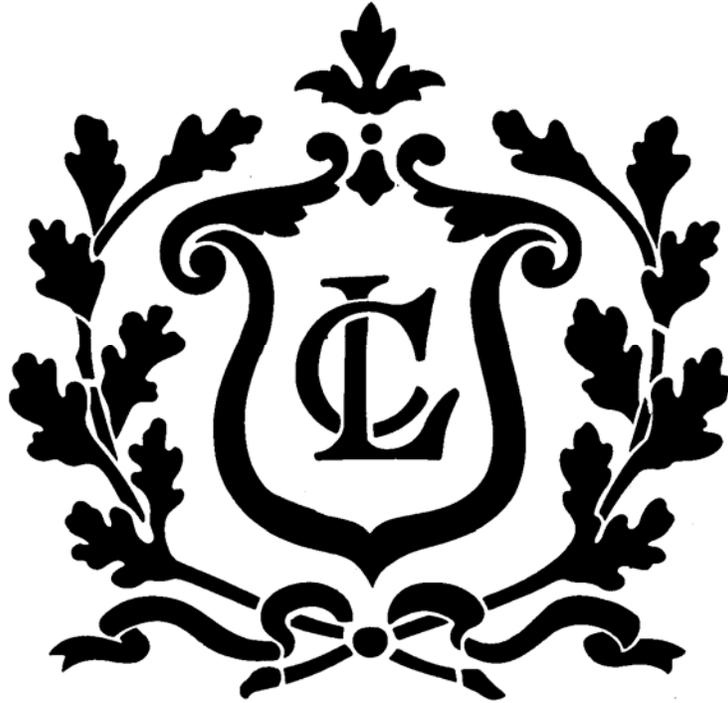


Lawrence County



Zoning Ordinance

Effective Date: November 2, 2009

Amended ORD 09-07:06/03/2010
Amended ORD 10-01:06/09/2010
Amended ORD 10-02:06/09/2010
Amended ORD 10-05: 09/15/2010
Amended ORD 10-04 & 10-07:11/09/2010

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ARTICLE 14 - WHITEWOOD SUPERFUND SITE DISTRICT (Amended ORD 10-02: 6/09/2010)

Section 1.1 General:

The intent of the WSS- Whitewood Superfund Site District is to minimize risk to individuals from arsenic at the Site, with the assistance of Lawrence County, Homestake Mining Company (HMC), Environmental Protection Agency (EPA) and the South Dakota Department of Environment and Natural Resources (DENR).

The information provided within this Ordinance and within the Whitewood Creek Tailings Area Building Permit Handbook is offered as part of the remediation requirements for the Whitewood Creek Superfund Site, which is located in Lawrence County. This Ordinance is intended to remind site residents about the EPA Site Remedy, and to identify precautions that should be taken by a Site resident to continue to protect their health and safety.

This Ordinance provides County staff and landowners in the Whitewood Creek Tailings area with guidance on how to proceed with residential construction. It also details those activities prohibited or restricted by land use ordinances applicable to the Area.

The Whitewood Superfund Site only applies to the area as described in Figure 1 of this Ordinance.

Section 1.2 Site Remedy:

Two soil types were identified by the EPA as potentially presenting risks. **Tailings Deposits** were tailings that were actively deposited in the old stream bed and floodplain. **Tailings Impacted Soil Areas** are soils that were impacted by wind blown tailings from the stream bed and flood plain.

EPA chose a twofold remedy for the Whitewood Creek Superfund site:

1. Existing residential yards containing **Tailings Deposits** or **Tailings Impacted Soils** were cleaned up in 1991 and 1992 by removing these materials or covering them with clean soil; and
2. County ordinances were adopted to minimize exposure to **Tailings Deposits** and **Tailings Impacted Soils** in future development. In addition, an existing State rule prohibiting shallow well construction in the Whitewood Creek flood plain has been continued.

Section 1.3 Limitations & Restrictions:

1. Residential and commercial (non-agriculture) development on **Tailings Deposits** is prohibited.

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2. Residential development is only allowed in **Tailings Impacted Soil Areas** once the owner has remediated the soils, and only in areas that have soil arsenic levels below 100 parts per million based on an appropriate sampling program, as outlined on Page 3 of the Whitewood Creek Tailings Area Building Permit Handbook -Building Restricted On Tailings Impacted Soils.
3. Excavation of tailings materials and use of tailings materials outside of the **Tailings Deposits** is prohibited. (Mining of the tailings is allowed subject to the regulations of the individual county, the State of South Dakota and applicable federal requirements.)
4. Importation of **Tailings Deposits** or **Tailings Impacted Soils** to residential yards is prohibited. E.g., these materials cannot be used for driveways or as fill in yards or gardens.
5. The construction of shallow wells within the tailings deposits is prohibited by state law. ARSD 74:02:04:26.
6. Please refer to the Lawrence County Zoning map in the Lawrence County Planning and Zoning Department for a general outline of the area. This map identifies tailings deposits and tailings impacted soils.

Section 1.4 Site Residents' Roles:

Residents have an important role in implementing the remedy and minimizing risk. Site residents are asked to do the following:

1. Notify Homestake Mining Co. if floodwaters reach residential yards within the site.
2. Notify potential property owners about the Whitewood Creek Superfund Site and provide them with this Ordinance. The assistance of site residents is necessary to educate potential property owners, as warning signs and deed restrictions were not included in the remedy in response to public comment.
3. Contact the Lawrence County Planning and Zoning Department prior to any construction on your property.
4. Notify Homestake Mining Co. if you are aware of any planned building activities within the Whitewood Creek Superfund Site.

Section 1.5 Site Documents and Contacts:

Documents regarding the former Whitewood Creek Superfund Site, including the Record of Decision and Consent Decree, are available for public review at the Lawrence County Register of Deeds Office, 90 Sherman Street, Deadwood, SD 57732 (605) 578-3930.

For detailed information on the requirements for construction in the Whitewood Creek Superfund Site District you will need to refer to the Whitewood Creek Tailings Area Building Permit Handbook on file in the Lawrence County Planning and Zoning Department. This Handbook is available in order to help guide the landowner to meet all of the requirements of the WSS prior to the County issuing a building permit. All of the information provided will be reviewed by the County Planning Department, as well as, Homestake Mining Company. Be advised the building permit process in this designated zoning

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district will take longer than the designated 5 days as stated on building permit applications.