be reviewed by the Highway Superintendent and approved by the Commission. The pipeline owner representative must tour and review the roads with the Meade County Highway Superintendent and inspect the haul roads and crossings before and after the project; inspection notes will be in writing.

Section 2.3: Appearance before the Planning Commission is required for the pipeline project. The Planning Commission will review the permit information and will recommend approval or denial to the Commission. The Pipeline Construction Permit must be reviewed by the Commission in any case at their next scheduled meeting following the Planning Commissioners Meeting. After a review of the Pipeline Construction Permit along with accompanying documents and maps, a Public Hearing Date will be set by the Commission. Two weeks prior to the Public Hearing Date a notice shall be published in two legal newspapers of the County and written notification of the hearing shall be mailed to all active natural resource pipeline companies located in Meade County, at a cost to the applicant.

- A. The applicant must have the public notice approved by the Director of Equalization and Planning or designee prior to publishing said notice.
- B. Affidavit of publications must be presented during the Public Hearing.
- C. Exemption for approval or denial: if the pipeline falls under the jurisdiction of the South Dakota Public Utilities Commission, approval or denial of the project will not be required however, the applicant shall appear before the Planning Commissioners and the Commission to present the project.
- D. The applicant has the burden of proof to establish that:
 1. The proposed facility must comply with all applicable ordinances along with applicable laws and regulations;
 2. The facility shall not pose a threat of serious injury to the environment nor to the social and economic condition of the public or expected or projected public in the siting area;

Section 2.9: Temporary Housing

Information must be submitted for temporary housing for workers during the construction of the pipeline project including an estimated number of workers and family, location of proposed housing, water and sewer management, site map showing access lane widths for emergency vehicles and temporary addressing of each housing unit (RV's, trailers, tents etc.) and on site security.

Section 2.91: Drainage

Any discharge of water in the Meade County right-of-way from dewatering the pipeline trenches or pipeline must be approved by Equalization and Planning Department and the Highway Superintendent.

Section 2.92: Setback Requirements

Setback requirements from production transmission shall be a minimum of 25 feet from the centerline of the pipeline to the edge of the pipeline easement

Section 2.93: Abandoned and Inactive Pipelines

Abandoned or inactive pipelines shall be purged of gas, hazardous liquids, and chemicals, and physically isolated if such action does not adversely effect the pipeline owner or operators right-of-way easement and does not prevent the pipeline owner or operator from maintaining the physical integrity of the pipeline. These pipelines shall be maintained to prevent deterioration.

ARTICLE III: VIOLATIONS

Section 3.1: Penalties

1. The provisions of this ordinance shall be administered and enforced by a County Ordinance Enforcement Officer appointed by the Meade County Board of County Commissioners, who shall have the power to make inspections of haul roads, complaints or the job site necessary to carry out his duties in enforcement of the ordinance.
2. The County Ordinance Enforcement Officer shall have the power to appoint deputies to assist in his duties, such deputies to be approved by the Meade County Board of County Commissioners;
3. The County Ordinance Enforcement Officer, and any deputies appointed, shall have authority to issue an ordinance violation notice (ticket) which shall specify, in addition to other information as discretion of such officer, the following
 - A. the date of violation;
 - B. the nature of violation;
 - C. the amount of penalty or fine associated with the violation;
 - D. the date the individual is required to appear in court unless the designated fine is paid prior thereto; and
 - E. the signature, or noted refusal to sign, of the violator.
4. An ordinance violation notice issues under authority of this ordinance shall be

Section 6.2: Application Required

- A. Applications for any such variance shall be submitted in writing by the pipeline or property owner at the time when the preliminary plat is filed for consideration by the Commission/ stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions other legal provisions necessary to guarantee the full achievement of the plan.
- B. Applications for variance shall be considered with the permit application, and the Planning Commission will render its decision no later than thirty (30) days after the meeting at which the proposed pipeline project and request for a variance was submitted.

Section 6.3: Application Costs

- A. Variances require the completion of a Non-Hardship Variance application and the payment will be based on fees set forth by the Meade County Commission, adopted by Resolution, which will be a non-refundable application fee. (Example set-back variance).
 - 1. The payment of the application fee does not guarantee approval. Approval must come from the Planning Commission and the Commission.

Section 6.4: Requirements for Granting a Variance

The Board of County Commissioners shall have the authority to give a Variance. The person requesting the Variance has the burden of showing:

- A. That the granting of the Variance will not be contrary to the public interest;
- B. That the literal enforcement of the Ordinance will result in unnecessary hardship;
- C. That by granting the Variance contrary to the provisions of the Ordinance the spirit of the Ordinance will be observed; and
- D. That by granting the Variance, justice will be done.

Section 6.5: Recommendations to the Commission

For each application for a Variance, the County Planning Board and/or the planning staff shall report to the Board of County Commissioners its findings and recommendations. The Board of Meade County Commissioners, in conjunction with their regularly scheduled monthly meetings, shall set aside time for a public hearing on all proposed variances.

MEADE COUNTY PIPELINE CONSTRUCTION PERMIT FORM

1. APPLICANT (OWNER OF PIPELINE)

Name: _____ Phone No. _____

Address: _____

CONTRACTOR (if applicable)

Name: _____ Phone No. _____

Address: _____

2. LOCATION OF PIPELINE (attach separate sheet if necessary)

Section: _____ Township: _____ Range: _____

**3. SURFACE OWNER OF RECORD (INCLUDE LESSOR OF PROPERTY ALSO) FOR
LOCATION OF PIPELINE (attach separate sheet if
necessary):** _____

ROAD CROSS-CUT AND HAUL ROAD INFORMATION:

In general, Public roads shall not be crossed by open cut.

PROPOSED CROSS-CUTS (ROAD NAMES):

_____ (Include detailed map).

ROAD HAUL ROUTES FOR CONSTRUCTION:

_____ (Include detailed map).

**IF FILING IS TO MOVE OR EXPAND CURRENT PIPELINE, DESCRIBE WORK BEING
PROPOSED:**

4. PROPOSED STARTING DATE OF CONSTRUCTION: _____

Copy of Insurance Policy Received and Approved: Yes No

Kendra Eng

From: McPherson County Auditor <mcphersonaud@valleytel.net>
Sent: Wednesday, July 13, 2022 11:00 AM
To: Kendra Eng
Subject: RE: Moody County

The zoning board is adding pipeline language into the zoning ordinance rewrite that the board is in the middle of. If you send Brooke, the DOE, an email she could tell you if there is a draft for that section being considered yet or not. No drafts have been presented to the commission for adoption yet. So far the only official action the commissioners have taken on the pipeline is the moratorium. Sorry I wasn't much help.

Thanks!

Lindley Howard
McPherson County Auditor

From: Kendra Eng
Sent: Wednesday, July 13, 2022 10:51 AM
To: McPherson County Auditor
Subject: RE: Moody County

Thank you so much!!

I am looking at getting further information regarding pipelines. I know there has been a moratorium on pipelines and was just curious what performance standards or ordinances have been drafted or looked at adopting yet. We are looking at adopting an ordinance.

Kendra Eng, CAA

Moody County Equalization, Deputy
Planning & Zoning Administrative Official
101 E Pipestone Avenue, Suite E
Flandreau, SD 57028-1750
Phone (605) 997-3101
Fax (605) 997-9996
Direct Line (605) 573-4317
www.moodycounty.net

From: McPherson County Auditor <mcphersonaud@valleytel.net>
Sent: Wednesday, July 13, 2022 10:23 AM
To: Kendra Eng <doe-zoning@moodycounty.net>
Subject: RE: Moody County

The office # is 605-439-3663 email mcphersondoe@valleytel.net

If you tried yesterday or today the office has been closed for the vanguard training in Oacoma. You could email for a response when they get back or call tomorrow. If it's something I can help with I will do my best.

Thanks!

Lindley Howard
McPherson County Auditor

From: Kendra Eng
Sent: Wednesday, July 13, 2022 9:48 AM
To: mcphersonaud@valleytel.net
Subject: Moody County

Good Morning Lindley,
I am trying to contact the Equalization office/ Zoning office and I am not having any luck. Would you happen to have their contact information?

Kendra Eng, CAA
Moody County Equalization, Deputy
Planning & Zoning Administrative Official
101 E Pipestone Avenue, Suite E
Flandreau, SD 57028-1750
Phone (605) 997-3101
Fax (605) 997-9996
Direct Line (605) 573-4317
www.moodycounty.net

Kendra Eng

From: Bader, Scott <Scott.Bader@browncounty.sd.gov>
Sent: Tuesday, April 12, 2022 12:41 PM
To: Kendra Eng
Subject: Brown County Transmission Pipeline Ordinances
Attachments: Title4OrdinanceProposedAmendments_BC-Commission.docx

Kendra,

Great conversation this morning.

I have attached the proposed ordinance amendments from our discussion. I remember what took place now.

I had a small portion that we were going to submit and “we can add to it later” was the unofficial discussion with some officials.

That is when I worked late and weekends to put together more information and research so I could just run this part through. The Administrative portion got tabled in the February meeting.

Some of the items are also correcting the existing ordinance sections along with the pipeline portion.

1. Cautionary Uses (schools, daycares, churches, residential structures, “shouses”)
2. Residential Waivers
3. Minimum 72” cover depth to the invert of the pipe.
4. Emergency Management training and costs.
5. Allow Zoning Board of Adjustment to have authority to make adjustments based on plans submitted or demonstrations.

Any questions, give me a call or email.

Scott Bader
Br Co Planning/Zoning
605-626-7144

ORDINANCE # _____

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 (L-I)”; CHAPTER 4.16, “HEAVY INDUSTRIAL DISTRICT (H-I)”; ALL ADOPTED BY ORDINANCE # _____, AS AMENDED OF TITLE 4 ZONING ORDINANCE OF BROWN COUNTY, SOUTH DAKOTA.

Purpose and intent:

The Brown County Planning/Zoning Commission and the Brown County Planning/Zoning Department, have the following zoning ordinance changes within the jurisdictional areas of Brown County Planning and Zoning to protect the health, safety, and welfare of the general public.

BE IT ORDAINED by the Board of County Commissioners of Brown County, South Dakota: that *CHAPTER 4.01, “DEFINITIONS”* adopted by Ordinance # _____ on *(month) (day), 2022*, for Title 4 Zoning Ordinance of Brown County to be amended by adding the following Section in **bold and underlined font**.

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:

Transmission Pipeline. A transmission pipeline may mean a high pressure cross country pipeline transporting saleable quality natural gas from production or natural gas from processing to natural gas distribution pressure let-down, metering, regulating stations, where the natural gas is typically odorized before delivery to customers. Transmission pipelines may also mean a pipeline that transports hazardous liquid or gas within a storage field or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user or operates at a hoop stress of twenty percent or more of the specified minimum yield strength. A “water service main”, “sanitary sewer service main”, “storm water service main” “propane gas service main” or natural gas service main” are meant as smaller mains, service lines and utility lines for servicing buildings or individual parcels and would not qualify as a Transmission Pipeline.

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 (month) (day), 2022, for Title 4 Zoning Ordinance of Brown County to be amended by adding the following Section in bold and underlined font.

CHAPTER 4.06 AGRICULTURE PRESERVATION DISTRICT (AG-P)

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

23. Transmission Pipeline.

24. Cannabis Dispensary (subject to Section 4.20).

4.0606 Minimum Setback Requirements.

1. All structures shall be set back not less than one hundred (100) feet from all improved public roads measured from road right-of-way.
2. The minimum side yard and rear yard setback shall each be twenty (20) feet.
3. A Transmission Pipeline shall be setback a minimum of 1500 feet from the following "cautionary uses" of schools, daycares, churches, residential structures or any structure that has residential living quarters within.
 - a. The setback distance is to be measured from the center line of the proposed pipeline to the closest measurement of parcel property lines of the cautionary uses above.
 - i. A property owner may decide to waive the minimum setback distance required from the piping to their property line and sign a waiver doing so.
 - ii. The Zoning BOA may approve or deny each individual submittal of a setback waiver based on location, area, size and the properties use.
 - iii. If an overall transmission pipeline project is approved, any waivers submitted must be filed at the Register of Deeds Office on each individual parcel legal description for permanent waiver to setback distances.
 - b. A transmission pipeline shall be buried at a minimum of 72" to the invert level of the piping to protect the piping from frost movement, damage, and to help protect the health, safety, and welfare of the general public from unnecessary hazards.
 - c. The Zoning Board of Adjustment (BOA) may reduce or amend setback issues or minimum bury depth after a review of plans, materials lists, engineering documents, and presentations to the Zoning Board of Adjustment (BOA).
 - d. The project owner shall provide Brown County Emergency Management with names, phone numbers, contact information, dangers of all content and training for any product that may be ran through any approved transmission pipeline.

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 # _____ on (month) (day), 2022, for Title 4, Zoning Ordinance of Brown County to be amended by adding the following Section in **bold and underlined font**.

CHAPTER 4.07 MINI-AG DISTRICT (M-AG)

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

16. Transmission Pipeline

17. Cannabis Dispensary (subject to Section 4.20).

4.0706 Minimum Setback Requirements.

- 1. All structures shall be set back not less than one hundred (100) feet along section line roads and**
- 2. Not less than forty-five (45) feet along all others, measured from road right-of-way lines.**
- 3. The minimum side yard and rear yard setback shall each be twenty (20) feet.**
- 4. A Transmission Pipeline shall be setback a minimum of 1500 feet from the following "cautionary uses" of schools, daycares, churches, residential structures or any structure that has residential living quarters within.**
 - a. The setback distance is to be measured from the center line of the proposed pipeline to the closest measurement of parcel property lines of the cautionary uses above.**
 - i. A property owner may decide to waive the minimum setback distance required from the piping to their property line and sign a waiver doing so.**
 - ii. The Zoning BOA may approve or deny each individual submittal of a setback waiver based on location, area, size and the properties use.**
 - iii. If an overall transmission pipeline project is approved, any waivers submitted must be filed at the Register of Deeds Office on each individual parcel legal description for permanent waiver to setback distances.**
 - b. A transmission pipeline shall be buried at a minimum of 72" to the invert level of the piping to protect the piping from frost movement, damage, and to help protect the health, safety, and welfare of the general public from unnecessary hazards.**
 - c. The Zoning Board of Adjustment (BOA) may reduce or amend setback issues or minimum bury depth after a review of plans, materials lists, engineering documents, and presentations to the Zoning Board of Adjustment (BOA).**
 - d. The project owner shall provide Brown County Emergency Management with names, phone numbers, contact information, dangers of all content and training for any product that may be ran through any approved transmission pipeline.**

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 # _____ on (month) (day), 2022, for Title 4 Zoning Ordinance of Brown County to be amended by adding the following Section in bold and underlined font.

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 (L-I):

1. Building materials sales;
2. Cartage and express facilities....

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

1. Transmission Pipeline
2. Cannabis Establishment

4.1507 Minimum Yard Requirements.

1. There shall be a front yard of not less than a depth of one hundred (100) feet.
2. Each side yard and backyard shall not be less than twenty-five (25) feet as measured from the outermost edge of structures.
3. A Transmission Pipeline shall be setback a minimum of 1500 feet from the following "cautionary uses" of schools, daycares, churches, residential structures or any structure that has residential living quarters within.
 - a. The setback distance is to be measured from the center line of the proposed pipeline to the closest measurement of parcel property lines of the cautionary uses above.
 - i. A property owner may decide to waive the minimum setback distance required from the piping to their property line and sign a waiver doing so.
 - ii. The Zoning BOA may approve or deny each individual submittal of a setback waiver based on location, area, size and the properties use.
 - iii. If an overall transmission pipeline project is approved, any waivers submitted must be filed at the Register of Deeds Office on each individual parcel legal description for permanent waiver to setback distances.
 - b. A transmission pipeline shall be buried at a minimum of 72" to the invert level of the piping to protect the piping from frost movement, damage, and to help protect the health, safety, and welfare of the general public from unnecessary hazards.
 - c. The Zoning Board of Adjustment (BOA) may reduce or amend setback issues or minimum bury depth after a review of plans, materials lists, engineering documents, and presentations to the Zoning Board of Adjustment (BOA).
 - d. The project owner shall provide Brown County Emergency Management with names, phone numbers, contact information, dangers of all content and training for any product that may be ran through any approved transmission pipeline.

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 (month) (day), 2022, for Title 4 Zoning Ordinance of Brown County to be amended by adding the following Section in **bold and underlined font**.

CHAPTER 4.16 HEAVY INDUSTRIAL DISTRICT (H-I)

4.1604 ~~Special Exceptions/conditional uses~~ **Conditional Uses**. After the provisions of this Title have been fulfilled, the Zoning Board of Adjustment (BOA) may permit as ~~special exceptions/conditional uses~~ **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:

1. Those uses found in Light Industrial District (L-I):
2. Foundry casting....

28. Transmission Pipelines

29. Cannabis Establishment (subject to Section 4.20).

4.1607 Minimum Yard Requirements.

- 1. There shall be a front yard of not less than a depth of one hundred (100) feet.**
- 2. Each side yard and rear yard shall be no less than twenty-five (25) feet as measured from the outermost edge of the structure.**
- 3. A Transmission Pipeline shall be setback a minimum of 1500 feet from the following "cautionary uses" of schools, daycares, churches, residential structures or any structure that has residential living quarters within.**
 - a. The setback distance is to be measured from the center line of the proposed pipeline to the closest measurement of parcel property lines of the cautionary uses above.**
 - i. A property owner may decide to waive the minimum setback distance required from the piping to their property line and sign a waiver doing so.**
 - ii. The Zoning BOA may approve or deny each individual submittal of a setback waiver based on location, area, size and the properties use.**
 - iii. If an overall transmission pipeline project is approved, any waivers submitted must be filed at the Register of Deeds Office on each individual parcel legal description for permanent waiver to setback distances.**
 - b. A transmission pipeline shall be buried at a minimum of 72" to the invert level of the piping to protect the piping from frost movement, damage, and to help protect the health, safety, and welfare of the general public from unnecessary hazards.**
 - c. The Zoning Board of Adjustment (BOA) may reduce or amend setback issues or minimum bury depth after a review of plans, materials lists, engineering documents, and presentations to the Zoning Board of Adjustment (BOA).**
 - d. The project owner shall provide Brown County Emergency Management with names, phone numbers, contact information, dangers of all content and training for any product that may be ran through any approved transmission pipeline.**

Passed and adopted (month) (day), 2022.

County Commission Chairperson
Brown County, SD

County Auditor
Brown County, SD

ORDINANCE # _____

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 # _____, 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 # _____ 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 # _____ 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 Board of Adjustment (BOA) may reduce minimum setback issues of a pipeline facility project after there is a complete review of the *setback waivers*, project plans, materials list, engineering design documents, construction plans and presentation submitted to the Zoning Board of Adjustment (BOA) for a Conditional Use Petition (CUP).

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 # _____ 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 Board of Adjustment (BOA) may reduce minimum setback issues of a project after there is a complete review of the pipeline facility *setback waivers*, project plans, materials list, engineering design documents, construction plans and presentation submitted to the Zoning Board of Adjustment (BOA) for a Conditional Use Petition (CUP).

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 # _____ 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 Board of Adjustment (BOA) may reduce minimum setback issues of a pipeline facility project after there is a complete review of the *setback waivers*, project plans, materials list, engineering design documents, construction plans and presentation submitted to the Zoning Board of Adjustment (BOA) for a Conditional Use Petition (CUP).

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 _____, 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 Board of Adjustment (BOA) may reduce minimum setback issues of a pipeline facility project after there is a complete review of the *setback waivers*, project plans, materials list, engineering design documents, construction plans and presentation submitted to the Zoning Board of Adjustment (BOA) for a Conditional Use Petition (CUP).

Passed and adopted on _____, 2023.

*County Commission Chairperson
Brown County, SD*

*County Auditor
Brown County, SD*