

AN ORDINANCE FOR MUNICIPAL CODE AMENDMENTS THROUGHOUT CHAPTER 94, INCLUDING BUT NOT LIMITED TO THE INDUSTRIAL ZONING DISTRICT, NOISE REGULATIONS, AND SPECIAL USE REQUIREMENTS FOR DATA CENTERS, DATA MINING AND SIMILAR INDUSTRIES.

WHEREAS, it is the desire of the Planning Commission and the Board of Aldermen to have zoning regulations and a Unified Development Code in the Branson Municipal Code that are clear and concise for understanding and interpretation; and

WHEREAS, the language of this Bill has been submitted to the Planning Commission, which, after conducting a public hearing on the same which was properly noticed, has recommended that the Board of Aldermen amend the Zoning Code of the City of Branson as provided herein; and

WHEREAS, a public hearing was held by the Planning Commission at City Hall in Branson, Missouri at the hour of 6:00 PM on July 29, 2024; and

WHEREAS, the Planning Commission has recommended approval of the request; and

WHEREAS, a public hearing was held by the Board of Aldermen at City Hall in Branson, Missouri at the hour of 6:00 PM on August 1, 2024; and

WHEREAS, the Board of Aldermen has determined that amendments to the Branson Municipal Code are reasonable and necessary; and

WHEREAS, the Board of Aldermen want to enable the development of data centers, to the extent possible, in areas where any potential adverse effects on the community will be minimized; and

WHEREAS, the Board of Aldermen want to ensure that data centers meet certain standards to protect the public health, safety, and welfare; to be in the best interests of the City of Branson and its citizens and guests; and to avoid unintended impacts on resources and adjacent uses; and

WHEREAS, the Board of Aldermen has conducted a public hearing on this matter in compliance with Chapter 89 RSMo.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: It is the intention of the Board of Aldermen, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Branson Municipal Code, and the sections of this ordinance may be renumbered to accomplish such intention.

Section 2: That the Branson Municipal Code, Chapter 94 – ZONING, and the corresponding chapters listed below, is hereby amended to read as follows:

- **ARTICLE 1.- IN GENERAL**

- Sec. 94-5. – Definitions.
- ARTICLE IV. USES
 - Sec. 94-60. – Table of Permitted Uses.
 - Table 94-60.1 Permitted Uses
 - Sec. 94-61. – Use and Structure Standards.
 - Sec. 94-62. – Special Use Standards.
- ARTICLE VII. – LANDSCAPING AND SCREENING
 - Sec. 94-105. – Utility and service area screening.

CHAPTER 94

ARTICLE I. IN GENERAL

Sec. 94-5. – Definitions.

For the purpose of this chapter, any words defined in the building code of the city and not specifically defined herein shall be construed as defined in the building code of the city. Any word not defined herein or in the building code of the city shall have its usual meaning unless otherwise provided in this section. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

~~[Data center means a facility whose primary service is data processing, and is used to house computer systems and associated components, such as telecommunications and storage systems, including but not limited to, web hosting organizations and internet service organizations. A server farm, telecom hotel, carrier hotel, telehouse co-location center, or any other term applicable to facilities which are used for these specified purposes shall be deemed to be a data center.]~~

Data center means a facility whose primary service is data processing or data storage, and is used to house computer systems and associated components, such as central processing units, graphical processing units, neural networks, quantum bits, quantum processors, memory, data routing, data storage, server farm, bitcoin mining, crypto processing, virtual private networks, virtual servers, artificial intelligence training or processing, image processing, cloud computing, email servicing, a telecom hotel, telehouse co-location, or any other term applicable to facilities which are used for such purposes shall be deemed to be a data center.

Cryptocurrency means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

Cryptocurrency Data Center means a leased or owned boundaries of floor space devoted to the operating data processing equipment for Commercial Cryptocurrency Mining; excludes spaces for commercial offices, storage, shipping and receiving, warehousing, or any other space that is not electronic processing.

Commercial Cryptocurrency Mining means the commercial process by which cryptocurrency transactions are verified and added to the public ledger, known as the block chain, and also the means through which new units of cryptocurrencies are released, through the use of server farms or data centers employing data processing equipment. Any

equipment requiring a High-Density Load Service, for a server farm or data center, will constitute a commercial cryptocurrency mining operation.

Cryptocurrency Server Farm means three or more interconnected computers housed together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.

Manufactured Engineered Non-Residential Unit (MENU) means an engineered structure, non-residential in use designed for data centers.

Decibel (dB) means a decibel (dB) is ten (10) times the common logarithm of the ratio of two power terms expressed in the same units of power.

Sound Pressure Level (SPL) means the sound pressure levels stated in dB units referenced to 20 micropascals, with a C frequency weighting and measured as Leq (equivalent continuous sound level) over a 15 minute measurement period (reference ANSI S1.4/IEC 61672 and IEC 801-22-16).

Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise Disturbance means any sound which: (a.) Endangers or injures the safety or health of humans or animals; or (b.) Annoys or disturbs a reasonable person of normal sensitivities; or (c.) Endangers or injures persons or real property.

CHAPTER 94 ARTICLE IV. USES

Sec. 94-60. – Table of Permitted Uses.

Table 94-60.1 Permitted Uses

Use Category	Ag/Residential					Mixed-Use/Nonresidential								Supplemental Use Standards
Subcategory	Con	A	LDR	MDR	HDR	NC	CC	MU	D	ENT	BUS	I	Note: This - reference is to use-specific standards only, other code requirements may apply	
Specific Use Type														
Industrial														
Building Maintenance, Sales and Service							P				P	P	94-61(f)(1)	
Construction Contractor											P	P	94-61(f)(1), 94-62(c)(1)	
Data Center											[P]	[P] S	94-61(f)(1), 94-62(c)(2)	
Digital Production											P	P	94-61(f)(1)	
Medical Research Laboratory											P	P	94-61(f)(1)	
Medical Marijuana Testing Facility												P	94-61(d)(10)	
Wrecker Service											S	P	94-61(f)(1).	

													94-61(f)(2)
Energy Production and Natural Resource Extraction													
Energy Production, Renewable													94-61(f)(1)
Cogeneration Facility												S	94-61(f)(1)
Solar Array		S									S	S	94-61(f)(1)
Wind Energy Commercial		S									S	S	94-61(f)(1)
Wind Energy Small		S									S	S	94-61(f)(1)
Mining and Quarrying		S										S	94-61(f)(1)

CHAPTER 94

ARTICLE IV. USES

Sec. 94-61. – Use and structure standards.

(f) *Industrial uses.*

(1) *General.* All industrial uses shall be subject to the following standards:

- a. All traffic hazards shall be minimized;
- b. Lights shall be directed away from adjoining residential areas;
- c. Off-street loading areas shall be available as needed; and
- d. No dust, smoke, fumes, gas, noxious odor, excessive noise or other atmospheric effluent shall exceed in intensity [at] **past** the boundary of the lot, [of conditions normally found in a residential neighborhood.]
- e. The operations shall not cause the dissemination of vibration or noise in excess of the maximum environmental noise level established by City Code of Ordinances Chapter 58, Article VII, Section 262 or other restrictions as contained in Chapter 94 as it relates to specific industrial uses.
- f. A minimum setback of 50 feet shall be required for all structures (except fences and walls) located on the subject property measured from the subject property lines to the property lines in question.
- g. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at three feet above the grade.
- h. All utility lines serving the site and located on the subject property, shall be contained underground.
- i. All parking areas, drive aisles, service areas, storage, and loading docks shall be constructed of a hard surface (i.e asphalt/concrete), conforming to the Branson Municipal code requirements.
- j. Testing of generators is prohibited between the hours of 11:00 p.m. and 7:00 a.m. If generators are located outside of an enclosed building a screening wall shall be required.
- k. The SPL attributable to infrastructure of the industrial use on the property

shall not exceed 65 dBC, as measured at every property line. For industrial uses located within 500 feet of any allowed residential use or district, place of worship, daycare, park, lodging establishment (including bed and breakfast inn, campground and recreational vehicle park, hotel and motel, nightly rental, and timeshare unit), and educational facilities, the SPL attributable to the facility shall not exceed 55 dBC at every property line.

CHAPTER 94 ARTICLE IV. USES

Sec. 94-62. – Special Use Standards.

(c) *Industrial uses.*

(2) Data Centers.

- a. Data Centers. Data Centers may be permitted with a special use permit in the Industrial (I) zoning district, or as further determined through a Planned Development (PD) approval. Modification of the conditions set out below may be specified as part of the approval of a special use permit, if noted on the application and required notification, when it is determined that the data center can be accommodated in a modified manner without adverse impacts on adjacent properties and that such data center will still meet the general intent of the limitations.
- b. Required conditions. All data centers shall comply with the following conditions:
- c. Site Requirements:
 - (i) Primary Structure: A primary structure shall be required prior to the installation of a MENU. A primary structure excludes structures such as storage sheds, non-occupied secondary or accessory structures, and MENUs.
 - (ii) Buffering: A minimum setback of 50 feet shall be required for all structures (except fences and walls) located on the subject property measured from the subject property lines to the property lines in question.
 - (iii) Distancing Requirements for Residential, Places of Worship, Daycare s, Parks, Lodging Establishments, and Educational facilities. Data Centers shall require a minimum 500 feet distance setback from a residential use or district, place of worship, daycare, park, lodging establishment (including bed and breakfast inn, campground and recreational vehicle park, hotel and motel, nightly rental, and timeshare unit) and educational facilities measured from the subject property lines to the property line in question.

- (iv) Lighting: A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixtures shall be required. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at three feet above the grade.
- (v) Manufactured Engineered Non-Residential Unit (MENU). MENUs shall be screened from view by a combination of landscaping, opaque fencing, and or a decorative opaque wall that is integrated into the architecture of the structure. The fence or wall shall be of a height equal to, or greater than the height of the MENU being screened. Chain link fencing is not permitted as a screening method. On a case by case basis, a line-of-sight analysis can be submitted to assess the visual impact of the MENU on the surrounding environment. The line-of-sight analysis can consider, but not be limited to: terrain, obstructions, vegetation, buildings, and other objects.
- (vi) All utility lines serving the site and located on the subject property, shall be contained underground.
- (vii) All data centers shall be contained within a primary structure or a MENU.
- (viii) All parking areas, drive aisles, service areas, storage, and loading docks shall be constructed of a hard surface (i.e asphalt/concrete), conforming to the Branson Municipal code requirements.

d. Sound/Noise Requirements:

- (i) On site monitoring of sound: The permit holder shall provide to the city, prior to the issuance of a certificate of occupancy or completion, an affidavit that includes the following information:
 - 1. Name and qualifications of the person who measured the sound pressure levels, requiring a supervised and wet stamped report by a qualified Missouri licensed Professional Engineer.
 - 2. Equipment used. List all test results; equipment; equipment serial numbers; equipment settings; copies of National Institute of Standards (NIST) traceable calibration certificates; drawings and pictures of the test setup including pertinent distance measurements; and weather conditions during the tests including wind speed, temperature and relative humidity.
 - 3. Location of the noise measurements depicted on a scaled site plan. The points of measurement shall be at all property lines and generally at the points on those property lines most susceptible to noise from the applicable equipment.

4. Sound pressure levels (SPL) at each property line.

5. Time and duration of measurements.

6. A statement attesting to the accuracy of the information provided and a guarantee that the permit holder will not run their equipment, including generators, at a greater sound pressure level than when the measurements were made.

The city reserves the right to require independent verification of noise measurements and/or to request additional measurements at different point on the property. All measurements must comply with the noise levels established in this Section of Branson Municipal Code.

(ii) Generators:

1. Testing of generators is prohibited between the hours of 11 p.m. and 7 a.m.

2. If generators are located outside of an enclosed building a screening wall shall be required.

(iii) The SPL attributable to infrastructure of the data center property shall not exceed 65 dBC, as measured at all data center property line. For data centers located within 500 feet of any allowed residential use or district, place of worship, daycare, park, lodging establishment (including bed and breakfast inn, campground and recreational vehicle park, hotel and motel, nightly rental, and timeshare unit), and educational facilities, the SPL attributable to the facility shall not exceed 55 dBC at all data center property line.

(iv) If at any time the data center operation violates the standards as set forth in this Section, the planning and development director shall give five days' notice in writing to the owner of the building, structure, or property on which the violation is located, stating the nature of the violation and ordering the owner to cease the violation or bring the property into compliance. Notice to the owner may be by first class mail, personal delivery, or posting on the property. Notice given shall state the violation of the standards and the time within which the violation must be abated. A notice of violation and order to abate under this article may be appealed by filing a written appeal in the office of the planning and development director within five calendar days of the violation notice. The board of adjustment shall hear the appeal in accordance with its usual procedure. The board of adjustment, upon finding that a violation exists, may approve or modify the order of the planning and development director. The board of adjustment's decision may be appealed in the manner provided by law.

e. Utilities and Resources Conditions:

(i) Confirmation of utility agreement: Prior to approval of a special use permit, the applicant shall provide written verification from the utility provider stating the following:

- 1. Adequate capacity is available on the applicable supply lines and substation to ensure that the capacity availability to serve the other needs of the planning area is consistent with the normal projected load growth envisioned by the utility.**
- 2. Utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed use.**
- 3. The use will not cause electrical interference or abnormal in line voltage on and off the operating premises.**
- 4. An agreement that if a power outage or shortage occurs, the data center will be secondary to all other uses within the City of Branson or surrounding properties.**

(ii) Confirmation of water availability: If water is used for cooling, the source and adequacy of the supply shall be provided.

(iii) Changes in resources or data center expansion: If a change in resource occurs, a new special use permit shall be required for re-evaluation. If a data center expansion is proposed, a new special use permit shall be required for re-evaluation.

(iv) Certain foreign adversaries shall be restricted from developing data centers within the City of Branson. The determination of a foreign adversary shall be regulated on a case by case basis, as determined by the United States Department of State.

(v) All requirements relating to noise and noise disturbance shall be considered for data centers.

f. Modification of Use: Any modification to the data center site requirements; number of MUNU, location of MENU, screening, lighting, sound/noise requirements, and utilities requires an application for the special use permit.

**CHAPTER 94
ARTICLE VII. LANDSCAPING AND SCREENING**

Sec. 94-105. – Utility and service area screening.

(2) *Mechanical equipment.*

a. *Applicability.* The standards of this section shall apply to all of the following:

- (i) Electrical and gas-powered mechanical equipment;
- (ii) Ductwork and major plumbing lines used to heat, cool, or ventilate; and
- (iii) Power systems for the building or site upon which the equipment is located.

Roof or wall-mounted antennas and vent openings shall not be considered mechanical equipment for purposes of these screening standards. The standards of this section are not intended to apply to solar arrays, solar energy collection systems, or small wind energy systems, if such systems are otherwise in compliance with applicable building codes and development standards requirements.

b. *Screening standards.*

(i) *Roof-mounted mechanical equipment.* Roof-mounted mechanical equipment shall be screened by a parapet wall or similar feature that is an integral part of the building's architectural design. The parapet wall or similar feature shall be of a height equal to, or greater than the height of the mechanical equipment being screened. Roof-mounted mechanical equipment, except solar energy collection systems, is prohibited on single-family residential dwellings.

(ii) *Wall-mounted mechanical equipment.* Wall-mounted mechanical equipment, except air conditioning equipment (e.g., window AC units), that protrudes more than six inches from the outer building wall shall be screened from view by structural features that are compatible with the architecture of the subject building. Wall-mounted mechanical equipment that protrudes six inches or less from the outer building wall shall be designed to blend with the color and architectural design of the subject building.

(iii) *Ground-mounted mechanical equipment.* Ground-mounted mechanical equipment shall be screened from view by landscaping, a fence, or a decorative wall that is integrated into the architecture of the structure. The fence or wall shall be of a height equal to, or greater than the height of the mechanical equipment being screened.

(iv) **Manufactured Engineered Non-residential Unit (MENU).** **Manufactured engineered non-residential units shall be screened from view by a combination of landscaping, an opaque fence, or a decorative wall that is integrated into the architecture of the structure. The fence or wall shall be of a height equal to, or greater than the height of the MENU being screened. Chain link fencing is not a permitted as a screening method. On a case by case basis, a line-of-sight analysis can be submitted to assess the visual impact of the MENU on the surrounding environment. The line-of-sight analysis can consider, but not be limited to: terrain, obstructions, vegetation, buildings, and other objects.**

~~(iv)~~ (v) *Alternate screening.* Alternate screening methods that meet the intent of this section may be approved by the planning and development director. Alternative screening might include, but shall not be limited to, increased setbacks, increased landscaping, grouping the equipment on specific portions of a site, architectural elements, and painting or otherwise causing the equipment to blend with the site or structure.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS [BRACKETED, STRICKEN] HAS BEEN REMOVED.

Section 3: This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

Section 4: That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences or clauses.

Section 5: That the City Clerk is authorized by this Ordinance to correct any scrivener's errors identified within this Ordinance.

Read, this first time on this 1st day of August, 2024.

Read, this second time, passed, and truly agreed to by the Board of Aldermen of City of Branson, Missouri this 13th day of August, 2024.

Larry D. Milton
Mayor

ATTEST:

APPROVED AS TO FORM:

Hillary Briand
City Clerk



City Attorney