

Chapter 12

SOLID WASTE*

* **Editors Note:** An ordinance adopted Dec. 17, 1990, rescinded, in effect repealed, the provisions formerly codified as §§ 12-1--12-4, 12-26--12-34, 12-51--12-56 and 12-76--12-83 and enacted similar new provisions as §§ 12-1--12-4, 12-26--12-36, 12-51--12-55 and 12-76--12-83. Formerly, such provisions derived from Ord. No. 1984-5, §§ 11:401--11:406, adopted Dec. 3, 1984, and an ordinance adopted Jan. 4, 1988.

Cross References: Administration, Ch. 2; public works department, § 2-347 et seq.; animals, Ch. 3; buildings and building regulations, Ch. 4; health, Ch. 7; nuisances, § 7-16 et seq.; housing, Ch. 8; mobile homes and manufactured housing and mobile home parks, Ch. 10; streets, sidewalks and other public places, Ch. 13; utilities, Ch. 16; zoning and land use, Ch. 17.

State Law References: Civil liability for hazardous waste violation, RSA 147:58; hazardous waste management, RSA 147-A; hazardous waste clean-up fund, RSA 147-B; hazardous waste facility review, RSA 147-C; hazardous waste fee, RSA 147-D; NH-VT interstate sewage compact, RSA 147-J; solid waste management, RSA 149-M; acquisition, development and disposal of industrial land and facility, RSA 162-G.

Case Law References: *Stablex v. Town of Hooksett*, 122 N.H. 1091, 490 A2d 94 (1982); the state hazardous waste program governed by RSA Chapter 147-A and RSA Chapters 147-B, 147-C and 147-D represents a comprehensive plan intended to be implemented on a statewide basis and as such, it completely preempts the field of hazardous waste legislation in the state; *Applied Chemical Technology Inc. v. Town of Merrimack*, 126 N.H. 45, 490 A2d 1348 (1985); *Opinion of the Justices*, 114 N.H. 170, 316 A2d 190 (1979); *Bagley v. Controlled Environmental Corp.*, 127 N.H. 556, 503 A2d 823 (1986).

Art. I. In General, §§ 12-1--12-25

Art. II. Collection and Disposal, §§ 12-26--12-50

Art. III. Municipal Solid Waste Disposal Facilities, §§ 12-51--12-75

Art. IV. Privately Operated Solid Waste Disposal Facility, §§ 12-76--12-83

ARTICLE I.

IN GENERAL

Sec. 12-1. Definitions.

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

Bulky waste facility shall mean a solid waste facility approved to accept rubbish or special wastes.

Commingled recyclable materials shall include materials which are sorted into containers separate from non-recyclable solid waste.

Combustible waste shall mean all waste substances that have been approved for incineration including tree limbs and brush and clean combustible building demolition material.

Commercial and industrial establishments shall include all public or private establishments including,

but not limited to, those manufacturing, retailing and/or service establishments; food establishments in business for the purpose of consumption, on or off premises, as well as food distribution and/or processing; and professional and/or corporate entities and finally residential structures of three (3) or more units. For the purpose of this Chapter, commercial and industrial establishments shall constitute a “person”. (Ord. 9-17-12)

Demolition debris shall mean wood, brick, plaster or other waste matter resulting from demolition, alteration or construction of buildings or structures.

Dwelling unit shall include any one-family, two-family or multifamily home; apartments and high rises; condominiums and/or cooperatives.

Garbage shall mean all animal and vegetable waste and all putrescible waste.

Glass containers shall be deemed to include all bottles and jars made entirely of glass and used in the storage of food and beverages. Specifically excluded are blue glass, mirrors, flat glass commonly known as window glass, and light bulbs.

Hazardous wastes shall mean any product considered hazardous by the US Environmental Protection Agency. These materials are generally considered hazardous because they exhibit one (1) or more of the following characteristics: ignitability, reactivity, corrosivity or toxicity. Examples include solvents (kerosene, turpentine, nail polish remover); certain household products (furniture polish, oven cleaners, drain cleaner); certain home maintenance products (oil-based paints, pool chemicals, varnishes), and pesticides.

Incident shall mean any situation created by or through the operation of a solid waste facility which results in any threat or harm to persons and/or the environment that requires immediate remedy including, but not limited to, fire suppression, chemical containment or cease and desist of operations.

Infectious waste means any waste which, because of its infectious nature, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Liquid tight shall mean the thing so described is resistant to permeation by water and will hold water and any liquid introduced to the interior thereof by the user.

Newspaper shall be deemed to include newspaper including glossy inserts, Sunday magazines, and comics. Specifically excluded are magazines, paperboard boxes (cereal, raisin, pasta boxes, etc.), junk mail, office paper, egg cartons, and waxed paper.

Person shall mean a natural or corporate person or any governmental agency, except in context of health of persons in which case it shall mean natural persons only.

Plastics shall be deemed to include high-density polyethylene (HDPE) and polyethylene terephthalate (PET) plastics. HDPE includes milk, juice and water jugs, all liquid laundry detergent, dishwasher, fabric softener and bleach bottles, motor oil, transmission fluid, and anti-freeze containers, windshield washing solvent containers, and shampoo bottles. PET includes clean and clear soda bottles.

Proper manner or properly shall mean that a thing is done reasonably so as to meet the requirements, purposes and spirit of this chapter.

Public or private institutions shall include all municipal and state government facilities; all religious, educational and health care facilities; and any and all public and/or private civic organizations.

Radioactive wastes shall mean wastes resulting from the mining of radioactive ore, production of reactor fuel materials, reactor operation, processing of irradiated reactor fuels and related operations, and from use of radioactive materials in research, industry and medicine.

Recyclable materials shall include all waste materials designated by the municipality to be source separated from the solid waste stream for the purpose of recycling, and includes newspaper, glass, plastic, yard waste, scrap metal and tires.

Recycling shall mean the process by which designated materials, which would otherwise become solid waste, are separated, collected, processed and returned to the economic mainstream in the form of raw materials or products.

Refuse shall include garbage, household and office type wastes, and certain other wastes approved for disposal in the city's sanitary landfill(s).

Residing shall mean maintaining a household, dwelling, business, office or other place which generates solid waste.

Rubbish shall include furniture, mattresses and similar bulky wastes, and certain commercial and industrial wastes approved for disposal in the city's bulky waste facilities.

Sanitary landfill shall mean the type of operation in which refuse is deposited by plan in a pit or excavation of open land, is compacted and then covered by a layer of earth or suitable covering material.

Scrap metal shall be deemed to include all discarded products made of steel, aluminum or other metal materials used for any purposes. Specifically excluded are food and/or beverage packaging, automobiles, and tanks used for oil, gasoline, hazardous or radioactive material storage.

Solid waste, for purposes of section 12-26 et seq., shall not include septage.

Tires shall be deemed to include all discarded rubber automobile, truck, tractor, motorcycle and off-road vehicle tires.

Tree limbs and brush shall mean all clean brush and limbs not exceeding five (5) inches in diameter. Stumps are specifically excluded.

Waste reduction shall mean any acceptable process or practice which minimizes the quantity of solid waste disposed of by landfilling.

Yard waste shall include leaves and lawn clippings and green or dry garden waste.
(Ord. of 12-17-90)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 12-2. Authority.

This chapter is adopted pursuant to the authority granted the city in RSA 47:17 regarding bylaws and ordinances and RSA 149-M regarding solid waste management.
(Ord. of 12-17-90)

Sec. 12-3. Purposes.

The purposes of this chapter are to protect the health and welfare of the city and its people; to prevent, abate and remove nuisances; to regulate the storage, collection, transportation, processing and disposal of garbage; to regulate the use of streets and public ways so as to prevent inconvenience or hindrance to public travel; to prevent expense to the city; and to add to, and for compliance with, state and federal regulation.

There is hereby established a mandatory program for the source separation of certain designated materials from the solid waste stream including newspaper, glass, plastic, yard waste, tree limbs and brush, demolition debris, scrap metal and tires from the solid waste generated within the city for the purposes of recycling and waste reduction.

(Ord. of 12-17-90)

Sec. 12-4. Facilities, collection activities generally.

No person shall establish or operate a solid waste facility except in accordance with the zoning ordinance and as permitted herein; nor shall any person dispose of, deliver for disposal, or accumulate deliveries of solid waste except at a solid waste disposal facility permitted herein. No person shall prepare solid waste for collection except as permitted in this chapter.

Secs. 12-5--12-25. Reserved.

ARTICLE II.

COLLECTION AND DISPOSAL*

* **State Law References:** Sanitation, RSA 147:1 et seq.

Sec. 12-26. Disposal of refuse.

(a) It shall be the duty of all persons residing in dwelling units within the City as well as all commercial and industrial establishments within the City to place all household refuse in suitable receptacles as may be approved by the director of public works and/or health officer and to place the same near the sidewalk or street on those mornings and at such times as designated by the director of public works as collection days. Snow must be cleared so receptacles are readily accessible to employees of the public works department. Refuse shall not be placed at the curb until the morning of the designated pick up day.

(b) Municipal collection of commercial, industrial or institutional refuse shall be limited to not more than one (1) pickup per week and not more than two (2) cubic yards or two hundred forty (240) pounds of acceptable refuse per residential unit or commercial, industrial or institutional establishment. It shall be the duty of all persons residing in dwelling units within the City as well as commercial and industrial establishments within the City to place such refuse in suitable receptacles of not more than 30 pounds each. (Ord. 9-17-12)

Sec. 12-27. Disposal of designated recyclable materials.

It shall be the duty of all persons residing within in dwelling units within the City as well as all commercial and industrial establishments within the City to separate designated recyclable materials from the solid waste and dispose of these materials separately in the manner indicated below: The separate curbside boxes containing separated recyclables as indicated below shall be placed at the curb for collection on the day(s) specified by the Director of Public Works. Recyclable items shall not be placed at the curb until the morning of the designated pick up day.

(1) Separately, newspaper and magazines shall be secured in covered containers or in plastic bags to facilitate handling and ensure that it will not be windblown or distributed on the public streets and protected from precipitation. The containers or bags shall not exceed a weight of thirty (30) pounds each.

(2) Separately, glass containers, plastic containers (with caps removed) (accepted by the AVRRDD) and aluminum and tin cans shall be rinsed clean of all residue and may be mixed together and placed in an appropriate plastic container (approved curbside box) (Ord. 9-17-12)

Sec. 12-28. Disposal of special and hazardous wastes.

Solid wastes not itemized above shall not be collected by public works department crews unless special collections of such wastes are established by the city council. Residents should contact the AVRRDD to see if they can dispose of other wastes there. Special and hazardous wastes shall be separated and disposed of in the following manners:

(1) Tires may be accepted or not as authorized by the AVRRDD facility on Route 110. City permits enabling City residents to, at no cost, dispose of up to the same number of tires (no more than 4 tires/vehicle) for which they have registered vehicles at the AVRRDD facility may be obtained at City Hall.

(2) Asbestos shall be properly bagged or otherwise prepared in accordance with the provisions of state and federal regulations, as applicable, and as directed by the health officer and may be accepted or not as authorized by the AVRRDD facility on Route 110..

(3) Waste oil shall be disposed of by:

- a. Incineration in approved waste oil furnaces;
- b. Through approved waste oil recovery firms; or may be accepted or not as authorized by the AVRRDD facility on Route 110
- c. By other method approved by the health officer.

(4) Wet-cell batteries shall be disposed of at authorized battery recovery facilities or by any other method approved by the health officer or may be accepted or not as authorized by the AVRRDD facility on Route 110

(5) Hazardous wastes shall be disposed of through approved hazardous waste recovery firms or may be accepted or not as authorized by the AVRRDD facility on Route 110

(6) Infectious wastes shall be disposed of in accordance with regulations promulgated by the state department of environmental services and may be accepted or not as authorized by the AVRRDD or as otherwise directed by the health officer.

(Ord. 9-17-12)

Sec. 12-29. Specifications for receptacles.

Receptacles for refuse and separated recyclables shall be made of metal or plastic,(including disposable plastic bags for refuse), be liquid tight and provided with a reasonably tight-fitting cover or closure. When filled, they will have a weight of not more than thirty (30) pounds.. Receptacles shall meet all other reasonable specifications which may be required by the director of public works and the health officer.

Receptacles for designated recyclable materials shall be those furnished by the city or those approved by the city for the placement of such recyclable materials. (Ord. 9-17-12)

Sec. 12-30. Manner of filling receptacles.

Refuse receptacles other than disposable plastic bags shall be filled so that public works department crews can easily empty them by turning them so that the open top is below the bottom. Crews are not required to pull contents from receptacles. If a receptacle will not empty, it will be left at the curb. (Ord. 9-17-12)

Sec. 12-31. Maintenance of receptacles.

Receptacles shall be kept in good condition at all times and shall be cleaned as necessary or as required by the health officer. All receptacles not so cleaned after the owner has been notified in writing twice may be declared a danger to public health or otherwise unfit for use and, if so declared, shall be confiscated and destroyed or otherwise disposed of.

(Ord. of 12-17-90)

Sec. 12-32. Disposition of uncollectible wastes.

Refuse and designated recyclable materials not prepared as described in this article will not be collected by the crews of the public works department. If uncollectible materials are not removed from the sidewalk or street within twelve (12) hours after the collection crew has passed, it may be collected by a special crew, and the cost thereof shall be borne by the property owner. Collection of such costs shall be as permitted by the laws of the state. Otherwise, it shall be the responsibility of such property owner to properly remove and dispose of it in a proper manner. If the offender continues to violate the provisions of this article, municipal collection of refuse and designated recyclable materials from the offender may cease until such time as the offender complies with this section. (Ord. 9-17-12)

Sec. 12-33. Collection of designated recyclable materials by unauthorized persons prohibited.

Recyclable material as defined herein shall be the property of the city once placed at the designated collection or pickup sites authorized by the municipality or its designated agent.

It shall be a violation of this chapter for any person unauthorized by the municipality or its designated agent to pick up or cause to be picked up such recyclable materials as defined herein. Each such collection in violation hereof shall constitute, a separate and distinct offense, punishable as hereinafter provided. (Ord. 9-17-12)

Sec. 12-34. Alternative disposal.

Nothing in this article shall be construed to prevent persons from selling, donating or otherwise disposing of solid waste, to private persons, provided receptacles are satisfactory to the health officer, are maintained and kept in a satisfactory condition at all times and such materials are disposed of in an appropriate manner at an approved location. (Ord. 9-17-12)

Sec. 12-35. Days for collection.

Solid waste shall not be collected by the public works crews on the following days:

- (1) Any legal holiday; and
- (2) Any Monday which immediately follows a Sunday which is a legal holiday.

In such cases, there shall be collections on days to be announced.
(Ord. of 12-17-90)

Sec. 12-36. Penalties.

a) Any person failing to comply with this article after due warning as defined herein shall be served a summons, shall be guilty of a violation and shall lose the privilege of municipal refuse collection until all levied fines for the infraction are paid or waived by the court, and, on conviction thereof, shall be fined in an amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which such violation shall continue shall be deemed a separate offense. The term "due warning" as used herein shall mean at least two separate written notices from the City within any six (6) month period either left attached to a property owner's curbside receptacle and/or mailed to the property owner which states the nature of the violation which needs to be corrected. In addition to and/or in lieu of the penalties stated herein for violations which continue after "due warning", the Public Works Director at his/her discretion may discontinue refuse pickup and/or recycling services at the offending property until such violations are corrected.

(b) Any person violating any of the provisions of this article shall become liable to the city for any loss, expense or damage occasioned the city by the reason of such violation or necessary actions needed to correct the violation. (Ord. 9-17-12)

Secs. 12-37--12-50. Reserved.

ARTICLE III.

MUNICIPAL SOLID WASTE DISPOSAL FACILITIES*

* **Cross References:** Streets, sidewalks and other public places, Ch. 13.
State Law References: Power to regulate landfill, RSA 147:26a.

Sec. 12-51. Transportation of refuse.

(a) No person shall drive on any street or highway any open vehicle loaded with bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles or parts thereof, grass, brush, sawdust, wood, bark, leaves, clippings, pruning or gardening refuse, household refuse or refuse of any nature whatsoever, earth, sand, asphalt, stone, gravel or other particulate substance unless such vehicle is equipped with and such load is covered and secured by a close-fitting tarpaulin or other covering or securing method which prevents the escape of any substance from such load onto the street or highway. No person shall operate on any street or highway any vehicle with any load unless such load and any covering thereon are securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the street, highway, right-of-way and private property in accordance with RSA 163B and RSA 147:33.

(b) Any person who violates the provisions of this section shall be guilty of a violation. Any person shall be liable to the city for any damage done to the street or highway or for any costs incurred by the city to have such obstruction or deposits removed in addition to a minimum fine of one hundred dollars (\$100.00) per occurrence. Each day that the violation(s) exists shall be considered a separate offense.

(c) The provisions of subsection (a) shall not apply to a local farmer transporting his own farm products or materials incidental to his farming operations where such transporting requires incidental use of a street or highway, provided that such farmer shall not thereby be relieved of his duty to exercise reasonable care in carrying on such operations.

(d) The provisions of subsection (a) shall not apply to:

(1) The operation of highway building equipment as defined in RSA 259:42 and motor vehicles used in the construction of highways provided that such equipment or motor vehicles are used within a highway construction zone as prescribed by the commissioner, public works and highways, provided that the driver of any such vehicle shall not thereby be relieved of his duty to exercise reasonable care.

(2) The operation of municipal and state highway maintenance equipment.
(Ord. of 12-17-90; Ord. of 3-16-92)

Sec. 12-52. Hours of operation.

The director of public works shall seasonally adjust the hours of operation of the sanitary landfill and the bulky waste facility as may be deemed necessary. All scheduled changes in the hours of operation shall be publicly advertised.

(Ord. of 12-17-90)

Sec. 12-53. Acceptance and separation of materials.

(a) It will be required by the director of public works, in conformity with state regulations, that all persons utilizing the city's landfills shall separate and deposit garbage at the East Milan Sanitary Landfill and all rubbish at the Cates Hill Bulky Waste Facility.

(b) All wastes shall be separated in accordance with the provisions of Article II of this chapter.

(c) Disposal of wastes at city solid waste facilities or landfills shall be subject to acceptance by the director of public works and the health officer.

(Ord. of 12-17-90)

Sec. 12-54. Authority of director.

The public works director or his designated representative is authorized to direct all persons making use of the city's sanitary landfill or bulky waste facility to dispose of waste materials in conformance with this article and to operate the landfills in compliance with federal and state statute and approved operational procedures.

(Ord. of 12-17-90)

Sec. 12-55. Penalties.

(a) Any person refusing to comply with this article shall be served a summons, shall be guilty of a violation and shall lose the privilege of use of the landfills and, on conviction thereof, shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) for each violation. Each day in which such violation shall continue shall be deemed a separate offense.

(b) Any person violating any of the provisions of this article shall become liable to the city for any loss, expense or damage occasioned the city by the reason of such violation.

(Ord. of 12-17-90)

Secs. 12-56--12-75. Reserved.

ARTICLE IV.

PRIVATELY OPERATED SOLID WASTE DISPOSAL FACILITY*

* **Cross References:** License and regulation of occupations and businesses, Ch. 9.

Sec. 12-76. Conditions for issuance of permit.

No permit to establish a solid waste disposal facility shall be issued until the applicant submits in writing the following information and documentation to the city manager, on separate sheets of paper, in duplicate, nor

until the council is satisfied the issuance of the permit will not be contrary to the purposes of this article and all state and federal regulations:

- (1) All information required by state or federal statute or regulation to be submitted by or on behalf of the applicant to any state or federal agency.
- (2) A projection of the impact the operation of the facility will have on traffic flow, volume and safety, and the present and future need to improve or repair streets and public ways within the city, and a detailed explanation of how the projection was made.
- (3) Documented plans for managing emergencies including, but not limited to, fires, explosions and atmospheric, surface and subsurface incidents and/or contamination and a detailed explanation of the risks of such emergencies and how the plans were formulated.
- (4) Evidence of the ability and intent to provide satisfactory financial responsibility through the initial establishment of a bond in the amount of two million dollars (\$2,000,000.00) paid in full for a period of five (5) years, and continuing thereafter until the amount of the emergency landfill fund (ELF) described in subsection (c) of section 12-80 shall have reached two million dollars (\$2,000,000.00) in 1988 constant dollars, but not beyond the time prescribed for the ELF, and the establishment of an ELF described in subsection (c) of section 12-80, for the cost of closure and environmental cleanup following any incident or emergency at the facility or involving solid waste in transit to or from the facility, and for the cost of appropriate measures for the protection of public health and welfare and the environment in the event operations at the facility are abandoned, interrupted or stopped.
- (5) A detailed explanation of how the facility will be operated and closed to prevent any contamination to municipal water supplies and fresh water springs used or available for use as a secondary source of potable water.
- (6) A detailed explanation of how the facility will be operated and closed to prevent the contamination of game species used or available for use as a secondary food source.
- (7) A detailed explanation of plans for detection of substances which will be rejected by the operator and a detailed explanation of plans for the rejection and disposal of same.
- (8) A detailed explanation of how applicant plans to comply with all state and federal environmental regulations.
- (9) A detailed explanation of plans to dispose of leachate collected at the facility, including the location and identity of the recipient facility and a signed statement of the operator of the recipient facility that the recipient facility has the technical capacity and is lawfully permitted to accept leachate of the volume and character to be collected.
- (10) A detailed explanation of how the facility will be designed or operated, or both, to buffer the surrounding areas from noise, view and odors.

- (11) Appropriate documentation for, and a detailed explanation of, how the facility will be monitored for ground and water contamination including the frequency of such monitoring, which shall not be less than monthly, how the facility will be monitored for the production of gases, including an air resource monitoring system and program that meets the quality assurance requirements of the state division of air resources and the United States Environmental Protection Agency guidelines as codified in 40 CFR Part 58.
- (12) A detailed explanation of plans, if any, for separation of solid waste by category.
- (13) Statements of professional qualifications licenses, and errors and omissions liability insurance of all persons supplying information required under this section, signed and sworn by such person before a justice of the peace or notary public.

(Ord. of 12-17-90)

Sec. 12-77. Application procedure.

(a) No application under section 12-26 et seq. shall be considered unless accompanied by a nonrefundable fee in the amount of five thousand dollars (\$5,000.00).

(b) Upon receipt of an application and fee, the health officer shall review the application for compliance with the requirements of section 12-76. If the application on its face complies, he shall retain or forward copies of the following portions as follows:

- (1) The portions required under subsections (1), (4), (5), (6), (7), (8), (9), (10) and (11), along with the relevant statements required under subsection (13) of section 12-76 retained by the health officer;
- (2) The portion required under subsection (2), along with the relevant statements required under subsection (13) of section 12-76 forwarded to the public works director; and
- (3) The portions required under subsections (3) and (4), along with the relevant statements required under subsection (13) of section 12-76 forwarded to the fire chief.

(c) The persons other than the health officer designated in (b) above shall complete their reviews of each assigned portion of the application and shall cooperate with the health officer in a written compilation of all concerns they may have about the application under (d) below.

(d) The health officer shall, within one hundred twenty (120) days of receipt from the applicant of all required information, submit the application to the council, or address a written compilation of concerns, if any, to the applicant.

(e) The applicant shall have sixty (60) days to respond in writing to any concerns addressed to the applicant by the health officer. When the applicant responds, or at the end of the sixty-day period, whichever shall occur first, the health officer shall submit the application, the compilation of concerns and the applicant's response, if any, to the council.

(f) The council shall act on the application after notice and hearing within forty-five (45) days of its submission by the health officer.

(g) An approval shall constitute the city's offer to issue the permit upon payment of the annual permit fee in the amount of one thousand dollars (\$1,000.00) within ninety (90) days of the council's action.

(h) If the application fails to comply on its face, the health officer shall notify the applicant within thirty (30) days, specifying the nature of noncompliance and the information and documentation necessary for compliance.

(Ord. of 12-17-90)

Sec. 12-78. Renewal process.

(a) A permit issued under section 12-77 shall lapse upon failure to pay the annual permit fee as it shall be set from time to time, except in the case of an extension granted under (c) below, or upon failure to renew the permit annually during the first five (5) years of operation and every three (3) years thereafter.

(b) At least ninety (90) days, but not more than one hundred twenty (120) days, before the date renewal is required under (a) above, which shall be an anniversary date of the permit, the permittee may request in writing to the health officer that such permit be renewed.

(c) The health officer shall, after consultation with the other persons designated in (b) of section 12-77, following their onsite inspection, notify the permittee within ten (10) days after receipt of request in (b) of this section if deficiencies exist in compliance with the requirements of the permit. He shall specifically state all deficiencies and the actions needed to resolve these deficiencies.

(d) If the permittee fails to resolve any stated deficiencies by the required date, he may request an extension of thirty (30) days, within five (5) days of the required date, in which time they must resolve the stated deficiencies or lose the permit and cease accepting incoming solid waste as of the end of the thirty-day extension. The cessation shall continue until all stated deficiencies are resolved and a new permit issued.

(e) Upon learning that no deficiencies exist or by the time required for compliance and any extension thereof, whichever shall first occur, and if after consultation with the other persons designated in subsection 12-77(b), the health officer shall make a report to the council stating whether deficiencies existed and, if so, whether the permittee has resolved all stated deficiencies.

(f) The council may, based on the report by the health officer, make a decision on the renewal of the permit.

(g) Council authorization of renewal shall constitute an offer for renewal upon payment of the annual fee as under subsection 12-77(g).

(Ord. of 12-17-90)

Sec. 12-79. Suspension and revocation.

(a) A permit may be suspended in the event of a public health emergency by the health officer or

city manager. Such suspension shall continue for the duration of the emergency and until the health officer or city manager finds the permittee has given adequate assurances that appropriate actions will be taken to prevent a reoccurrence of the emergency. The permittee may appeal to the council any decision rendered by the health officer or city manager. Upon appeal, the applicant shall be afforded a hearing within five (5) days.

(b) A permit may be suspended by the health officer or city manager upon the suspension or revocation of any license or permit required under state or federal law, for so long as such state or federal suspension or revocation shall remain in effect.

(c) Upon notice and hearing, a permit may be suspended by the health officer or city manager for breach of any condition of the permit. Such suspension shall continue until the council, upon request of the permittee, shall order the suspension discontinued.
(Ord. of 12-17-90)

Sec. 12-80. Additional permit conditions.

(a) A permit issued under this article shall be nontransferable, unless the intended transferee furnishes the city with an irrevocable letter of credit in an amount sufficient to cover the cost of repairing any deficiency in the facility and curing any failure to comply with the permit. The transferee shall be bound by the conditions of the original permit.

(b) A permitted facility hereunder is subject to inspections by the persons designated under subsection 12-77(b), or by city employees under their direction or by city police on their request and behalf.

(c) A permitted facility hereunder shall not operate until the bond referred to in subsection 12-76(d) has been established, nor until and unless an emergency landfill fund (ELF) has been established and is being added to in accordance with this subsection. The ELF shall be an interest-bearing fund of which a financial institution suitable to the council is trustee and of which the city and the operator or owner of the facility are beneficiaries as their interest shall appear. The ELF shall be funded by monthly contributions by the owner or operator in an amount equal to five (5) percent of tipping or other fees charged for the use of the facility during the preceding month, which figure shall be calculated to include fees the owner or operator would charge itself for use of the facility but for its status as owner or operator. The ELF shall remain in existence during the operation and for thirty (30) years after closure of the facility, or for any longer post-closure period determined by state or federal statute or regulation or for any longer post-closure period as a result of an incident, circumstance or discovery for which monitoring or remedial measures become necessary or prudent beyond the post-closure period which would otherwise be applicable. The city may draw upon the bond and ELF for the purposes described in subsection 12-76(d). The trustee of the ELF shall disburse moneys remaining therein, at termination of the ELF, to the owner or operator of the facility.
(Ord. of 12-17-90)

Sec. 12-81. Penalties and fines.

Any person who operates a solid waste disposal facility, or who accepts or suffers or makes deliveries of solid waste to a solid waste disposal facility in violation of this article shall be liable for a fine of not more than one thousand dollars (\$1,000.00) for each offense. For purposes of determining the number of offenses, each day or portion thereof on which a facility is operated shall be a separate offense, but the offense by operation on

any particular day shall be merged into any offense by accepting, suffering or making a delivery on the same day.

(Ord. of 12-17-90)

Sec. 12-82. Exempt facilities.

The requirements of this article shall not apply to any operating facility lawfully in existence on the date the ordinance from which this article was derived was adopted, but it shall apply to an adjoining expansion of the same facility unless the owner thereof has applied with the appropriate state agencies on or before the date the ordinance was adopted for permission to expand the facility.

(Ord. of 12-17-90)

Sec. 12-83. Appeal procedure.

(a) An applicant, a permittee or an intended transferee dissatisfied with a decision (other than a decision rendered under this section) of the council, health officer or city manager shall have an appeal to the council upon a written request received by the mayor, or postmarked and addressed to the mayor, within ten (10) days next following the date on which the applicant was notified of the decision.

(b) Except as otherwise provided in section 12-79 for appeal of a suspensions rendered by the health officer or city manager, the hearing on the appeal shall be held at the next regular council meeting following the tenth day after the request for appeal is received.

(c) Upon an appeal under this section, the council shall render a decision within thirty (30) days of the hearing, but failure to render a decision within such time shall not be construed to vacate the decision from which the appeal is taken.

(Ord. of 12-17-90)