

ORDINANCE MC17-91

REGULATION OF SOLID WASTE

MINNEHAHA COUNTY, SOUTH DAKOTA

Minnehaha County Planning Department

Amended November 13, 2007

ARTICLE 1. GENERAL PROVISIONS.

Section 1.01. TITLE: An ordinance for the regulation of solid waste management in the unincorporated areas of Minnehaha County.

Section 1.02. AUTHORITY: The authority for this ordinance is promulgated by the South Dakota Centennial Environmental Protection Act of 1989 as codified in South Dakota law.

Section 1.03 PURPOSE AND APPLICATION OF REGULATIONS. In order to protect the public health and welfare, and to protect the natural resource base of Minnehaha County, rules and regulations are hereby established to provide minimum standards for the management, recycling, processing and disposal of solid wastes within the unincorporated area of Minnehaha County. *(amended by MC17-03-07 11/13/07)*

Section 1.04. SEVERABILITY: Should any provision of this ordinance be declared invalid for any reason, such decision shall not affect the validity of the ordinance as a whole, or any other portion thereof.

Section 1.05. DISCLAIMER OF LIABILITY: The degree of public and environmental protection offered by this ordinance is considered reasonable for regulatory purposes and is based on the best available scientific and engineering considerations. The application of this ordinance shall not create liability on the part of Minnehaha County, or any officer or employee thereof.

Section 1.06. DEFINITIONS: Unless otherwise noted, all terms contained in these rules and regulations are defined by their plain meaning.

Ambient air standard: The highest concentration of a specific air pollutant at a specific outdoor location in a specific unit of time that is not considered hazardous to humans.

Applicant: the person or firm submitting an application to the county for a solid waste permit.

Bottom Ash: The ash discharged from the primary ignition chamber of an incinerator.

Closure: The actions taken by an owner or operator of a solid waste facility to cease disposal operations and ensure that the facility is closed in conformance with all applicable regulations and to prepare the site for the approved post-closure use.

Collection: The gathering of solid waste from public and private places.

Commercial Garbage Hauler: Any person who collects any garbage, rubbish, or recyclables within the unincorporated area of the County for a consideration or a fee. *(amended by MC17-03-07 11/13/07)*

Composting: The controlled biological decomposition of the organic portion of solid waste in a manner resulting in an innocuous final product which may be used as a soil amendment or conditioner.

Construction: The excavation of lands, the erection of new structures, and the replacement, expansion, remodeling, or other alteration of existing structures.

Corrugated Cardboard: Heavy paper with alternating ridges and grooves. *(amended by MC17-1-96 10/15/07)*

Cover Material: Soil or other approved, suitable material used to cover layers or cells of compacted solid waste in a landfill or rubble dump or as a final cover on a closed site.

Disease Vectors: Organisms that are capable of carrying and transmitting diseases to humans or other animals, including but not limited to flies, mosquitoes, and rodents.

Disposal: The final disposition of solid waste in or on land, water, or air.

Emission: The discharge of a gas or contaminant into the air.

Energy Recovery: The process of converting solid waste into usable energy through the use of steam generation. Also referred to as waste to energy.

Energy Recovery Facility: A facility in which waste is burned to produce usable energy. For the regulatory purposes of this ordinance these facilities shall be treated as incinerators.

Fly Ash: The ash and soot found in the flue gas of incinerators which is removed with omission control devices.

Garbage: Any refuse, rubbish, trash or household or commercial solid waste, including food and kitchen wastes, but excluding recyclable materials. *(amended by MC17-03-07 11/13/07)*

Generator: Any person(s) whose act or process produces a waste substance.

Groundwater: Water found in a saturated zone beneath the surface of the land.

Hazardous Material: Any substance or material in quantity or form which may be harmful or injurious to humans, domestic animals, wildlife, crops and vegetation, or property. Hazardous materials shall also include, but not be limited to, those materials listed in 49 CFR 172.101 as amended, and the National Register of Hazardous Materials, United National Classification System (cf. "Guidebook for Hazardous Materials," DOT P. 5800.3). Further, a hazardous material shall include by definition, but not be limited to, waste as set forth in SDCL 34A-6 and 34A-11..

Household Hazardous Waste: Any waste, generated in small quantities by individual homes, which would be potentially hazardous in larger quantities due to reactive, ignitable, corrosive or toxic qualities. These wastes shall include but not be limited to: certain household cleaners, automotive products such as used oil and antifreeze, home maintenance and improvement products such as paints and thinners, lawn and garden products such as fertilizers and chemicals, and personal health care products.

Incineration. The processing and burning of waste for the purpose of volume and weight reduction in facilities designed for such a use.

Incinerator: An article, machine, equipment, device, contrivance, structure, or part of a structure used for the destruction, reduction or resource recovery of solid waste.

Infectious Medical Waste: Any of the following substances: cultures, and stocks, pathological wastes, and laboratory wastes which have or may have been in contact with infectious agents; human or animal blood and blood products; waste material from communicable disease isolation units; used sharps that have or may have come into contact with infectious agents; contaminated carcasses, body parts, and bedding and other materials associated with infectious research animals; and any other waste which, due to the nature of the waste, exhibits any infectious characteristics. In addition, this definition shall include any waste defined as Regulated Medical Waste under ARSD 74:35:01.

Land Application: The spreading of solid waste onto land or its incorporation into the surface soil for disposal or treatment purposes.

Lowest Achievable Emission Rate: That emission rate for a source which is the most stringent limitation for that source in the implementation plan of South Dakota, EPA standards, the standards of this ordinance, or the most stringent limitations which may be achieved in practice for that source, whichever is most stringent.

Medical Waste: Solid waste generated in the diagnosis, treatment, or immunization of humans or animals, in research pertaining to diseases of humans or animals, or in the production or testing of biologicals.

Metal Containers: Any container made from aluminum, tin or steel which contained a product for consumption. (*amended MC17-1-96 10/15/96*)

Monitoring: Procedures used to systematically inspect and evaluate operational methods and the effect of these methods on the quality of air, groundwater, surface water, and soil.

Monofill: A sanitary landfill or the specific cell of a landfill which is designed and constructed specifically for a particular category of waste.

Paper and Paper Products: Paper items including high grade office paper, newsprint, offset paper, bond paper, xerographic bond paper, mimeo paper, duplicator paper, computer paper, magazines, catalogs, advertising supplements, books, junk mail and envelopes. It does not include chip board, items such as juice boxes, milk cartons, cereal boxes, mix boxes, tissue boxes, shoe boxes, soda and beer cartons, etc. (*amended MC17-1-96 10/15/96*)

Particulate: Tiny pieces of matter resulting from the combustion process which can have harmful effects on those who breathe them.

Permit: A written authorization issued by the Planning Department permitting the construction or operation of a solid waste disposal system.

Perpetuity: The life of the solid waste facility plus an additional fifty years after final closure.

Person: Any individual, partnership, firm, association, municipality, public or private corporation, state, tribe, nation, political subdivision, trust, estate or any other legal entity, including any officer or governing or managing body thereof. *(amended by MC17-1-96 10/15/07)*

Petroleum Contaminated Soils: Any soils which have been used deliberately or inadvertently to absorb a petroleum product or a petroleum base product and does not qualify as a hazardous substance according to EPA toxicity, reactivity, ignitability and/or corrosivity standards.

Plastic containers: Any formed or molded container having a neck that is smaller than the body of the container, composed predominantly of plastic resin. *(amended by MC17-1-96 10/15/07)*

Processing: An operation designed to transfer, shred, grind, bale, compact, salvage, separate, reclaim, or provide other treatment of solid waste.

Recyclable materials: Materials or products that may be readily separated from the solid waste stream and may be used or reused as a substitute for raw materials or other items, including but not limited to aluminum, plastic, paper and paper products, tin, steel and corrugated cardboard, *(amended MC17-1-96 10/15/96)*

Recycling: The process by which materials otherwise destined for disposal are collected, reprocessed or remanufactured, and reused.

Refuse Derived Fuel: Product of a waste processing system in which recyclable and non-combustible materials are removed, and the remaining combustible material is converted to use for a fuel to create energy.

Refuse Derived Fuel (RDF) Facility: A facility which is engaged in the processing of solid waste into a fuel product for incineration but which does not perform the actual incineration.

Regulated Substance: A regulated substance shall include: pesticides and fertilizers, hazardous and toxic substances designated by the EPA thru any of the following; Clean Water Act, Toxic Substances Control Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response Compensation and Liability Act; petroleum and petroleum substances, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, additives used in refining oils and gasoline. This term does not include sewage and sewage sludge.

Residential Recyclables: Recyclable materials such as: paper and paper products, corrugated cardboard, plastic containers, and metal containers. *(amended MC17-1-96 10/15/96)*

Resource Recovery: The recovery of material or energy from solid waste by incineration, recycling or reuse.

Rubble: Stone, brick, concrete, soil, tree branches, or similar material excluding incinerator ash, asbestos-containing waste materials, petroleum contaminated soils, and asphalt.

Rubble Sites: A site in which only rubble is deposited.

Run-off: Any rainwater, snow-melt, or other precipitation, leachate, or other liquid that drains over land from any part of a facility.

Run-on: Any rainwater, snow-melt, or other precipitation, leachate, or other liquid that drains over land onto any part of a facility.

Sanitary Landfill: An approved solid waste facility in which compacted solid waste is buried between layers of cover material and covered by a final cover layer. This type of facility must meet all EPA, state and local regulations.

Site: Property on which solid waste or hazardous waste is generated, stored, treated, or otherwise disposed of. This term is generally equated with the term "facility" in these regulations.

Sludge: The accumulated semisolid mixture of solid wastes and water, oils, or other liquids resulting from water treatment, waste treatment, or other processing.

Solid Waste: Any garbage; refuse; septage; or sludge from a waste treatment plant, water supply treatment plant, air pollution control facility, or emission control apparatus; and other discarded materials. This shall include solid, liquid, semisolid or contained gaseous material resulting from industrial, mining, commercial and agricultural operations, and from community and residential activities; hazardous waste as defined under Chapter 34A-11; solid or dissolved materials in irrigation return flows; or industrial discharges which are point sources subject to permits. Solid waste shall include, but not be limited to petroleum contaminated soil, lime sludge, incinerator ash, septage, manure transported or stored in nuisance producing quantities, and special nuclear or by product material as defined by the Atomic Energy Act as amended.

Solid Waste Facility: An operation or site and any component of the operation that collects, transports, stores, processes, treats, or disposes of solid or hazardous wastes through the use of an approved solid waste management system. Facilities shall include, but not be limited to sanitary landfills, transfer facilities, incinerators, waste to energy plants, recycling plants, composting facilities, and refuse derived fuel facilities.

Solid Waste Management System: A system for the storage, collection, transportation, processing, or disposal of solid wastes which has been approved by Minnehaha County.

Storage: The interim containment of solid waste or hazardous waste, in an approved manner, after generation and before disposal.

Surface Water: A body of standing or flowing water with its surface exposed to the atmosphere including wetlands.

Tipping Fee: A fee, usually in dollars per ton, for the unloading or dumping of solid waste.

Transfer Facility: A centrally located mobile or fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a disposal site.

Treatment: A process designed to alter the physical, chemical, or biological character of solid waste or hazardous waste so as to neutralize or render such waste amiable for transport, recovery, storage, or disposal in a safe and environmentally sound manner. In the context of infectious medical waste, treatment shall refer to any method, technique, or process which will minimize or eliminate the potential for the waste to cause disease.

ARTICLE 2. WASTE REDUCTION, RECYCLING, AND GARBAGE OR RECYCLING
COLLECTION. (amended by MC17-03-07 11/13/07)

Section 2.01. COUNTY TO SUPPORT WASTE REDUCTION AND RECYCLING: To the extent practicable, Minnehaha County will support public and private efforts in the education, research, development, innovative design, and management of reduction, reuse, recycling, and composting programs in the county.

Section 2.02. EFFORTS IN COUNTY OFFICES: Minnehaha County will encourage all county government offices and any entities doing business with the county to reduce solid waste through recycling and through procurement programs that promote long-term public and environmental health.

1. All County offices will participate in waste reduction and recycling programs (amended MC 17-1-96).
2. To the extent practicable, efforts will be made in all County offices to maximize the purchase of multiple use, durable, recyclable products, and those produced from recycled materials.
3. No County office shall prepare bid specifications which would eliminate or limit the use of any recycled product when that product would serve for the required purpose.
4. County offices will consider the life cycle costs of goods from origin to disposal when purchasing.

Section 2.03. RESIDENTIAL RECYCLING COLLECTION AND WASTE DISPOSAL: All residential uses in the unincorporated portions of Minnehaha County shall have solid waste collection performed by a licensed commercial garbage hauler. Solid waste collection shall be performed a minimum of once per week. No residential solid waste or residential recyclables shall be burned in the county and the disposal of all solid waste shall be done at a solid waste facility properly permitted by Minnehaha County and the State of South Dakota. Recyclable materials shall be separated from the waste stream prior to collection. Recyclable materials shall

not be deposited at the sanitary landfill. All residential solid wastes targeted for disposal at the Sioux Falls Regional Landfill shall comply with any landfill bans imposed by the city of Sioux Falls. *(amended by MC17-1-96 10/15/96, MC17-03-07 11/13/07)*

Section 2.04. **COMMERCIAL, BUSINESS AND APARTMENT RECYCLABLES AND WASTE DISPOSAL:** All commercial uses in the unincorporated portions of Minnehaha County shall have solid waste collection and recyclable collection performed by a licensed commercial garbage hauler. Solid waste collection shall be performed a minimum of once per week. No commercial solid waste or recyclable materials shall be burned in the county and the disposal of any solid waste shall be done at a solid waste facility properly permitted by Minnehaha County and the State of South Dakota. Commercial and business establishments, including apartments, shall separate recyclable materials generated by or accruing to such establishment prior to collection. Commercial and business recyclable materials shall not be deposited at the sanitary landfill. All commercial and business solid wastes targeted for disposal at the Sioux Falls Regional Landfill shall comply with any landfill bans imposed by the city of Sioux Falls. *(amended by MC17-1-07 10/15/96, MC17-03-07 11/13/07)*

ARTICLE 3. GENERAL REQUIREMENTS.

Section 3.01. MINIMUM REQUIREMENTS FOR SOLID WASTE MANAGEMENT: No person shall collect, transport, store or process solid waste, including hazardous materials, in a manner which poses a direct or deleterious threat to public health or to the quality of the environment, or causes odors which are detrimental to the quality of life of county residents.

All solid waste management systems and facilities must meet or exceed all applicable state, federal and local standards in regards to permits, releases of materials to the environment, public safety and public nuisances. At a minimum the management of solid waste may not:

1. Contribute to the proliferation of any disease vector.
2. Cause or contribute to air pollution.
3. Cause or contribute to ground or surface water pollution.
4. Cause or contribute to the pollution of land, or be a detriment in any way to the environment of man, plant life or wildlife.

These items may not be deemed to be exclusive.

Section 3.02 **PERMITS REQUIRED.** No person or firm shall construct, alter, or operate a solid waste incinerator, petroleum contaminated soil dump, sanitary landfill, rubble site, or refuse derived fuel facility without first obtaining a solid waste permit. The county may also require permits for the disposal or management of other solid waste if it is deemed necessary. County solid waste permits shall be in addition to any required by any other governmental entity. It shall be the responsibility of any applicant to ensure that they comply with all applicable federal, state,

or local regulations. Any permit issued under this ordinance is not transferable. *(amended by MC17-03-07 11/13/07)*

Section 3.03. STIPULATED CONDITIONS OF: The County Planning Office is authorized to place conditions on individual permits, which it deems necessary to ensure compliance with the purpose and intent of this ordinance.

Section 3.04. TERM OF PERMIT: A permit shall be effective for a period of five years. At Least 60 days prior to expiration of the permit an updated plan must be provided to the County for the purpose of renewing the permit. Renewed permits will be effective for a period of five years before another renewal is required. *(amended by MC17-1-96 10/15/07)*

Section 3.05. UPDATING OF PLANS: At any time the County may, by written request, require a person or firm operating a permitted solid waste facility, or applying to renew a permit, to bring up-to-date any plans, specifications or other pertinent information required by the County to determine the safety and effectiveness of the solid waste management system and the effect, if any, of the system and facility upon the land, air and water.

Section 3.06. POWERS AND DUTIES: The Planning Director is hereby appointed to administer and implement this ordinance. *(amended by MC17-1-96 10/15/07)*

Section 3.07. ISSUANCE OF PERMIT: If the County Commission determines that the permit application is complete and technically adequate, and that all pertinent fees have been paid, the County Commission may issue a Minnehaha County Solid Waste Permit. The County Auditor shall then publish a notice of permit issuance in a newspaper of general circulation in the county. *(amended by MC17-1-96 10/15/07)*

Section 3.08. INSPECTION RIGHTS: Any authorized representative of the County may enter and inspect the site of any proposed, operating, or closed solid waste facility or inspect any record relating to solid waste management in order to ensure compliance with the provisions of this ordinance and to determine whether any potential hazard exists to public health or the environment.

Section 3.09. REVOCATION OF PERMITS: The County Commission, upon determining that a permitted facility is in violation of applicable local, state or federal standards or regulations shall have the authority to revoke any solid waste permit issued under the provisions of this ordinance. The Commission may revoke a permit after making such determination at a regular public meeting, and upon providing 30 days written notice via certified mail to the operator of the facility. *(amended by MC17-1-96 10/15/07)*

Section 3.10. APPEAL RIGHTS: Any decision on the issuance or revocation of a solid waste permit by the County Commission may be appealed to circuit court as set forth in SDCL Chapter 7-8. *(amended by MC17-1-96 10/15/07)*

ARTICLE 4. PERMIT APPLICATIONS.

Section 4.01. APPLICATION FOR PERMIT REQUIRED: Persons wishing to construct or operate a sanitary landfill, solid waste incinerator, refuse derived fuel facility, a site for the land application of petroleum contaminated soils, or any other facility for which the county requires a permit must first make application to the County for a solid waste permit. This application shall be in addition to those made to the state or any other governmental entity.

Section 4.02. FEE REQUIRED: Each applicant for a County solid waste facility permit shall pay a fee of two hundred and fifty (250) dollars. In addition to the permit fee applications additional charges shall be levied for specific permit applications:

Landfills.....	\$500
Incinerators.....	\$500

Section 4.03. APPLICATION REQUIREMENTS: Each application for a solid waste facility permit shall address, at a minimum, information on the following:

1. The complete names, addresses, and phone numbers for all owner(s) and operator(s) of the proposed facility.
2. Environmental characteristics of the site. This must include:
 - a. The location of the site shown on aerial photos and maps.
 - b. A site plan showing the planned features of the facility.
 - c. Site drainage and topography.
 - d. A description of the soils found on the site.
 - e. Appropriate hydrological and geological characteristics of the site.
 - f. Existing vegetation.
3. Facility operations plan. This shall be a detailed description of the facility operations and must include:
 - a. Details on the specific solid waste management system to be used including the type of facility, facility service area, type and quantity of solid waste to be managed, and facility capacity and lifespan.
 - b. An evaluation of any potential impact on surface and groundwater quality and methods to minimize those impacts.
 - c. Air pollution, nuisance, and health impairing control measures.
 - d. Soil erosion control measures.
 - e. When necessary, emergency response plans including routine fire protection measures and remedial action plans with provisions to minimize fire, explosion, or any releases of pollutants to the air, land or water.
 - f. When required, descriptions of signs which will be posted at the facility stating the name of the facility, the operator's name, the days and hours of operation, any weigh-in and fee information, and other information needed.
 - g. Descriptions of adequate screening procedures to minimize the receipt of unauthorized wastes and criteria for rejecting wastes.

- h. Other information as requested by the County. Additional information required in the permit application for specific solid waste facilities is addressed in this ordinance under the sections detailing those facilities.
4. Certain solid waste facilities may also require closure, environmental monitoring, and/or financial bonding plans. The County may also require that any permit application be prepared under the supervision of a professional engineer registered in the state of South Dakota.
5. The County may require that any type of solid waste be tested to determine if the material is in excess of EPA limitations for volatiles, heavy metals, toxicity, reactivity, ignitability or corrosivity.
6. The County may require any other necessary information.

Section 4.04. APPROVAL REQUIRED FOR DISPOSAL OF HAZARDOUS, REGULATED MEDICAL, NUCLEAR/RADIOACTIVE AND TOXIC WASTES: Hazardous, infectious medical, nuclear/radioactive, and toxic wastes shall not be placed in any container for collection, transport, processing, or disposal without evidence of compliance with EPA and state regulations for the tracing and documenting of the method and location of storage, transport, treatment or disposal of said items. Documentation of compliance with these regulations shall be maintained and made available for review by the County as necessary.

ARTICLE 5. SANITARY LANDFILLS.

Section 5.01. EXISTING SANITARY LANDFILLS: There are at the time of this ordinance four sanitary landfills in Minnehaha County which are recognized by the state of South Dakota. These are the Colton, Dell Rapids, Garretson and Sioux Falls-Runge sites. Only the Sioux Falls-Runge site has a current operating permit from the state. Existing landfills which are unable to conform to local, state and federal regulations may be converted to rubble sites. Existing landfills and rubble sites must be operated in a safe, nuisance-free manner. Existing, state-permitted, sanitary landfill sites will not require a county solid waste permit.

Section 5.02. LANDFILL PERMITS AND OPERATION: In addition to any required state or federal permits, sanitary landfills will also require a County solid waste permit. Applications for a County permit must meet all requirements of Article 74:27 of the South Dakota Administrative Rules, any applicable federal regulations and the following stipulations.

Section 5.03. LANDFILLING MEDICAL WASTE: Medical waste shall be placed only in approved and permitted sanitary landfills. All infectious medical waste must be treated, labeled and packaged as required by ARSD 74:35:01 prior to final disposal. The disposal of medical waste in a permitted sanitary landfill will require no additional solid waste permit from the county.

Section 5.04. LANDFILL CLOSURE: The closure of any landfill, or any portion thereof, shall meet all applicable requirements and must commence according to the most restrictive portion of the following schedule.

1. When the landfill or unit of a landfill reaches capacity.
2. Within 30 days after the final receipt of waste in the landfill or unit of a landfill.

The applicant is required to notify the County prior to any closure work.

Section 5.05 RUBBLE SITES: Any rubble site must have the layers of rubble covered with appropriate cover layers and shall require a final cover layer prior to final closure. The county shall be notified prior to any final closure.

Section 5.06. POST-CLOSURE MONITORING: Post-closure monitoring shall continue for a period of 30 years after final closure. The monitoring period may be extended if the County determines it necessary for the continued protection of human health or environmental protection. All monitoring shall be done by an independent consultant approved by the county.

ARTICLE 6. INCINERATORS AND ENERGY RECOVERY FACILITIES.

Section 6.01. INCINERATOR PERMITS AND OPERATION: All solid waste incinerators and energy recovery facilities require a County solid waste permit in addition to those required by other entities. No incinerator which burns medical waste and has a capacity greater than 1500 pounds per day shall be permitted. No permit shall be granted for any incinerator unless a comprehensive recycling program has been implemented at the source of waste generation. Incinerators shall be operated in the strictest conformance with all governmental regulations. All incinerator operations and emission controls shall use best available control technology and shall meet the lowest achievable emission rates. All incinerators must be sited in areas which will minimize the potential for environmental degradation and must be serviced by all weather access roads. All incinerators shall also meet all requirements of sections 74:35:01:03 through 74:35:01:19 inclusive of the Administrative Rules of South Dakota. Should a discrepancy exist between any state regulations and this ordinance, the most restrictive regulations shall apply.

Section 6.02. INCINERATOR PERMIT APPLICATIONS: Any application for a solid waste permit for an incinerator shall be prepared under the supervision of a professional engineer registered in the state of South Dakota. In addition to the application requirements of section 4.03, applications to operate incinerators shall include those requirements set forth in Chapter 74:27:14 of the Administrative Rules of South Dakota and the following information:

1. Site specific engineering plans for the facility.
2. Specific engineering plans for emission control systems, including the particulates to be captured.

3. Management and disposal plans for all incinerator ash and slurry material. The planned location and site specifications for the final disposal of ash and slurry materials must also be specified.
4. Annual expected volume of ash and the manner and frequency of testing for toxic and/or hazardous materials.
5. A closure and maintenance plan consistent with all local, state and federal requirements.
6. An environmental monitoring plan which shall include a detailed description of all planned monitoring during the application, operation, closure and post-closure phases of the facility. This monitoring shall include surface and ground water and air quality as well as daily monitoring during the operation of the facility.
7. A bond shall be required of an amount adequate to ensure:
 - a. The clean-up and remediation of environmental damage caused by a worst-case scenario, and
 - b. The closure of the site at the most expensive time during the life of the facility plus any necessary post-closure maintenance.
8. The results of pre-permit testing of ambient concentrations of appropriate parameters including, but not limited to those in Sections 6.05 and 6.08.

Section 6.03. GOOD COMBUSTION PRACTICES: All incinerators shall apply good combustion practices in order to ensure complete combustion of all waste and to minimize the potential for emissions. Good combustion practices shall include a minimum residence time in the secondary chamber of 2 seconds at a temperature of no less than 2000 degrees Fahrenheit; and no visible, unburned combustibles may remain after combustion has been completed.

Section 6.04. EMISSION CONTROL SYSTEMS: Emission control systems shall consist of best available control technology and shall target the lowest achievable emission rates.

Section 6.05. EMISSION STANDARDS: All incinerators shall meet or exceed all requirements of South Dakota Chapter 74:26, EPA emission control standards, and the following limits. Should any discrepancy occur between any of these standards, the most restrictive limit shall apply. When future changes to any of these standards occur, the most current and most restrictive standard shall apply. All calculations shall be made on a dry volume basis corrected to 7% oxygen and shall reflect the 24 hour average unless otherwise noted. These standards shall not be held to be exclusive.

Stack Emission Standards

Pollutant	Performance Standard
Flue Gas (max. temp. at PM control device inlet)	450 F
Opacity	10% (6 min. ave.)
Particulate Matter (PM)	0.010 gr/cu.ft.
Carbon Monoxide	50 ppm (4 hr. ave.)
Hydrogen Chloride	25 ppm or 95% reduction
Hydrogen Fluoride	5 ppm or 95% reduction
Hydrogen Sulfide	150 ppm
Nitrogen Oxides (as N ₂ O)	120 ppm
Sulfur Dioxide	20 ppm or 90% reduction
Dioxins/Furans	2 ng/cu.m
Mercury	130 ug/cu.m or 80% reduction

- gr/cu.ft. - grains per cubic foot
- ng/cu.m - nanograms per cubic meter
- ug/cu.m - micrograms per cubic meter
- PM - particulate matter
- dioxins/furans measured as total tetra-through-octa-chlorinated dibenzo-p-dioxins and dibenzofurans

Section 6.06. INCINERATOR MONITORING: Continuous stack monitoring shall be conducted for opacity, SO₂, HCl, NO_x, CO, CO₂, O₂, flue gas temperature (at the particulate emission control device inlet), and the primary and secondary combustion chamber temperatures. At least once within 60 days of beginning operations, and at least twice per year after that time, every solid waste incineration facility shall test for the presence of the pollutants listed in Section 6.05 in their emissions, and take tests for the pollutants listed in Section 6.08 in the ambient air and soil at a reasonable location deemed appropriate by the county. Ambient air quality testing shall be done only when the wind speed, as measured at the facility, is lower than 15 mph. The facility operators shall bear the full cost of all testing. In addition, Minnehaha County may require additional testing as it deems necessary. All testing shall be done by an independent consultant approved by the County.

Section 6.07. METHODS OF SAMPLING: Air contaminants shall be measured by the methods listed in 40 CFR 50, 53 and 60 (Codes of Federal Regulations), or by methods approved by the South Dakota Department of Water and Natural Resources. All sampling procedures, uses and the number, duration, and location of any samples taken shall be consistent with obtaining results which are precise, accurate, and representative of the conditions being evaluated. All emissions shall be calculated under standard conditions, corrected to 7% oxygen on a dry volume basis.

Section 6.08. AMBIENT AIR QUALITY STANDARDS: The following standards define the limits of air pollution. Levels above these limits in the ambient air are considered unacceptable.

All levels are noted as being either a maximum quarterly or annual average, or are listed with a time period in which the average pollutant concentration must not exceed the noted limit. Where both a primary and secondary standard are listed the primary shall have precedence and the secondary shall be allowed no more than once per year. When changes in any standards occur, the most current standard shall apply. All calculations shall be made on a dry volume basis corrected to 7% oxygen. These standards shall not be held to be exclusive.

Ambient Air Quality Standards

Pollutant	Performance Standards	
	primary	secondary
Suspended Particulates	50 ug/cu.m AAM	150 ug/cu.m 24 hr.
Carbon Monoxide	10 mg/cu.m 8 hr.	40 mg/cu.m 1 hr.
Hydrogen Chloride	80 ug/cu.m AAM	
Hydrogen Fluoride	50 ug/cu.m 8 hr.	
Hydrogen Sulfide	280 ug/cu.m 8 hr.	
Nitrogen Oxides (as NO ₂)	100 ug/cu.m AAM	250 ug/cu.m 24 hr.
Sulfur Dioxide	80 ug/cu.m AAM	365 ug/cu.m 24 hr.
Dioxins/Furans	1.0 pg/cu.m AAM	7.0 pg/cu.m 8 hr.
Arsenic	0.05 ug/cu.m 8 hr.	
Barium	10 ug/cu.m 8 hr.	
Beryllium	0.01 ug/cu.m 8 hr.	
Cadmium	0.4 ug/cu.m 8 hr.	
Chromium	0.5 ug/cu.m 8 hr.	
Copper	2 ug/cu.m 8 hr.	
Lead	1.5 ug/cu.m QAM	
Manganese	20 ug/cu.m 8 hr.	
Mercury	0.2 ug/cu.m 8 hr.	
Nickel	0.3 ug/cu.m 8 hr.	
Ozone	160 ug/cu.m 1 hr.	
Selenium	4 ug/cu.m 8 hr.	
Silver	0.2 ug/cu.m 8 hr.	
Thallium	2 ug/cu.m 8 hr.	
Zinc	100 ug/cu.m 8 hr.	

- ug/cu.m - microgram per cubic meter of air
- mg/cu.m - milligram per cubic meter of air
- pg/cu.m - picogram per cubic meter of air
- AAM - Annual arithmetic mean
- QAM - Quarterly Arithmetic mean
- dioxins/furans measured as total tetra-through-octa-chlorinated-dibenzo-p-dioxins and dibenzofurans

If an owner or operator of an incinerator is in compliance with the stack emission limits set forth in Section 6.05, but is determined to be exceeding the ambient air quality standards listed above,

the County may require that the stack emission concentrations be further reduced in order to meet the ambient standards.

Section 6.09. ASH DISPOSAL: Incinerator ash, both fly ash and bottom ash due to the higher concentrations of contaminants must be disposed of in an approved monofill specifically constructed for such ash or in a manner approved by the County Planning Department. Testing shall be required for classification of the ash as either hazardous or non-hazardous. Ash classified as hazardous shall be managed strictly as a hazardous material. Complete records must be maintained for all ash disposal and must be made available for County inspection on request. Frequency of such sampling will be on a site and operational method specific basis.

Section 6.10. WASTES NOT TO BE INCINERATED: Waste which may not be incinerated shall include: hazardous materials and lead acid batteries. This list shall not be deemed to be exclusive.

Section 6.11. CLOSURE: All incinerator facilities and ash disposal sites shall be required to be properly closed and shall require closure permits prior to any closure action. Closure requirements are detailed in Section 10 of this ordinance. All closure actions must also meet all applicable requirements of Article 74:27 of the South Dakota Administrative Rules.

Section 6.12. ENERGY RECOVERY: Energy recovery facilities and waste to energy plants shall be governed by the regulations for incinerators and shall operate in accordance with all applicable federal, state, and local regulations.

Section 6.13. REFUSE DERIVED FUEL (RDF) FACILITIES: Any RDF facility must have a County solid waste permit and must meet any siting and permit application requirements as set forth in this ordinance and in Article 74:27 of the Administrative Rules of South Dakota.

ARTICLE 7. SPECIAL WASTES.

Section 7.01. LANDFILLING PETROLEUM CONTAMINATED SOILS (PCS): The placement of PCS in a permitted landfill will not require a County solid waste permit, but is allowed only in approved type 2A or larger landfills as designated by the state of South Dakota.

Section 7.02. LAND APPLICATION OF PCS: PCS land application shall require a County solid waste permit. No land application of PCS shall be made:

1. On land that has a percolation rate faster than 6 min./inch, has a slope greater than 6%, or has a soil capability greater than IV as specified in the Minnehaha County Soil Survey.
2. If tests prove the material to be in excess of EPA limitations for volatiles, heavy metals, toxicity, reactivity, ignitability or corrosivity. The applicant is responsible for ensuring that any necessary tests are performed.

3. In any water source protection overlay zoning district.
4. Where there is potential for the pollution of waterways, wetlands or other bodies of water.

Section 7.03. MANAGEMENT OF LAND APPLIED PCS: All land applied PCS shall be periodically aerated in order to maximize the volatilization of aromatics.

Section 7.04. LIABILITY FOR LAND APPLIED PCS: All costs for testing and remediation of hazards shall be absorbed by the owner and operators of the disposal site.

Section 7.05. REGULATED SUBSTANCE CONTAMINATED MATERIALS: *(amended by MC17-1-96 10/15/07)* Prior to the disposal of any material contaminated with a regulated substance, notification of such disposal shall be made to the Planning Director. Regulated substance contaminated material which is to be stockpiled pending a final disposal shall not be stockpiled in any water source protection area. Material stockpiled in any other area must be stored in a manner which protects the material from the elements and prevents the further pollution of any soil, water, or air. The stockpiling of such a material shall not exceed 15 days without the prior approval of the Planning Director. The notice of disposal shall include:

1. The amount and type of material to be disposed.
2. The method and location of final disposal.
3. The length of time the material is to be stockpiled.
4. The manner in which stockpiled material is to be protected pending final disposal.

Section 7.06. WET CELL AND DRY CELL BATTERIES: Lead acid batteries must be separated from other waste and recycled. All other batteries shall be disposed of in accordance with current federal state, and local recycling and waste reduction programs.

Section 7.07. MEDICAL WASTE - STEAM OR CHEMICAL STERILIZATION: Steam or chemical sterilization of infectious medical waste, when done on a generator's own wastes shall not require a solid waste permit. However, the final disposal of treated materials shall meet all applicable requirements of this ordinance including those on labeling and packaging. Transportation of medical wastes to any out-of-county facility is covered by this ordinance only during the transportation phase and must not pose any public nuisance. Any medical waste which is also radioactive or hazardous shall be managed according to any restrictions on those categories of waste. All medical waste disposal shall meet all requirements of sections 74:35:01 and 74:27 of the Administrative Rules of South Dakota.

ARTICLE 8. TRANSPORTATION OF SOLID WASTE.

Section 8.01 TRANSPORTATION OF SOLID WASTE: All transportation of solid waste shall be done in a safe, nuisance-free manner which poses no threat to public health or the environment. All collection vehicles must be readily cleanable, enclosed or covered, and constructed to prevent the spillage, leakage, or blowing of wastes during loading and transportation to a solid waste facility.

ARTICLE 9. NEW DISPOSAL METHODS.

Section 9.01. NEW METHODS OF DISPOSAL: New and unique methods of disposal developed subsequent to the adoption of this ordinance which can be utilized without the creation of any threat to the environment or to public health and safety will be considered for approval by the Minnehaha County Planning Department.

Section 9.02. PERMITS REQUIRED: Any new method of solid waste disposal shall require a solid waste permit. Applications for such permits shall be made in accordance with Article 4 of this ordinance.

ARTICLE 10. CLOSURE AND ABANDONMENT.

Section 10.01. PLANS REQUIRED: At no time shall any existing or future solid waste facility be considered abandoned. All sites shall be considered operational and, when applicable, shall require operating permits until a notice of intent to close is made to the County Planning Department along with a closure plan. The plan must be approved before the closure action may commence.

Section 10.02. CLOSURE MAY NOT BE POSTPONED: Procedures for closing all solid waste facilities must be initiated as soon as the facility reaches final capacity, final elevation, or within 30 days of when the disposal of waste is terminated.

Section 10.03. LIABILITY: The owner and operator of any solid waste facility may be held liable in perpetuity for the remediation of adverse environmental impacts, additional monitoring, or additional maintenance of the site as deemed necessary by the County; and shall maintain the post-operational site as required by federal, state, or county regulations and as set forth in the closure plan.

Section 10.04. FACILITY CLOSURE PLAN: This plan shall include both the closure and post-closure phases of the facility operation. The post-closure period shall be a period of thirty years after the final closure is completed. A closure plan shall include, but not be limited to:

1. A description of the post-closure land use. The proposed use must not disturb the integrity of any final cover.

2. The wording of any deed notice. When required, a deed notice must be recorded which notifies potential purchasers what the site was used for and outlines any necessary restrictions to future land use.
3. When required, a description of the final cover and methods which will be used to revegetate the site. Any final cover will be a minimum of two feet in thickness.
4. A description of continuing methods to protect human health and the environment including, when necessary, monitoring, prevention of soil erosion or water ponding, control of run-off and run-on, and the control of disease vectors.
5. An estimate of any closure and post-closure costs, when required, and any necessary financial bonding to ensure that any closure or post-closure work is completed.
6. Any other information as required.

ARTICLE 11. VIOLATIONS AND PENALTIES.

Section 11.01. PENALTY FOR VIOLATING PROVISIONS OF THIS ORDINANCE. Any person violating any provision of this ordinance shall be guilty of a Class 2 misdemeanor and shall be punished pursuant to SDCL 7-18A-2. Each and every day that the violation continues may constitute a separate offense. In addition any person that violates any provision of this ordinance may be subject to any civil penalties set forth in SDCL 34A-1, 34A-2, 34A-6, 34A-11 or 34A-12. *(amended by MC17-1-96 10/15/96, MC17-2-07 8/14/07, MC 17-03-07 11/13/07)*

Section 11.02. PENALTY FOR ILLEGAL DUMPING: No person may dispose of any solid waste except in a manner permitted by this ordinance. Any person that disposes of solid waste on any public or private lands in a manner not specifically permitted by this ordinance is subject to a maximum penalty of a \$200.00 fine, 30 days in jail, or both. Each and every day that the violation continues may be considered a separate offense. In addition they may be subject to any civil penalties allowed under SDCL 34A-1, 34A-2, 34A-6, 34A-7, 34A-11 or 34A-12. *(amended by MC17-1-96 10/15/07)*

Section 11.03. RESPONSIBILITY FOR CORRECTION OF CONTAMINATION SOURCE: Any person who violates any portion of this ordinance is subject to civil action and shall be required to:

1. Bear the full cost of determining the cause and extent of the contamination.
2. Bear the full cost for any measures to correct the cause of the contamination, correct the detrimental effect to the environment, and eliminate the potential for public health hazard.
3. Bear all legal costs.

ARTICLE 12 COMMERCIAL GARBAGE HAULERS.

(amended by MC17-1-96 10/15/96 MC 17-03-07 11/13/07)

Section 12.01 LICENSE REQUIRED. Any commercial garbage hauler engaged in the business of collecting and hauling solid waste or recyclable materials for citizens in the unincorporated portions of Minnehaha County shall obtain a commercial garbage hauler's license from the County.

Section 12.02 LICENSE APPLICATION. Any person or business applying for a commercial garbage hauler's license shall complete an application form provided by the Minnehaha County Planning Department, and shall provide an application package which includes:

1. The name, address, phone number and location of the business (the business location must be properly zoned for commercial activities),
2. Written information about the type of recycling services that the hauler will provide for their customers,
3. Information to show that the fee structure for the collection service will be based on either volume or weight of the waste and designed to promote waste reduction and recycling,
4. Copies of the proof of insurance as required by this article,
5. Information listing all vehicles (vehicle description, license number, etc.) that will be used for collecting and transporting solid waste or recyclables in the unincorporated portions of Minnehaha County and showing that all their vehicles and containers meet the requirements of this article, and
6. A non-refundable application fee of \$100 for a new permit or \$50 for a renewal permit as specified in Section 12.03.

After receiving a complete application package which meets all ordinance requirements, the Planning Director or authorized representative shall approve the license application and notify the applicant by mail that they are licensed as a commercial garbage hauler within the jurisdiction of this ordinance.

If the Planning Director determines that an application does not meet the minimum requirements for a commercial garbage hauler's license as set forth in this ordinance the application shall be denied and written notification, with the reasons for denial, shall be provided to the applicant.

The denial of a commercial garbage hauler's license application may be appealed by filing a written appeal with the Planning Department within five working days of the denial notification date. License application appeals shall be heard by the Minnehaha County Commission. The commission shall ensure that any applicants meet the minimum requirements for a commercial garbage hauler prior to issuing any permit.

Section 12.03 LICENSE EXPIRATION. Every commercial garbage hauler's license issued under the provisions of this article shall expire on the December 31 of the year in which the permit was issued. Haulers intending to renew their license shall complete a full application for a license by November 30 prior to the expiration of the license. The renewal fee, if received prior to the November 30 deadline shall be \$50.00.

All previous commercial hauler's licenses approved under previous versions of this ordinance shall expire on December 31, 2007. Any haulers who held previous licenses and who wish to continue operations for customers in the unincorporated portions of Minnehaha County shall be required to obtain a new permit or a renewal permit as specified in this ordinance.

Section 12.04 COMPLIANCE WITH SOLID WASTE REPORTING, SOLID WASTE REGULATIONS AND LANDFILL BANS. In order to maintain their license, all haulers must fully cooperate with the City of Sioux Falls and the Sioux Falls Solid Waste Planning Board in all required solid waste and recycling reporting. As an additional condition of their license, haulers must comply with any landfill bans implemented by the City of Sioux Falls and must comply with all applicable federal, state, and local solid waste regulations. No hauler may dispose of garbage at any site in Minnehaha County other than at a solid waste facility permitted for the disposal of such waste by both Minnehaha County and the State of South Dakota.

Section 12.05 FILING OF REPORTS. All commercial haulers licensed under this ordinance shall file an annual report with the county before January 30 of each year showing the total weight by type of recyclables collected during the prior year and delivered to a recycling collection or processing facility. Records relating to recycling activities shall be kept confidential, upon request, to the extent necessary to protect proprietary information.

Section 12.06 PROOF OF INSURANCE REQUIRED. All commercial haulers shall furnish proof of liability insurance for public liability and property damage and for bodily injury/death growing out of any one accident or any other cause in the minimum sum of \$250,000 for one person, with an annual aggregate limit of \$500,000 for two or more persons; and in addition shall provide damage liability insurance in the minimum of \$100,000 for property damage growing out of any one accident or other cause, or as an alternative, provide combined limit for bodily injury/death or property damage in the sum of \$500,000. Such public liability and property damage insurance shall protect against loss from liability imposed by law for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to have been suffered by any person resulting directly or indirectly from any act or activity of the licensee or any person acting for the licensee or under the licensee or under the licensee's control or direction and also to protect against loss from liability imposed by law for damages to property of any person caused directly or indirectly by acts or activities of the licensee or any person acting for the licensee or under the licensee's control or direction.

Section 12.07 RECYCLING OPPORTUNITIES REQUIRED. Commercial garbage haulers must provide some means of recycling opportunity for their customers. These opportunities may include, but are not limited to, services such as on-site commercial and/or residential recyclable collection or localized drop-off sites for recyclable materials. Garbage haulers must provide the County with information on the means of recycling opportunities they will provide for their customers. Any localized drop-off sites must also meet all applicable zoning or solid waste facility requirements.

Section 12.08 SOLID WASTE COLLECTION RATES. Commercial garbage haulers must implement a collection rate system based either on weight or volume that promotes solid waste reduction and recycling. The cost for any recycling collection shall be included in the rate

structure for solid waste collection. Copies of the most current rate structure shall be provided to the County.

Section 12.09 MINIMUM DESIGN AND CAPACITY REQUIREMENTS FOR VEHICLES AND CONTAINERS. Any individual or business applying for a commercial garbage hauler's license shall provide proof of ownership of at least one packer truck in good working condition. All garbage haulers are required to have watertight vehicles or containers which shall be covered in a manner that does not allow the contents to escape. Boxes of all-metal construction are required and shall be equipped with metal doors which shall be closed when the vehicle is in motion. During transport, all containers must be tarped to prevent the escape of contents and must be securely attached to the frame of the vehicle. All vehicles and containers must be manufactured or designed for garbage hauling. Pickup trucks containing dumpsters, open-framed boxes and wood framed trucks are prohibited. All vehicles and containers must be constructed so as to be readily cleanable and must be periodically cleaned to prevent the proliferation of disease vectors. All vehicles and containers must be so loaded that all materials are contained within the vehicle or container and must be transported so that no wastes or recyclables fall off or are blown off while in transit. Each hauler permitted under this ordinance shall permanently display on each vehicle used for collecting and/or hauling solid waste or recyclables in the unincorporated portions of Minnehaha County the hauler's name in easily legible letters.

Section 12.10 VEHICLE AND CONTAINER INSPECTION. Any vehicle or container used by a commercial garbage hauler for transporting garbage or recyclables may be subject to any inspections deemed necessary by the Planning Director to ensure compliance with these regulations. All vehicles and containers are also subject to any required inspections by the city of Sioux Falls at the municipal landfill site.

Section 12.11 REVOCATION OF LICENSE. The County Commission may revoke a commercial garbage hauler's license if the hauler fails to meet all the requirements of this article or if the hauler violates any sections of this ordinance or of SDCL 34A-1, 34A-2, 34A-6, 34A-7, 34A-11, or 34A-12. The County Commission, upon determining that a hauler has violated either the requirements of this ordinance or of SDCL 34A-1, 34A-2, 34A-6, 34A-7, 34A-11, or 34A-12, and after providing a minimum of 30 days written notification via the United States Postal system to the hauler informing the hauler of the date for a public hearing regarding their hauler's license, may, after making such determination at the scheduled regular public meeting, revoke the hauler's commercial garbage hauler permit. After taking action to revoke the permit, the county shall provide written notification to the hauler that he is no longer permitted to operate as a garbage or recyclable material hauler in the unincorporated portions of Minnehaha County.

Section 12.11 REINSTATEMENT OF LICENSE. Any person who has had their commercial hauler's permit revoked may, after a period of at least six months from the date on which their license was revoked, make a new application in compliance with Section 12.02 asking that they be issued a new commercial garbage hauler's license. Upon such application by a hauler, and after finding that the hauler is meeting all applicable portions of this ordinance and SDCL 34A-1, 34A-2, 34A-6, 34A-7, 34A-11, or 34A-12, the Planning Director may issue the commercial garbage hauler's license. If the new application does not meet the minimum requirements for a

commercial garbage hauler's license as set forth in this ordinance, the application shall be denied as specified in Section 12.02.

Section 12.12 CONFIDENTIALITY OF INFORMATION. The information disclosed under Sections 12.04, 12.05 and 12.08 may be disclosed only to the following:

1. The licensee who is required to submit this information to the county, or his designee appointed in writing;
2. Officers, employees, or legal representatives of the county for the purposes of, and only to the extent necessary for, the administration of this ordinance;
3. A representative of the city of Sioux Falls in fulfilling the city's requirements for solid waste or recycling management or reporting.
4. Any agency, body, commission, or legal representative of the United States or the State of South Dakota charged with the administration of solid waste management, and only to the extent necessary in the administration of such laws and regulations; and
5. To the extent required by a proper judicial or administrative order.