REVISED

MUNICIPAL ORDINANCES

CITY OF LENNOX, SOUTH DAKOTA

Ordinance #614

Effective Date: _December 9, 2020__

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES
OF THE CITY OF LENNOX, SOUTH DAKOTA

ORDINANCE # 614

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE CITY OF LENNOX, SOUTH DAKOTA

BE IT ORDAINED BY THE CITY OF LENNOX, SOUTH DAKOTA:

Pursuant to SDCL 9-19-16, this Ordinance in Revision of the Municipal Ordinances of the City, revising regulations as set forth in the document titled "Revised Municipal Ordinances", is hereby read, approved, and adopted as follows:

First Reading:	November 9, 2020
Second Reading and Adoption:	November 23, 2020
Publication Dates:	
Effective Date:	December 9, 2020

_____
Mayor Stacy DuChene

ATTEST:

_____
Finance Officer

Seal

NOTICE OF ADOPTION

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE CITY OF LENNOX, SOUTH DAKOTA

Notice is hereby given Ordinance #614, an Ordinance in Revision of the Municipal Ordinances of the City of Lennox, was duly adopted by the City Council on _____, 2020, and shall become effective _____, 2020, according to South Dakota law.

The Ordinance revises the Municipal Ordinances of the City heretofore adopted, and repeals all ordinances or parts of ordinances in conflict therewith. The Ordinance does not repeal special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, and other special ordinances of like character. Such ordinances not included in the revision and still having force and effect may be found in the Finance Office.

A copy of the Revised Municipal Ordinances is available for public inspection at the Lennox City Hall and may be viewed during normal business hours.

Nathan Vander Plaats
City Administrator

(Publication Dates: _____, 2020 & _____, 2020)

SUMMARY AND GENERAL INFORMATION

Reference has been made for each Section whenever applicable to appropriate state statutes from South Dakota Codified Laws.

In the construction of this Ordinance, the following definitions shall apply, unless otherwise provided:

1. City or Municipality - The City of Lennox, South Dakota.

2. City Council - The governing body of the City of Lennox.

3. He, His or Him - Words imparting masculine gender shall extend and be implied to females and to firms, partnerships, associations, corporations, organizations and other legally recognized entities, as well as to males.

4. May - Permissive.

5. Person - Any individual, firm, partnership, association, corporation, organization or other legally recognized entity.

6. Shall - Mandatory.

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TITLE 1 - ADMINISTRATIVE CODE

[MUNICIPAL OFFICERS AND EMPLOYEES SDCL 9-14]

Chapter 1.01 - Officers
Chapter 1.02 - Mayor and City Council
Chapter 1.03 - Finance Regulations
Chapter 1.04 - Library Board
Chapter 1.05 - Reserved
Chapter 1.06 - Park Board

CHAPTER 1.01 - OFFICERS

1.0101 Appointment of Officers. At the first regular meeting in May, there shall be appointed a City Attorney and City Engineer. All such appointments shall be made by the Mayor with approval of the City Council.

(A). City Administrator Appointment: The City Administrator shall be appointed by the Mayor with the consent of a majority vote of the City Council for an indefinite term.

(B). Removal of City Administrator. The City Administrator may be removed at any time by the Mayor, with the consent of a majority vote of the City Council, with or without cause. If requested, a public hearing shall be held by the City Council within 30 days following notice of removal. During the interim, the City Council may suspend the Administrator from duty with pay.

(C). Powers and Duties of City Administrator. The City Administrator shall be the Chief Administrative Officer of the City and shall be responsible to the Mayor and City Council for the proper administration of the City of Lennox. The Administrator shall have the powers and shall be required to perform the duties as set forth from time to time by the City Council by resolution and/or by adoption of the City Administrator's Job Description

(D). Bond. The Administrator shall furnish a surety bond to be approved by the Mayor and City Council, said bond to be conditioned on the faithful performance of all of the Administrator's duties. The premium of the bond shall be paid by the City of Lennox.

(E). Compensation. The Administrator shall receive such compensation as the City Council shall determine.

(F). Residence. The Administrator shall reside within the municipal boundaries of the City of Lennox.

1.0102 Salaries. The salaries of all employees of the City shall be fixed by resolution and shall be paid bi-weekly unless otherwise provided.

(A). The City Administrator, Finance Officer, Administrative Assistant and Utility Billing Clerk shall be bonded in such sum to be approved by the City Council and conditioned upon the faithful performance of the duties of such office. (SDCL 9-14-28)

1.0103 Employment Policies. All policies regarding personnel regulations and benefits of the City shall be included in the Administrative Policies and Procedures Manual, Title I: Personnel Policies, which shall be filed with the City Administrator. A copy shall be made available to all employees following the date of hire, following any amendment of personnel manual or upon request by city employee.

CHAPTER 1.02 - MAYOR AND CITY COUNCIL

1.0201 Composition. The City Council shall consist of the Mayor elected at large, who shall hold office for two years, and six aldermen, two elected from each ward, who shall hold office for two years. (SDCL 9-8-1, 3)

1.0202 Mayor - Duties. The Mayor shall preside at all meetings of the City Council, but shall have no vote except in case of a tie. The Mayor shall perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed. The Mayor shall annually and from time to time give the City Council information relative to the affairs of the municipality, and shall recommend for their consideration such measures as he or she may deem expedient. The Mayor shall have the power to sign or veto any ordinance or resolution passed by the City Council, and the power to veto any part or item of an ordinance or resolution appropriating money. (SDCL 9-8-3)

1.0203 Meetings. The regular monthly meetings of the City Council shall be held at the City Hall or other designated place on the second and fourth Monday of each month at 7:00 p.m. except when Monday is a legal holiday, and in that case the meeting shall be held on the Tuesday following. (SDCL 9-8-8)

1.0204 Special Meetings. Special meetings of the City Council may be held at any time on call of the Mayor, or in case of absence of inability to act, then by the President of the City Council; or if the Mayor and President of the City Council refuse to act, then by two (2) of the Alderman. It shall be the duty of the Finance Officer to contact the Alderman before the time specified for such meetings. (SDCL 9-8-8)

1.0205 President and Vice-President of Council. At the first regular meeting after the annual election in each year and after the qualifications of the newly elected Aldermen, the City Council shall elect from its own members a President and Vice-President, who shall hold their respective offices for the municipal year.

The president of the City Council, in the absence of the Mayor, shall be the presiding officer of the City Council, and during the absence of the Mayor from the City or his temporary disability, shall be Acting Mayor and possess all powers of the Mayor.

In the absence or disability of the Mayor and President of the City Council, the Vice-President shall perform the duties of the Mayor and President of the Council. (SDCL 9-8-7)

1.0206 Compensation - Mayor and City Council. The compensation of the Mayor and City Council members shall be fixed by resolution and said amounts shall be placed on file in the office of the City Finance Officer.

1.0207 Committees. The Mayor, with the approval of the City Council, shall annually appoint three Aldermen to the following committees:

- Streets/Water/Sewer
- Zoning/Buildings
- Police/Fire/Ambulance
- Parks/Recreation/Pool
- Finance/Economic Development
- Library/Solid Waste/Weeds

These Committees serve in an advisory role to the City Council in order to study and propose policy solutions and to discuss budgetary considerations.

CHAPTER 1.03 - FINANCE REGULATIONS

1.0301 Purchase of Supplies. Purchase of all supplies and materials shall not be made without a purchase request approved by the City Administrator or Finance Officer. All materials and supplies shall, when received, be checked by the persons receiving the same, and a bill showing the name of the creditor and each article with the price thereof shall be filed with the Finance Officer. (9-14-18)

1.0302 Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the city treasury, and the City Council shall

designate by ordinance to what fund or funds such money shall be applied. The Finance Officer shall keep full, true and just accounts of all financial affairs of the City and shall keep such accounts and furnish in such form and in such manner from time to time as required by the South Dakota Department of Revenue. (SDCL 9-14-18)

1.0303 Records Retention and Destruction. The Records Retention and Destruction Schedule Manual, authorized for South Dakota municipalities by the Office of Records Management, Bureau of Administration, State of South Dakota, shall be adopted by the City Council, and a printed copy of such manual shall be filed with the Finance Officer.

1.0304 Financial Controls for Non-Profit Expenditures Required. Aggregate fiscal year expenditures over $5000 through either direct appropriation or by reimbursement for expenses incurred by an organization recognized as a not-for-profit organization by the Internal Revenue Service under Section 501 of the Internal Revenue Code or incorporated as a non-profit organization in the State of South Dakota shall not be expended without first receiving a finalized independent audit from that organization. The City may accept board-accepted or board-approved financial statements in lieu of a completed independent audit.

1.0305 Introduction and Adoption of Annual Municipal Budget Ordinance.

A) Pursuant to SDCL 9-21-34, the annual municipal budget ordinance shall be submitted to the City Council for first reading no later than the first regular meeting in November
B) The budget hearing shall be held no later than the first regular meeting in November
C) The second reading of the annual municipal budget ordinance shall be held at least five days after the first reading.
D) The annual municipal budget ordinance shall be published prior to December 31st following adoption.

CHAPTER 1.04 - LIBRARY BOARD

1.0401 Establishment. There shall be maintained a Joint City/School Library which shall provide library services pursuant to a contract entered into with the Lennox School District pursuant to the provisions of SDCL 14-2-29 (3) and SDCL Chapter 1-24. The joint public library shall replace the City Library previously offered by the City of Lennox.

1.0402 Operations. The Joint City/School Library shall be operated pursuant to an agreement entered into by the City of Lennox and the Lennox School District. All provisions of said agreement shall be in compliance with SDCL Chapter 14-2.

CHAPTER 1.05 - RESERVED

CHAPTER 1.06 - PARK BOARD

1.0601 Created. There shall be created a Park Board for the City that shall act in an advisory role to the City Council on matters related to the establishment, improvement, care for, regulation and management of a system of public parks and parkways in and for the City in accordance with SDCL 9-38-8.

1.0602 Composition and Appointment. The Park Board shall be composed of not less than five or more than nine members, each of whom shall reside within the boundaries of the Lennox Community School District. The members of the Board shall not hold any elective office of the City and shall receive no compensation for

their services. The members shall be appointed at the first regular meeting of the City Council in September of each year. Initially the members shall be appointed to staggered terms, not to exceed three years, by Resolution of the City Council. Annually thereafter appointments or reappointments shall be for a term of three years or to complete an unexpired term. Such appointees shall hold office until their successors are appointed and qualified.

1.0603 Vacancies. Any vacancy on the Park Board shall be filled for the unexpired term of the member vacating such Board in the same manner as required for a regular appointment.

1.0604 Meetings. At the first regular meeting of the Park Board in September of each year, the Board shall elect from its members a Chairman, Vice Chairman, and Secretary, each of whom shall serve until the first regular meeting of the Board in August of the following year. The Park Board shall hold regular meetings at least once per quarter and as many special meetings as it deems proper.

1.0605 Records. The Secretary of the Park Board shall keep a record of its proceedings and make such reports as may be required. In the absence or inability of the Secretary to perform his or her duties, the Board may appoint a Secretary Pro-term to perform such duties. The records of the Board kept by the Secretary shall be competent evidence of the proceedings of the Board.

1.0606 Budget Estimate. The Park Board, on or before the first day of July of each year, shall submit a budget estimate for general park purposes for the ensuing fiscal year to the City Council. Such estimate shall include monies necessary for maintaining, constructing and improving parks, parkways, public recreation areas and playgrounds which are under the control of the City Council.

1.0607 Duties. The Park Board, in addition to providing the annual budget estimate, shall provide an annual assessment of the public parks and parkways in and for the City. The Park Board may from time to time be requested to assist the City Council with identifying design and funding for improvements, fundraising and any other matters related to maintaining and improving the park system. The Park Board shall not, unless directed to, incur any expenses or invoke any policies.

TITLE 2 - BOUNDARIES, WARDS AND VOTING PRECINCTS

[INCORPORATION OF MUNICIPALITIES SDCL 9-3]

Chapter 2.01 - Boundaries
Chapter 2.02 - Wards and Voting Precincts

CHAPTER 2.01 - BOUNDARIES

2.0101 Boundaries. The corporate limits of the City shall be declared to be such as have been legally established and amended by law and ordinances of the City as shown on the official map on file in the office of the City Administrator. Such map shall be incorporated in this ordinance by reference and adopted as the official map showing the boundaries and limits of the City. (SDCL 9-3-2)

CHAPTER 2.02 - WARDS AND VOTING PRECINCTS

2.0201 Wards Boundaries. The City shall be divided into three wards which shall be designated respectively as Wards One, Two and Three. The wards shall be described by stating the certain street or avenue designations or other landmarks that divide and border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Lennox are as set forth below and on the map thereof on file in the office of the Finance Officer. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

Ward One shall included all of that part of the City east of Main Street and south of 3rd Avenue. It shall also include all of that part of the City east of Cherry Street between Third Avenue and First Avenue, and east of Main Street north of First Avenue and south of Boynton Avenue.

Ward Two shall included all of that part of the City west of Main Street and south of Third Avenue.

Ward Three shall include all of that part of the City north of Third Avenue, south of First Avenue, and west of Cherry Street. It shall also include all of that part of the City north of First Avenue and west of Main Street. It shall also include all of that part of the City north of Boynton Avenue.

2.0202 Voting Precincts. The City Council may combine or separate said wards to establish voting precincts for the purpose of any particular election by resolution as provided by state law (SDCL 9-13-16).

TITLE 3 - HEALTH AND SANITATION

[SANITATION AND HEALTH MEASURES SDCL 9-32]

Chapter 3.01 - Nuisances
Chapter 3.02 - Rubble Site
Chapter 3.03 - Collection of Garbage & Recyclables

CHAPTER 3.01 - NUISANCES

3.0101 Definitions. For the purpose of this Chapter, the following terms are hereby defined.

A. "Garbage" - The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

B. "Solid Waste" - Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities...including, but not limited to wood and other construction materials, appliances, yard waste, tires, scrap iron, chemicals or fuel. (SDCL 34A-6-1.3)

C. "Wastewater" - The spent water of a community. From the standpoint of source it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

D. "Abandoned property" - Any inoperable car, car bodies or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and

around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of its unsightliness.

E. "Abandoned vehicle" - Any vehicle that is left unattended or stored on any public property in the same or substantially same place within the City for a longer period than 24 hours.

F. "Inoperable vehicle" - Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires and wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto unexpired license plates, or which constitutes an immediate health, safety, fire or traffic hazard.

G. "Nuisance" - Unlawfully doing an act, or omitting to perform a duty, which act or omission: (1) annoys, injures, or endangers the comfort, repose, health, or safety of others; (2) in any way renders other persons insecure in life, or in the use of property; (3) renders the ground, the water, the air, or food a hazard or any injury to human health; and in addition (4) the specific acts, conditions and things listed in Section 3.0102 are hereby declared to constitute public nuisances, but such acts, conditions and things shall not be deemed to be exclusive. (SDCL 21-10-1)

H. "Private property" - Any real property within the City that is privately owned and which is not public property.

I. "Public property" - Any street, alley or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means any other publicly owned property or facility.

J. "Removal agency" - Any public body, private or nonprofit organization authorized, hired or appointed by the City to remove vehicles.

K. "Unsightly trash or junk" - Property which is deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which is left outside of a permanent, enclosed structure and which shall include, without limitation, motors, lawn mowers, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition.

L. "Vehicle" - Any conveyance, whether or not self-propelled, and which is designed to travel along the ground or in or on the water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go-karts, golf cars, boats, jet skis, campers and trailers.

3.0102 Acts, Omissions and Conditions Prohibited. No person, whether an owner, occupant, tenant or other person in charge of any real property within the corporate limits of the City shall create, commit, maintain, or permit to be created, committed, or maintained, any public nuisance, to include, without limitation, the following specific acts, conditions and things, each and all of which are hereby declared to constitute a nuisance: (SDCL 9-32-1)

A. Depositing, accumulating, or permitting to be accumulated upon any public or private property, any household wastewater, sewage, garbage, refuse, rubbish, offal, excrement, decaying fruit, vegetables, fish, meat, bones; any fowl, putrid, or obnoxious liquid substance; any chemical or hazardous material; or putrescible and nonputrescible animal or vegetable wastes or solid wastes, or any other waste material which constitutes or tends to create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)

B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)

C. To permit a dead animal to remain undisposed of on real property longer than twenty-four (24) hours after its death. (SDCL 9-29-13)

D. Any excavation, trench or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb, or safety of the general public. (SDCL 9-29-13)

E. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel, ashes, wood or construction materials or any offensive matter. (SDCL 9-32-10)

F. Keeping or maintaining any building or enclosure where livestock or fowl are kept unless a special permit is requested and such is approved by the Zoning Administrator/City Administrator or their designee.

G. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:

1. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the Fire Chief of the City Volunteer Fire Department.

2. Fires purposely set by the city maintenance personnel for the purposes as authorized by the Fire Chief of the City Volunteer Fire Department.

3. Fires purposely set by the City Volunteer Fire Department personnel and authorized by the Fire Chief for the purpose of training and conducted in accordance with live fire-training standards.

4. Campfires and other fires used solely for recreational purposes, for ceremonial occasions, and for outdoor preparation of foods.

H. Maintaining, or causing or permitting the same, any building or premises which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects thereby annoy, injure or endanger the comfort, repose, health, or safety of others or, if such conditions or defects exist to the extent that the life, property, value of property or safety of the public or its occupants are jeopardized.

1. Whenever any building or structure is (i) vacant and unoccupied for the purpose for which it was erected and; (ii) the building is unfit for occupancy as it fails to meet minimum housing standards and; (iii) the building has remained substantially in such condition for a period in excess of six months.

2. Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market value of surrounding properties.

I. Maintaining or permitting to be maintained on any private or public property any abandoned property or unsightly trash or junk, abandoned vehicle, or inoperable vehicle or parts thereof. It shall be unlawful to keep or place any of such vehicles or vehicle parts:

1. Upon public streets or property except on an emergency basis.

2. Upon the private property of any person owning, in charge of, or in control of any real property within the City, whether as an owner, tenant, occupant, lessee or otherwise, for longer than 14 days unless it is within a fully enclosed building or structure. A carport, tarpaulin, tent or other similar temporary structure shall not be deemed to satisfy the requirements of this section.

In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any real property.

J. The requirements of paragraph I shall not apply to the following:

1. Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.

2. Junkyards operated and maintained in compliance with applicable City ordinances.

3. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

K. Depositing, accumulating, or permitting to be accumulated on any street, alley, or public ground any grass clippings, leaves, or other yard waste produced in conjunction with yard maintenance or gardening. The owner, tenant, or person in charge of any lot within the City is responsible for ensuring that any persons hired to cut their grass or maintain their yard abide by this ordinance.

3.0103 Diseased, Dead or Dangerous Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his own expense any trees, brush, wood, or debris which is found to be dead, possessing infestations or infectious disease found thereon, or which poses a danger to the public, when so notified by the City to do so. The City Council shall cause to be mailed to such owner, occupant, or person, written notice that they may appear before the said City Council at an appointed time not less than fourteen (14) days from the date of mailing of said written notice to show cause why said trees, brush, wood, or debris should not be declared a public nuisance.

At said meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant, or person within twenty-one (21) days from the date of service of said resolution and order on said owner, occupant, or person.

Any diseased, dead or dangerous vegetation stored in the City shall be debarked or covered with four (4) to six (6) mil clear plastic from April 1st to October 1st, such plastic to be sealed by placing all edges in a three to four-inch trench covered with soil. In addition, any diseased vegetation which is removed and not stored in accordance with the provisions of this Section shall be properly disposed of by burning or burying in a designated disposal site. (SDCL 9-32-12)

3.0104 Vegetation Nuisance.

A. Definitions. For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meanings given herein.

1. "Developed lot or area" means a lot or area with a finished building or building under construction.

2. "Noxious weeds" means all actively growing plants declared to be statewide noxious weeds by the South Dakota Weed and Pest Control Commission and all actively growing weeds declared by Lincoln County to be locally noxious.

3. "Undeveloped lot or area" means a vacant lot or area with no structure on it.

4. "Weeds" means any plants growing uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of eight (8) inches or more, except as otherwise provided in this section.

B. Nuisances.

1. Each owner and each person in the possession or control of any land shall cut or otherwise destroy, in whatever manner prescribed by the City, all noxious weeds thereon and shall keep said lands free of such growth.

2. Each owner and each person in possession or control of any property shall be responsible to keep said lot, place, or area or upon any sidewalk abutting the same free of any noxious weeds and to keep grasses and weeds on said lot mowed so that grass and weeds are less than eight (8) inches in height. However, grass and weeds located on undeveloped and unplatted property located more than 100 feet from developed or platted property shall be mowed so that grass and weeds are less than twelve (12) inches in height. This does not apply to vegetation which is being grown as a crop, livestock pasture or wildflower display garden.

3. Each owner and each person in the possession or control of any lands shall not allow any plant growth of any sort to remain in such a manner as to render the streets, alleys or public ways adjoining said land unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public place or way.

C. Notice to Abate and Abatement by City. The Finance Officer shall annually on or before May 1 each year and August 1 of each year publish once a week for two consecutive weeks a Notice to Property Owners generally setting forth the duty to control weeds and other vegetation which might be a nuisance in violation of this section. The Finance Officer or his designee may cause a Notice to Abate Nuisance to be served, by posting of notice on such property within view of the public, upon any property owner who fails to comply with the published notice or any person who at any other time has weeds or other vegetation. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within five (5) days, thereof the Finance Officer or his designee is hereby authorized and empowered to provide for the cutting, destroying or removal of the weeds, grass or other noxious matter and stabilize the soil if necessary. The City may defray the cost of the work, including administrative costs, by special assessment against the property as set out in Section 3.0104 (D).

D. Costs Recovered. The Finance Officer shall cause an account to be kept against each lot upon which work is done pursuant to Section 3.0104 (C) and shall after completion of the work, bill the owner of the property for such work and if not paid within thirty (30) days thereafter, the Finance Officer shall thereupon add such assessment to the general assessment against said property. The Finance Officer shall certify such special assessment together with the regular assessment to the Lincoln County Auditor to be collected as municipal taxes for general purposes.

Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes. In lieu of special assessment, the City Council may institute a civil action against the owner or occupant of such property to recover said account.

E. Habitual Violators. If the owner or person in control of any land that has previously received a notice to abate nuisance relating to weeds within the preceding 24 months, then, the notice to abate nuisance may include notice that such owner or person in control of said property will be considered to be an habitual violator of this section and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing property as needed up to a weekly basis for the next following 24-month period of time and that the full cost of said contract together with an administrative fee of two hundred dollars ($200.00) will be assessed against the property.

F. Penalty. Any person whose duty it is to destroy or remove such noxious weeds or unhealthful vegetation as set forth in the preceding sections or who fails to destroy same within the time hereinbefore set forth shall upon conviction thereof be subject to the penalties established in this ordinance (Section 11.0101), in addition to other penalties as prescribed in this section.

3.0105 Littering in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited:

A. No person shall sweep into or deposit in any gutters, streets, or other public place within the City, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of such premises free of litter.

For purposes of this chapter, a public nuisance shall also include snow and ice when deposited or allowed to accumulate 48 hours after the termination of any snow fall, snow or ice accumulation.

B. No persons, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place or upon private property within the City.

No person shall drive or move any vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or public place.

C. No person shall throw or deposit litter on any occupied, open, or vacant private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being deposited upon any streets, sidewalk, or other public place or upon any private property.

3.0106 Removal of Abandoned or Inoperable Vehicles - Public Property. Whenever the City or any law enforcement officer for the City finds an abandoned or inoperable vehicle on public property within the City, a notice shall be placed on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within 24 hours of the giving of the notice. After the expiration of the 24-hour period, the vehicle may be removed by a removal agency to a garage or place of safety. Nothing in this section precludes the City or any law enforcement officer for the City from immediately removing a vehicle that constitutes an imminent health, safety or fire hazard.

3.0107 Disposition of Unclaimed Vehicles. The removal agency shall have the rights and obligations conferred upon it by SDCL Ch. 32-36 in regard to titling or disposition of such unclaimed, abandoned or inoperable vehicle, except that, if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions for this article for the costs in taking custody of and storing such vehicles.

3.0108 Removal of Abandoned or Inoperable Vehicles - Private Property. A written notice shall be placed on the abandoned or inoperable vehicle by the City or by any law enforcement officer for the City requesting the removal of such motor vehicle in the time specified in this Chapter. Written notice shall also be placed on the front door of any dwelling located on the private property requesting the removal of such motor vehicle in the time specified in this article. In the event the owner and the occupant or tenant of the real property are not the same person, written notice shall be given to the owner by certified mail requesting the removal of such motor vehicle in the time specified in this Chapter. In the event the private property is not occupied, written notice shall be given to the owner by certified mail requesting the removal of such motor vehicle in the time specified in this Chapter. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service.

3.0109 Responsibility for Removal. Upon notice having been given, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal.

3.0110 Content of Notice. The notice in section 3.0108 shall request removal of the abandoned or inoperable vehicle within 14 days after the date of the posting or mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Chapter, that the City may take steps to abate the same, and that in addition to abatement directly or by civil action, the City may pursue criminal fines and penalties against the owner, occupant, tenant or other person in charge of the real property as provided in this Chapter. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail.

3.0111 Remedies. The remedies against any nuisance shall be: (1) A civil action; (2) Abatement; and (3) By the South Dakota Codified Laws, and the rules relating thereto; (4) Administrative Fee. (SDCL 21-10-5)

3.0112 Abatement. A public nuisance may be abated without civil action by the City Council or by any officer authorized thereto by law. The City may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment. (SDCL 21-10-6)

3.0113 Public Nuisance Penalty and Remedy. Any person who creates, commits, maintains or fails to abate a public nuisance as required under the provisions of this Chapter may be charged with a Class 2 Misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition, the City may also use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through 21-10-9, and the offending person will be responsible to pay all attorney's fees and costs incurred by the City in such civil action seeking abatement. Any person given notice of an abatement shall be charged an administrative fee as set by resolution by the Lennox City Council.

CHAPTER 3.02 - RUBBLE SITE

3.0201 Rubble Site. The rubble site will be operated according to a schedule adopted by the City. This schedule may be seasonally adjusted from time to time by the City Council. The operation will be accomplished by the Street Superintendent or their designee, under the direct supervision of the City Administrator.

(Amended: Ordinance No. 525, 07-09-12)

3.0202 Permitted Items. Trees, brush, leaves, grass clippings, yard and garden wastes shall be permitted for disposal.

3.0203 Rate Schedule. The rate schedule will be reviewed and established annually by resolution by the City Council, and is on file in the Municipal Finance Office.

3.0204 Unauthorized Dumping. Any person disposing of unpermitted materials shall be subject to a fine of $1000 in addition to the costs to mitigate the unauthorized disposal.

CHAPTER 3.03 - COLLECTION OF GARBAGE & RECYCLABLES

3.0301 License Required. No commercial garbage hauler shall use the streets for the collection, removal or disposal of any garbage and recyclable materials without first having obtained a license to perform such service from the City of Lennox. The application shall be filed with the Finance Officer along with proof of insurance, proof of County license, proposed rate structure, and payment of license fee. The license fee shall be established by resolution by the City Council. The license shall run from January 1 through the 31st day of December. Any license approved and issued may be revoked by the City Council for violations of laws, regulations or stipulations concerning such operations.

3.0302 3.0302 Collection of Garbage and Recyclable Materials and Approval of Rates. Every licensed commercial hauler shall collect the garbage at least once each week, but is permitted to offer residential garbage collection as infrequently as every two weeks. Garbage collectors shall be under no obligation to remove any garbage unless the payments of the removal of such garbage as provided by contract with the customer shall have been made. Recyclables shall be collected at least once a month by a licensed garbage hauler.

3.0303 Rates. All licensed garbage haulers shall file, as a part of their application for a business license, a general statement of their use rate structures and billing systems which shall include the following elements: 1) A rate to reward people who reduce their level of solid waste collection service based either upon volume or weight. 2) A rate to provide customers with adequate options and incentives to reduce their weekly level of solid waste collection service and the amount of solid waste collected as a result of their participation in waste reduction and recycling programs. 3) A rate that includes the combined cost of solid waste, using the above elements, and recycling collection services.

3.0304 Vehicles for collection of garbage and recyclables. Licensed commercial garbage and recyclable haulers shall provide themselves with suitable vehicles which shall be water tight and permanently covered on top so as to prevent the escape of odors and contents and so as to hide the garbage from the public view. Such vehicle shall be thoroughly washed at such times as may be necessary to keep the vehicles in proper sanitary condition. Such vehicles when conveying garbage shall be so loaded and unloaded that the contents shall not fall or spill upon the ground. No article or thing shall be carried on such vehicle so as to drag upon the highway. Vehicles shall not exceed 18,000 pounds, and/or 6,000 pounds per axle, and 600 pounds per tire inch width.

Commercial haulers shall obey all the ordinances of the City and all the rules and regulations relating to the collection and handling for garbage and recyclables, and report to the City Council any violations which may come to their attention. Any license issued under this chapter may be revoked by the Council for the violations by the licensee of any provision of State law, Federal law or City Ordinances.

3.0305 Dumping. Commercial haulers shall transport the garbage and refuse and recyclables to the sites designated by the City and County and will comply with all regulations in force at these sites.

3.0306 Storing Garbage Prior to Collection. All garbage shall be placed in either sealed water-tight bags or inside garbage containers and set to the curb or accessible alley on days of pickup. Whenever the premises in which garbage and rubbish accumulates are adjacent to a street or alley, the garbage and rubbish containers for such premises shall be kept in a location convenient and accessible to such street or alley, if premises are not adjacent to a street or alley, the garbage and rubbish containers shall be kept on the premises in such a location that they will be readily accessible to the nearest street or alley without being unsightly.

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

Every owner or person in charge of any restaurant, hotel, grocery store, whole sale or food processing establishment or any other business or commercial place having garbage or rubbish shall furnish and provide for use in connection therewith a garbage or refuse container. Such container shall have covers for all openings and shall be emptied often enough to prevent the same from giving off any odor or stench.

3.0307 City Not Liable. The City shall not be liable for any expense incurred through the failure of a licensee or his agents and employees, to operate and maintain collection services in a proper and efficient manner, and for any actions that may result from or be attributed to such services performed.

3.0308 Transfer. Any license may be transferred to another business upon approval by the City Council and payment of application fee.

TITLE 4 - LICENSES

[TRADE REGULATION AND LICENSES SDCL 9-34]

Chapter 4.01 - General Provisions
Chapter 4.02 - Peddlers
Chapter 4.03 - Sexually Oriented Businesses and Employees
Chapter 4.04 - Marijuana

CHAPTER 4.01 - GENERAL PROVISIONS

4.0101 License, Unlawful Without. It shall be unlawful for any person, persons, firm or corporation to engage in any activity for which a license is required without first having obtained a license as hereinafter provided. The City Council may at any time expand the general provisions of this Chapter by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the City of Lennox which is not specified by this ordinance to obtain a license, as deemed necessary. (9-34-1)

4.0102 Applications for License. Any person, persons, firm or corporation requesting a license as herein provided, shall make written application to the City Administrator. The application shall state the name and address of the applicant, purpose of the activity, the length of time for which said license is requested, and the location at which said license will be used.

Except as otherwise provided, fees for all licenses shall be fixed by the City Council and filed with the Finance Office, and all license fees shall be paid in full at the time of application in such manner as approved by said City Council.

4.0103 License Expiration. Any annual license granted under the provisions of this Chapter shall expire on the 31st day of December following the granting thereof, except as otherwise provided, and shall not be granted for any sum less than the annual rate, and there shall be no rebate on an early termination of the activity for which said license was issued.

4.0104 Revocation. The City Council shall have the authority at any time to suspend or revoke any license granted under the provision of this Chapter whenever the City Council shall be satisfied upon written complaint that the activity for which the license was issued, has been made or conducted in an improper or illegal manner, and in case of such revocation, the City Council may refund to the holder of such license such proportionate amount of money paid therefore as the Council shall deem just.

4.0105 Issuance of License. Except as otherwise provided all licenses shall be issued by the Finance Office after the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City of Lennox.

4.0106 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the City stating when, to whom, for what purpose, for what length of time, for what location the license was issued, and the amount of money paid for said license.

4.0107 Approval of Bonds. Any bond, liability insurance, or deposit required shall be subject to the approval of the City Council. If the City Council deems the security inadequate, new or additional security may be required; the license may be suspended pending the furnishing of such new or additional security, and if not furnished, the license may be revoked.

CHAPTER 4.02 - PEDDLERS

4.0201 Definitions. For the purpose of this Chapter, the following terms are hereby defined:

A. "Peddler" - Any person or business, whether a resident of this City or not, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale of goods, wares, merchandise, or services, including food and beverages.

4.0202 Application for License. Any peddler wanting to do business in the City shall complete and file an application with the Finance Officer or his designee containing the following:

1. Whether the applicant, upon a sale or order, shall demand, accept or receive payment, or deposit of money in advance of final delivery.

2. The period of time the applicant wishes to engage in business within the City.

3. The local and permanent address of the applicant.

4. The local and permanent addresses and the name of the entity, if any, that the applicant represents.

5. The kind of goods, wares, merchandise, or services the applicant wishes to peddle within the City.

6. Proof of a valid, effective sales tax license.

7. An application fee of $50.

8. A copy of the applicant's state-issued identification

4.0203 Exceptions. The provisions of this Chapter shall not apply to the following:

1. Solicitations, sales or distributions made by charitable, educational, political, or religious organizations.

2. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers or public officials.

3. Members of professions licensed by the state which have continuing education requirements.

4. Persons selling or delivering personal property to regular customers on established routes.

5. Persons selling jams, jellies, vegetables, fruits or flowers grown or produced by them and not purchased by them for resale.

6. Bonafide garage, rummage, yard or moving sales which do not occur at the same location more than four (4) times per year, for more than four (4) days each time.

7. Food trucks, provided that such vendors are not permitted to park in a public right-of-way or on city-owned property without an approved Special Event Permit or otherwise approval of the City Council.

4.0204 Unlawful conduct. The following conduct shall be deemed unlawful:

1. For any peddler to remain upon premises after having been told by the owner or possessor of the premises to leave.

2. For any peddler to make false or fraudulent statements concerning the quality or nature of his goods, products, or services.

3. To enter upon any premises posted with a sign stating "No Peddlers Allowed" or "No Soliciting".

4. To engage in business of peddling between the hours of 8 p.m. and 9 a.m. the following morning, or anytime on Sunday, except by specific appointment or invitation from the prospective customer.

5. For any peddler to engage in business within the City without first obtaining a license to do so.

6. For any peddler to fail to display his license upon the request of any person.

4.0205 Revocation. Any license issued under the provisions of this Chapter may be revoked for the violation by the licensee of any provision of this ordinance or state law. Upon such revocation, such license shall immediately be surrendered.

CHAPTER 4.03 - SEXUALLY ORIENTED BUSINESSES AND EMPLOYEES

4.0301 Rationale and Findings.

(a) Rationale. It is the purpose of this Ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

4.0302 Definitions. For purposes of this Chapter, the words and phrases defined in the Sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

"Adult Arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas".

"Adult Bookstore or Adult Video Store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."

A "principal purpose" means that the commercial establishment:

(a) has a substantial portion of its displayed merchandise which consists of said items, or

(b) has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or

(c) has a substantial portion of the retail value of its displayed merchandise which consists of said items, or

(d) derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or

(e) maintains a substantial section of its interior business space for the sale or rental of said items.

"Adult Cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features:

(a) persons who appear nude or semi-nude; or

(b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

(c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas."

"Adult Motel" means a motel, hotel, or similar commercial establishment which:

(a) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motions pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of “specified sexual activities" or "specified anatomical areas"; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(b) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(c) allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

"Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five (5) persons for any form of consideration.

"Art Museum" and/or "Art Gallery" means any structure where paintings, sculptures, pottery, lithograph and anything of artistic expression is shown, excluding live models in a state of nudity or semi nudity.

"City Finance Officer" means City of Lennox Finance Officer.

"City Council" means the Council of the City of Lennox, South Dakota.

"Characterized" means to describe the essential character or quality of an item. As applied in this Ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

"City" means City of Lennox, South Dakota

"Employ, Employee, and Employment" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. Employee does not include a person exclusively on the Premises for repair or maintenance of the premises or for the delivery of goods to the premises.

"Establish or Establishment" shall mean and include any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) The addition of any sexually oriented business to any other existing sexually oriented business.

"Hearing Body" shall be the City Council of the City of Lennox, South Dakota.

"Influential Interest" means any of the following: (1) the actual power, directly or indirectly, to control the operation, management or policies of a business or entity, (2) ownership of a financial interest of thirty-five percent (35%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, etc.) or directorship in a legal entity which operates the sexually oriented business.

"Day-Care Center" means a facility or home, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision of children from more than one unrelated family, on a regular basis for part of a day, without transfer of legal custody or guardianship, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

"Licensee" shall mean a person, whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an "employee," it shall mean the person whose name the sexually oriented business employee license has been issued.

"Nudity" or "State of Nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

"Operate" or "Cause to Operate" shall mean to cause to function or to put or keep in a state of doing business.

"Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

"Person" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

"Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to 4.0404 of this ordinance.

"Regularly" means and refers to the consistent and repeated doing of the act so described.

"Semi-Nude Model Studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

(2) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class.

"Sexual Device" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representation of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

"Sexual Devise Shop" means a commercial establishment that regularly features sexual devises. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

"Sexual Encounter Center" shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in a form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

“Adult Alternative Lifestyle Community Center” means a business or commercial enterprise or club in which adults, in a state of nudity or semi-nudity, gather with a purpose of physically expressing alternative lifestyles. This definition shall not apply to not-for-profit organizations whose principal purpose is the advocacy of alternative lifestyle support.

"Sexually Oriented Business" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motel," an "adult motion picture theater," "a semi-nude model studio," "sexual devise shops," "sexual encounter center," or an “Adult Alternative Lifestyle Community Center.”

"Specified Anatomical Areas" means and includes:

(a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified Criminal Activity" means any of the following specified crimes for which less than five (5) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

(a) a sex crime as defined in S.D. Codified Laws § 22-22-30 (1) - (14);

(b) prostitution or promotion of prostitution, as defined in S.D. Codified Laws § 22-23-1 and § 22-23-2;

(c) an obscenity or public indecency offense as defined in S.D. Codified Laws Chapter 22-24;

(d) a controlled substance offense as defined in S.D. Codified Laws § 22-42-2;

(e) attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or

(f) any offense in another jurisdiction that, had the predicate act(s) been committed in South Dakota, would have constituted any of the foregoing offenses.

"Specified Sexual Activity" means any of the following:

(a) intercourse, oral copulation, masturbation or sodomy; or

(b) excretory functions as a part of or in connection with any of the activities described in (a) above.

(c) Human genitals in a sate of sexual stimulation or arousal;

(d) Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breast

"Substantial" means at least thirty-five percent (35%) of the item(s) so modified.

"Transfer of Ownership or Control" of a sexually oriented business shall mean any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

"Viewing Room" shall mean the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

4.0303 Classification. The classifications for sexually oriented businesses shall be as follows:

(a) Adult bookstores or adult video stores;

(b) Adult cabarets;

(c) Adult motels;

(d) Adult motion picture theaters;

(e) Semi-nude model studios;

(f) Sexual device shops;

(g) Sexual encounter centers.

(h) Adult alternative lifestyle community centers.

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4.0304 License required.

(a) It shall be unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.

(b) It shall be unlawful for any person to be an "employee," as defined in this Chapter, of a sexually oriented business in the City without a valid sexually oriented business employee license.

(c) An applicant for a sexually oriented business license or sexually oriented business employee license shall file in person at the office of the Finance Officer a completed application made on a form provided by the City Finance Officer. The application shall be signed as required by Subsection (e) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to

sign the application, the information and/or items required in Paragraphs 1 through 7 below, accompanied by the appropriate fee identified in 4.0306:

(1) The applicant's full true name and any other names used by the applicants in the preceding five (5) years.

(2) Current business address or another mailing address of the applicant.

(3) Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

(5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.

(6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

(7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a Court of Law to be a nuisance; or
(ii) been subject to a Court Order of closure or padlocking.

The information provided pursuant to Paragraphs 1 through 7 of this Subsection shall be supplemented in writing by certified mail, return receipt requested, to the City Finance Officer's Office within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(d) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business will be located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space to be occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with 4.0314 and 4.0318 of this Chapter shall submit a diagram indicating that the interior configuration meets the requirements of those Sections.

(e) If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under 4.0305 and each applicant shall be considered a licensee if a license is granted.

(f) The information provided by an applicant in connection with an application for a license under this Chapter shall be maintained by the City's Finance Officer on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by Court Order.

4.0305 Issuance of license.

(a) Upon the filing of a completed application under 4.0304 for a sexually oriented business license, the Finance Officer shall immediately issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20)

days of the filing date of a completed sexually oriented business license application, the Finance Officer shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The Finance Officer shall issue a license unless:

(1) An applicant is less than eighteen (18) years of age.

(2) An applicant has failed to provide information as required by 4.0304 for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this Chapter has not been paid.

(4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this Chapter or is not in compliance with locational requirements of this ordinance or any other part of the Ordinances of the City, or the Ordinances of Lincoln County, South Dakota, or the statutes of the State of South Dakota.

(5) Any sexually oriented business in which the applicant has had an ownership interest, has, in the previous five (5) years (and at a time during which the applicant had the ownership interest):

(i) been declared by a Court of Law to be a nuisance; or

(ii) been subject to an Order of closure or padlocking.

(6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Ordinance.

(b) Upon the filing of a completed application under 4.0304 (c) for a sexually oriented business employee license, the Finance Officer shall immediately issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business employee license application, the Finance Officer shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Finance Officer shall approve the issuance of a license unless:

(1) The applicant is less than eighteen (18) years of age.

(2) The applicant has failed to provide information as required by 4.0304 for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this Chapter has not been paid.

(4) Any sexually oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a Court of Law to be a nuisance; or

(ii) been subject to an Order of closure or padlocking.

(5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Ordinance.

(c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is when working or performing.

4.0306 Fees.

(a) The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: One Hundred dollars ($100.00) for the initial fee for a sexually oriented business license and Fifty dollars ($50.00) for annual renewal; Fifty dollars ($50.00) for the initial sexually oriented business employee license and Twenty-Five dollars ($25.00) for annual renewal.

4.0307 Inspection.

(a) Sexually oriented businesses and sexually oriented business employees shall permit any duly acting law enforcement officer, including but not limited to the City police officers, Lincoln County Sheriff or deputies, to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this Chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the City to authorize reasonable inspection of the licensed premises pursuant to this Chapter, but not to authorize a harassing or excessive pattern of inspections.

(b) The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

4.0308 Expiration of license.

(a) Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making applications and payment of a fee as provided in 4.0304 and 4.0306.

(b) Application for renewal should be made pursuant to the procedures set forth in 4.0304 at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

4.0309 Suspension.

(a) The City shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly violated this Chapter or has knowingly allowed an employee to violate this Chapter.

(b) The City shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has knowingly violated this Chapter.

4.0310 Revocation.

(a) The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this Chapter or has knowingly allowed an employee to violate this Chapter and the licensee's license has been suspended within the previous twelve (12) month period.

(b) The City shall issue a written intent to revoke a sexually oriented business license and/or a sexually oriented business employee license, as applicable, if:

(1) The licensee has knowingly given false information in the application for the sexually oriented business license.

(2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substance on the premises;

(3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises;

(4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or
(5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.

(c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(d) When, after the Notice and Hearing procedure described in 4.0411, the City Council revokes a license, the revocation shall continue for two (2) years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for two (2) years from the date revocation becomes effective.

4.0311 Hearing; denial, revocation, and suspension; appeal.

(a) When the Finance Officer issues a written notice of intent to deny, suspend, or revoke a license, the Finance Officer shall immediately send such Notice, which shall include the specific grounds under this Ordinance for such action, to the applicant or license (Respondent) by personal delivery or certified mail. The Notice shall be directed to the most current business address or other mailing address on file with the Finance Officer for the Respondent. The Notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the Notice is issued, on which the City Council shall conduct a Hearing on the Finance Officer's intent to deny, suspend, or revoke the license.

At the Hearing, the Respondent shall have the opportunity to present all of Respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Finance Officer's witnesses. The Finance Officer shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The Hearing shall take no longer than two (2) days, unless extended at the request of the Respondent to meet the requirements of due process and proper administration of justice. The City Council shall issue a written decision, including specific reasons for the decision pursuant to this Ordinance, to the Respondent within five (5) days after the Hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall not become effective until the thirtieth (30th) day after it is rendered, and the decision shall include a statement advising the Respondent of the right to appeal such decision to a Court of competent jurisdiction. If the City Council's decision finds that no grounds exist for denial, suspension, or revocation of the license, the City Council shall, contemporaneously with the issuance of the decision, order the Finance Officer to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the Respondent is not yet licensed, the Finance Officer shall contemporaneously therewith issue the license to the applicant.

(b) If any court action challenging the City Council's decision is initiated, the City Council shall prepare and transmit to the Court a transcript of the Hearing within ten (10) days after receiving written Notice of the filing of the Court action. The City Council shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the Court, and shall facilitate prompt judicial review of the proceedings.
The following shall apply to any sexually oriented business that is in operation as of the effective date of this Ordinance: Upon the filing of any Court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the Respondent a Provisional License. The Provisional License shall allow the Respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the Court's entry of a Judgment on the Respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

4.0312 Transfer of license. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

4.0313 Hours of operation. No sexually oriented business shall be or remain open for business between 2:00 a.m. and 6:00 a.m. on any day.

4.0314 Regulations pertaining to exhibition of sexually explicit films or videos.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Finance Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Paragraph 1 on this Subsection.

(3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

(5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

(i) That the occupancy of viewing rooms is limited to one person.

(ii) That sexual activity on the premises is prohibited.

(iii) That the making of openings between viewing rooms is prohibited.

(iv) That violators will be required to leave the premises.

(v) That violations of Subparagraphs (b), (c) and (d) of this paragraph are unlawful.

(6) It shall be the duty of the operator to enforce the regulations articulated in (5)(i) through (iv) above.

(7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from the operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's

station shall not exceed thirty-two (32) square feet of the floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in an operator's station at all times that any patron is in the area monitored by direct line of sight from that operator's station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

4.0315 Loitering, exterior lighting, visibility, and monitoring requirements.

(a) It shall be the duty of the operator of a sexually oriented business to: (1) post conspicuous signs stating that no loitering is permitted on such property; (2) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and (3) provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(b) It shall be unlawful for the person having a duty under this section to knowingly fail to fulfill that duty.

(c) No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot (s) for the establishment from being visible from a public right of way.

4.0316 Penalties and enforcement.

(a) A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Chapter shall be guilty of a Class 2 Misdemeanor. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.

(b) The City's attorney is hereby authorized to institute civil proceedings necessary for the enforcement of this Ordinance to prosecute, restrain, or correct violations hereof. Such proceedings, including injunctions, shall be brought in the name of the City, provided, however, that nothing in this Section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this Ordinance, or any of the laws or ordinances in force in the City or to exempt anyone violating this Code or any part of the said laws from any penalty which may be incurred.

4.0317 Applicability of Ordinance to existing businesses. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a De Facto Temporary license to continue operation or employment for a period of ninety (90) days following the effective date of this Ordinance. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this Chapter.

4.0318 Prohibited activities. It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

(a) It shall be a violation of this Ordinance for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.

(b) It shall be a violation of this Ordinance for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer on a stage at least eighteen (18) inches from the floor in a room of at least eight hundred (800) square feet.

(c) It shall be a violation of this Ordinance for any employee, who generally appears in a state of nudity in a sexually oriented business, to knowingly or intentionally touch or fondle a customer or the clothing of a customer on the premises of a sexually oriented business.

(d) It shall be a violation of this Ordinance for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(e) It shall be a violation of this ordinance to allow a person under the age of eighteen (18) years on the premises of an adult oriented business.

A sign in a form to be prescribed by the Finance Officer and summarizing the provisions of Paragraphs (a), (b), (c),(d), and (e) of this Section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry.

4.0319 Scienter required to prove violations or business licensee liability. This Ordinance does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Ordinance. Notwithstanding anything to the contrary, for the purposes of this Ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this Ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability was imputed was powerless to prevent the act.

4.0320 Failure of the City to meet deadline not to risk applicant/licensee right. In the event that a City official is required to take an act or do a thing pursuant to this Ordinance within a prescribed time, and fails to take such act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this Ordinance, and not completed in the time prescribed, includes approval of conditions) necessary for approval by the City of an applicant or licensee's application for sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operation or employment the day after the deadline for the City's action has passed.

4.0321 Location of sexually oriented businesses.

(a) The following shall apply only to sexually oriented businesses not established prior to the effective date of this Ordinance:

It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in the City, unless said sexually oriented business is at least:

(1) 750 feet from any parcel occupied by another sexually oriented business or by a business licensed by the State of South Dakota to sell alcohol at the premises; and

(2) 750 feet from any parcel occupied by a house of worship, day care center, public or private elementary or secondary school, public park, or any residence.

(b) For the purpose of this Section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with a sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use (s) identified in Subsection (a) (1) - (a) (2) above.

(c) If the sexually oriented business use, lot, or occupancy that existed prior to enactment of this ordinance is discontinued for more than one (1) year for any reason, the City Council may adopt, after Notice by registered or certified mail to the property owners, an amortization schedule to bring about the gradual elimination of the nonconforming use, lot, or occupancy.

4.0322 Severability. This Ordinance and each Section and provision of said Chapter hereunder, are hereby declared to be independent divisions and subdivisions and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining Sections or provisions and the application of such Sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such Sections and provisions would have been passed independently of such Section or provision so known to be invalid. Should any procedural aspect of this Ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Ordinance.

4.0323 Conflicting code provisions repealed. Additionally, any provision (s) in the City's Municipal Ordinances specifically in conflict with any provision in this Ordinance is hereby deemed inoperative and repealed.

CHAPTER 4.04 – Marijuana

4.04 Cannabis Establishments

4.0401 – Purpose and Intent. The City Council of the City of Lennox, South Dakota enacts the following licensing ordinance to ensure that Cannabis/Marijuana establishments within the municipal boundaries of the City operate in a manner which complies with state statutes and regulations, protects the health, safety, and welfare of the general public, prevent potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes the risk of unauthorized use or access of cannabis by the general public.

4.0402 – Definitions

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1 and the administrative rules promulgated thereunder.

APPLICANT: a person or entity seeking or renewing a cannabis establishment license.

CANNABIS (OR MARIJUANA): all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

CANNABIS CULTIVATION FACILITY: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

CANNABIS DISPENSARY: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

CANNABIS ESTABLISHMENT: cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

CANNABIS PRODUCT MANUFACTURING FACILITY: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

CANNABIS PRODUCTS: any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and Tinctures

CANNABIS TESTING FACILITY: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

DEPARTMENT: the South Dakota Department of Health.

LICENSEE: a person, people, or entity in possession of a cannabis establishment license issued pursuant to this chapter.

REGISTRATION CERTIFICATE: the certificate of registration issued by the Department or hiring operator of a cannabis establishment.

4.0402 – License Required

a. No Cannabis Establishment may be located or operate within the municipal boundaries of Lennox, South Dakota without he appropriate, valid, and current Cannabis Establishment license issued by the City. A violation of this provision is subject to penalties of $500 per day, with each day of operation constituting a separate offense.

b. No Cannabis Establishment may be located or operate within the municipal boundaries of Lennox, South Dakota without the appropriate, valid, and current registration certificate issued by the State of South Dakota. A violation of this provision is subject to penalties of $500 per day, with each day of operation constituting a separate offense.

4.0403– License Application

a. An application for a Cannabis Establishment license must be made on the appropriate form provided by the City of Lennox.

b. The applicant must submit the following:

   i. The license application fee as established by Resolution by the City Council

   ii. A complete application, including but not limited to the following information

      1. The legal name of the proposed Establishment;

      2. The physical address of the proposed Establishment, and if applicable, certification from property owner authorizing tenant to engage in business as a medical cannabis establishment. Only one application per location is allowed;

3. The zoning of the physical property of the proposed cannabis establishment;

4. A certification that the location of the prospective cannabis establishment is not within one thousand feet (1,000 feet) of a public or private school, meets any other location requirements pursuant to SDCL Chapter 34-20G and the administrative rules promulgated thereunder, is in compliance with all City zoning and land use requirements and, if applicable, applicant will apply for any City conditional use permitting within 10 days of notification of license eligibility and that the conditional use process will be completed within 60 days of the filing of the application for the conditional use permit unless extended by the City Planning & Zoning Commission or City Council;

5. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment;

6. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction;

7. A confirmation of a completed current background check for each owner, officer, board member, agent, volunteer, and employee associated with or working in the prospective cannabis establishment, which has been completed within 30 days prior to submission of the application;

8. A description of appropriate security measures designed to deter and prevent theft of cannabis and unauthorized entry into any area containing cannabis as set forth by Chapter 34-20G and the administrative rules promulgated thereunder and as otherwise required by the City;

9. Evidence that the proposed cannabis establishment will be in compliance with South Dakota statutes and regulations regarding cannabis establishments;

10. A certification that, upon the issuance of a license, employees shall permit any duly acting law enforcement officer, code official, or zoning official, including but not limited to the City police officers, Lincoln County Sheriff or deputies, to inspect, from time to time on an occasional basis, the portions of the business premises for the purpose of ensuring compliance with the specific regulations of this Chapter, during those times when the business is occupied by patrons, is open to the public, or during other operating hours. This section shall be narrowly construed by the City to authorize reasonable inspection of the licensed premises pursuant to this Chapter, but not to authorize a harassing or excessive pattern of inspections.

11. Additional information as requested by the City of Lennox.

4.0404– Conditional Use Permit

All cannabis establishments shall require a conditional use permit. In granting a conditional use permit for any cannabis establishment, the City may impose such additional reasonable requirements as it deems appropriate to mitigate or prevent harmful secondary effects of cannabis establishments. In imposing such conditions, the City may rely on studies and information available at the time the permit is issued. The cannabis establishment must positively

comply with all the current zoning, health and building regulations that apply to the site and building at the time of application for the Conditional Use Permit. In addition to other factors that may be properly considered in the grant of denial of a variance or conditional use permit, the following factors shall be relevant for variance and conditional use requests relating to cannabis establishments:

A. That the proposed land use is consistent with the intent of this chapter and will not be contrary to public interest or injurious to nearby properties.

B. That the proposed land use will not cause or contribute to the formation or expansion of blighted area.

C. That the City is able to provide the estimated water and sewer needs for the cannabis establishment(s)' operations.

D. That all applicable ordinances and regulations will be observed.

4.0405– License Issuance

a. The City of Lennox shall issue a license unless:

i. The applicant has made false or misleading statements on the application or has submitted false or misleading documents; or

ii. Any owner, principal officer, board member, agent, volunteer, or employee of the applicant is under the age of twenty-one (21) years; or

iii. Any owner, principal officer, board member, agent, volunteer, or employee of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction; or

iv. The proposed location does not meet City zoning requirements for a Cannabis Establishment; or

v. The proposed location does not meet all location requirements mandated by South Dakota statutes and regulations; or

vi. Any owner, principal officer, or board member of the applicant has served as a principal officer or board member for a medical cannabis establishment that has had its license revoked by the City of Lennox, South Dakota or has had its registration certificate revoked by the State of South Dakota; or

vii. Any applicant, owner, principal officer, or board member is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any violations.

b. The City of Lennox shall reject any application received if the limit on the number of dispensaries has been reached.

c. Any Cannabis Establishment license must be posted in a conspicuous place at or near the entrance to the establishment so that it may be easily read at any time.

4.0406- Number of Cannabis Dispensaries

a. The City of Lennox will permit no more than three (3) Cannabis Dispensaries to operate within the City's municipal boundaries at any time.

4.0407- Inspection

a. Each cannabis establishment licensee and its agents shall permit any duly acting law enforcement officer, including but not limited to the City police officers, Lincoln County Sheriff or deputies, as wells as state or local licensing authorities and their investigators to inspect, during business hours and from time to time on an occasional basis, the cannabis establishment for the purpose of ensuring compliance with the specific regulations of this Chapter. This section shall be narrowly construed by the City to authorize reasonable inspection of the licensed premises pursuant to this Chapter, but not to authorize a harassing or excessive pattern of inspections.

4.0407- Expiration and Renewal of License

a. Each Cannabis Establishment license shall expire on December 31 of each calendar year and must be renewed prior to expiration. Applications for renewal must be submitted at least thirty (30) days prior to the expiration date. The license holder must continue to meet the license requirements to be eligible for renewal.

b. License renewal fees will be established by Resolution of the City Council.

c. Failure to renew a license in accordance with this section may result in additional fees and penalties. Upon expiration of a Cannabis Establishment license, the City may order the closure of that Cannabis Establishment.

d. If a license holder has not operated a Cannabis Establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

4.0408- Suspension of License

a. A Cannabis Establishment license may be suspended if the license holder or an employee or agent of the license holder:

i. Violates or is otherwise not in compliance with any requirements of this ordinance;

ii. Consumes or smokes or allows any person to consume or smoke cannabis/marijuana on the premises of the cannabis establishment; or

iii. Knowingly dispenses or provides cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.

iv. Fails to allow entry to the licensed premises to any law enforcement officers in the course and scope of their employment.

b. A Cannabis Establishment license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or otherwise not renewed by the Department or if the registration certificate is expired.

c. A Cannabis Establishment license may be suspended if the license holder creates or allows to be created a public nuisance at the establishment.

d. A Cannabis Establishment license may be suspended if the City finds that the establishment is not in compliance with South Dakota regulations.

4.0409- Revocation of License

a. A Cannabis Establishment license may be revoked if the license is suspended under this ordinance and the cause for the suspension is not remedied within 30 days.

b. A Cannabis Establishment license may be revoked if the license is subject to suspension under this ordinance and has previous been suspending in the preceding 24 months.

c. A Cannabis Establishment license may be revoked if the license holder or employee of the license holder:

i. Gives false or misleading information in the material submitted during the application process; or

ii. Knowingly allows possession, use, or sale of non-cannabis controlled substances on the premises of the establishment; or

iii. Operated the cannabis establishment for which a license is required under this ordinance while the license is suspended; or

iv. Repeated violations of this ordinance; or

v. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the City, county, or state for any taxes or fees related to the establishment; or

vi. A license holder, or an owner, principal officer, or board member thereof has been convicted of, or continues to employ a person who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or

vii. A license holder has its Department-issued registration certificate suspended, revoked, or not renewed; or

viii. A license holder allows a public nuisance to continue after notice from the City of Lennox

4.0410- Suspension and Revocation Process

a. The license holder will receive a Notice of Intent to suspend or revoke informing the license holder of the violation and of the City's intent to suspend or revoke the license. The notice shall be mailed to the license holder via certified mail, to the physical address of the establishment.

b. If the license holder disputes the suspension or revocation, the license holder may request a hearing before the Board of Adjustment by requesting one within ten (10) days of receiving the Notice of Intent. This request must be hand-delivered or mailed to:

City of Lennox
Attn: Zoning Administrator
PO Box 228
Lennox, SD 57039

c. A suspension will be thirty (30) days in length, and shall begin ten (10) days after the postmarked date on the Notice of Intent, unless the license holder has elected to exercise its rights to process and appeal, in which case the suspension shall take effect upon the final determination of suspension.

d. A revocation will be for one (1) year and shall begin ten (10) days after the postmarked date on the Notice of Intent, unless the license holder has elected to exercise its rights to process and appeal, in which case the suspension shall take effect upon the final determination of suspension.

e. The license holder who has had their license revoked will not be eligible for a new license for one year from the date the revocation became effective

4.0411- Appeal

a. An applicant or license holder who has been denied a license or renewal of a license, or has had a license suspended or revoked, may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, non-renewal, suspension, or revocation. The written appeal must be submitted to:

City of Lennox
Attn: City Administrator
PO Box 228
Lennox, SD 57039

b. The appeal will be considered by the City Council at a regularly scheduled meeting within 30 days of receipt of the appeal.

4.0412- Licenses Not Transferrable

a. No Cannabis Establishment license holder may transfer their license to any other person or entity, nor may a license holder operate a cannabis establishment at any place other than the address designated on the application.

4.0413- Liability for Violations.

a. Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee or agent of any Cannabis Establishment that constitutes grounds for suspension or revocation will be imputed to the Cannabis Establishment license holder for purposes of finding a violation of this ordinance, or for purposes of license denial, suspension, or

revocation, only if an officer, director, or general partner or a person who managed, supervised or controlled the operation of the establishment, knowing allowed such act to occur on the premises.

4.0414- Penalties.

a. Any person who operates or causes to be operated a Cannabis Establishment without a valid license or is otherwise in violation of this ordinance is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of $500 per day, with each day of operation deemed a separate offense or violation.

TITLE 5 - OFFENSES

Chapter 5.01 - Alcoholic Beverages
Chapter 5.02 - Offenses Against Public Welfare
Chapter 5.03 - Animals
Chapter 5.04 - Fireworks, Firearms and Explosives
Chapter 5.05 - Minors

CHAPTER 5.01 - ALCOHOLIC BEVERAGES

5.0101 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:

Alcoholic beverage, wine, malt beverage and distilled spirits and other such words and terms mean the same as the definitions given them by SDCL 35-1-1.

5.0102 Traffic in Alcoholic Beverages. No person shall produce, transport, store or sell within the City, or within one mile of its territorial limits, any alcoholic beverage, except as authorized by SDCL Title 35.

5.0103 Application for License to Conduct Business Pursuant to this Chapter. Any person desiring to enter into the alcoholic beverage business in the City shall submit an application for a license under the provisions of SDCL Title 35, Alcoholic Beverages, to the City Finance Officer.

5.0104 Action by City Council. The City Council may approve or disapprove an application for a license depending on whether the City Council deems the applicant a suitable person to hold the license and whether the council considers the proposed location suitable. The City Council may, in their discretion, require the applicant to appear personally at any meeting of the City Council and to answer any question which may be asked pertaining to the applicant or the place of business which may in any way pertain to the carrying on of the business applied for. (SDCL 35-2-1.2)

5.0105 Violation as Ground for Revocation or Suspension of License. The City Council may revoke or suspend any license issued under this chapter and SDCL Title 35 upon proof of violation by the licensee, the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a City license, or any of the following:

A. Any provision of SDCL Title 35;
B. Any rule promulgated pursuant to SDCL Title 35; or
C. Any ordinance or regulation relevant to alcoholic beverage control that has been adopted by the City.

For any licensee with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license issued pursuant to this chapter or SDCL Title 35, such licensee shall cease operation under all alcoholic beverage licenses held by such licensee for the same premises for the same period as the suspension or revocation.

5.0106 Annual Additional License Fee for Video Lottery Machines on Licensed Premises. Any person who is licensed pursuant to SDCL § 35-4-2(4), (6), (11), (12), (13), or (16), and who is issued a video lottery establishment license pursuant to SDCL § 42-7A-41 must pay an additional annual fee for locating video lottery machines on the licensed premises. The fee is established at fifty dollars ($50.00) for each video lottery machine and the fee shall be paid at the same time and in the same manner as the fees paid on licenses issued pursuant to SDCL § 35-4-2. All fees received under this section shall be deposited into the general fund of the City. (SDCL 35-4-103)

5.0107 On-Sale and Off-Sale Service and Consumption Restricted.

A. No on-sale or off-sale licensee, licensed under SDCL § 35-4-2(3), (4), (5), (6), (9), (11), (13), or (18), may sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages, between the hours of 2:00 a.m. and 7:00 a.m. or at any time on Christmas Day. Such licensees are permitted to sell, serve, or allow to be consumed alcoholic beverages on Sunday and on Memorial Day, except between the hours of 2:00 a.m. and 7:00 a.m.

B. No licensee licensed under SDCL 35-4-2(12), (16), (17), (17A), and (19) may sell, serve, or allow to be consumed on the premises covered by the license, any alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m.

5.0108 Consuming, Blending, Possessing Alcoholic Beverages in Public Places; Disposal of Containers Containing Alcoholic Beverages Restricted.

A. It is unlawful for any person to consume any alcoholic beverage upon the premises of a licensed on-sale dealer if the alcoholic beverage was not purchased from the on-sale dealer.

B. It is unlawful for any person to consume any distilled spirits in any public place, other than upon the premises of a licensed on-sale dealer.

C. For the purposes of this section the term "public place" means any place, whether in or out of a building, commonly and customarily open to or used by the general public, and any street or highway.

D. Exceptions to this subsection are provided for in Section 5.0109.

5.0109 Open Container Permitted. Notwithstanding anything herein to the contrary:

A. No regular on-sale malt beverage licensee may sell or allow to be consumed any malt beverage outside the building of the licensed premises unless the licensee's business operates out of a permanent structure and the consumption of the malt beverage occurs in an outdoor designated area located on the premises of the licensee which is approved by the City Council.

B. The sales and consumption of alcoholic beverages on a sidewalk or walkway subject to a public right-of-way abutting a licensed premises, provided that the license holder derives more than fifty percent (50%) of its gross receipts from the sale of prepared food for consumption on the licensed premises. The sidewalk or walkway subject to a public right- of-way shall be immediately adjacent to and abutting the licensed premises. This provision does not apply to any federal aid-eligible highway unless approved in accordance with the applicable requirements for the receipt of federal aid.

C. The City Council may, in its discretion, for community designated events, permit open containers in public places upon such terms and conditions the City Council may impose.

5.0110 Wines and Malt Beverages Allowed. The possession and consumption of wines and malt beverages shall be allowed at the City Park unless otherwise provided by the City Council or in these ordinances. (SDCL 35-1-5.3)

CHAPTER 5.02 - OFFENSES AGAINST PUBLIC WELFARE

5.0201 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place: (SDCL 9-29-3, 22-13-1)

A. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health;

B. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;

C. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed under law;

D. Interferes with another's pursuit of a lawful occupation by acts of violence;

E. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by the City Police or other lawful authority known to be such;

F. Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his own safety or the safety of others;

G. Resists or obstructs the performance of duties by the City Police or any other authorized official of the City when known to be such an official;

H. Incites, attempts to incite, or is involved in attempting to incite a riot;

I. Addresses abusive language or threats to any member of the City Police Department, any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance, or resentment are not prohibited;

J. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition;

K. Makes or causes to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;

L. Fails to obey a lawful order to disburse by a police officer, when known to be such an officer, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is eminently threatened;

M. Throws a stone, snowball or any other missile upon or at any vehicle, building, tree or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground.

As used above, the following definitions shall apply:

A. "Public place" - Any place to which the general public has access in the right resort for business, entertainment, or other lawful purpose, but not necessarily mean a place devoted solely to the use of the public.

   It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

B. "Riot" - A public disturbance involving (i) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of another person or to the person or any other individual or (ii) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

C. "Inciting riots" - Shall mean, but is not limited to, urging or instigating other persons to riot, but shall be deemed to mean the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness, or the right to commit, any such act or acts. This Section shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or lawful means of expressing public opinion not in contravention with other laws.

5.0202 False Report of a Crime. No person in the City shall make to, or file with, the Police Department of the City any false, misleading, or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the City.

5.0203 Injury or Removal of Public or Private Property. No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or movable or personal property belonging to the City or to any person in the City. (SDCL 22-34-1)

5.0204 Interference with City Property. No person shall climb or in any matter interfere with any building, water tower, or structure belonging to the City, without being authorized to do so by the City; and no person shall in any manner injure or deface any such structure.

5.0205 Tampering with Service Connections. It shall be unlawful for any person to connect, disconnect, or otherwise tamper with any service connection of any franchised cable television company or Broadband Communications Service Company without the express prior approval from a designated agent of said Cable Television company or Broadband Communications Service Company.

5.0207 Certain Uses Prohibited. No person shall put up, erect, hang, post, or suffer to remain so placed, any sign, poster, notice or other advertising matter, upon any telephone, traffic sign, or electric light pole in the City. (SDCL 9-29-1)

5.0208 Roller skates and Skateboards Prohibited in the Business District. No person shall ride upon, in or by means of roller skates, coasters, go-carts, skateboards or other similar wheeled device upon a sidewalk in any business district. (SDCL 9-32-1)

A. Definition as used in this Section:

"Business District" - An area in which 50% or more of the street footage for a distance of 200 ft. or more is occupied by buildings used for business commercial, educational, governmental or religious purposes and/or is used for parking vehicles either as a parking lot or a parking ramp.

B. Exception. Provisions of this Section do not apply to:

1. Physically handicapped persons who have been disabled in such a manner as to make it difficult and burdensome to walk and who use a wheelchair or other wheeled device on the sidewalk.

2. A wheeled vehicle used to transport a person under five (5) years of age.

CHAPTER 5.03 - ANIMALS

5.0301 General.

A. Definitions.

1. "At Large"

a. An animal when off the premises of the owner and not under the control of the owner, possessor, keeper, agent, servant, or member of his immediate family by a leash.

b. An animal when on the premises of the owner, possessor, keeper, agent, or servant and not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises or from reaching the sidewalk.

2. "Leash" = A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.

3. "Owner" = any person harboring or keeping an animal or who is head of the household or owner or manager of the premises where such animal remains.

B. Running at Large. It shall be unlawful for any person to allow any dog, cat or other animal held as a domestic pet to run at large at any time.

C. Impoundment. A police officer or animal control officer shall impound any animal found running at large within the City. Once the owner of said animal is ascertained, said owner shall be notified of the impoundment within 24 hours.

D. Liability. Animal control officers and police officers shall not be responsible for any injury or disease of any animal resulting from the enforcement of this chapter.

E. Failure to claim. Any impounded animal not claimed by the owner within three days after receiving notice shall become the property of the City and shall be placed for adoption in a suitable home or humanely euthanized.

F. Fees. An owner reclaiming an impounded animal shall pay the fees established by City Council Resolution

G. Conditions for release. The owner of any dog or cat found running at large without a license tag affixed to its collar shall be subject to a fine as established by City Council Resolution. The dog or cat will not be released from impound until the applicable fine(s) has been paid and a license has been issued under the provisions of 5.0309.

H. Violation. Any owner who allowed his/her animal to run at large is in violation of this chapter and subject to prosecution of a Class II misdemeanor. Any violation of this chapter shall be documented by the animal control officer or police officer involved in said incident by issuing a warning ticket or filing a complaint stating the alleged violation.

5.0302 Compulsory Immunization of Animals for Rabies. Every dog, cat, or other animal held as a domestic pet in the City, six months of age or older, shall be immunized against rabies by a licensed veterinarian or other qualified person designated by the City Council. Immunization against rabies shall be given at such intervals to guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian. (SDCL 9-32-1)

Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal immunized against rabies within one month following acquisition or when such animal reaches the age of six months.

Any animal impounded shall not be released by the Pound Master to any person until such animal has been immunized against rabies, provided, however, no animal so impounded shall be immunized if the owner can present a certificate of a current immunization having been previously performed.

All veterinarians or other qualified persons designated to immunize animals against rabies shall provide the owner at the time of immunization with a certificate or metallic tag showing the date of the immunization.

Whenever metallic tags are so given for immunizations, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

5.0303 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat or other animal has been notified that said animal has bitten or attacked any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of the contracted animal control provider or a licensed veterinarian for a period not less than fourteen (14) days.

At the end of the fourteen (14) day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be claimed by the owner upon paying the expenses incident thereto.

Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies, or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

Any person who shall suspect that any animal in the City is infected with rabies, shall report said animal to the contracted animal control provider, the Police Department, or other health authority, describing the animal and giving the name and address of the owner if known.

No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to have been infected with rabies.

Any person within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to the Police Department of the City. Any rabid animal may be destroyed by the contracted animal control provider or Police Department upon authorization in writing by the City Council.

Whenever the contracted animal control provider or Police Department shall have determined that there is a danger of the existence or spread of rabies in the City, such facts shall be made known to the City Council in writing. The Council, upon receipt of said facts, may by resolution, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight (48) hours after the publication of said proclamation all animals found off the premises of the owner unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail.

All animals seized and impounded shall be held for observation as hereinbefore provided for fourteen (14) days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided. (SDCL 9-29-12)

5.0304 Vicious Animals.

A. An animal may be declared to be vicious by the Animal Control Officer, by a veterinary/physician who attended to the victim of an animal bite, or the Chief of Police, using the following guidelines:

1. Any animal of known propensity, tendency, or disposition to attack, to cause injury, or to otherwise threaten the safety of human beings or animals.

2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.

3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

B. An animal suspected to be vicious shall be taken into custody and impounded. If the animal is running at large, cannot be captured, and is a public safety risk, it may be destroyed. The declaration of the vicious

animal shall be given to the owner, if known, either verbally or in writing left at the owner's residence. If the animal was not taken into custody, the owner shall be given 24 hours to bring the animal into custody.

C. If the contracted animal control agency and the Chief of Police determine the animal to be vicious, the animal shall be euthanized by a licensed veterinarian, and proof of such shall be provided to the City of Lennox.

5.0305 Disturbance of Peace by Animals.

A. No person owning any dog, cat, or other animal, licensed or un-licensed, confined on the premises or otherwise, shall permit such animal to disturb the peace and quiet of the neighborhood by making loud and/or unusual noises.

B. Upon signed complaint at the police department that any person is keeping or harboring any dog, cat, or other animal which disturbs the peace as herein set forth, it shall be the duty of said police department to notify the owner of said animal in writing of said complaint, and after such owner has been given forty-eight (48) hours notice of such habit, any police officer or person of proper authority is hereby authorized and empowered to go upon the premises and impound such dog, cat, or other animal so disturbing the peace if said act continues.

C. In addition to the costs of impounding of such animal or other penalties prescribed, the owner thereof shall be subject to a fine not to exceed one hundred dollars ($100).

5.0306 Cruelty to Animals. No person shall willfully or negligently maltreat or abuse or neglect in a cruel or inhumane manner any animal or fowl. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, on the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any such animal. (SDCL 40-1)

5.0307 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals within the City. Animals known to be strays shall be reported to the Police Department immediately.

The keeping of animals and fowls on any lot in the City shall not be on a commercial basis or on a scale objectionable to the adjacent property owners, without a permit from the City Council.

The provisions of this section shall not be applicable to those existing at the time of the effective date of this ordinance, particularly insofar as permit requirements are concerned. (SDCL 9-29-13, 40-1)

5.0308 Livestock in City. No person shall keep or maintain any building or enclosure where livestock is kept, unless the same be at all times kept in a clean and sanitary condition. No person shall place, keep, or maintain any live swine, bovine, caprine, equine or ovine within the City. The keeping of any fowl shall be by permission of the City Council and shall be limited to no more than six (6) female fowl. Male fowl, including roosters, are prohibited.

For the purpose of this section, the term "Fowl" shall mean any chicken, guineafowl, peafowl, or duck.

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For the purpose of this section, the term "Livestock" shall mean any animals except common household pets such as dogs, cats, mice, rats, hamsters, gerbils, guinea pigs, pot-bellied pigs, rabbits, ferrets, fish, and birds. (SDCL 9-29-13)

Any person found maintaining livestock within the municipal boundary shall be subject to a fine of $500.

5.0309 Dog License Required. All dogs kept, harbored, or maintained by their owners in the City shall be licensed and registered if over six (6) months of age. Dog licenses shall be issued by the Finance Officer upon payment of an annual license fee established by Resolution of the City Council

Before any license shall be issued under this Section, the applicant shall furnish a certificate of vaccination issued by a veterinarian licensed to practice within this State evidencing the vaccination of the dog for which the license is desired, and that the dog has been vaccinated against rabies and that such vaccination will be good for the license year.

The owner shall state at the time application is made for such license and upon printed forms provided for such purpose his or her name and address, and the name, breed, color and sex of each dog to be licensed. The provisions of this Section shall not be intended to apply to dogs whose owners are nonresidents temporarily within the City, nor to dogs brought into the City for the purpose of participating in any dog show, nor to "seeing eye" dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

Upon payment of the license fees, the Finance Officer or their designee shall issue to the owner a license certificate and metallic tag for each dog so licensed which shall have stamped thereon the number for which it was issued corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate will be issued by the Finance Officer or their designee upon presentation of a receipt showing the payment of the license fee for the current year, and the payment the fee established by City Council Resolution Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of the dog or the owner's leaving the City before expiration of the license period. (SDCL 9-29-12)

5.0310 Number of Pets Limited. It is unlawful for any person to have or to keep more than four domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

5.0311 Removal of Excrement. It shall be unlawful for any person who possesses, harbors, or is in charge of any dog, cat, or animal not to immediately remove excrement deposited by said dog, cat, or animal upon a common thoroughfare, street, sidewalk, play area, park, or upon any other public property, or upon any private property when permission of the owner or tenant of said property has not been obtained, and such is hereby declared to be a public nuisance and prohibited.

CHAPTER 5.04 - FIREWORKS, FIREARMS AND EXPLOSIVES

5.0401 Discharging Firearms or Air Rifles Prohibited. It shall be unlawful for any person, except a police officer in the performance of an official act, to discharge or fire any gun, air gun, sling shot, or other dangerous weapon within the corporate limits of the City of Lennox.

5.0402 Fireworks. The discharge of consumer fireworks as defined under SDCL 34-37-1 shall be allowed between the hours of 12:00 PM to 12:00 AM on the 3rd, 4th, and 5th days of July, and from 10:00 PM on December 31 to 12:30 AM on January 1.

The City Administrator shall have the authority to suspend the discharge of fireworks by recommendation of the Lennox Volunteer Fire Department Chief.

The discharge of any fireworks upon City-owned property, including City streets, may not occur without prior authorization by the City Council.

A permit for the discharge of fireworks may be issued by the City Council to individuals, groups, or organizations for organized, public fireworks displays, based upon such terms and conditions as established by the City Council.

CHAPTER 5.05 - MINORS

[MINORS SDCL Title 26]

5.0501 Curfew. It shall be unlawful for any boy or girl under the age of eighteen (18) years to be on the streets, alleys, or public grounds of the City of Lennox between the hours of 11:00 p.m. and 6:00 a.m., on Sunday-Monday, Monday-Tuesday, Tuesday-Wednesday, Wednesday-Thursday, or Thursday-Friday; and between the hours of 12:30 a.m. and 6:00 a.m. on Friday-Saturday or Saturday-Sunday unless accompanied by some person of majority age having lawful custody or control over said minor or unless on some errand by permission or direction of his or her parents, guardian, or employer. He or she while on such errand shall not loiter on the way or make any undue noise by shouting or yelling or otherwise disturb the peace and quiet of the City.

5.0502 Penalty. Any boy or girl who violates any of the provisions of section 5.0501 shall be subject to arrest by any police officer or any citizen without process. Upon such arrest, he or she shall be taken and delivered into the hands of his or her parents or guardian. Upon a second or any subsequent arrest, such offender shall be taken by such police officer or person and presented to the circuit court of Lincoln County to be handled and punished as provided by law. Any parent or guardian or any person having lawful custody or control of any minor under the age of eighteen (18) years who shall allow, or permit said minor to violate the provisions of this chapter shall upon conviction thereof be subject to the penalties established in this ordinance (Section 11.0101).

5.06 Noise Ordinance

5.0601 – Definitions

1. *A-WEIGHTED SOUND PRESSURE LEVEL.* The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.
2. *AMBIENT SOUND PRESSURE LEVEL.* The sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources.
3. *CONTINUOUS SOUND.* Any sound which exists, without interruption, for a period of ten minutes or more.
4. *CYCLICALLY VARYING NOISE.* Any sound which varies in sound level so that the same level is obtained repetitively at reasonably uniform intervals of time.
5. *DECIBEL.* A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. *DECIBEL* is denoted as "dB."
6. *DEVICE.* Any mechanism which is intended to produce, or which produces, noise when operated or handled.
    7. *DYNAMIC BRAKING DEVICE (COMMONLY REFERRED TO AS JACOB'S BRAKE).* A device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
8. *EMERGENCY VEHICLE.* A motor vehicle used in response to any emergency or to protect persons or property from imminent exposure to danger.
9. *EMERGENCY WORK.* Work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.
10. *IMPULSIVE NOISE.* A sound of short duration usually less than one second with an abrupt onset and rapid decay.
11. *MOTOR VEHICLE.* Any vehicle which is self-propelled by mechanical power, including, but not limited to,

passenger cars, trucks, truck trailers, semitrailers, campers, helicopters, motorcycles, minibikes, go-carts, snowmobiles, and racing vehicles.

12. *MUFFLER.* An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from the apparatus.

13. *NINETIETH PERCENTILE NOISE LEVEL.* The A-weighted sound pressure level that is exceeded 90% of the time in any measurement period (such as the level that is exceeded for nine minutes in a ten- minute period) and is denoted L90. The measurement period shall not be less than ten minutes unless otherwise noted in this chapter.

14. *NOISE.* Any sound which is unwanted, or which causes or tends to cause an adverse psychological or psychological effect on human beings.

15. *NOISE DISTURBANCE.* Any sound which annoys or disturbs reasonable persons with normal sensitivities, or which injures or endangers the comfort, repose, health, hearing, peace, and safety of other persons.

16. *PEAK.* A sound level with a brief occurrence within a sound event which is characterized by a quick onset, an above average sound amplitude, and a rapid return to a lower sound level.

17. *PERSON.* Any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.

18. *PLAINLY AUDIBLE NOISE.* Any noise for which the information content of that noise is unambiguously transferred to the listener, such as but not limited to understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

19. *PROPERTY BOUNDARY.* Any imaginary line exterior to any enclosed structure, at the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person.

20. *PUBLIC RIGHT-OF-WAY.* Any street, avenue, boulevard, highway or alley or similar place which is owned or controlled by a public governmental entity.

21. *PURE TONE.* Any sound which can be distinctly heard as a single pitch or a set of single pitches.

22. *RECEIVING LAND USE CATEGORY.* The principal use of the receiving property regardless of the zoning use established by city zoning ordinances.

23. *REPETITIVE IMPULSIVE NOISE.* Any noise which is composed of impulsive noises that are repeated at sufficiently slow rates so that a sound level meter set at fast meter characteristic will show changes in sound pressure level greater than 10 dB(A).

24. *SOUND.* A temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

25. *SOUND LEVEL METER.*

    a. An instrument, including a microphone, amplifier, RMS detector and integrator, time averager, output meter and/or visual display and weighting networks, that is sensitive to pressure fluctuations.

    b. The instrument reads sound pressure level when properly calibrated and is of type 2 or better as specified in American National Standards Institute publication S1. 4-1971 or its successor publication.

26. *SOUND PRESSURE.* The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

27. *SOUND PRESSURE LEVEL.* Twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure, which shall be 20 micropascals, denoted LP or SPL.

28. *STATIONARY NOISE SOURCE.* Any device, fixed or movable, which is located or used on property other than a public right-of-way.

29. *STEADY NOISE.* A sound pressure level which remains essentially constant during the period of observation; i.e., does not vary more than six dB(A) when measured with the slow meter characteristic of a sound level meter.

30. *USE DISTRICT.* Those districts established by the city zoning ordinance.

5.0602 – Noises Prohibited

(a) *General prohibitions.* It shall be unlawful for any person or for any person to allow another person to make, cause to be made or continued any noise disturbance within the limits of the city. This includes the following specific prohibitions in division (b) below, along with exceeding the decibel levels set forth in this subchapter or granted through a sound permit.

(b) *Specific prohibitions.* The following acts are declared to be in violation of this subchapter:

(1) *Horns and signaling devices.* Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within the county or any city therein except as a danger warning signal or the sounding of any signaling device for an unnecessary and unreasonable period of time;

(2) *Radios, television sets, musical instruments and similar devices.*

A. Using, operating or allowing the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound in a manner as to violate § 5.0603 or cause a noise disturbance; or

B. Using, operating or allowing the use or operation of any device between the hours of 10:30 p.m. and 6:00 a.m. the following day in a manner as to be plainly audible at the property boundary of the source or plainly audible at 50 feet from the device when operated within a vehicle parked on a public right-of-way or plainly audible at 100 feet from the device when operated within a moving vehicle.

(3) *Hawkers and peddlers.* Selling anything by outcry within any area of the city therein zoned primarily for residential uses in a manner as to violate § 5.0603 or cause a noise disturbance. The provisions of this division (b)(4)shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events, or occasional sale of property by public auction;

(4) *Loading operation.* Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects between the hours of 10:30 p.m. and 6:00 a.m. the following day in a manner as to violate § 5.0603 or cause a noise disturbance;

(5) *Enclosed places of public entertainment.* Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound which produces, at a point that is normally occupied by a customer, maximum sound pressure levels of 100 dB(A) as read with the slow response on a sound level meter, unless a conspicuous and legible sign at least 225 square inches in area is posted near each public entrance stating: "WARNING: SOUND LEVELS MAY CAUSE HEARING IMPAIRMENT." This division (b)(6) shall not be construed to allow the operation of any loudspeaker or other source of sound in a manner as to violate § 5.0603;

(6) *Racing events.* Permitting any motor vehicle racing event at any place in a manner as to violate § 5.0603 or cause a noise disturbance, without first obtaining a permit as provided by § 5.0605;

(7) *Powered model mechanical devices.* The flying of a model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-

producing devices, between the hours of 10:30 p.m. and 6:00 a.m. the following day; or in a manner as to violate § 5.0603 or cause a noise disturbance;

(8) *Dynamic braking devices.* Operating any motor vehicle with a dynamic braking device engaged except for the aversion of imminent danger;

(9) *Defect in vehicle.* Operating or permitting to be operated or used any truck, automobile, motorcycle or other motor vehicle which, by virtue of disrepair or manner of operation, violates § 5.0603 or causes a noise disturbance;

(10) *Standing motor vehicles.* The operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in a manner as to violate 5.0605 or cause a noise disturbance for a consecutive period longer than 15 minutes during which the vehicle is stationary in any residential or commercial zone.

(11) *Noise sensitive zones.* Creating noise in excess of the standards as defined in § 5.0603 within the vicinity of any school, hospital, institution of learning, court or other designated area where exceptional quiet is necessary, while the school, hospital, institution, court or other area is in use;

(12) *Bells and alarms.* Sounding, operating or permitting to sound or operate an electronically amplified signal from any bell, chime or clock, including but not limited to bells, chimes or clocks in schools, houses of religious worship or governmental buildings, which fails to meet the standards set forth in § 5.0603;

(13) *Fixed sirens, whistles and horns.* The sounding or causing the sounding of any whistle, horn or siren as a signal for commencing or suspending work, or for any other purpose except as a sound signal of imminent danger, in a manner as to violate § 5.0603 or cause a noise disturbance; and/or

Recreational vehicles and snowmobiles. Operating a recreational vehicle or snowmobile in a manner which violates § 5.0603 or causes a noise disturbance.

5.0603 – Use District Noise Levels

(1) It shall be unlawful for any person to operate or permit to be operated any stationary source of sound in a manner as to create a 90th percentile sound pressure level (L90) of any measurement period (which shall not be less than ten minutes unless otherwise provided in this chapter) which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise:

Normal Sound		
Receiving Land Use Category	**Time**	**Sound Level Limit db(A)**
Agricultural	6:00 a.m. to 10:30 p.m.	75
	10:30 p.m. to 6:00 a.m.	55
Commercial or business	At all times	65

Industrial	At all times	75
Noise sensitive zone	6:00 a.m. to 10:30 p.m.	60
	10:30 p.m. to 6:00 a.m.	50
Residential	6:00 a.m. to 10:30 p.m.	60
	10:30 p.m. to 6:00 a.m.	55

Impulsive Sound			
Receiving Land Use Category	**Time**	**No. of Peaks Per Hour**	**Maximum db(A)**
Agricultural	At all times	2	89
		4	83
		8	77
		16+	71
Agricultural residential	At all times	16+	61
Commercial	At all times	1	90
		2	84
		4	78
		8	72
		16+	66
Industrial	At all times	1	95
Noise sensitive zone	At all times	2	79
		4	73
		8	67
Residential	6 a.m. to 10:30 p.m.	1	85
	10:30 p.m. to 6 a.m.	1	80

(1) When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories.

(b) *Correction for character of sound.*

(1) For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in division (a) above shall be reduced by FIVE dB(A).

(2) Notwithstanding compliance with division (b)(1) above, it shall be unlawful for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

5.0604 - Exemptions

The following uses and activities shall be exempt from noise level regulations:

(a) Noise of safety signals, warning devices and emergency pressure relief valves;

(b) Noise resulting from any authorized emergency vehicles when responding to an emergency call or acting in time of emergency; and

(c) Noise resulting from emergency work.

5.0605 – Exceptions

The following exceptions shall be allowed between the hours of 6:00 a.m. and 10:30 p.m. in residential or commercial land use zones. These uses and activities are not required to obtain a sound permit unless otherwise stated:

(a) *School events.* School outdoor concerts and music activities including marching band activities, sporting activities with musical components, art festivals and student fund-raisers;

(b) *Religious events.* Religious organizations conducting worship services outdoors;

(c) *City-sponsored events.* The city, including, but not limited to, parks and recreation department- sponsored activities;

(d) *Private events in city parks.* Private events in city parks with a duration of one hour or less;

(e) *Construction work.* Operating, or causing to be used or operated, any equipment used in construction, repair alteration or demolition work on buildings, structures, streets, alleys or appurtenances in any land use district where the operation causes a sound pressure level no more than 75 dbA measured at a distance of 50 feet;

(f) *Domestic power equipment.* Operating or permitting to be operated any power equipment rated five horsepower or less used for home or building repair or grounds maintenance, including, but not limited to, a power saw, sander, lawn mower or garden equipment in residential or commercial zones at a sound pressure no more than 75 dbA measured at a distance of 50 feet;

(g) *Commercial power equipment.* Operating or permitting to be operated any power equipment, except construction equipment used for construction activities, rated more than five horsepower, including, but not limited to chain saws, pavement breakers, log chippers or powered hand tools in residential or commercial land use districts at a sound level no more than 82 dbA measured at a distance of 50 feet;

(a) *Refuse compacting vehicles or units.* Operating or permitting to be operated or used any

refuse compacting vehicle or unit at a sound level no more than 75 dbA measured at a distance of 50 feet; and

Permits. Permits approved by the health director or his or her designated agent.

5.0606 - Permits

(a) Applications for a permit for relief from the noise restrictions in this subchapter for an activity shall be made to the City Administrator or his or her designated agent.

(b) Permits must comply with the following:

(1) Application shall be made on a form provided ;

(2) Application shall be made in accordance with the application deadlines set forth in § 93.011;

(3) Payment of a fee as set forth in § 93.011, except bona fide neighborhood block parties which shall be free;

(4) Permits may be issued for any activity conducted between the hours of 6:00 a.m. and 10:30 p.m. Permits shall allow the permitted sound pressure level of no more than an L90 of 70 dbA or allow no more than five peaks of 77 dbA or higher in any three-minute period until 8:00 p.m. when the permit shall allow the permitted sound pressure level of no more than an L90 of 65 dbA or no more than five peaks of 72 dbA or higher in any three-minute period. Permits shall expire at 10:30 p.m. unless otherwise stated;

(5) A special sound permit for a location may be granted allowing extended time and/or decibel levels on a case by case basis. In those cases, the parameters of the event(s) covered by the permit shall be outlined on the permit;

(6) The permit may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the city or the surrounding neighborhood;

(7) The permit shall be posted at the activity; and

(8) When sound readings are taken to determine compliance with a permit, the sound readings shall be of the sound emitting from the permitted source.

5.0607 – Penalty. The penalties for violation of this chapter shall be established annually by resolution of the City Council.

TITLE 6 - STREETS, SIDEWALKS AND PUBLIC PLACES

[STREET AND ALLEY IMPROVEMENTS SDCL 9-45]
[SIDEWALK IMPROVEMENTS SDCL 9-46]

Chapter 6.01 - Street Names and Addresses
Chapter 6.02 - Streets, Sidewalks, Curb and Gutter
Chapter 6.03 - Snow and Ice Removal
Chapter 6.04 - Moving Buildings
Chapter 6.05 - Municipal Trees
Chapter 6.06 - Parks and Recreation Areas

CHAPTER 6.01 - STREET NAMES AND ADDRESSES

6.0101 Official Map. The official map of the City of Lennox shall be those maintained in the office of the Register of Deeds of Lincoln County, South Dakota.

6.0102 Plats Part of Ordinance. Those plats indicating the names of all streets and avenues of the City of Lennox, South Dakota, now on file or filed on a future date in the office of the Register of Deeds of Lincoln County, South Dakota, are hereby incorporated as a part of this ordinance.

6.0103 Names of Streets and Avenues. The names of all streets and avenues in the City shall be fixed and adopted in accordance with the official map of the City on file in the office of the Register of Deeds of Lincoln County, South Dakota. All east-west thoroughfares shall be designated as avenues and all north-south thoroughfares shall be designated as streets. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on such map. (SDCL 9-45-2)

6.0104 Numbering Plan. A numbering plan for residences and businesses shall be maintained by the City. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the office of the Finance Officer. The Finance Officer shall be responsible for assigning new numbers and updating the listing of such numbers and the location map. (SDCL 9-45-2)

6.0105 Numbering Streets. The dividing line for numbering on all streets running north and south shall be First Avenue. The dividing line for numbering all avenues running east and west shall be Main Street. All streets and parts of streets running south from First Avenue shall be designated by prefixing to the names thereof the word South, and all streets and parts of streets running north from First Avenue shall be designated by prefixing to the names thereof the word North. All avenues and parts of avenues running west from Main Street shall be designated by prefixing to the names thereof the word West, and all avenues and parts of avenues running east from Main Street shall be designated by prefixing to the names thereof the word East. (SDCL 9-45-2)

6.0106 Designation of Streets. For the purpose of numbering under the provisions of this Chapter, any portions of State Highway 17 within the City limits shall be identified as Pine Street; the thoroughfare proceeding through Westerman Park beginning at a point on South Main Street at about where Seventh Avenue would normally be located, proceeding west approximately one block, south approximately one block, and then west again approximately one block to a point joining South Elm Street at about where Eighth Avenue would normally be located shall be designated as Park Drive; any portions on the north side of the Milwaukee Railroad right-of-way between North Main Street and North Cherry Street shall be designated as East Court Street; the north-south thoroughfare located approximately a half block east of South Main Street between East Fourth and East Fifth avenues shall be designated a portion of South Poplar Street; any portion of State Highway 44 bordering the City on the south edge shall be designated as West Eleventh Avenue or East Eleventh Avenue, whichever is or becomes applicable; and that portion of the joint city-township thoroughfare extending in a north-south direction in the extreme northwest edge of the City, proceeding north from State Highway 44, shall be designated as Cleveland Street, as will any other portion of State Highway 44 bordering Lennox on the west as it might become applicable. (SDCL 9-45-2)

6.0107 Numbering of Lots. One number shall be apportioned to every subdivision of twenty-five (25) feet along all the thoroughfares of the City whether the same be occupied by buildings or not. In case any block or blocks or any lot or lots will not divide perfectly in to subdivisions of twenty-five (25) feet, one whole number shall be assigned to the fractional part thereof.

In case more than one building is erected in a single space of twenty-five (25) feet the same may be numbered by placing thereon the regular number which appeared on the building formerly situated in said space or the number which would otherwise be allotted to the space and on the second building to be erected thereon the regular number plus the fraction, one-half (½). (SDCL 9-45-2)

6.0108 Numbering Intervals. All buildings shall be numbered consecutively in units as provided by the City Council, and all blocks consecutively in even hundreds. All numbering on east and west thoroughfares shall begin at the dividing line at Main Street and proceed outward to the limits of the City, placing odd numbers on the south side and even numbers on the north side of each thoroughfare. All numbering on north and south thoroughfares shall begin at the dividing line at First Avenue and proceed outward to the limits of each thoroughfare. The number of the first block on each side of the street proceeding from a dividing line shall be 100, the second shall be 200, and so on, and each block shall be numbered consecutively to the outer limits of the City. The number on the first block on the south side of an east and west avenue, and on the west side of a north and south street, shall be 101, and the first number on the opposite sides thereof shall be 100. The first number on the second block shall be 201, and the first number on the opposite side thereof shall be 200, and so on, consecutively along all the streets and avenues throughout the City. (SDCL 9-45-2)

CHAPTER 6.02 - STREETS, SIDEWALKS, CURB AND GUTTER

6.0201 Streets. All streets, roads and alleys constructed or reconstructed shall be surfaced to the appropriate width and manner in accordance with the adopted City of Lennox

Design Standards.. The hard surfacing of streets shall be at the expense of the owners of property abutting the street(s) to be surfaced, with materials in accordance with the City of Lennox Design Standards. Total cost of the street improvements including legal, engineering, grading and any other costs related to the improvement, shall be assessed against the property on a frontage foot basis. (SDCL 9-45-1)

6.0202 Street Excavations. No person shall make or cause to be made any excavation in or under any street, parking area, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material therefrom without first obtaining an Excavation Permit.

6.0203 Excavation Permits. Application for such permit shall be made to the City Administrator. Such application shall be accompanied by a fee of an amount set by resolution by the City Council and on file at the office of the Finance Officer, which amount shall be considered compensation to the City for granting of such permit and the necessary investigation prior thereto. Before any such permit is issued, the person requiring the same shall state in this application therefor where such excavation is to be made, the extent thereof, in front of what lot or lots, for what purpose said excavation is to be made, and shall agree to restore the street surface, curb, gutter, boulevard, and sidewalk to its original condition within 30 days of completion..

6.0204 Supervision of Excavations. The Street Superintendent and Utilities Superintendent shall approve all excavation made for any purpose in the streets, alleys, or public ground and shall require that all excavations be backfilled in the manner specified.

6.0205 Guarding Excavations. Any person receiving a permit to make excavations in or upon any street, alley, sidewalk, or public ground shall, during the progress and continuance of the work, erect and maintain around the same both by day and night suitable guards or fences with flares, or signals so as to prevent injury to persons, animals, or vehicles. Such flares shall be kept lighted from sundown until sunrise.

6.0206 Cutting Pavements. Where it is necessary to cut the street pavement in making any street excavation, there shall be deposited with the Finance Officer before permit is issued an amount determined by multiplying the number of square yards of pavement to be removed by the costs of the new pavement which is on file at the office of the Finance Officer. The deposit shall be credited to the general fund and be used in replacing said pavements.

6.0207 Sidewalk and Curbing Construction. The building and construction of all sidewalks and curbing within the limits of the streets and alleys of the City of Lennox shall be done under the direct approval of the City Engineer and all such sidewalks and curbs shall be constructed on the grades as specified by the City of Lennox Design Standards.

6.0208 Specifications. The construction of all sidewalks and curbing, whether to be done by direct contract with the City of Lennox or by contract with the abutting property owners, shall be done strictly in accordance with the City of Lennox Design Standards on file in the office of the City Administrator. The City Administrator or their designee may condemn work and material not in accordance with the requirements of said specifications.

6.0209 Permit Required. Before any sidewalk or curbing is constructed within the limits of the streets and alleys in the City of Lennox by any contractor or person for the owner or owners of abutting property, said contractor or person must first secure a Sidewalk Permit therefor from the City Engineer.

6.0210 Property Owner Responsible for Sidewalk Repair. It shall be the duty of the person in possession of any lot, parcel, or plot of ground fronting or abutting upon any sidewalk, to keep such sidewalk in repair as provided by SDCL 9-46-2.

6.0211 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line. Concrete driveway approaches shall be of six-inch Portland Cement Construction, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets. (SDCL 9-45-1)

6.0212 Curb and Gutter. No person shall construct or cause to be constructed or installed in, on, or along any City street side a curb and gutter without first obtaining a permit to do so from the Finance Officer. A permit may be granted only if the following specifications shall be met:

1. The curb and gutter shall be concrete (the form to be approved by the Street Superintendent) with minimum compressive strength of 3,500 PSI, twenty-four inches in width and a depth of six inches for the gutter section, with a minimum gravel cushion of four inches under the curb and gutter with expansion joints every twenty feet with expansion joint filler.

2. Before installation of the curb and gutter, the involved property owners must have the curb and gutter line surveyed and staked to insure proper slope of the curb and gutter in relationship to the appropriate storm drains on the intersecting streets. The grade of the street and present or future sidewalks.

3. All labor and materials shall be the sole responsibility of the individual land owners affected by the installation of the curb and gutter.

4. The Street Superintendent and City Engineer must approve the curb and gutter plan before and during construction.

5. The City assumes no liability or responsibility for or from the curb and gutter installation. The land owners involved shall accept full responsibility and liability for and from the installation of the curb and gutter.

6.0213 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they install ramps at crosswalks, so as to make the transition from

street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications therefor prepared by the South Dakota Department of Transportation, according to the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities as published by the U.S. Architectural and Transportation Barriers Compliance Board, August, 1992. (SDCL 9-46-1.2)

CHAPTER 6.03 - SNOW AND ICE REMOVAL

6.0301 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk free from snow and ice and to cause any accumulated snow and ice to be removed from any such abutting sidewalk within twenty-four (24) hours after the termination of any snowfall, or snow or ice accumulation, except for within the Central Business District, where it shall be required that snow be removed by 12:00 noon following the termination of snowfall. When it is impossible to take snow and ice from such sidewalk by reason of its being frozen to the sidewalk, the owner or occupant or person in charge of such lot shall sprinkle or spread some suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel.

6.0302 Disposal of Snow. It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow and ice upon such property in such manner that any snow and ice when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

It shall be the duty of the property owner, tenant, or person in possession of any property abutting on any sidewalk to dispose of accumulated snow and ice upon such sidewalk in such a manner that any snow and ice when removed shall not be deposited within or upon any public street or alley, after such public street or alley has been cleared of snow and ice by the grading of such snow or ice away from the curb or the picking up and carrying away of such snow or sanding or salting of ice by the City.

6.0303 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall fail to comply with any provisions of this chapter, any police officer of the City may issue a citation for such violation. The property owner shall have twenty-four (24) hours to comply with the citation, after which time the street department, at the direction of the Council, shall remove the snow or ice at the cost of the property owner, who shall be billed. The City Council may authorize the assessment of such costs to the property owner if the removal bill is not paid within sixty (60) days. It shall be the responsibility of the police department to ensure the timely enforcement of this section.

CHAPTER 6.04 - MOVING BUILDINGS

6.0401 Permit Required. No person shall move any building or part of building into, along or across any public street, alley, or grounds in the City without having obtained a moving permit. (SDCL 9-34-1, 9-30-2)

6.0402 Applications. Written application for a moving permit shall be filed with the Finance Officer, and shall include the name of the applicant, the name of the owner of the building, a description of the lot on which such building is standing and the lot to which it is to be moved, if such location shall be within the City. The application shall also specify the route along which it is proposed to move the building, and the length of time likely to be consumed in such moving. Any application so filed shall be considered by the City Administrator for approval, and any other conditions to be complied with by the applicant, shall be stated.

6.0403 Surety Bond. No permit shall be granted until the applicant shall file with the City Administrator bond in favor of the City in the penal sum to be established by the City Council, with sufficient surety, and conditioned on the applicant promptly repairing and making good, to the satisfaction of the City Administrator or their designee, any and all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley, or other property, done or caused by the applicant or the applicant's employees, in moving such building or part thereof, or in connection with the moving thereof.

The applicant shall indemnify and save harmless the City against any and all liability for damages, costs and expenses, arising or which may arise or be incurred in favor of any person by reason of conduct by the applicant or the applicant's agents or employees, in connection with the moving of such building or part thereof, or the use of any public ground for such purpose.

6.0404 Standing Buildings. No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twelve (12) consecutive hours.

6.0405 Permission of Property Owners. No moving permit granted by the City shall authorize the holder thereof to break, injure, or move any telephone, electric light, power or cable TV wire or pole, or to cut, trim or otherwise interfere with any property without the written permission of the owner or owners thereof.

6.0406 Removal, Demolition or Relocation of Structures. Upon the removal, demolition or relocation of structures from or on any lot within the City of Lennox, the foundation of such structure removed, demolished or relocated must be removed from the property and the basement or excavation remaining after removal of the foundation must be filled with good, clean, fill dirt.

If a house is removed from the property then all other outbuildings and other structures which are not being used must be removed together with all sidewalks (except along the street). Upon removal, demolition or relocation of the house or other structures, the lot shall be leveled and left in a good, clean, sanitary condition. Upon the property owner's failure to comply with the provisions of this Section, the property shall be deemed a public nuisance which may be abated and the cost thereof assessed against the property pursuant to laws of the State of South Dakota.

6.0407 Approval and Fee. No moving permit shall be issued unless the appropriate nonrefundable fee, established by resolution of the City Council, is paid to the Finance Officer.

6.0408 Safeguards. It shall be the duty of the person, firm or corporation moving any building through the streets to do the same with proper care for the safety of persons and property. Warning barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic.

6.0409 Protecting Pavement. Where a building or structure is being moved over a street, but is not carried on another vehicle or on a unit equipped with tires, the street surface shall be protected by planking or other device effective to prevent injury to the roadway.

CHAPTER 6.05 - MUNICIPAL TREES

6.0501 Trimming Trees. The occupant of any private premises, or the owner of the same if not occupied, abutting on any public street, boulevard, road, or alley within the City of Lennox shall keep all trees standing upon such premises, or between the same and the center of the adjoining street, boulevard, road, or alley so trimmed as to allow the free passage of pedestrians and vehicular traffic and in a manner so as to allow eight (8) feet clearance over sidewalks and service lines, and fifteen (15) feet clearance over all public streets, boulevards, roads, or alleys; provided, the City Council shall have authority to remove or cause to be removed under its supervision any truck, limb, or branch of any tree in violation of this section, whether such trees be growing in privately owned property or on public property, and may cause the same to be trimmed and charged the expense thereof to the occupant or owner of such property.

6.0502 Trees - Injury. It shall be unlawful for any person to injure any tree, herb, or shrub planted in any public place by physical means, use of herbicides, or any means whatsoever, nor shall any person remove or cut down any tree, hedge, or shrub in any public place without first having secured a permit from the Finance Officer to do so.

6.0503 Trees - Guidewires. It shall be unlawful for any person to attach any wire or rope to any tree in a public place without having a permit from the City Administrator or their designee to do so.

6.0504 Trees to be Free From Wires, Cables. Any person, company, or firm having the right to maintain wire, cables, and poles in any public street, alley, or other public place must keep such wire, cables, and poles free from and away from any trees or shrubs in such places so far as it may be possible, and shall keep all such trees and shrubs trimmed away from said poles and wire subject to the supervision of the Street Superintendent. In making excavations in streets or other public places for underground services or the repair thereof, said person, company, or firm shall take proper care to avoid injury to the roots of any tree, hedge, or shrub.

6.0505 Trees Along Curbing. It shall be unlawful for persons owning or occupying lots or parcels of land within the City of Lennox to embellish the same by planting shade trees in the public right-of-way without first having secured a permit from the Building Code Official to do so.

6.0506 Trees Removed by City. In the event that trees are removed from the City's right-of-way in the course of construction or other improvements that otherwise require removal, the City of Lennox shall provide a reimbursement credit for purchase of a replacement tree. The reimbursement credit amount shall be set annually by City Council resolution.

6.0611 Native Plantings Required. Drainage areas and open areas that are otherwise undesignated for use shall be covered by an approved South Dakota native mixed grass prairie or other similar seed mix, and shall be managed as such.

CHAPTER 6.06 - PARKS AND RECREATION AREAS

6.0601 Swimming When Municipal Pool Closed Prohibited. Fine for Violation of Section. Swimming in the Lennox Municipal Swimming Pool shall be prohibited during those hours when the pool is officially closed. Persons found in violation of this section shall be punishable in accordance with Chapter 11.01. (SDCL 9-30-2)

6.0602 Glass Containers Prohibited. It shall be unlawful for anyone to bring or otherwise deposit any containers made of glass into any park.

6.0603 Open Fires Prohibited and Exception. No person shall start any fire in any park except in those places where barbecue grills have been placed by the City or when portable barbecue grills are used and then only for the cooking and preparation of food and in campground areas within fire rings. Every person who starts or uses such acceptable fires shall completely extinguish the fire before leaving the park and restore the area to its original state as close as possible.

6.0604 Animal Control. All animals must be on a leash at all times, according to Section 5.0301 of the Municipal Ordinances.

6.0605 Firearms. It is unlawful for any person, without a valid permit, to possess, use or display any firearms, including but not limited to air guns, explosives, bows and arrows or other weapons within any park.

6.0606 Protection to Trees and Shrubbery. Except as authorized by the City Council, no person shall pick or cut any wild or cultivated flowers, or cut, break, dig or in any way deface any tree, shrub or plant within the limits of any park.

6.0607 Protection to Prohibited Areas. Except as authorized by the City Council, no person shall go on foot or otherwise upon any area of any park or parkway where any prohibitory sign is posted.

6.0608 Injuring Park Property. No person shall cut, break, scratch, mark, mar or in any way injure or deface any building, fence, wall lamp, flagpole, construction improvement, facility, playground equipment or any other feature or property upon or within any park.

6.0609 Vehicle Operating and Parking. Except as authorized by the City Council, no person shall operate or park any vehicle in any park, except on clearly marked and designated roadways or parking areas therein.

6.0610 Littering Prohibited. No person shall throw, deposit, place or leave in any park or parkway, or water therein, any paper, rubbish, waste, cans, bottles or refuse of any kind, whether or not such is offensive to the senses or is injurious to health, except in the receptacles provided for waste.

TITLE 7 - TRAFFIC REGULATIONS

[TRAFFIC REGULATION SDCL 9-31]

Chapter 7.01 - General Provisions
Chapter 7.02 - Operation of Vehicles
Chapter 7.03 - Speed Restrictions
Chapter 7.04 - Parking, Stopping
Chapter 7.05 - Trucks
Chapter 7.06 - Miscellaneous Provisions
Chapter 7.07 - Golf Carts

CHAPTER 7.01 - GENERAL PROVISIONS

7.0101 Definitions. Terms used in this Title, unless the context otherwise plainly requires, shall mean:

A. "Authorized Emergency Vehicle" - Vehicles of the fire department, police vehicles, and ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Chief of Police.

B. “Crosswalk" - That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersection, whether marked or not, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface of the street.

C. “Curb” - The extreme edge of lateral boundary of a roadway, whether marked by curbing or not.

D. “Inoperative Vehicle” - Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires and wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, fire or traffic hazard.

E. "Motor Vehicle" - Every vehicle which is self-propelled.

F. "Operator" - Any person who is in actual physical control of a vehicle.

G. "Parking" - The standing of a vehicle whether attended or unattended upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers.

H. “Street Intersection” - That portion of a street where it joins another at an angle, whether or not it crosses the other street, and shall include the full width of the street between the curb lines, extended, of the intersection streets.

I. “Trailer” - Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

J. "Vehicle" - Every device in, upon, or by which any person or property is or may be transported or drawn upon a street, provided that for the purpose of this Title a bicycle or an animal that is being ridden, driven, or led shall be deemed a vehicle.

7.0102 Duty to Enforce. It shall be the duty of the Chief of the Police and all police officers to enforce all the regulations and requirements of this title.

7.0103 Police to Direct Traffic. Police officers shall direct all traffic in conformance with traffic laws and ordinances, provided that in the event of a fire or other emergency, or to expedite traffic or safeguard pedestrians, members of the police or fire department may direct traffic as conditions may require.

7.0104 Obedience to Police. It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of the police department.

7.0105 Operation of Snowmobiles. The operation of snowmobiles within City limits is prohibited, except to take the most direct route in and out of the City from the storage location. Any person operating a snowmobile in the City shall observe all applicable regulations of this Title pertaining to motor vehicles. (SDCL 32-20A-7)

CHAPTER 7.02 - OPERATION OF VEHICLES

7.0201 Driving on Right Side of Street. Upon all streets, except upon one-way streets, the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow moving vehicle as closely as possible to the right hand edge or curb of a street unless it is impracticable to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing set forth in this Title.

The foregoing provision of this Section shall not be deemed to prevent the marking of lanes for traffic upon any street and the allocation of designated lanes to designated speeds.

7.0202 Backing Around Corners or Into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets.

7.0203 Exhibition Driving. Any person who drives a vehicle within the City limits of Lennox and in such manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping or that simulates a temporary race, or that causes the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving.

7.0204 Right-of-Way at Intersection. Subject to the exception stated in the next succeeding Section, the right-of-way rule between vehicles at intersections is hereby declared as follows:

A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection;

B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right;

C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he may otherwise have hereunder.

7.0205 Exceptions to Right-of-Way. The operator of a vehicle entering a public street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren, or exhaust whistle. This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.

7.0206 Turning Around at Intersections Prohibited. At any intersection where traffic is controlled by traffic control signals or by a law enforcement officer, or where warned by an official traffic control sign displaying the words "No U Turn," or "No Left Turn," it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a complete circle, or so as to proceed in the opposite direction or to make a left turn.

7.0207 Right-of-Way, Left Turn. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said operator, having so yielded and having given a signal when and as required, may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (SDCL 32-26-18)

7.0208 Turning Around in Midblock Prohibited. The operator of a vehicle shall not turn such vehicle so as to park in the opposite direction or so as to proceed in the opposite direction except at an intersection. (SDCL 32-26-25)

7.0209 Required Condition of Vehicles. Any vehicle having a loud or offensive muffler shall be considered illegal. Any vehicle not equipped with adequate brakes shall be prohibited from operating in the City. Any motor vehicle operated within the City shall be equipped with operable lights and a horn as required by state law. License plates shall be clearly displayed on each end of vehicle, and shall be kept clean and legible. (SDCL 32-15)

7.0210 Action Required at Stop Sign. Except when directed to proceed by a police officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the operator shall yield the

right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-2.1)

7.0211 Action Required at Yield Sign. The operator of a vehicle approaching a sign authorized by the City Council bearing the word "Yield" or Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)

7.0212 Stop Required Before Operator Entering From Alley, Building or Private Road. The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon. (SDCL 32-29-2.2)

7.0213 Left Turns. It shall be unlawful for the operator of any motor vehicle to turn left at any place where such turns are prohibited by the City Council. (SDCL 32-26-18)

7.0214 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by police officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 32-27-1)

CHAPTER 7.03 - SPEED RESTRICTIONS

7.0301 General Restrictions. Any person driving a vehicle on a street or highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface, and width of the street or highway and to any other conditions existing.

7.0302 Speed Limitations.

It shall be unlawful for any driver to drive any vehicle upon a highway or streets of the City or in any municipal park at a greater rate of speed than the following:

A. Fifteen (15) miles an hour when approaching within fifty (50) feet of a railroad grade crossing when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred (200) feet of his approach to such crossing he does not have a clear and uninterrupted view of such crossing and of any traffic

on such railway for a distance of four hundred (400) feet in such direction from such crossing.

B. Fifteen (15) miles an hour when passing a school during a school recess or while children are going to or leaving school during the opening or closing hours.

C. Fifteen (15) miles an hour when approaching within fifty (50) feet and in traversing an intersection of streets when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty (50) feet of his approach to such intersection he does not have a clear and uninterrupted view of such intersection for a distance of two hundred (200) feet from such intersection.

D. Fifteen (15) miles an hour on Main Street from the intersection with 1st Avenue to the intersection with South Dakota Highway 44.

E. Fifteen (15) miles an hour on Elm Street from the intersection with 4st Avenue to the intersection with South Dakota Highway 44.

F. Except as provided above, twenty (20) miles per hour on all streets

G. Fifteen (15) miles per hour near the City parks.

H. Ten (10) miles per hour along Park Drive through Westerman Park

CHAPTER 7.04 - PARKING, STOPPING

7.0401 Parking Prohibited in Certain Places. At any time it shall be unlawful to permit any vehicle to stop, stand or park in any of the following places, except where necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control sign or signal:

A. Within a intersection;
B. On a crosswalk;
C. Within twenty-five (25) feet of the intersection curb lines;
D. Within fifteen (15) feet of a fire hydrant;
E. In front of a private driveway.
F. Within fifteen (15) feet of the driveway entrance to any fire station, or directly across the street from such entrance;
G. On a sidewalk.
H. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
I. Parking against direction of traffic on through streets.
J. On a surface that is unimproved and not a hard surface with concrete, asphalt, pavers, or other like durable material not including loose stone or gravel. In the LI and HI Districts, a gravel surface may be used for portions of the site that are intended for the storage of

construction equipment or supplies. Any gravel surface must be adequately maintained to provide a dust-free surface and adequate drainage.

7.0402 Standing for Loading or Unloading Only in Certain Places. It shall be unlawful for the operator of a vehicle to stop, stand, or park said vehicle for a period of time longer than is necessary for the actual loading or unloading of passengers, or the unloading and delivery or pick up and loading of materials in any place marked as loading zone. The City Council shall have authority to determined the location of passenger zones and loading zones as described herein, and shall cause to be erected and maintained appropriate signs indicating the same.

7.0403 Parking Zones. The City Council may designate by resolution any street, avenue, or alley in the City of Lennox, as necessity requires, as parking zones for the parking of motor vehicle or vehicles of any nature and description or the storage of any material of any kind, nature, or description; provide the length of time for day and night parking; the hours that constitute day and night; and provide for marking with proper signs setting forth the manner, form, and hours of parking. Such parking zones shall be delineated on a map filed in the office of the finance officer.

The driver or person in charge of any vehicle parked in such a limited time zone shall comply with such time limit for parking as shown on the signs or marked on the curb where such vehicle is parked.

7.0404 Penalty. Any vehicle parked in violation of this Chapter will be tagged with a tag, listing the date of the offense, license number of the vehicle, make, violation number, and location of offense with reference to street. Whenever a notice is left by any member of the police department in or on any vehicle which has violated the parking regulations, the person in charge of such vehicle shall pay the amount of the assessment described thereon by taking such notice and amount of the assessment to the city finance office and depositing the same with the city finance officer. The assessment for each violation shall be fix by Resolution of the City Council).

If the owner or operator fails to comply within seven (7) days from the date of notice of violation, then in that case, a summons will be issued and the assessment shall be increased as fixed by City Council Resolution. . The increased assessment can be paid at the City Hall within the above time frame. If the summons is not complied with, a complaint will be filed with the court charging the owner or driver with a petty offense and subject to a fine fixed Resolution of the City Council plus court costs.

Any vehicle parked in violation of this Chapter may be removed from the streets by the police department and placed in public or private storage and the owner thereof, in addition to the fines and penalties provided in this Chapter, shall pay the charges for towing and storage of said vehicle so removed by the police department. All money so collected by the police department shall be immediately deposited with the City Finance Officer to be paid into the general fund.

7.0405 Non-Parking Areas. The City Council may from time to time by resolution establish and cause to be designated and marked, non-parking areas along street curbs. No vehicle shall be parked

at any time or for any period except to load or unload passengers or merchandise in such place so designated and marked.

7.0406 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any police officer finds a vehicle which constitutes an obstruction to traffic, such officers shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense, with no liability to the City. (SDCL 32-30-1, 2, 3, 4)

7.0407 Parking During Snow Removal.

A. Definitions. For the purposes of this Section, the following terms and words shall have the meaning given herein:

1. Snow Removal Alert. Such times as there is a snow accumulation on the public streets of 2 inches or more, or such times as the Streets Superintendent or their designee declares that snow removal operations on the public streets will commence and that the provision of this Chapter in regard to parking on public streets during snow removal operations are effective and will be enforced.

2. Street. The entire width of any public roadway within the City, and it shall not be limited to those roadways designated as a *Street* but shall include all other names by which public roadways are designated.

B. Declaration of Snow Removal Alert. When the Public Works Director or his or her designee determines that snow removal from the public streets will commence, the Streets Superintendent or their designee will announce through local news media and whatever other sources are available that there has been declared a snow removal alert and that the provisions of this Chapter will be effective and be enforced, designating a particular date and time when the alert shall commence. The determination to declare a snow removal alert will be based on the then existing weather conditions, and the amount of snow then on the ground or expected according to forecasts from the National Weather Service.

C. Termination of Snow Removal Alert. After a snow removal alert has been declared, there will be no declaration of its termination, but the alert shall terminate and the provisions of this Section become not effective nor enforceable as to any particular street or portion of a street, as soon as that street or portion thereof has been plowed and cleared of snow accumulation, curb-to-curb, and the snow removal equipment is no longer operating in that area, after which normal parking may be resumed until the next declared snow removal alert.

D. Violation of Snow Removal Alert. Parking contrary to and in violation of this Section shall be deemed prohibited parking and any vehicle or trailer parked in violation shall be subject to a fine as established by City Council Resolution. If the owner or operator fails to pay the sum within a 72-hour period, he or she may pay to the office of the City

Finance Officer, within the next 2 weeks from the date of violation, as a fine for and in full satisfaction of the violation, a fine as established by City Council Resolution. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined a fee as established by City Council Resolution plus court costs, which fine shall be collected by the Magistrate Court. The owner or operator also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court.

7.0408 Ticketing and Towing Vehicles. Any authorized City official or law enforcement officer shall be authorized to ticket and tow away, or have removed and towed away by any commercial towing service, any car or vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency or snow removal vehicle, or in any way is in violation with the provisions of this Title. Cars towed away for illegal parking shall be stored in a place designated by the City Council and shall be returned to the owner or operator of such vehicle upon payment of the penalty under Section 7.0404. (SDCL 32-30-13, 14)

7.0409 Abandoned Vehicles. The abandonment of a motor vehicle or other vehicle or any part thereof on any street in the City shall be subject to action and penalties as provided for in this Title and under Chapter 3.01. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a street, in view of the general public, anywhere in the City shall be prohibited except as specifically allowed under Chapter 3.01. (SDCL 32-30-12.1)

7.0410 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in a completely enclosed building.

7.0411 Towing Costs. When a vehicle is removed from either public or private property as authorized by order of the City Council, the owner of the vehicle shall be responsible for all towing costs in addition to the penalty for violation. In addition the City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.

7.0412 General Parking Provisions. No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets, or opposite to the flow of traffic. It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise is peddled, unless authorized by the Chief of Police. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property, or on any public property without the consent of the appropriate governmental agency. (SDCL 32-30-6, 6.1, 6.2)

7.0413 Handicapped Parking Areas. There is no parking in any designated special parking space which is clearly marked as a handicapped parking space unless said vehicle in said parking space is displaying a serially numbered certificate or special license plate marking it as owned or operated by a handicapped person.

7.0414 Double Parking. It shall be unlawful for a vehicle to be double parked. For the purposes of this ordinance, the term "double parked" shall mean that situation where one vehicle is parked so as to occupy two designated parking places. (SDCL 32-30-6.1)

7.0415 School Buses, Commercial Vehicles. The parking of school buses and commercial vehicles shall be restricted to commercial areas. The parking of such vehicles in residential areas, as defined by the City zoning map, shall be prohibited. (SDCL 32-32)

7.0416 Parking of Trucks and Trailers. All semi-trailers shall be parked in the City at such places only as have been marked and designated by the Chief of Police and shall be parked parallel with the curb. Provided however, that this section shall not apply to light delivery trucks delivering goods from house to house and place to place which require a brief stop to receive or deliver merchandise. Semi-trailers that park "and dolly down" on any city street or street right-of-way shall require proper dunnage.

7.0417 Oversized Vehicle Parking Permit: Oversized vehicles are prohibited from parking on any public street or right-of-way within the municipal boundaries of Lennox. Individuals wishing to park an oversized vehicle on a public street or right-of-way may do so only after obtaining a permit from the City of Lennox. Such permits are only available for a 72 hour period, and vehicles left parked beyond the expiration of the permit shall be subject to towing and impound. No oversized vehicle may receive more than two 72-hour permits in any 30-day period.

Commercial entities actively working a job site will be issued a commercial street parking permit. Such permits will expire at the anticipated date of project completion, and are renewable for an additional period of 90 days.

Oversized vehicles are defined as recreational vehicles and commercial vehicles over 10,000 gross vehicle weight, including but not limited to boats, boat trailers, campers, recreational vehicles, jet skis/wave runners and trailers, box trucks, and utility trucks.

The following vehicles are exempt from this permit requirement:

- Vehicles registered to state, county, and local governments
- Law Enforcement, Fire, and EMS vehicles
- Vehicles registered to recognized South Dakota School Districts
- Vehicles and trailers being actively loaded or unloaded
- Campers and recreational vehicles when removed within 24 hours
- Commercial vehicles and loads/trailers parked for less than 60 hours on Industrial Avenue or Industrial Street

CHAPTER 7.05 - TRUCKS

7.0501 Truck Routes. All trucks entering, leaving, or operating within the City limits shall be driven only over and along the truck routes herein established and upon such other designated streets and areas over which truck travel is permitted.

7.0502 Definitions. For the purpose of this article, the terms defined in this section shall have the following meanings:

1. *Person:* Any individual, association, company, corporation, firm, partnership or organization.

2. *Truck:* Any motor vehicle designed or operated for the transportation of property which has a body weight or body and load weight which exceeds three (3) tons per axle.

3. *Truck Route:* The streets herein designated as the way over and along which trucks entering and leaving the City must operate.
4. *Deviating Truck:* A truck operating on City streets not designated as a "truck route" while operating within the City limits.

7.0503 Truck Routes. The City Council, by resolution, may designate streets and highways within the City as truck routes. Said truck routes shall be posted accordingly.

7.0504 Load Limits. If load limits have to be imposed with weather changes, these load limits would coincide with state load limits when they are necessary.

7.0505 Owner's Responsibility. In addition to the driver or operator, the owner of any truck being operated with such owner's permission and/or consent is liable for any violation of this article.

7.0506 Enforcement of Truck Routes. The City Police Department shall keep and maintain accurate maps setting out truck routes and streets upon which traffic is permitted. The maps shall be kept on file in the office of the finance officer and made available to the public.

Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require any person driving or in control of said vehicle to proceed to any public or private scale available for the purpose of weighing and determining whether this Chapter has been complied with. It shall be unlawful for any person driving or in control of any such vehicle to fail to comply with their requirement.

7.0507 Exceptions. Trucks may deviate from the above streets and highways for the following reasons:

1. Temporary permits. The Public Works Director has the authority, for cause or upon request, to issue temporary permits for trucks to operate over routes not established as truck routes by the City Council, or to otherwise deviate from the provisions of this Chapter. Such action by the Public Works Director shall be subject to review, modification, or cancellation by the City Council.

(Amended: Ordinance No. 525, 07-09-12)

2. When it is necessary for conducting business at a destination in the City by first utilizing an established truck route to the point it becomes necessary to deviate from that route doing so at the intersection with the street or avenue nearest to the destination point and going directly to the destination point. Upon leaving the destination point, the deviating truck shall return to the nearest truck route by the shortest route.

3. The operating of emergency vehicles upon any street in the City.

4. The operation of trucks owned and operated by the City, a public utility, any contractor, or material supplier, while engaged in the repair, maintenance, and construction of improvements within the City.

5. The operation of trucks upon an officially designated detour.

Nothing in Chapter 7.05 shall be construed to modify or change any of the regulations of the state highway department or the statutes of the state with reference to the gross weight permitted upon any highways within the City.

CHAPTER 7.06 - MISCELLANEOUS PROVISIONS

7.0601 Accident - Duty to Stop. The driver of any vehicle involved in any accident resulting in injury or death to any person or damage to property shall immediately stop and give his name and address, and the name and address of the owner and the license number of the vehicle he is driving to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the arrangement for medical assistance of such person by a physician or surgeon for medical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

7.0602 Immediate Notice of Accident. The driver of any motor vehicle involved in an accident resulting in bodily injuries or death of any person property damage to an apparent extent of one thousand dollars or more to any one person's property or two thousand dollars per accident shall immediately, by the quickest means of communication, give notice of such accident to the Police Department. (SDCL 32-34-7)

7.0603 Duty Upon Striking Unattended Vehicles. The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or property of his name, address, and the name and address of the owner and the license number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address, and the name and address of the owner and the license number of the vehicle he is driving and shall without unnecessary delay notify the police department. Every such stop shall be without obstructing traffic more than necessary.

7.0604 Duty Upon Striking Animal. The driver of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to notify the owner; if the owner cannot be

notified at once, the driver shall report the accident to the Police Department in order that the injured animal may be properly cared for.

7.0605 Traffic Signs and Signals. The City Council shall by resolution determine and designate the character or type of all official traffic signs and signals, provided that all traffic signs and signals erected and in operation are hereby designated official traffic signs and signals.

Subject to this selection, the Chief of Police is hereby authorized, and as to those signs and signals required hereunder, it shall be his duty to place and maintain or cause to be placed and maintained all official traffic signs and signals. All signs and signals required hereunder for a particular purpose shall be approved by the City Council, and as far as practicable, standard throughout the City.

7.0606 Obedience to Traffic Signs and Signals. It shall be unlawful for any operator to disobey the instructions of any official traffic sign or signal upon the street placed in accordance with the provisions of this Title, unless otherwise directed by a law enforcement officer.

7.0607 Interference With Signs or Signals Prohibited. It shall be unlawful for any person to willfully deface, injure, move, obstruct, or interfere with an official traffic sign or signal.

7.0608 Display of Unauthorized Signs or Signals Prohibited. It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal, or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic. Every such prohibited sign, signal or device is hereby declared to be a public nuisance, and the Chief of Police is hereby empowered to remove the same, or cause it to be removed without notice.

7.0609 Filing Accident Reports. The Chief of Police shall maintain a suitable system of filing traffic accident reports. Accident reports referred to him shall be filed alphabetically by location. Copies of such reports may be provided to any person, and the City may charge a reasonable fee for each copy so furnished, set from time to time by the Chief of Police but not exceeding the amount under SDCL 32-34-13 for copies furnished by the Secretary of Public Safety. (SDCL 32-34-10-13)

7.0610 Jaywalking. Every pedestrian crossing a highway or street within a business or residential district at any point other than a pedestrian crossing, crosswalk or intersection shall yield the right-of-way to vehicles upon the highway.

It shall be unlawful for any person to stand in a roadway within the City for the purpose of soliciting a ride from the operator of a private vehicle. (SDCL 32-27-4)

7.0611 Use of Coasters, Roller Skates, and Similar Devices. It shall be unlawful for any person on roller skates, roller blades or riding in or by means of any coasters, toy vehicles, or similar device to go upon any roadway except while crossing a street on a crosswalk.

7.0612 Prohibit Use of Dynamic Braking Devices. Operating any motor vehicle with a dynamic braking device engaged except for the aversion of imminent danger is prohibited. Dynamic

braking device means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. The police department shall have enforcement responsibility.

7.0613 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any stupefying or exhilarating drug, and except in the more serious and aggravated cases of speeding or careless and reckless driving, and except when reasonably necessary to secure appearance, a person charged with violation of a traffic ordinance of the City of Lennox by a police officer need not be arrested in the regular manner but may first be given an opportunity, after notice, to appear voluntarily to answer for such traffic violation.

7.0614 Notice to Appear. A person charged with violation of a traffic ordinance shall be given a notice to appear before the circuit court magistrate or the county clerk of courts at the time stated in such notice, which shall be written within ten (10) days from the time of the offense; and that in event of failure to do so, a warrant will be issued for his arrest. The notice shall state the name and address of the offender, if known; the license number and make of the vehicle involved in the violation; the nature, date, and location of the offense; and the time and place where the offender is to appear to answer to the charges. The notice shall be made in duplicate and the portion of the original stating the offense and the place and time to appear shall be given to the owner or driver charged with the offense or left in or upon the vehicle involved in the violation.

7.0615 Appearance and Deposit for Fine. A person who has received a notice of a traffic violation as provided in the preceding section shall appear at the time and place specified in such notice. In cases of parking violations and other minor traffic violations for which the person charged has been ordered to appear before the circuit court magistrate or county clerk of courts; he may make a deposit for the fine as authorized by the court and sign a statement authorizing a circuit court magistrate or county clerk of courts to enter his plea of guilty to the offense, then he shall not be required to appear in court. Any person who has been guilty of three (3) or more violations of the provisions of the traffic ordinances of this City shall not be permitted to deposit the fine as herein above authorized, but must post a bond for his appearance in court at the time specified by the department, said bond to be in an amount set by the City Council and on file at the office of the finance officer.

7.0616 Failure to Appear. Upon failure of a person to appear in response to a notice of a traffic violation as herein provided, he shall be subject to arrest in the manner otherwise provided by law.

7.0617 Evidence of Traffic Violations. In any proceeding for violations of the provisions of this title relating to the operation or parking of motor vehicles, the registration plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such vehicle was the person who was operating or parking such motor vehicle at the time when such violation occurred or who parked such motor vehicle at the point where such violation occurred.

CHAPTER 7.07 – GOLF CARTS

7.0701 Definitions. For purposes of this Chapter, the following words shall have the following meanings:

A. "Golf Cart" – A four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course. (SDCL 32-14-13)

B. "Operator" – Every person who operates or is in actual physical control of a golf cart.

7.0702 Golf Cart Operation. Golf carts shall not be allowed to operate within the City except as authorized by state statute or by this Chapter. Golf carts properly permitted pursuant to this Chapter shall be allowed to travel on the roadway portion of public streets, alleys and other roadways within the City except those highways where golf carts are prohibited by state statute. An operator of a golf cart shall comply with all City and state traffic rules and regulations applying to vehicles generally, and except that a golf cart shall not be required to have a bell, horn or directional signals.

7.0703 Operation of Golf Cart on State or County Highway or Bike/Walking Trail Prohibited. No person may operate a golf cart on a state or county highway except for crossing from one side of the highway to the other or on the bike/walking trail. A golf cart may cross the state or county highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach. (SDCL 32-14-15)

7.0704 Operator's License and Insurance. No person may operate a golf cart on the streets, alleys, roadways or other public places within the City limits unless the operator has a valid driver's license and proof that the golf cart is covered by a policy of liability insurance.

7.0705 Permit. It shall be unlawful to operate a golf cart within the City unless the same is permitted in the City of Lennox. Upon submittal of proper application, the Finance Officer shall issue a permit sticker that shall be displayed in a readily identifiable location upon the golf cart. An individual applicant shall pay a fee of $35.00. Permits shall be issued for the lifetime of the owner unless revoked. If the ownership of the vehicle changes, the new owner shall be required to apply for a license. Permit fees and durations may be adjusted by resolution by the City Council.

7.0706 Slow-Moving Vehicle Emblem or White or Amber Warning Lights. Golf carts permitted by the City shall display a slow-moving emblem in accordance with SDCL 32-15-20 or a white or amber warning light in accordance with SDCL 32-17-46.

7.0707 Violation of Golf Cart Operation. Operating contrary to and in violation of this Chapter shall be deemed prohibited and any operator in violation shall be subject to a fine of $25.00. The operator of the golf cart found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum. If the operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next

two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $50.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than $75.00 nor more than $100.00 plus court costs, which fine shall be collected by the Magistrate Court. Any person claimed to be in violation also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

TITLE 8 - WATER AND SEWER

[WATER SUPPLY SYSTEMS SDCL 9-47]
[SEWER SUPPLY SYSTEMS SDCL 9-48]

Chapter 8.01 - General Provisions
Chapter 8.02 - Water Provisions
Chapter 8.03 - Sewer Provisions

CHAPTER 8.01 - GENERAL PROVISIONS

8.0101 Utility Service-Application Required. Any person desiring any utility service furnished by the City, including water or sewer service, shall make application for the same to the City Council. Such application shall contain the applicant's name, address and the uses for which such service is desired. A separate application shall be made for each premise to be served. The applicant shall abide by the rules and regulations established by the city relative to utility service in effect at the time of such application and as revised from time to time in addition to conditions and agreements as the City Council shall deem advisable.

8.0102 Same-Not Available to Debtors. The City may decline or cease to furnish utility service to any person who may be in debt to the City for any reason, except ad valorem taxes and special assessments.

8.0103 Termination of Service. The City shall have the right to disconnect or refuse to connect any municipal utility service for the following reasons: (SDCL 9-47-1)

A. Failure to meet the applicable provisions of law.
B. Violation of the rules and regulations pertaining to utility service.
C. Nonpayment of bills.
D. Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise.
E. Tampering with any meter, seal, or other equipment controlling or regulating the supply of utility service.
F. Theft or diversion and/or use of service without payment therefore.
G. Vacancy of premises.

The City shall give the municipal utility service customer at least ten (10) days notice of the termination of municipal utility service. At any time before the date of termination, a customer may dispute the correctness of all or a part of the amount shown on the utility bill or the determination that a violation of this Section has occurred giving rise to termination hereunder. A customer shall not be entitled to dispute the correctness of all or a part of the amount shown on the municipal utility bill if all or a part of the amount shown were the subject of a previous dispute.

8.0104 Provisions for Termination of Service. The municipal utility shall terminate service hereunder only during the hours of 9:00 a.m. to 3:00 p.m. Monday through Thursday, except no termination shall be permitted on a legal holiday.

Municipal utility service shall be continued for a single thirty (30) day period upon receipt of a physician's certificate or notice from a public health or social service official that disconnection of municipal utility service will aggravate an existing medical emergency of the customer or another permanent resident of the customer's premises.

The City Finance Officer may agree to the partial payment of at least 1/3 of the balance of the municipal utility bill and the customer's entering into a written agreement to pay the balance within sixty (60) days. Failure to make payments as agreed shall also be grounds for termination under the provisions of this Chapter.

8.0105 Rates. Rates for the use of utilities furnished by the City shall be established by resolution by the Lennox City Council.

8.0106 Restoration of Service. All utilities disconnected for nonpayment must pay a reconnect fee as set by resolution by the City Council plus payment in full of the account before any utilities will be reconnected. Reconnections will be made only during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. Utilities voluntarily disconnected shall also require a reconnect fee as set by the City Council and on file in the office of the Lennox Finance Officer.

8.0107 Owner, Lessee Liable. The owner of property, which is serviced by municipal utilities from the City, shall, as well as the lessee or occupant of the property, be liable to the city for the utility bills set forth in 8.0210, which may be recovered in an action against such owner, lessee or occupant or against any or all of them, jointly or severally. The provisions contained in 8.0210 and 8.0106 shall equally apply to the owner of the property as they do to the consumer/lessee or occupant.

8.0108 Tampering With City Equipment. Should the City discover damage to its equipment or an attempt to tamper with such equipment or an attempt to falsify the amount of water or sewer, or the amount due the City for utility service, the City may serve notice upon the consumer of a hearing that is to be held where the consumer may show cause why service should not be discontinued. This notice shall state the reason for the hearing and the time and place it is to be held.

Should the City Council find that a violation of this Section has occurred and that there is no justification for said violation, the City Council may order immediate termination of service and service shall be reinstated only upon conditions established by the City Council.

8.0109 User Responsible for Operation and Maintenance of Water and Sewer Lines. Each occupied residence must have a usable water and sewer service. The water, including the corporation valve(s) attached to the main or sewer line, including the user’s connection to the sewer main (which includes water-tight wye in the sewer main) shall be the exclusive responsibility of the property owner. The user/owner bears all costs, whether new, repair, or replacement of existing water/sewer connections. All owners must, at their own expense, keep their service pipe, from

the point of connection to the main, and all other equipment in good working order and properly protected from frost and other damage. The Water Superintendent may determine if corporation valves, which are no longer working properly need, to be replaced. Thirty (30) days after written notice from the Water Superintendent, if the shut-off valve has not been replaced, the Water Superintendent shall cause such repairs to be made and the cost of these repairs shall be assessed against the property. In the event that a property owner must excavate to repair a line, it shall be his responsibility to fill in such excavation to the satisfaction of the City. It shall be the responsibility of the City to replace the pavement displaced by such excavation at the cost of the property owner.

8.0110 City Not Liable for Damage. No claim shall be made against the City by reason of the breaking of any service pipe or equipment, or for any other damage that may result from shutting off water for repairing or any other purpose, or for any variation in pressure, or ram of water from mains, and no reduction will be made from regular rates because of leaking pipes or fixtures. The city shall not be liable for damage or injury to person or property whether caused by fire, interruption of service, downed lines, blackouts, brownouts, discontinuance of service, or other utility-related problems which shall arise from mechanical breakdowns, electricity supply reductions, and act of God, or other cause beyond the control of the City.

8.0111 Powers and Authority of Inspectors. Superintendents and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties upon reasonable notice for the purposes of inspection, observation, measurement, sampling, and testing pertinent to utility service to the community system in accordance with the provisions of this Title.

8.0112 Utilities to Nonresidents. The City may provide utilities and a delivery system to areas outside of the City limits to include both residential and commercial use provided that the City complies with all state laws and regulations in doing so. All nonresident users of the City's utilities and delivery systems shall agree in writing to be bound by all of the requirements in Title 8.

8.0113 Service Taps - Extensions. Tapping of any water or sewer main for the purpose of making connection shall be done only by authorized personnel of the City. Distribution or collection mains shall be provided at the discretion of the Water and Sewer Committee, in streets, avenues, or alleys abutting the property to be served. Water and sewer facilities for hookups shall be provided, unless otherwise specified by the Committee, to the curb line from the distribution or collection main. Extension of distribution or collection mains shall be only as specified by the Committee in its discretion.

Any property owner may petition for a new hookup or connection to any city water and sewer line. The City Council, with the advice and consent of the Committee, in its discretion, may allow such connection or hookup provided that the petitioning property owner pays the cost for said hookup or connection from the point it joins the City distribution or collection main for the total frontage to the petitioning property owners' lot line. This shall hereinafter be referred to as the extension line. The Committee may require said extension line to the farthest end of the petitioning property owners' lot line.

Any additional property owners desiring hookups from the extension lines thus paid for by the petitioning property owners shall reimburse the petitioning property owner for their pro rata share of the actual costs as provided herein. The pro rata share of the actual costs shall be determined by multiplying the actual costs by a fraction, the numerator of which is the total front footage of the additional property owner desiring a hookup from the extension line and the denominator of which is the total front footage provided by the extension line which was paid for by the petitioning property owner. Said charge to be paid by the additional property owners desiring hookups shall be payable only for the benefit of the petitioning property owner, and shall not run with the land. The actual costs referred to herein shall be satisfaction of the City. It shall be the responsibility of the City to replace the pavement displaced by such excavation at the cost of the property owner.

8.0114 Water and Sewer Hookup Fees. An initial water and sewer hook-up fee shall be established by resolution by the Lennox City Council. This hook-up fee should be paid by all applicants for water and sewer service at the time of application.

CHAPTER 8.02 - WATER PROVISIONS

8.0201 Permit. Any person desiring water service from the City shall make application to the City Finance Officer and shall furnish a hookup fee in an amount set by the City Council with that application as evidence that he or she will comply with all ordinances pertaining to such service. Upon the filing of the application and the payment of the permit fee and deposit, a permit shall be issued authorizing the connection to be made at the place provided for therein. No tap shall be made until a permit is issued therefore.

8.0202 Authorization Required to Tap Mains. No person shall be permitted to tap the distribution pipes or insert stop cocks or ferrules therein unless authorized by the Water Superintendent. No plumber or any other person shall make any attachment to any old pipe or water fixture on premises from which water has been off unless the City has reissued a permit for the same. Nor shall any plumber or other person make any alteration in any pipe or water fixture attached to the water works distributing pipes to conduct water into adjoining premises or into stables, baths, water closets, wash basins, cisterns, fountains, or for any other purpose whatever without application having first been made and written permit obtained. The plumber shall close the stop cock at the sidewalk at the completion of any job of plumbing work and return his permit.

8.0203 Lead-Free Pipes. No person shall be permitted to connect to the City's water main, except existing connections, unless the consumer provides, at his own expense, copper pipe, fitting and joints from the City's water main to the consumer's curb stop if it is an existing structure to which the after service is provided. If the consumer's existing water line connection needs to be repaired or replaced, and thus excavation conducted to expose the water line connection, then at that time, a lead-free pipe must be exposed or a copper pipe must be installed. All new or existing dwellings, business structures or improvements shall meet the appropriate federal and state statutory requirements for lead-free pipes, fittings and joints in its water distribution system, otherwise the City will not provide water service to that new or existing dwelling, business structure or improvement. The City assumes no liability for providing water service

to consumers owning existing structures that may have lead pipes, fittings or joints, since all consumers in the city have been notified in writing of the potential for lead contamination in their water at their tap caused by their continued use of lead pipes, fittings and joints.

8.0204 Meter Required. All places supplied with water shall be metered by a meter of a type approved by the City Council installed at the cost of the owner or user. A monthly service charge, as set by resolution of the Lennox City Council, will be assessed for replacement and repair, but in no event less than fifty (50) cents per month, or part thereof, per meter.

8.0205 Inspection of Meters. Any person authorized by the City Council to read water meters or make inspections shall be allowed free access at all reasonable hours to any building or premises where water is used. If such persons are not allowed such access, the City, in its discretion, may estimate the water use, shut off the water, make additional charges, or take other action not inconsistent with the law.

8.0206 Meter Sealed. Upon the installation of meters, they shall be sealed both at register box and couplings, with a form of seal designated by the City Council, and these seals must not be broken except upon its authority. Any person violating this provision shall upon conviction thereof be subject to the penalties provided in this ordinance (Section 11.0101).

8.0207 Repair and Return of Meters. The replacement or repair of meters shall be done without cost to property owners or users, unless occasioned by the property owner's or user's negligence, misuse, or violations of federal, state or city law, rule, ordinance or regulation.

8.0208 Replacing of Meters. The Water Superintendent shall determine if water meters which are no longer working properly need to be replaced. The City shall provide a new replacement meter and install said meter. Any additional repairs needed on the property owner's pipes or property to install such meter will also be at the expense of the property owner. With a new replacement meter, the property owner shall install a dual check valve approved by the American Water and Wastewater Association at the property owner's expense.

Any new or replacement encasement for underground meters must be of metal, concrete, or polyvinyl chloride (PVC) with an outside dial for guaranteed accessibility to city employees.

8.0209 Testing Meters. If the consumer doubts accuracy of any meter, he may have the meter tested by the City. If the meter is more than three (3) percent fast, proper deductions will be made from the bill for the preceding period. If the meter is more than three (3) percent slow, the proper amount will be added to the bill. If after testing the meter is shown to be accurate, the property owner shall be responsible for the all costs associated with the meter testing.

8.0210 Meter Reading. The City of Lennox shall be responsible for reading each customer's water meters monthly. Following said reading, the City shall bill the customer for any water service supplied. Any bill for water services which is not paid on or before the 5th day of the month following the month of the billing shall be delinquent. The amount of any penalties related to delinquency shall be set by resolution of the City Council. Failure of the customer to comply with the time of payment of water bills shall subject them to be shut off from water service in accordance with Section 8.0103.

8.0211 Water - Restrictions. The City may limit or prohibit temporarily the use of water from the City distribution system for any purpose, except domestic purposes within the dwellings of consumers or in business establishments, during emergencies, in the event of plant breakdown, prolonged drought or shortage of water supply for any reason in order to maintain maximum fire protection efficiency. The Mayor shall authorize the imposition of these restrictions. The City will attempt to notify affected utility customers if time permits of any such limitation. Any person violating the terms of such prohibition or restriction after such notice shall upon conviction thereof be subject to the penalties provided in this ordinance (Section 11.0101). Water service to the premises involved may be discontinued entirely during emergency.

8.0212 Joint Water Users Liable. In case two or more users are supplied with water from the same service pipe, if any of the parties fail to pay the water charge when due, or to comply with any rule of the City, the City reserves the right to cut off the water from the whole service until such charge is paid, or the rules strictly complied with, and it is expressly stipulated that no claim for damage or otherwise may be made against said City by any user whose water charge has been paid, or who has complied with the rules of said City, because of such turn-off, it being expressly stipulated that the necessity for such turn-off shall be deemed to be the joint act of all served through such service.

8.0213 Dual Check Backflow Preventor. A dual check backflow preventor approved by the City Council shall be installed on the outlet side of the water meter on all new homes or buildings or anytime plumbing is changed within five feet (5') of the outlet side of said meter.

It shall be the owner's responsibility to maintain the dual check backflow preventor.

8.0214 Definition. "Water User" shall be defined as all residential and non-residential users including all households, apartment dwellers, housing units, industrial and commercial establishments. This term is not to include residents of a nursing home.

8.0215 Penalty. Any person violating any of the provisions of this Chapter shall, in addition to the ordinary penalties prescribed for violation of this ordinance, be subject to having water service turned off to the premises of such consumer, and service shall not be restored until there has been full compliance of this Chapter, and the payment of such penalties imposed and fees for restoring service as may be provided by this Chapter.

8.0216 Sale of Wells. The City may offer for sale six wells, Lennox City Parcel Nos. 098.51.24.1010, 098.51.12.4021, 098.51.14.4010, 098.51.13.A100, 098.51.12.B100, and 098.51.12.A100 for said sum as it deems appropriate but for no less than the depreciated value of the same and in an amount sufficient to cover any secured debt against said wells. The City shall, commensurate with such sale, retain the right to utilize said services in an emergency to the extent the needs of the City are not otherwise met. Sale proceeds are subject to SDCL § 16-13-8.

CHAPTER 8.03 - SEWER PROVISIONS

8.0301 Definitions.

A. "Biochemical Oxygen Demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20) degrees Centigrade, expressed in milligrams per liter.

B. "Building Drain" - That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

C. "Building Sewer" - The extension from the building drain to the public sewer or other place of disposal, also called house connection.

D. "Combined Sewer" - A sewer intended to receive wastewater and storm or surface water.

E. "Easement" - An acquired legal right for the specific use of land owned by others.

F. "Floatable Oil" – Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.

G. "Garbage" - The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

H. "Industrial Wastes" - The wastewater from industrial processes, trade or business as distinct from domestic or sanitary waste.

I. "Natural Outlet" - Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

J. "pH" - The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7}.

K. "Properly Shredded Garbage" - The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

L. "Public Sewer" - A common sewer controlled by a governmental agency or public utility.

M. "Sanitary Sewer" - A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

N. “Sewage” - The spent water of a community. The preferred term is “wastewater.”

O. “Sewer” - A pipe or conduit that carries wastewater or drainage water.

P. “Slug” - Any discharge of water or wastewater, which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

Q. “Storm Drain” (sometimes called “Storm Sewer”) - A drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

R. “Superintendent” - The superintendent of wastewater facilities of the City or his authorized deputy, agent or representative.

S. “Suspended Solids” - Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as nonfilterable residue.

T. “Unpolluted Water” - Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

U. “User” - All residential and non-residential users including all households, apartment dwellers, housing units, industrial and commercial establishments. This term is not to include residents of a nursing home.

V. “Wastewater” - The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

W. “Wastewater Facilities” - The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

X. "Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

Y. "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

8.0302 Use of Public Sewers Required.

A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under its jurisdiction, any human or animal excrement, garbage, or other objectionable waste.

B. It shall be unlawful to discharge to any natural outlet within the City of Lennox, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater within the City or within 200 feet of City sewer system.

D. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sewer, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter, within 120 days after date of official notice to do so.

E. The procedure for determining equitable sewer charges to be levied on all users which discharge wastewater to the City wastewater system is established by resolution by the City Council and kept on file in the office of the Lennox Finance Officer.

8.0303 Private Wastewater Disposal Prohibited.

A. Private wastewater disposal (septic) systems are prohibited within the City.

B. Existing private wastewater systems are permitted to continue to operate, provided that the owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. The City may notify the owner upon receipt of a complaint and the owner must comply within forty-eight (48) hours. Upon reaching the end of the system's useful life, the owner shall be required to connect to available public sewers as prescribed in Chapter 8.0302.

C. The type, capacity, location, and layout of a private wastewater disposal system shall comply with all the recommendations of the department of public health of the State of South Dakota. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

D. The type, capacity, location, and layout of a private wastewater disposal system shall comply with all the recommendations of the department of public health of the State of South Dakota. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 43,560 square feet (1 acre). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

E. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in 8.0303 (D), a direct connection shall be made to the public sewer within sixty (60) days in compliance with this chapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

F. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. The City may notify the owner upon receipt of a complaint and the owner must comply within forty-eight (48) hours.

G. No statement contained in this Chapter shall be construed to interfere with any additional requirements that may be imposed by the City.

8.0304 Sanitary Sewers, Building Sewers and Connections.

A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

B. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee for a residential, commercial or industrial building sewer permit shall be paid to the City at the time the application is filed. The amount of the fee shall be set by resolution of the City Council, which is on file at the finance office.

C. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Chapter.

F. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be use in excavating, placing of the pipe, jointing, and backfilling the trench, shall all conform to the requirements of the building and plumbing

code or applicable rules and regulations of the city and the State of South Dakota. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in the appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

H. Connections between roof downspouts, foundation drains, areaway drains, garage floor drains, sump pumps, or other sources of surface runoff or groundwater, and the public sanitary sewer, whether directly or indirectly, are prohibited. In certain locations or situations where surface water discharge would create a safety hazard during freezing weather, connection to the sanitary sewer line may be permitted by the Utilities Superintendent.

Any person, owner, lessee or occupant who has presently made or permitted to be made, or shall make or permit to be made, any connection or installation in violation of Section 8.0304(H) shall immediately remove that connection or correct that installation. If not removed or corrected within ten (10) calendar days after notice of violation has been delivered personally or by certified mail to that person, owner, lessee or occupant, the City shall impose a surcharge of five hundred dollars ($500) per month on the sewer bill of the property owners who are not in compliance. All properties found during regular or periodic re-inspection programs that violate Section 8.0304(H) will be subject, at the discretion of the City, to the imposition of the monthly fee for all months between the two most recent inspections.

I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, and the State of South Dakota or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

J. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or his representative.

K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other

public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

8.0305 Use of the Public Sewers.

A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the Superintendent and the South Dakota State Department of Health.

B. Stormwater other than that exempted under Section 8.0305 (A) and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

C. No person shall discharge or cause to be discharged any of the following water or wastes into any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard or adverse effect on the waters receiving any discharge from the treatment works.

   Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the Lennox treatment works shall pay for such increased costs.

3. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

D. The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, the sludge of any municipal system, or the wastewater treatment process or equipment, nor have an adverse effect on the receiving stream, nor otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set

limitations lower than the limitations established in the regulations below, if, in his opinion such more severe limitations are necessary to meet the above objectives.

In forming his opinion as to the acceptability, the Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

1. Wastewater having a temperature higher than 150° Fahrenheit (65° Celsius).

2. Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin.

3. Wastewater from industrial plants containing floatable oils, fat, or grease.

4. Any garbage that has not been properly shredded (see 8.0301, definitions). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Superintendent for such materials.

6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Superintendent.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

8. Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.

9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

10. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the

collection system, or create a condition deleterious to structures and treatment processes.

11. Wastewater having a pH less than 5.5 or more than 12.5, or otherwise causing corrosive structural damage to the POTW or equipment.

E. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 8.0305 (D) of this Chapter, and which in the judgment of the Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Reject the wastes,
2. Require pretreatment to an acceptable condition for discharge to the public sewers,
3. Require control over the quantities and rates of discharge, and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 8.0305 (K) of this Chapter. If the Superintendent permits the pretreatment or equalization of waste flow, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and the South Dakota State Department of Environment and Natural Resources.

F. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section 8.0305 (E) (3), or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and the South Dakota State Plumbing Code, and shall be located so as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.

G. Where pretreatment or flow-equalization facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

H. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent.

The structures shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

I. The Superintendent may require a user of sewer services to provide information needed to determine compliance with this Chapter. These requirements may include:

1. Wastewater discharge peak rate and volume over a specified time period.
2. Chemical analyses of wastewaters.
3. Information on raw materials, processes, and products affecting wastewater volume and quality.
4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
5. A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
6. Details of wastewater pretreatment facilities.
7. Details of systems to prevent and control the losses of material through spills to the municipal sewer.

J. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Superintendent.

K. No statement contained in this Section 8.0305 shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

8.0306 Destruction of Property. No person(s) shall maliciously, willfully or negligently damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

8.0307 Powers and Authority of Inspectors.

A. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this Chapter.

B. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold

information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

C. While performing necessary work on private properties referred to in Section 8.0307 (A), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 8.0305 (H).

D. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. Entry and all subsequent work shall be in accordance with the terms of the easement pertaining to the private property involved.

8.0308 Penalties.

A. Any person found to be violating any provision of this chapter except Section 8.0306 shall be served by the City with written notice stating the nature of the violation and providing notice to the offender to permanently cease all violations within ten (10) days.

B. Any person who shall continue any violation beyond ten (10) days shall be charged with violating the ordinance. Each day in which any such violation shall continue shall be deemed a separate offense.

C. Any person violating any provision(s) of this Chapter shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violations, including attorney fees incurred to enforce these provisions.

8.0309 Wastewater Facilities Replacement Fund. A reserve fund called the Wastewater Facilities Replacement Fund is hereby established within the wastewater utility fund to provide sufficient funds for obtaining and installing equipment, accessories and appurtenances, during the useful life of the wastewater treatment facilities, necessary to maintain the capacity and performance for which such facilities are constructed.

TITLE 9 - PLANNING AND ZONING

[MUNICIPAL PLANNING AND ZONING SDCL 11-4]
[COMPREHENSIVE CITY PLANNING SDCL 11-6]

Chapter 9.01 - General
Chapter 9.02 - Planning Commission
Chapter 9.03 - Building Code
Chapter 9.04 - Residential Code
Chapter 9.05 - Property Maintenance Code
Chapter 9.06 - Flood Damage Prevention
Chapter 9.07 - Urban and Rural Service Districts

CHAPTER 9.01 - GENERAL

9.0101 Ordinances Saved from Repeal. Nothing in this chapter shall be construed to repeal or otherwise affect in any manner:

A. Any zoning ordinance of the City or amendment thereto.
B. Any subdivision ordinance of the City or amendment thereto.
C. Any ordinance dedicating, accepting or vacating any plat or subdivision in the City or any part thereof.

CHAPTER 9.02 - PLANNING COMMISSION

9.0201 Creation of Planning Commission. There is hereby created a City Planning Commission for the City.

9.0202 Membership, Terms and Compensation. The Planning Commission shall consist of five members appointed by the Mayor, subject to the approval of the City Council. The appointment of each member shall be for terms of two years. The compensation of the Planning Commission shall be fixed by resolution by the City Council.

(Amended: Ordinance No. 543, 04-14-14)

9.02021 Membership Qualification. All members of the City Planning and Zoning Commission shall own property or reside within the City of Lennox municipal boundaries.

9.0203 Organization. The Planning Commission shall elect a Chairman from among its members for a term of one year with eligibility for re-election, and shall also elect a Vice-Chairman and Secretary in a manner prescribed by the rule of the members. The Planning Commission shall meet monthly if there is business to be conducted and shall adopt rules

for transaction of its business and keep a record of its resolutions, transactions, findings and determinations which shall be a public record.

The Planning Commission may appoint such employees as it may deem necessary for its work, and may also contract with planners, engineers, architects and other consultants for such services as it may require, provided, however, that such appointments and contracts shall be approved by the City Council.

9.0204 Territorial Extent of Powers. The Planning Commission may exercise the comprehensive planning and zoning powers granted in SDCL 11-4 and 11-6, and acts amendatory thereof, not only within the corporate limits of the City, but also within an area of up to three miles of the corporate limits as provided by law.

9.0205 Preparation of Comprehensive Plan. For the purpose of making a comprehensive plan for the development of the City, the Planning Commission shall make or cause to be made careful and comprehensive studies of present conditions and future growth of the City, including any land outside the City which bears relation to the comprehensive plan. The comprehensive plan shall be made with the general purpose of guiding and accomplishing a coordinated and harmonious development of the City and its environs.

After such comprehensive plan has been adopted according to law, no substantial amendment or modification thereof shall be made, without such proposed change first being referred to the Planning Commission for its recommendations.

9.0206 Zoning Regulations. It shall be a duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with the comprehensive plan. All applications and proposals for changes in or amendments to the zoning regulations shall first be submitted to the Planning Commission for its recommendations.

9.0207 Subdivision Plats and Regulations. All plans, plats, or re-plats of subdivisions or re-subdivisions of land within the jurisdiction of this ordinance shall first be submitted to the Planning Commission for its recommendation before approval by the City Council.

The Planning Commission shall prepare and recommend to the City Council regulations governing the subdivision of land within its jurisdiction. No amendments or changes thereto shall be made without recommendation by the Planning Commission.

9.0208 Powers and Duties. The Planning Commission, its members and employees, shall have all powers as may be necessary to enable it to fulfill and perform its functions, and to carry out all the purposes and powers provided in SDCL 11-4 and 11-6, and acts amendatory thereof.

9.0209 Vacancies. Any vacancy in the membership of the Planning Commission shall be filled for the unexpired term by the Mayor in the same manner as for appointment.

9.0210 Removal for Cause. The Mayor, with the confirmation of the City Council, shall have authority to remove any member of the Planning Commission for cause, which cause shall be stated in writing and made a part of the member's official employment record.

CHAPTER 9.03 - BUILDING CODE

9.0301 Adopted. The International Building Code, 2021 Edition, including Appendix C and Appendix I as published by the International Code Council Inc., and amendments and additions thereto as provided in this article are hereby adopted as the Building Code by the City of Lennox for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings and structures in the City of Lennox providing for the issuance of permits and collection of fees therefore. The minimum building standards in the 2021 edition of the International Building Code and amendments thereto shall be applied to any building permit issued after January 1, 2022. .
A printed copy as amended is on file and available upon request.

9.0302 Conflicts. In the event of any conflicts between the provisions of the code adopted by the subchapter and applicable provisions of the Code of Ordinances, state law or city ordinance, rule or regulation, the provisions of this Code of Ordinance, state law or city ordinance, rule or regulation shall prevail and be controlling.

CHAPTER 9.04 – RESIDENTIAL CODE

9.0401: .

A) The *International Residential Code*, 2021 edition, including Appendix E, Appendix G, Appendix H, and Appendix Q as published by the International Code Council Inc. as amended, is hereby adopted as the residential building code by the city for regulating the design, construction, quality of materials, erection, installation, alteration, movement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and town houses not more than three stories in height with a separate means of egress and their accessory structures, and provides for the issuance of permits and the collection of fees therefor.

B) The adoption of the *International Residential Code*, 2021 edition, will become effective January 1, 2022. The minimum building standards in the 2021 edition of the *International Residential Code* and amendments thereto shall be applied to any building permit issued after January 1, 2022.

CHAPTER 9.05 - PROPERTY MAINTENANCE CODE

9.0501 Adopted. The *International Property Maintenance Code*, 2021 edition, published by the International Code Council, as amended, is hereby adopted as the Property

Maintenance Code to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing, and controlling the use, occupancy, conditions, and maintenance of all property, buildings, and structures within this jurisdiction and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished. The minimum requirements and standards of the 2021 International Property Maintenance Code will become effective after January 1, 2022.

A printed copy as amended is on file and available upon request.

CHAPTER 9.06 - FLOOD DAMAGE PREVENTION

9.0601 Statutory Authorization. The Legislature of the State of South Dakota has in SDCL 9-36 and 7-18-14 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Lennox, SD does ordain as follows:

The City of Lennox elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The City of Lennox elects to adopt a Floodprone Zone Map, by reference, to identify areas that are prone to standing water during and after significant rain events. The National Flood Insurance Program, established in the aforesaid act, provides that areas of the City having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

9.0602 Finding of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

9.0603 Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Protect human life and health;
B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

F. Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
G. Insure that potential buyers are notified that property is in a flood area.

9.0604 Methods of Reducing Flood Losses. In order to accomplish its purposes, this Ordinance uses the following methods:

A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

D. Control filling, grading, dredging and other development which may increase flood damage; and

E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

9.0605 Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted to give them the meaning they have in common usage and to give this Ordinance its' most reasonable application.

Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, or VO zone on a city's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood-related erosion hazard is the land within a city which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area; in preparation for publication of the FIRM, Zone E may be further refined.

Area of special flood hazard is the land in the flood plain within a city subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) – Is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see structure.

Conditional Letter of Map Revision means FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations, or the Special Flood Hazard Area. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1,

1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a city.

Existing structures - see existing construction.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for serving the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

    a. The overflow of inland or tidal waters.

    b. The unusual and rapid accumulation or runoff of surface waters from any source.

    c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Insurance Rate Map (FIRM) means any official map of a city, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the city.

Flood Insurance Study or Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodprone Zone Map means a map, by reference, developed by historical data from the Lincoln County Geographical Information Systems (GIS) database. The map shall be updated at a minimum of every two years, earlier if land is annexed into the City of Lennox. The map shall serve as an instrument to determine a special flood hazard. Land in the map area does not require federal flood insurance.

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway - see regulatory floodway.

Floodway encroachment lines mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   a. By an approved state program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Amendment means an official amendment, by letter, to an effective map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area and are usually issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation.

Letter of Map Revision means FEMA's modification to an effective Flood Insurance Rate Map, or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations, or the Special Flood Hazard Area.

Letter of Map Revision Based on Fill means FEMA's modification of the Special Flood Hazard Area shown on the Flood Insurance Rate Map based on the placement of fill outside the existing regulatory floodway.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Sec. 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a city issued by the Agency.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a city's Flood Insurance Rate Map are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a city and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a city.

Recreational vehicle means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Special flood hazard area: see "area of special flood hazard".

Special hazard area means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, additional placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land

preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means:

1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

2. A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or

3. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the city's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a city from the terms of a flood plain management regulation.

Violation means the failure of a structure or other development to be fully compliant with the city's floor plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in **Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5)** of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

9.0606 General Provisions.

A. Lands to Which this Ordinance Applies. The Ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Lennox.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Lincoln County, SD and Incorporated Areas," dated April 2, 2008, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM AND FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Ordinance.

C. Establishment of Development Permit. A Development Permit shall be required to ensure conformance with the provisions of this Ordinance.

D. Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions. This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation. In the interpretation and application of this Ordinance, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning and Disclaimer or Liability. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and

engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.

This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City or any official or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

H. Severability. If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court, the remainder of the Ordinance shall not be affected.

9.0607 Administration.

A. Designation of the Floodplain Administrator. The City of Lennox City Administrator is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. Duties and Responsibilities of the Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Ordinance.

2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this Ordinance.

4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the South Dakota Office of Emergency Management (OEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

8. When base flood elevation data has not been provided in accordance with Section 9.0606(B), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 9.0608.

C. Permit Procedures. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 9.0608(B)(2);

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

5. Maintain a record of all such information in accordance with Section 9.0607(B)(1).

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

8. The necessity to the facility of a waterfront location, where applicable;

9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

10. The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedures.

1. The Lennox City Council shall act as the Appeal Board to hear and render judgment on requests for variances from the requirements of this Ordinance.
2. The Appeal Board shall hear and render judgment on any appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.

3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

4. The Floodplain Administration shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.

5. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 9.0607(C)(2) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

6. Upon consideration of the factors noted above and the intent of this Ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance (Section 9.0603).

7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

8. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

9. Prerequisites for granting variances:

   a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

   b. Variances shall only be issued upon:

i. Showing a good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

10. Variances may be issued by a city for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

a. the criteria outlined in Section 9.0607(D)(1)-(9) are met, and

b. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

9.0608 Provisions for Flood Hazard Reduction.

A. General Standards. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 9.0606(B), (ii) Section 9.0607(B)(8), or (iii) Section 9.0608(C)(3), the following provisions are required:

1. Residential Construction – new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standards of this Ordinance are satisfied.

2. Nonresidential Construction – new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

3. Manufactured Homes – Require that all manufactured homes to be placed within Zone A on a city's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

C. Standards for Subdivision Proposals.

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Sections 9.0602, 9.0603, and 9.0604 of this Ordinance.

2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit

requirements Section 9.0606(C); Section 9.0607(C); and the provisions of Section 9.0608 of this Ordinance.

3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 9.0606(B) or Section 9.0607(B)(8) of this Ordinance.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

D. Floodways. Floodways located within areas of special flood hazard established in Section 9.0606, are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot.

2. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 9.0608 in this Ordinance.

4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a city may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the city first applies for a conditional FIRM and floodway revision through FEMA.

E. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Ordinance and other applicable regulations. Violation of the provisions of this Ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be punishable by a fine of $500.00, by imprisonment not exceeding thirty days, or by both the fine and imprisonment. Each and every day of the continued violation may constitute a separate offense. In addition to any fine and imprisonment for each violation, violators shall pay all costs and expenses

involved in the case. Nothing herein contained shall prevent the City of Lennox from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 9.07 - URBAN AND RURAL SERVICE DISTRICTS

9.0701 Service Districts Established. Pursuant to the authority granted in SDCL Ch. 9-21A, the City is hereby divided in area into an urban service district and a rural service district constituting separate taxing districts for the purpose of levying all city ad valorem property taxes, except those levied for the payment of bonds.

9.0702 Rural Service District - Criteria for Lands Included. The rural service district shall include only such platted or unplatted lands as in the judgment of the City Council are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. The rural service district may include lands which are not contiguous to one another.

9.0703 Lands Described--Rural Service District. The rural service district shall consist of those platted or unplatted lands described in Exhibit A, on file with the Lennox Finance Officer's office, entitled "Lands Included in the Rural Service District" and attached to the end of this Chapter and made a part of this Section, all of which lands are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes and for these reasons are not benefited to the same degree as other lands by municipal services financed by general taxation.

The rural service district shall also include lands outside the municipality, if annexed into the corporate limits, which are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.

9.0704 Lands Included in Urban Service District. The urban service district shall include all lands within the boundaries of the City which are not included in the rural service district.

9.0705 Agricultural Land Annexed; Limitation on Mill Levy and Assessed Value. The tax levy and assessed value on the agricultural land annexed shall not exceed the average tax levy and average assessed value on unannexed agricultural land in adjoining townships in the county so long as the annexed land remains rural property and is included in the rural service district.

9.0706 Platting or Construction in Rural District. Whenever any parcel of land included within the rural service district:

A. Is platted in whole or in part;

B. Is the subject of an application for a permit for the construction of a commercial, industrial or urban residential development or improvement to be situated on such parcel or any part thereof; or

C. Otherwise fails to meet the criteria as set forth in Section 9.0703 of this Chapter.

The board or officer of the City approving such plat or building permit or having knowledge of the change in circumstances shall report the change to the City Council which shall make and enter an order transferring such parcel from the rural service district to the urban service district.

9.0707 Filing Ordinance Amendment or Order with County Auditor. The Lennox Finance Officer is hereby directed to file with the Lincoln County Auditor a certified copy of the Ordinance codified in this Chapter, every amendment thereto and every order adopted or entered pursuant to such Ordinance

Exhibit A

Parcel ID Number	Legal Description
250.82.00.A100	**Tract One (1) of Countryside Addition to the South Half of the Southeast Quarter (S1/2SE1/4) of Section 29, Township 99 North, Range 51 West of the 5th P.M., Lincoln County, South Dakota.**
250.82.00.A200	**Tract 2 of Countryside Addition to the Southeast Quarter (SE1/4) of Section 29, Township 99 North, Range 51 West of the 5th P.M., Lincoln County, South Dakota**
250.82.00.00A	**Tract A, Countryside Addition, City of Lennox, Lincoln County, South Dakota**
250.40.05.4000	**The Southeast Quarter (SE 1/4), except 2.51 acres,(know as Lot H-1) of Section Five (5), Township Ninety-Eight (98), Range Fifty-One (51), Lincoln County, South Dakota**
250.91.00.200	**Tract 2 (EX 4th Street Dedicated ROW), Opheim Addition, City of Lennox, Lincoln County, South Dakota**
250.91.00.300	**Tract 3 (Ex Lot 1A and Dedicated ROW), Opheim Addition, City of Lennox, Lincoln County, South Dakota**
250.91.01.001	**Lot 1, Block 1, Opheim Addition, City of Lennox, Lincoln County, South Dakota**
250.91.01.001A	**Lot 1A, Block 1, Opheim Addition, City of Lennox, Lincoln County, South Dakota**

(Ordinance #619, February 2021)

TITLE 10 - TAXATION

[UNIFORM MUNICIPAL NON-AD VALOREM TAX LAW SDCL 10-52]
[USE TAX SDCL 10-46]

Chapter 10.01 - Municipal Sales and Service Tax and Use Tax
Chapter 10.02 - Reduced Valuation for Tax Purposes
Chapter 10.03 - Gross Receipts Tax

CHAPTER 10.01 - MUNICIPAL SALES AND SERVICE TAX AND USE TAX

10.0101 Purpose. The purpose of this Chapter is to provide additional needed revenue for the City of Lennox, Lincoln County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

10.0102 Effective Date and Enactment of Tax. From and after the first day of January, 2004, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the City of Lennox, Lincoln County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

10.0103 Use Tax. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the City of tangible personal property or services purchased from and after the first of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

10.0104 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

10.0105 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

10.0106 Use of Revenue. One-half (1/2) of the amount of tax received by the City shall be placed in a fund designed as the Lennox Sales and Use Tax Capital Improvements Fund pursuant to SDCL 9-22. Such revenues may be used only for capital improvement, land acquisition, funding of

public ambulances and medical emergency response vehicles, public hospitals or nonprofit hospitals with fifty or fewer licensed beds, other public health care facilities with fifty or fewer licensed beds, the transfer to the special 911 fund authorized by 34-45-12, the purchasing of fire fighting vehicles and equipment, debt retirement, and the minor or major rehabilitation, or reconstruction of streets as defined in the June, 1994, South Dakota Department of Transportation Pavement Condition Survey Guide for City Streets. These expenditures may be financed through a sale-leaseback agreement.

10.0107 Penalty. Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a Class 2 misdemeanor. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

10.0108 Separability. If any provision of this Chapter is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

CHAPTER 10.02 - REDUCED VALUATION FOR TAX PURPOSES

10.0201 Structure Types Eligible . Within the corporate limits of the City, or within three (3) miles of the corporate limits of the City:

10.0201(A) Any new industrial structure, including a power generation facility, or an addition to an existing structure, if the new structure or addition has a full and true value of thirty thousand dollars or more under SDCL 10-6-137(2); Any new commercial structure, or any addition to an existing structure, except a commercial residential structure as described in subdivision (5), if the new structure or addition has a full and true value of thirty thousand dollars or more under SDCL 10-6-137(4);

10.0201(C) Any new commercial residential structure, or addition to an existing structure, containing four or more units, if the new structure or addition has a full and true value of thirty thousand dollars or more under SDCL 10-6-137(5);

10.0201(D). Any new affordable housing structure containing four or more units, with a monthly rental rate of the units at or below the annually calculated rent for the state's sixty percent area median income being used by the South Dakota Housing Development Authority for a minimum of ten years following the date of first occupancy, if the structure has a full and true value of thirty thousand dollars or more under SDCL 10-6-137(6);

10.0202 Classification of Property. All real property qualifying under this section, as determined by the Lincoln County Assessor, shall be classified in the manner prescribed in this chapter.

10.0203 Taxable Value Formula. Such structures or additions shall, following construction, be valued for taxation purposes in the usual manner as provided by law, except the following formula for taxable value shall be used for tax purposes: (SDCL 10-6-137.1)

A. The first year following construction, twenty-five percent (25%) of the taxable value shall be used for tax purposes on such property.
B. The second year following construction, twenty-five percent (25%) of the taxable value shall be used fr tax purposes on such property.
C. The third year following construction, fifty percent (50%) of the taxable value shall be used for tax purposes on such property.
D. The fourth year following construction, fifty percent (50%) of the taxable value shall be used for tax purposes on such property.
E. The fifth year following construction, seventy-five percent (75%) of the taxable value shall be used for tax purposes on such property.
F. The sixth year following construction, seventy-five percent (75%) of the taxable value shall be used for tax purposes on such property.
G. The seventh year following construction, and each year thereafter, one hundred percent (100%) of the taxable value shall be used for tax purposes on such property.

CHAPTER 10.03 – GROSS RECEIPTS TAX

10.0301 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Lennox, Lincoln County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52A, and acts amendatory thereto.

10.0302 Effective Date and Enactment of Tax. From and after the first day of July, 2014, there is hereby imposed a municipal gross receipts tax of One Percent (1%) upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than twenty-eight (28) consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Lennox, Lincoln County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

10.0303 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52A and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.

10.0304 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

10.0305 Use of Revenue. Any revenues received under this Chapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.

CHAPTER 10.04 – STORM DRAINAGE FEE

10.0401(a) Storm Drainage Fee. The purpose of this division is to establish a charge against real property within the city, for the operation, maintenance, and capital expense of the storm sewer and drainage system.

10.0401(b) All real property, except property owned by cemetery corporations, within the city shall be charged and annual fee for the operation, maintenance, and capital improvements of the storm sewer and drainage system. The fee for such property shall be based on the lot area, a runoff weighting factor and a unit financial charge, and which fee is determined as follows:

Runoff Weighting Factor: The runoff weighting factor is determined by the type of land use, and indicates the relative volume of storm water runoff from a land parcel, as a function of the percentage of impervious surfaces covering each land parcel. The runoff weighting factor is to be assigned by land use type, as shown in Table I:

TABLE I

Classification Number	Land Use	Runoff Weighting Factor
12	Duplex	7.5
13	Townhouses	7.5
14	Apartment Building (1-3 Stories)	11.25
15	Apartment Building (4 or more stories)	11.25
16	Dormitories	11.25
17	Mobile Homes and trailers	11.25
18	Other Residential	11.25
21	Apparel and textiles	17
22	Wood, furniture, fixtures	17
23	Lumberyards	17
24	Printing and publishing	17
25	Warehouse, indoor storage	17
26	Electronic, scientific, optical	17
27	Construction yards, including plumbing, electrical, heating contractors	17
28	Chemical, petroleum storage	17
29	Other light, pollution-free manufacturing not included elsewhere	17
31	Food, agricultural processing, stockyards, rendering	17
32	Paper and pulp	17

33	Chemical, petroleum, rubber, and plastic	17
34	Stone, glass, clay, cement, brick	17
35	Primary metal, smelting	17
36	Metal fabricating	17
37	Salvage, junkyard, resource recycling	7.5
38	Other heavy manufacturing not elsewhere coded	17
41	Bus, railroad yards, terminals, rights-of-way	5
42	Airport	5
43	Auto parking ramps and lots (commercial or public only – not auxiliary parking)	18.75
44	Highway and street right-of-way	5
45	Communication (tv, radio, etc)	17
46	Utilities (gas, sewer, water, telephone, etc)	17
47	Truck terminal	17
48	Military base	17
49	Other transportation, communication, and utilities not elsewhere coded	17
51	Wholesale – food, produce	18.75
52	Wholesale – other	18.75
53	Extensive retail – building supplies, including lumber, home repair supplies	18.75
54	Extensive retail – farm equipment and implements	18.75
55	Extensive retail – new and used car dealers	18.75
56	Extensive retail – recreation vehicles, marine	18.75
57	Extensive retail – tires, batteries, auto accessories	18.75
58	Extensive retail – auto repair, body shop	18.75
59	Extensive retail – other retail with outside storage	18.75
61	Food store	18.75
62	Neighborhood commercial, hardware, drugs, laundromat, beauty shop, barbershop, neighborhood shopping center	18.75
63	Gasoline, auto service station	18.75
64	Department store, discount store, regional shopping center	18.75
65	Clothes and apparel	18.75
66	Specialty retail – jewelry, gifts, etc	18.75
67	Furniture, household appliances	18.75
68	Other retail no elsewhere coded	18.75
71	Banks and financial institutions	18.75
72	Churches	11.25
73	Nursing homes and hospitals	11.25
74	Colleges and universities, adult education	11.25

75	Primary and secondary educations	11.25
76	Day care centers	11.25
77	Medical offices, clinics	18.75
78	Governments offices	18.75
79	Offices no elsewhere coded (real estate, law, etc)	18.75
81	Cultural activities – libraries, museums, etc	18.75
82	Assembly areas, arenas, stadiums	18.75
83	Theaters	18.75
84	Restaurants, bars, lounges	18.75
85	Hotels, motels, resort lodging	18.75
86	Public parks, golf courses, fairgrounds	1
87	Private country club and other recreational uses	1
88	Other cultural and entertainment uses not elsewhere coded	1
91	Cropland and farms	0
92	Feedlots	1
93	Grasslands	0
94	Quarrying**	1
95	Cemetery	1
96	Sanitary landfills	1
97	Vacant	1
98	Under construction	1
99	Other not elsewhere coded	0
110	Single-family (lot area less than 30,000 square feet)	7.5
111	Single-family (lot area of 30,000 – 60,000 square feet)	5.75
115	Estate (lot area of 60,000 – 100,000 square feet)	3.5
116	Estate (lot area greater than 100,000 square feet)	2.5

* Land indlcued in the F-1 flood way zone shall have a runoff weighting factor of zero for the actual flood hazard area** Quarries are individually calculated with a runoff weighting factor of zero for the actual quarry area

Upon written request from a property owner, a detailed site study will be conducted by the city engineer to determine the runoff weighting factor. This written request must be submitted to the director on or before April 30 of the year the fees are charged to the subject land parcel. The city engineer shall calculate the percentage of impervious area for the subject parcel which contributes storm water runoff to the drainage system of the city. The runoff weighting factor is then determined through utilization of table II. This calculation shall be completed by July 1 of the year the written appeal is requested.

TABLE II – Percentage Impervious Area Average Runoff to Rainfall Ratio (Rv*) Runoff Weighting Factor (Rv the "Storm" equation (figure 5-20, page 5-49), A Statistical Method for the Assessment of Urban Storm Drainage, EPA, Washington, D.C, January 1979. For low percentage impervious surfaces (zero percent to 20 percent), a linear relationship was assumed between the "storm" equation and empirical data derived from drainage runoff in high depression storage, loose soils, and flat areas.

Interpolation of the runoff weighting factor for a given percentage of impervious area not listed in Table II may be obtained by assuming a linear relationship between the values listed.

The director may direct that the runoff weighting factor for a given parcel be calculated by a detailed site investigation and Table II, where an obvious departure from the percentage of impervious surfaces of similar land uses exists.

A determination of the runoff weighting factor, resulting from a detailed site investigation and Table II, brought about either by written requested from a property owner or direction from the director, shall be used in the calculation of the subject parcels storm drainage fee and shall replace the factor previously derived from Table I, even is the resulting value is higher.

10.0402 Parcel Area. Parcel area is to be obtained from the records of the Lincoln County Department of of Equalization and the Lincoln County Assessors Office

10.0403 Unit Financial Charge. The unit financial charge effective January 1, 2001 shall be established by Resolution of the City Council

10.0404 Collection. The storm drainage fee established in Section 1 shall be an annual charge. The first half of the fee is due on May 1, and the second half is due on November 1 of the same year, payable at the office of the County Treasurer within which the land parcel lies. These fees shall be remitted or turned over to the city finance officer, at least once a month, by the county treasurer.

10.0405 Fund Established. The drainage fees paid to the city shall be kept in a separate fund to be known as the drainage and storm sewer fund. This fund shall be used to pay the cost of financing the operation, maintenance, or construction of the drainage and storm sewer system.

10.0406 Annual Review. The unit financial charge in this division shall be reviewed annually and shall be revised as necessary to keep revenues reasonably in balance with anticipated expenditures. Excess funds may be carried forward from year to year in order to build sufficient funds for large drainage construction projects which are scheduled or programmed for the near future. In addition, funds may be carried over to provide sufficient monies for unanticipated repairs, replacements or maintenance of the drainage system.

TITLE 11 - GENERAL PROVISIONS

[ORDINANCES AND RESOLUTIONS SDCL 9-19]

Chapter 11.01 - Penalties and Repealing Clause

CHAPTER 11.01 - PENALTIES AND REPEALING CLAUSE

11.0101 Penalty in General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable by a fine not to exceed the fine established by SDCL 22-6-2(2). Each day in which a violation of this Code or other ordinance continues shall constitute a separate offense. (SDCL 9-19-3)

11.0102 Conflicting Ordinances Repealed. All former ordinances or parts of former ordinances in conflict with the provisions of this ordinance or relating to the subject matter of this ordinance, except as stated in this chapter, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, franchise ordinances establishing fees and charges, levy ordinances for the issuance of bonds, or special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any zoning ordinances or any other ordinances requiring a special method of adoption, nor shall this ordinance repeal or modify the provisions of any resolution heretofore adopted by the City of Lennox unless the provisions of this ordinance either modify, repeal, or amend such resolution; and all such ordinances and resolutions shall remain in full force and effect.

11.0103 Unconstitutionality. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

TITLE 12 - MANUFACTURED HOMES

Chapter 12.01 - General Provisions
Chapter 12.02 - License
Chapter 12.03 - Permits and Inspections
Chapter 12.04 - Park Standards
Chapter 12.05 - Violations and Penalties

CHAPTER 12.01 - GENERAL PROVISIONS

12.0101 Purpose. The purpose of terms and conditions of this ordinance is to promote the health, safety and welfare of the inhabitants of the city through the regulation of the location, planning, design, layout, construction, and operation of this licensed manufactured home park and manufactured homes placement and use therein.

12.0102 Definitions. The following words, terms and phrases, when use herein, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. "Administration" - the Lennox City Administrator.

B. "Board" - the Lennox Planning and Zoning Commission.

C. "Cabana" - a factory-built room enclosure erected or constructed attached to a manufactured home for residential use by the occupants of a manufactured home.

D. "Codes" - any codes or other regulations that the city council or its departments have adopted which include, but are not limited to, the fire code, health code, building code, plumbing code, heating code and electrical code. Such codes will be controlling when work is to be done in a given area where such code is applicable.

E. "Detached accessory building" - an incidental freestanding building located on the same lot which it serves and used solely for storage of personal equipment and possessions of the manufactured home occupants.

F. "License" - a licensed manufactured home park operator's license.

G. "Licensee" - the person to whom a manufactured home park license has been granted.

H. "Licensing entity" - the City of Lennox Council.

I. "Manufactured home" - a dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on it own chassis or be site delivered by alternative means, and is

not typically placed upon a permanent foundation. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Manufactured Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

J. "Manufactured home park, licensed" - a contiguous parcel of land, under the same ownership, where lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is licensed by the City.

K. "Manufactured home space" - a parcel of land designated and approved for the placement of a single manufactured home.

L. "Park occupant"- a person living in a manufactured home located in a licensed manufactured home park.

M. "Park operator" - the person to whom a manufactured home park license has been issued or who is managing the licensed manufactured home park for someone who has been issued a license.

N. "Required yard" -a yard of a manufactured home as set out in City Ordinances and/or City Zoning Ordinances.

O. "Service building" - an accessory building to a license manufactured home part for related services.

P. "Service equipment" - the plumbing, mechanical and electrical equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire protection, and facilities essential for the habitable occupancy of a manufactured home or accessory building or structure for its designated use and occupancy.

Q. "Utilities" - water and sewer, gas or electrical distribution system which is available for connection to manufactured homes in a licensed manufactured home park.

R. "Yard" - an open space, other than a court on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

S. "Zoning ordinance" - the revised zoning ordinances of the City of Lennox.

CHAPTER 12.02 - LICENSE

12.0201 Duty of licensee and occupants.

A. Responsibility of licensee.

1. The manufactured home park licensee will operate the park in strict compliance with the provisions of this ordinance and the zoning ordinances, including the Building Code and Property Maintenance Code, and will provide adequate supervision to maintain the park, its related facilities, roadways, drainage ways, walkways, open spaces, utilities and equipment in good repair and in a clean and sanitary condition.

2. The licensee will be responsible for verifying and certifying that all manufactured homes placed in the park meet or exceed the property maintenance code.

3. The licensee will be responsible to verify that all manufactured homes hereinafter located in a licensed manufactured home park shall be provided with a HUD approved tie-down system.

4. The licensee will also be responsible to see that all plumbing, heating, and electrical connections, alterations and additions comply with the provision of this ordinance; that all street signs and address numbers are installed; to secure permits for detached accessory buildings and park service buildings.

5. The licensee will be responsible for the proper placement of each manufactured home and notification to the City Building Inspector when new manufactured homes are placed.

6. The licensee will notify the park occupants of all applicable provisions of a duly authorized Conditional Use Permit and inform them of their responsibilities thereunder.

7. The licensee shall provide to both the City Administrator and all park occupants the name, address, and phone number of the local park management.

B. Responsibilities of occupants or owners.

1. The occupant or owner of any manufactured home will comply with all applicable requirements of a duly authorized Conditional Use Permit and will maintain the manufactured home space, its facilities and equipment in good repair and in a clean and sanitary condition.

2. The occupants of any manufactured home will be responsible to see that all plumbing, heating, cooling and electrical connections, alterations and additions comply with the requirements of the zoning ordinances, Building Code, and Property Maintenance Code, and secure necessary permits for detached accessory buildings.

12.0202 Required; term, renewal and fee.

A. It will be unlawful to operate a manufactured home park within the city unless a valid license has been issued. Application for a license shall be made 90 days prior to operation by completing the appropriate form, furnishing a copy of park rules and regulations, and

submitting payment of a nonrefundable application fee to the City in the amount set forth by resolution by the City Council.

B. Said license will expire on June 30 of each year. An application for a renewal shall be made 90 days prior to the expiration of said license in accordance with the requirements in paragraph A. A license filed after the expiration date of such license will not be considered for renewal.

C. The City Code Official and Building Inspector shall inspect any manufactured home park submitting a completed application for renewal no less than 60 days prior to the expiration of the current license. Any deficiencies shall be provided to the applicant/owner of the Manufactured Home Park in writing.

D. The licensee will be responsible for making any necessary repairs, alterations, or modifications by the date the license is considered for renewal by the City Council. If the required repairs, alterations and modifications are not substantially completed by the time of City Council consideration, the license shall not be renewed.

12.0203 Revocation or refusal. A manufactured home park license may be revoked in whole or part as described in this section or renewal refused for failure to comply with any of the provisions of this chapter, a duly authorized Conditional Use Permit or any other condition approved by the City Planning and Zoning Commission.

12.0204 Transfer. Licensed manufactured home park licensee will give notice in writing to the City Finance Officer within 30 days after having sold, transferred, given away, or otherwise disposed of any interest in or control of the manufactured home park. Such notice will include the name and address of the new owners. Upon application in writing for transfer of the license, the license may be transferred if the park is in compliance with the provisions of a duly authorized Conditional Use Permit and all other pertinent laws and regulations.

CHAPTER 12.03 - PERMITS AND INSPECTIONS

12.0301 Manufactured home placement permit.

A. Every manufactured home owner shall file an application for a manufactured home park placement permit with the City Administrator prior to the date of the placement of the manufactured home in the licensed manufactured home park.

B. It is unlawful for any manufactured home to be occupied in the licensed manufactured home park unless the manufactured home is situated on a manufactured home space and a placement permit issued by the City of Lennox.

C. The manufactured home park licensee shall give to every manufactured home owner desiring to place his manufactured home in the licensee's park an application for a placement permit. The licensee will retain two complete copies of the application form

and will send one to the City Administrator prior to the date of placement of the manufactured home and will retain the second copy; the manufactured home owner will have the responsibility of filing the original copy of the application with the City Administrator and will pay a permit fee as set by resolution by the City Council.

12.0302 Detached accessory buildings and structures. It is unlawful to alter, repair, or add detached accessory buildings or structures in a licensed manufactured home park without first obtaining a permit. Permit issuance and fees will be in conformance with the City codes and ordinances applicable to the type of work involved.

12.0303 Service buildings and equipment. It is unlawful to construct service buildings or install service equipment in the licensed manufactured home park without first obtaining a permit. Permit issuance and fees will be in conformance with the City codes and ordinances applicable to the type of work involved.

12.0304 Carports, cabanas, enclosed vestibules, canopies and decks. It is unlawful to construct (i) cabanas, (ii) unenclosed canopies, (iii) carports, or (v) enclosed vestibules in any Manufactured Home Park.

12.0305 Inspections. The City Building Inspector may enter the licensed manufactured home park to inspect such park in the discharge of its duties. Such inspection or re-inspection may take place at any time.

CHAPTER 12.04 - PARK STANDARDS

12.0401 Placement of manufactured homes. All manufactured homes will be positioned in compliance with an approved manufactured home park plan. All manufactured home parks shall provide to the city a map in which all streets, home numbers, and occupant names are recorded.

12.0402 Water supply. An accessible, adequate, safe, and potable supply of water will be provided in each licensed manufactured home park capable of furnishing a minimum of 125 gallons per day per manufactured home space and all water supply will be supplied by the City of Lennox.

12.0403 Waste disposal.

A. All plumbing in the licensed manufactured home park will comply with the plumbing code as adopted by the City and also applicable state codes.

B. All waste from showers, toilets, laundries, faucets and lavatories will be wasted into a sewer system extended from and connected with the City sewer system.

12.0404 Garbage disposal.

A. The storage, collection and disposal of refuse in the manufactured home park will be so managed as to create no health hazards, rodent harborage, insect breeding areas, accident hazards or air pollution. All refuse will be stored in flytight, weathertight, rodentproof containers, which will be provided in sufficient number and capacity to prevent any refuse

from overflowing. Such refuse shall be removed from the Manufactured Home Park weekly.

B. Insect and rodent control measures to safeguard public health, as recommended by the City Building Inspector, will be applied in the licensed manufactured home park. Skirting of manufactured homes will be done in such a manner so as to prevent rodent harborage and as directed by the City Building Inspector.

12.0405 Electricity. It will be the responsibility of the licensed manufactured home park operator to provide and maintain the manufactured home park electrical wiring system in compliance with State and City electrical codes and it is further required that:

A. Service equipment will be weatherproofed in safe condition and adequate for the load served.

B. Supply cords and receptacles will be approved for the purpose used be in safe condition and have overcurrent protection at not more than their rating. Supply cords will not be spliced except in an approved box under the manufactured home.

C. Overhead conductors will have a clearance of three feet from the manufactured home and any projections such as a television antenna.

D. Manufactured home chassis will be grounded through a separate grounding conductor in the supply cord. Any other method of grounding is prohibited unless special permission is received from the city.

12.0406 Fire protection.

A. The licensed manufactured home park area will be subject to the fire protection rules and codes of the city.

B. All LP tanks will be secured against overturning with a minimum safety factor of four based on a loading in any direction equal to four times the filled weight of the container. LP tanks over 100-gallon capacity must be installed on a concrete base.

C. Safety relief valves of LP containers will have direct ventilation with the atmosphere. The delivery side of the gas pressure regulator will be equipped with a safety relief device set to discharge at a pressure not less than two times and not more than three times the delivery pressure of the regulator.

D. Oil storage tanks will be supported by either noncombustible framing or if of wood, not less than two-by-four dimension stock. Oil tanks up to 500 gallons will be vented to the atmosphere by 1 1/4 inch diameter vents. Oil tanks installed for gravity flow of oil to heating equipment will be installed so that the top of the tank is no higher than eight feet above the appliance oil control and the bottom of the tank is not less than 18 inches above the appliance oil control. Listed automatic pumps (oil filter) will be mounted no higher than eight feet above the appliance oil control and not less than 18 inches above the

appliance oil control. A readily accessible, approved manual shutoff valve will be installed at the outlet of an oil supply tank. Such valve will be installed to close against the supply.

E. Manufactured homes will have fuel piping materials and systems compatible with type of fuel supply based on accepted national standards or when applicable, city and state codes.

F. LP or natural gas services will not be installed under manufactured homes. Connections from natural gas supply to manufactured homes will be by approved flexible connectors.

G. Skirting installed around a manufactured home will be fire retardant and approved by the City Building Inspector.

H. Combustible storage may not be permitted under manufactured homes.

12.0407 Park identification sign. It will be the responsibility of the manufactured home park licensee as a condition for issuance of the manufactured home park license to erect and maintain at the main entrance of the licensed manufactured home park a sign displaying the manufactured home park name, office address, park manager name, and contact information The size, height, and location of the sign will be approved by the City Administrator

12.0408 Street and space numbering. Prior to the issuance of the manufactured home park license, the manufactured home park operator will:

A. Develop and submit for approval of the City Finance officer a space or street numbering system for the licensed manufactured home park and have the plan available at the manufactured home park office at all times.

B. Erect and maintain street signs within the licensed manufactured home park of the size, height, number and location as prescribed by the City Building Inspector.

C. Display in front of or affix to the front of each manufactured home service building or manufactured home space a street number in accordance with the approved numbering system.

CHAPTER 12.05 - VIOLATIONS AND PENALTIES

12.0501 Notices and orders.

A. Whenever the City Building Inspector/Code Enforcement Officer determines that there has been a violation of this chapter, it will give notice of such alleged violation to the licensee and occupant. The City shall follow approved Code Enforcement Policies and Procedures in order to gain compliance with this chapter.

B. Whenever the City Building Inspector/Code Enforcement Officer determines that a hazard exists which required immediate action to protect the public health, safety and welfare, the

City Building Inspector may take whatever action deemed necessary so long as such action is permissible under federal, state or local law.

12.0502 Manufactured home parks in violation. Any person who operates a manufactured home park within the city without a valid license shall be guilty of a Class II misdemeanor, which is punishable by a fine not to exceed five hundred dollars ($500.00), by imprisonment not exceeding thirty days, or by both the fine and imprisonment. (SDCL 9-19-13).

12.0503 Manufactured Home - Notice to vacate. If the manufactured home is tagged as unfit for human occupancy, resulting in the cancellation of the placement permit for that space in the manufactured home park until such time that the manufactured home is brought up to code, removed, or the problem otherwise abated. Repeated violations could affect the future licensing of the park and may cause the cancellation of the licensing of the entire park.

12.0504 Appeals.

A. Generally. Any person affected by any action of the City Building Inspector under this chapter may appeal the action to the City Council within 30 days after completed service of such notice.

B. Variance on appeal. The City Council may authorize, upon appeal in specific cases, such variance from the terms of this chapter, or from the rules and regulations adopted pursuant to this chapter, subject to terms and conditions fixed by the City Council, as will not adversely affect the public health where, owing to exceptional and extraordinary circumstances, literal enforcement of applicable provisions will result in unnecessary hardship. The burden of proof is upon the applicant to show by clear and convincing evidence that the variance:

1. Will not substantially or permanently injure the appropriate use of the other portions of the dwelling involved or other property.

2. Will be in harmony with the spirit and purposes of a duly authorized Conditional Use Permit.

C. Procedure on appeal. Any appeal may be taken by filing a notice in writing, to that effect, with the City Administrator. Such notice will be on a form provided by the City Administrator. The City Administrator shall forthwith notify the City Council of the filing of such appeal, and the City Council will within 30 days, set a date for hearing, which may not be less than 10 days from the date of the notice of hearing. The City Administrator will thereafter and forthwith give notice of such hearing to all interested persons by ordinary mail. After filing a notice of appeal, enforcement of any notice or order appealed from will be held in abeyance until the decision of the City Council will become final as provided in this chapter. The hearing before the City Council will be informal; its decision will be written, and will state the findings, conclusions and decision of the City Council.

D. Effect of failure to appeal. If no appeal is taken, the notice will become a final order when the appeal to the City Council has elapsed (30 days).