

**Rapid City Area Transportation  
Improvement Program**  
(Fiscal Years 2002-2006)

**Prepared By:**

Rapid City Transportation Planning Division

**In Cooperation With:**

Rapid City Public Works Department  
Pennington County Highway Department  
City of Box Elder  
Black Hills Council of Local Governments  
South Dakota Department of Transportation  
Federal Highway Administration  
Federal Transit Administration

Preparation of this document has been financed in part with  
Metropolitan Planning funds from the Federal Highway  
Administration

**Draft Report**  
**July, 2001**

**RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM**  
**(Fiscal Years 2002 - 2006)**

**TABLE OF CONTENTS**

		<u>Page</u>
List of Tables.....		ii
Abbreviations Used in this Document.....		iii
I.	INTRODUCTION	
	A. The Transportation Improvement Program.....	v
	B. The Transportation Improvement Program in Perspective.....	vi
II.	IDENTIFYING, EVALUATING AND SELECTING CANDIDATE PROJECTS.....	vi
	A. Project Selection and Prioritization.....	vi
	B. Financial Constraint.....	vii
III.	FUGITIVE DUST CONTROL.....	viii
IV.	RECOMMENDED PROJECTS AND PROGRAMS.....	xi

## LIST OF TABLES

	<u>Page</u>
1. AIRPORT/AVIATION PROJECTS.....	1
2. HIGHWAY SAFETY/TRAFFIC ENGINEERING, RAILROAD CROSSING PROTECTION	
2-A. Roadway Safety Improvement Projects.....	2
2-B. Accident Prevention Projects.....	4
2-C. Railroad Crossing Improvement Projects.....	5
3. PUBLIC TRANSPORTATION PROJECTS	
3-A. Rapid City Public Transportation.....	6
3-B. Public Transportation - Private Non-Profit Org.....	7
4. STREET AND HIGHWAY PROJECTS	
4-A. Interstate 3-R Roadway Program.....	8
4-B. Major Arterial Construction/Reconstruction Projects.....	10
4-C. Major Arterial Resurfacing Projects.....	11
4-D. Minor Arterial Construction/Reconstruction Projects.....	12
4-E. Minor Arterial Resurfacing Projects.....	13
4-F. Bridge Replacement Projects.....	14
4-G. State Trunk 3-R Structure.....	15
4-H. Surface Transportation Program.....	16
4-I. County Secondary and Off Systems Projects.....	17
4-J. Rapid City Projects (Local).....	18
4-K. State Secondary Construction/Reconstruction.....	20
4-L. Special Projects.....	21
4-M. Contract Road Maintenance Projects.....	22
4-N. Unclassified High Priority Local Projects.....	23
5. TRANSPORTATION ENHANCEMENT ACTIVITIES	
5-A. Transportation Enhancement Projects.....	24
6. SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION ESTIMATE OF AVAILABLE FUNDS for FY 2002-2006 Highway Construction Program, Surface Transportation Program, and National Highway System.....	25
7. SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION ESTIMATE OF TOTAL AVAILABLE FUNDS for FY 2002-2006 State Transportation Improvement Program.....	26

## RAPID CITY AREA TRANSPORTATION IMPROVEMENTS PROGRAM

(Fiscal Years 2002 - 2006)

### - ABBREVIATIONS USED IN THIS DOCUMENT -

<b>3-R</b>	Relates to either the interstate maintenance project funding category or the state system structure funding category (Resurfacing, Restoration and Rehabilitation) provided by the DOT under the terms of the ISTEA of 1991.
<b>ADA</b>	Americans with Disabilities Act of 1990. Mandates changes in building codes, transportation, and hiring practices to prevent discrimination against persons with disabilities. This act affects all existing and new public places, conveyances, and employers. The significance of ADA in transportation will be most obvious in transit operations, capital improvements, and hiring practices.
<b>CAAA</b>	Clean Air Act Amendments of 1990
<b>C &amp; G</b>	Curb and Gutter
<b>CY</b>	Calendar Year
<b>DM&amp;E</b>	Dakota Minnesota and Eastern Railroad
<b>DOT</b>	United States Department of Transportation
<b>EPA</b>	United States Environmental Protection Agency
<b>FAUS</b>	Federal-Aid Urban Systems Funds. Designated Federal-Aid routes within urban areas (5,000 or more population). Projects and priorities are established by each urban area. FAUS projects were funded at approximately 78% federal and 22% state. FAUS funds were replaced by STP funds under ISTEA.
<b>FHwA</b>	Federal Highway Administration
<b>FTA</b>	Federal Transit Administration
<b>FY</b>	Fiscal Year
<b>ISTEA</b>	Intermodal Surface Transportation Efficiency Act of 1991
<b>MPO</b>	Metropolitan Planning Organization
<b>NHS</b>	National Highway System
<b>PCCP</b>	Portland Cement Concrete Pavement
<b>PL</b>	Metropolitan Planning Funds. Highway Trust Funds which have been set aside for transportation planning activities in Urbanized Areas. Funding is on an 81.95% - 18.05% federal/local basis.

## ABBREVIATIONS USED IN THIS DOCUMENT (Cont.)

<b>RACT</b>	Reasonable Available Control Technologies which have been established by the EPA.
<b>RCATPP</b>	Rapid City Area Transportation Planning Process. The local cooperative transportation planning program.
<b>ROW</b>	Right-Of-Way
<b>SEC 5307</b>	Federal Program for capital improvements, i.e. terminals, shelters, mechanical equipment other than buses, computers, office equipment, etc. These funds, formerly known as Section 9 funds, have been available since FY 1984 through the Urban Mass Transportation Act of 1964 as amended by the Federal Transit Act of 1991. They provide resources for planning, capital and operating assistance. The match on planning and capital is 80% federal and 20% local; while the operating subsidy is 50% federal and 50% local.
<b>SEC 5310</b>	These funds, formerly known as Section 16 funds, are available through the Urban Mass Transportation Act of 1964 as amended. This authorizes capital grants to non-profit organizations to assist in providing transportation for the elderly and the handicapped. FTA provides 80% of the costs for equipment, and the 20% match must come from other than federal funds.
<b>SDDOT</b>	South Dakota Department of Transportation
<b>STIP</b>	State Transportation Improvement Program
<b>STP</b>	Surface Transportation Program
<b>TEA-21</b>	Transportation Equity Act for the 21st Century. This five-year highway bill was approved in June of 1998, and carries on the ISTEA emphasis towards a balanced transportation system, including public transit, bicycle and pedestrian modes, and environmental and social consequences.
<b>TIP</b>	Transportation Improvement Program

# RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

(Fiscal Years 2002 - 2006)

## I. INTRODUCTION

### A. THE TRANSPORTATION IMPROVEMENT PROGRAM:

A Transportation Improvement Program (TIP) is a staged, multi-year program of transportation improvements including highway and transit projects. The TIP is a five (5) year priority list, including a financial plan. The Metropolitan Planning Organization (MPO) and the State must cooperate in project selection. All projects funded by the Transportation Equity Act for the 21st Century (TEA-21) must be included in the TIP.

The TIP should contain at least the following basic elements:

1. Identification of the project;
2. Estimated total cost and amount of federal funds proposed to be obligated during the program period;
3. Proposed source of federal and non-federal matching funds;
4. Identification of the recipient and, state and local agencies responsible for carrying-out the project;
5. A priority list of projects and project segments; and,
6. A financial plan.

The TIP is a "living" document. It can be amended with the approval of the Executive Policy Committee and Technical Coordinating Committee. The TIP focuses on projects that will require five (5) or less years to implement. Within the first three (3) years of the TIP, projects may be delayed or accelerated according to present needs. This flexibility provides coordination among local and state agencies. Coordination among related projects saves money and decreases disruptions to the transportation system. The TIP is evaluated at year-end, and an annual increment of improvements is added to maintain a full multi-year program.

The TIP does not constitute an appropriation of funds, nor replace the normal funding program. The TIP is intended to serve as a fiscal management tool to assist state and local agencies in matching needs with resources. All projects eligible for placement in the TIP must be selected from an approved Long Range Transportation Plan.

In developing the program, the MPO shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. Because public involvement is a very important component of the TIP process, several opportunities are made available for the public to comment. The TIP is brought before the Rapid City Planning Commission, the Rapid City Council, and the Metropolitan Planning Organization committees. Public notices are printed in the local newspaper for all of the above meetings, and special public meeting notices are printed specifically for review of the TIP before the Metropolitan Planning Organization committees. The public is given the opportunity to comment in person at the meetings, or submit comments during a specified comment period. Responses are made in reply to any comment received, and significant comments are discussed between the Staff involved in the TIP process, and ultimately the MPO committees for further discussion.

## **B. THE TRANSPORTATION IMPROVEMENT PROGRAM IN PERSPECTIVE:**

Under authority of the Federal Transit Act Amendments of 1991, TEA-21 projects in urbanized areas must be included in a TIP which is based on a continuing, comprehensive planning process carried on cooperatively by the state and local communities. The rationale for requiring a TIP can be summarized in three (3) key points.

1. Transportation issues should be approached in a comprehensive fashion with participation from all affected parties;
2. A systematic, comprehensive approach to planning and initiating transportation improvements assists decision-makers in determining the location, timing and financing of needed improvements; and,
3. A cooperatively developed program of transportation improvements should facilitate the coordination of public and private improvements thereby eliminating duplication of effort and expense. The development of the TIP provides local officials and the general public the opportunity to identify, evaluate, and select short-range community transportation improvements.

The Rapid City Area TIP includes all identifiable transportation related improvement projects which may be undertaken in the planning area over the next five (5) years. Emphasis has been on area needs stated in the Long Range Transportation Plan. The guiding principle used in developing the Rapid City Area TIP was: "the document should be a comprehensive transportation planning and fiscal management tool designed to assist state and local officials in the task of matching needed transportation improvements with available resources to accomplish the community's transportation goals as efficiently and effectively as possible".

## **RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM**

**(Fiscal Years 2002 - 2006)**

### **II. IDENTIFYING, EVALUATING AND SELECTING CANDIDATE PROJECTS**

#### **A. PROJECT SELECTION AND PRIORITIZATION:**

Candidate improvement projects were identified by the appropriate local and state staffs with input from elected officials, private transportation carriers, and the Citizen's Advisory Committee. This input was utilized in developing a Long Range Transportation Plan. Only projects identified in an approved Long Range Transportation Plan may be selected as potential TIP projects.

The evaluation of candidate improvement projects and the selection of those to be included in the FY 2002-2006 TIP, was based on the following considerations:

1. **Prioritization of Projects:** Candidate projects were prioritized to assess the relative importance of the projects, and to determine the appropriate year for project initiation. Consideration was given to compatibility with adopted community goals and objectives.

Priority was given to those projects and programs, which have been documented as needs in recently completed transportation plans or studies.

2. Economic Feasibility of Project: This phase of the process consisted of an evaluation of the cost of each project relative to the community's "total" transportation needs and resources. The financial plan demonstrates what funding source will be utilized, and ensures adequate fund allocation to secure all selected projects.
3. Other considerations: These considerations included a subjective assessment of the potential environmental, social and energy related impacts of the candidate projects. Such concerns or impacts have been documented in the Long Range Transportation Plan. Finally, state projects were examined so that local projects could be coordinated.

In terms of selecting a project for construction, TEA-21 provides additional flexibility within the period of the first three (3) years. Any projects identified within the initial three (3) year period may be accelerated or moved back based on current funds, needs or priorities. If a newly identified project is to be considered for placement in the TIP, then it must be presented to the transportation planning committees for approval. If approved, an amendment is then placed on the existing TIP to identify the new project.

#### **B. FINANCIAL CONSTRAINT:**

TEA-21 requires that Metropolitan Planning Organization (MPO) Transportation Improvement Programs be financially constrained and include a financial plan which demonstrates that funding is available for programmed projects. The Rapid City Area Transportation Improvement Program has been developed to meet this requirement, and outlines the available funding in the respective project categories.

Projects that are funded through the City of Rapid City Capital Improvement Program are funded through a ½ cent sales tax which is specifically set aside for various capital improvement projects. The portion of the ½ cent sales tax that has been reserved for streets is listed in Table 4-J (Rapid City Projects). This table outlines that funding amount that has been identified for each year of the program, with the total project cost estimates per year.

In addition to the Capital Improvement Projects identified for the TIP, the Rapid City MPO also coordinates the programming of projects under the Surface Transportation Program-Urban Systems funding category. This project list is outlined under Table 4-H (Surface Transportation Program). The yearly federal match for this program is approximately \$900,000 with a South Dakota Department of Transportation match of approximately \$350,000.

Pennington County presently receives approximately \$539,000 of Surface Transportation Program-Rural Systems funding yearly, with \$850,000 available from various Pennington County funding categories. Table 4-I outlines the major county projects which are identified within the next five years.



## RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

(Fiscal Years 2002 - 2006)

### III. FUGITIVE DUST CONTROL

The Clean Air Act Amendments (CAAA) of 1990 were signed into law November 15, 1990. These amendments established guidelines calling for substantial compliance and adoption of Reasonable Available Control Technology (RACT) which are designed to improve air quality related to transportation. Furthermore, Rapid City Municipal Code chapters 8.34-8.44 and Pennington County Air Quality Ordinance #12 Revised are recognized as the local air quality improvement guidelines.

The Air Quality Control Zone is defined in Ordinance #12 Revised as: "The geographical portion of Pennington County, South Dakota, that encompasses the northwest corner of Section 15, Township 2N, Range 6E to the northeast corner of Section 14, Township 2N, Range 8E, to the southeast corner of Section 35, Township 1N, Range 8E to the southwest corner of Section 34, Township 1N, Range 6E, to the northwest corner of Section 15, Township 2N, Range 6E subject to the jurisdiction of the Board of Commissioners of Pennington County, South Dakota, excluding that portion located within the city limits of Rapid City." Rapid City Municipal Code chapters 8.34-8.44 address air quality issues within the city limits of Rapid City. This TIP has been developed to address air quality issues and projects. The Rapid City Metropolitan Transportation Planning Process incorporates several local government agencies and each has instituted methods or procedures designed to reduce transportation generated fugitive dust.

The RACT's now focus on preventive measures rather than mitigative measures; in other words, preventing the problem instead of having to fix the problem at a later date. The following Control Measures are recommended by the United States Environmental Protection Agency (EPA):

1. Pave, vegetate, or chemically stabilize access points where unpaved traffic surfaces adjoin paved roads.
2. Require dust control plans for construction or land clearing projects.
3. Require haul trucks to be covered.
4. Provide for traffic rerouting or rapid clean up of temporary (and not readily preventable) sources of dust on paved roads (water erosion runoff, mud/dirt carryout areas, material spills, and skid control sand). Delineate who is responsible for cleanup.
5. Prohibit permanent unpaved haul roads, and parking or staging areas at commercial, municipal, or industrial facilities.
6. Develop traffic reduction plans for unpaved roads. Use of speed bumps, low speed limits, etc., to encourage use of other (paved) roads.
7. Limit use of recreation vehicles on open land (e.g., confine operations to specific areas, require use permits, or outright ban).
8. Require improved material specification for and reduction of usage of skid control sand or salt (e.g., require use of coarse, nonfriable material during snow and ice season).
9. Require curbing and pave or stabilize (chemically or with vegetation) shoulders of paved roads.
10. Pave or chemically stabilize unpaved roads.
11. Pave, vegetate, or chemically stabilize unpaved parking areas.
12. Require dust control measures for material storage piles.
13. Provide for storm water drainage to prevent water erosion onto paved roads.

14. Require revegetation, chemical stabilization, or other abatement of wind erodible soil, including lands subjected to water mining, abandoned farms, and abandoned construction sites.
15. Rely upon the soil conservation requirements (e.g., conservation plans, and conservation reserve) of the Food Security Act to reduce emissions from agricultural operations.

In March of 2001, the City of Rapid City submitted an updated Fugitive Dust Control Plan to the Rapid City Area Air Quality Board. The Board approved the plan, which will be due for an update in the Spring of 2004. This plan identifies sources of fugitive dust under City control and presented recommendations for controlling particulate emissions.

Although very little information has been published concerning fugitive dust control plans and methods, the City has been very aggressive in its approach towards improving air quality. This approach has been implemented through stringent paving requirements, the refinement of Public Works operations, monitoring the Street Department's day to day operation, purchasing the latest control technology equipment, and amending the City Ordinance relating to the paving of private parking and circulation.

Since the original adoption of the Fugitive Dust Control Plan in 1980, approximately 28 miles of unpaved streets have been paved. Most of the paving funds have come from contributions from developers and individuals participating in the "Out of the Dust" program. These projects are designed to improve unpaved roads or alleys. "Out of the Dust" projects are funded with a forty-percent contribution from the City 1/2 Cent Sales Tax Fund dedicated to roadway improvements, and a sixty-percent contribution from adjacent landowners. These projects are typically initiated by a request or petition from a landowner. Thus, programming future projects may be difficult since project requests, surveying, cost estimates and actual construction may all be done in one year.

In early 1992 an alley inventory was completed so that a prioritization could be established concerning the paving of alleys. At that time, approximately eighty percent of the 32.5 miles of alleys in the City were not paved. Since the 1992 alley inventory, an additional 8.55 miles of alleys have been paved, reducing the number of unpaved alleys to approximately fifty percent. Due to the limited funding available, most of the emphasis on alley paving has been in high traffic commercial and industrial areas. Future alley paving projects will be programmed as funding becomes available.

During the spring seasons of 1993 and 1994, Rapid City Transportation Planning Staff completed a survey of unpaved parking lots in the downtown core area. This information was used to determine the overall acreage of unpaved parking areas, individual acreage's of unpaved parking, landowners, present use, and the combined contribution the lots make in creating fugitive dust. The Rapid City Council will also have this information at their disposal to use as a guide for revising the existing paving requirements and for finding means to pave existing unpaved parking areas that are exempt from paving requirements.

Concerning new streets, the City of Rapid City Subdivision Ordinance requires that newly platted private streets be designed and built to City standards. These standards require a minimum paving design of five inches of asphalt on a base, which increases relative to the projected traffic on the street. The City standards mandate that all contractors disturbing more than one acre of soil apply to the Rapid City Air Quality Division for a construction permit. Facility design is approved at the preliminary plat stage. Prior to final plat approval, the improvements must be implemented per City specifications or a performance bond must be posted.

Regarding the City Street Department operations, several changes have been made which will positively affect the air quality. Snow removal procedures and sanding procedures follow the same general guidelines. These guidelines have been established to increase worker awareness to resourcefulness, air quality, and practical operating procedures.

In 1993, new specifications were written for ice sanding material, reducing the amount of calcite content by 50% to a maximum content of 25%. The City continues to use river sand (which meets the maximum calcite content of 25%) combined with approximately 20% salt and 90 gallons of Magnesium Chloride per nine cubic yard load for most sanding operations. The City originally began using the liquid deicer Magnesium Chloride (also called Mag Water or identified by its chemical name as  $MgCl_2$ ) in the downtown core area. This product performs very well on ice to one-quarter inch thick. On ice buildup or packed snow, a combination of  $MgCl_2$  and salt will successfully melt through the buildup.

Experimentation with Magnesium chloride has led to the following successful application methods: 1) Straight-- The solution is sprayed or distributed from a truck mounted tank. 2) Salt/Mag Chloride Combination-- Depending on the size of the truck, 45 to 90 gallons of Mag Water is added to the top of a load of straight salt. 3) Sand/Salt/Mag Chloride Combination-- Depending on the size of the truck, 45 to 90 gallons of Mag Water is added to the top of a load of a sand/salt mixture. Further experimentation with Magnesium Chloride during various snowfall and icing events will help determine the most effective use of this material. When the most effective means of use is determined and additional application equipment is purchased, the application of this product will be extended to other key streets.

In the downtown core area sand use has been discontinued; however, during periods of heavier snow pack some sand may be required as determined by the Director of Public Works. The amount of sand used per event has been significantly reduced on all City streets. Sand is reapplied less frequently, and any new application is based upon traffic safety conditions in a specific area.

During the 1995 and 1996 snow seasons the City experimented with the anti-skid agent, Realite. Realite is a hard-baked shale product that is angular in shape. Due to the angular shape, it stays in place on the roadway requiring fewer repeat treatments. The chemical and physical composition deters the traffic-induced breakdown other sanding materials experience. The breakdown of material size is considered to be the largest cause of fugitive emissions. Realite dramatically reduced fugitive emissions from sanding operations in the areas of Rapid City where it was tested; however, it has become cost-prohibitive to continue its use. The City Street Department is investigating more affordable anti-skid products that may accomplish the same results.

The core area streets (the area from West Boulevard to East Boulevard and Omaha Street to Columbus Street) are swept primarily with regenerative air vacuum sweepers twice a week and are flushed twice a week with high-pressure water from a flusher truck. Regenerative air vacuum sweepers and/or flushing trucks are used on arterial routes and major collector streets every three to four weeks. A mix of mechanical, vacuum, and regenerative air vacuum sweepers continue to work the residential streets with a circuit of the City being completed every six to eight weeks, depending on the amount of material on the streets and weather conditions.

The City of Rapid City understands the importance of air quality, and as a government agency has attempted to promote City ordinances and standards, which further improve the air quality. Policies, which previously allowed development without the paving of all circulation and parking areas, have been replaced with tougher policies. This will ensure that all of the City's controls are directed towards improving rather than deteriorating the existing air quality.

This TIP provides a means of monitoring and implementing projects, which will assist in alleviating air quality concerns. Those funds that are dedicated for paving improvements have been programmed as such and will continually be developed as long as there is an existing need.

## **RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM**

**(Fiscal Years 2002 - 2006)**

### **IV. RECOMMENDED PROJECTS AND PROGRAMS**

Projects, programs, and funding sources during Fiscal Years 2002 - 2006 are presented in Tables 1 - 7. The projects are listed in order of priority as designated by private citizens, the Citizen's Advisory Committee, the Technical Coordinating Committee, the Executive Policy Committee, Planning Staff, and The South Dakota Department of Transportation (SDDOT). The recommended projects and programs have been grouped into "System or Functional Element" categories.

The Rapid City Area Transportation Planning Organization and Rapid City Area Air Quality Board affirm that the projects identified in the Transportation Improvements Plan will not cause or contribute to violations, increase the severity and frequency of existing violations, or delay any progress towards improving the air quality.

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 1**

AIRPORT/AVIATION PROJECTS

SYSTEM/FUNCTIONAL ELEMENT: AVIATION

PROJECT LOCATION AND/OR PROJECT DESCRIPTION	ESTIMATED COSTS/FUNDING SOURCES			
	TOTAL	FEDERAL (90%)	STATE	LOCAL
<b>* CALENDAR YEAR 2002 *</b>				
Rehabilitate Runway 14/32	\$418,000	\$376,200	\$20,900	\$20,900
Rehabilitate Terminal Ramp	\$420,000	\$378,000	\$21,000	\$21,000
Air Carrier & Cargo Carrier Ramp	\$560,000	\$504,000	\$28,000	\$28,000
Map Airport Industrial/Office Park Area	\$22,000	\$19,800	\$1,100	\$1,100
Replace ARFF Alert Notification Equipment	\$150,000	\$135,000	\$7,500	\$7,500
Friction Measuring Equipment	\$180,000	\$162,000	\$9,000	\$9,000
Feasibility Study/Design Alpha Run-Ups	\$75,000	\$67,500	\$3,750	\$3,750
<b>TOTAL</b>	<b>\$1,825,000</b>	<b>\$1,642,500</b>	<b>\$91,250</b>	<b>\$91,250</b>
<b>* CALENDAR YEAR 2003 *</b>				
Runway 05/23 Rehab. Phase II	\$1,130,000	\$1,017,000	\$56,500	\$56,500
Taxiway Bravo Rehabilitation	\$850,000	\$765,000	\$42,500	\$42,500
<b>TOTAL</b>	<b>\$1,980,000</b>	<b>\$1,782,000</b>	<b>\$99,000</b>	<b>\$99,000</b>
<b>* CALENDAR YEAR 2004 *</b>				
Passenger Walkway from Parking	\$500,000	\$375,000	\$0	\$125,000
Passenger Walkway-Car Rent Parking	\$500,000	\$375,000	\$0	\$125,000
Sanitary Sewer Connection to City	\$805,000	\$724,500	\$40,250	\$40,250
<b>TOTAL</b>	<b>\$1,805,000</b>	<b>\$1,474,500</b>	<b>\$40,250</b>	<b>\$290,250</b>
<b>* CALENDAR YEAR 2005 *</b>				
Construct I-90 Access Road	\$1,500,000	\$1,350,000	\$75,000	\$75,000
Construct Deicing Facility	\$500,000	\$450,000	\$25,000	\$25,000
<b>TOTAL</b>	<b>\$2,000,000</b>	<b>\$1,800,000</b>	<b>\$100,000</b>	<b>\$100,000</b>
<b>* CALENDAR YEAR 2006 *</b>				
SRE - Plow/Truck Spreader	\$300,000	\$270,000	\$15,000	\$15,000
SRE - Plow/Truck Spreader	\$300,000	\$270,000	\$15,000	\$15,000
<b>TOTAL</b>	<b>\$600,000</b>	<b>\$540,000</b>	<b>\$30,000</b>	<b>\$30,000</b>
<b>2002-2006 TOTALS</b>	<b>\$8,210,000</b>	<b>\$7,239,000</b>	<b>\$360,500</b>	<b>\$610,500</b>

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

TABLE 2 - A

SYSTEM/FUNCTIONAL ELEMENT: ROADWAY SAFETY IMPROVEMENTS

PROJECT NUMBER	COUNTY	LENGTH (Mi.)	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT	TOTAL COST (MILLIONS)
<b>* FISCAL YEAR 2002 *</b>						
PH 0044(122)46 5439	Pennington	0.0	SD44	Omaha Street from LaCrosse Street to Cambell Street in Rapid City <b>*Also funded in Major Arterial construction/Reconstruction .359</b>	Add 5th Lane for Two Way Center Turn Lane with Pavement Marking Tape	0.901 (Fed) <u>0.100 (State)</u> 1.001 TOTAL
PH 0044(21)48 5677 PH 0238(04)44 5445	Pennington	0.0	SD238 SD44	Intersection of Valley Drive & St. Patrick Street and SD44 and Valley Drive	Install Traffic Signals	0.144 (Fed) <u>0.016 (State)</u> 0.160 TOTAL
<b>* FISCAL YEAR 2003 *</b>						
PH 8052(33) 3831 PH 8047(07) 3977	Meade Pennington	3.0		Haines Ave. Extended from Viking Dr. to Weston Heights in Rapid City <b>*Also funded in County Secondary and Off System Projects 0 600</b>	Grading, ROW & Surfacing	0.675 (Fed) <u>0.075 (State)</u> 0.750 TOTAL
PH 0044(24)49 6288	Pennington	1.2	SD44	From Twilight Drive to Longview Drive	Add Center Turn Lane	0.795 (Fed) <u>0.088 (State)</u> 0.883 TOTAL

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

TABLE 2 - A (Cont.)

SYSTEM/FUNCTIONAL ELEMENT: ROADWAY SAFETY IMPROVEMENTS

PROJECT NUMBER	COUNTY	LENGTH (Mi.)	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT	TOTAL COST (MILLIONS)
<b>* FISCAL YEAR 2004 *</b>						
PH 8052(17) 6292	Pennington	0.0		East 53rd Street from SD44 N. to Twilight Drive <small>*Also funded in County Secondary and Off System Projects 2 150</small>	Grading, Base Course, C&G, Storm Sewer, & Asphalt Conc. Surface	0.495 (Fed) <u>0.055 (State)</u> 0.550 TOTAL
PH 0079(37)80 6533	Pennington	0.0	SD79	Intersection of Deadwood Ave. & West Chicago Street in Rapid City	Signal Upgrade & Intersection Modifications	0.115 (Fed) <u>0.013 (State)</u> 0.128 TOTAL
PH 0044(44)43 6534	Pennington	0.0	SD44	Intesection of Mt. View & W. Main St.	Upgrade Signal Heads, Controller, Loops, Move Light Pole	0.059 (Fed) <u>0.007 (State)</u> 0.065 TOTAL
<b>* FISCAL YEAR 2005 *</b>						
P 2016(00)69 4842 NH-PH 2016( )68 4981	Pennington	1.5	USB16	From Minnesota to St. Patrick Street & Intersection of St. Joseph Street in Rapid City & Street over St. Joseph Street & RR Tracks <small>*Also funded in Major Arterial Constuction Projects 4 685</small>	Grading, Surfacing & Reconstruct Acceleration Ramp/Lane at Intersection of St. Joseph Street & Deck Overlay, Modify Joints & Spot Paint	0.180 (Fed) <u>0.020 (State)</u> 0.200 TOTAL

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 2-B**

**SYSTEM/FUNCTIONAL ELEMENT:**

**ACCIDENT PREVENTION PROJECTS**

PROJECT NUMBER	COUNTY	LENGTH (Mi.)	ROUTE NO.	(100% STATE FUNDED) LOCATION OF PROJECT	TYPE OF IMPROVEMENT	TOTAL COST (MILLIONS)
-------------------	--------	-----------------	--------------	--	---------------------	-----------------------------

---

**\* FISCAL YEARS 2002-2006\***

***NO PROJECTS ARE IDENTIFIED AT THIS TIME***



RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

TABLE 2 - C

SYSTEM/FUNCTIONAL ELEMENT: RAILROAD CROSSING IMPROVEMENT PROJECTS

PROJECT NUMBER	COUNTY	ROUTE	SYSTEM-LOCATION ROUTE TOWN	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST (MILLIONS)
<b>* FISCAL YEAR 2002 *</b>					
NO PROJECTS IDENTIFIED					
<b>* FISCAL YEAR 2003 *</b>					
PP 8052(43) 4859	Pennington		East St. Charles Street in Rapid City DM&E #190-259V	Railroad Crossing Rehabilitation & Flashing Light Signals	0.068 (FED) <u>0.008</u> (LOCAL) 0.075 TOTAL
P 0016(57)69 3864 P 0044(125)44 4757	Pennington	SD44 US16	Omaha Street from W of I-190 to E of 1st Street *Also funded in Major Arterial Construction/ Reconstruction Projects 9.159	Grading & PCCP (Includes Rehabilitation of 3 DM&E RR Crossings) & Roadway Lighting	0.040 TOTAL
<b>* FISCAL YEAR 2004 *</b>					
PP 8052(27) 3053	Pennington		NFA Jackson/Cross Street Rapid City 190-276L DM&E (East of Jackson Blvd.)	Signals	0.068 (FED) <u>0.008</u> (LOCAL) 0.075 TOTAL
PS 8052(48) 5163	Pennington		Maple Avenue East of East Blvd. in Rapid City DM&E #190-261W	Railroad Crossing Rehabilitation	0.135 (FED) <u>0.015</u> (LOCAL) 0.150 TOTAL

**Rapid City Area Transportation Improvement Program  
Table 3-A**

Project Number	TIP Project Description	Estimated Costs	Funding Sources
<b>CALENDAR YEAR 2002</b>			
<b>Rcpts. 02-1</b>	Annual Operating Assistance for Fixed Route and Dial-A-Ride service	\$386,750.00	Federal (Sec 5307)
	\$172,587 FTA assistance for ADA service	\$317,725.00	Local
	\$172,587 FTA assistance for Fixed Rt. service	<del>\$28,425.00</del>	State
		\$734,900.00	TOTAL
<b>Rcpts. 02-2</b>	Capital assistance for purchase of two 25 ft. paratransit ADA Lift equipped vehicles (Replace 1995 vehicles)	\$141,100.00	Federal (Sec 5307)
		<del>\$28,900.00</del>	Local
		\$170,000.00	TOTAL
<b>Rcpts. 02-3</b>	Purchase of Capital maintenance items: \$9600 FTA assistance for ADA service	\$9,600.00	Federal (Sec 5307)
		<del>\$2,400.00</del>	Local
		\$12,000.00	TOTAL
<b>Rcpts. 02-4</b>	Purchase bus shelters for fixed route service	\$56,000.00	Federal (Sec 5307)
		<del>\$14,000.00</del>	Local
		\$70,000.00	TOTAL
<b>CALENDAR YEAR 2003</b>			
<b>Rcpts. 03-1</b>	Annual Operating Assistance for Fixed Route and Dial-A-Ride service	\$400,413.00	Federal (Sec 5307)
	\$200,207 FTA assistance for ADA service	\$327,257.00	Local
	\$200,207 FTA assistance for Fixed Rt. service	<del>\$28,425.00</del>	State
		\$756,095.00	TOTAL
<b>Rcpts. 03-2</b>	Capital assistance for purchase of two 22ft. ADA approved Dial-A-Ride paratransit vehicles (Replace 1995/1996 vehicles)	\$99,600.00	Federal (Sec 5307)
	\$99,600 FTA assistance for ADA service	\$20,400.00	Local
		\$120,000.00	TOTAL
<b>Rcpts. 03-3</b>	Purchase of Capital maintenance items: \$5200 FTA assistance for ADA service	\$10,400.00	Federal (Sec 5307)
	\$5200 FTA assistance for Fixed Rt. service	<del>\$2,600.00</del>	Local
		\$13,000.00	TOTAL
<b>Rcpts. 03-4</b>	Purchase bus shelters for fixed route service	\$56,000.00	Federal (Sec 5307)
		<del>\$14,000.00</del>	Local
		\$70,000.00	TOTAL
<b>CALENDAR YEAR 2004</b>			
<b>Rcpts. 04-1</b>	Annual Operating Assistance for Fixed Route and Dial-A-Ride service	\$412,425.00	Federal (Sec 5307)
	\$183,098 FTA assistance for ADA service	\$337,075.00	Local
	\$183,098 FTA assistance for Fixed Rt. service	<del>\$28,425.00</del>	State
		\$777,925.00	TOTAL
<b>Rcpts. 04-2</b>	Capital assistance for purchase of two 22ft. ADA approved Dial-A-Ride paratransit vehicle (Replace 1997 vehicles)	\$107,900.00	Federal (Sec 5307)
	\$77,190 FTA assistance for ADA service	\$22,100.00	Local
		\$130,000.00	TOTAL
<b>Rcpts. 04-3</b>	Purchase of Capital maintenance items: \$6000 FTA assistance for ADA service	\$12,000.00	Federal (Sec 5307)
	\$6000 FTA assistance for Fixed Rt. service	<del>\$3,000.00</del>	Local
		\$15,000.00	TOTAL

Estimated Federal Funds Available				
	1999/ 2000/ 2001 Carryover Funds	2002	2003	2004
Total FTA Funding	\$500,000.00	\$1,125,000.00	\$1,100,000.00	\$1,100,000.00
Operating Assistance	SEE NOTE BELOW	SEE NOTE BELOW	SEE NOTE BELOW	SEE NOTE BELOW
Capital Assistance	SEE NOTE BELOW	SEE NOTE BELOW	SEE NOTE BELOW	SEE NOTE BELOW
Local Funding	\$0.00	\$349,025.00	\$364,257.00	\$362,175.00
State Funding	\$0.00	\$28,425.00	\$28,425.00	\$28,425.00

NOTE: SECTION 5307 FUNDS FOR AREAS UNDER 200,000 MAY BE USED AS CAPITAL OR AS OPERATING. THE MATCHING RATIOS ARE 50/50 FOR OPERATING ASSISTANCE AND 80/20 OR 83/17 FOR CAPITAL ASSIST. ESTIMATED FUNDS AVAILABLE FOR 2002, 2003 AND 2004 INCLUDE ESTIMATED CARRYOVER FUNDS. ESTIMATED STATE AND LOCAL FUNDS WILL BE USED AS MATCH.

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 3-B**

**SYSTEM/FUNCTIONAL ELEMENT: PUBLIC TRANSPORTATION (PRIVATE NONPROFIT)**

The Rapid City Area Metropolitan Planning Organization anticipates the following requests for vehicles from the local private nonprofit groups for Section 5310 (formerly Section 16) funding. Applications will be ranked at the local level and recommendations will be forwarded to the Office of Air, Rail and Transit, South Dakota Department of Transportation, for consideration against the applications received Statewide. This list does not imply that any of the following vehicle requests will be funded within the Rapid City Area Metropolitan Planning Organization.

<b>VEHICLE TYPES</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
30 Passenger Bus w/lift	1	1	1
9/2 Mini-Buses w/lift (11 passenger)	5	4	4
8 Passenger Vans			
19 Passenger Mini-Buses			
6 Passenger Station Wagon			
15 Passenger Vans			
Wheel Chair Lift Assembly	6	3	4
<b>TOTAL VEHICLES REQUESTED</b>	<b>6</b>	<b>5</b>	<b>5</b>
<b>TOTAL FUNDS REQUESTED</b>	<b>\$204,000</b>	<b>\$167,000</b>	<b>\$171,000</b>

**\*\* The above vehicle requests are ADA related**

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4-A**

STREET AND HIGHWAY PROJECTS

SYSTEM/FUNCTIONAL ELEMENT: INTERSTATE 3-R ROADWAY

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST (MILLIONS)
<b>* FISCAL YEAR 2002 *</b>						
IM-P 90-2(71)66 4951	Pennington	1.6	I-90	New Interchange 1 Mile East of Exit 66	Construct New Interchange	5.038 (Fed) 0.936 (State) <u>5.974</u> TOTAL
<b>** NOTE ** Project implementation conditioned upon the interchange at Exit 66 being abandoned and local governments and the military being responsible for the access roads to serve Box Elder and Ellsworth Air Force Base</b>						
IM 90-2 (00)55	Pennington	0.0	I-90	Exit 55 Deadwood Avenue	Traffic Signals on Westbound Lane offramp	- (Fed) <u>0.080</u> (State) 0.080 TOTAL
<b>* FISCAL YEAR 2003 *</b>						
IM 190-2( ) 0	Pennington	0.0	I-190	0.1 N of Jct. SD44 over Rapid Creek	Deck Overlay & Approach	- (Fed) <u>0.400</u> (State) 0.400 TOTAL
<b>* FISCAL YEAR 2004 *</b>						
IM 90-2(134)59 4259 P 2016(13)71 6227	Pennington	1.7	I-90	I90 from LaCrosse Street E to 1/2 Distance between Elk Vale & East North St. Exits, US16B, From RR Tracks to I90 (0.4 mi) & New Intersection at SD230/US16B <b>*Also funded in Major Arterial Const. Reconstruction projects 0.800</b>	Construct New Interchange at East North Street, Reconstruct Mainline & 0.4 mi. section of US16B & Reconstruct US16B/SD230 Intersection	- (Fed) <u>10.200</u> (State) 10.200 TOTAL
IM 90-1(61)51 5586	Pennington Meade	5.5	I-90	East Bound Lane From SW of Black Hawk to 0.7 Miles NW of the I-190 Exit at Rapid City and Structure 0.6 Miles SE of Meade County Line	Remove and Replace PCCP the Mainline & Deck Overlays, Replace Rail & Approach Slabs on Structures	- (Fed) <u>5.618</u> (State) 5.618 TOTAL

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

TABLE 4-A (Cont.)

STREET AND HIGHWAY PROJECTS

SYSTEM/FUNCTIONAL ELEMENT: INTERSTATE 3-R ROADWAY

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST (MILLIONS)
<b>* FISCAL YEAR 2005 *</b>						
IM 90-2(92)64 4438	Pennington	0.0	I-90	2.3 Miles East of Elk Vale Rd. Exit (Structure #52-470-276)	Replace Deck	0.000 (Fed) <u>0.650 (State)</u> 0.650 TOTAL
<b>* FISCAL YEAR 2006 *</b>						
IM 90-1( )51 5589	Pennington Meade	5.5	I-90	West Bound Lane from SW of Black Hawk to 0.7 NW of the I-190 Exit at Rapid City & Structures 0.9 W & 0.6 E of the Mead/Pennington County Line	Remove and Replace PCCP on the Mainline & Deck Overlays, Replace Rail & Approach Slabs on 2 Structures	0.000 (Fed) <u>5.505 (State)</u> 5.505 TOTAL
IM 90-2 ( )55	Pennington	0.0	I-90	Exit 55 Deadwood Avenue	Reconstruct Interchange	0.000 (Fed) <u>1.000 (State)</u> 1.000 TOTAL
IM-NH 90-2(39)61 1939	Pennington	2.0	I-90	Exit 61, Elk Vale Road, from N of the RR tracks to N of Mall Drive	Replace Structure, Cross- Road, Permanent signals, Reconstruct Approx 500 ft. on each On/Off Ramp & Relocate service road around the North side of the Truck Stop	0.000 (Fed) <u>5.492 (State)</u> 5.492 TOTAL

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4-B**

**STREET AND HIGHWAY PROJECTS**

**SYSTEM/FUNCTIONAL ELEMENT: MAJOR ARTERIAL CONSTRUCTION/RECONSTRUCTION PROJECTS**

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST(MILLIONS)
<b>* FISCAL YEAR 2002 *</b>						
P-PH 0044(122)46 5439	Pennington	0.0	SD44	Omaha Street from LaCrosse to Cambell in Rapid City <i>*Also funded in Roadway Safety Improvement 1.001</i>	Reconstruct to add 5th Lane	0.359 TOTAL
<b>* FISCAL YEAR 2003 *</b>						
P 0016(57)69 3864 P 0044(125)44 4757	Pennington	1.1	US16 SD44	Omaha Street from West of I-190 to East of 1st Street in Rapid City <i>*Also funded in RR Crossing improvement Projects 0.040</i>	Grading and PCCP (Includes rehabilitation of 3 DM&E Railroad crossings) & Roadway Lighting (5th Street signal)	9.159 TOTAL
<b>* FISCAL YEAR 2004 *</b>						
IM 90-2 (134)59 4259 P2016 (13) 71 6227	Pennington	1.7	I90  US16B	I90 from LaCrosse St. E to 1/2 Distance between Elk Vale & E North St. exits, US16B, from RR Tracks to I90 (0.4 mi) & new intersection at SD230/US16B <i>*Also funded in Interstate 3-R Program 10.200</i>	Const. New interchange at East North St., reconstruct mainline & 0.4 Mi. section of US16B & Reconstruct US16B/SD230 intersection	0.800 TOTAL
<b>* FISCAL YEAR 2005 *</b>						
P 2016(00)69 4842 NH-PH 2016( )68 4981	Pennington	1.5	US16B	From Minnesota Street to St. Patrick Street & Intersection of St. Joseph Street & Structure over St. Joseph Street and Railroad <i>*Also funded in Roadway Sfty. Improvement 0.200</i>	Grading, Surfacing & Reconstruct Acceleration Ramp/Lane at Intersection of St. Joe Street and Deck Overlay, Modify Joints and Spot Paint	4.695 TOTAL
<b>* FISCAL YEAR 2006 *</b>						
P 0044( )50 6437	Pennington	3.9	SD44	From the End of the Concrete in Rapid City to the Jct with Airport Rd. <i>*Also funded in Minor Arterial Construction/ Reconstruction Projects 2.092</i>	Grading & Surface	5.587 TOTAL

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4-C**

**SYSTEM/FUNCTIONAL ELEMENT: MAJOR ARTERIAL RESURFACING PROJECTS**

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST(MILLIONS)
----------------	--------	--------	-----------	---------------------	-------------------------------------	----------------------

**\* FISCAL YEAR 2002 \***

P 0044 (31)40 5617	Pennington	2.8	SD44	From Chapel Lane Road to Mountain View to West Main St. *1.108 Federal funds	Asphalt Concrete Resurface Over PCCP & Turning Lane at Chapel Lane and Pav Plane outside 10" of section & Replace w/1.5" of AC Class Q-MVT	1.352 TOTAL
-----------------------	------------	-----	------	--	--	-------------

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4-D**

STREET AND HIGHWAY PROJECTS

**SYSTEM/FUNCTIONAL ELEMENT: MINOR ARTERIAL CONSTRUCTION/RECONSTRUCTION PROJECTS**

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST(MILLIONS)
<b>* FISCAL YEAR 2006 *</b>						
P 0044( )50 6437	Pennington	3.9	SD44	From the end of the Concrete in Rapid City to the Jct. With Airport Road *Also funded in Major Arterial Construction/ Reconstruction Projects 5.587	Grading and Surfacing	2.092



RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

TABLE 4-E

STREET AND HIGHWAY PROJECTS

SYSTEM/FUNCTIONAL ELEMENT: MINOR ARTERIAL RESURFACING PROJECTS

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST (MILLIONS)
-------------------	--------	--------	--------------	---------------------	--	--------------------------

---

\* FISCAL YEARS 2002- 2006 \*

**\* NO PROJECTS IDENTIFIED AT THIS TIME \***

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4-F**

STREET AND HIGHWAY PROJECTS

**SYSTEM/FUNCTIONAL ELEMENT: BRIDGE REPLACEMENT PROJECTS**

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST(MILLIONS)
-------------------	--------	--------	--------------	---------------------	--	-------------------------

---

\* FISCAL YEARS 2002 - 2006 \*

**\* NO PROJECTS IDENTIFIED AT THIS TIME \***

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4-G**

STREET AND HIGHWAY PROJECTS

SYSTEM/FUNCTIONAL ELEMENT: STATE TRUNK 3R STRUCTURE PROJECTS

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST(MILLIONS)
----------------	--------	--------	-----------	---------------------	-------------------------------------	----------------------

**\* FISCAL YEAR 2004 \***

NH 0016(00)61 5137	Pennington	0.0	US16	2.3 Miles South of US16B Over Spring Creek (Structure #52-393-365/366)	Deck Overlay	\$0.128 (Fed)
						\$0.028 (State)
						<u>\$0.156</u> TOTAL

**\* FISCAL YEAR 2006 \***

P 0079( )80	Pennington	0.0	SD79N SD79S	0.3 W of SD445 in Rapid City over DM&E Railroad	Deck Overlay, Rail, Joints, and Approach work	\$0.875 TOTAL
-------------	------------	-----	----------------	--	--	---------------

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4 - H**

STREET AND HIGHWAY PROJECTS

SYSTEM/FUNCTIONAL ELEMENT: SURFACE TRANSPORTATION PROGRAM (STP)

PROJECT NUMBER	COUNTY	LENGTH	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST (MILLIONS)
<b>* FISCAL YEAR 2002 *</b>					
P-BRF1746(02) 4338	Pennington	0	Canyon Lake Dr. from Mountain View Road to Dakota Drive and Structure # 52-398-303 over Rapid Creek	Grading, C&G, Storm Sewer, ROW, Signals, Roadway Lighting, PCCP Surfacing & New Structure <b>(ADA Improve. Included)</b>	1.013 (Fed) 0.223 (State) <u>1.236</u> TOTAL
<b>* FISCAL YEAR 2003 *</b>					
P 1746(3) 4530	Pennington	0.6	Canyon Lake Drive from Dakota Drive to Soo San Drive	Grading, C&G, Storm Sewer, ROW, Sidewalk, Signals, Roadway Lighting, and PCCP Surfacing <b>(ADA Improve. Included)</b>	0.738 (Fed) 0.162 (State) <u>0.900</u> TOTAL
<b>* FISCAL YEAR 2004 *</b>					
P 1741(2) 5180	Pennington	0.3	Jackson Blvd. from West Main St. to Omaha Street <b>(Subject to Inclusion on the Functional Classification Map)</b>	Grading, C&G, Storm Sewer, ROW, Sidewalk, & PCCP Surfacing	0.820 (Fed) 0.181 (State) <u>1.000</u> TOTAL
<b>* FISCAL YEAR 2005 *</b>					
P 1669(26) 3595	Pennington	0.80	Haines Avenue from Northridge Drive to Viking Drive	Grading, C&G, Storm Sewer, Sidewalk, & PCC Surfacing <b>(ADA Improve. Included)</b>	0.820 (Fed) 0.181 (State) <u>1.000</u> TOTAL

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4 - I**

STREET AND HIGHWAY PROJECTS

SYSTEM/FUNCTIONAL ELEMENT: COUNTY SECONDARY AND OFF SYSTEM PROJECTS

PROJECT NUMBER	PROJECT LOCATION AND/OR PROJECT DESCRIPTION	ESTIMATED COSTS/ FUNDING SOURCES (MILLIONS)	
<b>* FISCAL YEAR 2002 *</b>			
<b>No projects identified</b>			
<b>* FISCAL YEAR 2003 *</b>			
PH-P 8047(07)	3 Haines Ave. Rd. extended from Viking Drive to Weston Heights in Rapid City - Grading ROW & Surfacing <small>**Also funded in Roadway Safety Improvement 0.750</small>	1.350	TOTAL
<b>* FISCAL YEAR 2004 *</b>			
BRO 8052(28)	0.2 1.2 E of Box Elder over a creek - Structure & Approach	0.185	TOTAL
P-PH 8052(17) 6292	1.2 Reconstruct East 53rd Street from SD44 to the North Grading, Base course, C&G, Storm Sewer & AC Surface <small>**Also funded in Roadway Safety Improvement 0.550</small>	2.700	TOTAL
<b>* FISCAL YEAR 2005 *</b>			
BRO 8052(32) 487W	0.2 0.5 North and 1.0 East of I-90/Elk Vale Road Exit (Was St. Patrick Street) Over Box Elder Creek-- Structure #52-460-280 Structure Rehabilitation (Replace Abutments)	0.055	TOTAL
<b>* FISCAL YEAR 2006 *</b>			
P 6480(04) 5777	13.7 Sheridan Lake Drive From the Rapid City City Limits West to the Junction of US 385. Improvement will involve grading and asphalt concrete surfacing.	1.290	TOTAL

TABLE 4-J  
**Rapid City Capital Improvement Program**  
**Major Street Construction/Reconstruction Projects**  
 Funded by Streets (910) and Infrastructure Development Partnership Funds

**2001**

**Cost Estimate**

• Fifth St. Extension, Minnesota St. to Hwy. 16B	\$2,900,000
• Catron Blvd. Improvements	\$780,000
• West Blvd. Reconstruction, Phase B, South St. to Franklin St.	\$659,000
• North Wildwood Drive Reconstruction/Water Extension	\$579,000
• Central Blvd. Reconstruction, West Flormann St. to Cameron Dr.	\$415,000
• Anaconda Rd. Reconstruction, Grandview Dr. to Wisconsin Ave.	\$290,000
• Parkview Drive Extension	\$260,000
• Sycamore St. Reconstruction, Locust St. to Hemlock St. and Fir Dr. Reconstruction	\$200,000
• Hawthorne Sanitary Sewer Reconstruct, Phase 1	\$190,000
• Centennial St. Reconstruction, Maple Ave. to Arizona St.	\$185,000
• Berquist School Area Street Mill & Overlay	\$100,000
• 3 <sup>rd</sup> Street Reconstruction, Fairmont South	\$100,000
• Maple, Elk, Grandview Utilities Reconstruction	\$75,000
• East Blvd., Mill and Overlay	\$40,000
• Stanley Court Street & Drainage Improvements	<u>\$20,000</u>
	<b>\$6,793,000 TOTAL</b>
	<b><i>\$6,805,000 Available</i></b>

**2002**

**Cost Estimate**

• Elm Avenue Extension, Hanover to Hwy. 16B	\$1,100,000
• West Blvd. Reconstruction, Phase C, Franklin St. to Saint Patrick St.	\$636,000
• West Chicago Reconstruction, Phase D, Wedgewood to 44 <sup>th</sup>	\$535,000
• E. Anamosa Street Extension, E. North to Century Rd.	\$307,000
• Hemlock St. Reconstruction, Sycamore St. to Fairmont Blvd.	\$250,000
• Sitka St. Reconstruction, Hemlock St. to End of Pavement	\$175,000
• West Chicago St. / 44 <sup>th</sup> St. Intersection Improvements	\$162,000
• Park Dr. / Glenwood St. Intersection Reconstruction	\$150,000
• Kansas City St., East Blvd. to 4th St.	\$150,000
• 44th St., Brookside Dr. to Hillsview Dr.	\$150,000
• Dakota Ridge Streets, Mill & Overlay	\$150,000
• Texas St. Reconstruction, 5th St. to Arizona St.	\$100,000
• Hawthorne Avenue Sewer Reconstruction, Phase 2	\$100,000
• Bridge Deck Overlays/Maintenance, Various Locations	\$100,000
• Anamosa / LaCrosse Intersection Improvements	\$95,000
• North Glenview Place Reconstruction, Penrose Place to North Glenview	\$75,000
• Paddock Court / Fieldview Dr. Mill & Overlay	\$75,000
• Milwaukee St., East North St. to Anamosa St., Mill & Overlay	\$70,000
• Hall St. Improvements	<u>\$50,000</u>
	<b>\$4,430,000 TOTAL</b>
	<b><i>\$4,820,000 Available</i></b>

TABLE 4-J  
**Rapid City Capital Improvement Program**  
**Major Street Construction/Reconstruction Projects**

**2003**

**Cost Estimate**

• Kansas City St., 4th St. to 8th Street	\$250,000
• Wonderland Drive, Street and Drainage Improvement	\$150,000
• Sedivy Lane, Saint Patrick St. to Saint Charles St.	\$275,000
• Canyon Lake Drive Watermain Reconstruction	\$265,000
• Lemmon Avenue Reconstruction, College Ave. to Monroe St.	\$300,000
• Intersection Improvements, Various Locations	\$225,000
• Farnwood / Rapp / Anamosa Intersection Improvements	\$185,000
• Texas St. Reconstruction, Arizona St. to Parkview Dr.	\$200,000
• Elm Avenue Reconstruction, East Utah St. to Meade St.	\$175,000
• Nevada St. and Idaho St. Reconstruction, Willow Ave. to Ivy Ave.	\$150,000
• Bridge Deck Overlays/Maintenance, Various Locations	<u>\$150,000</u>
	<b>\$2,325,000 TOTAL</b>
	 <b><i>\$2,965,000 Available</i></b>

**2004**

**Cost Estimate**

• Centre Street Reconstruction, LaCrosse St. to Cambell St.	\$500,000
• 6th & 7th Street Reconstruction, Kansas City St. to Omaha St.	\$500,000
• Mill and Overlay, Various Locations	\$300,000
• Lombardy Drive Reconstruction	\$275,000
• 2 <sup>nd</sup> , 3 <sup>rd</sup> , and 4 <sup>th</sup> Streets Reconstruction, Kansas City St. to Omaha St.	\$250,000
• 7th St. Reconstruction, Saint Charles St. to Saint Francis St.	\$225,000
• Elm Avenue Reconstruction, Utah St. to Oakland St.	\$220,000
• Van Buren St., Milwaukee St. to LaCrosse St.	\$175,000
• Oldfield St. Reconstruction, Mt. Carmel St. to Howard St.	\$175,000
• Intersection Improvements, Various Locations	\$165,000
• Bridge Deck Overlays/Maintenance, Various Locations	\$150,000
• Elm Avenue Reconstruction, Saint Joseph St. to Kansas City St.	<u>\$80,000</u>
	<b>\$3,015,000 TOTAL</b>
	 <b><i>\$3,205,000 Available</i></b>

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4-K**

STREET AND HIGHWAY PROJECTS

**SYSTEM/FUNCTIONAL ELEMENT: STATE SECONDARY CONSTRUCTION/RECONSTRUCTION PROJECTS**

PROJECT NUMBER	COUNTY	LENGTH	ROUTE NO.	LOCATION OF PROJECT	TYPE OF IMPROVEMENT (FEDERAL FUNDS)	TOTAL COST(MILLIONS)
-------------------	--------	--------	--------------	---------------------	--	-------------------------

---

\* FISCAL YEARS 2002-2006 \*

***NO PROJECTS IDENTIFIED AT THIS TIME***



RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4 - L**

STREET AND HIGHWAY PROJECTS

SYSTEM/FUNCTIONAL ELEMENT: SPECIAL PROJECTS

PROJECT NUMBER	COUNTY	LENGTH	PROJECT DESCRIPTION AND LOCATION	TYPE OF IMPROVEMENT	TOTAL COST(MILLIONS)
<b>* FISCAL YEAR 2002 *</b>					
NH 0235(02) 6116	Pennington	3.3	South East Connector Route-- From Fairmont Blvd., North to Elk Vale Road Interchange on I-90 in Rapid City <b>*This is part of the Heartland Expressway Route</b>	Grading, Interchange on SD44, & PCC Paving from Jolly Lane to Just South of the Elk Vale Road Exit on I-90	14.251 TOTAL
P 8052(08) 635R	Pennington	0.0	From Pennington County #214A North to Exit 67, then North and West to Ellsworth AFB Main Gate	Grading & AC Surfacing of Service Road	5.300 TOTAL
<b>* FISCAL YEAR 2003 *</b>					
NH 0235(01) 3151	Pennington	2.1	South East Connector Route from the Jct. of SD79/US16B NW to Jolly Lane and from I90 South to the Railroad Tracks in Rapid City <b>*This is part of the Heartland Expressway Route</b>	Grading & Surfacing (SD79/US16B Jct. To Fairmont Blvd.), light grading & surfacing (I90 to South of Railroad Tracks) Surfacing (Fairmont Blvd. To Jolly Lane), & remove existing SD44/St. Pat interchange	22.380 TOTAL

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4-M**

**SYSTEM/FUNCTIONAL ELEMENT: CONTRACT ROAD MAINTENANCE PROJECTS**  
**(100% STATE FUNDED)**

<b>PROJECT NUMBER</b>	<b>COUNTY</b>	<b>LENGTH (Mi.)</b>	<b>ROUTE NO.</b>	<b>LOCATION OF PROJECT</b>	<b>TYPE OF IMPROVEMENT</b>	<b>TOTAL COST (MILLIONS)</b>
---------------------------	---------------	-------------------------	----------------------	----------------------------	----------------------------	--------------------------------------

---

**\* FISCAL YEARS 2002 - 2006\***

**\* NO PROJECTS IDENTIFIED AT THIS TIME \***

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 4 - N**

STREET AND HIGHWAY PROJECTS

**SYSTEM/FUNCTIONAL ELEMENT: UNCLASSIFIED HIGH PRIORITY LOCAL PROJECTS**

PROJECT DESCRIPTION AND LOCATION	COUNTY	LENGTH	TYPE OF IMPROVEMENT	TOTAL COST(MILLIONS)
-------------------------------------	--------	--------	---------------------	-------------------------

---

**\* FISCAL YEARS 2002-2006 \***

***NO PROJECTS IDENTIFIED AT THIS TIME***

RAPID CITY AREA TRANSPORTATION IMPROVEMENT PROGRAM

**TABLE 5-A**

**SYSTEM/FUNCTIONAL ELEMENT: TRANSPORTATION ENHANCEMENT PROJECTS**

<b>PROJECT NUMBER</b>	<b>COUNTY</b>	<b>LENGTH (Mi.)</b>	<b>LOCATION OF PROJECT</b>	<b>TYPE OF IMPROVEMENT</b>	<b>TOTAL COST (MILLIONS)</b>
---------------------------	---------------	-------------------------	----------------------------	----------------------------	--------------------------------------

---

**\* FISCAL YEARS 2002-2006 \***

**\*NO PROJECTS IDENTIFIED AT THIS TIME \***

**TABLE 6**  
**SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**ESTIMATE OF TOTAL FUNDS FOR FY 2002-2006 STIP**  
(MILLIONS OF DOLLARS)

FUNDING CATEGORY	% FEDERAL	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2002-06	FY 2001-05
INTERSTATE MAINTENANCE	90.97	37.439	37.285	37.285	37.285	37.285	186.579	175.125
INTERSTATE NHS TRANSFER	90.97	22.561	22.715	22.715	22.715	12.715	103.421	129.875
FEDERAL STATE TRUNK	81.95	121.185	114.636	111.553	111.553	121.553	580.479	475.053
NON-FEDERAL STATE TRUNK	0.000	14.000	25.000	32.000	35.000	40.000	146.000	226.000
SPECIAL DISCRETIONARY FUNDING	80.00	14.625	9.000	5.625	5.625	5.625	40.500	
BRIDGE REPLACEMENT								
STATE	80.00	9.571	9.101	9.101	9.101	9.101	45.974	42.560
LOCAL	80.00	9.571	9.101	9.101	9.101	9.101	45.974	42.560
BRIDGE 3R	81.95	2.500	2.500	2.500	2.500	2.500	12.500	12.500
ROADWAY SAFETY IMPROVEMENT	90.00+	4.989	6.936	6.936	6.936	6.936	32.732	29.761
RAIL/HIGHWAY CROSSING SAFETY	90.00	3.070	3.055	3.055	3.055	3.055	15.292	14.316
URBAN SYSTEMS	81.95	10.580	10.348	10.209	10.209	10.209	51.555	50.034
COUNTY SYSTEMS	81.95	11.634	11.379	11.227	11.227	11.227	56.693	55.020
STATE GOVERNMENT ENHANCEMENTS	81.95	0.674	0.671	0.671	0.671	0.671	3.359	3.144
LOCAL GOVERNMENT ENHANCEMENTS	81.95	6.068	6.040	6.040	6.040	6.040	30.229	28.300
RECREATION TRAILS	81.95	0.644	0.639	0.639	0.639	0.639	3.200	3.205
MAINTENANCE GRAVEL STOCKPILE	0.000	1.300	1.300	1.300	1.300	1.300	6.500	6.500
CONTRACT ROAD MAINTENANCE	0.000	8.000	8.000	8.000	8.000	8.000	40.000	40.000
MISCELLANEOUS <sup>1)</sup>	0.000	6.500	6.500	6.500	6.500	6.500	32.500	30.750
<b>SUBTOTAL</b>		<b>284.912</b>	<b>284.206</b>	<b>284.456</b>	<b>287.456</b>	<b>292.456</b>	<b>1433.486</b>	<b>1364.702</b>
HIGH PRIORITY PROJECTS	100.00	25.119	28.620	0.000	0.000	0.000	53.738	
HIGH PRIORITY PROJECTS	80.00	23.599	32.452	18.903	9.189	11.192	95.335	58.170
<b>TOTALS</b>		<b>333.629</b>	<b>345.278</b>	<b>303.359</b>	<b>296.645</b>	<b>303.648</b>	<b>1582.559</b>	<b>1422.872</b>
TOTAL FEDERAL FUNDS		258.656	260.127	215.202	207.431	208.131	1149.546	947.340
TOTAL STATE FUNDS		71.964	82.241	85.247	86.304	92.607	418.363	461.912
TOTAL LOCAL FUNDS		3.010	2.910	2.910	2.910	2.910	14.651	13.620

<sup>1)</sup> INCLUDED IN MISCELLANEOUS FUNDS ARE \$1.5 MILLION FOR REGIONAL ACCIDENT PREVENTION, \$1.65 MILLION FOR GAME, FISH & PARKS PROJECTS, \$2.5 MILLION FOR ECONOMIC DEVELOPMENT PROJECTS AND \$500,000 FOR COUNTY PAVEMENT MARKING PROJECTS.

**TABLE 7**

**2002-2006 HIGHWAY CONSTRUCTION PROGRAM  
ESTIMATE OF AVAILABLE FEDERAL-AID STATE TRUNK FUNDS PLUS NON-FEDERAL FUNDS  
(MILLIONS OF DOLLARS)**

<b>FUNDING CATEGORY</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>TOTAL</b>
<b>MAJOR ARTERIAL (64%)</b>						
<b>CONSTRUCTION/RECONSTRUCTION (56%)</b>	49.450	51.045	52.449	52.524	57.900	263.370
<b>RESURFACING (44%)</b>	38.068	39.321	40.424	41.269	45.493	204.576
<b>MINOR ARTERIAL (29%)</b>						
<b>CONSTRUCTION/RECONSTRUCTION (57%)</b>	23.346	24.082	24.729	24.225	26.705	123.087
<b>RESURFACING (43%)</b>	16.858	17.413	17.901	18.275	20.146	90.592
<b>STATE SECONDARY (7%)</b>						
<b>CONSTRUCTION/RECONSTRUCTION (34%)</b>	3.217	3.323	3.417	3.488	3.845	17.290
<b>RESURFACING (66%)</b>	4.246	4.451	4.632	6.771	7.464	27.563
<b>TOTAL CONSTRUCTION/RECONSTRUCTION</b>	<b>76.014</b>	<b>78.450</b>	<b>80.595</b>	<b>80.238</b>	<b>88.450</b>	<b>403.747</b>
<b>TOTAL RESURFACING</b>	<b>59.171</b>	<b>61.185</b>	<b>62.958</b>	<b>66.315</b>	<b>73.103</b>	<b>322.732</b>

Note: State Secondary-Resurfacing is reduced by \$2 million for FY02,03,04 while Major Arterial-Constr/Reconstr and Minor Arterial-Constr/Reconstr are increased by \$1 million each for same years.

**CITY OF RAPID CITY  
AIR QUALITY POLICY, APPLICABILITY AND  
DEFINITIONS**

**Chapter 8.34  
Of the Rapid City Municipal Code**

**November 2000**

## Chapter 8.34

### POLICY, APPLICABILITY AND DEFINITIONS

#### Sections:

- 8.34.010 Policy of city.
- 8.34.020 Applicability.
- 8.34.030 Definitions.

#### 8.34.010 Policy of city.

In order to maintain a compliance status with the United States Environmental Protection Agency's National Ambient Air Quality Standards and to prevent adverse health effects that result from fugitive emissions and smoke from wood burning and open burning, it is declared to be the policy of the city of Rapid City, South Dakota to achieve and maintain the PM<sub>10</sub> and PM<sub>2.5</sub> National Ambient Air Quality Standards by controlling fugitive emissions, open burning and wood burning so as to protect the health and welfare of all the people who inhabit the city; to limit environmental damage to plant and animal life within the county; and to promote commercial and industrial development while limiting environmental degradation; and to educate the residents of the city on air quality issues. This policy is to be achieved and maintained through the development and implementation of programs of education, air pollution prevention, abatement and control. It is the purpose of Chapters 8.34 through 8.44 to provide for a program of fugitive emissions control by applying reasonable available control technology and solid fuel smoke abatement. (Ord. 3597 (part), 2000)

#### 8.34.020 Applicability.

Chapters 8.34 through 8.44 shall apply to:

- A. The geographical area encompassing the city limits of the city of Rapid City;
- B. Smoke from fuel burning sources;
- C. Construction permits;
- D. Compliance plans (paved and unpaved parking lots, streets sanding and cleaning operations);

E. Fugitive emissions requirements with the exception of industrial sources permitted by the South Dakota Department of Environment and Natural Resources. (Ord. 3597 (part), 2000)

#### 8.34.030 Definitions.

Air Quality Board.

1. There is created an air quality board consisting of seven voting members and three ex-officio members,

a. The composition and further requirements of the seven voting members are as follows:

- i. Two members representing industry,
- ii. One member representing the engineering profession (member shall have graduated from an accredited college or university with an engineering degree),
- iii. One member representing environmental interests (member shall have an interest and knowledge in environmental issues, preferably air quality issues),
- iv. One member representing homeowners (member shall own a home in the regulated area),
- v. One member representing the business community (member shall be associated with a business in the regulated area),
- vi. One member at large (member shall be selected at large by the county commission);

2. Six of the voting members of the air quality board shall be appointed on a rotating basis by the mayor of Rapid City and confirmed by the Rapid City council for a term of three years on a staggered term basis. One member at large will be appointed by the Pennington County board of commissioners for a term of three years. The current board shall continue until their respective terms are up and shall be replaced by application and appointment;

3. All voting members shall be residents of the regulated area as defined in Section 8.34.020(A) or the area as regulated in Section 1.02 of Pennington County Ordinance No. 12, and with the exception of the two industry members, shall not derive a majority of their income, either directly or indirectly, from a person, as defined by this section, who is subject to regulation by Chapters 8.34 through



8.44. For purposes of this section, a person who is subject to regulation by Chapters 8.34 through 8.44 does not include one who is regulated solely for a parking lot, open burning, or a solid fuel burning device. Applicants for the above positions, except for industry representative, shall submit a signed statement that they do not derive a majority of their income from a person who is subject to regulation by Chapters 8.34 through 8.44. Any further documentation which the Rapid City council or board of county commissioners may require concerning the applicant's finances are to be considered confidential and shall not be made available to anyone other than the Rapid City council or board of commissioners.

4. The composition and professional associations of the three ex officio members are as follows:

a. One member representing state government (Secretary of the Department of Environment and Natural Resources, or designee),

b. One member representing the city of Rapid City, South Dakota (mayor of Rapid City or designee),

c. One member representing the Pennington County board of commissioners (chairman of board or designee);

5. The duties of the air quality board shall be to review and approve compliance plans, serve as an appeal board, act on enforcement action initiated by the air quality division, and make recommendations to the Rapid City council and board of county commissioners on policies related to the air quality of the city of Rapid City and Pennington County. The purpose and goal of the decisions made and actions taken by the air quality board shall be to protect and serve the public interest.

"Air quality control zone" means that area as defined in Section 8.34.020(A).

Air Quality Division. There is created the Rapid City air quality division. The air quality division shall be responsible for the administration and enforcement of Chapters 8.34 through 8.44.

"Ambient air" means that portion of the atmosphere outside of buildings to which the general public has access.

"Burning season" means that period of time from November 1st through March 31st in the following year.

Civil Action. In addition to the penalties set forth in Chapters 8.34 through 8.44 for a smoke abatement violation, the air quality board may bring civil action for appropriate relief including a temporary or permanent injunction to enforce compliance with the provisions of Chapters 8.34 through 8.44.

"Commission" means the Pennington County board of commissioners.

"Construction activity" means any temporary activity which involves the removal or alteration of the natural or pre-existing cover of one acre or more of land. "Construction activity" shall include but not be limited to stripping of topsoil, drilling, blasting, excavation, dredging, ditching, grading, street maintenance and repair, or earth moving. "Construction activity" is generally completed within one year.

"Continuous operating activity" means any activity which may cause particulate fugitive emissions to be released into the ambient air and which is conducted on an on-going basis in the same locality. Continuous operation is associated with winter sanding of paved parking lots and maintenance of unpaved parking lots of more than one acre in size and with street sanding and cleaning of streets, highways and roads.

"Council" means the Rapid City council.

"Ecosystem management" means those activities employed to maintain or enhance the floral or fauna habitat, or to reduce accumulated natural fuels in an area, and supervised by a local, state or federal land/wildlife management agency.

"Entry on property" means any duly authorized officer, employee or representative of any city or county agency responsible for enforcing Chapters 8.34 through 8.44, after obtaining an escort and complying with safety regulations, may enter and inspect that part of any property, premises or place in which such officer, employer, or representative has reasonable grounds to believe is a source of air pollution or in which such officer, employee or representative has reasonable grounds to believe that the provisions of Chapters 8.34 through 8.44 are not

being followed. The entry and inspection may be conducted at any reasonable time, without prior notice, for the purpose of investigating said pollution or of ascertaining the state of compliance with the ordinance. No person shall refuse entry or access to any authorized person who requests entry for the purpose of such an investigation, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such investigation.

“Fire hazard” means any thing or act, including buildings or flammable materials, which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the general public.

“Fire department personnel training” means activities designed for the purpose of training fire department personnel and conducted by a fire department.

“Fuel” means solid matter burned in a solid fuel burning device or under the conditions of open burning that is limited to the following: untreated dry wood and lumber, coal and products manufactured for the sole purpose as a fuel. “Untreated wood or lumber” means wood in its natural state that has not been chemically soaked or treated.

“Fugitive emissions” means those particulate emissions which do not pass through a stack, chimney, vent, or other functionally equivalent opening. In the event that any of the particulate emissions included by this definition are regulated by the state of South Dakota, the governmental entity which has the more strict and more extensive requirements for control of such emissions shall be crushers for which a permit to operate has been issued are excluded from this enforced over the least restrictive requirements. Particulate emissions from rock definition.

“Inappropriate fuel for open burning” includes, but is not limited to: leaf piles, grass clippings, green plants, refuse, paper, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, animal waste, liquid gelatinous hydrocarbons, tar, paints and solvents, chemically soaked or treated wood,

plastic or rubber, the materials specified in Section 8.36.020(D), or other materials not listed in the definition of fuel in this section.

“Inappropriate fuel for solid fuel burning devices” includes, but is not limited to: leaves, grass clippings, pine needles, green plants, refuse, paper, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, animal waste, liquid or gelatinous hydrocarbons, tar, paints and solvents, chemically soaked or treated wood, plastic or rubber, the materials specified in Section 8.36.020(D), or other materials not listed in the definition of fuel in this section.

“National Ambient Air Quality Standards (for particulates)” means the national primary and secondary ambient air standards for particulate matter as described in the July 18, 1997 publication of the Code of Federal Regulations, Part 50, Volume 62, No. 138 are:

1.  $PM_{2.5}$ . 15.0 micrograms per cubic meter ( $ug/m^3$ ), annual arithmetic mean concentration and sixty-five  $ug/m^3$ , twenty-four-hour average concentration. The daily standard is based upon an annual ninety-ninth percentile with a three year average of the ninety-ninth percentiles;

2.  $PM_{10}$ . 50.0  $ug/m^3$ , annual arithmetic mean concentration and 150.0  $ug/m^3$ , twenty-four-hour average concentration. The daily standard is based upon an annual ninety-eighth percentile with a three year average of the ninety-eighth percentiles.

“Noxious weed” means undesirable vegetation that is characterized by profuse seed production and/or an ability to spread through rapid growth, making it difficult to control or eradicate through normal management operations.

“Opacity” means the degree to which fugitive emissions reduce the transmission of a light source.

“Open burning” means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passage through a stack, duct or chimney.

“Open burning form” means a form produced by the air quality division and completed in cooperation with any person seeking approval to conduct open

burning. The form provides relevant information regarding a planned open burning activity.

“Parking lot” means any parking lot to which street sanding material is applied and any unpaved parking lot to which the public has access that may generate fugitive emissions.

“PM<sub>2.5</sub>” means particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half micrometers.

“PM<sub>10</sub>” means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

“Person” means any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state, trust, estate or any other legal entity.

“Political subdivision” means any public or private entity that maintains street operations within the area designated in Section 8.34.020(A).

“Reasonably available control technology (RACT)” means the emission control technology determined on a case by case basis by the air quality board to be feasible in meeting the requirements of Chapters 8.34 through 8.44, taking into account energy, environmental, economic impacts and other costs.

“Reentrainment” means a process in which particulate matter that has been deposited in one place, is then liberated into the ambient air by vehicular travel, wind, or other causes.

“Smoke” means small airborne particles resulting from incomplete combustion consisting predominantly, but not exclusively, of carbon, ash, and other combustible materials, that form a visible plume.

“Solid fuel burning device” means any fireplace, fireplace insert, wood stove, wood-burning heater, wood-fired boiler, coal-fired furnace, coal stove, or similar device burning any solid fuel used for aesthetic, cooking or space heating inside a building.

“Wildfire” means an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

“Wildfire control management” means activities, including open burning, that are conducted to reduce

the potential for serious or wild fires. (Ord. 3597 (part), 2000)

## Chapter 8.36

### SMOKE ABATEMENT

#### Sections:

- 8.36.010 Restrictions on solid fuel burning devices.
- 8.36.020 Open burning rules.

#### 8.36.010 Restrictions on solid fuel burning devices.

A. Inappropriate Fuels Burned in Solid Fuel Burning Device Prohibited. No person shall, at any time, burn inappropriate fuel as defined in Section 8.34.030 in any solid fuel burning device. No person shall use a fuel in a solid fuel burning device, except those that are recommended by the manufacturer, subject to any installation or operational restrictions imposed by the manufacturer.

B. Sale of New Solid Fuel Heating Devices. After July 1, 1991, no person shall sell or offer for sale, any new solid fuel heating device as defined by the United States Environmental Protection Agency in 40 CFR Part 60.530 through 60.539b, unless the solid fuel heating device has been emissions certified and labeled in accordance with those requirements. After July 1, 1991, no person shall sell or offer to sell any new solid fuel heating device that can not be certified under the aforementioned federal regulation unless the solid fuel heating device has an air to fuel ratio equal to or greater than thirty-five to one as determined by an independent testing laboratory. (Ord. 3597 (part), 2000)

#### 8.36.020 Open burning rules.

A. Open Burning Restricted. No person shall, at any time, engage in open burning activities within the air quality control zone, except as allowed under the following conditions:

1. Open burning of agricultural irrigation ditches;
2. Open burning for noxious weed control;
3. Open burning for wildfire control management;
4. Open burning for ecosystem management;

5. Open burning for fire department personnel training;

6. Open burning of a fire hazard.

Any inappropriate fuels, as defined in Section 8.34.030, present prior to open burning will be removed to the fullest extent possible prior to ignition.

B. Conditions for Open Burning Approval. Prior to ignition, a person requesting to open burn for the exceptions allowed under subsection A of this section must gain permission from one of the following fire control entities listed in subsections (B)(1)(a) through (c) of this section, based upon the location of the proposed burning activity.

1. Zones of Jurisdiction for Gaining Permission to Open Burn.

a. The Black Hills Forest Fire Protection District. This includes all areas outside of the Rapid City city limits that are west of Interstate 90 to the north, and west of South Highway 79 to the south. Permission will be granted by the State Forester of the South Dakota Department of Agriculture, Resource Conservation and Forestry Division, or his designee.

b. Rapid City. This includes all areas within the Rapid City city limits. Permission will be granted by the Rapid City department of fire and emergency services.

c. All Other Portions of the Control Zone. This includes those areas served by the North Haines Volunteer Fire Department (VFD), the Box Elder VFD, the Rapid Valley VFD, except that portion west of South Highway 79, and those residents of the Black Hawk VFD who reside in that portion east of Interstate 90. Permission for these areas will be granted by the Rapid City air quality division.

2. The following information, as outlined on the open burning form, will be provided to the appropriate fire control entity as described in subsection (B)(1) of this section.

- a. The type of burning as described in subsection A of this section;
- b. Size of burn;
- c. Location of the site;
- d. Anticipated time and date of burn;

- e. Name and phone number of contact person;
- f. Name of responsible party assuming liability for the burn;
- g. A contingency plan to be implemented in the event that control of the burn is lost.

A copy of the open burning form is available at the air quality division and at all fire departments whose territories are outside of the Black Hills Forest Fire Protection District and inside of the air quality control zone.

C. Basis for Approval. Approval may be granted following receipt of the open burning form, and will be contingent upon the following:

- 1. Current and forecast meteorological conditions;
- 2. Current ambient air quality data;
- 3. The volume of burning pending at the time of the request;
- 4. The information provided on the open burning form;
- 5. A site inspection, conducted at the discretion of the air quality division.

Approval may be revoked or suspended by the air quality division prior to the actual burn in order to protect public health and welfare. This determination would be based upon changing meteorological and/or ambient air conditions.

D. State Air Quality Regulations (ARSD 74:36:06) prohibit the following open burning practices:

- 1. A person may not burn waste oils, rubber, waste tires, tarpaper, or asphalt shingles. For the purposes of this regulation, "waste oil" means any oil that has been refined from crude oil, used and contaminated by physical or chemical impurities as a result of such use;
- 2. A municipality or county governmental agency may not burn municipal solid waste unless exempted by the small town exemption in accordance with ARSD 74:27:12:25;
- 3. A person may not conduct or permit the operation of a salvage operation by open burning, except as allowed in Article 74:27;

4. A person may not burn railroad ties or wood treated with inorganic arsenicals, pentachlorophenol, or creosols. (Ord. 3597 (part), 2000)

## Chapter 8.38

**CONSTRUCTION PERMITS AND  
COMPLIANCE PLANS**

**Sections:**

- 8.38.010 Construction permit required.**
- 8.38.020 Compliance plan required.**
- 8.38.030 Street reentrainment requirements.**
- 8.38.040 Reasonably available control technology requirements.**
- 8.38.050 Contents of application for construction permit, compliance plan or amendment to a compliance plan.**
- 8.38.060 Records and information available to public.**
- 8.38.070 Application procedure for construction permits.**
- 8.38.080 Application procedure for compliance plans.**
- 8.38.090 Operating with a compliance plan.**

**8.38.010 Construction permit required.**

No person shall engage in any construction activity which may cause fugitive emissions to be released into the ambient air without first obtaining a construction permit from the air quality division. (Ord. 3597 (part), 2000)

**8.38.020 Compliance plan required.**

No person shall engage in any continuous operation which may cause fugitive emissions to be released into the ambient air without first having a compliance plan approved by the air quality board. After approval of the compliance plan, a three year operating permit shall be issued by the air quality division. This operating permit allows the applicant to commence the operation thereunder.

A construction permit shall not be required for construction activity at a continuous operation activity facility if such construction activity is a part

of the site's compliance plan. (Ord. 3597 (part), 2000)

**8.38.030 Street reentrainment requirements.**

A. No person shall place any street sanding materials upon any road, highway, driveway, or parking lot to which the public has general access located in the area defined in Section 8.34.020(A) which does not meet the following requirements:

1. A durability or hardness as defined in MOH of greater than six for seventy percent of the material used;
2. No more than three percent of the total particle material content by weight may be smaller than two hundred sieve.

For street sanding material, these criteria apply only to the material prior to the addition of salt or chemicals. Material of a lesser hardness may be used on steep roads if it is the only effective option available.

B. Any political subdivisions responsible for maintaining any public road inside the area in which road sanding materials are regulated shall clean the center line and areas immediately adjacent to the travel lane. Cleaning shall commence under one or more of the following conditions:

1. When it has been determined by the air quality division that the streets are sufficiently dry to commence street sweeping;
2. When it has been determined by the air quality division that there is a fugitive emissions problem due to street sanding material.

Street cleaning will not be required on public roads with restricted travel, or when unusual weather or other circumstances prevent it. The political subdivision shall include in its compliance plan a street cleaning plan listing priority streets and schedules.

C. Any political subdivisions maintaining any public roads inside the area in which road sanding materials are regulated shall water flush such roadways when it has been determined by the air quality division that street sanding material is causing a fugitive emissions problem. This will be conducted

after street cleaning. Street water flushing is not required if it endangers public safety or if water use restrictions are in effect. The political subdivision shall include in its compliance plan a water flushing plan.

D. All vehicles that are transporting fugitive dust emitting materials within the area designated in Section 8.34.020(A) on public roads shall be covered with a tarp to reduce such emissions or must use a method that is equally effective in reducing such emissions.

E. Any material that is deposited, other than street sanding material, on any public roadway on which vehicular travel is not restricted, that could be reentrained as fugitive emissions shall be cleaned or removed within twenty-four hours of deposition. The cleaning or removal process shall be conducted so that minimal fugitive emissions are generated. (Ord. 3597 (part), 2000)

#### **8.38.040 Reasonably available control technology requirements.**

Any construction permit, continuous operation or political subdivision responsible for maintaining public roads shall provide for reasonably available control technology to prevent fugitive emissions from becoming airborne. Such controls may include, but not be limited to the following practices:

A. For activity involving the removal or alteration of natural or pre-existing ground cover including, but not limited to land clearing, excavating, grading, earthmoving, dredging or demolition:

1. Wetting down;
2. Chemical stabilization;
3. Applying dust palliative;
4. Minimization of area disturbed;
5. Reclamation of disturbed area as soon as possible;
6. Vehicular speed limitation; and/or
7. Cleaning of paved areas.

B. For paved and unpaved roads, alleyways and storage areas, construction, altering, yearly street or highway maintenance and repair of road surface:

1. Wetting down;
2. Chemical stabilization;

3. Applying dust palliative;
4. Vehicular speed limitation;
5. Movement of materials by enclosed vehicles or covered conveyance system;
6. Cleaning of paved areas;
7. Mechanical capture of fugitive emissions by vacuuming;
8. Water flushing (when safety is not jeopardized); and/or
9. Wetting ahead of open sweepers on rural roads.

C. Paved and unpaved parking lots:

1. The paved parking lots shall be cleaned either by sweeping (mechanical or vacuum sweeper), water flushing (when safety is not jeopardized), or by any means possible to reduce sanding material reentrainment; and
2. The unpaved parking lots shall be maintained by any means possible to reduce dust reentrainment, such as wetting down, chemical stabilization, and vehicular speed limitation.

D. For material screening, handling, storage, processing or transportation:

1. Installation of baghouses and other emission control and collection systems;
2. Enclosed conveyance systems;
3. Enclosing, covering, or applying dust suppressants on storage piles where practical;
4. Moisturizing or chemically treating the material during processing;
5. Cleaning of paved areas; and/or
6. Movement of materials by enclosed vehicle or covered conveyance system.

E. For erosion control:

1. Planting of exposed area;
2. Installing wind screen or equivalent wind speed reduction device;
3. Chemical stabilization;
4. Covering with a nonerodible material;
5. Runoff control barriers and dams. (Ord. 3597 (part), 2000)

**8.38.050 Contents of application for construction permit, compliance plan or amendment to a compliance plan.**

All applications shall be submitted to the air quality division. The applications shall contain:

A. Name and address of the person making the application. If the applicant is a corporation, the name and address of its registered agent.

B. Legal description and location of the land affected.

C. Description of the proposed construction or proposed continuous operation activity including nature and description of equipment used.

D. Proposed date for both commencement and termination of operation.

E. Proposed date for both commencement and completion of reclamation plan including a detailed description of plan.

F. Necessity for state approval and, if so, an indication of:

1. If application been made;
2. When action on the application is expected;
3. Name, division and board or the state agency from whom approval is sought.

G. An overall description of the nature and scope of the construction or continuous operation activity and conditions which will result in fugitive emissions.

H. A plan of the reasonably available control technology required in Section 8.38.040 to be applied which will prevent fugitive emissions that exceed twenty percent.

I. Upon request by the air quality division the following information may be required:

1. A listing of all sources of particulate fugitive emissions, stating in tons per year the uncontrolled emissions to be produced;
2. The control technology applied or proposed to be applied and the fugitive emissions expected in tons per year after the control technology has been applied;
3. The percentage of efficiency of the control technology.

The plan shall identify the sources of all emissions calculations or estimates and provide documentation of the methods used to determine control efficiency.

J. Upon request by the air quality division a discussion of the economic and technical reasonableness of the proposed fugitive emission controls, including data which will assist the air quality board in determining if the control technology specified in the compliance plan will meet the requirements set forth in Chapters 8.34 through 8.44, may be required.

The air quality board shall have the authority to require the applicant to provide actual or proposed production data to the air quality division. This information shall be used by the air quality division for the purpose of processing the application, and determining if a compliance plan or compliance plan amendment will meet the requirements of Chapters 8.34 through 8.44 and for no other purposes. (Ord. 3597 (part), 2000)

**8.38.060 Records and information available to public.**

Any records or information obtained by the air quality division or air quality board from owners or operators of an air contaminant source or sources shall be available to the public. (Ord. 3597 (part), 2000)

**8.38.070 Application procedure for construction permits.**

A. The air quality division shall have ten working days from the time a determination is made that the application is complete to either approve or reject the application and issue the construction permit. If the air quality division determines the application is complete and is in compliance with Chapters 8.34 through 8.44, a construction permit shall be issued. In the event that the application has not been approved or rejected within the ten working day period, it shall be deemed to be approved.

B. No change in construction shall be allowed which would result in an increase of fugitive emissions from the construction site without first amend-



ing the construction permit. The amendment procedure is the same as set out in subsection A of this section. The required fee for the amendment is described in Chapter 8.42.

C. The construction permit fee is as described in Chapter 8.42. The fee is payable to the city of Rapid City, and shall be collected by air quality division at the time an application is filed. (Ord. 3597 (part), 2000)

#### **8.38.080 Application procedure for compliance plans.**

A. All applications for a compliance plan or amendments to a compliance plan shall be submitted to the air quality division at least fifteen working days before the regular monthly air quality board meeting at which it would be considered. The fifteen working day time period shall commence on the day after the date the application was submitted and shall include the day of a board meeting if such a date is a working day. During the fifteen-day period, the air quality division shall determine if the application is complete. No application shall be submitted to the air quality board that does not have all the information required by Chapters 8.34 through 8.44. If an application is returned to the applicant as not being complete, the rejection notice shall be in writing and specifically state what information is missing or not contained in sufficient detail to meet the requirements of Chapters 8.34 through 8.44.

B. No change in continuous operation activity shall be allowed which would result in an increase of fugitive emissions from that site without first amending the approved compliance plan permit.

Any amendments to a compliance plan will take effect upon approval by the air quality board. The existing compliance plan will be amended to reflect the change and will be valid through the life of the initial permit. Fees for amendment will be charged in accordance with Chapter 8.42.

C. Once an application for a compliance plan or an amendment to a compliance plan has been submitted to the air quality board, a sixty-day review period shall commence. The air quality board must

act upon the proposed plan within sixty days or such plan shall be deemed as approved. If the applicant is requested to provide additional information within a specified period of time and fails to act within such time period, the sixty-day review period shall be extended by a like number of days. (Ord. 3597 (part), 2000)

#### **8.38.090 Operating with a compliance plan.**

Upon approval of the compliance plan, a three-year permit shall be issued allowing the applicant to commence operation thereunder. The approved compliance plan shall become binding terms of the operation. Amendments to a compliance plan approved by air quality board are enforceable provisions of the permit.

Applications for a compliance plan renewal shall be submitted to the air quality division sixty days prior to the expiration, and shall follow the requirements as described in Section 8.38.050 of this chapter.

Compliance plan shall be updated every three years, or three years from a plan's last review by the air quality board, whichever is later. The update shall contain all changes, additions, modifications, and expansions which would result in an increase of fugitive emissions from the operation over the past three years. (Ord. 3597 (part), 2000)

## Chapter 8.40

EMISSION STANDARDS, ENFORCEMENT  
AND APPEAL PROCEDURES

## Sections:

- |  |  |
|--|--|
| <p>8.40.010 Emissions standards for construction or compliance plan activities.</p> <p>8.40.020 Notice of violation—Order for corrective action included.</p> <p>8.40.030 Penalties and petition to contest notice of violation.</p> <p>8.40.040 Petition to initiate contested case.</p> <p>8.40.050 Notice and hearing required in contested cases.</p> <p>8.40.060 Answer to petition to initiate contested cases.</p> <p>8.40.070 Pleadings to be filed with council.</p> <p>8.40.080 Appointment of hearing chairman.</p> <p>8.40.090 Prehearing motions.</p> <p>8.40.100 Prehearing conference.</p> <p>8.40.110 Notice of contested case.</p> <p>8.40.120 Contents of notice in contested case.</p> <p>8.40.130 Subpoenas.</p> <p>8.40.140 Conduct of hearing.</p> <p>8.40.150 Rights of parties at hearings on contested cases.</p> <p>8.40.160 Transcript in contested cases.</p> <p>8.40.170 Transcripts by court reporter.</p> <p>8.40.180 Means and proof of service.</p> <p>8.40.190 Degree of proof required.</p> <p>8.40.200 Rules of evidence in contested cases.</p> <p>8.40.210 Appointment of hearing examiner.</p> <p>8.40.220 Decision of commission.</p> <p>8.40.230 Findings of fact, conclusions of law, and order.</p> | <p>8.40.240 Contents of record in contested cases.</p> <p>8.40.250 Hearing requested on order for correction action—Time allowed.</p> <p>8.40.260 Contested case proceeding in lieu of order—Consent agreement.</p> <p>8.40.270 Air quality board orders after hearing.</p> <p>8.40.280 Time allowed for corrective action in air quality board order.</p> <p>8.40.290 Appeals.</p> <p>8.40.300 Remedy not exclusive.</p> <p>8.40.310 Voluntary compliance.</p> <p>8.40.320 Consent agreement.</p> |
|--|--|

**8.40.010 Emissions standards for construction or compliance plan activities.**

A. Facility Boundary Standard. The transportation of visible fugitive emissions off the property of a construction or continuous operation facility site for more than ten percent of the time for any one hour period will be considered as an indication that the provisions of the construction permit or compliance plan are not being complied with and shall cause a determination to be made of the source of the visible fugitive emissions and an opacity reading to be made at such sources. Visible fugitive emissions limitations specified in this paragraph shall be determined by a certified observer using Tennessee Visible Emission Evaluation Method (40 CFR 52.2220 Part A 73 Method 4), Visual Determination of Fugitive Dust Emission Crossing a Property Line, approved by EPA Federal Register V52, No. 10, January 15, 1987, page 1628.

B. Fugitive Emissions Source Standard. A fugitive emissions source shall not have a density greater than that designated as twenty percent opacity. Exceedance of this standard shall be considered a violation of the provisions of the construction permit or compliance and cause a review of the construction permit or compliance plan. Fugitive emissions limitations specified in this paragraph shall be deter-

mined by a certified observer using Tennessee Visible Emission Evaluation Method 1, (40 CFR 52.2220 Part A 50, 51 Method) Visual Determination of Opacity of Emission From Nontraditional Source, approved by the U.S. EPA in Federal Register, Vol. 47, No. 235, December 7, 1982, page 54936, as amended, Federal Register Vol. 28, No. 51, March 15, 1983, page 10834, Federal Register Vol. 50, No. 78, April 23, 1985, page 15892; or by operation of equipment approved by the air quality division that is known to produce equivalent or more accurate results.

No readings shall be made when wind velocity exceeds twenty-five miles per hour during, or within thirty minutes of the reading as determined by a qualified person, or by use of one or more anemometers at the site. Anemometers shall be used where practical. The property line of public or private rights-of-way through the construction or continuous operation facility site shall not be used for a measurement location. (Ord. 3597 (part), 2000)

#### **8.40.020 Notice of violation—Order for corrective action included.**

The air quality division has reason to believe that a violation of any provision of Chapters 8.34 through 8.44 has occurred, the air quality division may cause written notice to be served upon the alleged violator or violators. The notice shall specify:

- A. The provision(s) of Chapters 8.34 through 8.44 alleged to be violated;
- B. The facts alleged to constitute a violation thereof.

The notice may include an order that necessary corrective action be taken within a reasonable time period.

The air quality division shall execute or issue a written notice of violation and order to any person who violates any portion of Chapters 8.34 through 8.44. (Ord. 3597 (part), 2000)

#### **8.40.030 Penalties and petition to contest notice of violation.**

Any person violating any portion of Chapters

8.34 through 8.44 shall be subject to a fine not to exceed one hundred dollars. Each calendar day a violation occurs shall be considered a separate offense. Any person who wishes to contest a notice of violation must request a hearing before the air quality board within fifteen days of receiving the notice of violation or it becomes final. A petition to contest a notice of violation to the air quality board shall be heard at its next regularly scheduled meeting in which a decision on the notice of violation shall be rendered. The air quality board's decision may be appealed to the council in accordance with Sections 8.40.040 to 8.40.290 and must be petitioned within fifteen days of the date the air quality board's decision is rendered. (Ord. 3597 (part), 2000)

#### **8.40.040 Petition to initiate contested case.**

Any applicant or person wishing to contest a decision of the air quality board concerning a permit application or enforcement action shall file a petition for a contested case hearing before the council. The petition shall contain the following:

- A. A statement of the petitioner's involvement in the matter;
- B. A statement of the decision contested, if any, and the relief and decision requested from the council;
- C. A statement alleging the relevant facts and issues known to the petitioner upon which he bases his contest;
- D. A statement of the legal authority and jurisdiction under which the hearing would be held, if known;
- E. A reference to the particular section of the ordinance involved, if known;
- F. The signature of the petitioner or the petitioner's attorney(s).

The petitioner shall serve a copy of the petition upon the air quality board and all known persons affected by the petitioner's request who shall be considered parties to the proceeding. (Ord. 3597 (part), 2000)

**8.40.050 Notice and hearing required in contested cases.**

In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. (Ord. 3597 (part), 2000)

**8.40.060 Answer to petition to initiate contested cases.**

Within ten days of receipt of a petition of contested case, the party whose decision is being contested shall serve a written answer thereto on the petitioner and other parties of record. The answer shall respond to the allegations in the petition and state the desired decision of the council. Failure to answer an allegation in a petition shall constitute an admission of that fact. Further pleadings by parties in response to an answer shall not be required unless the prehearing examiner orders them for purposes of clarification of the issues involved in the contested case. (Ord. 3597 (part), 2000)

**8.40.070 Pleadings to be filed with council.**

The original of any petition, motion, or other pleading shall be filed with the council. The person filing the pleading shall mail copies thereof to the hearing chairman, hearing examiner if applicable, and all parties of record. (Ord. 3597 (part), 2000)

**8.40.80 Appointment of hearing chairman.**

Upon the filing of a petition for a contested case, the chairman of the council shall appoint himself/herself or a member of the council to act as hearing chairman. The hearing chairman shall be responsible for all prehearing rulings, including motions to intervene, motions for a continuance, and any other motions necessary to ensure an orderly hearing process. Any decision made by the hearing chairman is a final decision of the council unless reversed by a majority of the council at the hearing on the matter. Notice of this appointment and of the date set for a prehearing conference shall be served on all parties by the council. (Ord. 3597 (part), 2000)

**8.40.090 Prehearing motions.**

Any party may make a prehearing motion by filing the same in writing with the council before the date set for the prehearing conference. Copies of the motion shall be served upon the prehearing examiner and all parties of record. The motion shall contain the factual and legal basis for the motion. The motion shall be heard and a decision thereon made by the prehearing examiner at the prehearing conference. (Ord. 3597 (part), 2000)

**8.40.100 Prehearing conference.**

The hearing chairman shall hold a prehearing conference within twenty days of the filing of a petition for a contested case. The prehearing examiner will decide all prehearing motions at this conference and will establish a reasonable discovery schedule. The prehearing examiner will also set the time and place of the hearing of the petition before the council. Any other issue properly discussed at a pretrial conference under the Rules of Civil Procedure of the state of South Dakota may be heard at the prehearing meeting. (Ord. 3597 (part), 2000)

**8.40.110 Notice of contested case.**

The council shall issue a notice of a contested case proceeding. The notice shall reference the petition filed with the council and shall be served upon all parties of record. (Ord. 3597 (part), 2000)

**8.40.120 Contents of notice in contested case.**

The notice shall include:

- A. A statement of the time, place, and nature of the hearing;
- B. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- C. A reference to the relevant sections of Chapters 8.34 through 8.44;
- D. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished;

E. A statement of any action authorized by law, which may affect the parties, as a result of any decision made at the hearing, whether it be the revocation of a permit, enforcement action, or other effect;

F. A statement that the hearing is an adversary proceeding and that a party has the right at the hearing, to be present, to be represented by a lawyer, and that these and other due process rights will be forfeited if they are not exercised at the hearing;

G. A statement that the decision based on the hearing may be appealed to the Circuit Court and the State Supreme Court as provided by law. (Ord. 3597 (part), 2000)

#### **8.40.130 Subpoenas.**

The hearing chairman shall issue any subpoena necessary for the conduct of the hearing. Any party wishing to obtain a subpoena shall submit a written request and a proposed subpoena to the hearing chairman prior to the rehearing conference. (Ord. 3597 (part), 2000)

#### **8.40.140 Conduct of hearing.**

The hearing chairman shall act as the chairman of the council for the contested case hearing and shall make all necessary evidentiary rulings during the proceeding. (Ord. 3597 (part), 2000)

#### **8.40.150 Rights of parties at hearings on contested cases.**

Opportunity shall be afforded all parties to respond and present evidence on issues of fact and argument on issues of law or policy. A party to a contested case proceeding may appear in person or by council, or both, may be present during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may examine and cross-examine witnesses, may present evidence in support of the parties interest, and may have subpoenas issued to compel attendance of witnesses and production of evidence in the party's behalf. (Ord. 3597 (part), 2000)

#### **8.40.160 Transcript in contested cases.**

A verbatim recording of all proceedings and testimony shall be kept by the council. Unless otherwise provided by law the council shall not be required to transcribe the record unless the requesting party tenders and pays the reasonable cost thereof. If transcribed, a copy of the record shall be furnished to any other party to the hearing at the request and expense of such other party. (Ord. 3597 (part), 2000)

#### **8.40.170 Transcripts by court reporter.**

Any party wishing to obtain a transcript of a contested case hearing must make arrangements with a court reporter prior to the hearing. The council may, on their own motion, have a transcript of a contested case proceeding prepared; however, parties must obtain copies of the transcript from the court reporter at their own cost. (Ord. 3597 (part), 2000)

#### **8.40.180 Means and proof of service.**

The service of all pleadings, notices, or orders may be made by certified mail or personal service. An affidavit of mailing or service copies of the receipts for delivery of certified mail, an admission of service, or other competent evidence shall be proof of service. (Ord. 3597 (part), 2000)

#### **8.40.190 Degree of proof required.**

Whenever, under the provisions of Chapters 8.34 through 8.44 a person is required to find, demonstrate, show, or otherwise establish a fact, that fact must be established by a preponderance of the evidence. (Ord. 3597 (part), 2000)

#### **8.40.200 Rules of evidence in contested cases.**

Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied under statutory provisions and in the trial of civil cases in the Circuit Court of the state of South Dakota, or as may be provided in statutes relating to a specific agency, shall be followed. (Ord. 3597 (part), 2000)

#### **8.40.210 Appointment of hearing examiner.**

The chairman of the council may appoint a hearing examiner to conduct the hearing of the contested case. After hearing the proceeding, the hearing examiner shall make proposed findings of fact, conclusions of law, and an order to the council. A copy shall be served upon all parties of record. The council shall allow all parties to object in writing to the hearing examiner's decision and to present oral argument prior to the council rendering a final decision on the contested case proceeding. (Ord. 3597 (part), 2000)

#### **8.40.220 Decision of commission.**

A final decision in a contested case shall be that obtained by a majority vote from a quorum of the council. Any final decision and resulting orders shall be signed by the hearing chairman of the council. (Ord. 3597 (part), 2000)

#### **8.40.230 Findings of fact, conclusions of law, and order.**

All parties to a contested case proceeding may present proposed findings of fact, conclusions of law, and an order to the council at the close of the hearing. The council shall adopt or reject findings, conclusions and an order in support of its decision which shall constitute the final decision of the council. The council shall serve written notice of the findings, conclusions, and order upon all parties to the proceeding. A party may file written objections to the council's final decision within ten days of receipt of the notice, although the appeal time shall run from the date of receipt of the notice. (Ord. 3597 (part), 2000)

#### **8.40.240 Contents of record in contested cases.**

The record in a contested case shall include:

- A. All pleadings, motions, intermediate rulings;
- B. Evidence received and considered;
- C. A statement of matters officially noticed which have been refuted;

D. Questions and offers of proof, objections, and rulings thereon;

E. Proposed findings and exceptions;

F. Any decision, opinion, or report by the officer presiding at the hearing. (Ord. 3597 (part), 2000)

#### **8.40.250 Hearing requested on order for correction action—Time allowed.**

Any order issued pursuant to Section 8.40.020 shall be final unless, no later than twenty days after the date the notice and order are served, the person or persons named therein request in writing a hearing before the air quality board. Upon such request, the air quality board shall proceed in the same manner as set forth for a contested case hearing before the council. (Ord. 3597 (part), 2000)

#### **8.40.260 Contested case proceeding in lieu of order—Consent agreement.**

In lieu of an order, the air quality board chairman may schedule a contested case under Chapters 8.34 through 8.44 before the air quality board. Nothing in Chapters 8.34 through 8.44 shall prevent the air quality division from notifying an alleged violator of violations and negotiating a consent agreement instead of initiating proceedings under Section 8.40.020. Any consent agreement shall be approved by the air quality board. (Ord. 3597 (part), 2000)

#### **8.40.270 Air quality board orders after hearing.**

If, after proceedings held pursuant to Section 8.40.020 or 8.40.030, the air quality board finds that a violation has occurred, it shall affirm or modify any order previously issued under Section 8.40.020 by the air quality board chairman, or issue an appropriate order for the prevention, abatement or control of the emissions or air pollution involved. If, after proceedings on an order contained in a notice, the air quality board finds that no violation is occurring, it shall rescind the order. (Ord. 3597 (part), 2000)

**8.40.280 Time allowed for corrective action in air quality board order.**

For any order issued as part of a notice or after proceedings under Chapters 8.34 through 8.44, the air quality board shall prescribe the date by which the violation shall cease and may prescribe timetables for necessary action in preventing, abating or controlling the implicated emissions or air pollution. (Ord. 3597 (part), 2000)

**8.40.290 Appeals.**

Decisions of the council may be appealed to the Circuit Court as provided by law. Decisions of the air quality board may be appealed to the council, the review of which shall be limited to the record as established before the air quality board. (Ord. 3597 (part), 2000)

**8.40.300 Remedy not exclusive.**

Nothing in Chapters 8.34 through 8.44 shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property, and to maintain any action or other appropriate proceedings for such relief. (Ord. 3597 (part), 2000)

**8.40.310 Voluntary compliance.**

Nothing in Chapters 8.34 through 8.44 shall prevent the air quality division from making efforts to obtain voluntary compliance through warning, conferences, or any other appropriate means. (Ord. 3597 (part), 2000)

**8.40.320 Consent agreement.**

Nothing in Chapters 8.34 through 8.44 shall prevent the air quality division from notifying an alleged violator of violations and negotiating a consent agreement. Any consent agreement shall be approved by the air quality board. (Ord. 3597 (part), 2000)

**Chapter 8.42****FEES****Sections:****8.42.010 Fees.****8.42.010 Fees.**

Application fees for permitting services are payable to city of Rapid City and shall be collected by the air quality division at the time an application is filed. The city of Rapid City and county of Pennington County are exempt from paying fees. Fees administered by this office will be as follows:

A. Construction permit, for sites less than or equal to five acres: seventy-five dollars; for sites over five acres: one hundred dollars;

B. Construction permit amendment, twenty-five dollars;

C. Compliance plan for paved parking lots larger than or equal to one acre: fifteen dollars per acre, not to exceed seventy-five dollars;

D. Compliance plan for unpaved parking lots larger than or equal to one acre: twenty-five dollars per acre, not to exceed one hundred fifty dollars;

E. Open burning form, no charge.

Failure to submit the application and/or pay the permitting fee will result in a daily fine not to exceed one hundred dollars. Each day in which the application and/or payment is not received, is considered a separate offense, and separate fines will be assessed. An air quality notice of violation will be attached to the deed of the property at the register of deeds office in the Pennington County Courthouse until the fines and permitting fees have been paid. (Ord. 3597 (part), 2000)



**Chapter 8.44**

**SEVERABILITY OF PROVISIONS AND  
APPLICATIONS**

**Sections:**

**8.44.010 Severability of provisions and  
applications.**

**8.44.010 Severability of provisions and  
applications.**

If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of Chapters 8.34 through 8.44 is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application. (Ord. 3597 (part), 2000)

**PENNINGTON COUNTY ORDINANCE NO. 12  
REVISED**

**AIR QUALITY ORDINANCE**

# PENNINGTON COUNTY ORDINANCE NO. 12

## "AIR QUALITY ORDINANCE"

Be it ordained by the Board of County Commissioners of Pennington County, South Dakota:

### 1.0 POLICY, APPLICABILITY AND DEFINITIONS OF ORDINANCE

**1.01 Policy of County:** In order to maintain a compliance status with the United State's Environmental Protection Agency's National Ambient Air Quality Standards and to prevent adverse health effects that result from fugitive emissions and smoke from wood burning and open burning, it is hereby declared to be the policy of Pennington County, South Dakota to achieve and maintain the PM<sub>10</sub> and PM<sub>2.5</sub> National Ambient Air Quality Standards by controlling fugitive emissions, open burning and wood burning so as to protect the health and welfare of all the people who inhabit the county; to limit environmental damage to plant and animal life within the county; and to promote commercial and industrial development while limiting environmental degradation; and to educate the residents of the county on air quality issues. This policy is to be achieved and maintained through the development and implementation of programs of education, air pollution prevention, abatement and control. It is the purpose of this ordinance to provide for a program of fugitive emissions control by applying reasonable available control technology and solid fuel smoke abatement.

**1.02 Applicability:** This ordinance shall apply to:

1. The geographical portion of Pennington County, South Dakota, that encompasses the northwest corner of Section 15, Township 2N, Range 6E to the northeast corner of Section 14, Township 2N, Range 8E, to the southeast corner of Section 35, Township 1N, Range 8E to the southwest corner of Section 34, Township 1N, Range 6E, to the northwest corner of Section 15, Township 2N, Range 6E subject to the jurisdiction of the Board of Commissioners of Pennington County, South Dakota excluding that portion located within the city limits of the City of Rapid City;
2. Smoke from fuel burning sources;
3. Construction permits;
4. Compliance plans (paved and unpaved parking lots, streets sanding and cleaning operations);
5. Fugitive emissions requirements with the exception of industrial sources permitted by the South Dakota Department of Environment and Natural Resources.

This ordinance applies to the sources listed above located in the area defined in Section 1.02 (1).

**1.03 Definitions:**

1. Air Quality Board: There is hereby created an Air Quality Board consisting of seven (7) voting members and three (3) ex-officio members.

a. The composition and further requirements of the seven voting members are as follows:

1. Two (2) members representing industry;
2. One (1) member representing the engineering profession (member shall have graduated from an accredited college or university with an engineering degree);
3. One (1) member representing environmental interests (member shall have an interest and knowledge in environmental issues, preferably air quality issues);
4. One (1) member representing homeowners (member shall own a home in the regulated area);
5. One (1) member representing the business community (member shall be associated with a business in the regulated area);
6. One (1) member at large (member shall be selected at large by the County Commission).

Six of the voting members of the Air Quality Board shall be appointed on a rotating basis by the Mayor of Rapid City and confirmed by the Rapid City Council for a term of three (3) years on a staggered term basis. One member at large will be appointed by the Pennington County Board of Commissioners for a term of three (3) years. The current Board shall continue until their respective terms are up and shall be replaced by application and appointment.

All voting members shall be residents of the regulated area as defined in Section 8.34.020(1) of the Rapid City Municipal Code or the area as regulated in Section 1.02 of Pennington County Ordinance No. 12, and with the exception of the two industry members, shall not derive a majority of their income, either directly or indirectly, from a person, as defined by Section 1.03(26), who is subject to regulation by this ordinance. For purposes of this section, a person who is subject to regulation by this ordinance does not include one who is regulated solely for a parking lot, open burning, or a solid fuel burning device. Applicants for the above positions, except for industry representative, shall submit a signed statement that they do not derive a majority of their income from a person who is subject to regulation by this ordinance. Any further documentation which the Rapid City Council or Board of County Commissioners may require concerning the applicant's finances are to be considered confidential and shall not be made available to anyone other than the Rapid City Council or Board of Commissioners.

b. The composition and professional associations of the three Ex-Officio Members are as follows:

1. One (1) member representing state government (Secretary of the Department of Environment and Natural Resources, or designee);
2. One (1) member representing the city of Rapid City, South Dakota (Mayor of Rapid City or designee);
3. One (1) member representing the Pennington County Board of Commissioners (Chairman of Board or designee).

The duties of the Air Quality Board shall be to review and approve compliance plans, serve as an appeal board, act on enforcement action initiated by the Air Quality Division, and make recommendations to the Board of County Commissioners and Rapid City Council on policies related to the air quality of Pennington County and Rapid City. The purpose and goal of the decisions made and actions taken by the Air Quality Board shall be to protect and serve the public interest.

2. Air Quality Control Zone: That area as defined in Section 1.02(1).
3. Air Quality Division: There is hereby created Rapid City Air Quality Division located in the Rapid City Planning and Zoning Office. The Air Quality Division shall be responsible for the administration and enforcement of both the Rapid City Ordinance and the Pennington County Ordinance 12.
4. Ambient Air: That portion of the atmosphere outside of buildings to which the general public has access.
5. Burning Season: That period of time from November 1<sup>st</sup> through March 31<sup>st</sup> in the following year.
6. Civil Action: In addition to the penalties set forth in this ordinance for a smoke abatement violation, the Air Quality Board may bring civil action for appropriate relief including a temporary or permanent injunction to enforce compliance with the provisions of this ordinance.
7. Commission: The Pennington County Board of Commissioners.
8. Construction Activity: Any temporary activity which involves the removal or alteration of the natural or pre-existing cover of one acre or more of land. Construction activity shall include but not be limited to stripping of topsoil, drilling, blasting, excavation, dredging, ditching, grading, street maintenance and repair, or earth moving. Construction activity is generally completed within one year.
9. Continuous Operating Activity: Any activity which may cause particulate fugitive emissions to be released into the ambient air and which is conducted on an on-going basis in the same locality. Continuous operation is associated with winter sanding of paved parking lots and maintenance of unpaved parking lots of more than one acre in size and with street sanding and cleaning of streets, highways and roads.

10. Council: Rapid City Council.
11. Ecosystem Management: Those activities employed to maintain or enhance the floral or fauna habitat, or to reduce accumulated natural fuels in an area, and supervised by a local, state or federal land/wildlife management agency.
12. Entry on Property: Any duly authorized officer, employee or representative of any county or city agency responsible for enforcing this ordinance, after obtaining an escort and complying with safety regulations, may enter and inspect that part of any property, premises or place in which such officer, employer, or representative has reasonable grounds to believe is a source of air pollution or in which such officer, employee or representative has reasonable grounds to believe that the provisions of this ordinance are not being followed. The entry and inspection may be conducted at any reasonable time, without prior notice, for the purpose of investigating said pollution or of ascertaining the state of compliance with the ordinance. No person shall refuse entry or access to any authorized person who requests entry for the purpose of such an investigation, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such investigation.
13. Fire Hazard: Any thing or act, including buildings or flammable materials, which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the general public.
14. Fire Department Personnel Training: Activities designed for the purpose of training fire department personnel and conducted by a fire department.
15. Fuel: Solid matter burned in a solid fuel burning device or under the conditions of open burning that is limited to the following: untreated dry wood and lumber, coal and products manufactured for the sole purpose as a fuel. Untreated wood or lumber shall mean wood in its natural state that has not been chemically soaked or treated.
16. Fugitive Emissions: Those particulate emissions which do not pass through a stack, chimney, vent, or other functionally equivalent opening. In the event that any of the particulate emissions included by this definition are regulated by the state of South Dakota, the governmental entity which has the more strict and more extensive requirements for control of such emissions shall be enforced over the least restrictive requirements. Particulate emissions from rock crushers for which a permit to operate has been issued are excluded from this definition.
17. Inappropriate Fuel for Open Burning: Includes, but is not limited to: leaf piles, grass clippings, green plants, refuse, paper, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, animal waste, liquid gelatinous hydrocarbons, tar, paints and solvents, chemically soaked or treated wood, plastic or rubber, the materials specified in Section 2.02(4), or other materials not listed in Section 1.03(15).

18. Inappropriate Fuel for Solid Fuel Burning Devices: Includes, but is not limited to: leaves, grass clippings, pine needles, green plants, refuse, paper, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, animal waste, liquid or gelatinous hydrocarbons, tar, paints and solvents, chemically soaked or treated wood, plastic or rubber, the materials specified in Section 2.02(4), or other materials not listed in Section 1.03(15).
19. National Ambient Air Quality Standards (for particulates): The national primary and secondary ambient air standards for particulate matter as described in the July 18, 1997 publication of the Code of Federal Regulations, Part 50, Volume 62, No. 138 are:
  - a. PM<sub>2.5</sub>: 15.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), annual arithmetic mean concentration and 65  $\mu\text{g}/\text{m}^3$ , 24-hour average concentration. The daily standard is based upon an annual 99<sup>th</sup> percentile with a three year average of the 99<sup>th</sup> percentiles.
  - b. PM<sub>10</sub>: 50.0  $\mu\text{g}/\text{m}^3$ , annual arithmetic mean concentration and 150.0  $\mu\text{g}/\text{m}^3$ , 24-hour average concentration. The daily standard is based upon an annual 98<sup>th</sup> percentile with a three year average of the 98<sup>th</sup> percentiles.
20. Noxious Weed: Undesirable vegetation that is characterized by profuse seed production and/or an ability to spread through rapid growth, making it difficult to control or eradicate through normal management operations.
21. Opacity: The degree to which fugitive emissions reduce the transmission of a light source.
22. Open Burning: The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passage through a stack, duct, or chimney.
23. Open Burning Form: A form produced by the Air Quality Division and completed in cooperation with any person seeking approval to conduct open burning. The form provides relevant information regarding a planned open burning activity.
24. Parking Lot: Any parking lot to which street sanding material is applied and any unpaved parking lot to which the public has access that may generate fugitive emissions.
25. PM<sub>2.5</sub>: Particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half micrometers.
26. PM<sub>10</sub>: Particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

27. Person: Any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the State, trust, estate or any other legal entity.
28. Political Subdivision: Any public or private entity that maintains street operations within then area designated in Section 1.02(1).
29. Reasonably Available Control Technology (RACT): The emission control technology determined on a case by case basis by the Air Quality Board to be feasible in meeting the requirements of this ordinance, taking into account energy, environmental, economic impacts and other costs.
30. Reentrainment: A process in which particulate matter that has been deposited in one place, is then liberated into the ambient air by vehicular travel, wind, or other causes.
31. Smoke: Small airborne particles resulting from incomplete combustion consisting predominantly, but not exclusively, of carbon, ash, and other combustible materials, that form a visible plume.
32. Solid Fuel Burning Device: Any fireplace, fireplace insert, wood stove, wood burning heater, wood fired boiler, coal fired furnace, coal stove, or similar device burning any solid fuel used for aesthetic, cooking or space heating inside a building.
33. Wildfire: An uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.
34. Wildfire Control Management: Activities, including open burning, that are conducted to reduce the potential for serious or wild fires.

## **2.0 SMOKE ABATEMENT**

### **2.01 Restrictions on Solid Fuel Burning Devices**

1. Inappropriate Fuels Burned in Solid Fuel Burning Device Prohibited:  
No person shall, at any time, burn inappropriate fuel as defined in this ordinance in any solid fuel burning device. No person shall use a fuel in a solid fuel burning device, except those that are recommended by the manufacturer, subject to any installation or operational restrictions imposed by the manufacturer.
2. Sale of New Solid Fuel Heating Devices: After July 1, 1991, no person shall sell or offer for sale, any new solid fuel heating device as defined by the United States Environmental Protection Agency in 40 CFR Part 60.530 through 60.539b, unless the solid fuel heating device has been emissions certified and labeled in accordance with those requirements. After July 1, 1991, no person shall sell or offer to sell any new solid fuel heating device that can not be certified under the aforementioned federal regulation unless the solid fuel heating device has an air to fuel ratio equal to or greater than 35 to 1 as determined by an independent testing laboratory.



## 2.02 Open Burning Rules:

1. **Open Burning Restricted:** No person shall, at any time, engage in open burning activities within the Air Quality Control Zone, except as allowed under the following conditions:
  - a. Open burning of agricultural irrigation ditches;
  - b. Open burning for noxious weed control;
  - c. Open burning for wildfire control management;
  - d. Open burning for ecosystem management;
  - e. Open burning for fire department personnel training;
  - f. Open burning of a fire hazard.

Any inappropriate fuels, as defined in Section 1.03(46-18) present prior to open burning will be removed to the fullest extent possible prior to ignition.

2. **Conditions for Open Burning Approval:** Prior to ignition, a person requesting to open burn for the exceptions allowed under Section 2.02(1) must gain permission from one of the following fire control entities listed below, based upon the location of the proposed burning activity.
  - a. **Zones of Jurisdiction for Gaining Permission to Open Burn:**
    1. **The Black Hills Forest Fire Protection District:** This includes all areas outside of the Rapid City city limits that are west of Interstate 90 to the north, and west of South Highway 79 to the south. Permission will be granted by the State Forester of the South Dakota Department of Agriculture, Resource Conservation and Forestry Division, or his designee.
    2. **Rapid City:** This includes all areas within the Rapid City city limits. Permission will be granted by the Rapid City Department of Fire and Emergency Services.
    3. **All other portions of the Control Zone:** This includes those areas served by the North Haines Volunteer Fire Department (VFD), the Box Elder VFD, the Rapid Valley VFD, except that portion west of South Highway 79, and those residents of the Black Hawk VFD who reside in that portion east of Interstate 90. Permission for these areas will be granted by the Air Quality Office in Rapid City.
  - b. The following information, as outlined on the open burning form, will be provided to the appropriate fire control entity as described in Section 2.02(2)A:
    1. The type of burning as described in Section 2.02(1);
    2. Size of burn;
    3. Location of the site;
    4. Anticipated time and date of burn;
    5. Name and phone number of contact person;
    6. Name of responsible party assuming liability for the burn;

7. A contingency plan to be implemented in the event that control of the burn is lost.

A copy of the open burning form is available at the Air Quality Division and at all fire departments whose territories are outside of the Black Hills Forest Fire Protection District and inside of the Air Quality Control Zone.

3. Basis for Approval: Approval may be granted following receipt of the open burning form, and will be contingent upon the following:
  - a. Current and forecast meteorological conditions;
  - b. Current ambient air quality data;
  - c. The volume of burning pending at the time of the request;
  - d. The information provided on the open burning form;
  - e. A site inspection, conducted at the discretion of the Air Quality Division.

Approval may be revoked or suspended by the Air Quality Division prior to the actual burn in order to protect public health and welfare. This determination would be based upon changing meteorological and/or ambient air conditions.

4. State Air Quality Regulations (ARSD 74:36:06) prohibit the following open burning practices:
  - a. A person may not burn waste oils, rubber, waste tires, tarpaper, or asphalt shingles. For the purposes of this regulation, waste oil means any oil that has been refined from crude oil, used and contaminated by physical or chemical impurities as a result of such use;
  - b. A municipality or county governmental agency may not burn municipal solid waste unless exempted by the small town exemption in accordance with ARSD 74:27:12:25;
  - c. A person may not conduct or permit the operation of a salvage operation by open burning, except as allowed in article 74:27;
  - d. A person may not burn railroad ties or wood treated with inorganic arsenicals, pentachlorophenol, or creosols.

### **3.00 CONSTRUCTION PERMITS AND COMPLIANCE PLANS:**

**3.01 Construction Permit Required:** No person shall engage in any construction activity which may cause fugitive emissions to be released into the ambient air without first obtaining a construction permit from the Air Quality Division.

**3.02 Compliance Plan Required:** No person shall engage in any continuous operation which may cause fugitive emissions to be released into the ambient air without first having a compliance plan approved by the Air Quality Board. After approval of the compliance plan, a three (3) year operating permit shall be issued by the Air Quality Division. This operating permit allows the applicant to commence the operation thereunder.

A construction permit shall not be required for construction activity at a continuous operation activity facility if such construction activity is a part of the site's compliance plan.

### 3.03 Street Reentrainment Requirements:

1. No person shall place any street sanding materials upon any road, highway, driveway, or parking lot to which the public has general access located in the area defined in Section 1.02(1) which does not meet the following requirements:
  - a. A durability or hardness as defined in MOH of greater than 6 for 70% of the material used;
  - b. No more than 3% of the total particle material content by weight may be smaller than 200 sieve.

For street sanding material, these criteria apply only to the material prior to the addition of salt or chemicals. Material of a lesser hardness may be used on steep roads if it is the only effective option available.

Any political subdivisions responsible for maintaining any public road inside the area in which road sanding materials are regulated shall clean the center line and areas immediately adjacent to the travel lane. Cleaning shall commence under one or more of the following conditions:

- a. When it has been determined by the Air Quality Division that the streets are sufficiently dry to commence street sweeping;
- b. When it has been determined by the Air Quality Director that there is a fugitive emissions problem due to street sanding material.

Street cleaning will not be required on public roads with restricted travel, or when unusual weather or other circumstances prevent it. The political subdivision shall include in its compliance plan a street cleaning plan listing priority streets and schedules.

2. Any political subdivisions maintaining any public roads inside the area in which road sanding materials are regulated shall water flush such roadways when it has been determined by the Air Quality Division that street sanding material is causing a fugitive emissions problem. This will be conducted after street cleaning.

Street water flushing is not required if it endangers public safety or if water use restrictions are in effect. The political subdivision shall include in its compliance plan a water flushing plan.

3. All vehicles that are transporting fugitive dust emitting materials within the area designated in Section 1.02(1) on public roads shall be covered with a tarp to reduce such emissions or must use a method that is equally effective in reducing such emissions.
4. Any material that is deposited, other than street sanding material, on any public roadway on which vehicular travel is not restricted, that could be reentrained as fugitive emissions shall be cleaned or removed within 24 hours of deposition. The cleaning or removal process shall be conducted so that minimal fugitive emissions are generated.

**3.04 Reasonably Available Control Technology Requirements:** Any construction permit, continuous operation or political subdivision responsible for maintaining public roads shall provide for reasonably available control technology to prevent fugitive emissions from becoming airborne. Such controls may include, but not be limited to the following practices:

1. For activity involving the removal or alteration of natural or pre-existing ground cover including, but not limited to land clearing, excavating, grading, earthmoving, dredging, or demolition:
  - a. Wetting down;
  - b. Chemical stabilization;
  - c. Applying dust palliative;
  - d. Minimization of area disturbed;
  - e. Reclamation of disturbed area as soon as possible;
  - f. Vehicular speed limitation; and/or
  - g. Cleaning of paved areas.
2. For paved and unpaved roads, alleyways and storage areas, construction, altering, yearly street or highway maintenance and repair of road surface:
  - a. Wetting down;
  - b. Chemical stabilization;
  - c. Applying dust palliative;
  - d. Vehicular speed limitation;
  - e. Movement of materials by enclosed vehicles or covered conveyance system;
  - f. Cleaning of paved areas;
  - g. Mechanical capture of fugitive emissions by vacuuming;
  - h. Water flushing (when safety is not jeopardized); and/or
  - i. Wetting ahead of open sweepers on rural roads.
3. Paved and unpaved parking lots:
  - a. The paved parking lots shall be cleaned either by sweeping (mechanical or vacuum sweeper), water flushing (when safety is not jeopardized), or by any means possible to reduce sanding material reentrainment; and
  - b. The unpaved parking lots shall be maintained by any means possible to reduce dust reentrainment, such as wetting down, chemical stabilization, and vehicular speed limitation.
4. For material screening, handling, storage, processing or transportation:
  - a. Installation of baghouses and other emission control and collection systems;
  - b. Enclosed conveyance systems;
  - c. Enclosing, covering, or applying dust suppressants on storage piles where practical;
  - d. Moisturizing or chemically treating the material during processing;
  - e. Cleaning of paved areas; and/or

- f. Movement of materials by enclosed vehicle or covered conveyance system.
5. For erosion control:
- a. Planting of exposed area;
  - b. Installing wind screen or equivalent wind speed reduction device;
  - c. Chemical stabilization;
  - d. Covering with a non-erodible material; and
  - e. Runoff control barriers and dams.

**3.05 Contents of Application for Construction Permit, Compliance Plan or Amendment to a Compliance Plan:** All applications shall be submitted to the Air Quality Division. The applications shall contain:

- 1. Name and address of the person making the application. If the applicant is a corporation, the name and address of its registered agent.
- 2. Legal description and location of the land affected.
- 3. Description of the proposed construction or proposed continuous operation activity including nature and description of equipment used.
- 4. Proposed date for both commencement and termination of operation.
- 5. Proposed date for both commencement and completion of reclamation plan including a detailed description of plan.
- 6. Necessity for state approval and, if so, an indication of:
  - a. If application been made;
  - b. When action on the application is expected;
  - c. Name, division and board or the state agency from whom approval is sought.
- 7. An overall description of the nature and scope of the construction or continuous operation activity and conditions which will result in fugitive emissions.
- 8. A plan of the Reasonably Available Control Technology required in Section 3.04 to be applied which will prevent fugitive emissions that exceed 20%.
- 9. Upon request by the Air Quality Division the following information may be required:
  - a. A listing of all sources of particulate fugitive emissions, stating in tons per year the uncontrolled emissions to be produced;
  - b. The control technology applied or proposed to be applied and the fugitive emissions expected in tons per year after the control technology has been applied;
  - c. The percentage of efficiency of the control technology.

The plan shall identify the sources of all emissions calculations or estimates and provide documentation of the methods used to determine control efficiency.

10. Upon request by the Air Quality Division, a discussion of the economic and technical reasonableness of the proposed fugitive emission controls, including data which will assist the Air Quality Board in determining if the control technology specified in the compliance plan will meet the requirements set forth in this ordinance, may be required.

The Air Quality Board shall have the authority to require the applicant to provide actual or proposed production data to the Air Quality Division. This information shall be used by the Air Quality Division for the purpose of processing the application, and determining if a compliance plan or compliance plan amendment will meet the requirements of this ordinance, and for no other purposes.

**3.06 Records and Information Available to Public:** Any records or information obtained by the Air Quality Division or Air Quality Board from owners or operators of an air contaminant source or sources shall be available to the public.

**3.07 Application Procedure:** The following are requirements for construction permits:

1. The Air Quality Division shall have (10) working days from the time a determination is made that the application is complete to either approve or reject the application and issue the construction permit. If the Air Quality Division determines the application is complete and is in compliance with the ordinance, a construction permit shall be issued. In the event that the application has not been approved or rejected within the (10) working day period, it shall be deemed to be approved.
2. No change in construction shall be allowed which would result in an increase of fugitive emissions from the construction site without first amending the construction permit. The amendment procedure is the same as set out in Section 3.07(A). The required fee for the amendment is described in Section 5.0.
3. The construction permit fee is as described in Section 5.0 . The fee is payable to the Air Quality Division, and shall be collected by Air Quality Division at the time an application is filed.

**3.08 Application Procedure:** The following are requirements for compliance plans:

1. All applications for a compliance plan or amendments to a compliance plan shall be submitted to the Air Quality Division at least fifteen working days before the regular monthly Air Quality Board Meeting at which it would be considered. The fifteen working day time period shall commence on the day after the date the application was submitted and shall include the day of a Board meeting if such a date is a working day. During the fifteen day period, the Air Quality Division shall determine if the application is complete. No application shall be submitted to the Air Quality Board that does not have all the information required by this ordinance. If an application is returned to the applicant as not being complete, the rejection

notice shall be in writing and specifically state what information is missing or not contained in sufficient detail to meet the requirements of this ordinance.

2. No change in continuous operation activity shall be allowed which would result in an increase of fugitive emissions from that site without first amending the approved compliance plan permit.

Any amendments to a compliance plan will take effect upon approval by the Air Quality Board. The existing compliance plan will be amended to reflect the change and will be valid through the life of the initial permit. Fees for amendment will be charged in accordance with Section 5.0.

3. Once an application for a compliance plan or an amendment to a compliance plan has been submitted to the Air Quality Board, a 60 day review period shall commence. The Air Quality Board must act upon the proposed plan within 60 days or such plan shall be deemed as approved. If the applicant is requested to provide additional information within a specified period of time and fails to act within such time period, the 60 day review period shall be extended by a like number of days.

**3.09 Operating with a Compliance Plan:** Upon approval of the compliance plan, a three (3) year permit shall be issued allowing the applicant to commence operation thereunder. The approved compliance plan shall become binding terms of the operation. Amendments to a compliance plan approved by the Air Quality Board are enforceable provisions of the permit.

Applications for a compliance plan renewal shall be submitted to the Air Quality Division sixty (60) days prior to the expiration, and shall follow the requirements as described in Section 3.05 of this ordinance.

Compliance plans shall be updated every three years, or three years from a plan's last review by the Air Quality Board, whichever is later. The update shall contain all changes, additions, modifications, and expansions which would result in an increase of fugitive emissions from the operation over the past three (3) years.

#### **4.0 EMISSION STANDARDS, ENFORCEMENT AND APPEAL PRODEDURES**

##### **4.01 Emissions Standards for Construction or Compliance Plan Activities:**

1. Facility boundary standard: The transportation of visible fugitive emissions off the property of a construction or continuous operation facility site for more than 10% of the time for any one hour period will be considered as an indication that the provisions of the construction permit or compliance plan are not being complied with and shall cause a determination to be made of the source of the visible fugitive emissions and an opacity reading to be made at such sources. Visible fugitive emissions limitations specified in this paragraph shall be determined by a certified observer using Tennessee Visible Emission Evaluation Method (40 CFR 52.2220 Part A 73 Method 4), Visual Determination of Fugitive Dust Emission Crossing a Property Line, approved by EPA Fed. Reg. V52, No. 10, January 15, 1987, Page 1628.

2. Fugitive emissions source standard: A fugitive emissions source shall not have a density greater than that designated as twenty percent (20%) opacity. Exceedance of this standard shall be considered a violation of the provisions of the construction permit or compliance and cause a review of the construction permit or compliance plan. Fugitive emissions limitations specified in this paragraph shall be determined by a certified observer using Tennessee Visible Emission Evaluation Method 1, (40 CFR 52.2220 Part A 50, 51 Method) Visual Determination of Opacity of Emission From Nontraditional Source, approved by the US EPA in Federal Register, Vol. 47, No. 235, December 7, 1982, page 54936, as amended, Federal Register Vol. 28, No. 51, March 15, 1983, page 10834, Federal Register Vol. 50, No. 78, April 23, 1985, page 15892; or by operation of equipment approved by the Air Quality Division that is known to produce equivalent or more accurate results.

No readings shall be made when wind velocity exceeds twenty-five (25) miles per hour during, or within thirty (30) minutes of the reading as determined by a qualified person, or by use of one or more anemometers at the site. Anemometers shall be used where practical. The property line of public or private rights-of-way through the construction or continuous operation facility site shall not be used for a measurement location.

- 4.02 **Notice of Violation - Order for Corrective Action Included:** Whenever the Air Quality Division, has reason to believe that a violation of any provision of this ordinance has occurred, the Air Quality Division may cause written notice to be served upon the alleged violator or violators. The notice shall specify:

1. The provision(s) of this ordinance alleged to be violated;
2. The facts alleged to constitute a violation thereof.

The notice may include an order that necessary corrective action be taken within a reasonable time period.

The Air Quality Division shall execute or issue a written notice of violation and order to any person who violates any portion of this ordinance.

- 4.03 **Penalties and Petition to Contest Notice of Violation:** Any person violating any portion of this ordinance shall be subject to a fine not to exceed \$100.00. Each calendar day a violation occurs shall be considered a separate offense. Any person who wishes to contest a notice of violation must request a hearing before the Air Quality Board within (15) days of receiving the notice of violation or it becomes final. A petition to contest a notice of violation to the Air Quality Board shall be heard at its next regularly scheduled meeting in which a decision on the notice of violation shall be rendered. The Air Quality Board's decision may be appealed to the Pennington County Commission in accordance with Sections 4.04 to 4.29 and must be petitioned within (15) days of the date the Air Quality Board's decision is rendered.

- 4.04 **Petition to Initiate Contested Case:** Any applicant or person wishing to contest a decision of the Air Quality Board concerning a permit application or enforcement action shall file a petition for a contested case hearing before the Commission. The petition shall contain the following:



1. A statement of the petitioner's involvement in the matter;
2. A statement of the decision contested, if any, and the relief and decision requested from the Commission;
3. A statement alleging the relevant facts and issues known to the petitioner upon which he bases his contest;
4. A statement of the legal authority and jurisdiction under which the hearing would be held, if known;
5. A reference to the particular section of the ordinance involved, if known;
6. The signature of the petitioner or the petitioner's attorney(s).

The petitioner shall serve a copy of the petition upon the Air Quality Board and all known persons affected by the petitioner's request who shall be considered parties to the proceeding.

- 4.05 Notice and Hearing Required in Contested Cases:** In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.
- 4.06 Answer to Petition to Initiate Contested Case:** Within ten (10) days of receipt of a petition of contested case, the party whose decision is being contested shall serve a written answer thereto on the petitioner and other parties of record. The answer shall respond to the allegations in the petition and state the desired decision of the Commission. Failure to answer an allegation in a petition shall constitute an admission of that fact. Further pleadings by parties in response to an answer shall not be required unless the prehearing examiner orders them for purposes of clarification of the issues involved in the contested case.
- 4.07 Pleadings to be Filed with Commission:** The original of any petition, motion, or other pleading shall be filed with the Commission. The person filing the pleading shall mail copies thereof to the hearing chairman, hearing examiner if applicable, and all parties of record.
- 4.08 Appointment of Hearing Chairman:** Upon the filing of a petition for a contested case, the chairman of the Commission shall appoint himself/herself or a member of the Commission to act as hearing chairman. The hearing chairman shall be responsible for all prehearing rulings, including motions to intervene, motions for a continuance, and any other motions necessary to ensure an orderly hearing process. Any decision made by the hearing chairman is a final decision of the Commission unless reversed by a majority of the Commission at the hearing on the matter. Notice of this appointment and of the date set for a prehearing conference shall be served on all parties by the Commission.
- 4.09 Prehearing Motions:** Any party may make a prehearing motion by filing the same in writing with the Commission before the date set for the prehearing conference. Copies of the motion shall be served upon the prehearing examiner and all parties of record. The motion shall contain the factual and legal basis for the motion. The motion shall be heard and a decision thereon made by the prehearing examiner at the prehearing conference.
- 4.10 Prehearing Conference:** The hearing chairman shall hold a prehearing conference within twenty (20) days of the filing of a petition for a contested case. The prehearing examiner will decide all prehearing motions at this conference and will establish a reasonable discovery schedule. The prehearing examiner will also

set the time and place of the hearing of the petition before the Commission. Any other issue properly discussed at a pretrial conference under the Rules of Civil Procedure of the state of South Dakota may be heard at the prehearing meeting.

**4.11 Notice of Contested Case:** The Commission shall issue a notice of a contested case proceeding. The notice shall reference the petition filed with the Commission and shall be served upon all parties of record.

**4.12 Contents of Notice in Contested Case:** The notice shall include:

1. A statement of the time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the relevant sections of the ordinance;
4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished;
5. A statement of any action authorized by law, which may affect the parties, as a result of any decision made at the hearing, whether it be the revocation of a permit, enforcement action, or other effect;
6. A statement that the hearing is an adversary proceeding and that a party has the right at the hearing, to be present, to be represented by a lawyer, and that these and other due process rights will be forfeited if they are not exercised at the hearing;
7. A statement that the decision based on the hearing may be appealed to the Circuit Court and the State Supreme Court as provided by law.

**4.13 Subpoenas:** The hearing chairman shall issue any subpoena necessary for the conduct of the hearing. Any party wishing to obtain a subpoena shall submit a written request and a proposed subpoena to the hearing chairman prior to the rehearing conference.

**4.14 Conduct of Hearing:** The hearing chairman shall act as the chairman of the Commission for the contested case hearing and shall make all necessary evidentiary rulings during the proceeding.

**4.15 Rights of Parties at Hearings on Contested Cases:** Opportunity shall be afforded all parties to respond and present evidence on issues of fact and argument on issues of law or policy. A party to a contested case proceeding may appear in person or by Council, or both, may be present during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may examine and cross-examine witnesses, may present evidence in support of the parties interest, and may have subpoenas issued to compel attendance of witnesses and production of evidence in the party's behalf.

**4.16 Transcript in Contested Cases:** A verbatim recording of all proceedings and testimony shall be kept by the Commission. Unless otherwise provided by law the Commission shall not be required to transcribe the record unless the requesting party tenders and pays the reasonable cost thereof. If transcribed, a copy of the record shall be furnished to any other party to the hearing at the request and expense of such other party.

- 4.17 Transcripts by Court Reporter:** Any party wishing to obtain a transcript of a contested case hearing must make arrangements with a court reporter prior to the hearing. The Commission may, on their own motion, have a transcript of a contested case proceeding prepared; however, parties must obtain copies of the transcript from the court reporter at their own cost.
- 4.18 Means and Proof of Service:** The service of all pleadings, notices, or orders may be made by certified mail or personal service. An affidavit of mailing or service copies of the receipts for delivery of certified mail, an admission of service, or other competent evidence shall be proof of service.
- 4.19 Degree of Proof Required:** Whenever, under the provisions of this ordinance a person is required to find, demonstrate, show, or otherwise establish a fact, that fact must be established by a preponderance of the evidence.
- 4.20 Rules of Evidence in Contested Cases:** Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied under statutory provisions and in the trial of civil cases in the Circuit Court of the State of South Dakota, or as may be provided in statutes relating to a specific agency, shall be followed.
- 4.21 Appointment of Hearing Examiner:** The Chairman of the Commission may appoint a hearing examiner to conduct the hearing of the contested case. After hearing the proceeding, the hearing examiner shall make proposed findings of fact, conclusions of law, and an order to the Commission. A copy shall be served upon all parties of record. The Commission shall allow all parties to object in writing to the hearing examiner's decision and to present oral argument prior to the Commission rendering a final decision on the contested case proceeding.
- 4.22 Decision of Commission:** A final decision in a contested case shall be that obtained by a majority vote from a quorum of the Commission. Any final decision and resulting orders shall be signed by the hearing chairman of the Commission.
- 4.23 Findings of Fact, Conclusions of Law, and Order:** All parties to a contested case proceeding may present proposed findings of fact, conclusions of law, and an order to the Commission at the close of the hearing. The Commission shall adopt or reject findings, conclusions and an order in support of its decision which shall constitute the final decision of the Commission. The Commission shall serve written notice of the findings, conclusions, and order upon all parties to the proceeding. A party may file written objections to the Commission's final decision within ten days of receipt of the notice, although the appeal time shall run from the date of receipt of the notice.
- 4.24 Contents of Record in Contested Cases:** The record in a contested case shall include:
1. All pleadings, motions, intermediate rulings;
  2. Evidence received and considered;
  3. A statement of matters officially noticed which have been refuted;
  4. Questions and offers of proof, objections, and rulings thereon;
  5. Proposed findings and exceptions;

6. Any decision, opinion, or report by the officer presiding at the hearing.

- 4.25 Hearing Requested on Order For Correction Action-Time Allowed:** Any order issued pursuant to Section 4.02 shall be final unless, no later than twenty days after the date the notice and order are served, the person or persons named therein request in writing a hearing before the Air Quality Board. Upon such request, the Air Quality Board shall proceed in the same manner as set forth for a contested case hearing before the Commission.
- 4.26 Contested Case Proceeding in Lieu of Order - Consent Agreement:** In lieu of an order, the Air Quality Board chairman may schedule a contested case under this ordinance before the Air Quality Board. Nothing in this ordinance shall prevent the Air Quality Division from notifying an alleged violator of violations and negotiating a consent agreement instead of initiating proceedings under Section 4.02. Any consent agreement shall be approved by the Air Quality Board.
- 4.27 Air Quality Board Orders After Hearing:** If, after proceedings held pursuant to 4.02 or 4.03, the Air Quality Board finds that a violation has occurred, it shall affirm or modify any order previously issued under Section 4.02 by the Air Quality Board chairman, or issue an appropriate order for the prevention, abatement or control of the emissions or air pollution involved. If, after proceedings on an order contained in a notice, the Air Quality Board finds that no violation is occurring, it shall rescind the order.
- 4.28 Time Allowed for Corrective Action in Air Quality Board Order:** For any order issued as part of a notice or after proceedings under this ordinance, the Air Quality Board shall prescribe the date by which the violation shall cease and may prescribe timetables for necessary action in preventing, abating or controlling the implicated emissions or air pollution.
- 4.29 Appeals:** Decisions of the Commission may be appealed to the Circuit Court as provided by law. Decisions of the Air Quality Board may be appealed to the Commission, the review of which shall be limited to the record as established before the Air Quality Board.
- 4.30 Remedy Not Exclusive:** Nothing in this ordinance shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceedings for such relief.
- 4.31 Voluntary Compliance:** Nothing in this ordinance shall prevent the Air Quality Division from making efforts to obtain voluntary compliance through warning, conferences, or any other appropriate means.
- 4.32 Consent Agreement:** Nothing in this ordinance shall prevent the Air Quality Division from notifying an alleged violator of violations and negotiating a consent agreement. Any consent agreement shall be approved by the Air Quality Board.

## **5.0 FEES:**

- 5.01** Application fees for permitting services are payable to the city of Rapid City and shall be collected by the Air Quality Division at the time an application is filed.

The city of Rapid City and county of Pennington County are exempt from paying fees. Fees administered by this office will be as follows:

1. Construction permit - for sites less than or equal to 5 acres: \$75.00; for sites over 5 acres: \$100.00;
2. Construction permit amendment - \$25.00;
3. Compliance plan for paved parking lots larger than or equal to one acre: \$15.00 per acre, not to exceed \$75.00;
4. Compliance plan for unpaved parking lots larger than or equal to one acre: \$25.00 per acre, not to exceed \$150.00;
5. Open burning form – no charge.

Failure to submit the application and/or pay the permitting fee will result in a daily fine not to exceed \$100.00. Each day in which the application and/or payment is not received, is considered a separate offense, and separate fines will be assessed. An air quality notice\_of violation will be attached to the deed of the property at the Register of Deeds office in the Pennington County Courthouse until the fines and permitting fees have been paid.

## **6.0 SEVERABILITY OF PROVISIONS AND APPLICATIONS**

**6.01 Severability of Provisions and Applications:** If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this ordinance is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.