

ORDINANCE NO. 16
Revised

AN ORDINANCE OF MEADE COUNTY PROVIDING REGULATIONS GOVERNING BUILDING IN THE TAILINGS AREA OF WHITEWOOD CREEK AND PROVIDING FOR ENFORCEMENT OF SUCH REGULATIONS.

THE GOVERNING BODY OF MEADE COUNTY DOES ORDAIN AS FOLLOWS:

Section 1 – Findings

1. EPA has delineated a superfund site along Whitewood Creek in portions of Meade County;
2. EPA has identified elevated soil arsenic levels within the site;
3. EPA had defined certain health risks associated with the arsenic;
4. EPA has determined that a county ordinance could provide appropriate protection for public health;
5. The following ordinance meets the requirements of EPA’s Record of Decision dated March 30, 1990.

Section 2 – Tailings Deposit Areas

1. The construction or placement of any buildings or facility for residential or commercial use involving occupancy by humans on the “tailings deposit areas” of Whitewood Creek is prohibited. For the purpose of this Article, the “tailings deposit areas” of Whitewood Creek are depicted on the most current series of maps prepared by Homestake Mining Company on file in the Equalization & Planning Department which is Appendix No. 1 of this Ordinance.

Section 3 – Tailings Impacted Areas

1. The construction or placement of any building for residential use involving occupancy of humans on the “tailings impacted area” of Whitewood Creek is restricted to areas having 100 parts per million or less of arsenic. For purposes of this Article, the “tailings impacted areas” of Whitewood Creek are depicted on the most current series of maps prepared by Homestake Mining Company on file in the Equalization & Planning Department which is Appendix No. 1 of this Ordinance. Methodology for demonstrating arsenic levels are described in the Meade

County Whitewood Creek Tailings Area Handbook Appendices. No occupancy permit will be issued until the Petitioner has complied with the requirements of the handbook.

Section 4 – Removal From Tailings Deposit Areas

1. The removal of sand, soils or rock in any form for any purpose whatsoever from the “tailings deposit areas” of Whitewood Creek to areas outside the “tailings deposit areas”, except in compliance with a mining permit issued by the State of South Dakota or any duly authorized agency thereof, is prohibited. For the purpose of this Article, the “tailings deposit areas” of Whitewood Creek are depicted on the most current series of maps prepared by Homestake Mining Company on file in the Equalization & Planning Department which is Appendix No. 1 of this Ordinance.

Section 5 – Enforcement

1. Whoever, being the owner or agent of the owner of any land located within Meade County being found in violation of any of the regulations of this Ordinance shall be subject to an action for injunctive relief brought by Meade County. The governing body may recover the same penalty by civil action in any court of competent jurisdiction, according to SDCL 11-2-4.

Revision adopted in Sturgis, South Dakota, this 2nd day of November, 2011;

Commissioner Chairperson: _____
Alan Aker

Attested By: _____
Lisa Schieffer – Meade County Auditor

Originally adopted: January 4th, 1994
Revision 1st Reading: October 5th, 2011
Revision 2nd Reading: November 2, 2011
Revision Adopted on: November 2, 2011
Effective Date: December 6th, 2011