

Chapter 44 - SOLID WASTE

ARTICLE I. - IN GENERAL

- Sec. 44-1. - Definitions.
- Sec. 44-2. - Dumping grounds; selection and use.
- Sec. 44-3. - Persons authorized to dispose of solid waste.
- Sec. 44-4. - Nuisance; penalty.
- Sec. 44-5. - Burning.
- Sec. 44-6. - Restaurants; private collection and disposal.
- Sec. 44-7. - Separation of yard waste.
- Secs. 44-8—44-32. - Reserved.

ARTICLE II. - COLLECTION

- Sec. 44-33. - Residential, multiple dwelling and business classification.
- Sec. 44-34. - Frequency of collections; conditions and fees.
- Sec. 44-35. - Statement for charges.
- Sec. 44-36. - Solid waste to be secured.
- Sec. 44-37. - Containers for multiple-family dwellings.
- Sec. 44-38. - Collection of residential and multiple family solid waste.
- Sec. 44-38.5 - Collection of commercial or business solid waste.
- Sec. 44-39. - Prohibited materials.
- Sec. 44-40. - Rubbish to be compacted.
- Sec. 44-41. - Garbage must be wrapped.
- Sec. 44-42 - Carryout service.
- Secs. 44-43—44-70. - Reserved.

ARTICLE III. - LITTERING

- Sec. 44-71. - Prohibited.
- Sec. 44-72. - Handbills.
- Secs. 44-73—44-102. - Reserved.

ARTICLE IV. - COMMERCIAL HAULERS

- Sec. 44-103. - License required.
- Sec. 44-104. - Collection area.
- Sec. 44-105. - Sanitary regulations.
- Sec. 44-106. - Equipment.
- Sec. 44-107. - Disposal of solid waste.
- Sec. 44-108. - Report.

State Law reference— Municipal garbage disposal systems, SDCL 9-32-11; solid waste disposal generally, SDCL 34A-6-1 et seq.; litter control, SDCL 34A-7-1 et seq.; fees for solid waste collection, delinquent charges, SDCL 34A-6-29; authority to impose fees for solid waste facility disposal, SDCL 34A-6-1.38.

ARTICLE I. - IN GENERAL

Sec. 44-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial hauler means any person who hauls or transports any solid waste through or upon the streets or alleys of this city for a consideration or a fee.

Garbage means kitchen and table refuse and every accumulation of waste, animal and vegetable matter that attends the preparation, cooking and eating of food or the storage, handling, sale or decay of food, or any other substance that is in the process of decay, which gives off an odor offensive to the senses.

Rubbish means broken crockery, destroyed bottles, cans, pasteboard boxes, wooden boxes, paper, ashes, and other normal discarded household materials that can be placed in rubbish containers as defined in this section.

Solid waste.

- (1) The term "solid waste" means any garbage, refuse, rubbish, demolition and construction debris, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities, but does not include mining waste in connection with a mine permitted under SDCL title 45, hazardous waste as defined under SDCL ch. 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act (also known as the Clean Water Act, 33 USC 1251 et seq.), special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, 42 USC 2011 et seq.
- (2) The term "solid waste" does not include recyclable materials accepted under the city's recycling program, batteries, motor oil, or refrigeration fluids.

Solid waste bag means solid waste deposited in a waterproof bag made of material sufficient in strength and secured in such manner that it will not tear or break when lifted by its top and cannot be opened or spilled by any animal and the contents cannot blow out or scatter. A solid waste bag is not a solid waste container, dumpster, or receptacle as set forth in this chapter.

Solid waste container means solid waste deposited in a watertight metallic or plastic can, of not less than ten nor more than 34-gallon capacity, having a handle on each side, covered with a tightfitting lid kept in a sanitary condition at all times, with the outside thereof free and clean of grease or decomposed matter, and secured in such manner that it cannot be opened or spilled by any animal and the contents cannot blow out or scatter. Containers made of materials other than metal or plastic may be used, provided that such containers have been approved by the public works department.

Yard waste means leaves, grass clippings, plant residue and does not include branches, brush, tree limbs or wood.
(Code 1980, § 25-1; Code 2003, § 21-1; Ord. No. 16-07-05, 8-10-2016)

Sec. 44-2. - Dumping grounds; selection and use.

(a) The city council may select and establish as dumping grounds, suitable lots or parcels of land, outside the city limits, and may require that all straw, manure, leaves, ashes and other rubbish which may be removed from public or private premises be transported to and deposited upon the dumping grounds so established.

(b) Nothing in this section shall be deemed to prohibit the deposit of ordinary stable manure on any private lot or parcel of land for fertilizing purposes only, and, if established, it shall be unlawful for any person to remove to and deposit upon any lot or parcel of land other than such dumping grounds any straw, manure, leaves, ashes or other rubbish contrary to the provisions of this section.

(c) The public works department or the police department may take such measures as to the spreading, burning and covering of the rubbish deposited, as provided in this section, as they may deem necessary, or the health officer may advise.
(Code 1980, § 25-11; Code 2003, § 21-42)

Sec. 44-3. - Persons authorized to dispose of solid waste.

All solid waste accumulated in the city shall be collected by the city or by a licensed solid waste hauler, and no person other than a commercial solid waste hauler licensed by the city, or the city, shall collect solid waste within the city.
(Code 1980, § 25-9; Code 2003, § 21-40)

Sec. 44-4. - Nuisance; penalty.

(a) *Nuisance.* Every accumulation of solid waste which is deposited, kept, burned or transported at any place in the city in violation of the provisions of this chapter is hereby declared to be a public nuisance.

- (1) Any nuisance under this chapter may be abated as set forth in chapter 26, article V of this Code. Expenses incurred by the city in the abatement of the nuisance may be recovered through civil suit or through special assessment against the property. The remedy of abatement shall be in addition to all other remedies available including prosecution for a violation of this chapter.
- (2) City officials, including peace officers, code enforcement officers, and employees of the public works department, are hereby authorized to serve a notice of violation and order upon the responsible person or persons by affixing such notice and order on or about the solid waste, a solid waste bag, solid waste container, or other conspicuous place upon such premises.

(b) *Penalty.* Any person who maintains or permits the maintenance of such nuisance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalty provided in section 1-11.

(Code 1980, § 25-2; Code 2003, § 21-2; Ord. No. 16-07-05, 8-10-2016)

State Law reference – Public nuisances generally, SDCL 22-36-1 et seq.; acts or omissions constituting nuisances, SDCL 21-10-1 et seq.; public and private nuisances defined, SDCL 21-10-03.

Sec. 44-5. - Burning.

No solid waste shall be burned except in furnaces or incinerators in buildings.

(Code 1980, § 25-3; Code 2003, § 21-3)

State Law reference — Dumping and burning of solid waste restricted, SDCL 34A-6-1.4; open burning of solid waste, SDCL 34A-6-1.6.

Sec. 44-6. - Restaurants; private collection and disposal.

Any operator of a restaurant in the city shall enter into a contract with a licensed solid waste hauler for the collection and disposal of the solid waste from his or her place of business and that all sanitary regulations relative to the collection and keeping of such solid waste on the premises shall be observed by such collector and restaurant operator and in the event of any violation of any such sanitary regulations, the public works department shall have the power to abate any unsanitary conditions and recover any costs incurred by the city.

(Code 1980, § 25-19; Code 2003, § 21-39)

Sec. 44-7. - Separation of yard waste.

Notwithstanding any other provision of this article, yard waste shall be separated from other solid waste. Yard waste that is not compost shall be secured and disposed of by the owner, occupant, or operator at a landfill or site approved by the county landfill.

(Code 2003, § 21-32; Ord. No. 16-07-05, 8-10-2016)

Secs. 44-8—44-32. - Reserved.

ARTICLE II. - COLLECTION

Sec. 44-33. - Residential, multiple dwelling and business classification.

(a) The collection of solid waste in the city is divided into three classifications, namely, residential, multiple dwelling and business. The residential classification shall include the collection of solid waste from private residences housing not more than one family. The multiple dwelling classification shall include dwellings holding not more than two families, including any combination of apartments or duplexes housing not more than two families, and all multiple dwelling establishments housing more than two families shall be considered under the business classification, and solid waste from such multiple-family dwelling shall be picked up by commercial haulers.

(b) The business classification shall include collection of all solid waste not included in the classifications described in this section.

(c) Any residential dwelling requesting or needing pickup more than once per week shall be classified as a commercial or business account.
(Code 1980, § 25-10; Code 2003, § 21-41)

Sec. 44-34. - Frequency of collections; conditions and fees.

The city council shall adopt an appropriate resolution setting forth the conditions for garbage collection and the fees therefor and the frequency of such collection. Fees shall be as provided in the city fee schedule on file in the office of the finance director. Unless altered by a subsequent resolution an amendment to the original resolution, such resolution shall be in full force and effect for each fiscal year thereafter.
(Code 1980, § 25-18; Code 2003, § 21-37)

Sec. 44-35. - Statement for charges.

The public works department shall be responsible to furnish statements to the finance office quarterly in advance on all charges for residential collection of solid waste. All payments for the collection of garbage service shall be made at the finance office. Any payment not made shall become delinquent 20 days after the date of the billing by the finance office. Delinquent bills shall be subject to a late penalty equal to five percent of the total amount delinquent.
(Code 1980, § 25-20; Code 2003, § 21-43)

State Law reference— Imposition and collection of delinquent charges, requirement to collect garbage collection fee as condition precedent to the payment of any water, sewer, utility, or other charge, SDCL 34A-6-29.

Sec. 44-36. - Solid waste to be secured.

(a) The occupant, proprietor, or operator of every premise classified as commercial or business pursuant to section 44-33 is hereby required to secure, deposit, and keep all the solid waste that accumulates each day upon the business premises in a solid waste container, dumpster, or receptacle that cannot be opened or spilled by any animal and the contents cannot blow out or scatter. The place where any solid waste is kept shall be maintained in a clean and sanitary condition at all times and kept clear of snow and ice.

(b) The owner or occupant of every private home or and the occupant, proprietor, or operator of every duplex, apartment house, or similar multiple-family dwelling is hereby required to secure, deposit, and keep the solid waste that accumulates each day upon his or her premises in a solid waste bag or solid waste container, provided that:

- (1) Grass, leaves or other material to be used as compost for fertilizer may be kept in a pit or closed container until such time as it may be used;
- (2) Barnyard manure must be incorporated into the soil within 24 hours of delivery to the premises; and
- (3) Brush trimmings and trees and wood shall be cut into three-foot lengths and tied and bundled and need not be placed in a solid waste bag or container.

(Code 1980, § 25-6; Code 2003, § 21-35; Ord. No. 16-07-05, 8-10-2016)

Sec. 44-37. - Containers for multiple-family dwellings.

The proprietor or operator of each duplex, apartment house or similar multiple-family dwelling shall furnish and maintain for the use of the tenants therein a sufficient number of solid waste containers to hold all solid waste that accumulates upon such premises in the course of a week, or he or she shall require the tenants upon such premises to furnish such containers. The place where the solid waste containers are located shall be kept in a clean and sanitary condition at all times.

(Code 1980, § 25-7; Code 2003, § 21-36)

Sec. 44-38 –Collection of residential and multiple family solid waste.

(a) *Collection point.* Solid waste for collection by the city shall be placed at ground level and within a distance of not more than 10 feet from the usual and ordinary travel path of the collection vehicle, but in no event shall the solid waste be placed on the driving surface of the street or alley. The place where any solid waste is kept shall be maintained in a clean and sanitary condition at all times and kept clear of snow and ice.

(b) *Alley collection.* The owner or occupant of every private home or dwelling and the occupant, proprietor, or operator of each duplex, apartment house, or similar multiple-family dwelling adjacent to an alley where collection by the city occurs shall not place any solid waste for collection prior to 24 hours of the day of collection *unless* such solid waste is in a solid waste container, except for properly cut, tied, and bundled brush trimmings, trees, or wood.

(c) *Street side collection.* The owner or occupant of every private home or dwelling and the occupant, proprietor, or operator of each duplex, apartment house, or similar multiple-family dwelling not adjacent to an alley where collection by the city occurs shall place any solid waste for collection adjacent to the street not more than 24 hours before the day of collection. Any solid waste container shall be removed from the front yard or side yard area before 11:59 p.m. of the day of collection.

(d) *Collection refused.* Any solid waste refused for collection by the public works department due to a violation of this chapter shall be removed before 11:59 p.m. of the day of such refusal.

(Code 1980, § 25-8; Code 2003, § 21-38; Ord. No. 16-07-05, 8-10-2016)

Sec. 44-38.5 – Collection of commercial or business solid waste.

(a) *Storage and collection at rear of business.* The occupant, proprietor, or operator of any premise classified as commercial or business pursuant to section 44-33 must keep and place for collection all solid waste to the rear of the commercial or business premises, unless an alternative storage or collection place is deemed necessary by the public works director.

(b) *Collection off street.* No collection by a commercial hauler may occur on the driving surface of a street adjacent to a commercial or business premises unless approved by the public works director.

(c) *Collection refused.* Any solid waste refused for collection by the commercial hauler under this section shall be removed before 11:59 p.m. of the day of such refusal.
(Ord. No. 16-07-05, 8-10-2016)

Sec. 44-39. - Prohibited materials.

Any substance or materials or product prohibited to be placed in the county landfill or those materials that must be separated from normal solid waste before disposal as defined and set forth by the county commission shall not be included in any definition contained in this chapter and shall not be placed for collection within any solid waste container to be collected by the public works department. Prohibited materials include, but are not limited to, automotive oil, batteries, petroleum products, Freon, oil based paints, hazardous materials, tires and appliances.

(Code 1980, § 25-21; Code 2003, § 21-31)

State Law reference— Prohibition of placement of yard waste, lead acid batteries, waste motor oil and certain appliances in land fills, SDCL 34A-6-67; waste tires, SDCL 34A-6-87.1.

Sec. 44-40. - Rubbish to be compacted.

Before being deposited in a solid waste container, all rubbish shall be broken or cut up and compacted so as to occupy as little cubic space as possible, and so that it may easily be handled and loaded.

(Code 1980, § 25-4; Code 2003, § 21-33)

Sec. 44-41. - Garbage must be wrapped.

All garbage shall be wrapped in paper or other material so as to prevent, as nearly as possible, moisture from the garbage coming in contact with the sides and bottom of the solid waste container.

(Code 1980, § 25-5; Code 2003, § 21-34)

Sec. 44-42 – Carryout service.

For an additional charge, as specified in section 44-34, carryout service may be provided if deemed necessary by the public works director. The term “carryout service” means collection from a point not adjacent to a street or alley, but readily accessible to a street or alley, and in no case farther than the rear of the house. Persons receiving carryout service shall provide, and display prominently parallel to the street or alley from which collection is made, a weatherproof sign consisting of the word “carryout.” The city will not be responsible for, nor make any additional collection attempts for, solid waste not collected when such sign is not displayed or is not legible or visible from the street or alley.

(Ord. No. 16-07-05, 8-10-2016)

Secs. 44-43—44-70. - Reserved.**ARTICLE III. - LITTERING****Sec. 44-71. - Prohibited.**

It shall be unlawful for any person to place, throw or deposit or cause to be placed, thrown or deposited any glass, waste paper, dirt, dead leaves, grass, ashes or other waste material on any of the streets, avenues, alleys or public grounds in the city.

(Code 1980, § 26-20; Code 2003, § 21-4)

State Law reference— Litter control authority of city, SDCL 34A-7-14, 34A-7-15.

Sec. 44-72. - Handbills.

(a) No person shall throw or deposit any handbill in or upon any automobile or other vehicle while such vehicle is parked on any of the streets or avenues of the city or in any public parking ground; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof any handbill to any occupant of a vehicle who is willing to accept it.

(b) Such activity may be permitted with specific permission by the city council for limited purposes that provide positive public awareness not designed to advance commercial concerns.

(Code 1980, § 3-3; Code 2003, § 3-3)

Secs. 44-73—44-102. - Reserved.**ARTICLE IV. - COMMERCIAL HAULERS****Sec. 44-103. - License required.**

(a) It shall be unlawful for a commercial solid waste hauler to haul or transport any solid waste through or upon any street or alley of this city unless he or she is the holder of a license issued by the city, in full force and effect, authorizing him or her to do so as provided in this chapter.

(b) The annual license fee for a commercial solid waste hauler shall be as provided in the city fee schedule on file in the office of the finance director. Any person desiring a license as a commercial solid waste hauler shall make application upon blanks furnished by the finance office. Such application shall be accompanied by the requisite license fee and bond conditioned that such applicant will fully comply with all ordinances of the city in the penal sum of \$1,000.00. (Code 1980, §§ 25-12, 25-13; Code 2003, § 21-71)

Sec. 44-104. - Collection area.

Collection of solid waste shall be only by a licensed solid waste hauler from establishments in the business area of the city from Lincoln Street South to First Street South and from Sixth Avenue South to Railroad Avenue South, and the alleys contained in such area serving and adjoining business establishments in the business area outside such districts, which may be from time to time designated by the public works department.

(Code 1980, § 25-15; Code 2003, § 21-72)

Sec. 44-105. - Sanitary regulations.

Every licensed commercial solid waste hauler shall obey all rules and regulations of the board of health relative to the hauling of solid waste.

(Code 1980, § 25-14; Code 2003, § 21-73)

Sec. 44-106. - Equipment.

Every commercial solid waste hauler or owner of any solid waste or owner of the property upon which solid waste is being stored or collected shall use watertight vehicle bodies or watertight containers. Every collection container utilized in the commercial garbage business

shall have an affixed top or lid to the container. The vehicle shall be equipped with a leakproof mechanically operated packer which will not permit any leakage or spillage; and such vehicle or trailer shall be so covered so that solid waste will not be dropped or spilled in transit any place in the city; and any violation of this chapter shall be sufficient cause for revocation of the collector's license; and, in addition thereto, he or she shall be guilty of a violation of this article.
(Code 1980, § 25-16; Code 2003, § 21-74)

Sec. 44-107. - Disposal of solid waste.

All solid waste collected by a commercial solid waste hauler from the area set forth in this chapter shall be disposed of in such a manner and in such a place as may be directed by the city. Any commercial solid waste hauler shall obey all rules and regulations as may be from time to time promulgated by the city with reference to the disposal of solid waste.
(Code 1980, § 25-17; Code 2003, § 21-75)

Sec. 44-108. - Report.

On or before December 1 of each year any licensed commercial solid waste hauler shall report to the city finance office on a form to be supplied by the finance office, a report that reports all tonnage received and hauled to the county landfill and the average tonnage per customer classification per month that was hauled to the landfill on behalf of such customer and the amount per ton charged on an average basis per customer classification per month.
(Code 1980, § 25-12; Code 2003, § 21-76)

Chapter 45

RESERVED