



City of Castlewood
Meeting Agenda - City Council

Monday, February 2, 2026

6:00 PM

City Hall

1. Call to Order/Pledge of Allegiance
2. Approval of Agenda
3. Public Comment
4. Approval of Meeting Minutes
5. Approval of Bills
6. Reports

Old Business

1. Noise Ordinance on Main Street
2. Facility Plan Banner January Report
3. Golf Course Mower Purchases
4. Community Center Sewer Project Update
5. Other Old Business

New Business

1. Tee Marker Advertising Golf Course
 2. Industrial District Permitted and Conditional Use Change Discussion
 3. Brock Forde Replat Discussion
 4. Farmer's Market Discussion
 5. Community Center AED
 6. Declaration of Candidacy and Petition Circulation for Election
 7. Open Meeting Laws Discussion
 8. New City Website
7. Executive Session Personnel, Contracts (SDCL 1-25-2(1,3))
 8. Adjournment

City of Castlewood – Council Members

***Mayor – Brian Ries**

***Council Members – Ward I – Stef Goldhorn & Jeannette Bohls**

Ward II – Heather Schmit & LeeAnne Dufek

Ward III – Chad Ries & Beau Schooley

An Ordinance Regulating the Playing of Music on Main Street

WHEREAS,

The City of Castlewood seeks to preserve a pleasant, safe, and orderly environment for residents, businesses, and visitors within the downtown area; and

WHEREAS,

The City Council finds that the regular or ongoing playing of music on Main Street may create disturbances, interfere with nearby businesses and residences, and complicate enforcement; and

WHEREAS,

The City Council recognizes that music may be appropriate on a limited basis when associated with legitimate special events hosted by businesses;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Castlewood, South Dakota:

Section 1. Purpose

The purpose of this ordinance is to prohibit the routine or recurring playing of music on Main Street from 1st Ave to 2nd Ave while allowing music only in connection with qualifying special events.

Section 2. Definitions

For purposes of this ordinance:

- A. **Main Street** means the public right-of-way, sidewalks, and public spaces along Main Street within the City of Castlewood.
- B. **Music** means amplified or non-amplified sound consisting of musical content, including but not limited to live performances, recorded music, or sound transmitted through speaker systems.
- C. **Regular Basis** means music that is played routinely, continuously, or on a recurring or predictable schedule, including music associated with normal business operations.
- D. **Special Event** means a temporary, infrequent activity or occurrence hosted or sponsored by a business located on or adjacent to Main Street that:
 - 1. Occurs outside of the business's normal day-to-day operations; and
 - 2. Is conducted for a defined and limited duration, not to exceed one calendar day; and
 - 3. Is not held on a recurring or regularly scheduled basis, including daily, weekly, or monthly occurrences; and
 - 4. Is conducted for a specific purpose such as a promotion, celebration, grand opening, anniversary, holiday observance, or community gathering.

A special event shall not include routine business activities, background or promotional music, or any activity that functions as a substitute for regularly playing music on Main Street.

Section 3. Prohibition of Regular Music

Music shall not be played on Main Street from 1st Ave. to 2nd Ave. on a regular basis. The routine, recurring, or ongoing playing of music in the Main Street from 1st Ave to 2nd Ave is hereby prohibited.

Section 4. Special Event Exception; Compliance With Noise Ordinance

Music may be played on Main Street **only** in connection with a qualifying special event as defined in this ordinance. All music played pursuant to this section shall comply with **Ordinance 5-1-9: Noise Prohibited**, and any violation of Ordinance 5-1-9 shall constitute a violation of this ordinance.

Nothing in this section shall be construed to permit music that is otherwise prohibited by the City's noise regulations.

Section 5. Enforcement and Presumption

A. This ordinance shall be enforced by the City of Castlewood or its authorized representatives.

B. For purposes of enforcement, music played on Main Street from 1st Ave to 2nd Ave. shall be presumed to be played on a regular basis and not in connection with a special event if any of the following apply:

1. Music is played by the same business or at the same location on more than one day within a seven-day period; or
2. Music is played on a recurring or predictable schedule, regardless of how the activity is described or labeled; or
3. Music is played in a manner consistent with normal business operations, including background or promotional music intended to attract customers; or
4. Music continues beyond the defined duration of the claimed special event.

C. This presumption may be rebutted by evidence demonstrating that the music was played solely in connection with a qualifying special event as defined in this ordinance.

Section 6. Severability

If any section, subsection, clause, or provision of this ordinance is held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions.

City of Castlewood
Main Street Music Policy

1. Purpose

This policy is adopted to regulate the use of amplified music on Main Street in order to preserve public order, minimize disruption, and maintain the character and enjoyment of the downtown area.

2. Applicability

This policy applies to any individual, business, organization, or entity that plays amplified music on Main Street in Castlewood using any external speaker or sound system, whether permanent or temporary.

3. Approval Required

No amplified music shall be played on Main Street without **prior written approval** from both the **Mayor** and the **Finance Officer** of the City of Castlewood.

Approval is required for each installation or use and must be obtained before any music is played.

4. Permitted Hours

Amplified music is permitted only between the hours of **8:00 a.m. and 8:00 p.m.**

5. Permitted Audio Source and Content

- a. Music must be provided exclusively through a **music streaming service**.
- b. The use of **radio stations**, including AM, FM, satellite, or internet radio broadcasts, is prohibited.
- c. Audio content shall consist of **music only**. The following are expressly prohibited:

- Commercials or advertisements
- Podcasts
- Spoken commentary or announcements
- News, talk shows, interviews, or similar spoken-word programming

6. Conditions of Approval

The Mayor and Finance Officer may impose reasonable conditions as part of the approval, including but not limited to:

- Volume limits
- Duration of use
- Type or placement of equipment
- Content restrictions consistent with this policy

7. Enforcement

Any use of amplified music in violation of this policy or the conditions of approval may be ordered to cease immediately. Violations may be subject to additional enforcement action as permitted under applicable city ordinances or state law.

8. Effective Date

This policy shall take effect upon adoption by the City of Castlewood.



ENGINEERING REPORT

TO	City of Castlewood, SD
DATE	January 29, 2026
SUBJECT	City Engineer's Report

24504.00 Castlewood Wastewater Facility Plan (Project Manager – Christa Timmer)

Project Summary:

- Complete televising assistance and prepare a wastewater facility plan. This work includes evaluating existing conditions of the collection system and WWTF, projection of future flows and loading, an evaluation of improvements needed for ongoing use of the sanitary sewer and WWTF, and Report Preparation. This work also includes providing bidding or other documentation for the city to complete televising of their sanitary sewer system.

Project Status:

- HK Solutions out of Watertown has been contracted to complete sewer televising work. HK is generally working from north to south and must provide door hangers the day before completing work. The tentative televising schedule is below:
 - The week of 1/19/26 work began.
 - The week of 1/26/26 work paused due to weather and scheduling conflicts.
 - The week of 2/2/26 HK plans to resume work.
- All gravity sewer within Castlewood will be televised, sewer televising information is helpful for finding defects and will provide information for the facility plan.
- Banner is continuing to work on the facility plan. There are no upcoming deadlines for this work.

Project Schedule:

- Kickoff Meeting – Complete
- Finalizing televising bid documents – Complete
- Collection System Televising: Bid Opening – Complete
- Collection System Televising: Award Contract – Complete
- Collection System Televising: Notice to Proceed – Complete
- Collection System Televising: Substantial Completion – May 15, 2026
- Collection System Televising: Final Completion – June 1, 2026
- Data Collection – March 2026
- Alternative Evaluation - May 2026
- Submit Draft Facility Plan for Review – August 2026
- Submit Final Facility Plan and Present Findings to Council – September 2026
- State Water Plan Application – October 1, 2026
- Public Hearing – December 2026
- Project Funding Application – January 1, 2027

Council Action for Consideration: None.



24630.00 Castlewood Drainage Study (Project Manager – Kent Johnson)

Project Summary:

- This study is intended to be a comprehensive evaluation of the existing stormwater drainage that contributes runoff within the city limits. This comprehensive overview will be completed using LiDAR data to determine general overland flow. Locations with concentrated flow or areas with known drainage deficiencies will have a field survey performed, if determined necessary. The watershed and sub-watershed runoff flows will be determined for each delineated area within the study boundary. Localized areas, identified to have drainage issues will be evaluated further to determine options for drainage improvements. Focus will be placed on known areas of concern, including along Main St between 1st Ave and 3rd Ave and on 3rd Ave from Market St to Alice St. This plan will not effectively address private property drainage issues arising from adjacent property improvements; however, it will attempt to address public and/or street drainage that discharges through private property.

Project Status:

- Banner had a kickoff meeting with City staff on January 15th to discuss issue areas, goals, and expectations of the study. Survey data collection has started and will continue as weather allows.
- LIDAR and survey data are being incorporated in a stormwater model terrain. Other model parameters and layers are being created.

Project Schedule:

- Kickoff Meeting – Complete
- Data Collection – January 2026 – March 2026 (weather dependent)
- Stormwater Analysis – April 2026 – June 2026
- Prepare Drainage Report – July 2026 – September 2026
- Present Report findings to City staff and Council – October 2026
- Deliver Final Report – October 2026

Council Action for Consideration: None.

Pending Contracts / Proposals

None.

Banner Associates, Inc.

Tel | 605.692.6342 Toll Free | 1.855.323.6342

www.bannerassociates.com

Doug's Service & Marine, Inc.

122 1st Street East
Canby, MN 56220

Invoice

Date 01/27/2026
Invoice # 41936

Bill To

Castlewood Community Golf Course
PO Box 17
Castlewood, SD 57223

		P.O. No.	Terms	Sales Person	Project
			30 days	Doug	
Item	Quantity	Description		Rate	Amount
2039					
UP	1	Toro GR3150 11Bld 2019			
2040	-1	Toro GR3000 W/O Reels		27,200.00	27,200.00
2041	1	Toro RM 5510D 10 Bld 2020		100.00	-100.00
	-1	Toro RM 5510 08' 8 Bld		42,500.00	42,500.00
				20,000.00	-20,000.00

Total

\$49,600.00

Delinquent invoices will loose future charging priveleges. Card payments will be assessed a processing fee

Ordinance 26-01

An ordinance amending Chapter 2.10 adopted by Ordinance 23-17 dated 10/24/2023 as amended, of the Zoning Ordinance of the City of Castlewood.

BE IT ORDAINED by the City Council of the City of Castlewood, South Dakota that Chapter 2.10 "I" "Industrial District", Section 2.10.01 "Permitted Uses" adopted by Ordinance 23-17 dated 10/24/2023, as amended, of the Zoning Ordinance of the City of Castlewood be amended by striking the language in bold and underline:

2. Private and Commercial storage buildings ~~**used exclusively for storage and not for performance of any other services;**~~

BE IT FURTHER ORDAINED by the City Council of the City of Castlewood, South Dakota that Chapter 2.10 "I" "Industrial District", Section 2.10.04 "Conditional Uses" adopted by Ordinance 23-17 dated 10/24/2023, as amended, of the Zoning Ordinance of the City of Castlewood be amended by adding the language in bold and underline:

5. Retail sales

Adopted this ____ day of _____, 2026.

ATTEST:

Mayor
City of Castlewood

Castlewood Finance Officer

City of Castlewood

Farmers Market Policy

1. Purpose

The purpose of this policy is to establish rules and requirements for participation in the City of Castlewood Farmers Market to ensure compliance with state and local laws, promote public safety, and support local vendors.

2. Applicability

This policy applies to all individuals, businesses, and organizations seeking to sell goods at any farmers market event held within the City of Castlewood.

3. Vendor Registration and Fee

- All vendors must register with the City of Castlewood prior to participating in the farmers market.
- A non-refundable fee of \$25 per summer season is required for each vendor.
- Payment of the fee grants permission to participate for the entire designated farmers market season, subject to compliance with this policy.

4. Sales Tax License Requirement

- **All vendors selling goods are required to hold a valid South Dakota sales tax license.**
- Proof of a current sales tax license must be submitted to the City prior to approval to sell at the farmers market.
- Vendors are solely responsible for collecting and remitting applicable sales taxes in accordance with state law.

5. Permitted Goods

Vendors may sell agricultural products, food items, crafts, and other goods permitted under state and local law. The City reserves the right to prohibit the sale of any item deemed unsafe, unlawful, or inconsistent with the purpose of the farmers market.

6. Compliance with Laws

All vendors must comply with:

- South Dakota state laws and regulations
- Hamlin County health regulations, if applicable
- City of Castlewood ordinances and policies

Failure to comply may result in suspension or revocation of permission to participate without refund of the vendor fee.

7. Enforcement

The City of Castlewood or its designee may enforce this policy. The City reserves the right to deny or revoke vendor participation for violations of this policy or applicable laws.

8. Policy Administration

This policy shall be administered by the City of Castlewood and may be amended by the City Council as needed.



Avera Heart Hospital of South Dakota

Invoice

1/27/2026

Qty	Item	Price	Total
1	Physio-Control CR2 AED	\$ 1,324.99	\$ 1,324.99
			\$ -
			\$ 20.00
			\$ 1,344.99
			\$ 1,344.99

Shipping & Handling
Subtotal
Total

Ship to:

City of Castlewood

204 E Main Street

Castlewood, SD 57223

Logan Kool Ruesink 605-793-2220

Please Submit Payment to:

Avera Heart Hospital of South Dakota

Attn: Becky Smith

4500 W 69th Street

Sioux Falls, SD 57108

Questions?

Becky Smith

Avera Heart Hospital of South Dakota

605-977-7026

becky.smith@avera.org

NOMINATING PETITION FOR MUNICIPAL ELECTION

INSTRUCTIONS TO CANDIDATE: The heading of this petition and the declaration of candidacy must be fully completed before the petition is circulated for signatures.

WE, THE UNDERSIGNED qualified voters of the municipality of _____ in the state of South Dakota, nominate _____ whose residence address is _____, South Dakota, _____ and whose mailing address is _____, South Dakota, _____ as a candidate for a _____-year term for the office of _____ at the Municipal Election to be held on the _____ day of _____, _____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot) under oath, declare that I reside and am registered to vote in the municipality of _____ and that I am eligible to seek the office for which I am a candidate. If nominated and elected, I will qualify and serve in that office. If I am an alderman candidate, I declare that I reside and am registered to vote in Ward _____.

(Signed) _____

Sworn to before me this _____ day of _____, _____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the voter registration address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the voter registration address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

NAME	VOTER REGISTRATION ADDRESS	DATE/COUNTY
SIGN 1 _____ PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN 2 _____ PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN 3 _____ PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN 4 _____ PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN 5 _____ PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN 6 _____ PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN 7 _____ PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN 8 _____ PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____

NAME	VOTER REGISTRATION ADDRESS	DATE/COUNTY
SIGN _____ 9 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 10 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 11 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 12 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 13 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 14 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 15 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 16 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 17 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 18 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 19 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____
SIGN _____ 20 _____ PRINT _____	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER _____ CITY OR TOWN _____	DATE OF SIGNING _____ COUNTY OF REGISTRATION _____

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section **must** be completed following circulation and before filing.

Print Name of the Circulator _____ Residence Address _____ City _____ State _____

I, under oath, state that I circulated the above nominating petition, that each signer personally signed this petition in my presence, that either the signer or I added the printed name, the voter registration address of the signer, the date of signing, and the county of voter registration, that I attest the legality of the signatures and that each person signing this petition is a qualified voter of the municipality of _____.

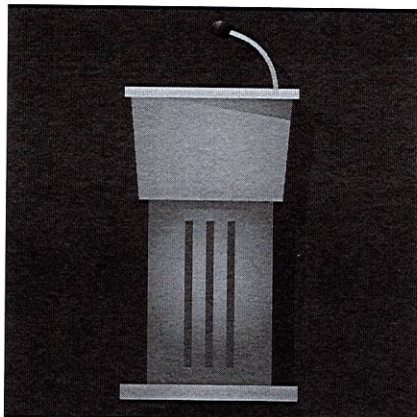
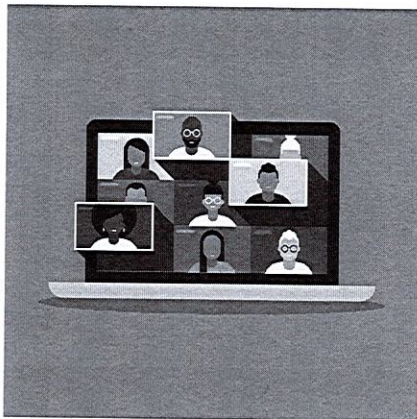
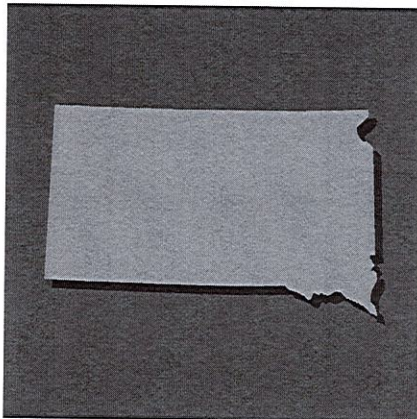
Sworn to before me this _____ day of _____, _____.
(Seal)

Signature of Circulator _____

Signature of Officer Administering Oath _____

Title of Officer Administering Oath _____

My Commission Expires _____



Conducting the Public's Business in Public

A guide to South Dakota's
Open Meetings Laws
(Revised 2025)

Prepared by:
S.D. Attorney General's Office
in partnership with the
S.D. NewsMedia Association

Published by:
South Dakota NewsMedia Association
1125 32nd Ave. Brookings, SD 57006

Q: WHAT ARE SOUTH DAKOTA'S OPEN MEETINGS LAWS?

A: South Dakota's open meetings laws embody the principle that the public is entitled to the greatest possible information about public affairs and are intended to encourage public participation in government. SDCL Ch. 1-25 requires that official meetings of public bodies must be public and advance notice is to be given of such meetings. The statutes define an "official meeting" as one where a quorum of the public body is present and at which official business or public policy of the body is discussed or decided. Openness in government is encouraged.

Q: WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

A: The open meetings laws apply to all public bodies of the state and its political subdivisions. SDCL 1-25-1, 1-25-12(3). This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to exercise sovereign power. SDCL 1-25-12(2). Although no court decisions have been issued on the subject, this probably does not include bodies that serve only in an advisory capacity. The State Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A: Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. SDCL 1-25-1.5, 1-25-12(5). In addition, for teleconferences where

less than a quorum of the public body is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). SDCL 1-25-1.6. The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A: SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website, the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and its agencies, boards, commissions, or departments to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday). The State is also required to give notice of a public meeting by posting its proposed agenda on <http://boardsandcommissions.sd.gov>.

Q: WHO ARE LOCAL NEWS MEDIA?

A: There is no definition of “local news media” in SDCL ch. 1-25. “News media” is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that “local news media” is all news media – broadcast and print – that regularly carry news to the community.

Q: IS A PUBLIC COMMENT PERIOD REQUIRED AT PUBLIC MEETINGS?

A: Yes. Public bodies are required to provide at every official meeting a period of time on their agenda for public comment. SDCL 1-25-1. Each public body has the discretion to limit public comment as to the time allowed for each topic commented on, and as to the total time allowed for public comment. Public comment is not required at meetings held solely for an executive session, inauguration, presentation of an annual report, or swearing in of elected officials.

Q: CAN PUBLIC MEETINGS BE RECORDED?

A: Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings if the recording is reasonable, obvious, and not disruptive. This requirement does not apply to those portions of a meeting confidential or closed to the public.

Q: WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A: SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student's participation in interscholastic activities; 3) consulting with legal counsel, or reviewing communications from legal counsel about proposed or pending litigation or

contractual matters; 4) employee contract negotiations; 5) to discuss marketing or pricing strategies of a publicly-owned competitive business; or 6) to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information. The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19.

Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Any official action based on discussions in executive session must, however, be made at an open meeting.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

A: Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. “pursuant to SDCL 1-25-2(3).” Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state “motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter,” or “motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel.”

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAWS OCCUR?

A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to: (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both; or (b) a reprimand by the Open Meeting Commission ("OMC"). The same penalties apply if the agenda for the meeting is not properly posted, or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION ("OMC")?

A: Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed and notarized complaint is made under oath, and any necessary investigation is conducted, the State's Attorney may: (a) prosecute the case as a misdemeanor; (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes; or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State's Attorneys or Deputy State's Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General's Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General. <http://atg.sd.gov/>.

Q: WHAT DOES THE TERM "SOVEREIGN POWER" MEAN?

A: The open meetings laws do not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising "sovereign power" it should consult with legal counsel.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

A: Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body's anticipated business. Typically, the public body adopts the final agenda upon convening the meeting. At the time the final agenda is adopted, the governing body may add or delete agenda items and may also change the order of business. See *In re Yankton County Commission, Open Meetings Commission Decision # 20-03*, December 31, 2020. New items cannot be added after the agenda has been adopted by the governing body.

Public bodies are strongly encouraged to provide at least 24 hours' notice of all agenda items so as to be fair to the public and to avoid dispute.

For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

Q: ARE EMAIL DISCUSSIONS "MEETINGS" FOR PURPOSES OF THE OPEN MEETINGS LAWS?

A: The definition of an "official meeting" in SDCL 1-25-12(1) specifically includes meetings conducted by "electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform[.]" A quorum of a public body that discusses official business of that body via electronic means is conducting an official meeting for purposes of the open meetings laws. Electronic communications made solely for scheduling purposes do not fall within the definition of an official meeting.

Q: WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

A: SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or made available on the website for the public body within five business days).

These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL Ch. 1-27 are handled by separate procedures found in SDCL 1-27-35, et. seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

A: Task forces and committees that exercise "sovereign power," and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. SDCL 1-25-12(1). Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only, may not be subject to the open meetings laws, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

Q: ARE PUBLIC BODIES REQUIRED TO REVIEW THE OPEN MEETINGS LAWS?

A: Public bodies must annually review an explanation of the open meetings laws provided by the Attorney General, along with any other material pertaining to the open meetings laws made available by the Attorney General. SDCL 1-25-13. Each public body must report in its minutes that the annual review of the open meetings laws was completed.

PERTINENT S.D. OPEN MEETINGS STATUTES
(other specific provisions may apply depending on the public body involved)

1-25-1. OPEN MEETINGS. An official meeting of a public body is open to the public unless a specific law is cited by the public body to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the public body may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum must meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and must contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment, but not so limited as to provide for no public comment.

Public comment is not required at an official meeting held solely for the purpose of meeting in executive session, an inauguration, presentation of an annual report to the public body, or swearing in of a newly elected official, regardless of whether the activity takes place at the time and place usually reserved for an official meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meets solely for purposes of implementing previously publicly adopted policy; carrying out ministerial functions of that township, district, or municipality; or undertaking a factual investigation of conditions related to public safety; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE OF POLITICAL SUBDIVISIONS. Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by

telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.3. PUBLIC NOTICE OF STATE. The state shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, and be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include Saturday, Sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the Bureau of Finance and Management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, the state shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.5. TELECONFERENCE MEETING. Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall proceed to a roll call vote.

1-25-1.6. TELECONFERENCE PARTICIPATION. At any official meeting conducted by teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

1-25-2. EXECUTIVE SESSION. Executive or closed meetings may be held for the sole purposes of:

(1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;

(2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;

(3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;

(4) Preparing for contract negotiations or negotiating with employees or employee representatives;

(5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or

(6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:

(a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

(b) Emergency management or response;

(c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;

(d) Cyber security plans, computer, communications network schema, passwords, or user identification names;

(e) Guard schedules;

(f) Lock combinations;

(g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and

(h) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting

is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a class 2 misdemeanor.

1-25-6. DUTY OF STATE'S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. DUTY OF STATE'S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or

(4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney,

and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC Members. The South Dakota Open Meeting Commission is comprised of five state's attorneys or deputy state's attorneys appointed by the attorney general. Each commissioner serves at the pleasure of the attorney general. The members of the commission shall choose a chair of the commission annually by majority vote.

1-25-12. DEFINITIONS. Terms used in the open meetings laws mean:

(1) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference or electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform, provided the term does not include communications solely to schedule a meeting or confirm attendance availability for a future meeting;

(2) "Political subdivision," any association, authority, board, municipality, commission, committee, council, county, school district, task force, town, township, or other local governmental entity, which is created by statute, ordinance, or resolution, and is vested with the authority to exercise any sovereign power derived from state law;

(3) "Public body," any political subdivision or the state;

(4) "State," each agency, board, commission, or department of the State of South Dakota, not including the Legislature; and

(5) "Teleconference," an exchange of information by any audio, video, or electronic medium, including the internet.

1-25-13. ANNUAL REVIEW OF OPEN MEETING LAWS. Any agency, as defined in § 1-26-1, or political subdivision of this state, that is required to provide public notice of its meetings pursuant to § 1-25-1.1 or 1-25-1.3 must annually review the following, during an official meeting of the agency or subdivision:

(1) The explanation of the open meeting laws of this state published by the attorney general, pursuant to § 1-11-1; and

(2) Any other material pertaining to the open meeting laws of this state provided by the attorney general.

The agency or subdivision must include in the minutes of the official meeting an acknowledgement that the review was completed.

1-27-1.16. MEETING PACKETS AND MATERIALS.

If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.