

ADOPTING ORDINANCE
AN ORDINANCE ADOPTING THE CASTLEWOOD CITY CODE

BE IT ORDAINED by the mayor and city council of the city of Castlewood, South Dakota as follows:

Section 1: Pursuant to the provisions of SDCL 9-19-16, and from and after the date of passage of this ordinance, the city code of the city of Castlewood, South Dakota, contains the compilation of all ordinances of a general nature together with the changes made to said ordinances, under the direction of the governing body of the city, shall be deemed the official code and law of the city as enacted by the mayor and city council.

Section 2: The city code shall be maintained in the office of the city finance officer, certified as to correctness and available for inspection at any and all times that said office is regularly open to the public.

Section 3: All ordinances of a general nature included in this official city code shall be considered as a continuation of said ordinance provision and the fact that some provisions have been deliberately eliminated by the governing body shall not be deemed to cause any interruption in the continuous effectiveness of ordinances included in said official city code. All ordinances of a special nature, such as tax levy ordinances, bond ordinances, franchises, vacating ordinances, and annexation ordinances shall continue in full force and effect unless specifically repealed or amended by a provision of the city code. Such ordinances are not intended to be included in the official city code.

Section 4: It shall be unlawful for any person, firm, or corporation to change or amend by additions or deletions, any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

Section 5: Any person violating any of the provisions of the city code hereby adopted shall be subject to the general penalty provisions of the Castlewood city code.

Section 6: All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

Section 7: This ordinance and the code adopted by the same shall be recorded and shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed and approved this the ____ day of _____ 2025.

CITY OF CASTLEWOOD

By: _____
It's Mayor

ATTEST:

City Finance Officer
{SEAL}

First Reading: _____
Second Reading: _____
Adoption: _____

Title 1
ADMINISTRATION

Chapter 1-1: Castlewood City Code
Chapter 1-2: Savings Clause
Chapter 1-3: Definitions
Chapter 1-4: General Penalty
Chapter 1-5: Mayor and City Council
Chapter 1-6: Departments and Supervision
Chapter 1-7: Employees and Officers

Chapter 1
CASTLEWOOD CITY CODE

1-1-1: TITLE:

Upon the adoption by the city council, this code is hereby declared to be and shall hereafter constitute the official code of Castlewood. This code of ordinances shall be known and cited as the *CASTLEWOOD CITY CODE* and is hereby published by authority of the city council and shall be supplemented to incorporate the most recent legislation of the city as provided in section 1-1-4 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this code by title in any legal documents.

1-1-2: ACCEPTANCE:

This code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title.

1-1-3 : JURISDICTION:

For the purpose of promoting the health, safety, morals, and general welfare of the city and of enforcing the provisions of this code relating thereto, this code shall govern and apply to all territory within the jurisdiction of the city and to any public ground, airport, or park belonging to the city and located outside of the city.

1-1-4: AMENDMENTS:

Any ordinance amending this code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of

this code. All such amendments or revisions of the ordinance or any part thereof shall be inserted in the proper place and formatted consistent with this code.

1-1-5: CODE ALTERATIONS:

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any provision of this code in such a manner that the meaning of any phrase or order may be changed or omitted. In the hard copy of this code, replacement pages may be inserted according to the official instructions when so authorized by the city council. The finance officer shall see that the replacement pages are properly inserted in the official copies maintained in the office of the finance officer. Any person having in his or her custody a copy of this code shall make every effort to maintain said code current as to the most recent ordinances passed.

1-1-6: REFERENCES TO STATE OR FEDERAL LAW:

When this code refers to or adopts by reference a provision of state or federal law:

- A. The reference or adoption is intended to incorporate future amendments to the provision of state or federal law to maintain parallel meaning with this code; and
- B. If the provision of state or federal law is recodified or renumbered, the reference or adoption is intended to incorporate the recodification or the renumbering.

Chapter 2 SAVING CLAUSE

1-2-1: PRIOR ORDINANCES SUPERSEDED:

All general ordinances of the city passed prior to the adoption of this code are hereby superseded by the provisions of this code, except such as are included in this code or are by necessary implication herein reserved (subject to the saving clauses contained in the following sections), and excluding the following ordinances: tax levy and appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the city; and all special ordinances.

1-2-2: PUBLIC UTILITY ORDINANCES:

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of the preceding section, excepting as this code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

1-2-3: COURT PROCEEDINGS:

- A. No new ordinances shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding. So far as practicable, if any penalty, forfeiture, or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
- B. This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
- C. Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this code.
- D. The repeal of any ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

1-2-4: SEVERABILITY CLAUSE:

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

Chapter 3

DEFINITIONS

1-3-1: CONSTRUCTION OF WORDS:

- A. Liberal Construction: All general provisions, terms, phrases, and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out.
- B. Interpretation: In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and general welfare. Where any provision of a code imposes greater restrictions upon the subject matter than the general provision imposed by this code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
- C. Additional Interpretations:
 - 1. Computation of Time: Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done shall not be counted in computing the time but the day on which such proceeding is to be held shall be counted.
 - 2. Delegation of Authority: Whenever a provision appears requiring the head of a department or some other city officer to do some act or perform some duty, it is to be construed to also authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.
 - 3. Gender: A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.
 - 4. Joint Authority: All words giving a joint authority to four (4) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
 - 5. May/Shall: The word "may" be permissive; the word "shall" is mandatory.
 - 6. Nontechnical and Technical Words: Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
 - 7. Number: A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

8. Officers Generally: Whenever any officer is referred to by title, such as "finance officer", "Mayor", etc., such reference shall be construed as if followed by the words "of the city of Castlewood".
9. Tense: Words used in the past or present tense include the future as well as the past and present.

1-3-2: DEFINITIONS:

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

CITY: The city Castlewood, Hamlin County, South Dakota. The political subdivision of the State of South Dakota known as the City of Castlewood, a municipal corporation.

CITY COUNCIL: Whenever the words "city council" or "council" are used in this code, they shall be construed to mean the city council of the city of Castlewood.

CODE: The municipal code of the city of Castlewood.

COUNTY: The county of Hamlin.

DAY: A "day" is a period of time between any midnight and the midnight following.

DAYTIME, NIGHTTIME: "Daytime" is the period of time between sunrise and sunset; "nighttime" is the period between sunset and sunrise.

FEE: A sum of money charged by the city for the carrying on of a business, profession or occupation.

FISCAL YEAR: The fiscal year of the city shall commence on January 1 of each year.

HIGHWAYS OR ROADS: Includes the whole of all public ways, roads, alleys, courts and streets and sidewalks between the property lines forming the exterior lateral boundaries thereof, and those parts of public squares and places which form traveled parts of highways or roads.

LICENSE: The permission granted for the carrying on of a business, profession or occupation.

MAY: A permissive term allowing discretion as to whether an act will either be performed or refraining from doing act.

MONTH: A calendar month.

NUISANCE: Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the city, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person or persons within the community.

OATH: Includes affirmation.

OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: Any act forbidden by any provision of this code, or the omission of any act required by the provisions of this code.

OFFICIAL TIME: Whenever certain hours are named herein; they shall mean central standard time or daylight-saving time as may be in current use in the city.

OPERATOR: The person who is in charge of any operation, business or profession.

ORDINANCE: This Municipal Code, in revision of the Ordinances of the City of Castlewood.

OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY: Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

POLICE: Any law enforcement officer required by law to enforce local ordinances and state statutes.

PRECEDING, FOLLOWING: The words "preceding" and "following" mean next before and next after, respectively.

PROCESS: Includes a writ or summons issued in the course of judicial proceedings.

PROPERTY: Shall include real and personal property.

REAL PROPERTY: Shall include lands, tenements and hereditaments.

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale

of goods, merchandise, articles or things direct to the consumer.

RIGHT OF WAY: The privilege of the immediate use of the roadway or other property.

SDCL – South Dakota Codified Law.

SEASONAL OR TEMPORARY EMPLOYEE: An employee who may work full time but for a period of nine months or less.

SHALL: A mandatory term requiring an act to be performed or to refrain from performing an act.

SIGNATURE OR SUBSCRIPTION BY MARK: Includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name.

STATE: The state of South Dakota.

STREET: Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

TENANT OR OCCUPANT: Applied to a building or land, shall include any person holding a written or an oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

WEEK: A week consists of seven (7) consecutive days.

WHOLESALE: The term "wholesaler" and "wholesale dealer" as used in this code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case he is unable to write, by his proper mark.

YEAR: A calendar year except where otherwise provided

1-3-3: CATCHLINES:

The catchlines of the several sections of this code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such section, including the catchlines, are amended or reenacted.

Chapter 4

GENERAL PENALTY

1-4-1: GENERAL PENALTY:

Any person violating any of the provisions of this code or failing to comply with any of the provisions hereof shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a period not exceeding thirty (30) days or by both such fine and imprisonment. Each and every violation of the provisions of this code shall constitute a separate offense.

1-4-2: APPLICATION OF PROVISIONS:

The penalty provided in this chapter shall be applicable to every section of this code the same as though it were a part of each and every separate section. Any person convicted of a violation of any section of this code where any duty is prescribed or obligation imposed, or where any action which is of a continuing nature is forbidden or is declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this code.

In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this code and there shall be no fine or penalty specifically declared for such breach, the provisions of this chapter shall apply.

1-4-3: LIABILITY OF OFFICERS:

No provision of this code designating the duties of any officer or employee shall be construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the city council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

Chapter 5

MAYOR AND CITY COUNCIL

1-5-1 : ALDERMANIC FORM OF GOVERNMENT:

The city of Castlewood is and shall be governed under the aldermanic form of government as provided by the laws of the state, with the governing body being the common council consisting of a mayor and two (2) aldermen from each of the three (3) wards of the city.

Conduct of government shall be in conformance with the laws of the state and this code. Whenever any provision of this code shall conflict with the laws of the state, the applicable provision of the laws of the state shall be deemed to supersede this code, unless the laws of the state shall permit this code to supersede the applicable provision of the laws of the state. Unless lodged elsewhere, all the corporate and political powers of the city are vested in the common council of the city.

1-5-2 : MAYOR:

The mayor shall be the chief executive officer of the city and shall preside over the meetings of the common council. The mayor shall be elected by and from the voters of the city at large at the general municipal election and shall serve a regular term of ~~two (2)~~ three (3) years. Vacancy in the office of mayor shall be filled as provided by law. The mayor shall perform duties and exercise powers as provided by law and ordinance.

1-5-3 : CITY COUNCIL:

The city council shall be the general legislative body of the city. The city council shall consist of two (2) aldermen elected by and from the voters of each of the three election wards of the city and shall serve a regular term of ~~two (2) years~~ three (3); provided, that the terms of the aldermen from each ward shall be staggered so that the regular terms of the aldermen of a ward shall not expire in the same year. Vacancy in the office of alderman shall be filled as provided by law. The city council shall perform duties and exercise powers as provided by law and ordinance.

1-5-4 : CITY COUNCIL MEETINGS:

- A. The regular meeting of the governing body of the City shall be held on the first Monday of each month at the hour of 6:00 o'clock p.m. at the City Office, 204 East Main Street or at such place as the governing body may select within the said City except when such Monday is a legal holiday, and then the meeting shall be held on the next Monday available day that is not a legal holiday. Any meeting may be adjourned from day to day and shall be open to the general public.
- B. Special meetings: Special meetings of the city council may be called by the mayor or, in his or her absence, by the acting mayor. Special meetings may also be called by the finance officer. Special meetings of the council shall encompass only such matters as are mentioned in the notice for each special meeting.
 - 1. Notice of special meetings shall include a proposed agenda with the date, time, and location of the meeting. The notice shall be posted and provided in accordance with South Dakota Codified Laws 1-25-1.1 at least twenty-four (24) hours prior to the meeting or as far in advance as the circumstances permit.
 - 2. Notice of special meetings shall be provided, in any manner authorized by South Dakota Codified Laws 1-25-1.1, to each council member and to local news outlets requesting notice.

1-5-5 : MUNICIPAL LIMITS:

- A. The municipal limits for the City of Castlewood shall include all of that area included on the city map maintained at the office of the city finance officer.

1-5-6: WARDS:

- A. The City of Castlewood is hereby divided into three wards which are described as follows:

1. Ward No 1: all that portion of the City of Castlewood lying East of Fourth Avenue and North of Main Street; and that portion South of Main Street and North of Market Street and East of Fourth Avenue and West of Sixth Avenue; and that portion South of Pearl Street and East of Third Avenue and North of Alice Street; and
2. Ward No. 2: all that portion of the City of Castlewood lying North of Pearl Street and West of Fourth Avenue; and that portion North of Alice Street and West of Third Avenue; and that portion North of Main Street and West of Pine Street; and that portion West of Elm Avenue; and
3. Ward No. 3: all that portion within the corporate city limits remaining not included in the first or second wards.

1-5-7: VOTING PRECINCTS.

- A. All of the territory of the City has been divided into continuous wards; now therefore, all of the wards are hereby consolidated into one voting precinct or polling precinct for polling and voting purposes at any and all elections.

1-5-8: DUTIES AND TERM OF OFFICE.

- A. The duties and term of office of the governing body and its members shall be in accordance with the statutes of the State of South Dakota and as prescribed by the ordinances of the City of Castlewood.

1-5-9: OATH OF OFFICE.

- A. Any person elected as a member of the governing body at an annual or special city election shall be duly sworn in by an official of the city government before assuming their official duties as a member of the governing body, and be required to subscribe and take an affirmation of office or oath of loyalty as required by the statutes of the State of South Dakota.

1-5-10: POLLING HOURS:

- A. The election polls for the annual election of officers and any special municipal election will be kept open continuously from seven o'clock (7:00) A.M. until seven o'clock (7:00) P.M.

1-5-11: President and Vice-President.

At the first meeting of the City Council in July of each year and after the qualification of the newly elected members the council shall elect from among its own members a President and Vice-President of the council whose duties are prescribed by the laws of the State of South Dakota.

1-5-12: Council Procedures.

"Robert's Rules of Order" as revised from time to time shall be the standard floor procedure by which all meetings of the City Council are governed. The council may adopt procedures differing from "Robert's Rules of Order" by a majority vote of its membership.

Chapter 6

DEPARTMENTS AND SUPERVISION

1-6-1: Departments and Supervision. See Committee appointments from May minutes

The following administrative departments are hereby established under the executive office of the Mayor:

- (1) Economic Development;
- (2) Finance;
- (3) Health & Sanitation;
- (4) Liquor;
- (5) Law Enforcement;
- (6) Public Buildings;
- (7) Streets, Alleys and Public Grounds;
- (8) Water and Sewer.

1-6-2: Duties of Supervisors.

Each council member or Mayor in fulfillment of the provisions of the previous section:

- (1) Shall act in a supervisory capacity for each department listed; and
- (2) Shall keep a careful and constant watch over the performance of all duties of all employees and officials, and overall equipment and all activities of their respective departments; and
- (3) Shall perform all other duties as may be specifically provided in this section or by the Mayor or by the council.

Chapter 7

EMPLOYEES AND OFFICERS

1-7-1: Officers.

There shall be appointed by the Mayor and ratified by the City Council on the first Monday of July each year a City Attorney, City Engineer, and a Zoning Officer, and such other offices as may be provided for by statute or ordinances, who shall hold office until the first Monday in July of the year following their appointment and until their successors shall be appointed and qualified, unless their term is otherwise terminated by the Mayor with the consent of a majority of the City council.

1-7-2: Duties.

Each appointed officer shall perform such duties as are prescribed by this code and state statutes, plus such other duties as may from time to time be prescribed by the City Council and the Mayor.

1-7-3: Special Duties of Finance Officer.

The Finance Officer shall be responsible for the following:

- (1) shall have the custody of all official documents and records; and
- (2) shall attend all meetings of the City Council and keep a record of all official proceedings; and
- (3) shall keep an accurate account of the city's indebtedness, and also an accurate record of all receipts and disbursements; and
- (4) shall audit and adjust all accounts presented to the City Council; and
- (5) shall prepare and certify all delinquent special assessment payments to the Hamlin County Auditor annually and keep an accurate record of all special assessment payments; and
- (6) shall prepare a proposed budget and appropriation ordinance for the next fiscal year to be submitted to the City Council; and
- (7) shall supervise the accounting system or records for all departments and officers in accordance with the recommendations of the State Department of the Auditor General; and
- (8) shall prepare a report showing the financial condition of the city on the first day of January each year; and
- (9) shall conduct and supervise all city annual and special elections; and
- (10) shall also keep the ordinance books current, and shall issue all city licenses and permits as prescribed by city ordinances; and
- (11) shall keep the official seal of the city and perform as secretary for the various boards and commissions appointed by the Mayor; and
- (12) shall also prepare all official documents, including notice of all public hearings, election notices and proceedings, and ordinances and resolutions, and minutes of meetings; and
- (13) shall perform such other administrative duties of the office as is prescribed by ordinance or by the direction of the City Council.

The Finance Officer is authorized at his or her discretion to destroy canceled and paid

warrants, duplicate receipts, duplicate special assessment tax receipts, duplicate water bills, paid claim vouchers, poll books, voter's registration lists, and miscellaneous petitions not pertaining to public improvements, when any of these items are over twenty (20) years old. Additionally, obsolete insurance policies, licenses and permit bonds, reports, requests, and miscellaneous items not required for permanent record purposes by the City may be destroyed within a reasonable time after having served their intent and purpose.

1-7-4: Special Duties of City Attorney.

The City Attorney shall have the special duty to make or cause to be made proper designations of any ordinance or amendment thereto, and shall see that the organization and numbering of all ordinances is kept as uniform as is possible and in keeping with the organization of this Code, together with those duties prescribed by state statute. Furthermore, in order to carry out his duties, the City Attorney shall have the power to change any of the numbering designations of any of the City Ordinances without having to pass an ordinance amending the prior ordinance provided that the substance of any ordinance shall not be changed thereby.

1-7-5: Reserved.

1-7-6: Reserved.

In the event such is desired, then a city planning and development officer may be employed by the City Council and such officer shall assist, coordinate, encourage and promote the city's economic and planning developments and projects, plus assume such other duties as is directed by the City Council.

1-7-7: Oath and Bonds.

All appointed officers shall take and subscribe an oath or affirmation in the form required by the Constitution of this State before entering upon the discharge of their duties, and shall file a bond as may be required by law. The premium of any such bond shall be paid for by the City.

1-7-8: Salaries.

The salaries of all municipal employees and officers shall be fixed by a resolution of the City Council. The list of all salaries shall be on file with the Finance Officer and open to public inspection.

1-7-9: Termination of Employment.

However, this section shall not apply to any employee discharged for cause, malfeasance or misfeasance. Notwithstanding this provision all employees of the City are "at will" employees and subject to termination without cause.

1-7-10: PERSONNEL POLICY:

- A. Definition: All persons performing services for the city and who are not appointive officers of the city shall be deemed employees.
- B. Employment at Will: South Dakota is an employment at will state. The intent of the city is to maintain employment at will status of all employees.
- C. Personnel Policy Adoption:
 - 1. A personnel policy manual is hereby authorized to be adopted and maintained by the city council for the purpose of regulating those matters relating to city employees as the city council shall approve; provided that the personnel policy manual shall not contain any provision inconsistent with the employment at will status of city employees.
 - 2. The personnel policy manual does not confer a contract of employment upon any employee. The policies, procedures, rules and benefits contained therein are at all times subject to change upon a majority vote of the city council. The policies are provided as a reference of present policies and not a guarantee of employment or specific employment benefit.
 - 3. Employee Classification; Positions Authorized: Employees of the city shall be classified as salaried, hourly, exempt and nonexempt in conformance with applicable state and federal law. The employee positions within the city and its departments to which personnel may be hired, and the compensation authorized for each such position, shall be as authorized by the common council. No person shall be hired for employment with the city or any department of the city except in conformance with an authorizing plan approved by the common council.
 - 4. Employee Wages and Benefits: Employee wage rates and salaries, including wage and/or salary gradations, shall be determined by resolution of the city council. Employee benefits supplemental to wages and salary shall be as from time to time determined by the common council. Except as may be contained in a collective bargaining contract, in no event shall any such employee wage and/or benefit determination be deemed contractual.
 - 5. Employee Retirement System: All ordinances establishing retirement system(s) for the employees of the city within the South Dakota retirement system are maintained and not repealed by the enactment of this code.

1-7-11: CODE OF CONDUCT UNDER FEDERAL GRANTS:

- A. Purpose: The purpose of this code of conduct is to ensure the efficient, fair and professional administration of federal grant funds in compliance with the federal office of management and budget (OMB) circular A-102, attachment 0, paragraph 7 and other applicable federal and state standards, regulations and laws.

B. Application of Provisions: This code of conduct applies to all officers, employees or agents of the city engaged in the award or administration of contracts supported by federal grant funds.

C. Requirements:

1. No officer, employee or agent of the city shall participate in the selection, award or administration of a contract supported by federal grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - i. Any employee, officer or agent;
 - ii. Any members or his or her immediate family;
 - iii. His or her partner; or
 - iv. An organization which employs or is about to employ any of the above has a financial or other interest in the firm selected for award.
2. The city's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or subcontractors.
3. Remedies: To the extent permitted by federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions or other disciplinary actions to be taken against the city's officers, employees or agents or the contractors, potential contractors, subcontractors or other agents.

Title 2

FINANCES AND TAXATION

Chapter 2-1: General Finance Provisions

Chapter 2-2: Sales & Use Tax

Chapter 2-3: Appropriation of Real Property Tax Revenues

Chapter 1

GENERAL FINANCE PROVISIONS

2-1-1: DISPOSITION OF FUNDS:

All money belonging to the city derived from taxation, licenses, fines, forfeitures, the operation of the waterworks or other public utility owned or operated by the city or from any other source, shall be paid into the city treasury, and the city council shall designate by ordinance to what fund such money shall be applied as provided by law.

2-1-2: PAYMENT OF CLAIMS:

A. Warrant Register: The finance officer shall keep a warrant register which shall show,

in columns arranged for that purpose, the number, date and amount of each warrant presented; the particular fund upon which the same is drawn; the date of presentation; the name and address of the person in whose name the same is registered; the date when payment is made, the amount of interest and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed, as provided in this chapter.

B. Payment of Warrants:

1. **Payment Out of Appropriate Fund:** All warrants drawn upon the treasury shall be paid out of the fund on which they were drawn, in order of their presentation, and the finance officer shall endorse thereon the date of payment.
2. **Insufficient Funds:** If the fund on which any warrant was drawn is insufficient to pay such warrant on presentation, the finance officer shall endorse thereon the words "not paid for want of funds" and the date of such presentation, and thereafter, such warrant shall draw interest at the rate of ten percent (10%) per annum.

C. No Funds Appropriated for Payment:

1. If there are no funds in the treasury appropriated for payment of a warrant presented for payment, the finance officer shall enter such warrant in warrant register. He or she shall endorse thereon the registry number, date of registration and the words- "registered for payment" and sign such endorsement. The holder of any warrant need not register the same.
2. As soon as funds are received in the particular fund sufficient for payment of a warrant first in order of the warrant register, the finance officer shall notify, by mail, the holder of such warrant, or in case the holder is not known, the person who registered the same, that such warrant will be paid on presentation. Interest shall thereupon cease.

2-1-3 : REPORTS AND INVENTORIES:

A. Reports by Boards and Fee Collecting Officers:

1. **Annual Report:** Each of the boards appointed by and acting for the city in the administration of city affairs shall make an annual report of its activities to the city council as soon as practicable after the close of each fiscal year, which report shall be filed with finance officer.
2. Each board, officer, employee or agency of the city collecting fees or the money for or on behalf of the city shall, at the close of each month, make a monthly report thereof if requested by the finance officer.

B. Inventories:

1. **Annual Inventory:** On or before every January 30, each department head shall file with the finance officer a complete inventory of all materials, tools, supplies and equipment coming into the custody of the department during the preceding calendar year. Such complete inventory shall be in such form as the city council may direct and shall disclose as to each item the number or quantity on hand at the beginning of the calendar year, the number or quantity acquired during the year and the number or quantity on hand at the close of such calendar year. Any differences between the number or quantity of such goods coming into possession of any department during the year and the number or quantity on hand at the close of such calendar year shall be accounted for as being on hand, used upon or worn out in use, as in the case of water meters, or lost or otherwise not accounted for. Such inventory shall also show the condition of each item of tools or equipment on hand.

The report of inventories specified herein shall be presented by the finance officer to the city council at the first regular meeting in March of each year. The city council shall take such action on the inventories as it may see fit, and after approval thereof, they shall be filed with the finance officer.

2-1-4: CAPITAL ASSET REPLACEMENT RESERVE:

Pursuant to South Dakota Codified Laws 9-21-31, the city hereby authorizes the finance officer to establish capital asset replacement reserve accounts within the general fund for the following purposes:

Water & Sewer Department- equipment

**Chapter 2
SALES & USE TAX**

2-2-1: Municipal Retail Sales & Use Tax

The purpose of this ordinance is to provide additional needed revenue for the Municipality of Castlewood, Hamlin 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 Chapter 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto. One-half of the tax revenue shall be granted for capital improvements within the Municipality of Castlewood pursuant to SDCL 34-8A-1, and acts amendatory thereto. This revenue shall be divided equally between the municipality's Business District Fund and Municipal Street Fund.

2-2-2: EFFECTIVE DATE AND ENACTMENT OF TAX.

From and after the 1st day of January, 2014, 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 Municipality of Castlewood, Hamlin County, South Dakota, who are subject to the South

Dakota Retail Occupational Sales and Service Tax, SDCL Chapter 10-45 and acts amendatory thereto.

2-2-3: USE TAX.

In addition, there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the 1st day of January, 2014, 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 Chapter 10-46, and acts amendatory thereto.

2-2-4: COLLECTION.

Such tax is levied pursuant to authorization granted by SDCL Chapter 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.

2-2-5: INTERPRETATION.

It is declared to be the intention of this ordinance 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 Chapter 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL Chapter 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

2-2-6: 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 misdemeanor and upon conviction shall be fined not more than \$2,000 or imprisoned in the municipal jail for one year or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL Chapter 10-45, and acts amendatory thereto, and SDCL Chapter 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

2-2-7: SEPARABILITY.

If any provision of this ordinance 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 3
APPROPRIATION OF REAL PROPERTY TAX
REVENUES

2-3-1: DEFINITIONS:

APPROPRIATION: An authorization by the governing body of the city to expend from public funds a sum of money not in excess of that specified and for the purposes specified in

the authorization.

2-3-2 : APPROPRIATION LIMITATIONS AND ADJUSTMENTS:

For taxes payable in 1997, and each year thereafter, the total amount of revenue payable from taxes on real property within the city, excluding the levy pursuant to South Dakota Compiled Laws 10-13-36, may increase no more than the lesser of three percent (3%) or the index factor, as defined in South Dakota Compiled Laws 10-13-38, over the amount of revenue payable from taxes on real property in the preceding year, excluding the amount of taxes levied pursuant to South Dakota Compiled Laws 10-13-36. After applying the index factor, the governing body of the city may increase the revenue payable from taxes on real property above the limitations provided by this section by the percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes and any adjustments in taxation of property separately classified and subject to statutory adjustments and reductions under South Dakota Compiled Laws chapters 10-4, 10-6, 10-6A, and 10-6B, except 10-6-31.4, only if assessed the same as property of equal value. The governing body of the city may increase the revenue it receives from taxes on real property above the limit provided by this section for taxes levied to pay the principal, interest, and redemption charges on any bonds issued after January 1, 1997, which are subject to referendum, scheduled payment increases on bonds and for a levy directed by the order of a court for the purpose of paying a judgment against the city.

TITLE 3

HEALTH AND SANITATION

- Chapter 3-1: Animals
- Chapter 3-2: Garbage
- Chapter 3-3: Nuisances
- Chapter 3-4: Noxious Weeds
- Chapter 3-5: Fire Regulations

CHAPTER 1 ANIMALS

3-1-1: CATS AND DOGS MUST BE REPORTED.

Every person who keeps or owns any cat or dog within the limits of the city shall report to the City Finance Officer within thirty days of bringing a cat or dog within City limits the description, kind and number of cats and dogs kept or owned by such person, and shall continue on or before the 30th day of June each year hereafter to report to the City Finance Officer the description, kind and number of cats or dogs kept or owned.

3-1-2: CATS AND DOGS LIMITED.

No kennel for either cats or dogs shall be maintained or operated within the limits of the City. Furthermore, it is unlawful to have, harbor, keep, own or possess more than ~~three (3)~~ five (5)

domestic pets in any combination over the age of six months in any apartment, dwelling, household or single residence, or on any lot or premises in the city unless a person residing on the lot or premises has a single valid kennel permit issued by the city. The city animal shelter, veterinary offices, and birds and fish are exempt from the provision of this section. Domestic pets in any combination over the age of six months kept outside on their lot are limited to three (3).

3-1-3: LICENSE FEE.

The keeper or owner of any male or spayed cat or dog shall pay unto the City Finance Officer the annual sum of \$10.00, and an annual fee of \$25.00 shall be paid for any unsprayed female cat or dog over the age of one. A prerequisite to the licensing of any cat or dog shall be the display to the City Finance Officer by the owner thereof a certificate or letter from a licensed veterinarian showing that such cat or dog for which a license is applied has had a proper inoculation or vaccination for rabies and that said inoculation or vaccination is sufficient to protect said cat or dog against rabies for the ensuing year following the application for such license. It shall thereupon be the duty of the City Finance Officer to number and register every cat or dog so reported upon receipt of the license fee. The City Finance Officer shall also register a description of such cat or dog and the name of the keeper or owner of such cat or dog, and the owner's street address.

3-1-4: LICENSE ISSUED.

The City Finance Officer shall issue all cat and dog licenses. The license shall state the registered description, kind and number of such cat or dog and the year when licensed. A metallic tag for each cat or dog so registered and licensed as provided herein shall be provided to the cat or dog keeper or owner. The tag shall be engraved or stamped with the registered number of the cat or dog and the year when registered.

3-1-5: OWNER ATTACHES TAG.

Every person being the keeper or owner of any cat or dog shall place a collar around the neck of such cat or dog so kept or owned by him to which shall be securely fastened the metallic tag described above not later than the expiration time for annually registering and licensing the cat or dog. In the event any tag is lost, then a new license must be purchased.

3-1-6: PROCEEDS OF LICENSES.

The funds received for the registration and licensing of animals shall be credited by the City Finance Officer to the general fund of the city.

3-1-7: FINANCE OFFICER TO MAKE REPORT.

It shall be the duty of the City Finance Officer to make a full report of the number of animals registered and licensed under this chapter at least once every year, together with a statement of the amount of money collected therefore.

3-1-8: CAT OR DOG RUNNING AT LARGE.

No person shall allow any animals, domestic or otherwise, to run at large other than on the owner's premises. The term "at large" shall mean off the premises of the owner and not under control.

3-1-9: CATS AND DOGS CAPTURED.

An agent or employee of the City or a law enforcement officer will capture or cause to be captured and conveyed to the all cats or dogs that are found not to be properly registered, licensed and tagged in compliance with this chapter prior to the expiration date provided herein. The City shall notify the owner if known and keep such cats or dogs there with kind treatment and supply them with sufficient food and water for a period of at least ~~three (3) days~~ 24 hours from capture unless reclaimed sooner by the keeper or owner thereof. The keeper or owner of such cat or dog shall display to any law enforcement officer the tag on the cat or dog whenever the law enforcement officer demands to see same. After 24 hours said dog or cat will be impounded.

~~3-1-10: NOTICE TO KEEPER OR OWNER AND REDEMPTION.~~

~~———— The keeper or owner of any cat or dog shall be notified within three (3) days after the impounding of the cat or dog, or if the owner is unknown, then written notice shall be posted for three (3) days at two or more conspicuous places within the City describing the cat or dog and the place and time of taking. The keeper or owner of any such cat or dog impounded may reclaim such cat or dog upon payment of the license fee, if unpaid, and upon paying for all charges and costs incurred by the City for the impoundment and maintenance of such cat or dog.~~

3-1-11: VICIOUS CAT AND DOG DEFINED

A "vicious cat or dog" means

- (1) Any cat or dog with a known propensity, disposition or tendency to attack unprovoked, or to cause injury to, or otherwise threaten the safety of human being or domestic animals; or
- (2) Any cat or dog which because of its size, physical nature or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property it were not kept in the manner required by this chapter or ordinances; or
- (3) Any cat or dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal.
- (4) Dog & Cat deemed vicious by city council will not be permitted in city limits

~~3-1-12: CONFINEMENT. DOG & CAT DEEMED VICIOUS NOT PERMITTED IN CITY LIMITS~~

~~The keeper or owner of a vicious cat or dog shall not permit the cat or dog to go unconfined~~

unless it is on the keeper or owner's premises. A vicious cat or dog is "unconfined" if the cat or dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the keeper or owner. The pen or structure shall have secure sides and a secured top attached to the sides. If the pen or structure has no bottom secured to the sides, then the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

3-1-13: LEASH AND MUZZLE

The keeper or owner of a vicious cat or dog shall not permit the cat or dog to go beyond the premises of the keeper or owner unless the cat or dog is securely muzzled and restrained by a chain or leash and under the physical restraint of an adult. The muzzle shall be made in such a manner that it will not cause injury to the cat or dog or interfere with its respiration or vision, but shall prevent it from biting any animal or human. No vicious cat or dog shall be allowed off the premises of its keeper or owner unless in charge of the keeper or owner or a member of the keeper or owner's immediate family over 16 years of age. If a vicious cat or dog is found off the premises of its keeper or owner, then it may be seized by any person, and upon delivery of the cat or dog to the proper authorities may be killed upon establishing the vicious character of the cat or dog. However, if it is necessary, then an agent or employee of the City or law enforcement officer or any person may destroy any cat or dog without having to catch or impound the animal.

3-1-14: SIGNS.

The owner of a vicious cat or dog shall display in a prominent place on his premises a clearly visible warning sign indicating that there is a vicious cat or dog on the premises. A similar sign is required to be posted on the kennel or pen of the animal.

3-1-15: INSURANCE.

All owners of a vicious cat or dog must within fourteen (14) days of the effective date of this ordinance provide proof to the City Finance Officer of public liability insurance in the amount of at least \$10,000.00 which insures the owner for any personal injuries inflicted by his vicious cat or dog.

3-1-16: CRUELTY TO ANIMALS.

No person shall cruelly beat, injure or torture any domestic animal, nor overload any working animal, nor shall any person negligently or willfully abuse, mistreat or neglect in a cruel manner any such animal.

3-1-17: DISTURBANCE.

It shall be unlawful for any person to keep a cat, dog, dogs or a dog kennel within twenty (20) feet of the house of a neighbor or to keep within the limits of this city any cat or dog which causes a disturbance by barking or making noises to the annoyance or disturbance of the public.

3-1-18: CAT OR DOG FIGHTING.

No person shall maintain or possess any cat or dog for the purpose of fighting, or badger, bait, train or torment any cat or dog for the purpose of causing or encouraging the cat or dog to attack domestic animals or human beings.

3-1-19: PIGEONS AND BEES IN CITY.

No person having in their charge or owning any pigeons shall allow, permit or suffer the same or any of them to roam or fly at large within the city. No one shall keep, maintain or possess any bees, hives or swarms of bees within the City.

3-1-20: FOWL IN CITY.

No person shall allow any chickens, ducks, geese or other domestic fowl to run at large, nor shall any person keep enclosed or housed any chickens, ducks, geese, or other domestic fowl in any house, coop, pen or enclosure situated within the distance of one hundred (100) feet of any dwelling house, store or any other building occupied or used as a residence of any person, or within one hundred (100) feet of any church, school or other public building. Any such coop, house, pen or enclosure shall be maintained at all times in a clean and sanitary condition.

3-1-21: COWS, GOATS, HORSES AND SHEEP IN CITY.

No person shall keep any cow, donkey, goat, hog, horse, sheep, swine or erect or maintain any building or enclosure for use in keeping any such animal within one hundred fifty (150) feet of any dwelling, house or building used for human habitation other than that of the keeper or owner of such animals, because such shall constitute a nuisance. 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 and in accordance with the regulations and rules of the county or state Board of Health. No person shall keep, maintain or place any hogs within the City.

3-1-22: PICKETING ANIMALS.

No person shall stake out any domestic animals within the city in such a manner as to permit them to approach within one hundred (100) feet of any dwelling house or building used for human habitation other than that of the owner of such animal.

3-1-23: WASTE.

No keeper or owner of any cat or dog shall allow the animal to defecate on private or public property other than their own. If a cat or dog does defecate upon private or public property, then the keeper or owner of the cat or dog must immediately and thoroughly clean the fecal material from such property.

3-1-24: PENALTY

Any person violating any provision of this chapter shall be subject to a penalty of not more than

\$500.00 for each occasion or day a violation occurs.

CHAPTER 2 GARBAGE

3-2-1: DEFINITION.

The term garbage as used in this ordinance is defined to be any accumulation of animal, fruit, or vegetable matter, refuse or any other substance used in the preparation, cooking, dealing in or storing meats, fowls, fruits or vegetables.

3-2-2: LEAVING GARBAGE EXPOSED.

It shall be unlawful for any occupant or owner of any lot within the city to throw, or leave exposed upon any lot, or within any alley or street adjoining said premises any animal matter, fruit, vegetable or any filth or slop whatsoever, liquid or solid.

3-2-3: RECEPTACLES.

It shall be the duty of every occupant, owner or tenant of any building or premises within the city to provide and keep in good condition for the exclusive use of such building or premises separate receptacles for receiving and holding without leakage the garbage that may accumulate from the building or premises. Each apartment building must have one receptacle per four units, and a second receptacle in the event an apartment building has more than four units.

3-2-4: WRAPPING IN PAPER OR PLASTIC.

It shall be unlawful for anyone to place or cause to be placed in any receptacle any refuse, substance or thing other than garbage as defined herein. All garbage shall be drained of all liquids and wrapped in paper or plastic before being placed in such receptacle provided that the City Council may adopt regulations and rules dispensing with the wrapping of garbage and paper when the receptacles are emptied so frequently that they deem such wrappings unnecessary.

3-2-5: RECEPTACLE - HOW MADE.

Every receptacle intended to be used or provided to receive and hold garbage shall be watertight and made of galvanized iron or other suitable material or metal with a watertight fitting cover which shall be maintained in a place so as to prevent the ingress and egress of flies.

3-2-6: WHERE KEPT.

Such garbage receptacle shall be kept outside of the buildings, but within the lot line, and it shall be unlawful to place or keep such garbage receptacle in the alley, street or public place.

3-2-7: ASHES.

It shall be unlawful for any corporation, firm, person or other entity to deposit ashes upon the public streets within the city.

3-2-8: MUNICIPAL GARBAGE COLLECTOR.

The City Council may enter into an annual or multi-year contract with automatic annual renewals with some responsible person to collect and haul garbage. The garbage collector shall have exclusive rights to collect and haul such garbage in the city during the term of the contract. However, a garbage collector may be required to make a showing to the city council that it is properly equipped and capable of performing the contract. The city council may appropriate and provide such compensation as may be required to obtain a fair and reasonable contract.

3-2-9: DUTY OF GARBAGE COLLECTOR.

It shall be the duty of the garbage collector to thoroughly clean up all the garbage in the immediate vicinity of the place from which said garbage is removed, and to see that none of the garbage is dropped or liquid matter permitted to escape from the receptacle in which it is being hauled on to the alleys or streets within the city, and to keep all garbage receptacles emptied at whatever regular intervals may be deemed necessary.

3-2-10: CLEANING PARKS.

Any person or group of persons using any public picnic or playground areas in city parks shall be responsible for cleaning all garbage and litter caused by their occupancy before leaving the area.

3-2-11: LITTERING PROHIBITED.

No person shall cast, deposit, drop or throw any bottles, cans, paper, paper containers, rubbish, trash, or any filth of any kind or any other form of litter or waste upon any alley, premises, sidewalk, street or yard whether private or public.

3-2-12: MUNICIPAL RUBBLE SITE.

A municipal rubble site has been established at: Outlot Q in Section Thirty-five (35), Township One Hundred Fifty-five (155) North, Range Fifty-two (52) West of the 5th P.M., County of Hamlin, State of South Dakota. The municipal rubble site may only be used by the residents of the City of Castlewood unless otherwise decided by the City Council and no one may enter upon the premises of the municipal rubble site at any time other than the hours established by the City Council.

The only items which may be deposited at the landfill are those items permitted by federal and state regulations and statutes. No party may deposit any item in the landfill which violates any federal or state regulation or statute. Furthermore, no one may remove or cause to be removed any article or material of any kind from the municipal rubble site after the article or material has been deposited therein except that metal articles for immediate use may be removed upon receiving written permission from either the Mayor or City Maintenance Supervisor.

CHAPTER 3 NUISANCES

3-3-1: NUISANCES DEFINED AND PROHIBITED.

Whatever is dangerous to human health, or whatever renders the air, food, ground or water a hazard or an injury to human health, and the following specific acts, conditions and things are each and all of them hereby declared to constitute a nuisance. No person shall commit, create, maintain or permit to be committed, created or maintained any nuisance as defined herein within the city or within one mile of the boundaries thereof.

3-3-2: SPECIFIC NUISANCES AND ADDITIONAL REMEDIES.

The maintenance of such conditions as defined in the following sections of this chapter shall each be deemed to constitute a nuisance. The penalty for nuisances are as defined in the general penalty of this Code. Such a penalty shall be in addition to any other remedies authorized by this Code or state statute.

3-3-3: GARBAGE AND REFUSE.

Depositing, maintaining or permitting to be maintained or to accumulate upon any private or public property any household garbage, excrement, sewage, tin cans, wastewater, or any decaying bones, fish, fruit, meat or vegetable, or any foul, putrid or obnoxious liquid substance.

3-3-4: IMPURE WATER.

Any well or other supply of water used for drinking or household purposes which is polluted or which is so constructed or situated that it may become polluted.

3-3-5: UNDRESSED HIDES.

Undressed hides kept longer than 24 hours except at a place where they are to be manufactured or in a storeroom basement approved by the State Health Department.

3-3-6: MANURE.

The accumulation of manure unless it be in a properly constructed fly proof bin, box or pit.

3-3-7: BREEDING PLACES FOR FLIES.

The accumulation of garbage, manure or anything whatsoever in which flies breed.

3-3-8: STAGNANT WATER.

Any excavation in which stagnant water is permitted to collect.

3-3-9: WEEDS.

Permitting weeds or other noxious matter to grow to maturity on any private property, including vacant lots.

3-3-10: DUTCH ELM TREES.

Permitting any species or varieties of elm trees which are dead or substantially dead.

3-3-11: DEAD ANIMALS.

For the owner of a dead animal to permit it to remain undisposed of longer than 24 hours after its death.

3-3-12: CESSPOOLS AND PRIVIES.

Erecting or maintaining any cesspool or privy.

3-3-13: GARBAGE HANDLED IMPROPERLY.

Throwing or letting fall on or permitting to remain on any alley, street or other ground any garbage, filth, fuel, manure, rubbish or wood while engaged in handling or removing any such substance.

3-3-14: RODENTS AND DEFINITION OF JUNK.

Accumulation of junk, old iron, automobiles or parts thereof, and anything whatever in which rodents may accumulate, breed or live. Junk is defined to mean old ferrous or nonferrous metals, old cordage, ropes, fabrics, old rubber or old bottles or other glass, bones, wastepaper and other waste or discarded materials which may be prepared to use again in some other form, but "junk" shall not include materials or objects accumulated by a person as by-products, waste or scraps from the operation of a business, or materials or objects held and used by a manufacturer as an integral part of the manufacturing process.

3-3-15: BONFIRES IN PUBLIC PLACES.

The burning of leaves will not be allowed. It is the finding of the City Council that for the immediate preservation of the public health, peace and safety, and the support of the municipal government and its existing public institutions that this ordinance shall take effect upon publication.

3-3-16: PARKING LIVESTOCK TRUCKS OR TRAILERS IN RESIDENTIAL DISTRICTS.

Parking or permitting livestock trailers or trucks to remain on any area, public ground or street in a residential district where such trailer or truck gives off an offensive odor or is contaminated with manure or other filth.

3-3-17: ICEBOXES - PROHIBITING ABANDONMENT IN PLACES ACCESSIBLE TO CHILDREN.

It shall be unlawful for any person to leave or permit to remain outside of any building, dwelling or other structure or within any abandoned or unoccupied building, dwelling or other structure under his control in a place accessible to children any abandoned or discarded container, icebox or refrigerator which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said container, icebox or refrigerator.

3-3-18: ICEBOXES DECLARED NUISANCE.

The keeping of any discarded container, icebox or refrigerator as set forth immediately hereinbefore shall be and the same is hereby declared to constitute a public nuisance and the same shall be abated as provided under South Dakota Codified Law 21-10-6, or acts amendatory thereto, and the abatement of such nuisance shall not in any manner affect the penalty provisions of this ordinance.

3-3-19: HOW TO ABATE NUISANCES.

The City Attorney or Finance Officer shall give written notice to any person creating, maintaining or permitting any nuisance to abate such nuisance forthwith, and if such person shall neglect or refuse to do so within a reasonable time after such notice and not file an appeal with the Finance Officer within three days of being notified, then that party shall be deemed guilty of a violation of this chapter. The City Attorney or Finance Officer shall cause to be abated or removed any such nuisance upon the expiration of four days after the serving of such notice and the City may recover the expense so incurred from the person maintaining such nuisance in a civil suit instituted for such purpose. In the alternative, the Finance Office shall certify the amount of the expense incurred, and the description of the property and the owner thereof to the County Assessor who shall thereupon add such assessment to the general assessment, together with the regular assessment, to be collected as a municipal tax for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

3-3-20: PUBLIC NUISANCES DEFINED AND ELECTION OF REMEDIES.

A public nuisance consists of unlawfully doing an act or omitting to perform a duty within the jurisdiction of the city which either:

- a. annoys, endangers or injures the comfort, health, repose or safety of others; or
- b. offends decency; or

- c. unlawfully interferes with obstructs or tends to obstruct or renders dangerous for passage any lake or navigable river or stream or public park, road, street or highway; or
- d. it in anyway renders other persons insecure in life, or the use of property affecting at the same time the entire community or a neighborhood or any other considerable number of people. The extent of the annoyance or damage inflicted upon the individuals may be unequal.

In addition to or in lieu of the above penalty, the City may remedy a public nuisance by abatement or by commencement of a civil action. Abatement shall consist of removing, or if necessary, destroying the thing which constitutes a nuisance without committing a breach of the peace or doing any unnecessary injury. For a public nuisance which results from a mere omission of the wrongdoer which cannot be abated without entering upon his premises, then reasonable notice must be given that party before entering upon the premises to abate the nuisance.

CHAPTER 4

GRASS AND NOXIOUS WEEDS

3-4-1: GRASS AND WEEDS - DUTY OF OWNER.

No owner of any area, lot or place within the City or the agent of such owner or the occupant of such area, lot or place shall permit on such area, lot or place or upon any sidewalk abutting the same any grass, weeds or deleterious or unhealthful growths or other noxious matter that may be growing, lying or located thereon, and the growing of such weeds or other noxious or unhealthful vegetation is hereby declared to be a nuisance **over six inches in height.**

3-4-2: NOTICE TO DESTROY.

The City Attorney or the Finance Officer is hereby authorized and empowered to notify in writing the owner of any such area, lot or place within the city or the agent of such owner or the occupant of such premises to cut, destroy or remove any such grass, weeds or deleterious or unhealthful growths or other noxious matter found growing, located or lying on such property or upon the sidewalk abutting same. Such notice shall be by certified mail-return receipt requested to the agent, occupant or owner at his last known address.

3-4-3: ACTION UPON NONCOMPLIANCE.

Upon failure, neglect or refusal of any agent, occupant or owner so notified to comply with said notice within 72 hours after the mailing thereof, the Finance Officer is hereby authorized and empowered to provide for the cutting, destroying or removal of such grass, weeds or deleterious unhealthful growths or other noxious matter and to defray the cost of the destruction thereof by special assessment against the property as provided in this Code.

3-4-4: WEED REMOVAL COSTS.

If the occupant or owner of the land fails to cut the grass and/or weeds as provided for in the

preceding section, then the City shall cut the weeds. The cost to the landowner shall be \$100.00 for the first hour of cutting, plus \$75.00 for each additional hour of cutting thereafter, with a \$100 minimum charge.

3-4-5: COSTS ASSESSED.

The Finance Officer shall cause an account to be kept against each lot for the destruction of grass and/or noxious weeds upon said lot as herein provided, and upon the completion of the work in destroying such grass and/or weeds and abating said nuisance the Finance Officer shall thereupon certify said account showing the amount and description of the property and the owner thereof to the County Assessor who shall thereupon add such assessment to the general assessment, together with the regular assessment, to be collected as a municipal tax for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

3-4-6: RECOVERY BY CITY.

In lieu of spreading the cost of the destruction of such grass, noxious weeds and other deleterious matter against said property in the discretion of the City Council said amount may be recovered in a civil action against the occupant or owner of such property.

CHAPTER 5 FIRE REGULATIONS

3-5-1: FALSE FIRE ALARM

It shall be unlawful to intentionally cause, give or make any false alarm of fire.

3-5-2: TAMPERING WITH FIRE HYDRANTS

It shall be unlawful for any person to interfere with or open any fire hydrant connected with the water mains without the permission of the City's maintenance officials.

3-5-3: REMOVING DEBRIS AFTER FIRE

Whenever any building within the City shall be damaged by fire to the extent of more than fifty (50%) percent of its value, and no permit for the repair of the same or the construction of a new building has been obtained, and there shall remain upon the premises where such fire occurred any ashes or debris from such fire, then the owner of the lot or lots upon which the same is located shall within thirty (30) days after such fire remove all ashes and debris from such lot or lots. The owner's failure to do so shall be a misdemeanor, and the City may remove the debris and hold a lien against the premises for all necessary expenses.

3-5-4: BURNING WASTE

No person shall burn any boxes, hay, leaves, paper, refuse, straw or rubbish of any kind within the city limits unless said material is burned in an approved furnace and incinerator located in a building within the business or industrial districts and not prohibited by any other ordinance. However, fire pits are permitted on residential property provided the fire pits are used outdoors on a concrete surface and do not interfere in anyway with the residents living nearby.

TITLE 4 COMMERCIAL REGULATION

Chapter 4-1: Alcoholic Beverages
Chapter 4-2: Franchises

CHAPTER 1 ALCOHOLIC BEVERAGES

4-1-1: LICENSE REQUIRED.

No person shall blend, bottle, distill, exchange, keep for sale, manufacture, offer for sale, produce or sell any alcoholic beverage as defined by statute within the City or within one mile of its territorial limits without having a license therefore as required by state statute.

4-1-2: NON-INTOXICATING LIQUOR - RESTRICTIONS.

Every licensee authorized to keep for sale, or offer or sell non-intoxicating beer or wine within the City shall keep the premises upon which such business is conducted in such condition that view through the windows of such premises shall be completely unobstructed either by advertising, curtains, window glazing or any other obstruction whatsoever. No non-intoxicating beer or wine shall be served in any booth on such premises wherein all of the occupants are not within view of every other occupant in the room and observable from any and all points within the room. Additionally, such premises shall be adequately lighted at all times with sufficient bright lights so that the occupants of such room may be easily observable from any and all points within the room, and no licensee shall allow any game of chance or skill or athletic contest on said premises or permit any slot machine or other like device in or about the licensed premises.

4-1-3: SALE OF ALCOHOLIC BEVERAGES. Is this compliant with state statute?

Any party intending to operate business selling alcoholic beverages either off-sale or on-sale shall enter into an annual alcoholic beverages operating agreement with the City in the manner and method provided by law. All alcoholic beverages, including malt beverages, may be purchased by a licensee directly from the distributor, and subsequently delivered by the distributor directly to the licensee provided each licensee maintains a complete detailed record of all beverages purchased, and submits a copy of all invoices from the distributor which reflects the actual cost, brand, date, quantity and transportation charges, and each such invoice shall

reflect the signature of the licensee or an authorized representative. The purchase price of all alcoholic beverages and all malt beverages shall include a minimum markup percentage of 0% (of actual cost) which shall be paid by the licensee unto the City. All alcoholic beverages may be sold only on those dates and during such time of the day as is permitted by state statute, including from 9:00 a.m. to 10:00 p.m. on Sundays for on-sale liquor, plus on Memorial Day from 10:00 a.m. to 10:00 p.m.

4-1-4: FEE FOR LICENSE.

The City shall charge and collect from each licensee such amount or sums as it believes necessary and reasonable under the circumstances and is permitted by state statute. In the event such amount or sum is not timely satisfied in full, then the failure to do so shall be grounds for revocation of a license. The fee for each license shall be established by resolution duly passed by the City Council as amended from time to time.

4-1-5: PROCEDURE FOR REVOCATION OF LICENSE.

A licensee shall be given ten days' advance notice of a hearing before any license granted earlier is revoked by the council. A majority vote of all the city council is required for the revocation of a license.

4-1-6: DANCES AND SPIKING PERMIT.

~~It shall be unlawful for any part to conduct, maintain or operate any dance (other than for religious purposes) within the City of Castlewood or within one mile of corporate limits unless a permit has been issued by the Finance Officer. The fee for a dance permit shall be \$25.00, and the permit shall specify the specific hours for which it is valid. The party to whom the permit is issued shall attend and be responsible for the activities and conduct of the individuals attending the dance, and also that no ordinance, regulation, or statute is being violated. In the vent there is any violation of an ordinance, regulation or statute, specifically including disorderly conduct, then law enforcement officers may vacate the premises immediately. Furthermore a "spiking permit" to blend or consume alcoholic beverages as provided by state statute may only be issued by the City council prior to any dance on property which is publicly owned or owned by a nonprofit corporation.~~

CHAPTER 2 FRANCHISES

4-2-1: GRANT TO OTTERTAIL POWER COMPANY (do we need to change any of the years)?

ORDINANCE NO. 254

An Ordinance granting to the Otter Tail Power Company, a Minnesota Corporation, its successors and assigns, a Franchise for 20 years, including permission to erect, construct, install, and maintain within the City of Castlewood, South Dakota, an electric

light and power system and transmission line and to operate the same and to install conduits, poles, wires, pipes, and other fixtures in, upon, and under the streets, alleys, bridges, and public grounds of said municipality for the purpose of furnishing electric light, heat, and power to said municipality and the inhabitants thereof.

BE IT ORDAINED by the City of Castlewood, South Dakota (hereinafter called the Municipality):

Section 1

There is hereby granted to Otter Tail Power Company, a Minnesota Corporation, its successors and assigns, hereinafter called the Grantee, for a period of twenty (20) years from and after the passage and approval of this Ordinance and during all of said time, subject to the conditions and requirements hereinafter set forth, permission to construct, install, and maintain an electric light and power system and transmission line and to operate and maintain the same within and through the Municipality and to transmit electricity to and from the other towns or cities for the purpose of light, power, and heat, and to erect, construct, install, and maintain conduits, poles, wires, pipes, and other necessary fixtures and attachments upon and under the streets,, alleys, bridges, and public grounds of said Municipality for the purpose of furnishing and selling electricity for light, heat and power, and such other purposes for which electricity may be used by the inhabitants of said Municipality, said permission and franchise to become operative and continue under the conditions hereinafter set forth.

Section 2

All poles where set in alleys shall be set at or near the boundary line thereof and where set in streets shall be located at such distances as shall be directed by the Municipality from the property line of the abutting owner, and shall be placed so as not to interfere with the construction or placing of any water pipes, sewers, or drains or the flow of water therefrom which has been or may be placed by authority of said Municipality. In the event that said Grantee shall make any unnecessary obstruction of said streets, alleys, public grounds, or places not designated by the Governing body, the Municipality may cause the removal of such obstructions and charge and collect from such Grantee the actual cost of such removals.

Section 3

The Municipality reserves the right for itself and its agents to make and adopt, and the rights and privileges hereby granted shall at all times be and remain subject to, such responsible regulations of a police nature as it may deem necessary for the best interest of the Municipality, but the Municipality will not by any such regulations or by acts of its own or agents do anything to prevent or interfere with the Grantee carrying on its business in accordance with the franchise hereby granted.

Section 4

The Grantee shall use due diligence and care in furnishing electric service as herein provided but shall not be liable for any loss or damage which may arise from the failure of the service, either partial or total, but this shall not be construed to exempt said Grantee from liability for negligence.

4-2-2: GRANT TO NORTHWESTERN CORPORATION

ORDINANCE NO. 12-1

An Ordinance granting to Northwestern Corporation, its successors and assigns, the right to occupy any of the streets, alleys, or public places of the City of Castlewood, South Dakota, for the purpose of transmitting or distributing natural gas.

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

Section 1

The right is hereby granted to Northwestern Corporation, its successors and assigns, to occupy any of the streets, alleys, or public places of the City of Castlewood, South Dakota, for the purpose of transmitting or distributing natural gas for a period of 20 years from the 6th day of February 2012, provided, however, that the right herein granted will not be exclusive.

Section 2

Northwestern Corporation will be liable for all damages due to its negligence in constructing, operating, or maintaining its natural gas system within the City of Castlewood, and shall at all times hold the City of Castlewood harmless from any and all liability arising out of Northwestern Corporation's negligence.

Section 3

This ordinance shall not be effective unless Northwestern Corporation files its unconditional acceptance of this ordinance with the Finance Officer of the City of Castlewood within 45 days after the publication of this ordinance.

4-2-3: Grant to Satellite Cable Services, Inc.

ORDINANCE NO. 276

AN ORDINANCE GRANTING A FRANCHISE TO SATELLITE CABLE SERVICES, INC., A SOUTH DAKOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO ERECT, OWN,

OPERATE AND MAINTAIN A COMMUNITY ANTENNA TELEVISION SYSTEM IN THE CITY OF CASTLEWOOD, SOUTH DAKOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE; AND PROVIDING FOR CITY REGULATION AND USE OF THE COMMUNITY ANTENNA TELEVISION SYSTEM.

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

WHEREAS, Satellite Cable Services, Inc., a South Dakota corporation, has petitioned for the nonexclusive right to construct and operate a community antenna television system in the City of Castlewood, South Dakota,

NOW, THEREFORE, the City of Castlewood, South Dakota hereby grants to Satellite Cable Services, Inc. the rights under this Cable Television Franchise Ordinance.

I

SHORT TITLE

This ordinance shall be known and may be cited as the "Castlewood Community Antenna Television Franchise Ordinance."

II

DEFINITIONS

For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "City" shall mean the City of Castlewood, South Dakota.
2. "City Council" shall mean the City Council of Castlewood, South Dakota.
3. "Cable Television System," "Cable System" or "CATV" shall mean a system utilizing coaxial cable and certain electronic and other components which deliver to subscribing members of the public various communications services.
4. "FCC" shall mean Federal Communications Commission.
5. "Person" shall mean any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.
6. "Grantee" shall mean Satellite Cable Services, Inc., or its successor in accordance with the provisions of this Franchise.
7. "Subscribers" are those persons contracting to receive cable television reception services

furnished under this Franchise by Grantee.

8. "Cable Television Reception Service" shall mean the simultaneous delivery by the Grantee to television receivers or any other suitable type of audio-video communications receivers of the signals of over-the-air television broadcast stations licensed by the Federal Communications Commission and authorized to be carried over said system; and such additional closed-circuit channels at the option of Grantee.

III

QUALIFICATIONS OF GRANTEE AND GRANT OF NONEXCLUSIVE AUTHORITY

Whereas, the City has approved of the legal, character, financial, technical and other qualifications of the Grantee and the adequacy and feasibility of the Grantee's construction arrangements as part of a full public proceeding affording due process, including notice to all interested persons and members of the public of the line extension provisions of Section XV hereof, there is hereby granted by the City to the Grantee a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable Television System for the purpose of distributing television and radio signals, and other electronic pulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth.

IV

DURATION AND ACCEPTANCE OF FRANCHISE

The Franchise granted the Grantee herein shall terminate 15 years from date of the expiration of Cable Television Franchise # 161, subject to renewal for periods of reasonable duration on the same terms or conditions as contained herein, or on such specified by the City and as are consistent with the requirements of Rule 76.31 of the Federal Communications Commission. No renewal hereof shall be granted unless authorized by the City following a public hearing. Grantee shall be awarded a franchise renewal provided its application shows that its CATV service during the preceding franchise period has reflected a good-faith effort to serve the needs and interests of its service area.

V

COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS, ORDINANCES AND CODES

1. The Grantee shall, at all times, operate and maintain its Cable Television System in full

compliance with the rules, regulations and standards of the FCC.

2. The Grantee shall, at all times, during the life of this Franchise, be subject to all lawful exercise of the police power by the City of Castlewood and to any such reasonable regulations as the City shall hereafter provide.

VI

TERRITORIAL AREA INVOLVED

This Franchise relates to the present territorial limits of the City and to any area henceforth added thereto during the term of this Franchise.

VII

LIABILITY AND INDEMNIFICATION

Grantee shall at all times keep in effect the following types of insurance coverage:

- (a) Workers Compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Castlewood.
- (b) Property Damage Liability insurance to the extent of Fifty Thousand Dollars (\$50,000.00) as to any person and One Hundred Thousand Dollars (\$100,000.00) as to any one accident, and personal injury liability insurance to the extent of One Hundred Thousand Dollars (\$100,000.00) as to any one person and Three Hundred Thousand Dollars (\$300,000.00) as to any one accident.

Grantee shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Workers Compensation law which may be caused by the erection, maintenance, use or removal of any of their attachments, poles or other undertakings, within the City, or by any action of grantee, its agents or employees. Grantee shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, suits, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Grantee shall also carry such insurance as it deems necessary to protect it from all claims under the Workers Compensation laws in effect that may be applicable to Grantee. The City shall give the Grantee prompt written notice of any such claims, demands, actions, suits, judgments, costs, expenses or liabilities. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder.

VIII

OPERATION AND MAINTENANCE OF SYSTEM

1. The Grantee shall render safe and efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.

2. The Grantee shall provide for safe, adequate and prompt service for its facilities.

IX

SERVICE TO SCHOOLS AND CITY

The Grantee shall provide service to elementary or secondary school locations within the City one terminal junction for educational purposes upon request by the City or the school system and at no cost to the City or to the school system. This shall mean only an energized cable to such buildings. The cost of any internal wiring shall be borne by the institution.

Grantee shall also provide the City, for connections to three buildings to be elected by the City council of the City, without charge, and one junction terminal to each of said buildings at a location therein to be selected by the City.

X

EMERGENCY USE OF FACILITIES

In the case of an emergency or disaster, the Grantee shall, upon request of the City council, make available its facilities to the City for emergency use during the emergency or disaster.

XI

OTHER BUSINESS ACTIVITIES

The Grantee hereunder shall not engage in the business of selling, repairing or installing television receivers, radio receivers, or accessories for such receivers within the City of Castlewood during the term of the Franchise.

XII

SAFETY REQUIREMENTS

The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

XIII

NEW DEVELOPMENTS

It shall be the policy of the City liberally to amend this Franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of

transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customers. Provided, however, that this section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally changing its policy stated herein.

XIV

NEW DEVELOPMENTS

1. All transmission and distribution structures, lines, and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places, and said poles or fixtures shall be removed by Grantee whenever, in the opinion of the City Council of the City of Castlewood the same restrict or obstruct the operation or location of any future streets or public places in the City of Castlewood.
2. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any installations of City or of a public utility serving the city, or to interfere with new improvements the City may deem proper to make.
3. In the maintenance and operation of their television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or addition to their facilities, Grantee shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by Grantee in the course of their operations shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.
4. In case of disturbance of any street, sidewalk, alley, public way, or paved area, the Grantee shall, at its own cost and expense and in manner approved by the City Council, replace and restore such street, sidewalk, alley, public way, or paved area in as good a condition as before the work involving such disturbance was done.
5. If at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
6. All installations of equipment shall be of permanent nature, durable and installed in accordance with good engineering practices, and of sufficient height to comply with all existing City regulations, ordinances, and state laws so as not to interfere in any manner with the right of the public or individual property owner, and any equipment installed in a public way or place shall not interfere with the usual travel on such public way or usual use of such public place by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.
7. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of

such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

8. The Grantee shall have the authority to trim trees overhanging upon the streets, alleys, sidewalks and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.
9. In all sections of the City where the cables, wires or other like facilities of public utilities are placed underground, the Grantee shall in the future place its wires, cables or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.
10. Grantee shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place, any property of Grantee when required by the City by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishments of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement; provided, however, that Grantee shall in all such cases have the privileges to abandon any property of Grantee in place as herein- after provided.
11. In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such systems or property have been installed in any street or public place without complying with the requirements of this ordinance, or the rights granted hereunder have been terminated, canceled or have expired, Grantee shall promptly remove from the streets or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.
12. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.

XV

REMOVAL OF FACILITIES UPON REQUEST

Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

XVI

TRANSFER OF FRANCHISE

The rights granted under this ordinance may be assigned or transferred by the Grantee;

provided, however, that the proposed assignee or transferee must show financial responsibility to the satisfaction of the City and must agree to comply with the provisions of this ordinance. The City's acceptance of the financial responsibility of the assignee or transferee shall not be unreasonably withheld.

XVII

PAYMENT TO THE CITY

During the term of the franchise granted hereunder and so long as Grantee or its successors or assigns operate the Cable Television System, commencing from the date of institution of service to subscribers, Grantee shall pay to the City annually three percent (3%) of the "annual gross subscriber revenue," as defined herein, of said Cable Television System as compensation for the said franchise.

"Gross subscriber revenues" shall include those revenues derived from the monthly service charge paid by subscribers for basic Cable Television reception service. Subscriber revenues shall not include any state or federal taxes relating to services provided by or fees charged by Grantee, or revenues received as installation charges and fees for reconnections, inspection, repairs or modifications of any installations.

Such payments by Grantee to City shall be in lieu of any occupation tax, license tax, or similar levy, and shall be paid annually. Nothing herein contained, however, shall in any way relieve Grantee or its assigns or successors from the obligation of paying property taxes to the City of Castlewood or any other governmental subdivision of the State of South Dakota or any other taxes lawfully levied by the State of South Dakota on the operation of the Grantee. Such payment also does not affect the responsibility of Grantee to collect state and local sales tax on the service provided.

Grantee shall file with the City, within ninety-(90) days after the expiration of any fiscal year of Grantee during the term of the rights granted hereunder, a statement prepared by a Certified Public Accountant showing the gross subscriber revenue as defined herein. It shall be the duty of Grantee to pay to the City within fifteen (15) days after the time for filing such statement, the amount due for the fiscal year covered by such statement. In no event shall any such payments be due and payable until the system is actually in operation with paying subscribers.

XVIII

ERECTION, REMOVAL AND COMMON USE OF POLES

1. No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the City Engineer with regard to locations, height, type or any other pertinent aspect. However, no locations of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the Council determines that the public convenience would be enhanced thereby.
2. There is hereby granted to the extent that the City is authorized to do so, the right and authority to Grantee to lease, rent, or in any other manner obtain the use of towers, poles, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises within the corporate limits of the City of Castlewood, including NSP and U.S. West, to use such towers, poles, lines, cables and other equipment and

facilities, subject to all existing and future ordinances and regulations of the City. It is the stated intention of the City of Castlewood that all other holders of public licenses and franchises within the corporate limits of the City shall cooperate with Grantee to allow Grantee's joint usage of their poles and pole-line facilities whenever possible or wherever such usage does not interfere with the normal operation of said poles and pole-lines so that the number of new or additional poles constructed by Grantee within the City may be minimized.

3. Grantee shall grant to the City, free of expense, joint use of any and all poles owned by it for any proper municipal purpose acceptable to Grantee, insofar as it may be done without interfering with the free use and enjoyment of Grantee's own wires and fixtures, and the City shall hold Grantee harmless from any and all claims, actions, causes of action, or damages caused by the placing of the City's wires or appurtenances upon the poles of Grantee. Proper regard shall be given to all existing safety rules covering construction and maintenance in effect at the time of construction. If, in accommodating the City's joint use of their poles, Grantee is required to change or replace poles or install new poles, the City shall compensate Grantee for such additional expense.

XIX

RATES

1. Grantee shall at all times maintain on file with the City Finance Officer a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including installation charge.
2. Before making any changes in the rates and charges to subscribers for basic CATV service, Grantee shall file in writing with the City Finance Officer of the City of Castlewood a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change. If the City Council takes no action to set the proposed rate change for hearing or takes no other action to delay such changes, said proposed rate changes may become effective upon the expiration of the 30-day notice.
3. If the City Council sets the proposed rate change for hearing, said proposed rate changes will not become effective until the City Council has taken action by means of a resolution.
4. This provision does not limit the right of Grantee to pass along to the subscribers state and local sales tax or any specific copyright fees.

XX

COMPLAINT PROCEDURES

Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's office. Should Grantee fail to satisfy a complaint, it may then be directed to the City Finance Officer for investigation. In response to a complaint, Grantee shall be afforded a reasonable opportunity to present written statements of its position. The City Finance Officer shall attempt to resolve the complaints, but if this cannot be achieved, he shall submit a recommendation to the City Council recommending that: (1) the complaint be dismissed, or (2) corrective action be taken by Grantee. Appeal from the Council's action may be made to the appropriate judicial or administrative

forum.

XXI

COMPLIANCE WITH FCC FRANCHISE STANDARDS

Pursuant to applicable FCC standards, the following recitations and provisions are set forth:

1. Grantee's legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements, have been approved by the City Council of the City of Castlewood after consideration in a full public proceeding, affording due process to all interested parties.
2. The franchise period shall be fifteen (15) years in duration, and renewal franchise periods shall also be fifteen (15) years in duration.
3. The City Council has specified guidelines in charging rates. No changes in rates charged to subscribers shall be made except as they shall be deemed approved by the City Council as provided herein.
4. The franchise fee shall be no more than three percent (3%) of Grantee's "gross subscriber revenues" per year from cable television operations in the City.

XXII

UNAUTHORIZED CABLE TAPPING

It shall be unlawful for any person or persons to obtain any Cable Television Services from any cable television company, or any firm or private person by installing, rearranging, or tampering with any facilities or equipment of said Cable Television Company unless the same is done with the knowledge of and with the permission of the Cable Television Company. Any person or persons found guilty of violation of any of the provisions of this Section shall be deemed guilty of a misdemeanor.

XXIII

SEPARABILITY

1. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such - portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

2. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

XXIII

PUBLICATION

Grantee shall pay to the City a sum of money sufficient to reimburse it for all expenses incurred by it in connection with the publication and passage of this ordinance and the rights granted to Grantee hereunder. Such payment shall be made by Grantee to City within thirty (30) days after City shall furnish Grantee with a written statement of such expense.

The Grantee shall assume the cost of publication of this Franchise as such publication is required by law and such is payable upon the Grantee's filing of acceptance of this Franchise.

XXV

ORDINANCES REPEALED

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

4-2-4: GRANT TO INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

ORDINANCE NO. 02-10

AN ORDINANCE GRANTING TO INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC., THE NONEXCLUSIVE RIGHT TO ERECT, MAINTAIN AND OPERATE ACROSS, ALONG, IN, OVER AND UNDER THE PRESENT AND FUTURE ALLEYS, AVENUES, BRIDGES, HIGHWAYS, LANES, SIDEWALKS AND STREETS, EASEMENTS DEDICATED FOR COMPATIBLE USES AND OTHER PUBLIC PLACES IN THE CITY OF CASTLEWOOD, SOUTH DAKOTA, AND THE SUBSEQUENT ADDITIONS THERETO, CABLES, LINES, MANHOLES, POLES, TOWERS, WIRES, AND ALL OTHER EQUIPMENT AND FIXTURES NECESSARY FOR THE MAINTENANCE AND OPERATION IN THE CITY OF A CABLE TELEVISION SYSTEM, FOR THE PURPOSE OF DISTRIBUTION AND TRANSMISSION OF AUDIO, ELECTRICAL, ELECTRONIC AND VISUAL SIGNALS, AND OTHER ELECTRONIC IMPULSES IN ORDER TO FURNISH RADIO AND TELEVISION PROGRAMS AND VARIOUS OTHER COMMUNICATION SERVICES TO THE PUBLIC FOR A PERIOD OF FIVE (5) YEARS COMMENCING THE 1st DAY OF MARCH, 2003.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLEWOOD, SOUTH

DAKOTA AS FOLLOWS:

SECTION I - TITLE

This Ordinance shall be known and may be cited as the "ITC Cable Television Ordinance."

SECTION II - DEFINITIONS

For the purposes of this Ordinance, the following phrases, terms and words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, and words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Basic Cable Service" means the service tier which includes the retransmission of local television broadcast signals.
2. "Cable Television Reception Service" means the delivery by the Grantee to television receivers or any other suitable type of electronic receiver or terminal of the electronic signals and other communications services carried over said system.
3. "Cable Television System" or "Cable System" is a system utilizing certain electronic and other components which deliver to subscribing members of the public various communications services.
4. "City" is the City of Castlewood, South Dakota.
5. "Council" is the City Council of Castlewood, South Dakota.
6. "FCC" shall mean the Federal Communications Commission.
7. "Grantee" is Interstate Telecommunications Cooperative, Inc., in accordance with the provisions of this Ordinance.
8. "ITC" is Interstate Telecommunications Cooperative, Inc.
9. "Person" is any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.
10. "Subscribers" are those persons contracting to receive cable television reception services furnished under this ordinance by Grantee.

SECTION III - GRANT OF NON-EXCLUSIVE AUTHORITY

There is hereby granted by the City to the Grantee, and to its assigns, or designees or successors, the non-exclusive right to erect, maintain and operate across, along, in, over, under and upon the present and future alleys, avenues, bridges, highways, lanes, sidewalks, streets, easements dedicated for compatible uses and other public places in the City of Castlewood, South Dakota, and subsequent additions thereto, cables, lines, manholes, poles, towers, wires, and all

other equipment and fixtures necessary for the maintenance and operation in the City of a cable television system, for the purpose of distribution and transmission of audio, visual electric and electronic impulses in order to furnish digital audio, radio and television programs and various other communications services to the public for a period of five (5) years, commencing from and after the 1st day of March, 2003.

SECTION IV - COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Grantee shall be subject to all lawful exercise of the police and regulating powers of the City during the term hereof except in those areas which have been preempted by the federal Cable Communications Policy Act of 1984, as amended or which are regulated by the FCC.

SECTION V - TERRITORIAL AREA INVOLVED

1. This Ordinance relates to the present territorial limits of the City and to any area annexed thereto during the term of this Ordinance. Grantee shall not be required to service residents of newly annexed areas of the City or to extend service to new subscribers in areas within the City limits unless the area has a population density of fifty (50) or more homes per linear mile of cable system except upon payment by such residents of the capital costs incurred by the Grantee in bringing service to such areas or individual homes adjoining, but outside the City limits, that may be served from its existing facilities. Grantee may negotiate directly with such subscribers the amount to be charged for the bringing of the service to the subscriber.

SECTION VI - LIABILITY AND INDEMNIFICATION

Grantee shall keep in effect the following types of insurance coverage at all times:

- (a) Worker's Compensation upon its employees engaged in any manner in the installation or servicing of its equipment and plant within the City of Castlewood, South Dakota.
- (b) Property Damage Liability insurance to the extent of Five Hundred Thousand (\$500,000.00) Dollars as to any person and Five Hundred Thousand (\$500,000.00) Dollars as to any one accident and personal injury liability insurance to the extent of Five Hundred Thousand (\$500,000.00) Dollars as to any one person and Five Hundred Thousand (\$500,000.00) Dollars as to any one accident.

Grantee shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Worker's Compensation law which may arise out of their erection, maintenance, removal or use of any of their attachments, poles or other undertakings within the City, or by any other act of Grantee, its agents or employees. Grantee shall carry insurance in the above described amounts to protect the parties hereto from and against all actions, claims, costs, demands, expenses, judgments and liabilities which may arise or result, directly or indirectly, from or by reason of such damage, injury or loss. Grantee shall also carry such insurance as it deems necessary to protect it from all claims under the Worker's Compensation laws in effect that may be applicable to Grantee. The City shall give the Grantee prompt written notice of any such actions, claims, costs, demands, expenses, judgments, liabilities or suits. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder. Insurance certificates evidencing such insurance coverage shall be approved by the City Attorney and deposited with

and kept on file by the City.

SECTION VII - GENERAL SYSTEM SPECIFICATIONS

The facilities used by the Grantee shall have a minimum capacity of 115 video channels and 45 digital audio channels which will be offered to the public via various packages at various costs.

SECTION VIII - TECHNICAL STANDARDS

Grantee shall be governed by technical standards established by the FCC.

SECTION IX - MAINTENANCE AND OPERATION OF SYSTEM

1. The Grantee shall render efficient and safe service, and make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions shall be preceded by notice insofar as possible and shall occur during periods of minimum use of the system.
2. The Grantee shall maintain a force of sufficient personnel to provide an adequate, prompt and safe service for the facilities.

SECTION X - SERVICE TO SCHOOLS AND CITY

The Grantee shall provide basic cable service at no cost to public schools within the City at one terminal junction for educational purposes upon request of the school system subject to the line extension provisions of Section V.

The Grantee shall provide one junction terminal without charge to one City owned building other than an apartment, or building at the airport, or hospital or nursing home, to be selected by the Council of Castlewood, and Grantee shall also furnish the basic service to all sets connected within such building to the terminal junction without charge.

SECTION XI - EMERGENCY USE OF FACILITIES

In the case of any disaster or emergency the Grantee shall make available its facilities to the City for emergency use during the disaster or emergency upon request of the City Council.

SECTION XII - SAFETY REQUIREMENTS

The Grantee shall employ ordinary care and shall maintain and use commonly accepted devices and methods for preventing accidents and failures which are likely to cause damages, injuries or nuisances to the public at all times.

SECTION XIII - NEW DEVELOPMENTS

It shall be the policy of the City to liberally amend this franchise upon application of the Grantee when necessary to enable the Grantee to take advantage of any developments

in the field of transmission of digital audio, radio and television signals which will afford it an opportunity to more economically, effectively or efficiently serve its subscribers. However, this section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally changing its policy stated herein.

SECTION XIV - LIMITATIONS ON RIGHTS GRANTED

1. All distribution and transmission equipment, lines and structures erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of alleys, streets and other public places and ways, and to cause minimum interference with the reasonable convenience and rights of property owners who adjoin any of the said alleys, streets or other public places and ways, and said poles or towers shall be removed by Grantee whenever the City Maintenance Supervisor reasonably finds that the same obstructs or restricts the location or operation of any future streets or public places in the City.
2. Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards, and the National Electrical Code of the National Board of Fire Underwriters, and such applicable Ordinances and regulations of the City affecting electrical installation which may be presently in effect or changed by future Ordinances.
3. In case of disturbance of any alley, paved areas, public way, sidewalk or street, the Grantee shall barricade, replace and restore such alley, paved areas, public way, sidewalk, street in as good a condition as before the work involving such disturbance was done at its own cost and expense and in a manner approved by the City Maintenance Supervisor. Grantee shall not be required to pay a fee for street openings.
4. All work in any way necessitated by the business of Grantee which may involve the breaking up or opening of a portion of a sidewalk, street or other part of any City-owned or City-controlled property shall at the option of the City be done by the City at the expense of the Grantee. In such instances the Grantee shall save the City harmless against all damage or loss to any person or property in accordance with the provisions of Section VI of this Ordinance. In the event the City does not exercise its option, then the Grantee shall, at its own expense and in a manner approved by the City Maintenance Supervisor, replace and restore such alley, paved area, public walk, sidewalk or street in as good as condition as before the work involving such disturbance was done.
5. If at any time during the period of this Ordinance the City shall lawfully elect to alter or change the grade of any alley, sidewalk, street or other public way, then the Grantee shall relay, relocate and remove its cables, manholes, underground conduits, wires and other fixtures at its own expense upon reasonable notice by the City.
6. All installations of equipment shall be of a permanent nature, durable and installed in accordance with good engineering practices, and comply with all existing City ordinances, regulations and state laws so as not to interfere in any manner with the right of the individual property owner or public, and any equipment installed in a public place or public way shall not interfere with the usual travel on such public way or usual use of such public place by the public and during the construction, removal or repair thereof

shall not unduly impede or obstruct traffic.

7. Grantee shall, at its expense, protect, support, temporarily disconnect, relocate on the same alley, or public place, or street, or remove from the alley, public place, or street any property of Grantee when required by the City by reason of traffic conditions, public safety, street construction or vacated, or change or establishment of street grade, installation of drains, power lines, signal lines, sewers, water pipes and tracks or any other types of improvements or structures by governmental agencies when acting in a governmental or proprietary capacity; provided however, that Grantee shall in all cases have the privilege to abandon any property of Grantee in place as hereinafter provided.
8. The Grantee shall place its cables and wires underground on the same conditions and time schedule that are applicable to the providers of other ground services in those sections of the City where the City designates an area where all presently above ground services are to be placed underground.
9. In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such property or system has been installed in any public place or street without complying with the requirements of this Ordinance, or the rights granted hereunder have been canceled, expired or terminated, then Grantee shall promptly remove all above ground facilities, wires, etc. from the public places and streets other than any which the City may permit to be abandoned in place, subject to the rights of the City to acquire or transfer the system as specified in Section XVIII. In the event of such removal, then Grantee shall promptly restore the other area or street from which such property has been removed to a condition satisfactory to the City.
10. Grantee shall submit to the City an instrument to be approved by the City which transfers the ownership of any such permanently abandoned property in place to the City.

SECTION XV - OWNERSHIP AND REMOVAL OF FACILITIES

All cable and passive equipment for cable television reception service installed by the Grantee at a subscriber's location shall remain the property of the Grantee and Grantee shall have the right to remove said cable and equipment except as otherwise agreed in writing at the time of installation. Grantee shall have the right, at any time, to disclaim any further ownership rights to the interior wiring and specified equipment and fittings at a subscriber's residence or other building by giving written notice to the subscriber. The interior wiring and any equipment or fitting specified in the notice shall become the property of the subscriber upon such a notice being given without any payment obligations on the part of the subscriber. However, the Grantee shall have the right to use said interior wiring and specified equipment without charge when it is providing service to the premises. The Grantee shall promptly remove all its above ground equipment and facilities from the premises of such subscriber upon the subscriber's request to terminate service, and all of which is subject to FCC regulations.

SECTION XVI - ASSIGNMENT OF ORDINANCE

The Grantee shall not assign this Ordinance to another person without prior approval of the City Council and which approval shall not be unreasonably withheld.

SECTION XVII - CITY'S COMPENSATION

Grantee shall pay three (3%) percent of the annual "gross subscriber revenues" as defined hereinafter annually unto the City as compensation for the said franchise as long as the Grantee operates its cable system for audio and video services within the City. "Gross subscriber revenues" shall include those revenues derived from the monthly service charge paid by subscribers unto Grantee. "Gross subscriber revenues" shall not include any federal or state taxes relating to services provided by or fees charged by the Grantee, nor revenues received as installation charges and fees for reconnections, inspections, modifications or repairs of any installations.

The annual payments by the Grantee unto the City shall be in lieu of any license tax, occupation tax, or similar levy. However, nothing contained herein shall in any way relieve Grantee from the obligation of paying property taxes unto the City of Castlewood or any other governmental subdivision of the State of South Dakota or any other taxes lawfully levied by the State of South Dakota on Grantee's cable system. Furthermore, such payments do not affect the responsibility of the Grantee to collect state and local sales tax on the services provided.

Grantee shall file a statement prepared by a Certified Public Accountant with the City showing the "gross subscriber revenues" as defined herein within ninety (90) days after the expiration of Grantee's fiscal year during the term set forth hereinbefore. It shall be the Grantee's duty to pay the amount due for the fiscal year covered by such statement unto the City within fifteen (15) days after the time for filing such statement. No such payments shall be due and payable by the Grantee unto the Grantor until the Grantee's system is providing services to subscribers.

SECTION XVIII - ANNUAL FINANCIAL REPORT AND BOND

Grantee shall file an annual financial report with the City within ninety (90) days after the expiration of its fiscal year. Grantee shall not be required to post a bond or cashier's check for the faithful performance of its obligations under this Ordinance.

SECTION XIX - DURATION AND RENEWAL OF ORDINANCE

The rights granted to Grantee herein shall terminate on the 30th day of September 2007, subject to the provisions of this section. This Ordinance shall be subject to renewal pursuant to the provisions of the Cable Communications Policy Act of 1984, as amended. applicable to new ordinances that are in the nature of a franchise. The Ordinance shall remain in effect even if the original five (5) year term has expired pending final completion of renewal proceedings. If this Ordinance is not renewed or if it is revoked for cause by the City, then the transfer of Grantee's system shall be governed by Section 627 of the Cable Communications Policy Act of 1984, as amended.

SECTION XX - ERECTION, REMOVAL AND COMMON USE OF POLES

1. No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the City Maintenance Supervisor with regard to height, locations or type or any other pertinent aspect, which approval shall not be unreasonably withheld. However, no locations of any pole or wire-holding structure of the Grantee shall be a vested

interest and such poles or structures shall be modified or removed by the Grantee at its own expense whenever the City Maintenance Supervisor determines that the public convenience would be enhanced thereby.

2. Where there are poles or other wire-holding structures already existing in use in serving the City available for use by Grantee, but Grantee does not make arrangements for such use, then the City Council may require Grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.
3. Grantee shall grant joint use of any and all poles owned by it to the City free of expense for any proper municipal purpose acceptable to Grantee insofar as it may be done without interfering with the enjoyment and free use of Grantee's own fixtures and wires, and the City shall hold Grantee harmless from any and all actions, causes of actions or damages caused by the placing of the City's appurtenances or wires upon the poles of the Grantee. Proper regard shall be given to all existing safety rules covering construction and maintenance in effect at the time of construction. If, in accommodating the City's joint use of their poles, Grantee is required to change or replace poles or install new poles, then the City shall compensate Grantee for such additional expense.
4. Where the City or a public utility serving the City desires to make use of poles or other wire-holding structures of the Grantee, but an agreement therefore with the Grantee cannot be reached, then the Council may require the Grantee to permit such use for such consideration as is just and reasonable and upon such terms as the Council determines the use would enhance the public convenience and would not unduly interfere with the Grantee's operations.

SECTION XXI - RATES

1. Grantee shall at all times maintain on file with the City Finance Officer a schedule setting forth all charges and rates to be made to subscribers for basic cable service, including installation charges. Grantee shall file in writing with the City Finance Officer any changes in the rates or charges for basic service unless exempted by FCC regulations at least thirty (30) days in advance of the effective date of the rate change.
2. Grantee shall comply with the rate regulation rules of the FCC during the term hereof.
3. The monthly rate set forth in the schedule filed pursuant to subsection (1) above shall be payable in advance.
4. The Grantee shall not discriminate in rates between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984, as amended and FCC regulations.

SECTION XXII – MISCELLANEOUS

Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's office (312 Fourth Street West, Clear Lake, South Dakota 57226), or call 611 or 1-800-417-8667 or 605-874-2181 for resolution.

SECTION XXIII - MODIFICATION OF OBLIGATIONS

In addition to any other remedies provided by law or regulation, Grantee's obligations under this ordinance may be modified, at its request, in accordance with Section 625 of Cable Communications Policy Act of 1984 as it now exists or as hereafter amended.

SECTION XXIV - SEVERABILITY

If any clause, phrase, portion, section, sentence or subsection of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, or is preempted or superseded by FCC regulation, then such portion shall be deemed a distinct, independent and separate provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION XXV – PUBLICATION

Grantee shall pay to the City a sum of money sufficient to reimburse it for all expenses incurred by it in connection with the publication of this Ordinance. Such payment is to be made to the City by Grantee within thirty (30) days after the City shall furnish Grantee with a written statement of such expense.

SECTION XXVI - ORDINANCE REPEAL

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

4-2-5: Grant to Mediacom Minnesota LLC

This Franchise Agreement ("Franchise") is between the Castlewood, SD, hereinafter referred to as "the Franchising Authority" and Mediacom Minnesota LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware, hereinafter referred to as "the Grantee."

The Franchising Authority hereby acknowledges that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein.

SECTION 1 **Definition of Terms**

1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- A. "Basic Cable Service" is the lowest priced tier of Cable Service that includes the retransmission of local broadcast television signals.

- B. "Cable Act" means Title VI of the Cable Act of 1934, as amended.
- C. "Cable Services" shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- D. "Cable System" shall mean the Grantee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area.
- E. "FCC" means Federal Communications Commission, or successor governmental entity thereto.
- F. "Franchising Authority" means the Castlewood, SD.
- G. "Grantee" means Mediacom Minnesota LLC, or the lawful successor, transferee, or assignee thereof.
- H. "Gross Revenues" means revenues derived from Basic Cable Services received by Grantee from Subscribers in the Service Area; provided, however, that Gross Revenues shall not include franchise fees, the FCC User Fee or any tax, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency.
- I. "Quarter" means every third month of the calendar year.

Example: Quarter 1= January through March
Quarter 2= April through June
Quarter 3= July through September
Quarter 4= October through December

- J. "Open Video Services or OVS" means any video programming Services provided to any person by a Franchisee certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as may be amended, regardless of the Facilities used.
- K. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- L. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Grantee to the use thereof for the

purpose of installing, operating, repairing, and maintaining the Cable System.

M. "Service Area" means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 3.9.

N. "Standard Installation" is defined as 125 feet from the nearest tap to the Subscriber's terminal.

O. "Subscriber" means a Person who lawfully receives Cable Service of the Cable System with the Grantee's express permission.

SECTION 2

Grant of Franchise

2.1 Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System for the transmission and distribution of Cable Services, data services, information and other communications services or for any other lawful purposes.

2.2 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control.

2.3 Other Authorizations. The Franchising Authority shall not permit any person to provide services similar to those provided by the Grantee in the Service Area without first having secured a non-exclusive franchise from the Franchising Authority. The Franchising Authority agrees that any grant of additional franchises or other authorizations including OVS authorizations by the Franchising Authority to provide services similar to those provided by the Grantee pursuant to this Agreement to any other entity shall cover the entire Service Area and shall not be on terms and conditions more favorable or less burdensome to the grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of this Franchise, the Franchising Authority, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchise(s) or authorizations previously granted and find that the proposed increased obligations in the renewal, are not more burdensome and/or less favorable than those contained in any such additional franchise(s) or authorizations.

SECTION 3 **Standards of Service**

3.1 Conditions of Occupancy. The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

3.2 Restoration of Public Ways. If, during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

3.3 Relocation. The Grantee shall, on the request of the Franchise Authority or any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Franchise Authority or Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than thirty (30) business days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

3.4 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System.

3.5 Safety Requirements. Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code.

3.6 Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground. Nothing contained in this subsection shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

3.7 Access to Open Trenches. The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any utility or developer that (A) the utility or developer give the Grantee at least ten (10) days advance written notice of the availability of the open trench, and (B) that the utility or developer provide the Grantee with reasonable access to the open trench. Notwithstanding the foregoing, the Grantee shall not be required to utilize any open trench.

3.8 Required Extensions of the Cable System. Grantee agrees to provide Cable Service to all residences in the Service Area subject to the density requirements specified in this subsection.

Whenever the Grantee receives a request for Cable Service from a potential Subscriber in an unserved area contiguous to Grantee's existing distribution facilities where there are at least 10 residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/non-Standard Installation fees charged to all Subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

3.9 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of subsection 3.9 above, the Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals 10. Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the residence.

3.10 Cable Service to Public Buildings. The Grantee, upon request, may voluntarily provide without charge, a Standard Installation and one outlet of Basic Cable Service to those administrative buildings owned and occupied by the Franchising Authority, fire station(s), police station(s), and K-12 public school(s) that are passed by its Cable System. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any inappropriate use of the Grantee's Cable System or any loss or damage to Grantee's Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this subsection. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable Service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith. To the extent Grantee ceases this voluntary program to provide service to public buildings at no charge, Grantee shall provide the Franchising Authority with at least one hundred twenty (120) days advance written notice of its intent to cease the program. Such notice shall include the rate Grantee proposes to charge for the service, and during the one hundred and twenty (120) day period, the Franchising Authority shall inform Grantee whether it intends to continue receiving service and pay the rate identified, or whether it will opt to cease receiving such service.

3.11 Emergency Alert. Any Emergency Alert System ("EAS") provided by Grantee shall be operated in accordance with FCC regulations. Any use of such EAS by the Franchising Authority will be only in accordance with the applicable state and local plans as approved in accordance

with such FCC regulations. Except to the extent expressly prohibited by law, the Franchising Authority will hold the Grantee, its employees, officers and assigns harmless from any claims arising out of use of the EAS, including but not limited to reasonable attorneys' fees and costs.

3.12 Reimbursement of Costs. If funds are available to any Person using the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Grantee.

SECTION 4

Regulation by the Franchising Authority

4.1 Franchise Fee.

A. The Grantee shall pay to the Franchising Authority a franchise fee of three percent (3%) of annual Gross Revenues (as defined in subsection 1.1 of this Franchise). In accordance with the Cable Act, the twelve (12) month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. Grantee's responsibility for payment of Franchise Fee under this Agreement shall commence on the first day of the next Quarter after final execution of this Agreement. Until that time, Grantee shall continue to pay the Franchise Fee under any pre-existing Franchise Agreement with the Local Franchising Authority. The franchise fee payment shall be due annually and payable within 90 days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. **Limitation on Franchise Fee Actions.** The period of limitation for recovery by the Franchising Authority of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due to the Franchising Authority.

4.2 Renewal of Franchise.

The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the renewal provisions of federal law.

4.3 Conditions of Sale. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given at least twelve (12) months to

effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during the twelve (12) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

4.4 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without prior written notice to the Franchising Authority. No such notice shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness.

SECTION 5

Books and Records

The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee and no more than once annually may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing Cable Service in the Service Area. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

SECTION 6

Insurance and Indemnification

6.1 Insurance Requirements. The Grantee shall maintain insurance in full force and effect, at its own cost and expense, during the term of the Franchise. The Franchising Authority shall be designated as an additional insured and such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including

accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System in the Service Area provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

SECTION 7

Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with any material term of the Franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of such alleged noncompliance.

7.2 The Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in subsection 7.1: (A) to respond to the Franchising Authority, contesting the assertion of such noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of such default, it cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 7.1 pursuant to the procedures set forth in subsection 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in subsection 7.3, determines that the Grantee is in material default of any provision of the Franchise, the Franchising Authority may:

A. Commence an action at law for monetary damages or seek other equitable relief; or

B. In the case of repeated or ongoing substantial non-compliance with a material term or terms of the Franchise, seek to revoke the Franchise in accordance with subsection 7.5.

7.5 Revocation. Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in subsections 7.1-7.4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Franchising Authority, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing.

Following the hearing, the Franchising Authority shall determine whether or not the Franchise shall be revoked. If the Franchising Authority determines that the Franchise shall be revoked, the Franchising Authority shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Franchising Authority to an appropriate court which shall have the power to review the decision of the Franchising Authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

7.6 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

SECTION 8

Miscellaneous Provisions

8.1 Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority and supersedes all other prior understandings and agreements oral or written. Any amendments to this Franchise shall be mutually agreed to in writing by the parties.

8.3 Reservation of Rights. Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any

constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Franchising Authority acknowledges that Grantee reserves all of its rights under applicable Federal and State Constitutions and laws.

8.4 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, c) within five (5) business days after having been posted in the regular mail or d) or the next business day if sent by express mail or overnight air courier.

The notices or responses to the Franchising Authority shall be addressed as follows:

**City of Castlewood
PO Box 17
Castlewood, SD 57223**

The notices or responses to the Grantee shall be addressed as follows:

**Mediacom Minnesota LLC
Attn: Legal Department
1 Mediacom Way
Mediacom Park, NY 10918**

With a copy to:

**Mediacom Minnesota LLC
Government Relations Director
1504 2nd Street SE
Waseca, MN 56093**

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

8.5 Descriptive Headings. The captions to Sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.6 Severability. If any Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.7 Term and Effective Date. The Effective Date of this Franchise is April 1, 2024. The parties agree that, during the time between final execution of this Franchise and the

Effective Date, the terms and conditions of the previous franchise agreement will govern. This Franchise shall be for a term of ten (10) years from such Effective Date and shall expire on April 1, 2034.

4-2-6: Franchise

The City Council is granted the authority to authorize a franchise to any entity or individual for services deemed necessary for the residents of the municipality.

TITLE 5 PUBLIC OFFENSES

Chapter 5-1: Offenses Against the Public Welfare

Chapter 5-2: Property Offenses

Chapter 5-3: Licenses

CHAPTER 1 OFFENSES AGAINST THE PUBLIC WELFARE

5-1-1: VAGRANCY

It shall be unlawful for any vagrant to remain within the city limits. A vagrant is an idle person, having no legitimate means of support, who does not desire to seek lawful employment, and who subsists through charity of other or by unlawful means. Whenever it shall, in a prosecution under this section, be shown that any person who is able to work:

- a. Wander about in idleness or lives in idleness without property sufficient for their support; or
- b. Leads an idle, immoral profligate life and does not work;
- c. Loafs, loiters, or idles in the City, upon a public highway, or about any public place without any regular employment and without sufficient property for their support; or
- d. Barter or trades stolen property;
- e. Unlawfully barter or sells any malt, spirituous wines or other intoxicating liquors; or
- f. Attends or operates any gambling apparatus or device; or
- g. Engages in practicing any device or trick to procure money or other things of value; or
- h. Engages in any unlawful calling; or
- i. An able-bodied married person, neglects or refuses, without lawful excuse, to provide support for their family; or
- j. Beggars in any public place or from house to house, or induces children or others to do so; or
- k. Falsely represents themselves as a collector of alms for a charitable institution or purpose.

If any of the above acts are done, then it shall constitute a prima facie presumption that such

person is a vagrant as defined in this section.

5-1-2: DISTURBING THE PEACE.

No person shall use any obscene, profane or vulgar language which tends to incite the person to whom it is directed to physical violence upon any street or other public place.

5-1-3: FALSE EMERGENCY ALARMS PROHIBITED.

No person shall knowingly give or make any false alarm of fire or other emergency by calling or causing to be called the Fire Department or any authorized emergency vehicle.

5-1-4: DISCHARGE OF FIREARMS OR AIR RIFLES.

It shall be unlawful for any person except a public law enforcement officer in the performance of their duty to discharge or fire any air rifle, gun, sling shot, bow and arrow, or other dangerous weapons within the limits of the City unless prior approval is obtained from a law enforcement officer.

5-1-5: FIRECRACKERS AND FIREWORKS.

It shall be unlawful for any person or persons to use or cause to be used or burn, or ignite, or cause to be burned or ignited, any firecracker, Roman candle, torpedo, sky rocket, or powder, either alone or combined with any other substance, or to burn, ignite or use or cause to be burned, ignited or used any explosive or combustible matter or material of any kind, including all kinds of fireworks, with the exception of those days authorized by state statute until 11:00 p.m.; and (b) the city wide one day 4th of July celebration until 11:00 p.m. in the following part of the City of Castlewood: on Main Street from the intersection of First and Main east to the intersection of Main and Third Street; on Second Street from intersection of Merrill and Second Street north to the intersection of Second Street and Alice Street; on Third Street at the intersection of Merrill and Third Street north to the intersection of Third Street and Alice Street.

5-1-6: UNLAWFUL TO SELL FIREWORKS.

It shall be unlawful for any person to deliver, give or sell any blank cartridges, firecrackers, Roman candles, torpedo, skyrockets or other explosives or fireworks or other materials from which such items may be manufactured anywhere within the limits of the City except caps for toy cap pistols.

5-1-7: PUBLIC INDECENCY AND NUDITY.

A person who knowingly or intentionally, in a public place either

- (a) engages in sexual intercourse; or
- (b) appears in a state of nudity; or
- (c) fondles the genitals of himself, herself or another person commits the offense of Public

Indecency.

“Nudity” means the “showing of the human male or female genitalia, pubic area or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.”

“Public Place” includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, banquet halls, clubs, dance halls, restaurants, taverns, theaters, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

The prohibition set forth hereinbefore shall not apply to:

- (a) any child under ten (10) years of age; or
- (b) any female exposing a breast in the process of breast feeding an infant under two (2) years of age.

In addition to the specific penalties provided in this ordinance, it is hereby declared that any building, portion of a building, or enclosed place regularly used for the prohibited display of public nudity is a public nuisance, subjecting the owner, proprietor or other operator thereof to any and all actions authorized by the City of **Castlewood** for the abatement of public nuisances, including but not limited to the procedures set forth in Ordinances 3-3-17 and 3-3-21.

It is the intention of the City of **Castlewood** that the provisions of this ordinance be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights consistent with the purposes of this ordinance. Should a court of competent jurisdiction determine that any part of this ordinance, or any application or enforcement of it is excessively restrictive of such rights or liberties, then such portion of the ordinance, or specific application of the ordinance, shall be severed from the remainder, which shall continue in full force and effect.

The violation of this ordinance either by commission of a public indecency, or by the maintenance or promotion of public indecency as a property owner, proprietor or manager of a business shall be punishable for each occasion or day that a violation occurs.

5-1-8: DYNAMIC BRAKING PROHIBITED

The operation of any motor vehicles with a dynamic braking device engaged is prohibited within the limits of the city. Dynamic braking device (commonly referred to as Jacob's Brake or Jake Brakes) means a device is 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 real brakes.

5-1-9: NOISE PROHIBITED

It shall be unlawful for any person to make, continue or cause to be made or continued any loud or unusual noise so as to disturb the peace of the public within the limits of the City. The following acts are declared to be in violation of this ordinance:

- (1) any private residence or **business** within the limits of the City may not operate any musical instrument, radio, stereo, television or other device or machine for the production or reproduction of sound in such a manner as to be plainly audible at 50 feet for such device or machine during the house of any day of the week between 10:00 p.m. and 6:00 a.m. of the next day;
- (2) any vehicle within the limits of the City may not operate any musical instrument, radio, stereo, television, or other device or machine for production or reproduction of sound in such a manner as to be plainly audible at 50 feet for such device or machine during the hours of any day of the week from 10:00 p.m. to 6:00 a.m. the next day;
- (3) **On Main Street, between the blocks of 1st and 3rd Avenue, no music, radio, stereo, television or other device or machine for the production or reproduction of sound in such a manner as to be plainly audibly at 25 feet for such device or machine during any time without special permit by city council. TODD DO YOU HAVE ANOTHER**

SUGGESTION AS TO HOW THIS IS WORDED??

The City Council may issue a Special Permit to exceed allowable sound levels within the limits of the City. It shall be required of any applicant for a Special Permit to meet with the City Council about the event. Applications for a Special Permit shall be completed and approved no later than 10 days prior to the proposed event. The Special Permit will only be active during the days and times established by the City Council.

Emergency vehicles using a warning audio device and the city's siren system, and firecrackers or fireworks permitted by Ordinance 5-1-5 are exempt from this ordinance.

5-1-10: CURFEW HOURS.

- (a) No minor under the age of 18 years shall be or remain in or upon the public alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, streets, vacant lots or other unsupervised public places within the city between the hours of 12:30 a.m. and 5:30 a.m. on a weekday, or between the hours of 1:30 a.m. and 5:30 a.m. on a Saturday or Sunday.

The provisions of this ordinance imposing a curfew on minors shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business authorized or directed by his parent, guardian or such other adult person having the care and custody of the minor.

- (b) It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of 18 years to knowingly permit such minor to be or remain in or upon the public alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, streets, vacant lots or other unsupervised public places within the city between the hours of 12:30 a.m. and 5:30 a.m. on any weekday or between the hours of 1:30 a.m. and 5:30 a.m. on any Saturday or Sunday except when the minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business authorized or directed by his parent, guardian or other adult person having the care and custody of the minor.

It shall be the right of any authorized officer or person to arrest and detain any minor violating the curfew and to keep the minor detained until the parent, guardian or custodian is notified. The minor may be released upon the giving of a promise by the minor and his parent, guardian or custodian that such minor, together with his parent, guardian or custodian, will appear at a stated time before the proper authority to answer to the charges.

5-1-11: PUBLIC CAMPGROUND FEE

No person shall use the municipal campground without satisfying the fee charged prior to

leaving the campground.

CHAPTER 2 PROPERTY OFFENSES

5-2-1: INJURING SIGNS.

No person shall change, deface, mar, remove or in any way interfere with or obliterate either wholly or in part any card, sign or signboard erected, extended, placed or posted by the City.

5-2-2: TRAFFIC SIGNS - INJURING OR PLACING UNAUTHORIZED PROHIBITED.

No person shall deface, injure, move, obstruct or interfere with any official traffic sign or signal, or street sign. Furthermore, no person shall display, maintain or place upon or in view of any street an unofficial device, sign, or signal 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 device, sign or signal is hereby declared to be a public nuisance, and the Hamlin County Sheriff is hereby empowered to remove the same or cause the same to be removed without notice.

5-2-3: INTERFERENCE WITH ELECTRIC LIGHT POSTS AND APPARATUS.

No person shall break, injure, jar or interfere with any electric light, telephone, or fire alarm system, pole or post or apparatus in any manner, or climb any telephone, electric light or fire alarm pole without being properly authorized so to do.

5-2-4: UNAUTHORIZED CONNECTION WITH GAS, WATER OR ELECTRICAL PIPE OR WIRE.

No person shall, without lawful authority, connect or cause to be connected with any main service pipe, wire or other conductor of any gas, water or electrical energy, any pipe, wire or other device for the purpose of obtaining gas, water or electrical current therefrom; nor shall they with intent to defraud, connect or cause to be connected with any meter installed for the purpose of registering the amount of gas, water or electricity supplied to any customer any pipe, wire or other device or disconnect, change or in any manner so interfere with any such meter or any pipe, wire or appliance connected therewith, that such meter will not measure or register the full amount of gas, water or electricity supplied to any customer.

5-2-5: INTERFERENCE WITH CITY PROPERTY.

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

5-2-6: DESTROYING PROPERTY.

No person shall willfully break, damage, deface, destroy or interfere with the property of the City or of any other person.

Regulations for the Installation and Placement of Sump Pump Hoses

Section 1: Purpose

The purpose of this ordinance is to establish guidelines for the proper installation and placement of sump pump hoses to manage water discharge effectively, and prevent damage to city infrastructure.

Section 2: Definitions

1. Sump Pump: A device used to remove accumulated water from a sump pit, typically located in basements or crawl spaces.
2. Sump Pump Hose: A flexible tube or pipe used to carry water from the sump pump to an external discharge area.
3. Alley: A narrow passageway or secondary roadway primarily used for service access between or behind buildings.
4. Discharge: The release of water from a sump pump hose to an external area.

Section 3: Regulations for Sump Pump Hose Placement

1. Discharge Restrictions: Sump pump hoses must not discharge water in a manner that causes erosion, washout, or pooling. The discharge should be managed to prevent damage to alley surfaces and adjacent properties. Cannot be discharged into any sanitary sewer except between November 1 and March 31.
2. Routing of Discharge: If the discharge cannot be managed on-site, sump pump hoses may be directed to paved streets. Water must be routed to the nearest city-approved drainage system. Property owners must ensure that the discharge does not obstruct traffic or create safety hazards on the street, including obstructing sidewalks.

3. Permitted Discharge Period:

The discharge of water from sump pump hoses is only permitted from April 1st to October 31st each year. Discharges outside of these dates are prohibited to prevent potential freeze-related damage and other seasonal issues.

4. Hose Placement and Maintenance:

Sump pump hoses should be placed and maintained to ensure proper water flow and prevent blockages. Hoses must be kept in good condition and positioned to avoid causing any obstructions or hazards.

5. Temporary Measures:

During periods of heavy rain or unusual water accumulation, temporary measures may be employed to direct water appropriately. These measures must be adjusted or removed as soon as conditions allow to prevent long-term issues.

Section 4: Enforcement and Penalties

1. Inspection: City officials are authorized to inspect properties to ensure compliance with this ordinance. Property owners will be notified of any violations and given a reasonable timeframe to address and correct the issues.
2. Penalties: Failure to comply with the terms of the ordinance will result in a violation of not less than \$100 per occurrence. Each day the violation exists will subject the violator to additional fines and court cost.

Section 6: Severability

If any provision of this ordinance is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

CHAPTER 3 LICENSES

5-3-1: LICENSE REQUIRED

It shall be unlawful for any entity or person to engage in any temporary business, occupation or trade within the City without first obtaining a license from the city finance officer for a fee of \$10.00 unless the temporary business, occupation or trade is by a charitable, educational or religious organization which has its principal place of activity within the limits of the City. The license shall expire (10) days after the date it is issued unless it is revoked for a violation of any municipal ordinance, or federal or state statute. A “temporary” business, occupation or trade is on which will last for (10) days or less within the limits of the City.

5-3-2: PEDDLING AND SOLICITING

It shall be unlawful for any “peddler”, or “solicitor” or “transient merchant” to peddle or solicit within the limits of the City unless a permit shall have been obtained from the city finance officer for a fee of \$10.00 per day unless the items being peddled or solicited are made by either a charitable, educational or religious organization which has its principal place of activity within the limits of the City. Any authorized entity or person with a license or permit shall peddle or solicit within the limits of the City between 9:00 o’clock a.m. and 6:00 o’clock p.m.

5-3-3: BOND

A bond in such amount as is deemed necessary and reasonable may be required by the city finance officer before any license or permit is issued.

5-3-4: DISPLAY

Each authorized entity or person with a license or permit shall display the license or permit upon the request of any person, and should the person fail to display the necessary license or permit, then such shall be deemed a violation of this chapter.

TITLE 6

SIDEWALKS AND STREETS

Chapter 6-1: Grades and Widths of Streets

Chapter 6-2: Street Excavations

Chapter 6-3: Sidewalks

Chapter 6-4: Sidewalk Maintenance

Chapter 6-5: Trees

CHAPTER 1 GRADES AND WIDTHS OF STREETS

6-1-1: STREET GRADES AND WIDTHS.

The grades and widths of all streets and curb and gutter in the city shall be established by the City Council before any construction thereof commences.

6-1-2: HINDERING STREET IMPROVEMENTS.

No person shall hinder, interfere with or obstruct any person lawfully constructing, grading, improving or paving any curb and gutter. Nor shall any person break, injure or tear up any curb, pavement or street unless authorized to do so by the City Council.

6-1-3: DESIGNATION OF AVENUES AND STREETS.

When any thoroughfare shall hereafter be laid out within the limits of the city, then the following criteria shall be used in determining whether the same shall be designated an "Avenue" or "Street." If the primary orientation of such thoroughfare is north and south, then the same shall be designated as an "Avenue" and if the primary orientation of said thoroughfare is east and west, then the same shall be designated as a "Street."

CHAPTER 2 STREET EXCAVATIONS

6-2-1: APPLICATION AND BOND FOR EXCAVATION PERMIT.

Any person desiring to make any excavation in any of the public alleys, streets or other public places of this city shall first make application to the Building Inspector. The application shall state where such excavation is to be made, and the extent thereof, and which lot or lots adjoin same, and for what purpose the excavation is to be made. The applicant shall post a good and sufficient bond to be approved by the Finance Officer in the sum of \$1,000.00 before such a permit is issued unto any person. The bond shall be conditioned upon the requirement that the applicant shall fulfill all obligations provided herein. Only one bond is necessary as long as the bond is in full force and effect. If the Building Inspector finds the application in proper order

and in conformity with the provisions herein after careful examination, and the said bond has been properly posted, then a permit may be issued unto the applicant by the City Council.

6-2-2: EXCAVATION EXEMPTIONS.

No utility company which has been by contract or franchise granted a right to use the alleys, streets or other public ground shall be required to furnish a bond for making excavations in any public place or right of way. However, all other sections of this chapter relating to excavations and public right of ways shall be binding upon such companies.

6-2-3: EXCAVATIONS IN PUBLIC RIGHT OF WAYS.

It shall be unlawful for any person to make or cause to be made any excavation across, in, on or under any alley, sidewalk, street or other public ground or to remove any concrete, earth, gravel, paving, soil or other material therefrom without first having obtained a permit from the City Council.

6-2-4: EXCAVATIONS NEAR STREETS.

It shall be unlawful for any occupant, owner, or person of any lot or parcel of land within the city limits to make or cause to be made any excavation of said lot or parcel of land unless the site is securely guarded so as to prevent the injury of any person or animals passing along alleys, sidewalks, streets or other public grounds.

6-2-5: OBSTRUCTION OF SEWER PIPES OR MANHOLES BY EXCAVATION.

No sewer pipes or manholes which are a part of the municipal sewer system shall be damaged in any manner during the process of making an excavation. Any damage caused by excavations shall be fully compensated for by the person to whom the permit was granted to make the excavation.

6-2-6: BARRICADES, GUARDS AND LIGHTS REQUIRED.

Any person receiving a permit to make an excavation adjoining or upon any alley, sidewalk, street, thoroughfare or public ground, or any person making an excavation on either private or public ground shall during the progress and continuance of the work erect, keep and maintain by day and night suitable barricades, guards, lights and signals so as to prevent injury of any animal, person or vehicles as a result of such excavation.

6-2-7: STAIR RAILING AND GRATES.

The owner of any building in the city having a stairway leading from an adjacent sidewalk to the basement or cellar of such building shall guard the stairway with a substantial railing not less than three feet high. The entrance to the stairway shall be at right angles to the street from which such entry is made, and any person who shall have any permanent opening in any sidewalk for the purpose of letting light into any basement or cellar or for any other purpose shall guard the

same with a substantial cover.

6-2-8: EXCAVATIONS MUST BE REFILLED.

The person to whom the permit was granted to make the excavation shall promptly restore the excavation by properly refilling it and maintaining it from time to time if the excavation settles in such a manner as to afford free and unencumbered passage for the public. Additionally, the person to whom the permit was granted shall completely restore the alley, sidewalk, street or other public place to the same condition as the same was before the making of such excavation as soon as possible and in no case longer than 30 days after the start of the excavation. Furthermore, the earth shall be thoroughly settled by compaction with water and machine compacting equipment in refilling any excavation that has been authorized. The refilling is to be made in such a manner that the surface when refilled shall not be any higher or lower than the original surface when the excavation was made and the settling, if any, will be at a minimum.

6-2-9: FAILURE TO COMPLY WITH EXCAVATION REQUIREMENTS.

If at any time after the issuance of any permit for the making of an excavation as provided for herein the Building Inspector shall find that the work for which the said bond was given and posted does not stand a satisfactory test or has not been properly or timely refilled, maintained and restored to its original condition, then the Building Inspector shall have authority to replace the excavation in satisfactory condition and the person to whom the permit was granted or their bondsmen shall be required to make full restitution for the cost thereof unto the city.

6-2-10: CULVERT/WATER MAIN/SEWER MAIN REPLACEMENT.

If the city deems a culvert necessary to be replaced with or without careful consideration from the city engineer, then city shall pay the full amount of the bill including labor and materials. If a resident deems the culvert or main adjacent to their property in city right of way necessary to be replaced, they have the option to:

- a. Make a formal request to City council at a regularly scheduled council meeting that the culvert or main be looked at by the city engineer and if the engineer deems the culvert or main necessary to be replaced then the city pays for the engineering work and the full amount of the project when funds are available and can be budgeted for, unless the city engineer deems the project an emergency, however if the city engineer does not deem the culvert or main needing to be replaced, then the resident who made the request is responsible for the engineering bill and/or
- b. FOR CULVERTS ONLY: make a formal request to City council to replace the culvert at their own expense for the labor with a licensed contractor and the city will cover the cost of the material if the council deems the culvert needing to be replaced necessary without the use of the city engineer.

6-2-11: Placement of Landscaping in the Right of Ways by Adjacent Landowners.

Any placement of landscaping items in the city right of ways by adjacent landowner requires approval from the City Maintenance Supervisor as well as immediately adjacent landowner signatures. Landscaping items include but are not limited to rock, retaining walls, pavers, drain tile, decorative pieces, anything other than the existing dirt and grass requires a permit before

placement. These items cannot obstruct snow removal or traffic and if any accidents occur because of these items, the adjacent landowner who placed them there is solely responsible for all damages and injuries. For trees, shrubs & flowers see chapter 6-5.

CHAPTER 3 SIDEWALKS

6-3-1: SIDEWALK GRADES AND WIDTHS

The sidewalk grades are established and fixed to be 3” above the curb grade. If no curb grade has been established, then the sidewalk shall be at least 3” above the natural level of the ground and in all cases sufficiently above the level of the ground to drain well. Additionally, the width of all sidewalks shall be established by the City council before any construction commences.

6-3-2: LIMITATIONS TO CONSTRUCTION AND MATERIALS

The building of wooden sidewalks in the city is hereby prohibited. All sidewalks built hereafter in the city shall be built of cement as specified hereinafter except that a sidewalk may be built of brick or stone when specifically authorized by a resolution passed by City Council. The specifications for the use of cement are as follows:

The concrete used in construction of alleys, gutters, sidewalks and street crossing shall conform in all respects to the South Dakota Department of Transportation (SDDOT) Standard Specifications for Roads and Bridges. The concrete shall conform to SDDOT Class M 6, except as modified herein. The concrete aggregate mixture shall contain a minimum of 50 percent coarse aggregate by weight. The mixture shall contain at least 6 bags of cement per cubic yard. The minimum 28 day compressive strength shall be 4000 psi. The concrete shall contain between 5.0 and 8.0 percent entrained air with a maximum slump of 4 inches. The concrete shall be a minimum of 4-inches thick. Concrete subjected to vehicular traffic shall be reinforced with no. 4 (1/2-inch) reinforcing bars, 12-inches on center, both ways. The concrete shall be placed on a prepared base course. The base course shall conform to SDDOT “Base Course Aggregate”. The base course shall be a minimum of 2 inches thick under sidewalks that are not subject to vehicular traffic and 6 inches thick under alleys, gutters and sidewalks subjected to vehicular traffic.

6-3-3: CITY MAY CONSTRUCT OR SUPERVISE

The City Council shall have authority to order the construction or repair of any alley, gutter, sidewalk, or street crossing when the need for such construction or repair exists in its discretion or opinion and when not constructed or repaired within the time fixed by law, then the city may construct or repair same and the cost thereof shall be charged to the owner of the property as provided by law. Furthermore, the City Council shall have authority to supervise the construction of all alleys, sidewalks, and street crossings by the appointment of an engineer or superintendent for that purpose, and when such appointment is made, then such engineer or superintendent shall have the authority to test all materials used in the construction thereof, and must approve such

construction both as to materials and workmanship.

6-3-4: PAYMENT

The city shall pay for the construction of a new sidewalk in all cases where the city orders the construction of new sidewalks for the reason that the curb grade or street grade of the city was changed after the sidewalk was constructed provided the curb or street was constructed according to the original required grade or before there was any established grade, but the owner of the adjoining property shall pay for the construction or repair of any sidewalk if required for any other reason.

6-3-5: DEFECTIVE SIDEWALK

Any curb, driveway, or parkway or sidewalk which has been deemed defective, hazardous or unsafe by the City Council is hereby declared a nuisance. It shall be the duty of the owner of the property abutting on any curb, driveway or sidewalk to make all improvements state in the notice by the city within thirty days from the receipt of said notice. Removal of any sidewalk must be approved by city council.

6-3-6: CONSTRUCT SIDEWALK

Whenever the City Council shall deem necessary to construct, rebuild or repair any sidewalk or driveway, then it shall notify all owners of lots abutting and adjoining such sidewalk or driveway to construct, rebuild or repair the same at their own expense within the time designated. Such notice shall be in writing and either be served personally on each said owner or by publication once each week for two consecutive weeks in the official newspaper for the City. The notice shall set forth the character of the work and the time within which it shall be completed. The notice may be general as to the owners, but must be specific as to the description of such lots, parts of lots or parcels of land.

The failure of any owner to construct, reconstruct, or repair any such sidewalk or driveway shall be deemed a misdemeanor and permit the City to proceed with a resolution of necessity for sidewalk improvements in accordance with state statutes.

CHAPTER 4 SIDEWALK MAINTENANCE

6-4-1: SNOW AND ICE REMOVAL.

A. Duty to remove.

1. The owner or person in possession of any property abutting on any sidewalk shall keep such sidewalk free from snow and ice and shall remove any snow or ice from the sidewalk within 48 hours after the termination of any snow fall, snow or ice accumulation.
2. The owner or person in possession of any property abutting upon any sidewalk which ends at an intersection or crosswalk shall maintain the sidewalk free from snow and ice to the edge of the street. Snow and ice deposited on the sidewalk in the street

removal process shall be removed within 48 hours of being deposited.

B. Notice.

1. The city shall notify all owners or persons in possession of property abutting on sidewalks to keep such sidewalks free from snow and ice and to remove the same within 48 hours after every fall or accumulation of snow or ice. The notice need not be given personally but may be given generally through the official newspaper or newsletter annually. The notice shall provide that each owner or person in possession is required to keep the sidewalk in front of the premises free and clear from snow and ice. It shall further provide that if the owner or person in possession fails to remove the snow or ice within 48 hours of the falling or accumulation hereof, that the city may cause said snow or ice to be removed and charge the cost to the abutting property.
2. The city shall notify all businesses on Main Street annually by letter.

C. Disposal of snow and ice.

1. The property owner, person in possession, or person removing snow or ice from any sidewalk, public or private driveway, parking lot or parking area shall dispose of accumulated snow and ice upon such property as follows:
 - i. Snow and ice shall not be deposited on any sidewalk or in any park.
 - ii. Snow and ice shall not be deposited so as to obstruct or interfere with the passage or vision of vehicular or pedestrian traffic.
 - iii. No snow shall be blown, pushed, or otherwise placed on any street at any time (both before and after the street has been plowed) except as specially allowed by resolution duly passed by the City Council.

D. City may remove.

1. If the owner or person in possession of property fails to remove the snow or ice from the sidewalks within the time specified, the city may have the snow or ice removed and charge the cost thereof against the abutting property each time the snow or ice is removed.

E. Violation.

1. It is unlawful to violate any provision of the ordinance and a violation shall be punishable by a fine not to exceed Two Hundred Dollars (\$200.00) per violation.

6-4-2: RIDING BICYCLE ON SIDEWALKS.

It shall be unlawful for any person or persons to ride any bicycle upon any of the sidewalks within the limits of the City.

6-4-3: SIGNS PROJECTING OVER SIDEWALKS.

It shall be unlawful for any person or persons to place or suspend any show board or sign of any description whatsoever from any structure so that the same shall project from the front or wall of said structure more than four (4) feet over any sidewalk or onto the adjoining street except municipal lights.

6-4-4: SIDEWALK AWNINGS.

It shall be unlawful for any person to erect any awning over any sidewalk or public street within the limits of the City unless such awnings be elevated at least seven feet at the lowest part thereof above the top of the sidewalk or street, and said awnings shall not project over the sidewalk to exceed three-fourths of the width thereof, and said awnings shall be supported without posts by iron brackets or by iron framework or by an iron and wood framework attached firmly to the building so as to leave the sidewalk wholly unobstructed thereby.

CHAPTER 5 TREES

6-5-1: DEFINITIONS

Street trees: trees, shrubs, bushes, and all other woody vegetation on land lying between the property lines on either side of all streets and avenues within the City.

Park trees: trees, shrubs, bushes, and all other woody vegetation in public parks including municipal cemetery and golf course.

Public community forest: all street and park trees, and other trees owned by the City as a total resource.

Private community forest: all trees within municipal boundaries but now owned by the City.

Person: any person, firm, partnership, association, corporation, company, organization, or political subdivision of any kind.

Community Forest Manager: the official (public employee) representative of the Tree Board and as such is responsible for administration of the community forestry program.

6-5-2: CITY TREE BOARD See Zoning Ordinance and eliminate this section????

There is hereby created and established a City Tree Board for the City of Castlewood, South Dakota, which shall consist of five members, property owners or residents of the city, who shall be appointed by the Mayor with the approval of the City Council. The community forest

manager shall be an exofficio member of the City Tree Board.

6-5-3: TERM OF OFFICE

The term of the five persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed to complete the term.

6-5-4: COMPENSATION

Members of the Tree Board shall serve without compensation.

6-5-5: DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually, and administer written plans, both annual and long range, for the maintenance, replacement, and removal or disposition of the trees and shrubs in the parks, along streets and in other public areas. Such plan will be presented annually to the City Council at the first meeting in March, and upon their acceptance and approval shall constitute the official comprehensive City Tree Plan for the City of Castlewood, South Dakota.

The Tree Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter or question relating to trees.

6-5-6: OPERATION

The Tree Board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. The business, meetings and records of the tree board shall be open to the public for inspection at the City offices during normal business hours.

6-5-7: STREET TREE SPECIES TO BE PLANTED

The City of Castlewood shall maintain a list of not less than 12 recommended tree species for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the city upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.

6-5-8: DISTANCES AND CLEARANCES FOR PLANTING

Street trees may be planted in the tree lawn where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from a sidewalk, driveway, or street.

No street tree shall be planted closer than 30 feet from any street corner, measured from the point of the nearest intersection of curbs or curb lines.

No street tree shall be planted closer than 10 feet from any fire hydrant.

Special permission must be obtained from the Community Forest Manager when planting street trees within 10 feet of any point on a line on the ground immediately below any overhead utility wire.

6-5-9: PUBLIC TREE CARE

The City shall have the right to plan, prune, maintain, and remove trees, plants and shrubs within the right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds, as may be necessary to insure the public safety.

The City may remove or cause to be removed, any tree or part hereof which is in an unsafe condition or which by reason of its nature is injurious to electric power lines or other public improvements, or is seriously affected with any fatal disease.

The abutting property owners shall have the right to perform normal tree care on all street trees.

6-5-10: PERMITS REQUIRED

No person shall plan a street tree without first obtaining permission from the City Council. There will be no fee for such permit.

6-5-11: COMPENSATORY PAYMENTS

No person shall remove any public tree without replacing such tree with a tree or trees of equivalent dollar value in the vicinity of the removed tree. The value of trees shall be determined by the Community Forest Manager City Council in accordance with regulations considering the species, location, size, and condition of trees adopted by the Tree Board. If no suitable location exists in the vicinity of the tree removed or if the replacement tree is of lesser value, the person causing them to be removed shall make a compensatory payment to the City equal to the difference in value between the tree removed and any replacement tree. Such compensatory payment shall be paid into a fund established by the City Finance Officer and used solely for the purpose of enhancing the community forest.

6-5-12: TREE TOPPING

It shall be unlawful as a normal practice for any person or firm to top any street tree, park tree, or other tree on public property unless the City or local utility company deems it necessary to avoid electrical wires. Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property.

6-5-13: CLEARANCE OVER STREETS AND WALKWAYS

Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of eight (8) feet must be maintained over walkways and a clearance of twelve (12) feet must be maintained over streets and alleys. Trees not maintained according to these standards may be brought into compliance by the Community Forest Manager.

6-5-14: DEAD OR HAZARD TREE REMOVAL

The City shall have the right to cause to be removed any tree within the City limits that is dead or has been declared a hazard. Hazard trees are defined as trees with severe structural defects or splits. The City will notify in writing the owners of such trees. Removal is the responsibility of the owners of such trees and shall be accomplished within time limits set by the Community Forest Manager.

6-5-15: REMOVAL OF STUMPS

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The City shall only be responsible for the removal of those stumps of trees the City removes.

6-5-16: ABATEMENT OF NUISANCE

The failure of persons to comply with planting, spacing, minimum distances, utilities, trimming and tree removal provisions of this ordinance shall constitute a nuisance and the City shall have the authority to abate the nuisance and assess the cost associated with the abatement to the property owner by special assessment.

~~6-5-17: INTERFERENCE WITH THE TREE BOARD~~

~~It shall be unlawful for any person to prevent, delay, or interfere with the Tree Board or any of its representatives or agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees within the public community forest.~~

6-5-18: ACCESS

It shall be unlawful for any person to prevent, delay or interfere with access to private property by the City or its representatives in the legal performance of any section of this ordinance.

6-5-19: ARBORIST CERTIFICATION AND INSURANCE

Persons or firms engaged in the business or occupation of pruning, treating, or removing any street tree, park tree, or other privately owned tree must be recognized by the South Dakota Arborists Association as a Certified Arborist or Tree Technician. Tree technicians must carry evidence of liability insurance and workmen's compensation. No certification shall be required by any public employee doing such work in the pursuit of their public service endeavors.

6-5-20: REVIEW BY CITY COUNCIL

The City Council shall have the right to review the conduct, acts, and decisions of the City Tree Board. Any person may appeal from any ruling to order of the City Tree Board to the City Council who may hear the matter and make a final decision within (30) thirty days.

6-5-21: WHEN OPERATIVE

This ordinance shall be in full force and take effect from and after its passage, approval and publication according to law.

TITLE 7 TRAFFIC REGULATION

Chapter 7-1: Operation of Motor Vehicles
Chapter 7-2: Obstruction of Public Thoroughfares
Chapter 7-3: Motor Vehicle Traffic Control Devices
Chapter 7-4: Snowmobiles and Other Vehicles

Chapter 7-1 OPERATION OF MOTOR VEHICLES

7-1-1: SPEED LIMITS.

Any person operating a motor vehicle within the City shall drive at a reasonable and safe speed at all times, and under no circumstances in excess of 20 miles per hour on Main Street from Fourth Avenue to Elm Avenue, nor in excess of 15 miles per hour on any street bordering the school grounds or zoned as a school zone between 7:30 a.m. and 4:00 p.m. on weekdays, Monday through Friday, nor in excess of 25 miles per hour in residential areas unless otherwise posted.

7-1-2: BACKING AROUND CORNER 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.

7-1-3: STEALING RIDES AND TRAILING BICYCLES OR SLEDS.

It shall be unlawful for any person to cause to be attached or permit a bicycle or any sled of any kind occupied by children to be trailed behind any vehicle in the City limits of this City and no person shall ride, seize hold of, trespass upon or drag, slide or in any manner trail behind any vehicle.

7-1-4: PARKING CARS OFF STREET FOR SNOW REMOVAL.

It shall be unlawful for any person to leave a motor vehicle parked on any alley or street within the City for any great length of time during the winter months in such a manner as to interfere with the clearing of alleys and streets of snow. It shall be unlawful for any person to park overnight anytime on Main Street between First Avenue and Third Avenue, and any person so parking a vehicle thereon overnight shall be deemed guilty of a misdemeanor and shall be fined accordingly.

7-1-5: PARKING OF MOTOR VEHICLES.

- (A) All words which are not defined herein and are not defined in the South Dakota Codified Laws have their ordinary and usual meaning.
- (B) Definitions:
 - (a)"diagonal parking" shall mean that a motor vehicle shall be parked or stopped to the curb, gutter, sidewalk or edge of the roadway at an angle of forty-five degrees and parked within six (6") inches of the curb, gutter, or sidewalk on or along said street upon which said vehicles are parked, and such vehicles shall be parked no nearer than one (1') foot to any other vehicle.
 - (b)"parallel parking" shall mean that motor vehicles and motor vehicle trailers parked or stopped parallel to the curb, gutter, sidewalk or edge of the roadway, and such vehicles shall be parked no nearer than three (3') feet of the front or rear of any other vehicle.
 - (c) All persons parking vehicles upon the avenues and streets of this City are required to park the same as "parallel parking," except that all vehicles shall such vehicles as "diagonal parking" on Main Street between First Avenue and Third Avenue, and elsewhere indicated by signs erected at the direction of the City Council
- (C) No vehicles shall be left parked or stopped within fifteen (15') feet of a fire hydrant.
- (D) There shall be no parking at any space where the curb is marked with yellow or red paint and/or labeled "No Parking," or between "No Parking" signs. "No Parking" signs shall have the words "No Parking" painted thereon, with an arrow pointing from one sign to the other which shall designate the "No Parking" space between such signs. "No Parking" signs shall be installed by the Superintendent upon the Mayor authorizing same.
- (E) No bus, farm equipment or machinery, or semi-trailer, or heavy duty equipment of any kind or type whatsoever shall be parked on any street, avenue or residential lot for a period in excess of two (2) hours. Such restrictions shall not apply to trucks loading or unloading cargo which may be parked on avenues or streets for no more than 24 hours to complete their loading or unloading operations and except any equipment or machinery used to construct, maintain or repair any alley, avenue, street or public place.
- (F) No motor vehicle or trailer shall be parked on any alley, avenue, public parking lot, street or on municipal property for a period longer than twenty-four (24) hours at one location, nor shall any unlicensed motor vehicle or junked cars be parked on private property other than in a completely enclosed building.

- (G) The provisions of this chapter regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency. However, this exemption shall not protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.
- (H) Any vehicle parked in violation of an ordinance may be removed at the direction of a public law enforcement officer and placed in public storage, and the owner thereof shall pay the charges for towing and storage of said vehicle, together with any fine and penalty which may be imposed for such violation.

CHAPTER 2

OBSTRUCTION OF PUBLIC THOROUGHFARES

7-2-1: OBSTRUCTION OF THOROUGHFARES.

No person shall leave or park unattended any motor vehicle upon the improved or paved or main traveled portion of any highway, road or street within the jurisdiction of the City when it is practical to leave or park such vehicle standing off the improved or paved or main traveled portion of the highway, road or street. However, under no circumstances shall any person leave or park unattended any motor vehicle whether attended or unattended upon any highway, road or street within the jurisdiction of the City unless a clear and unobstructed width of not less than twenty (20') feet upon the main traveled portion of such highway, road or street opposite such standing vehicle be left for free passage of other vehicles thereon, nor unless a clear view of such vehicle may be obtained from a distance of two hundred (200') feet in each direction upon such highway, road or street.

7-2-2: REMOVAL OF OBSTRUCTING VEHICLES.

When any law enforcement officer shall find a vehicle standing upon a highway, road or street in violation of this chapter of this code, then the law enforcement officer is hereby authorized to move such vehicle or require the driver or person in charge of such vehicle to move such vehicle to a position permitted under the provisions of this chapter.

CHAPTER 3

MOTOR VEHICLE TRAFFIC CONTROL DEVICES

7-3-1: AUTHORITY TO INSTALL DEVICES

The City Council shall maintain and place traffic control devices, signals and signs when and as required under the traffic ordinances to make effective the provisions of these ordinances, and may maintain and place such additional traffic control devices as may be deemed necessary to guide, regulate and warn traffic within the City.

7-3-2: OBEDIENCE TO TRAFFIC CONTROL DEVICES.

The driver of any vehicle shall obey all traffic control devices, signals and signs in accordance with the traffic ordinances of this City unless otherwise directed by a law enforcement officer, subject to the exception granted the driver of an authorized emergency vehicle.

7-3-3: THROUGH HIGHWAYS AND NIGHT VISIBILITY.

The state Department of Transportation is hereby authorized to designate main traveled or through highways under its jurisdiction within the City by erecting at the entrances thereto from intersecting highways stop or yield signs. However, all such signs shall be illuminated at night or placed so as to be illuminated by headlights of an approaching vehicle or by streetlights.

7-3-4: STOP REQUIRED.

The driver of a vehicle emerging from an alley, building, driveway or private road within a business or residential district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, driveway or road, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic.

7-3-5: YIELD RIGHT OF WAY.

The operator of a vehicle approaching an intersection at which there is posted a Yield Right of Way sign shall bring the vehicle under complete control and shall yield the right of way to vehicles approaching or in the intersection from the left or right and proceeding in the opposite direction. The operator so yielding shall not proceed until the intersection is clear of traffic. This yield rule shall have precedence over the usual left and right approach rule.

7-3-6: PEDESTRIANS' RIGHT OF WAY.

The operator of a vehicle shall yield the right of way to a pedestrian crossing a roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block or entrance to an alley unless the movement of traffic is being regulated by a law enforcement officer. Whenever any vehicle has stopped at a crosswalk or intersection to permit a pedestrian to cross a roadway the operator of a vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

7-3-7: TEMPORARY TRAFFIC REGULATIONS.

The City Council shall have the right to establish temporary speed and traffic regulations for the convenience and safety of the public, and when such changes are made, then proper signals and signs shall be posted.

CHAPTER 4 SNOWMOBILES AND OTHER VEHICLES

7-4-1: DEFINITION.

A "vehicle" as defined herein is any vehicle having two or more wheels operated on the alleys, highways, streets and public places for the purpose of transporting persons or property including bicycles, cars, go carts, motorcycles, motor scooters, snowmobiles, tractors and trucks and all other vehicles used or operated on the public roads.

7-4-2: OPERATION OF VEHICLES.

All vehicles being operated upon the alleys, streets and public grounds of the city shall be operated in a careful and prudent manner at all times, and the operator of a vehicle shall obey and be subject to the laws and rules of the road.

7-4-3: SNOWMOBILES.

It shall be unlawful for any person to operate a snowmobile within the City unless such operation allows a resident to proceed directly outside the municipality from their residence and return in the same manner. It shall be unlawful to operate a snowmobile in a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of residents within the City. It shall be unlawful to operate a snowmobile in a careless, negligent or reckless manner so as to endanger the safety of any person or the property of any other person.

7-4-4: AUTHORIZED USE OF GOLF CARTS

It shall be unlawful for any person to use a golf cart on a highway under the jurisdiction of this city, which is not insured, or which is driven by a person without a valid driver's license, or a driver who has failed to obtain a permit from the city. A permit may be obtained from the city finance officer for the sum of **\$25.00**. Furthermore, no golf cart may be operated on a highway under the jurisdiction of this city after 30 minutes before sunset.

TITLE 8 UTILITIES REGULATION

Chapter 8-1: Utilities

Chapter 8-2: Water System

Chapter 8-3: Sewer System

Chapter 1 Utilities

8-1-1: DEFINITION

For the purpose of this chapter the word “utility” shall be construed to mean and include water and sewer or any other utility service furnished by the City.

8-1-2: ORDINANCES SAVED FROM REPEAL

Nothing contained in this Code of Ordinances, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner any ordinance prescribing the charge to be paid for connections and taps to the various utility services furnished by the City, or the charges and rates to be paid for the utilities rendered by the City, or the amount of the deposits required by the City to ensure the payment of such charges and rates, or regulations, rules and specifications governing their consumption, enjoyment and use of such utility services, and all such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

8-1-3: SERVICE TO COMPLY WITH ORDINANCES AND STATE LAW

Any utility service furnished under the provision of this chapter shall be in accordance with and in compliance with all city ordinances and state law.

8-1-4: TERMINATION OF SERVICE AUTHORIZED

The City shall have the right to disconnect or refuse to connect or reconnect any utility service for the following reasons:

- a. Failure to meet the applicable provisions of the law;
- b. Violation of the rules and regulations pertaining to utility services;
- c. Nonpayment of a bill;
- d. Willful or negligent waste of service due to imperfect or improper appliances, fixtures, pipes or otherwise;
- e. Molesting any meter, seal or other equipment controlling or regulating the supply of a utility service;
- f. Theft or diversion or use of a service without payment therefor; or
- g. Vacancy of premises

8-1-5: LIABILITY OF CITY

The City shall not be liable for any damage to the property of any consumer of any utility service furnished by the City due to the backflow of the sewage system, failure of water supply, interruption of service, or any cause outside the direct control of the City.

8-1-6: UTILITY SERVICE-APPLICATION REQUIRED

Any person desiring any utility service by the City shall submit an application at the City Finance Office. An application shall contain the applicant’s name, address and which services are desired. A separate application shall be made for each premise to be served. The applicant

shall abide by the regulations and rules established by the City relative to utility service in effect at the time of the application and any subsequent revisions.

8-1-7: DEPOSITS REQUIRED

Along with the application for utility service, the applicant therefor may be required to pay the City a deposit under such terms as are prescribed by regulations adopted by the City.

8-1-8: NOT AVAILABLE TO DEBTORS

The City may decline or fail or cease to furnish any utility service to any person who may be in debt to the City for failure to pay any lawful utility charge under such criteria as may be adopted by the utility board.

8-1-9: USE ASSUMED

All premises connected to any utility service of the City shall be assumed to be using such service and the occupant or owner shall be charged thereof so long as such premises shall remain connected with the utility service.

8-1-10: RIGHT OF ENTRY

Any authorized inspector of the City shall have free access at any time to all premises supplied with any utility service by the City for the purpose of examination in order to protect the utility services from abusive use.

8-1-11: DAMAGE, TRESPASS OF EQUIPMENT

It shall be unlawful for any person to open any water hydrant or tamper with any utility service furnished by the City or to in any other way damage, molest or trespass upon any equipment or premises belonging to the City connected with any utility service unless the person is authorized to do so.

8-1-12: UNLAWFUL USE

No person, except by permission of the City Council, shall be authorized to connect, disconnect, turn on or turn off any utility service offered by the City, or remove, repair, or replace any equipment connected to any such utility service.

8-1-13: INTERRUPTION OF SERVICE

Consumers of any utility service furnished by the City are hereby notified that the supply of such utility may be temporarily shut off at any time. Notices shall be given, if feasible, of the contemplated shutoff, but accidents may render this impossible. The City hereby warns those dependent upon the utility services for any purpose of this hazard. An occupant of the premises has a duty to take prompt precautions to mitigate or prevent damages.

8-1-14: SALE OF SERVICE BY CONSUMER

It shall be unlawful for any person to resell any utility service obtained from the City to other except upon written agreement with the City.

8-1-15: CONNECTIONS TO SERVICE

Connections for any utility service furnished by the City shall be made only by those persons authorized to do so by the City.

8-1-16: METERS

Meters for the measurement of City utility services shall be furnished and installed by, and shall remain the property of the City, at such charges or costs to be determined by the City by regulation from time to time.

8-1-17: RESTRICTING USE OF WATER

The City reserves the right to restrict the use of water at any time and to prevent the use of water for the purpose of sprinkling gardens or lawns or washing cars.

8-1-18: EFFECT OF TRANSFER, MOVING

There shall be no transfer from one location to another of deposits made for utility service and in each case said transfer shall be considered a new application for service and shall be treated as such. When premises are vacated, then any amounts due for utility services shall be paid in full and utility services shall not be commenced at another place for the same consumer. Such removal from one place to another shall be considered as a new request for utility services and applicants may be required to make the current deposit that shall be in effect at the time such request is made.

8-1-19: DETERMINATION OF CHARGES

The charges and rates for the consumption of utility services furnished by the City, plus charges and fees for connections thereto, shall be as determined by the City.

8-1-20: WHEN PAYMENT DUE

All bills for utility services furnished by the City shall be due and payable at such times and subject to such criteria as may be promulgated by regulation of the City.

8-1-21: DISCONNECTION FOR NONPAYMENT OF BILL

In the event a bill for any utility service shall not be paid when the same becomes dues, then the

City shall have the right to disconnect and discontinue all utility services furnished by the City to the consumer in arrears after proper notice as provided by City ordinances or regulations.

8-1-22: RECONNECTION AFTER DISCONNECTION

In the event that a utility service is disconnected for nonpayment of the bill, then the consumer shall have the right to have the same reconnected only upon meeting such criteria then in effect as may be required by ordinances or regulations of the City.

8-1-23: VOLUNTARY DISCONTINUANCE OF SERVICE

Consumers wishing to discontinue the use of any utility service shall give notice to the City Finance Office. Failure to do so shall render a consumer liable for the payment of all bills until such notice has been received.

CHAPTER 2 WATER SYSTEM

8-2-1: APPLICATION FOR SERVICE

Any person, corporation or firm desiring the use of water and sewer from the water and sewer department of this City shall submit an application to the City Finance Officer. It shall be signed by the applicant, and shall contain the purpose for which the water and sewer is desired. It shall also contain a description of the premises to which the same is to be taken, the name of the owner of such premises, and if the applicant is not the owner, then the written consent of the owner shall accompany such application. Upon the receipt of the application, then the City will provide water and sewer utilities as early as possible to the applicant conditioned upon the applicant complying with all ordinances, regulations and rules of the City relating to water and sewer utilities.

8-2-2: DEPOSITS

Every lessee, renter or tenant receiving municipal water shall deposit \$100.00 with the municipal finance officer or water superintendent prior to receiving water service. In the event water service to any such customer is discontinued, then the balance due to the City of Castlewood for water service, together with penalties, if any, shall be deducted from the deposit and the balance of the deposit refunded to the customer. If the consumer does not leave a forwarding address and the check (total deposit or balance of deposit) is returned to the City, that amount will automatically be deposited to the City water account.

8-2-3: EXPENSE OF TAPS

All taps to the water mains and renewal of service in said City shall be under the direction of the water and sewer superintendent and the expense of making such taps shall be paid by the property owner. The fee for making such tap from the center of the street to the lot line shall be \$50.00. **ASK JOHN WHAT HE THINKS THIS SHOULD BE??**

8-2-4: WATER RATE SCHEDULE (ASK ABOUT CHANGING RATE BY RESOLUTION AND HOW WE DO THAT FOR SEWER AS WELL)?

The charge for the use of city water shall be \$35.00 per month for each metered facility for the first 2,000 gallons. For water usage in excess of 2,000 gallons the rate shall be \$6.00 for each additional 1,000 gallons or fraction thereof.

8-2-5: METER READING

All persons using city water shall be provided water meters designated by the water and sewer superintendent at the expense of the City, and such meter shall be properly attached to correctly measure all water used.

8-2-6: INSPECTION OF METERS

In case the water meter fails to register the amount used or for any reason fails to properly record water used, then the water and sewer superintendent or other designated officer shall estimate the amount used and the decision shall be final.

8-2-7: BILLING

~~The minimum charge for use of the city water shall be \$35.00 per month.~~ The total charge for usage shall be payable on or before the 15th day of each month. The Superintendent or other person in charge of the municipal plant are authorized to shut off the water for all users in default. Every connection turned off under the provisions of this section shall not be turned on again except upon the payment \$50.00, plus the amount in arrears to the City Finance Officer or in lieu of turning the water off the City Finance Officer shall make a delinquent charge of \$25.00 for any unpaid balance in excess of \$15.00.

All other sections of said Ordinance except those herein specifically modified remain in full force and effect.

8-2-8: DUE DATE

Payment will be due upon receipt of the bill and considered delinquent as of the 15th day of each month. A notice of delinquency on the consumer's bill plus a late fee charge will be mailed to owner and occupant by the 20th day of the month. This notice will also include the shut off date, ~~being the 7th day following the date on the notice of delinquency, excluding Friday, Saturday, Sunday and a holiday if it should fall on the weekend.~~

8-2-9: DEFAULT

The municipality may shut off the water when the water rental is not paid by the consumer in accordance with the rules of the Water Department or upon violation of any of the premises served. In the event the water is shut off, then it shall not be turned on again until proper arrangements have been made with the City of Castlewood for payment of all arrears, together

with the additional sum of \$50.00 to cover the expense of shutting off and turning on the water. The owner of the property, which is served by municipal utilities from the city, shall, as well as the lessee or occupant for the property, be liable to the city for the utility bills, 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 shall equally apply to the owner of the property as they do the consumer/lessee or occupant. No person shall tamper with the water to any premises from which the water has been turned off without authority from the Water Department.

8-2-10: LATE FEE

Any municipal water customer who is delinquent on their bill will be charged a late fee of \$25.00 on their bill for any unpaid balance over \$15.00. Late fees will be charged on the 16th day of the month.

8-2-11: WATER REVENUE

All revenue received from the sale of water will be deposited in the water fund of the City of Castlewood.

8-2-12: USE OF REVENUE

The revenue is to be used for the repair, maintenance, and improvements of the municipal water system.

8-2-13: WARRANTS- FUND EXPENDITURES

All claims for maintenance, improvements and repairs of the water system shall be paid from the water fund by the finance officer and counter signed by the Mayor or Council President.

8-2-14: DUTIES OF THE SUPERINTENDENT

Under the supervision of the Mayor and City Council, the Superintendent of the water and sewer department shall have the charge and management of the water and sewer utilities. The Superintendent shall report to the Mayor and City Council whenever requested regarding the condition of the department. The Superintendent shall perform such other duties as the Mayor and City Council may require.

8-2-15: WATER PIPES AND HOW LAID

All curbside stop and water cocks and goose necks, and all service and stop boxes shall be of the kind and pattern prescribed by the water and sewer superintendent. All service pipes must be laid as much below the surface of the ground as the main pipes in the street, and in all cases, protected so as to prevent rupture from freezing. All service pipes leading from the main to any premises, or pipes leading from such service pipes to any part of the premises and up to the meters shall be of suitable material consistent with prevailing standards for such piping. Before any pipes are attached to the main or attached to any service pipes leading to any part of the

premises where the water is to be used, the same shall be inspected by the superintendent or proper employee of the water and sewer department, and they shall have the absolute right to refuse to allow any such pipes to be connected to said main or service pipes, or other pipe connected thereto, if they deem the same unfit for the use for which the same is to be utilized.

8-2-16: CITY NOT LIABLE

All persons using water from the water and sewer department for any purpose whatever shall do so at their own risk, and the City will not, nor will the Mayor, City Council, Superintendent, or other officer in charge of the water and sewer department in any case, be liable or responsible for damages growing out of the overflow or stoppage of water, or any insufficient supply of water.

8-2-17: USE OF WATER DURING FIRE

The use of water for lawn purposes is prohibited during the time of a fire.

8-2-18: TURNING ON WATER

Any person who shall turn on the supply of water to a service pipe from which the same has been turned off by the City on account of non-payment of water rates, or for any other reason without having first obtained permission to do so by the water and sewer superintendent or City Finance Officer shall be guilty of a violation of this ordinance.

Any person who shall turn on the water in any hydrant, or from any part of the waterworks plant except at public drinking fountains and except in the case of fire, without permission of the person in charge of the system, shall be in violation of this ordinance. Also, any person who shall climb on the water tower or on the ladder thereon, without permission of the person in charge of the water and sewer department, shall be guilty of a violation of this ordinance.

8-2-19: PROPERTY OF CITY

All service pipe connections and boxes leading from the mains to the curb shall remain the property of the City.

8-2-20: OWNER LIABLE

If the written application for water service describes a lot so located that there is no lateral or trunk line to or along the side of said lot, and if said application describes the lot that has not been previously assessed for the construction of a lateral or trunk line, then the applicant shall pay (in addition to the amounts provided for above) a fee to the City Finance Officer for the actual cost of the lateral or main water line installed on public property adjacent to the lot for which such permit is requested. Additionally, there shall be assessed the actual cost from the point of connection to the main water line against any adjoining property.

8-2-21: RESTRICTIONS, SPRINKLING, AIR CONDITIONING

All water used for air conditioning or cooling systems, lawn or garden sprinkling, watering of

trees or shrubs, the washing of cars, or any other use other than domestic or necessary commercial use, may be restricted at any time by the City should the scarcity of water or an emergency of any kind so require. Such restrictions shall be imposed by resolution of the City and notice thereof given to the public by publication of such restrictions if possible, and if possible by a radio or television announcement at least 24 hours before the effective date of such restriction. Also, it shall be unlawful for any person, firm or corporation to use city water in the manner or at the times restricted by such resolution.

The term sprinkling shall include the use in any manner of water for lawn or garden purposes where such water is distributed by the use of any hose or conduit.

CHAPTER 3 SEWER SYSTEM

8-3-1: DEFINITIONS

Building Drain: means 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 outside the inner face of the building wall.

Building Sewer: means the extension from the building drain to the municipal sewer or other place of disposal.

Commercial Premises: include all buildings or structures which are not residential premises as herein defined.

Garbage: means solid wastes from the preparation, cooking and dispensing of food or from the handling, storage and sale of foods and produce.

Industrial Waste: means the liquid wastes from industrial processes as distinct from sanitary sewage and garbage.

Municipal Sewer: means a sewer operated by the municipality for the benefit of citizens of the municipality generally.

Person: means any individual, firm, company, association, society, corporation or group.

Private Sewer: means a sewer designed to service a single user, provided that a special permit may be granted by the superintendent for use of such sewer by one or additional users.

Properly Shredded Garbage: means wastes from the preparation, cooking, and dispensing of foods that have been shredded to such a degree that all particles will be carried freely, under the flow conditions normally prevailing in municipal sewers, with no particle greater than ½ inch in any dimension.

Residential Premises: include all buildings or structures occupied and used exclusively as a home by not more than 2 families.

Sanitary Sewage: means water-carried wastes from toilets, sinks, baths, household laundries or tubs and similar facilities.

Sewage: means any combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments.

Sewage Disposal Plant: means any arrangement of devices or structures for treating sewage in order to eliminate or reduce its odor, or other harmful or obnoxious characteristics

Sewer: means a sewer which carries sanitary sewage.

Sewer Outlet: means any termination of a sewer system into a watercourse, pond, ditch, lake or other body of surface or ground water.

Sewer System: includes all facilities for collecting, pumping, treating, and disposing of sewage

Shall is mandatory; may is permissive.

Superintendent: means the official charged with the duty of superintending the municipal sewer system, or his authorized deputy, agent or representative.

Suspended Solids: means solids that either float on the surface of, or are in suspension in water, sewage or other liquids; and which are removable by laboratory filtering.

Watercourse: means a natural or artificial channel in which a flow of surface water occurs, either continuously or intermittently

8-3-2: DEPOSIT OF GARBAGE

No person shall place, deposit or permit to be deposited, in an unsanitary manner, upon public or private property within the municipality, or in any area under the jurisdiction of said municipality, any human or animal excrement, garbage or other similar waste.

8-3-3: DISCHARGE OF INDUSTRIAL WASTE

No person shall discharge or cause to be discharged into any municipal sanitary sewer within the municipality, or in any area under the jurisdiction of said municipality, any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, sanitary sewage, industrial wastes or other polluted water unless suitable treatment has been provided in accordance with these ordinances.

8-3-4: PRIVIES PROHIBITED

Except as hereinafter provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

8-3-5: CONNECTION REQUIRED

Whenever a municipal sanitary sewer is constructed within 400 feet of the property line of any premises, then the superintendent shall notify the owner of any building used for human occupancy, employment, recreation or similar uses of such premises of said fact and direct the owner to install toilet facilities thereon and to connect such facilities with the municipal sewer in accordance with this ordinance. The owner shall comply with said order within 90 days after date of receipt of such notice and timely satisfy all expenses incurred.

8-3-6: PERMIT

No unauthorized person shall uncover, make any connections with or opening into, use or alter any municipal sewer without first obtaining a written permit from the superintendent. Before commencement of construction of a private sewer or construction of a disposal plant, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the municipality which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and inspection fee of \$50.00 shall be paid to the City Finance Officer at the time the application is filed, together with a \$150.00 fee for tapping the sewer main.

8-3-7: INSPECTION

A permit for a private sewer shall not be final until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction. The applicant shall notify the superintendent that the work is ready for final inspection before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent. The connection shall be made under the supervision of the superintendent.

8-3-8: COMPLY WITH STATE REGULATIONS

The type, capacities, location and layout of a private sewage disposal plant shall comply with all regulations, rules and state statutes. No septic tank or cesspool shall be permitted to discharge into any municipal sewer or sewer outlet.

8-3-9: MAINTENANCE

The owner shall maintain and operate the private sewer from the main sewer line in a sanitary manner at all times and with no expense to the municipality.

8-3-10: PUBLIC HEALTH

Nothing herein shall limit any additional requirements that may be imposed for public health reason.

8-3-11: COSTS

All costs of installation and connection by all business places or residences or users of the city sewer main to the dwellings and places of business and all expenses of maintenance and repair thereof from such city mains shall be paid by such sewer users, including the expense of examining the new installation by camera.

8-3-12: SEPARATE SEWER REQUIRED

A separate building sewer shall be provided for every building except where on building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yards or driveway, then the building sewer to the front building may be extended to the rear building and the whole considered as one building sewer. This requirement may be waived by the City under exceptional circumstances.

8-3-13: OLD SEWERS- REQUIREMENTS

Old building sewers may be used in connection with new buildings when they are found on examination and tested by the superintendent to meet all of the requirements of this ordinance.

8-3-14: CONSTRUCTION

A building sewer shall be constructed of suitable materials consistent with prevailing standards for said sewer systems or other suitable material approved by the superintendent. All joints shall be tight and waterproof. No digging is permitted without a city permit and contacting the city superintendent. Additionally, sewer connection and materials must be approved by the City and include a back flow preventer in the structure. Also, each sewer connection shall serve no more than one building.

8-3-15: SIZE OF SEWER

The size and slope of the building sewer shall be subject to the approval of the superintendent. The "Y" connection and the building drain shall be uncovered and differential elevation determined before construction is begun. Where practicable, the building sewer shall be constructed upon a uniform grade.

8-3-16: ELEVATION AND SLOPE OF SEWER

Whenever possible the buildings sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to and within three feet of any bearing wall which might be weakened thereby. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid in a straight alignment insofar as possible and changed in direction shall be made only with properly curved pipe and fittings.

8-3-17: LIFT REQUIRED IN CERTAIN CASES

Whenever any building drain is too low to permit gravity flow to the municipal sewer, then sewage carried by such drain shall be lifted by approved artificial means and discharged into the building sewer at the landowner's expense.

8-3-18: TRENCHES AND BACKFILL

All excavations required for the installation of a building sewer shall be open trench work unless other construction is authorized by the superintendent and all pipe laying shall be performed in accordance with prevailing standards. All trenches or backfill are to be tamped, leveled and all blacktop shall be restored. No backfill shall be commenced until the work has been inspected.

8-3-19: JOINTS

All joints and connections shall be made gas tight and water tight, and constructed consistent with prevailing standards. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. Jointing materials and methods shall be subject to the approval of the superintendent.

The connection of a building sewer with the municipal sewer shall be made at a "Y" brand. If the sewer is 12 inches in diameter or less and no properly located "Y" branch is available, then the owner may at their expense install a "Y" branch in the municipal sewer at a location specified by the superintendent.

8-3-20: INSPECTION

The applicant for a sewer permit shall notify the superintendent when the building sewer is ready for inspection. The connection shall be made under the supervision of the superintendent.

8-3-21: GUARDING EXCAVATIONS

Excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from any hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a satisfactory manner.

8-3-22: STATE REGULATIONS TO GOVERN

All sewers constructed hereafter shall comply with the standards set forth in the State Plumbing Code.

8-3-23: COMBINED STORM AND SANITARY SEWER

Storm water or other unpolluted drainage including industrial cooling water or unpolluted process water may be discharged into such sewers as are specifically designated as combined

sewers or storm sewers, or to a natural outlet approved by the superintendent.

8-3-24: CERTAIN PRACTICES PROHIBITED

No person shall discharge or cause to be discharged any of the following described waters or wastes into any municipal sewer:

- a. Any liquid or vapor having a temperature higher than 150 degree Fahrenheit
- b. Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;
- c. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- d. Any garbage except properly shredded garbage;
- e. Any ashes, cinders, sand, mud, straw, shaving, metal glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or vicious substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage system;
- f. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to interfere with the proper operation of the sewage system;
- g. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant; or
- h. Any noxious or malodorous gas or substance capable of creating a public nuisance

8-3-25: GREASE, OIL AND SAND INTERCEPTORS

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 grease in excessive amounts, 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 capacity and type approved by the superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials, capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight and equipped with easily removable covers which when bolted in place shall be gas-tight and water-tight. All grease, oil and sand interceptors shall be maintained by the owner, at their expense, in a continuously efficient operation at all times.

8-3-26: RIGHT OF INSPECTION

The superintendent or other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this ordinance.

8-3-27: ESTABLISHMENT OF RATES

There are hereby established just and equitable rates, charges and rentals for treatment and disposal services and benefits as authorized by statutes of the State of South Dakota. Said charges shall from time to time be at least sufficient to produce net revenues adequate to pay the principal and interest on the bonds payable from revenues of the sewage disposal plant as such principal and interest become due, and to create and maintain required reserve therefor, and said charges, rates and rentals shall be revised whenever necessary for such purpose. Said charges, rates and rentals shall be based upon minimum monthly charges.

8-3-28: SEWER RATES

The charge for disposal service and sewage treatment provided by the City shall be \$35.00 per month, plus an additional charge of one half of the charge for water used in excess of 2000 gallons per quarter. Rates for family unit during the year will be based on the first quarter billing. The minimum charge for the use of the sewer shall be \$30.00 per month payable on or before the 15th of the month and any payment not made on or before said dates shall be deemed delinquent and the City Finance Officer shall make a delinquent charge of 10% on any charge that is delinquent at the time of payment.

8-3-29: REVENUE DEPOSITED

Monies collected from sewer rental will be deposited in the sewer fund of the City of Castlewood, South Dakota, and will be solely for the repair, maintenance and improvement of said system.

Title 9

BOARDS AND COMMISSIONS

Chapter 9-1: Board and Commission Members - **SEE DEPARTMENTS AND COMMITTEES WITH MAY MINUTES**

Chapter 9-2: Building and Fire Regulation

Chapter 9-3: National Electrical Code and Regulations

Chapter 9-4: National Plumbing Code and Regulations

Chapter 9-5: Fire Limits

Chapter 9-6: Numbering of Buildings

Chapter 9-7: Planning and Zoning Commission

Chapter 9-8: Board of Adjustment

Chapter 1

BOARD AND COMMISSION MEMBERS

9-1-1: APPOINTMENT PROCEDURES:

- A. Appointment: Unless otherwise provided by law or ordinance, members of boards, commissions and standing committees of the city shall be residents of the city or an

owner of a business within the city of Castlewood which owner has a Castlewood, South Dakota, mailing address, or an owner of real property within the city of Castlewood, which owner has a Castlewood, South Dakota, mailing address, and appointed by the mayor and confirmed by the city council. The appointments shall generally be made and confirmed at the first regular city council meeting in July of each year, or at any other meeting as shall be deemed appropriate by the mayor and city council. Persons appointed as members of a board, commission or committee of the city shall serve at the pleasure of the mayor and city council.

- B. Terms: Unless otherwise provided by law or ordinance, the term of appointment shall be for three (3) years. Terms of members shall be staggered, such that to the extent possible, the terms of proportionately equal numbers of members shall expire annually. No person shall serve more than two (2) successive terms without at least one year intervening, unless the city council shall waive such requirement. A person appointed to fill an unexpired term may be appointed successively for two (2) complete full terms.
- C. Unexpired Terms: Subject to the approval of the city council, the mayor shall appoint persons to fill the unexpired term of any appointed person who for any reason shall vacate an appointed position prior to the expiration of the term.
- D. Withdrawal of Appointment: Whenever the mayor shall deem it in the best interests of the city, the mayor shall have authority to withdraw any previously made and approved appointment; and the appointment of any such person shall be terminated upon such withdrawal of appointment by the mayor. The mayor shall report any withdrawal of appointment to the city council at the next regular city council meeting.

9-1-2: POWERS AND DUTIES:

Unless otherwise provided by law or ordinance, the powers and duties of the boards, commissions and committees of the city shall be as from time to time prescribed by the mayor and the city council; and all acts of the boards, commissions or committees of the city shall be subject to the supervision and review of the mayor and city council. Except where otherwise provided by law, nothing contained in this title shall limit the superior authority of the city council to effect any decision it shall enact in respect to the subject matter of this title. Each board, commission or committee of the city may, subject to the approval of the city council, enact rules for the orderly conduct of its business.

9-1-3: ADVISORY BOARDS:

The city council, by resolution, may establish an advisory board of citizens for the purpose of providing advice and assistance to any department or division within the city. Unless otherwise provided and authorized by law, an advisory board so established shall have no official authority.

9-1-4: RULES:

Each board, commission or committee established or appointed by the city shall have power to establish such procedural rules as deemed necessary by it for the orderly conduct of its

business.

CHAPTER 2 BUILDING AND FIRE REGULATION

9-2-1 DEFINITIONS.

- A. Wherever the word "Municipality" is used in the International Building Code it shall be defined to mean the City of Castlewood, State of South Dakota.
- B. Wherever the term "Corporation Counsel" is used in the International Building Code it shall be defined to mean the City Attorney for the City of Castlewood, State of South Dakota.

9-2-2: ADOPTION OF NATIONAL BUILDING CODE.

The “2024 International Building Code” is hereby adopted by the City for the purpose of establishing regulations and rules for the alteration, construction, demolition, location, maintenance, repair and removal of buildings and structures within the municipality, and includes all permits required and penalties that may be assessed, subject to the City Council modifying same in such manner as it deems in its best interests. A copy of the “2024 International Building Code” has been filed in the office of the Finance Officer and is hereby adopted and incorporated herein as fully as if set out at length herein, and shall take effect from the date of this ordinance. The provisions therein shall be controlling in the construction or repair of all buildings and structures within the City’s limits. The International Building Code as adopted with periodic updates shall be automatically utilized by the City.

9-2-3: AMENDMENTS OR CHANGES IN INTERNATIONAL BUILDING CODE

If any of the provisions of this chapter are in conflict with the International Building Code herein adopted, then the provisions of this chapter shall take precedence and the International Building Code shall be considered amended and modified.

9-2-4: CONFLICT

In the event of a conflict between any provision of the International Building Code and this Municipal code, then the latter shall prevail.

9-2-5: RIGHT OF ENTRY.

The Building Inspector shall have the authority to go upon any premises and enter any building or structure at any reasonable hour for inspection purposes and thereby complete their duties.

9-2-6: PERSONS REGULATED

It shall be unlawful for any person to lay, construct, install or cause to be laid, constructed, installed, or done, any building unless said person shall have complied with the provisions of this title. Provided however, a person may do their own work on property belonging to them, without obtaining a license.

CHAPTER 3 NATIONAL ELECTRICAL CODE AND REGULATIONS

9-3-1: DEFINITIONS.

- A. Wherever the word "municipality" is used in the National Electrical Code it shall be defined to mean the City of Castlewood, State of South Dakota.
- B. Wherever the term "Corporation Counsel" is used in the National Electrical Code it shall be defined to mean the City Attorney for the City of Castlewood, State of South Dakota.

9-3-2: ADOPTION OF NATIONAL ELECTRICAL CODE.

The "National Electrical Code" as adopted by the National Fire Protection Association (most recent edition) is hereby adopted by the City for the purpose of establishing regulations and rules for all installations of electrical equipment and all electrical equipment installed or used shall be in conformity with this chapter, and state statutes, and any orders, regulations or rules issued by authority set forth therein. A copy of the "National Electrical Code" has been filed in the office of the Finance Officer and is hereby adopted and incorporated herein as fully as if set out at length herein, and shall take effect from the date of this ordinance.

9-3-3: AMENDMENTS OR CHANGES IN NATIONAL ELECTRICAL CODE

Nothing in this chapter shall be construed to limit the authority of the Council to modify any provisions of the National Electrical Code. If any of the provisions of this chapter are in conflict with the National Electrical Code herein adopted, then the provisions of this chapter shall take precedence and the National Building Code shall be considered amended and modified.

9-3-4: CONFLICT

In the event of a conflict between any provision of the National Building Code and this Municipal code, then the latter shall prevail.

9-3-5: RIGHT OF ENTRY.

The Building Inspector shall have the authority to go upon any premises and enter any building or structure at any reasonable hour for inspection purposes and thereby complete their duties.

9-3-6: PERSONS REGULATED

It shall be unlawful for any person to lay, construct, install or cause to be laid, constructed, installed, or done, any building unless said person shall have complied with the provisions of this title. Provided however, a person may do their own work on property belonging to them, without obtaining a license.

CHAPTER 4: NATIONAL PLUMBING CODE AND REGULATIONS

9-4-1: DEFINITIONS.

- A. Wherever the word "municipality" is used in the National Plumbing Code it shall be defined to mean the City of Castlewood, State of South Dakota.
- B. Wherever the term "Corporation Counsel" is used in the National Plumbing Code it shall be defined to mean the City Attorney for the City of Castlewood, State of South Dakota.

9-4-2: ADOPTION OF NATIONAL PLUMBING CODE.

The "National Plumbing Code" as adopted by the American Standards Association (most recent edition) is hereby adopted by the City for the purpose of establishing regulations and rules for the installation and safety of plumbing and related fixtures, and all plumbing installed or used shall be in conformity with this chapter, and state statutes, and any orders, regulations or rules issued by authority set forth therein. A copy of the "National Plumbing Code" has been filed in the office of the Finance Officer and is hereby adopted and incorporated herein as fully as if set out at length herein, and shall take effect from the date of this ordinance.

9-4-3: AMENDMENTS OR CHANGES IN NATIONAL ELECTRICAL CODE

Nothing in this chapter shall be construed to limit the authority of the Council to modify any provisions of the National Electrical Code. If any of the provisions of this chapter are in conflict with the National Electrical Code herein adopted, then the provisions of this chapter shall take precedence and the National Building Code shall be considered amended and modified.

9-4-4: CONFLICT

In the event of a conflict between any provision of the National Building Code and this Municipal code, then the latter shall prevail.

9-4-5: RIGHT OF ENTRY.

The Building Inspector shall have the authority to go upon any premises and enter any building or structure at any reasonable hour for inspection purposes and thereby complete their duties.

9-4-6: PERSONS REGULATED

It shall be unlawful for any person to lay, construct, install or cause to be laid, constructed, installed, or done, any building unless said person shall have complied with the provisions of this title. Provided however, a person may do their own work on property belonging to them, without obtaining a license.

CHAPTER 5 FIRE LIMITS

9-5-1: ESTABLISHING FIRE LIMITS.

A Fire Limit is hereby established in the City. The Fire Limit shall embrace the whole of the platted portion of this City.

9-5-2: FIRE LIMITS.

It shall be unlawful for any person to erect, build, construct, or place upon or maintain any of the lots or block within the South One-half (S1/2) of Block Three (3), all of Blocks Four (4), Five (5) and the North One-half (N1/2) of Block Six (6) of the Original Plat to the Town, now City, any building or structure of which the walls are not composed entirely of brick, tile, stone or cement or mortar or some other non-combustible material and the roofs of which are not either of metal or some other non-combustible material and the City Council shall not grant any permit to build, erect or construct any building within said limits unless the same shall comply with the specifications above set forth; provided however, that necessary water closets of wood, one to each lot 25 feet in width may be erected within said limits, not less than 25 feet from any of the main buildings, but not to exceed 6 feet by 8 feet in size.

9-5-3: HAZARDOUS STRUCTURES

Any building or part of a building hereafter built, erected, constructed or placed upon or maintained upon any of the premises or lots described in the prior section, contrary to the provisions herein, or any building, structure, or part of a building or structure heretofore constructed, built or erected upon any of the said premises and which shall be damaged by fire, flood, decay or other casualty to the extent of fifty (50%) percent or more of its value shall be deemed and the same is hereby declared to be a public nuisance and the same may be prevented, abated and removed by the City by an action instituted in the proper Court for that purpose, or the same may be summarily abated or removed by the City Council, directing the Chief of Police to abate and remove the same with the aid of such help as he can procure, at the expense of the City; provided that the City shall not abate or remove any such nuisance without first giving 24 hours' notice in writing to the person in possession of or in charge of said structure, if any, provided further, that the City Council shall be the sole judge to determine the amount of damage done to any building or structure and giving grounds for the same.

9-5-4: COMBUSTIBLES.

It shall be unlawful for any entity or person to keep anywhere within the platted alleys, streets or public places of the City more than 5 barrels of kerosene, coal oil or gasoline, except in above-ground tanks which meet established U.S. Environmental Protection Agency standards without special permission of the City Council by an ordinance duly enacted, and it shall be unlawful for any entity or person to keep anywhere within the city more than one hundred pounds of dynamite, and it shall be kept in a safe place under lock and key and in a place where the same will not likely explode; and it shall be unlawful for any person to either allow the motor of any motor vehicle to run while filling the gas tank of said motor vehicle, or to smoke within a distance of 25 feet of the gas tank of said motor vehicle while being filled with gas anywhere within the corporate limits of the City.

9-5-5: INDUSTRIAL RESTRICTIONS.

No industry shall produce explosive products containing one pound or more of TNT normal type or the equivalent of one pound or more of TNT. Additionally, there shall be no nuclear or radioactive devices produced on any industrial premises except that testing shall not preclude use of X-ray or other radioactive factors. Furthermore, there shall be no biological or chemical warfare materials used or stored on any industrial premises.

There shall be no toxic waste disposal sites or other permanent waste disposal facilities except a properly regulated sanitary sewage disposal as approved by the South Dakota Environmental Protection Agency. All burn sites shall consist of steel containers located in a permanent concrete structure which shall be designed, and constructed and maintained in accordance with all South Dakota and United States requirements and said burning structure shall be established to not allow refuse ash to leak from the structure. No refuse ash or residue from the burn site shall be disposed of other than being transported to a sanitary landfill or to a toxic waste disposal facility, neither of which shall be located on the said premises. A permit shall be obtained from the Building Inspector for the City prior to the closing or disposal of the materials of any burn site.

CHAPTER 6 NUMBERING OF BUILDINGS

9-6-1: REQUIREMENT OF NUMBERING.

The buildings of twenty-five (25) foot frontage on Main Street from First Avenue to Third Avenue and the buildings or houses on each fifty (50) foot frontage on the remaining streets and avenues of the City shall be numbered, and the owners of the property shall place upon such buildings or houses the proper numbers.

9-6-2: NUMBERING ON AVENUES.

The avenues running north starting from Main Street shall be numbered even on the east side starting with 102 and odd on the west side starting with 101. The avenues running south from Main Street shall be numbered even on the east side starting with 102 and odd on the west side starting with 101.

9-6-3: NUMBERING ON STREETS

The streets running east starting from First Avenue shall be numbered even on the north side starting with 102 and odd on the south side starting with 101. The streets running west starting from First Avenue shall be numbered even on the north side starting with 102 and odd on the south side starting with 101.

9-6-4: FINANCE OFFICER DUTIES - NUMBERING OF BUILDINGS.

The Finance Officer, under the supervision of the City Council, shall designate upon each application the proper number for each building or house. In the event that the owner of the property shall fail, neglect to, or refuse to place said numbers on said building or house as herein provided, the City may cause the same to be supplied and placed at the expense of the owner thereof and include the same as a special assessment on said property upon the return of said City Finance Officer showing that such numbering has been so done by the City.

9-6-5: PLACEMENT OF NUMBERS ON BUILDINGS.

The numbers to be placed upon the building or structure shall be legible and of such sufficient size as to be easily read from the street in front of the building or structure e. The numbers may be put above, to the right, or to the left of the front entrance of the building or structure, whichever area is the most feasible.

9-6-6: COMPLIANCE DATES

On existing buildings or houses all numbers shall be put on by July 1, 2010. On new construction, numbering must be completed within six (6) month after the building permit is issued.

CHAPTER 7 (TODD SEE ZONING ORDINANCE) PLANNING AND ZONING COMMISSION

9-7-1: COMMISSION ESTABLISHED:

- A. The planning and zoning commission of the city shall consist of all the aldermen of the city council, with the mayor acting as chair of said board.

9-7-2: POWERS AND DUTIES:

The planning and zoning commission shall exercise and perform all powers and duties as are, or may be, provided by law.

Chapter 8 BOARD OF ADJUSTMENT

9-8-1: BOARD ESTABLISHED:

A board of adjustment is hereby established which shall consist of all of the aldermen of the city council, with the mayor acting as chair of said board.

9-8-2: ORGANIZATION:

- A. Rules: The board shall adopt rules necessary to conduct its affairs and in the keeping of the provisions of the zoning title. Meetings shall be held at the call of the chair and at such other times as the board may determine.
- B. Meetings: The chair or, in his absence, the president of the city council, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- C. Minutes and Records: The board shall keep minutes of its proceedings, showing the vote of each member on each question or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions and the reasons for

such actions, all of which shall be a public record and be immediately filed with the finance officer.

9-8-3: POWERS AND DUTIES:

The board shall have the powers and duties as set out in the zoning title of this code.