

STATE OF SOUTH DAKOTA



COMPILATION OF SOUTH DAKOTA CODIFIED LAWS RELATING TO LAND SURVEYING IN EFFECT JULY 1, 2006

SOUTH DAKOTA STATE BOARD OF TECHNICAL PROFESSIONS

2040 West Main Street, Suite 304
Rapid City, South Dakota 57702-2447
Telephone: (605) 394-2510
Fax: (605) 394-2509
www.state.sd.us/dol/boards/engineer

Land Surveying Compilation
Of South Dakota Codified Laws
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Effective 7/1/06

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INTRODUCTION

This booklet is intended to be a compilation of South Dakota state statutes pertaining to the practice of land surveying. It is hoped that it will provide quick, convenient and direct access to those statutes. Since it is expected that surveyors will be the primary users of this compilation, certain cautionary remarks are in order.

First, this compilation contains only statutes; it does not contain all the law that pertains to surveying. See Chapter 36-18A on our website www.state.sd.us/dol/boards/engineer for registration law, among others. Also, much law is non-statutory; that is, it is embodied in the written decisions of courts and in general principles abstracted from such decisions. This compilation is no substitute for the advice and counsel of a trained lawyer and should only be used with this limitation firmly in mind.

Second, the South Dakota Codified Laws fill many volumes and contains statutes touching on every phase of modern life. Obviously, judgments have been made as to what materials are of interest to surveyors. We hope these judgments are basically correct and we have attempted to err on the side of caution. However, the possibility remains that relevant materials may have been inadvertently excluded.

Third, statutes, as well as other legal principles, are subject to change. It is not known whether or when this compilation will be updated. It is up-to-date through the enactments of the 2006 session of the South Dakota Legislature.

Fourth, this compilation is concerned only with the state law of South Dakota. No attempt to incorporate federal law into this booklet has been made. Federal law cannot be ignored, as it may duplicate, supplement, or override any of the provisions reproduced here.

The function of this booklet is to be used as a source of background information to familiarize surveyors with the legal environment in which they practice and to alert surveyors to their need for legal counsel in situations where they might not have realized the nature of their problem until irreversible damage has occurred. It is in this spirit that this compilation has been made and in this way that it is hoped it will be used.

- 1-1-1. **Territorial extent of sovereignty and jurisdiction--Cessions to United States.** The sovereignty and jurisdiction of this state extend to all territory within its established boundaries except as to such places wherein jurisdiction is expressly ceded to the United States by the State Constitution, or wherein jurisdiction has been heretofore or may be hereafter ceded to the United States, with the consent of the people of this state, expressed by their Legislature and the consent of the United States.
- 1-1-9. **Map of federal acquisitions to be filed--Recording of evidence of title.** A map of any land acquired by the United States, under the provisions of this chapter, shall be filed and recorded in the Office of the Secretary of State and the evidence of the United States' title shall be recorded in the county wherein the land is situated as in other cases relating to the transfer of real property.
- 1-1-10. **Land entry authorized to survey boundaries--Consent required to enter mine--Damage to property.** For the purpose of making surveys required by or essential to the effect of any acts of the United States Congress or of the Legislature of this state or for the determination of boundaries of real estate, any of the duly authorized officers or agents of the United States or of this state, or any engineer or land surveyor duly qualified or registered under the laws of this state, and the persons necessarily and lawfully employed in making any such survey may enter upon lands within the boundaries of this state for such purposes, but this section shall not be construed as authorizing any unnecessary interference with private rights. Nothing in this section shall be construed to permit any person to enter any shaft, tunnel, stope, or underground workings of any individual person engaged in mining for precious metals without consent of the owner or person in possession of such shaft, tunnel, stope, or underground working.

Nothing herein contained shall exempt any person from payment of actual damages done by him while upon such land.

- 5-1-7. **General powers of commissioner--Plats and records--Sales and leases--Contracts and patents--Seal of office.** The commissioner of school and public lands shall have the direction, management, and control of all lands heretofore granted or which may hereafter be granted to this state by the United States, or otherwise acquired, and of all the plats and records pertaining to the title thereto and the disposition thereof. He shall conduct all sales and have general supervision of all leasing of school and public lands. He shall issue all contracts and patents, and may approve or disapprove any lease submitted to him by the county auditors of the several counties. He shall keep on file all contracts and leases, and shall keep a complete record of all patents to school and public lands, and of all bonds and mortgages for moneys obtained from the permanent funds of school or endowment lands. He shall keep a seal for the use of his office to be known and designated as "the seal of the commissioner of school and public lands."
- 5-1-8. **Land records and conveyances transferred to commissioner--Indexing and filing.** All boards, commissions, or other agencies of the State of South Dakota having the control of and administering lands in which the title is in the State of South Dakota, or any officer of the state having the custody of any such records shall transfer to the commissioner of school and public lands all records pertaining to the same including deeds, patents, and other conveyances together with all easements or grants of any kind affecting such land. The commissioner of school and public lands shall index such lands in the platbooks of the Department of School and Public Lands according to the legal description thereof and index and file all title papers or easements heretofore or hereafter granted.

- 5-1-9. **Records of subdivisions granted to state--Organization and contents.** The commissioner of school and public lands shall cause to be prepared and kept in his office a record of each subdivision of lands granted to the state for all purposes. For the lands embraced within each grant for a distinct and specific purpose, separate books of record shall be provided. Such books shall contain a description of each subdivision, and in columns opposite such description there shall be recorded, as may be required, the appraised value of the tract, date of lease, name of lessee, term of lease, and amount of annual rental, date of sale, name of purchaser, price, amount paid in cash, amount unpaid and when due, amount of annual interest, date of patent, name of patentee, and such other information as may be necessary to make a full and complete abstract of the condition of such tract.
- 5-1-10. **Public survey records maintained--Access of United States to records.** The state archivist shall receive and safely keep in his office as public records of this state all field notes, maps, plats of surveys, mineral survey notes, homestead survey notes, records, or other papers relating to the public survey of this state, whenever the same shall be turned over to the state in pursuance of law. The United States shall at all times have free access thereto for the purpose of taking abstracts therefrom and making copies thereof.
- 5-1-11. **Fees chargeable for copies and examinations of survey records--Disposition.** The state archivist as custodian of the surveyor general's records and the commissioner of school and public lands may charge and receive the following fees:
- (1) For copying field notes, fifty cents per page of legal size;
 - (2) For copying plats, three dollars;
 - (3) For copies of courses and distances on township map, printed form of thirty-six sections, three dollars;
 - (4) For examining field notes, maps, or other records, four dollars per hour;
 - (5) The minimum charge in all the above cases shall be four dollars;
 - (6) For certificate with seal, two dollars;
 - (7) For copies of leases, patents, or other instruments on file or of record, including certificate and seal, three dollars.

All fees collected pursuant to this section shall be deposited in the state general fund.

- 5-2-4. **State ownership of lake and river beds declared--Riparian owners protected.** For the purposes of §§ 5-2-4 to 5-2-9, inclusive, the bed and channel of any lake or river in this state or bordering on this state to the middle of the main channel thereof, and all islands and sand bars lying therein shall be considered the property of the State of South Dakota unless this state or the United States has granted or conveyed an adverse legal or equitable interest therein. Nothing in said sections shall affect or impair the rights of riparian owners.
- 5-4-3. **Map of waterworks to be filed.** Prior to the construction of any canal, ditch, or waterway over or across any school or public lands of this state under the provisions of § 5-4-2, there shall be filed in the Office of the Commissioner of School and Public Lands a map or plat of such proposed canal, ditch, or waterway, clearly indicating the course of the same and the acreage required in its construction and the

amount of land proposed to be taken out of each smallest legal subdivision of such school or public lands in the construction of the canal, ditch, or waterway.

- 5-9-33. **Issuance to bankrupt of patent to land set aside as homestead.** When, in the adjudication of an estate in bankruptcy proceedings, a portion of a legal subdivision has been decreed and set apart to the bankrupt as exempt under the homestead laws of the state, and a plat showing the exact boundaries of the tract so set apart has been filed in the office of the register of deeds of the county in which the lands are situated and a copy thereof has also been filed in the Office of the Commissioner of School and Public Lands, a patent may be issued for such tract to the bankrupt to whom such tract has been set apart.
- 5-9-34. **Sale of small tract for public purposes or landing field--Maximum size and location-- Air space easement.** Whenever a civil, state, religious, or public organization makes an application for the purchase of any common school or endowment land to be used for public purposes, not exceeding one hundred sixty acres, and files a plat and a statement of the purpose for which the land is to be used in the Office of the Commissioner of School and Public Lands, the commissioner may appraise the tract in the manner provided by law for the appraisal of school and public lands.
- 5-15-11. **Plats and surveys of capitol complex--Opening and vacating streets and alleys-- Utility facilities.** The Capitol Complex Restoration and Beautification Commission shall have the power to make all necessary surveys in connection with its work; to plat and replat the area of the capitol complex acquired by the commission, or any part thereof, and to open and dedicate streets to the use of the public in such area, granting easements therein and use thereof to the city of Pierre, South Dakota, and to the public, for sewer, water, and electricity, and other facilities; to vacate any streets or alleys in the manner provided by law in the areas acquired by it or bordering on or adjacent thereto; to make agreements with the city for replacement of its facilities in any vacated streets within the area; and to grant easements for erection and maintenance of other necessary facilities and utilities.
- 7-8-22. **Survey notes and map procured by commissioners.** The board of county commissioners shall have power to procure for the county a copy of the field notes of the original survey of the county by the United States and cause a map of the county to be constructed therefrom, on a scale of not less than one inch to a mile and laid off in congressional townships and sections, to be kept in the office of the county auditor and the field notes to be deposited in the same office.
- 7-9-5. **Conveyances of platted land not accepted until plat recorded.** No register of deeds shall accept for record or record any deed, mortgage, or other conveyance of any platted plot of land until the plat thereof shall have been accepted for record in his office.
- 7-9-6. **Tax payment certificate required for recording of plat--County auditor's, state highway, and centrally assessed railroad property plats excepted.** No register of deeds may accept for record or record any plat of any subdivision or rearrangement of any tract of land unless it is accompanied by the certificate of the county treasurer that all taxes which are liens upon the tract so subdivided have been fully paid. This section does not apply to plats of outlots made by the county auditor for purposes of taxation of the property platted. This section does not apply to plats made by the state highway engineer or any registered land surveyor in the employ of the state transportation department, for the purpose of describing rights of way purchased or to be purchased by the state transportation

department. This section does not apply to plats made to enable the sale or transfer of centrally assessed railroad property as defined by § 10-28-1. This section does not apply to plats made by a municipality describing easements and rights-of-way for municipal utilities.

7-9-15. Fees of register of deeds enumerated.

The register of deeds shall charge and receive the following fees:

- (1) For recording deeds, mortgages, and all other instruments not specifically provided for in this section or this code, the sum of ten dollars for the first page and two dollars for each additional page or fraction thereof. Each rider or addendum shall be considered as an additional page. If a real estate document recorded with the register of deeds does not conform to § 43-28-23, the sum of ten dollars shall be charged in addition to the fees specified in this subdivision;
- (2) For a certified copy of any instrument of record, including certificate and official seal, two dollars plus twenty cents for each page after five pages, and for an uncertified copy, one dollar, plus twenty cents for each page after five pages. The board of county commissioners by resolution shall establish the fees charged for duplicate microfilm. In addition to the fee for a certified copy of the record of any birth, there is an additional charge of two dollars for each copy requested, which shall be submitted on a monthly basis to the state treasurer to be deposited in the children's trust fund;
- (3) For filing and indexing a bill of sale, seed grain lien, or thresher's lien, the sum of ten dollars. No fee may be charged for filing any satisfaction or termination of any instrument as prescribed in this subdivision;
- (4) For recording oil, gas, and mineral leases, and other recorded documents relating to mineral or oil and gas lease exploration and development, six dollars per page; and
- (5) Notwithstanding the provisions of subdivision (2) of this section, the board of county commissioners shall fix by resolution the fees to be paid by licensed abstractors of the county or by any person who has passed the written examination established by the Abstractors' Board of Examiners pursuant to § 36-13-11 for uncertified copies of recorded instruments, which fee may not exceed the actual cost to the county for providing such copies.

The register of deeds may not charge a fee for discharging or canceling any personal property lien.

8-1-1. Continuation of existing townships. The civil townships heretofore established shall remain as they are, subject to alteration or division as provided in this chapter.

8-1-2. Division of county into townships--Boundaries--Alterations. The board of county commissioners shall continue to divide the county into as many civil townships as the conveniences of the citizens may require, and shall accurately define the boundaries thereof, and may from time to time make such alterations in the number, names, and boundaries thereof as it may deem proper, by advice of the people as provided for in this chapter.

8-1-3. Maximum size and minimum number of voters in civil township. Any contiguous territory that has at least five resident voters and includes a maximum of four congressional townships, together with any fractional townships that are contiguous with any of the congressional townships, may be organized as a civil township.

- 8-1-4. **Boundary descriptions recorded by county commissioners--Alterations in boundaries.** A description of the boundaries of each new civil township shall be entered at length in the records of the board of county commissioners; also all alterations in the boundaries of all civil townships which may be hereafter made.
- 9-3-2. **Survey and map showing proposed municipal boundaries--Affidavit of surveyor.** Persons making application for the organization of a municipality shall first cause an accurate survey and map to be made of the territory intended to be embraced within the limits of such municipality showing the boundaries and area thereof and the accuracy of which shall be verified by the affidavit of the surveyor.
- 9-3-4. **Survey, map, and census available for public inspection.** Such survey, map, and census when completed and verified shall be left at some convenient place within such territory for a period of not less than thirty days for examination by those having an interest in such application.
- 9-3-5. **Voters' petition as application for incorporation--Number of signers required--Contents of petition--Presentation to county commissioners.** The application for incorporation shall be by a petition verified by the circulator and signed by not less than twenty-five percent of the qualified voters who are either registered voters in the proposed municipality or landowners in the proposed municipality who are also registered voters of this state. The application shall identify the type of government to be formed, the number of trustees, commissioners, or wards in the municipality, the boundaries and area according to the survey, and the resident population according to the census taken. The application shall be presented at the time indicated in the notice of the application or as soon thereafter as the board of county commissioners can receive and consider the application.
- 9-3-22. **Municipality for historical or educational purposes authorized--Recording of plat.** Any domestic corporation chartered under the laws of the State of South Dakota for historical or educational purposes, which qualifies as a tax exempt corporation under the laws of the State of South Dakota, may form and name a municipal corporation upon land owned by said corporation or in which it has a legal or equitable interest, by causing the same to be platted by a registered land surveyor and recording said plat in the office of the register of deeds of the county in which said land is located, in the same manner as other lands are platted and filed therein.
- 9-3-27. **Exemption of historical or educational municipality from public control.** Such corporation shall not be subject to any management or control of the state except as specifically provided by the State Legislature or under the normal police powers of the local governmental subdivision in which it is situated.
- 9-3A-1. **Municipal governing bodies and circuit judges authorized to locate townsites under federal law.** The governing boards of municipal corporations, through their designated officers, or the inhabitants thereof, with the approval of the governing board when authorized by federal law or regulation, or a circuit judge for the county in which an unincorporated town is situated, on petition of fifty percent of the resident freeholders in any unincorporated town, in trust for the several use and benefit of the municipality and the occupants thereof according to their respective interests in accordance with this chapter and federal statutes and regulations of appropriate federal agencies pertaining thereto, are authorized and it shall be their duty to acquire, enter, survey, dedicate, plat, make, and file all petitions, applications, statements, and transcripts necessary to acquire public land available, or made available,

for townsites under the provisions of Title 43 of the United States Code, Chapter 17 thereof, relating to townsites on public lands.

- 9-3A-13. **Appraisalment of lots to be sold.** The Board of Education, municipal authorities, or judge aforesaid shall appoint three competent and suitable freeholders of such municipality a board of appraisers, whose duty it shall be to make a careful inspection and examination of all the unclaimed lots or parcels of land aforesaid; and upon each of such lots or parcels of land they shall affix a reasonable and just valuation, and upon the completion of their appraisalment they shall make and return a full and complete report of their proceedings and appraisalment to the Board of Education, district school board, municipal authorities, or judge of the circuit court, which said report shall contain a full schedule of each and every lot or parcel of land remaining unclaimed, giving an exact description of said lots by their numbers and the numbers of their block, and all parcels of land not so numbered shall be described by metes and boundaries, and upon each lot or parcel of land separately they shall designate the valuation thereof as fixed by their appraisalment. Said appraisalment and report shall be subscribed and sworn to by at least two of said appraisers.
- 9-14-24. **Qualifications and duties of city engineer--Preservation of surveys, plans and estimates.** The city engineer shall be a practical engineer and surveyor. He shall keep his office in some convenient place in the municipality.
The governing body shall by ordinance prescribe his duties and fix his compensation.
All surveys, profiles, plans, or estimates made by the city engineer for the municipality shall be the property of the municipality and shall be carefully preserved in the office of the engineer open to public inspection.
- 9-36-1. **Municipal power to define and improve stream boundaries.** Every municipality shall have power to establish and define the boundary lines of rivers and streams and to improve the same as provided by this chapter.
- 9-36-2. **Resolution to establish stream boundaries within corporate limits.** The governing body of any municipality may establish by resolution the boundary lines of any river or stream within the corporate limits.
- 9-36-3. **Survey and marking of proposed stream boundaries--Filing of plat.** When it is proposed to exercise the power granted by § 9-36-2, the governing body shall cause a survey to be made of the proposed boundary lines and said lines to be marked upon the ground by suitable stakes or monuments, and a plat of such river or stream showing said boundary lines to be filed in the office of the auditor or clerk.
- 9-36-7. **Hearing and final action by governing body on stream boundaries.** At the hearing the governing body shall consider any objections, and when it shall have concluded the hearing it may approve and establish by resolution the proposed boundary lines, or change them in such manner as it may deem proper and establish them as so changed and modified, or may reject the same and order a new plat prepared, in which case the proceeding shall be the same as hereinbefore required. If no objections are filed, the action of the governing body shall be final.

- 9-45-1. **Municipal power over streets, alleys, and public grounds--Types of improvements permitted.** Every municipality shall have power to lay out, establish, open, vacate, alter, widen, extend, improve, repair, grade, gravel, surface, pave, repave, bridge, construct a viaduct upon or over, erect equipment for street lighting in and otherwise improve, and establish and change the grade of roads, streets, alleys, sidewalks, and public grounds, and to regulate the making of openings and connections therein and the erection of lights thereon as provided by this title.
- 9-45-2. **Street names and numbering of houses.** Every municipality shall have power:
(1) To name and change the name of any street, avenue, alley, or other public place;
(2) To regulate the numbering of houses and lots.
- 9-45-3 **Bridges, culverts and sluiceways.** Every municipality shall have power to construct and keep in repair bridges, culverts, and sluiceways.
- 9-45-4. **City power over bridges, viaducts, and tunnels.** Every first or second class municipality shall have power to establish, maintain, and regulate the use of bridges, viaducts, and tunnels.
- 9-45-5. **Crosswalks, curbs, gutters, and drains.** Every municipality shall have power to provide for and regulate crosswalks, curbs, gutters, and drains.
- 9-45-6. **Survey and plat filed on laying out or boundary change in street, alley, or public ground.** When any street, alley, or public ground in a municipality is laid out or its boundaries changed, the governing body shall cause an accurate survey and plat thereof to be made and filed in the office of the finance officer and in the office of the register of deeds of the county. Any municipality may widen an existing street within the platted right-of-way without filing new plats.
- 9-45-7. **Petition of property owners or landowners required for vacation of street, alley, or public ground--Plat--Verification of petition.** No street, alley, or public ground, or part thereof, shall be vacated by the governing body except upon the petition and consent in writing of all of the owners of the property adjoining the part of the street, alley, or public ground to be vacated. Such petition shall set forth the facts and the reasons for such vacation, accompanied by a plat of such street, alley, or public ground proposed to be vacated, and shall be verified by the oath of one or more of the petitioners, provided, in the event all the land subject to the proposed petition to vacate is located on the land of a landowner, the petition of the landowner shall be sufficient.
- 9-45-8. **Publication of notice of petition and hearing on vacation.** Upon the filing of a petition pursuant to § 9-45-7, the governing body, if it deems it expedient that the matter should be proceeded with, shall order the petition to be filed with the auditor or clerk, who shall give notice by publication once each week for at least two successive weeks, to the effect that the petition has been filed and stating in brief its object and that the petition will be heard and considered by the governing body, or a committee appointed by the governing body for that purpose, on a day specified not less than ten days from the last publication of the notice.
- 9-45-9. **Hearing and decision on vacation of street, alley, or public ground--Vote required.** The governing body or such committee at the time and place appointed shall investigate and consider the matter and shall hear the evidence and testimony of the parties interested. The governing body, after hearing the

same or upon the report of such committee favoring the granting of such petition, may declare by resolution passed by a two-thirds vote of all the members, such street, alley, or public ground vacated.

- 9-45-10. **Vacation after nonuser of platted street or alley--Petition of property owners.** In any first or second class municipality whenever any street or alley or any part thereof as designated upon any recorded plat of the same shall not have been used or traveled as a street or alley at any time during the period of twenty years subsequent to the recording of the plat, the same may be vacated by the governing body upon application of the owner or owners of all the real property abutting upon both sides thereof. The application for such vacation shall be made upon the petition of the abutting owner or owners and shall be verified by the affidavit of such owner or owners or his or their agent or attorney.
- 9-45-11. **Notice and hearing on vacation of platted street or alley--Evidence of nonuser.** The governing body shall cause notice of the time and place when a petition under § 9-45-10 will be considered to be published once each week for at least two successive weeks, and such hearing shall take place not less than thirty days from the date of the first publication of such notice. Upon the hearing it shall be sufficient to establish that the street, or alley, or any part thereof to be vacated, has not been used, worked, or traveled as such during twenty years next preceding the time for the meeting and since the recording of the plat thereof.
- 9-45-12. **Publication and filing of resolution vacating platted street or alley.** A resolution of vacation pursuant to § 9-45-9 or 9-45-11 shall be published, to take effect, and be subject to referendum as other resolutions, and upon taking effect a transcript of such resolution duly certified by the auditor or clerk shall be filed for record and duly recorded in the office of the register of deeds of the county.
- 10-10-14. **Petition and special election on township resurvey for tax purposes.** Whenever one-fourth of the freeholders of any township shall petition so to do, the township board of supervisors shall call a special election, to be held in connection with the next regular township election, at which shall be submitted to the voters of the township the question, "Shall this township be resurveyed for taxation purposes?"
- 10-10-15. **Township resurvey after approval by voters--Recording of plat--Acreage used for assessment purposes.** If a majority of the votes cast at such special election upon the question stated in § 10-10-14 shall be in favor of such resurvey, a registered land surveyor shall be employed to survey such township and shall ascertain and designate the true number of acres in each regular subdivision thereof, and he shall make a plat of such township, upon each subdivision of which shall be plainly printed the number of acres contained therein, which plat shall be duly recorded in the office of the county auditor and the original shall be preserved in the office of the township clerk, and thereafter the county director of equalization shall observe the acreage so determined to be in each subdivision of land in assessing the same. Such survey shall be competent for no other purpose.
- 10-10-16. **Private resurvey for tax purposes--Recording of plat--Acreage observed in assessments.** When one or more persons desire a resurvey of any particular tract or tracts at their own expense, he or they may call upon a registered land surveyor to survey such tract or tracts of land, and such surveyor shall ascertain and designate the true number of acres in each regular subdivision thereof, and he shall make a plat of such tract or tracts, upon each subdivision of which shall be plainly

printed the number of acres contained therein, which plat when approved by the board of county commissioners shall be duly recorded in the office of the county auditor and the original shall be preserved in the office of the township clerk and thereafter the county director of equalization shall observe the acreage so determined to be in each subdivision of land in assessing the same. Such survey shall be competent for no other purpose.

- 10-21-20. **Tax payment certificate attached to subdivision plat.** Upon payment in full of all taxes upon any tract of land which has been subdivided, rearranged, or platted into lots, it shall be the duty of the county treasurer of the county in which such tract is situated to attach to the plat of such subdivision his certificate that all taxes which are liens upon the tract so subdivided as shown by the records of his office have been fully paid, for which certificate the treasurer shall receive no fee.
- 10-45-4. **Tax on receipts from business services.** There is hereby imposed a tax at the same rate as that imposed upon sales of tangible personal property in this state upon the gross receipts of any person from the engaging or continuing in the practice of any business in which a service is rendered. Any service as defined by § 10-45-4.1 shall be taxable, unless the service is specifically exempt from the provisions of this chapter.
- 10-45-4.2. **Certain purchases considered for resale purposes.** Services purchased by an engineer, architect, or surveyor on behalf of a client in the performance of a contract for such client shall be considered purchases for resale purposes.
- 10-46-2.4. **Certain purchases considered for resale purposes.** Services purchased by an engineer, architect, or surveyor on behalf of a client in the performance of a contract for such client shall be considered purchases for resale purposes.
- 11-2-38. **Survey and map of territory to be zoned--Affidavit.** Persons making application for the establishment of a special zoning area, or the board if it is proposing the establishment of a special zoning area, shall first obtain an accurate survey and map of the territory intended to be embraced within the limits of the special zoning area, showing the boundaries and area of the proposed special zoning area. The accuracy of the survey and map shall be verified by the affidavit of the surveyor.
- 11-2-40. **Public examination of survey, map, and census.** The survey, map, and census when completed and verified shall be left at some convenient public place, to be designated by the county auditor, within the proposed special zoning area for a period of not less than twenty days for examination by the public.
- 11-3-1. **Townsite or subdivision survey and plat required--Contents.** When any person wishes to lay out a townsite or subdivision, he shall cause the same to be surveyed and platted, which shall particularly describe and set forth all the streets, commons, or public grounds, and all blocks, lots, parcels, or tracts within such third class municipality or subdivision, giving the names, width, courses, boundaries, and extent of all such streets.

11-3-1.1. **Definition of terms.** Terms used in this chapter mean:

- (1) "Governing body," the board of county commissioners, the city council, city commission, or town board;
- (2) "Improvement district," an improvement district constituted under authority of chapter 7- 25A;
- (3) "Municipality," an incorporated city or town;
- (4) "Planning commission," a planning commission constituted under authority of chapters 11-2, 11-4, and 11-6;
- (5) "Plat," a map, or representation on paper, of a piece of land subdivided into lots, parcels, tracts, or blocks, including streets, commons, and public grounds, if any, all drawn to scale;
- (6) "Registered land surveyor," a registered land surveyor, registered in good standing and legally authorized to practice land surveying under the provisions of § 36-18-6;
- (7) "Streets," streets, avenues, boulevards, roads, lanes, alleys, or other ways.

11-3-2. **Corner markers to be planted--Marking on plat.** The owner of the property, by himself or agent, shall at the time of surveying and laying out of the property cause to be planted and firmly fixed in the ground at the corners of each block, lot, parcel or tract, permanent markers constructed and placed in accordance with the rules adopted pursuant to § 43-20-7, referenced to at least two identifiable reference points at each marker as the surveyor shall direct. The point set shall be distinguished on the plat.

11-3-3. **Numbering of lots--Length and angle of lines to be shown on plat--Curves.** All the lots, if included in blocks, shall be numbered in consecutive numbers starting with one, and the blocks shall also be numbered in consecutive numbers or letters, and the precise length and necessary angles of all lot and block lines, and the precise length and bearing angles of all subdivision boundary lines shall be stated on the plat. All lots not included in blocks, and all parcels or tracts shall in like manner be surveyed and numbered or lettered consecutively and the precise length and bearing angle of all lines and the acreage of each lot, parcel, or tract and the total acreage within the subdivision boundaries shall be stated on the plat together with any streets which shall divide or border the same. The plat shall include the length, central angle, and any other data necessary to properly survey any curve included on the plat.

11-3-4. **Certification, acknowledgment and recording of plats.** Every plat provided for in this chapter shall be certified by the registered land surveyor, who shall attach an official seal thereto as specified in § 36-18A-45 as being in all respects correct. The landowner, or the landowner's duly authorized agent, shall certify that the plat has been made at the request and under the direction of the landowner for the purposes indicated therein, that he or she is the owner of all the land included therein, and that development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations. The landowner certification shall be acknowledged before some officer authorized to take the acknowledgment of deeds and, with the certificate of such acknowledgment, shall be endorsed on or attached to the plat and be recorded as a part thereof in the office of the register of deeds of the proper county.

No such plat may be recorded until all the provisions of this section have been fully complied with, and upon certification and recordation shall be used as the legal description as provided by § 43-21-4 for all purposes, including constructive notice.

- 11-3-6. **Municipal approval for adjoining addition or subdivision--Conformity to existing plats and regulations--Taxes and special assessments--Certification--Appeal of denial.** The provisions of this chapter apply to every addition to, or subdivision within, any county, municipality, or unincorporated town. If the land or any part of the land included in any addition or subdivision is within, adjoining, or contiguous to the boundaries of any municipality, the plat, before being recorded, shall be submitted to the governing body or, if applicable, the planning director of the municipality. If it appears that the system of streets set forth therein conforms to the system of streets of the existing plats of the municipality, that all provisions of any subdivision regulations have been complied with, that all taxes and special assessments upon the tract or subdivision have been fully paid, and that such plat and the survey thereof have been executed according to law, the governing body shall, by resolution, approve the plat. The governing body may by resolution designate an administrative official of the municipality to approve plats in lieu of approval by the governing body. The auditor or finance officer shall endorse on the face of the plat a copy of the resolution or the designated administrative official's approval and certify to the same. No plat of any such addition or subdivision so situated may be recorded unless the plat bears on its face a copy of the resolution or approval and certificate of the auditor or finance officer. If the designated administrative official denies the plat request, the person requesting the plat may appeal to the governing body.
- 11-3-7. **Naming of additions and subdivisions.** Every addition or subdivision within a county, municipality or unincorporated town shall be named as follows, to wit: ____ Addition (or Subdivision) to the municipality (or unincorporated town) of ____ or ____ Addition (or Subdivision) in the ____ quarter, Section ____, T ____, R ____, ____ of the ____ P.M. in the county of ____, except that Sections ____, T ____, R ____, ____ of the P.M. shall not be required when such addition or subdivision is located within the boundaries of an incorporated municipality. No plat which does not comply with this section shall be entitled to record or be recorded.
- 11-3-8. **County commissioners' approval required for plats outside municipalities--Resolution and auditor's certificate--Appeal of denial.** If any person wishes to plat any lands lying outside the boundaries of a municipality, the person shall be governed by this chapter. Before recording the person's plat in accordance with § 11-3-6, the person shall submit the plat to the board of county commissioners of the county wherein such lands are situated. The approval of the board of county commissioners pursuant to this section may not be required for a plat as specified in § 11-6-26. The board of county commissioners shall examine the same. The board of county commissioners shall by resolution, approve the plat, and the auditor shall endorse on the plat a copy of the resolution and certify to the same if it appears that the system of streets conforms to the system of streets of existing plats and section lines of the county, that adequate provision is made for access to adjacent unplatted lands by public dedication or section line when physically accessible, that all provisions of any subdivision regulations of the county have been complied with, that all taxes and special assessments upon the tract or subdivision have been fully paid and that the plat and the survey of the land have been lawfully executed. The board of county commissioners may by resolution designate an administrative official of the county to approve plats in lieu of approval by the board of county commissioners. No plat of any addition or subdivision, so situated, is entitled to record or may be

recorded unless the plat bears a copy of the resolution or approval and certificate of the auditor. If the designated administrative official denies the plat request, the person requesting the plat may appeal to the board of county commissioners.

- 11-3-8.1. **Protection of water from subdivision sewage.** No board of county commissioners may accept a plat for any new subdivision or a change in any plat for an enlargement of any existing subdivision which is adjacent to or includes any of the waters of the state within such county unless such plat includes provisions that are binding upon the developer of such subdivision which protects such body of water from pollution from sewage from such subdivision.
- 11-3-8.2. **Liability of developer for sewage pollution.** The developer of any plat approved pursuant to § 11-3-8.1 shall be liable for the execution of the provisions required by § 11-3-8.1 to protect such water from pollution and shall be liable for any pollution that occurs for failure to execute such provisions.
- 11-3-9. **Director of equalization to receive copy of plat--Treasurer's certificate of tax payment to be attached.** Plats specified in §§ 11-3-6 and 11-3-8 shall not be entitled to record or be recorded unless the same bear a copy of the certificate of the county director of equalization that he has received a copy of such plat. There shall also be endorsed thereon or attached to every plat provided for in this chapter the certificate of the county treasurer that all taxes which are liens upon any land included in such plat, as shown by the records of his office, have been fully paid. No such plat shall be recorded until all the provisions of this section have been fully complied with.
- 11-3-10. **Sizes of plats filed with register--Materials used.** Each plat filed with the register of deeds shall be fifteen by twenty-six inches, eleven by seventeen inches, or eight and one-half by fourteen inches. Each plat shall be drawn on drafting linen, matte film, or mylar, with waterproof black ink and each signature shall be made with permanent ink. No other plat may be recorded.
- 11-3-11. **Register's recording fee--Acceptance by governing body required.** The register of deeds of the county recording any plat shall receive the sum of ten dollars for the first page and five dollars for each additional page. The plat shall first be examined and accepted by the authorized governing body.
- 11-3-12. **Recorded plat as conveyance of dedications and grants marked on plat--General warranty--Use of land intended for streets and other public uses--Opening, improvement or maintenance not required.** When the plat or map shall have been made out, certified, acknowledged, and recorded as provided in this chapter, every donation or grant to the public, or any individual, religious society, corporation, or body politic, marked or noted as such on such plat or map, shall be deemed a sufficient conveyance to vest the fee simple title of all such parcel or parcels of land as are therein expressed, and shall be considered to all intents and purposes a general warranty against the donor, his heirs, and representatives, to the donee or grantee, his heirs or representatives, for the uses and purposes therein expressed and intended, and no other use and purpose whatever. The land intended to be used for the streets, alleys, ways, commons, or other public uses shall be held in trust to and for the uses and purposes expressed or intended. No governing body shall be required to open, improve, or maintain any such dedicated streets, alleys, ways, commons, or other public ground solely by virtue of having approved a plat or having partially accepted any such dedication, donation or grant.

11-3-12.1. **Approval of access to street or highway prerequisite to filing plat.** The owner of any parcel of land proposing to develop such land for residential or commercial purposes shall obtain written approval of the proposed access to an abutting highway or street from the appropriate highway or street authority. The approval shall be obtained prior to filing of the plat in accordance with this chapter and may not replace the need for any permits required by law.

11-3-16. **Vacation of plat before sale of lots--Recording of instrument--Vacation by joinder of owners of lots sold.** Any plat of any municipality or improvement district, or addition thereto, or any subdivision of land therein, may be vacated by the proprietor at any time before the sale of any lots therein, by a written instrument declaring the plat to be vacated, duly executed, acknowledged, or proved, and recorded in the office with the plat to be vacated. The executing and recording of such writing shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, commons, and public grounds laid out as described in such plat. The register of deeds shall notify the affected municipality or improvement district of the vacation within ten days of filing for a vacation of a plat.

If any lots have been sold, the plat may be vacated by all the owners of lots in such plat joining in the execution of the writing aforesaid.

11-3-17. **Vacation of part of plat--Closing of public highways not authorized--Inclosure of public grounds adjoining lots.** Any part of a plat may be vacated under the provisions and subject to the conditions of this chapter if such does not abridge or destroy any of the rights and privileges of other proprietors in such plat.

Nothing contained in this section shall authorize the closing or obstructing of any public highways laid out according to law.

When any part of a plat shall be vacated as aforesaid, the proprietors of the lots so vacated may inclose the streets, alleys, and public grounds adjoining such lots in equal proportion.

11-3-18. **Register of deeds to mark vacated plat--Reference to instrument of vacation.** The register of deeds in whose office the plats aforesaid are recorded shall write in plain, legible letters across that part of the plat so vacated the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.

11-3-19. **Validation of prior vacations by instrument--Deadline for enforcing rights--Notice of pendency.** Any proceedings conducted before January 1, 1993, for the vacation of any plat, or any portion or part thereof, which plat was laid out pursuant to this chapter, whether the land included in the plat, or any portion or part thereof, is or was, at the time of the proceedings for vacation of the plat, or any portion or part thereof, within or without the boundaries of a municipality or improvement district, and which plat, or any portion or part thereof has, before January 1, 1993, in the proceedings, been vacated in accordance with § 11-3-16 or 11-3-17 is hereby declared to be, and to have been, a valid vacation of the plat, or any portion or part thereof, and the proprietors of the lots so vacated may inclose the streets, alleyways, common easements, and public grounds adjoining such vacated lots, and all public rights thereto divested.

If any person has any vested right in any property by reason of any plat vacation referred to in this section, if no action or proceeding to enforce such right was commenced prior to July 1, 1995, such right shall be forever barred. No action or proceeding so brought is of any force or effect, or maintainable in any court of this state, unless prior to July 1, 1995, there was recorded in the office of the register of deeds of the county in which the real property affected is situated, a notice of the pendency of such action, in accordance with the provisions of chapter 15-10.

- 11-3-20. **General procedure for vacation of plats--Supplemental to vacation by instrument.** Sections 11-3-20.1, 11-3-20.2, 11-3-21.1, 11-3-22.1, 11-3-23.1, and 11-3-24.1, are prescribed as the procedures to be followed for the vacation of part or all of any recorded plat of the State of South Dakota. Said sections are intended as supplemental to § 11-3-16 and only direct the procedure to be followed where and when the facts and conditions, at the time of vacation, are other than as specifically set forth in § 11-3-16.
- 11-3-20.1. **Vacation procedure within planning commission jurisdiction.** If a plat sought to be vacated lies within the platting jurisdiction of a municipality or county which has in existence a statutory planning commission, said plat may be vacated pursuant to the procedures outlined in §§ 11-3-20.2 to 11-3-20.4, inclusive.
- 11-3-20.2. **New plat vacating prior plats--References to prior plats.** The new plat shall specifically describe all previous plats sought to be vacated including the book and page or document number of all existing plats in the register of deeds office. The new plat shall specifically state that all previous plats so listed are to be vacated in whole or in part. The new plat shall comply with the public highway provisions of § 11-3-17.
- 11-3-20.3. **Information required for vacation and replatting.** Upon receipt of a plat, as described in § 11-3-20.2, by the planning commission of any municipality or county, the planning commission shall require that the person seeking the vacation and replat provide the following information:
- (1) The names and addresses of the record owner of the plat or part thereof sought to be vacated and the names and addresses of the record owners of property adjacent to or solely served by any streets, if any, included in the plat to be vacated,
 - (2) The legal description of the same,
 - (3) The names of the legal voters, residing upon the same,
 - (4) The character and use of the same,
 - (5) A description of any public highway located there,
 - (6) Any other facts pertinent to the application, including any facts necessary by municipal or county ordinance for the recordation of any plat.
- 11-3-20.4. **Recording of new plat on approval--Vacation of prior plats.** Upon approval of the final plat, submitted under the provisions of § 11-3-20.1 or 11-3-20.2, by the governing body of the municipality or county, said plat shall be filed in the office of the register of deeds of the county wherein the property is located. The register of deeds shall record said plat and shall vacate all previous plats in the same manner as prescribed by § 11-3-18.

- 11-3-21.1. **Filing of petition for vacation of plat--Contents.** Any person interested in the vacation of part or all of any recorded plat that lies outside a municipality may file a petition in the office of the county auditor for the county where the platted property is situated containing:
- (1) The names and addresses of the record owner of the plat or part thereof sought to be vacated;
 - (2) The legal description of the plat;
 - (3) The names of the legal voters residing upon the plat;
 - (4) The character and use of the plat;
 - (5) A description of any public highway located there;
 - (6) Any other facts pertinent to the application.
- 11-3-22.1. **Setting of time and place for hearing on petition--Notice by publication.** The board of county commissioners shall set a time and place for a hearing on a petition filed pursuant to § 11- 3-21.1. The hearing shall be held within thirty days of when the petition is filed. The board shall hold at least one public hearing. Notice of the time and place of the hearing shall be given once at least ten days in advance by publication in a legal newspaper of the county.
- 11-3-23.1. **Grant of petition by board of county commissioners--Payment of property taxes.** If after the hearing required by § 11-3-22.1, the board of county commissioners determines that the granting of the petition will not abridge or destroy any of the rights and privileges of other proprietors of such plat and will not authorize the closing or obstruction of any public highway laid out according to law, it may vacate the plat specified in the petition. All property taxes on such plat shall be paid before it may be vacated.
- 11-3-24.1. **Filing and recording of decision.** The board of county commissioners shall file a certified copy of their decision in the office of the register of deeds. The register of deeds shall record such decision pursuant to § 11-3-18.
- 11-3-26. **Replating after vacation of plat.** The owner of any land within any plat vacated pursuant to this chapter may cause the same to be again platted in the manner provided for the original platting of townsites, additions, and subdivisions.
- 11-4-4. **Notice and hearing of proposed zoning ordinance required.** The governing body may adopt a zoning ordinance. Before adoption or renewal of the ordinance, the council shall hold at least one public hearing. Notice of the time and place of the hearing shall be given once at least ten days in advance by publication in a legal newspaper of the municipality. Any interested person shall be given a full, fair, and complete opportunity to be heard at the hearing, and the governing body may refuse or adopt the ordinance, with or without amendment.
- 11-6-14. **Preparation of comprehensive plan for municipal development--Contents of plan-- Changes or additions.** It shall be a function and duty of the planning commission to propose a plan for the physical development of the municipality, including any areas outside the boundary and within its planning jurisdiction which, in the commission's judgment bear relation to the planning of the municipality. The comprehensive plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the commission's recommendations for the said physical

development and may include, among other things, the general location, character, and extent of streets, bridges, viaducts, parks, parkways, waterways and waterfront developments, playgrounds, airports, and other public ways, grounds, places and spaces; the general location of public schools, of public buildings and other public property; a zoning ordinance for the regulation of the height, area, bulk, location, and use of private and public structures and premises, and of population density as may be provided by law may be included as an adjunct to the comprehensive plan; the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, heat, sanitation, transportation, communication, and other purposes; the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, or change of use of any of the foregoing public ways, grounds, places, spaces, buildings, properties, utilities, or terminals; the general location, character, layout, and extent of community centers and neighborhood units, and the general character, extent, and layout of the replanning of blighted districts and slum areas. The commission may from time to time propose amendments, extensions, or additions to the plan or carry any of the subject matter into greater detail.

- 11-6-26. **Subdivision plats to be approved after major street plan adopted--Extraterritorial jurisdiction of municipality--Recommendations by planning commission.** After the city council of any municipality has adopted a comprehensive plan that includes at least a major street plan or has progressed in its comprehensive planning to the stage of making and adopting a major street plan, and has filed a certified copy of the major street plan in the office of the register of deeds of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality, or of land within three miles of its corporate limits and not located in any other municipality, may be filed or recorded unless the plat has the recommendation of the city planning and zoning commission and the approval of the city council. As an alternative, the plat may be reviewed and approved in accordance with § 11-3-6. This provision applies to land within three miles of the corporate limits of the municipality and not located in any other municipality only if the comprehensive plan or major street plan includes such land. However, if such extra municipal land lies within three miles of more than one first or second class municipality, the jurisdiction of each municipality terminates at a boundary line equidistant from the respective corporate limits of the municipalities, unless otherwise agreed to by a majority vote of the governing body of each such municipality. The plats shall, after report and recommendations of the commission are made and filed, be approved or disapproved by the city council or reviewed and approved in accordance with § 11-3-6. The commission shall make its recommendation to the council within sixty days of submission.
- 11-6-31. **Subdivision plats or replats to be submitted to planning commission-- Recommendation to council.** Any subdivision of land containing two or more lots, no matter how described, shall be platted or replatted, and must be submitted to the planning commission for their consideration and recommendation to the council for approval or rejection or reviewed and approved in accordance with § 11-3-6.
- 11-6-32. **Time allowed for approval or disapproval of plat--Plat deemed approved in absence of action--Ground of disapproval stated.** The plat shall be approved or disapproved within ninety days after submission thereof; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the council on demand; provided, however, that the applicant for the

approval may waive this requirement and consent to the extension of such period. The ground of disapproval of any plat shall be stated upon the records of the council.

- 11-6-33. **Dedication not accepted by approval of plat.** The approval of a plat by the council shall not be deemed to constitute or effect an acceptance by the municipality or public of the dedication of any street or other ground shown on the plat.
- 11-6-34. **Register of deeds not to record plat unless approved by city council or other designated official.** When any map, plan, plat, or replat is tendered for filing in the office of the register of deeds, the register of deeds or deputy shall determine whether such proposed map, plan, plat, or replat is or is not subject to the provisions of this chapter and whether the endorsements required by this chapter appear thereon. No register of deeds or deputy may accept for record, or record, any such map, plan, plat, or replat unless and until it has been approved by the city council of such municipality as required by § 11-6-26 or reviewed and approved in accordance with § 11-3- 6.
- 11-6-35. **Sale, transfer, or negotiation to sell lots before approval and recording of plat as petty offense--Injunction.** It is a petty offense for the owner or agent of the owner of the land located within the platting jurisdiction of any municipality as described in § 11-6-26, knowingly or with intent to defraud, to transfer or sell, to agree to sell, or to negotiate to sell such land by reference to or exhibition of or by other use of a subdivision of such land before the plat has been approved by the council and recorded in the office of the register of deeds, for each lot so transferred or sold or agreed or negotiated to be sold. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties. A municipality may enjoin such transfer or sale or agreement by action for injunction.
- 11-6-36. **Approved plat required for street or utility work after attachment of platting jurisdiction.** From and after the time when the platting jurisdiction of any municipality has attached by virtue of the adoption of a major street plan as provided in § 11-6-26, the municipality or other public authority may not, except as provided by § 11-6-37, accept, lay out, open, improve, grade, pave, or light any street or lay or authorize the laying of water mains, sewers, connections, or other facilities or utilities in any street within the municipality unless such street has been accepted or opened as, or has otherwise received the legal status of, a public street prior to the adoption of a comprehensive plan, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the council or on a street plat made by the planning commission and adopted by the council or reviewed and approved in accordance with § 11-3-6.
- 11-6-37. **Street construction specifically authorized by ordinance--Vote required to overrule planning commission.** The council, or, in the case of a street outside of the municipality, the governing body of such outside territory, may locate and construct or may accept any other street if the ordinance or other measure for such location and construction or for such acceptance be first submitted to the planning commission for its consideration, and, if disapproved by the commission, be passed by not less than two-thirds of the entire membership of the city council or said governing body. A street approval by the commission upon such submission, or constructed or accepted by a two-thirds vote after disapproval by the commission, has the status of an approved street as fully as though it had been originally shown on a subdivision plat approved by the council or on a plat made by the commission and adopted by the council or reviewed and approved in accordance with § 11-3- 6.

- 11-6-38. **Buildings prohibited on unapproved streets--Injunction action available.** From and after the time when the platting jurisdiction of any municipality has attached by reason of the adoption of a major street plan as provided in § 11-6-26, no building permit may be issued for or no building may be erected on any lot within the territorial jurisdiction of the commission and council as provided in § 11-6-26, unless the street giving access to the lot upon which the building is proposed to be placed is accepted as opened as, or has otherwise received the legal status of, a public street prior to that time, or unless such street corresponds in its location and lines with a street shown on a recorded subdivision plat approved by the council or on a street plat made by the commission and adopted by the council or with a street located or accepted by the council, or, in the case of territory outside of the municipal corporation, by the governing body thereof, after submission to the commission, and, in case of the commission's disapproval, by the favorable vote required in § 11-6- 37. Any building erected in violation of this section is an unlawful structure, and the municipality or governing body may bring action to enjoin such erection or cause it to be vacated or removed.
- 13-6-3.2. **Record of proceedings kept by county commissioners--Plats transmitted to secretary.** It shall be the duty of the board of county commissioners to preserve and maintain a complete record of all proceedings at the county level relating to the establishment, division, consolidation, or any change of boundaries of school districts, and promptly transmit to the secretary of the Department of Education a correct plat showing any changes in the boundaries of any school district in accordance with the instructions of the secretary of the Department of Education.
- 15-3-1. **Seizin or possession within twenty years required for action to recover real property or possession.** No action for the recovery of real property, or for the recovery of the possession thereof, shall be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor was seized or possessed of the premises in question within twenty years before the commencement of such action.
- 15-3-2. **Seizin or possession within twenty years required for cause of action or defense based on title to real property.** No cause of action or defense to an action founded upon the title to real property or to rents or services out of the same, shall be effectual unless it appear that the person prosecuting the action or making the defense, or under whose title the action is prosecuted or the defense is made, or the ancestor, predecessor, or grantor of such person, was seized or possessed of the premises in question within twenty years before the committing of the act in respect to which such action is prosecuted or defense made.
- 15-3-3. **Limitation of actions based on entry on real estate.** No entry upon real estate shall be deemed sufficient or valid as a claim unless an action be commenced thereupon within one year after the making of such entry, and within twenty years from the time when the right to make such entry descended or accrued.

- 15-3-4. **Limitation of actions by state based on title to real property.** This state will not sue any person for or in respect to any real property, or the issues or profits thereof, by reason of the right or title of the state to the same, unless:
- (1) Such right or title shall have accrued within forty years before any action or other proceeding for the same shall be commenced; or unless
 - (2) The state, or those from whom it claims, shall have received the rents and profits of such real property, or of some part thereof, within the space of forty years.
- 15-3-5. **Grantee of state limited by limitations applicable to state.** No action shall be brought for, or in respect to real property, by any person claiming by virtue of grants from the state unless the same might have been commenced as specified in § 15-3-4, in case such grant had not been issued or made.
- 15-3-6. **Limitation of actions to recover real property after invalidation of state grant.** When grants of real property shall have been issued or made by the state and the same shall be declared void by the determination of a competent court, rendered upon an allegation of a fraudulent suggestion, or concealment, or forfeiture, or mistake, or ignorance of a material fact, or wrongful detaining, or defective title, an action for the recovery of the premises so conveyed may be brought either by the state or by any subsequent grantee of the same premises, his heirs or assigns, within twenty years after such determination was made, but not after that period.
- 15-3-7. **Possession of real property presumed from legal title--Occupation by another presumed subordinate to legal title.** In every action for the recovery of real property or the possession thereof, the person establishing a legal title to the premises shall be presumed to have been possessed thereof within the time required by law; and the occupation of such premises by any other person shall be deemed to have been under and in subordination to the legal title, unless it appear that such premises have been held and possessed adversely to such legal title for twenty years before the commencement of such action.
- 15-3-8. **Tenant's possession deemed that of landlord--Continuation after termination of tenancy.** Whenever the relation of landlord and tenant shall have existed between any persons the possession of the tenant shall be deemed the possession of the landlord until the expiration of twenty years from the termination of the tenancy; or, where there has been no written lease, until the expiration of twenty years from the time of the last payment of rent, notwithstanding that such tenant may have acquired another title, or may have claimed to hold adversely to his landlord. Such presumptions shall not be made after the periods herein limited.
- 15-3-9. **Possessory right not impaired by descent on death of person in possession.** The right of a person to the possession of any real property shall not be impaired or affected by a descent being cast in consequence of the death of a person in possession of such property.
- 15-3-10. **Twenty years' possession under written instrument or judgment deemed adverse possession--Tract divided into lots.** Whenever it shall appear that the occupant, or those under whom he claims, entered into the possession of premises under claim of title, exclusive of any other right, founding such claim upon a written instrument as being a conveyance of the premises in question, or upon the

decree or judgment of a competent court, and that there has been a continued occupation and possession of the premises included in such instrument, decree, or judgment, or of some part of such premises under such claim for twenty years, the premises so included shall be deemed to have been held adversely; except that where the premises so included consist of a tract divided into lots the possession of one lot shall not be deemed a possession of any other lot of the same tract.

- 15-3-11. **Acts constituting adverse possession based on written instrument or judgment.** For the purpose of constituting an adverse possession by any person claiming a title founded upon a written instrument, or a judgment, or a decree, land shall be deemed to have been possessed and occupied in the following cases:
- (1) Where it has been usually cultivated or improved;
 - (2) Where it has been protected by a substantial inclosure;
 - (3) Where, although not inclosed, it has been used for the supply of fuel or of fencing timber for the purposes of husbandry, or the ordinary use of the occupant; or
 - (4) Where a known farm or a single lot has been partly improved, the portion of such farm or lot that may have been left not cleared or not inclosed according to the usual course and custom of the adjoining country shall be deemed to have been occupied for the same length of time as the part improved and cultivated.
- 15-3-12. **Actual occupation required for adverse possession under claim other than written instrument or judgment.** Where it shall appear that there has been an actual continued occupation of premises under a claim of title exclusive of any other right, but not founded upon a written instrument, or a judgment, or decree, the premises so actually occupied, and no other, shall be deemed to have been held adversely.
- 15-3-13. **Acts constituting adverse possession under claim other than written instrument or judgment.** For the purpose of constituting an adverse possession by a person claiming title not founded upon a written instrument, or judgment, or decree, land shall be deemed to have been possessed and occupied in the following cases only:
- (1) Where it has been protected by a substantial inclosure; or
 - (2) Where it has been usually cultivated or improved.
- 15-3-14. **Tolling of statute during disability--Time for commencement of action after removal of disability.** If a person entitled to commence any action for the recovery of real property, or to make an entry or defense founded on the title to real property, or to rents or service out of the same, be, at the time such title shall first descend or accrue, either:
- (1) Within the age of twenty-one years;
 - (2) Mentally ill; or
 - (3) Imprisoned on a criminal charge, or in execution upon conviction of a criminal offense for a term less than for life;

the time during which such disability shall continue shall not be deemed any portion of the time in this chapter limited for the commencement of such action, or the making of such entry or defense;

but such action may be commenced, or entry or defense made after the period of twenty years, and within ten years after the disability shall cease, or after the death of the person entitled who shall die under such disability, but such action shall not be commenced, or entry, or defense made after that period.

- 15-3-15. **Vesting of title by possession and payment of taxes for ten years under color of title-- Continuation of possession and tax payment by successor in interest.** Every person in the actual possession of lands or tenements under claim and color of title made in good faith, and who shall have continued for ten successive years in such possession, and shall also during said time have paid all taxes legally assessed on such lands or tenements, shall be held and adjudged to be the legal owner of said lands or tenements to the extent and according to the purport of his paper title. All persons holding under such possession by purchase, devise, or descent before said ten years shall have expired, and who shall have continued such possession and payment of taxes as aforesaid so as to complete said term of ten years of such possession and payment of taxes, shall be entitled to the benefit of this section.
- 15-3-16. **Vesting of title to unoccupied land by payment of taxes for ten years under color of title-- Continuation of tax payment by successor in interest.** Whenever a person having a color of title made in good faith to vacant and unoccupied land, shall have paid all taxes legally assessed thereon for ten successive years, he shall be deemed and adjudged to be the legal owner of said vacant and unoccupied land to the extent and according to the purport of his paper title. All persons holding under such taxpayer by purchase, devise, or descent before said ten years shall have expired, and who shall have continued to pay taxes as aforesaid so as to complete the payment of taxes for said term of ten years, shall be entitled to the benefit of this section.
- 15-3-17. **Tax payment vesting provisions not applicable to public lands or religious or charitable societies.** The provisions of §§ 15-3-15 and 15-3-16 shall not extend to school lands or to lands belonging to the United States or this state, or to religious or charitable societies, or to lands held for a public purpose.
- 15-3-18. **Tax payment vesting provisions not applicable against person under disability-- Time for commencement of action after removal of disability.** Sections 15-3-15 and 15-3-16 shall not extend to lands or tenements to which there is an adverse title, the holder of which is, at the expiration of said ten years, under the age of twenty-one years, mentally ill, or imprisoned for a criminal offense for a term less than life; provided, such person shall within three years after the removal of such disability begin an action to recover possession of such lands, or to establish his title thereto, and prosecute the same to judgment with due diligence.
- 15-3-19. **Time allowed for assertion of irregularities in notice involving real property-- Persons under disability.** Whenever any notice required by law to be served in any judicial or other proceeding authorized by law affecting the title to any real property in this state upon any person having or claiming to have any title to, interest in, or lien upon such real property heretofore has been or hereafter shall be personally served upon such person either within this state or elsewhere, and proof of such service made and filed, notwithstanding such notice may have been or may be defective in form, if it described or shall describe the real property intended to be affected with sufficient certainty to inform the person so served of the tract intended, and to enable a person of ordinary

intelligence to understand the object and effect of the notice, no objection to the sufficiency or form of the notice, or to the form of proof of service shall be considered in any action or proceeding involving the title to the real property affected thereby unless the objection be properly made and advantage sought to be taken of it within three years from the personal service of the same. Nothing herein contained shall operate to extend the time for doing any of the acts herein mentioned where the failure to make such objection would, independently of this section, create an estoppel to such objection. Any person under disability at the time of the service of such notice may make objection to the regularity or sufficiency of the same at any time within three years from the removal of the disability.

- 21-40-1. **Action against adjoining landowner to determine boundary.** An action may be brought in the circuit court by any person owning land or any interest therein against the owner or persons interested in adjoining land to have the boundary lines thereof established.
- 21-40-2. **Action to determine boundaries of tracts dependent on common landmark.** When the boundary lines of two or more tracts depend upon any common point, line, or landmark, an action may be brought by the owner or any person interested in any of such tracts, against the owners or persons interested in the other tracts, to have all of such boundary lines established.
- 21-40-3. **Addition of parties defendant for more complete settlement.** When in any action under this chapter it appears to the court that any owner, lien holder, or person interested in any of the tracts involved ought, for a full settlement and adjudication of all the questions involved, to be made a party, the court shall stay the proceedings in said action and order that they be made parties defendant and be served with the summons therein.
- 21-40-4. **Practice and procedural rules.** Actions to determine boundary lines shall be governed by the general rules relating to pleadings, practice, and procedure in civil actions as near as may be, except as otherwise provided in this chapter.
- 21-40-5. **Determination of adverse claims--Survey ordered.** The court shall determine any adverse claims in respect to any portion of the land involved which it may be necessary to determine for a complete settlement of the boundary lines and the marking thereof and may order a survey to be made by a competent surveyor of such boundary lines between such lands.
- 21-40-6. **Judgment referring to permanent landmarks--Judicial survey--Specifications for judicial landmark.** Upon the trial of an action under this chapter, the court shall make its judgment locating and defining the boundary lines involved by reference to well-known, permanent landmarks, if any there be, or if none, then to such landmarks as may be placed or established for that purpose by the surveyor engaged in such work, and if it shall be deemed for the interest of the parties after the entry of judgment, the court may order a competent surveyor to establish and mark such boundaries by means of a stone or concrete block containing at least one cubic foot and planted in the earth at least eighteen inches deep from the top thereof at the corners or boundaries of such lands, or if it is impossible or impracticable to place the same at the true and exact points where the same would otherwise be placed, then at the next nearest convenient point thereto with the course and distance from the true and exact point plainly marked thereon, and in accordance with the order or judgment and from which future surveys of the land and boundaries embraced therein and adjoining lands and

boundaries shall be made. Such landmarks so established, located, and planted in the earth shall have distinctly cut and marked thereon the words, judicial landmark or J. L., with the date that it was so placed and the name or initial letters of the name of the surveyor who placed the same.

21-40-7. Filing and recording of report on survey and landmarks--Incorporation of report in judgment.

The surveyor shall make a full and complete report of his action to the court and therein accurately describe the landmarks so placed and define their location as nearly as practicable. Such report shall be filed with the clerk as one of the records of the action and a certified copy of the same may be filed in the office of the register of deeds of any county in which any of the land affected is located and thereafter shall be constructive notice of its contents. The judgment shall contain a recital approving such report in whole or in part and may adopt said report as a part of the judgment by incorporating it therein or attaching it as an exhibit thereto.

21-40-8. Costs and expenses of survey. The court shall make such order respecting the costs and disbursements including the costs and expenses of a survey thereof and of the establishing of any markings of such boundaries between the parties to such action as it shall deem just.

31-2-22. Advice at county's request on maintaining its highway system. The department shall, at the request of any county, give advice regarding difficult construction questions, pass upon the feasibility of any plan of road construction, improvement, and repair, and in general render any reasonable service to aid the county in the construction, maintenance, or repair of its county highway system.

31-3-1. Dedication to public by continuous use, work, and repair of road--Width--Obtaining right-of-way. Whenever any road shall have been used, worked, and kept in repair as a public highway continuously for twenty years, the same shall be deemed to have been legally located or dedicated to the public, and shall be and remain a public highway until changed or vacated in some manner provided by law.

Such highway shall be sixty-six feet wide and shall be taken equally from each side of the roadbed center line. Nothing herein contained may prevent the highway authority charged with the construction, reconstruction, or repair of any public highway from purchasing or condemning right-of-way for widening the highway to more than sixty-six feet or from purchasing or condemning more right-of-way on one side of the roadbed center line than on the other, provided they deem it necessary so to do in order to provide a better highway, to avoid destruction of trees or valuable buildings or to avoid unsuitable terrain.

31-3-2. Public highway not established by mere use. Notwithstanding § 31-3-1, the mere use by the public of any route of travel along or across public or private land, or the right-of-way of any railroad company for any period, shall not operate to establish a public highway and no right shall inure to the public or any person by such use thereof.

31-3-3. Rights of settlers on public lands. In all applications for the location, change, or vacation of any public highway, actual settlers upon any public lands in any county in this state shall have and possess all rights in this chapter granted to freeholders.

- 31-3-4. **Location on boundary line--Half of highway taken from each side.** When a public highway is laid out and located upon a line dividing the land of two individuals, but not on the section line, one-half of the same must be taken, if practicable, from the land of each, provided whenever the taking of more land from one individual than the other will result in better alignment, less costly construction, or will save valuable trees or buildings from destruction, the highway may be laid out and the right-of-way taken unequally from said owners.
- 31-3-5. **Damages assessed--Payment before use of road.** No public highway shall be opened, worked, or used until the damages assessed therefor shall be paid to the persons entitled thereto or deposited in the county treasury for their use, or they shall give their consent thereto in writing filed with the county auditor.
- 31-3-6. **Power of county commissioners and township supervisors to vacate, change, or locate highway on petition--Contents of petition.** Upon receiving the petition of two or more voters of an organized civil township or of the number of voters equal to or greater than one percent of the ballots cast for the last gubernatorial election in the affected county, the board of supervisors of the township or the board of county commissioners wherein the highway is located or is proposed to be located may, except as provided in §§ 31-3-12 and 31-3-44, vacate, change, or locate any highway located or to be used within the township or county, if the public interest will be better served by the proposed vacating, changing, or locating of the highway. The petition of the voters shall set forth the beginning, course, and termination of the highway proposed to be located, changed, or vacated, together with the names of the owners of the land through which the highway may pass.
- 31-3-6.1. **Exception--Access to public lands.** Notwithstanding any other provisions of this chapter, no county or township may vacate a highway which provides access to public lands. For the purposes of this section, public land does not include any school and public lands.
- 31-3-7. **Public hearing--Notice--Affirmative resolution of board--Order.** In case of the filing of a petition described in § 31-3-6, the board shall, after giving notice of a public hearing, hold a public hearing called for the purpose of receiving public testimony about the action proposed by the petition. The board shall give notice of the public hearing by publication in the official newspaper of said township, if any, otherwise in the nearest legal newspaper of said county, once each week for at least two consecutive weeks. The notice of the public hearing shall state the purpose, date, time, and location of the hearing and a legal description of the location of the highway and the action proposed by the petition and how information, opinions, and arguments may be presented by any person unable to attend the hearing. The board shall, by resolution, determine whether the public interest will be better served by such proposed vacating, changing, or locating of the highway in question, and upon resolution in the affirmative, shall make its order that such highway be vacated, changed, or located.
- 31-3-8. **Resolution and order of board--Description of land--Map maintained by county auditor.** The resolution and order provided for in § 31-3-7 shall describe the highway vacated, changed, or located in general language by description of the land across which the highway extends, or by landmarks or survey designate the particular highway intended. The county auditor shall prepare and maintain a current map showing the course and location of all county highways within or on the border of the county. The county auditor shall, within thirty days of the resolution and order provided for in § 31-

3-7, make those changes to the map as necessary to reveal the course and location of any county highway vacated, changed, or located.

- 31-3-9. **Resolution and order--Entry in minutes--Publication.** Such resolution and order shall be printed in the minutes of the meeting of the board and the resolution shall be published in the official newspaper of said township, if any, otherwise in the nearest legal newspaper to said highway, once each week for at least two consecutive weeks, and such highway shall be, after a lapse of thirty days, vacated, changed, or located, without further proceedings unless appeal as provided for in this chapter.
- 31-3-10. **Discontinuance and vacation--Reversion of title to land--Removal of improvements.** Upon the discontinuance and vacation of a highway pursuant to §§ 31-3-6 to 31-3-9, inclusive, the title to the land embodied therein shall revert to the original owners or their grantees or successors in interest, and any removable guardrails, culverts, or other public improvements upon such vacated highway may be removed and returned to the political subdivision by which the same were made or supplied.
- 31-3-11. **Validation of vacation of highway not within municipality.** Whenever the governing body of any township, or county, of this state, having jurisdiction has had, or shall have, presented to it a petition for the vacation of any public highway or street, alley, or public ground or any part thereof, not located within the corporate limits of any municipality, and, after due hearing such governing body has granted or shall grant the petition in whole or in part and there was, or shall be, recorded in the office of the register of deeds of the county wherein such area is located a certified copy of the resolution or record of the action taken by such body relative to such petition, any defect or irregularity in the proceedings in such matter shall be deemed validated, legalized, and cured at the end of two years following the date of such recording and any easement or interest of the public in or upon the area so vacated shall then be terminated and action thereon barred.
- 31-3-12. **Limitation of jurisdiction of township supervisors.** The board of township supervisors may not vacate or change any portion of the state trunk highway system, the county highway system, or any highway within the corporate limits of any municipality.
- 31-3-13. **Highway on township line--Joint resolution.** In case the highway to be vacated, changed, or located is upon a township line, it shall be necessary that the board of supervisors of the adjoining civil township, or the board of county commissioners of the county, if the adjoining congressional township is unorganized, as the case may be, pass a like resolution and enter an order vacating, changing, or locating said highway.
- 31-3-14. **Appeal from township board to vote of voters.** Six or more voters of the township, aggrieved by the action of the board of supervisors in vacating, changing, or locating a highway may file with the township clerk a notice in writing within thirty days from the making of said order, that they appeal therefrom and desire the question of whether said highway shall be vacated, changed, or located to be submitted to a vote of the voters of the township.
- 31-3-17. **Reopening vacated section lines without payment of damages.** Nothing in this chapter may be construed to prevent the township board, county board, or the Transportation Commission from

reopening highways so vacated without payment of damages to landowners on account of reopening said highway.

- 31-3-18. **Width of highway.** All public highways located under §§ 31-3-6 to 31-3-37, inclusive, shall be not less than four rods in width, and may be six rods in width when all residents of land adjoining such highway shall petition for such width, except that highways not exceeding one-half mile in length and not located on section lines may be not less than two rods in width when, in the judgment of the board of county commissioners, such width will be sufficient to accommodate properly the travel thereon. Every order locating or changing any highway shall specify the width thereof.
- 31-3-19. **County location proceedings--Highways to which applicable.** The provisions of §§ 31-3-22 to 31-3-37, inclusive, shall apply to all public highways by whatever authority located within any organized county which are not within the limits of any municipality, except that no portion of the state trunk highway system or county highway systems shall be vacated, changed, or located except with the approval of and in accordance with the order of the Department of Transportation to be first made.
- 31-3-20. **Municipal boundary highways--County and trunk highway systems.** The provisions of §§ 31-3-23, 31-3-28, 31-3-30, 31-3-33, 31-3-34, 31-3-36, and 31-3-37 do not apply to the highways on the boundary line of any municipality. Section 31-3-23 does not apply to any highway upon the county highway system or the trunk highway system.
- 31-3-23. **Proceedings on short highway without usual number of petitioners--Payment of damages.** Where such public highway proposed to be located is not more than one mile in length, the board of county commissioners shall in all things proceed as provided in §§ 31-3-22 to 31-3-37, inclusive, although the petition for such highway may be by but one or more petitioners and the board of county commissioners shall require the petitioner or petitioners for such highway to pay the damages assessed for the location thereof.
- 31-3-28. **Benefits considered in assessing damages.** The benefits to accrue to any owner, occupant, or claimant of land by reason of locating or changing any highway are to be considered by the commissioners or the viewers in the determination and award of damages for the same.
- 31-3-30. **Remonstrance against petition--Determination by county commissioners-- Assessment of damages.** If at the meeting of the board of county commissioners at which the report of the committee appointed to examine such highway is presented, any person over whose land such highway passes shall remonstrate against granting the prayer of the petition, setting forth in writing that he is damaged by the location, change, or vacation of such highway in a stated sum, to the truth of which he takes and subscribes an oath, such board shall determine from the face of the report and the evidence before it the amount of damages sustained and whether the damages so assessed are greater than the utility of the proposed highway or change, and if it deems the highway of sufficient advantage to the public to warrant the paying of the damages assessed, the board shall declare such highway located, changed, or vacated and all damages declared assessed shall be paid by the county; but if it shall determine that the damages assessed are greater than the advantages of the proposed location, change, or vacation, it shall order the petition dismissed.

- 31-3-33. **Assessment and payment of damages.** All damages sustained by reason of the locating, changing, or vacating of any highway pursuant to this chapter, shall be assessed and paid by the board having highway jurisdiction thereof or, if there is joint exercise of authority by more than one board, then the damages shall be assessed and paid by those boards in proportion to their joint exercise of authority.
- 31-3-34. **Appeal to circuit court--Time allowed.** Any person who is a resident or landowner of such county or of land lying within ten miles of the boundaries of such county and who feels aggrieved by the final decision of the board in awarding or refusing to award damages in locating, vacating, or changing any public highway under the provisions of this chapter, or, notwithstanding the provisions of § 31-3-14, any person who is a resident or landowner of such county or of land lying within ten miles of the boundaries of such county and who feels aggrieved by the final decision of the board in locating, vacating, or changing any public highway under the provisions of this chapter, may appeal from such decision to the circuit court for the county within thirty days after the date on which the decision of the board has become effective by serving a written notice of appeal describing the decision from which appeal is being taken upon one of the members of the board by one of the methods prescribed in § 15-6-4. The appeal so taken shall be docketed as other causes pending in such court, and the same shall be heard and determined de novo.
- 31-3-36. **Location by consent.** Public highways may be located without the appointment of viewers, provided the written consent of all the owners of the land to be used for that purpose be first filed in the county auditor's office, and if it is shown to the satisfaction of the board of county commissioners that the proposed highway is of sufficient public importance to be opened and worked by the public, it shall make an order locating the same, from which time only shall it be regarded as a public highway.
- 31-3-37. **Expenses of survey--Payment by person seeking location of highway.** If a survey of the highway mentioned in § 31-3-36 is necessary, the board of county commissioners before ordering such survey shall require the persons asking for the location of such highway to pay the expenses of such survey.
- 31-3-38. **Location, change, or vacation of private road.** Any person may have a private road laid out, changed, or vacated upon presenting a petition to the board of county commissioners of the county in which such petitioner resides under regulations provided for roads running through one county only. Such board may order such private road to be located, changed, or vacated without any view if there be no remonstrance against such petition, and the petitioner shall open and keep in repair such road at his own expense.
- 31-3-39. **Field notes--Furnishing to board of supervisors of township.** Upon the written request of the board of supervisors of any township, the county auditor shall furnish a copy of the description, field notes, and plat, if any, of each highway running into or through such township, as appears by the description, field notes, and plat on file or of record in his office.
- 31-3-40. **Field notes--Recording in township highway record.** Upon the filing of such copy in the township clerk's office, the township clerk shall record the same in the highway record book of the township and such record shall be prima facie evidence of the existence of such highway according to the description and plat so on file.

- 31-3-41. **Relocation of highways--Contract of political subdivision with United States-- Reimbursement.** The legally constituted authorities of any county, township, or municipality in the State of South Dakota are hereby authorized and empowered to enter into contracts with the United States of America fixing the terms and conditions under which the part of any highway or system of highways under the control, jurisdiction, and supervision of any such county, township, or municipality in this state which it is found necessary to relocate, rearrange, or alter in order to facilitate the construction of the dams and reservoirs, within the State of South Dakota, by the United States government in the development of the Missouri River flood control projects will be made. Provided that any such contract entered into shall provide for reimbursement of any such county, township or municipality by the United States of America for all works performed and materials furnished under said contract by any county, township, or municipality.
- 31-3-42. **Change in location of highway by political subdivision contracting with the United States.** The legally constituted authorities of any county, township, or municipality, in order to expeditiously carry out the terms of any contract or contracts entered into pursuant to § 31-3-41, are authorized by resolution to make changes in the location of any part of the said highway or system of highways under the control, jurisdiction, and supervision of said authorized authorities in such county, township, or municipality necessary to comply with said contract and also purchase rights-of-way and make surveys for the necessary projects and to let all contracts for the construction of the project necessary to such relocations, rearrangements, or alterations in the same manner as now provided by the laws of this state.
- 31-3-43. **Notice of proposed change--Publication.** No changes in the location of any highway or part of a highway or system of highways as contemplated, shall be entered into pursuant to § 31-3- 41 until notice of the proposed changes of such highways shall have been published in the legal newspaper of the county in which said proposed changes are to be made. Said notice shall be published for two successive weeks, once each week, and not less than ten days prior to the adoption of any such proposed changes and which said notice shall state the time and place when and where any person interested may appear and be heard upon any objections they may wish to assert in opposition to any such proposed changes in relocation or establishing of any highways or parts of highways.
- 31-3-44. **Highways within extraterritorial area of municipality.** Any resolution and order of the township board of supervisors or the board of county commissioners to vacate, change, or locate a highway within a township or within a county and within the extraterritorial area of a municipality as defined in § 11-6-10 shall be subject to the approval of the governing board of the municipality exercising comprehensive planning and zoning powers within such extraterritorial area.
- 31-12-10. **Bench marks on permanent structures.** At the time of making any surveys upon the county highway system, proper bench marks shall be placed upon any permanent bridge, culvert, or other permanent object, which shall be duly recorded upon both the plan and profiles for future reference.
- 31-12-25. **Establishment of witness corners required--Violation as petty offense.** Whenever it may become necessary in grading highways to make a cut which will disturb or destroy, or a fill which will cover up, a government or other established corner, it shall be the duty of the county highway superintendent to establish permanent witness corners and make a record of the same, which shall

show the distance and directions the witness corner is from the corner disturbed or covered up. Any county highway superintendent who fails to perform his duty under this section commits a petty offense.

- 31-12-43. **Indemnity required for construction or survey work within road right-of-way.** A county may require any person performing construction or survey work within any county road right-of-way which may damage such right-of-way to furnish an indemnity bond in a reasonable amount as determined by the board of county commissioners to indemnify the county for any damage done beyond normal wear. However, if a registered professional engineer or a registered land surveyor is surveying land, as defined in 36-18A-4, for an individual landowner of the county, the provisions of this section do not apply.
- 31-12A-2. **Application by landowner--Verified survey and map required.** Any landowner making application for the organization of a road district shall first obtain an accurate survey and map of the territory intended to be embraced within the limits of such road district, showing the boundaries and area thereof, and the accuracy thereof shall be verified by the affidavit of the surveyor.
- 31-14-3. **Survey of bridge sites--Contents.** After determining the necessity for any and all bridges required by any county in the state, it shall be the duty of the board of county commissioners of such county to advise the county highway superintendent of such determination, and to require him or a registered engineer retained by the board of county commissioners for that purpose to make a survey of such bridge sites. Such survey shall consist of a profile of the proposed site, approximate location in regard to the nearest section corner, soundings for the location of footings, and an estimate of the available watershed.
- 31-18-1. **Existence of section-line highways by operation of law.** There is along every section line in this state a public highway located by operation of law, except where some portion of the highway along such section line has been heretofore vacated or relocated by the lawful action of some authorized public officer, board, or tribunal.
- 31-18-2. **Width of highways--Side from which taken.** Every statutory section-line highway shall be sixty-six feet wide and shall be taken equally from each side of the section line, unless changed as provided in this title, but nothing herein contained shall prevent the highway authority charged with the construction, reconstruction, or repair of any public highway along a section line from purchasing or condemning right-of-way for widening the highway to more than sixty-six feet or from purchasing or condemning more right-of-way on one side of the section line than on the other, provided they deem it necessary so to do in order to provide a better highway, to avoid destruction of trees or valuable buildings or to avoid unsuitable terrain.
- 31-18-3. **Vacation or change of location of highways.** The board of county commissioners may vacate or change the location of any section-line highway within its county and the board of supervisors of an organized township may vacate or change the location of any section-line highway within its township, as provided in this title, but neither board may vacate or change any portion of the state trunk highway system or any highway constructed by state or federal aid or any highway within the limits of a municipal corporation, nor may a board of supervisors vacate or change any portion of the county highway system. In addition, no board of county commissioners or board of supervisors may

vacate a section-line highway which provides access to public lands. This section does not prohibit the closing of a section-line highway to vehicular traffic if the highway is unsafe for vehicular traffic. For the purposes of this section, public land does not include any school and public lands.

- 31-18-4. **Relicted lands--Highway rights continue.** The apportionment, division, or survey of lands acquired by reliction, either by the owner or owners of such lands, or by virtue of the judgment of any court, pursuant to the provisions of this code, shall not in any manner operate as an abandonment or vacation of any legal highway along or across any such lands, and all section-line highways along or across any such lands shall continue to be public highways until changed or vacated in the manner provided by law.
- 31-20-2. **Filing map of proposed location with commissioner of school and public lands-- Contents of map.** Whenever it is proposed to locate any public highway over or across any common school, endowment, or other state lands, and prior to the locating of the same, there shall be filed in the office of the commissioner of school and public lands a map or plat of the proposed highway, clearly indicating the course of the same and the acreage required, and the amount of land proposed to be taken out of each smallest legal subdivision.
- 31-22-1. **Right to access from isolated tract to highway.** Every owner of an isolated tract of land containing at least ten acres not touched by a passable public highway or smaller tract of land containing at least five acres used or intended to be used in good faith in whole or in part for residential purposes is entitled to an easement or right-of-way across adjacent lands to reach a public highway, which easement or right-of-way may be secured as provided in this chapter. An isolated tract is further defined as an area which is either inaccessible by motor vehicle because of natural barriers from all other land owned by the owner of the isolated tract or is such an area which is not touched by a passable public highway, which is in use or reasonably usable for motor vehicles. A tract of land adjoining a section line right-of-way for at least sixty-six feet is not an isolated tract if a passable road can be built within the adjoining section line to connect to a passable public highway.
- 34-11A-3. **Contents of petition or resolution.** The petition shall contain the suggested name of the proposed district, the area to be included, and a complete description according to government survey, if possible, of the boundaries of the real properties intended to be embraced in the proposed ambulance district. The petitioners shall also present to the county auditor a plat or map showing the suggested boundaries of the proposed district and shall deposit with the county auditor a sum sufficient to defray the expenses of publishing the notices required by §§ 34-11A-6 and 6-16-4.
- 34-27-6. **Burial record book required of cemetery--Indexes--Ownership records--Official inspection.** All copies of burial or removal permits shall be retained by the person in charge of any cemetery, or place of burial, and filed by him as a permanent record of such cemetery, and he shall forthwith make an exact copy of each burial or removal permit in a "burial record book," together with such additional information as may be prescribed by the secretary of health; such "burial record book" shall contain an alphabetical index, listing by name, all deceased persons interred or buried in the cemetery. Such cemetery burial record shall also provide a numerical or tract index, to be maintained by designating and numbering consecutively, each burial or removal permit, such permit number to be marked or noted on the individual grave space upon the cemetery plat or map, wherein such interment is or was made. Such person or cemetery officials shall also keep and maintain as a

permanent record, the name and address of all grantees and a description of each cemetery subdivision, lot, or grave space, to whom such title has been conveyed or where certain areas have been reserved for special purposes. All such burial records together with the cemetery plat or map, shall at all times be open to official inspection.

- 34-27-7. **Purpose of requirements as to cemetery plats.** It is the intent and purpose of §§ 34- 27-8 and 34-27-9 to require every cemetery or place of burial to be platted or mapped into subdivisions, indicating individual grave spaces, thereby providing when such plat or map is placed on file in the registrar's office, a numerical or tract index of all burials recorded and for no other purpose.
- 34-27-8. **Subdivision and platting of cemeteries required--Filing with local registrar of vital records.** Every person, firm, or association, every church, religious or benevolent society, and private or public corporation, owning or having under his or its control, any cemetery or place of burial in this state, shall keep and maintain a uniform record of all burials, and shall by itself, his or its officers or agent, cause such cemetery or burial ground, or such portion thereof as may from time to time become necessary for that purpose, to be surveyed, mapped, or diagramed, and subdivided into sections, blocks, lots, individual grave spaces, avenues, walks, and streets, thereby platting or making a map or diagram thereof, which map or plat shall be filed, preserved, and maintained as a permanent cemetery record. Such plat or map, or copy thereof, shall be dated and endorsed by the person, firm, or agency drafting such plat or map, and duly filed in the office of the registrar of vital records of the registration district, wherein located, and shall become a permanent record in such office.
- 34-27-9. **Numbering of grave spaces on cemetery plat--Designation of veterans' burials-- Marking of burials.** Each section, block, lot, and individual grave space in a cemetery shall be regularly numbered, such numbers to appear and be marked upon the face thereof, and the map or plat required by § 34-27-8 when completed shall have designated thereon, by uniform marking appearing in the proper grave spaces, all present burials and occupied graves located within such cemetery. The graves of all veterans of the armed forces of the United States, including their allies, confederate veterans, and war nurses in the time of war, and veterans as defined by § 33-17-1, located in each cemetery shall be designated by a separate and distinct uniform mark. Thereafter it shall be the duty of such person, association, or corporation in charge of such cemetery or place of burial to regularly mark and designate upon such plat or map, the exact grave space occupied at the time of interment, by all subsequent burials, within such cemetery.
- 34-27-10. **Cemetery plats received by local registrar--Posting when burial permit issued.** The local registrar of vital records shall receive and file as a permanent record, the plat or map, or copy thereof, of each cemetery within his district as provided in this chapter; thereafter it shall be the duty of such registrar to regularly mark and designate upon each plat or map, the exact grave space of all subsequent burials within such cemetery, by using a uniform mark for all burials, a distinguishing and separate mark for the graves of veterans, and by inserting in such grave space, the burial or removal permit number, assigned to such burial at time of filing permit.
- 34-27-11. **Card-index records of burials maintained by local registrar--Contents.** The local registrar of vital records shall provide and maintain for all burials within his district a card-index file, alphabetical by name of deceased and under cemetery name, such card-index record to be

maintained on 3x5 cards, each bearing the following information: name of cemetery, burial or removal permit number, name of deceased person, date of death, date of burial, veteran or nonveteran, location of burial by cemetery section number, block, lot, and grave number, date of filing, and book and page number wherein such permit is recorded. The registrar in maintaining such card-index record, shall use a white or buff colored card for the recording of each nonveteran and a blue or cherry colored card for recording each veteran's burial, for ready reference.

- 34-27-12. **Supervision of burial record system by Department of Health--Enforcement powers.** For the purpose of locating the exact grave or burial space and the compiling and maintenance of an adequate and uniform burial-record system of the burials of all deceased persons, now located, together with all subsequent burials, within all cemeteries in the State of South Dakota, including the graves of veterans of the armed forces of the United States, including the allies, confederate veterans, and war nurses in the time of war and veterans as defined by § 33-17-1, and making available such records for reporting to the United States government under the provisions of the federal laws, respecting the erection of government headstones at the graves of such veterans or war nurses of the Army of the United States, the Department of Health shall have charge of and shall supervise the registration of all burials in each registration district, and shall prepare the necessary instructions for obtaining, preserving as a permanent record, and maintaining the registration of all burials, by the registrar of each registration district, and by all individuals, associations, churches, religious and benevolent societies, and all public or private corporations, within this state, having under their care or control any cemetery or place of burial. The said department shall be charged with the uniform and thorough enforcement of the law throughout the state and the Department of Health shall from time to time, in compliance with chapter 1-26, make such rules and regulations, not inconsistent with the laws of this state, necessary for the carrying out of such registration.
- 34-27-13. **Filing by local registrars of data from graves registration survey project--Fees not receivable.** The local registrar of each registration district within the state is hereby authorized to receive and file in his office as a permanent record any information or data, pertaining to burials within his registration district, compiled by the "graves registration survey project," a state-wide survey, sponsored by the South Dakota Military Department through the cooperating sponsorship of the American Legion and under the works projects administration of South Dakota, together with maps or drawings of cemeteries in such district, to the end that said registrar with the cooperation of the graves registration survey project, may use such information or data in completing and bringing up to date, burial records as to all past burials; it is the intent and purpose of this chapter that all burials and all information pertaining thereto, including those of veterans who served in the military or naval forces of the United States in the time of war and those of veterans as defined by § 33-17-1, buried within this state, be placed on record and hereafter maintained therein as a permanent record; providing such information with reference to past burials in compiled and cemetery maps drafted and presented for filing, is without additional expense to the State of South Dakota. No registrar shall receive any fee for filing or recording such compiled burial information or cemetery map or maps.
- 34-27-14. **Violation or failure to maintain records as misdemeanor.** Any person, officer, agent, or employee of any other person or of any corporation or partnership who shall:

- (1) Refuse or fail to furnish correctly any information in his possession or shall furnish false information affecting any certificate or record required by this chapter;
 - (2) Intentionally alter, otherwise than as provided by § 34-25-51, or falsify any record required by this chapter; or
 - (3) Being a person, firm, association, church, religious or benevolent society, or corporation, or an employee, officer, or agent thereof, owning or having under his or its control, any cemetery or place of burial, fail, neglect, or refuse to keep and maintain the record of burials as required by this chapter;
- is guilty of a Class 2 misdemeanor.

34-31A-4. **Contents of petition or resolution--Plat or map.** The petition shall contain the suggested name of the proposed district, the area in square miles to be included, and a complete description according to government survey, if possible, of the boundaries of the real properties intended to be embraced in the proposed rural fire protection district. The petitioners shall also present to the county auditor a plat or map showing the suggested boundaries of the proposed district.

34-31A-37. **Annexation resolution or petition filed with county auditor.** The proceedings for the annexation, referred to in § 34-31A-36, may be initiated by resolution or by the presentation to the auditor of a petition signed by ten percent of the electors who are owners of any interest in real property assessed for taxation in the territory to be annexed and who are residing within the boundaries of such territory stating the desires and purposes of such petitioners or governmental body. The petition or resolution shall contain a description of the boundaries of the territory proposed to be annexed. It shall be accompanied by a map or plat and a deposit for publication costs.

34-31A-38. **Auditor's examination of annexation petition--Papers forwarded to directors.** The county auditor shall consult the tax schedules in the office of the county auditor and determine and certify whether or not such petition complies with the requirements of § 34-31A-37 and that the persons signing the same appear to reside within the boundaries described by such petition. Thereafter, the county auditor shall forward such petition, resolution, map or plat, and certificate to the board of directors of the district concerned.

34A-5-3. **Map of proposed district.** Any person making application for the organization of a sanitary district shall first cause an accurate map to be made of the territory intended to be embraced within the limits of such sanitary district, showing the boundaries and area thereof, and the accuracy thereof shall be verified by the affidavit of a surveyor. The map may be completed by reviewing records and legal descriptions at a county register of deeds office.

36-1-1. **Veterans entitled to reinstatement of professional or occupational status after discharge--Compliance with current requirements--Written evidence of authority.** Any veteran as defined in § 33-17-1 who, at the time of induction, enlistment, or engagement in the armed forces of the United States, was regularly licensed, registered or certified in good standing and was lawfully engaged in this state in the profession, trade, science or business which under any statute or law of this state, or rules or regulations issued pursuant thereto, required such persons to be licensed, registered or certified in order to practice or engage in such profession, trade, science or business, and whose status may have been lost for any reason shall, notwithstanding

any law, rule, or regulation, at any time within six months from date of separation from service on application to the proper licensing, registering, certifying or authorizing agency be restored and reinstated to the status held as of the date of such induction or enlistment into said armed forces without complying with or showing compliance with any statute or law, or rule or regulation, the payment of any fees, dues or charges except such as may be current in the year in which such application is made, or being required to submit to any examinations, and any law, rule or regulation to the contrary notwithstanding, shall be entitled to practice or engage in such profession, trade, science or business to all purposes and effects the same as such as existed on the date of induction or enlistment in said armed forces, and such person shall be entitled to receive from the department or state board, commission, agency or officer administering such statute, law, rule or regulation, such certificate, license or written evidence of authority to practice or engage in such profession, trade, science, or business.

- 38-8-4. **Determination of need for district--Establishment of boundaries.** After a hearing pursuant to § 38-8-2, if the State Conservation Commission shall determine upon the facts presented at such hearing and upon such other relevant facts and information as may be available that there is need, in the interest of public health, safety, and welfare, for a conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. The territory to be included within such boundaries need not be contiguous.
- 40-23-4. **Filing of map showing boundaries--Revision on change of boundaries--Revocation of lease for failure to file.** Cooperative grazing associations organized under this chapter shall, upon completion of organization and incorporation, file with the register of deeds in the county or counties in which any such lands lie, a map or plat clearly showing the boundaries of the district proposed to be created and the name of such district. Whenever any incorporated grazing district shall enlarge or reduce the area included within its district, or change or modify its boundaries, it shall file copies of a revised map or plat as provided above for the original map or plat. Failure to file maps or plats as above provided shall be sufficient cause for a revocation, by the county commissioners, of any lease of county land which shall have been made to said district.
- 41-18-5. **Survey and plat of area approved for park--Acquisition if borrowing not required.** If the county commissioners shall be satisfied that it will be to the best interest of the public that property described in a petition under § 41-18-3 or any part thereof shall be acquired for the purpose of a public park, they shall cause an accurate survey to be made by a registered land surveyor, and a plat to be made and filed in the office of the register of deeds and shall proceed to acquire the property, in case it is not necessary to borrow the money therefor, as provided in §§ 41-18-11 to 41-18-15, inclusive.
- 41-18-19. **Survey and subdivision of waterfront lots before sale--Restrictions on use of lots.** In the event that the county commissioners decide to sell any lots or tracts surrounding any such body of water or adjoining any portion thereof, they shall first cause such land to be surveyed and platted into lots and blocks and streets or drives. The county commissioners shall have authority to place such restrictions as to the use of such lots or tracts as they may deem advisable.

- 43-16-1. **Owner of land in fee, right to surface and things beneath or above it.** The owner of land in fee has the right to the surface and to everything permanently situated beneath or above it.
- 43-16-2. **Coterminous owner--Right to lateral and subjacent support.** Each coterminous owner is entitled to the lateral and subjacent support which his land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction, on using ordinary care and skill, and taking reasonable precautions to sustain the land of the other, and giving previous reasonable notice to the other of his intention to make such excavations.
- 43-16-3. **Land bounded by road or street--Scope of ownership.** An owner of land bounded by a road or street is presumed to own to the center of the way, but the contrary may be shown.
- 43-16-4. **Ownership of tree on land determined by the location of its trunk.** Trees whose trunks stand wholly upon the land of one owner, belong exclusively to him, although their roots grow into the land of another.
- Trees whose trunks stand partly on the land of two or more coterminous owners belong to them in common.
- 43-16-5. **Boundaries and monuments--Maintenance by coterminous owners.** Coterminous owners are mutually bound equally to maintain the boundaries and monuments between them.
- 43-16-6. **Monument designating point in boundary--Malicious removal as misdemeanor.** Any person who maliciously removes any monument of stone, wood, or other material, erected for the purpose of designating any point in the boundary of any lot or tract of land, is guilty of a Class 2 misdemeanor.
- 43-16-7. **Defacing or altering boundary marker as misdemeanor.** Any person who maliciously defaces or alters the marks upon any tree, post, or other monument, made for the purpose of designating any point, course, or line in the boundary of any lot or tract of land, is guilty of a Class 2 misdemeanor.
- 43-16-8. **Malicious removal of tree used as boundary marker as misdemeanor.** Any person who maliciously cuts down or removes any tree upon which marks have been made for the purpose of designating any point, course, or line in the boundary of any lot or tract of land, with intent to destroy such marks, is guilty of a Class 2 misdemeanor.
- 43-17-1. **Land below ordinary high-water mark of navigable lake or stream--Law governing ownership.** The ownership of land below ordinary high-water mark, and of land below the water of a navigable lake or stream, is regulated by the laws of the United States or by such laws of the state as the Legislature may enact.
- 43-17-2. **Upland owner taking to edge of navigable lake or stream at low-water mark-- Exception-- Navigable rivers and lakes as public highways.** Unless the grant under which the land is held indicates a different intent, the owner of the upland, if it borders upon a navigable lake or stream, takes to the edge of the lake or stream at low water mark. All navigable rivers and lakes are public

highways within fifty feet landward from the water's nearest edge, provided that the outer boundary of such public highway may not expand beyond the ordinary high water mark and may not contract within the ordinary low water mark, and subject to §§ 43-17-29, 43-17-31, 43-17-32, and 43-17-33.

- 43-17-3. **Lands forming in bed of navigable stream or meandered lake belong to state-- Exception.** Islands and accumulations of lands formed in the beds of streams which are navigable and in meandered lakes belong to the state, if there is no title or prescription to the contrary.
- 43-17-4. **Opposite banks of nonnavigable stream belonging to different persons--Stream and bed common to both.** In all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both.
- 43-17-5. **Accretions to bank of river or stream belong to owner of bank subject to existing right-of-way.** Where from natural causes, land forms by imperceptible degrees upon the bank of a river or stream, navigable or not navigable, either by accumulation of material or by the recession of the stream, such land belongs to the owner of the bank, subject to any existing right-of-way over the bank.
- 43-17-6. **Surveying and subdividing accretion lands--Permanency of uncontested boundaries.** When any tract of accretion lands shall have been, or may hereafter be, surveyed and subdivided by a licensed surveyor and approved by the circuit court and the boundaries of the various riparian owners have been established and have remained uncontested for a period of six years or more, after final judgment in the court having jurisdiction of the subject matter, such boundaries shall be permanent as long as the title is not lost by erosion or submergence or other laws governing accretion lands.
- 43-17-7. **Notice of survey of accretion lands--Consent of interested parties necessary.** Before commencing any such survey, the surveyor shall give ten days' notice, in writing by personal service upon all parties having an interest in such accretion lands, that each may be present at such survey if he so desires, and that no such survey shall be made without the written consent of the parties in interest or by order of the court having competent jurisdiction.
- 43-17-8. **Plat of accretion lands by surveyor--Contents--Recording.** The surveyor who makes such survey shall make a plat of such accretion lands, showing the acreage, the courses and distances, and the boundaries of all tracts, and record the same in the office of the register of deeds in the county in which the land is situated.
- 43-17-9. **Attaching of additional land--Substitution of outer boundary of surveyed accretion land--Apportionment of new accreted land--Determination of boundary line.** In the event additional lands shall thereafter become attached to such accretion land and subdivision of same, the outer boundary of the first surveyed accretion land shall be substituted and treated as though it were the original government meander line, and the new and additional accreted land shall be apportioned as in the original subdivision of the first accretion. Provided, however, that in the determination of the boundary line to be used, the circuit court shall determine as to whether or not the outer boundary line shall be substituted for the original government meander line, and said court shall determine the method of apportionment of such additional accreted land.

- 43-17-10. **Title to land by avulsion--Reclamation by original owner of part of land carried away.** If a river or stream, navigable or not navigable, carries away by sudden violence a considerable and distinguishable part of a bank and bears it to the opposite bank or to another part of the same bank, the owner of the part carried away may reclaim it within a year after the owner of the land to which it has been united takes possession thereof.
- 43-17-11. **Stream forming new course--Abandonment of ancient stream bed--Owners of newly occupied land take ancient stream bed proportionately.** If a stream, navigable or not navigable, forms a new course, abandoning its ancient stream bed, the owners of the land newly occupied take by way of indemnity the ancient stream bed abandoned, each in proportion to the land of which he has been deprived.
- 43-17-12. **New arm of stream--Island formed by division belongs to owner of shore.** If a stream, navigable or not navigable, in forming itself a new arm, divides itself and surrounds land belonging to the owner of the shore and thereby forms an island, the island belongs to such owner.
- 43-17-13. **Ownership of island or accumulation of land in nonnavigable stream.** An island or accumulation of land formed in a stream which is not navigable belongs to the owner of the shore on that side where the island or accumulation is formed, or if not formed on one side only, to the owners of the shore on the two sides, divided by an imaginary line drawn through the middle of the river.
- 43-17-14. **Land acquired by reliction--Apportionment and division--Preparation, contents and recording of survey.** It shall be the duty of all owners of land acquired by reliction to cause the same to be apportioned and divided among the various owners entitled thereto and to have the same surveyed, marking each separate tract "Relicted lot No. ____," numbering consecutively, beginning with the number "1," by a registered land surveyor and to cause such survey to show the area of and boundaries of each tract to be recorded in the office of the register of deeds within the county or counties where such land is situated within three months from the appropriation thereof.
- 43-17-15. **Failure or neglect of owners of land acquired by reliction to plat land--Enforcement action by municipal officials.** In the event that any owner or owners of land acquired by reliction shall fail or neglect to comply with the provisions of § 43-17-14 within the time therein specified the supervisors of the township or townships, or trustees or city council or commissioners of the municipality where such relicted land or any part thereof is situated, or either of them, may institute an action in the circuit court of the county where such land or any part thereof is situated against the owners of such lands to compel and cause the subdivision of such relicted lands in the proper proportions among the various owners thereof and that the same be surveyed by a competent surveyor, such survey, showing the area and boundaries of such relicted land to which each owner is entitled, to be made and recorded in the office of the register of deeds of the county or counties where any such land or any part thereof is situated.
- 43-17-16. **Action to enforce survey of land acquired by reliction--Determination of ownership--Appointment of commissioners to divide and survey relicted lands.** The circuit court may upon the trial of any action under § 43-17-15 ascertain and determine by its judgment the owners of the relicted land and cause the same to be surveyed and shall appoint three competent disinterested persons, one of whom shall be a competent surveyor, to divide and survey such relicted lands so as

to show the boundaries and area of the amount of such relicted lands to which each owner is entitled in accordance with the directions and judgment of said court.

- 43-17-17. **Plat and survey of relicted lands by commissioners--Report in writing--Filing with clerk of courts.** The commissioners appointed pursuant to § 43-17-16 shall make their report in writing, including an accurate plat and survey of such relicted land marking each separate tract "Relicited lot No. ____" numbered consecutively, beginning with the number "1," and file the same with the clerk of courts within ninety days from the date of the order of the court appointing them.
- 43-17-18. **Report and survey of relicted lands by commissioners--Adoption or modification by circuit court--Filing of certified copy of judgment--New trial and appeal.** At the next succeeding term of such court or at any subsequent term to which the same may be continued, such action shall be brought on for final determination upon the report and survey of said commissioners and the court may adopt or modify the same so as to allow each owner such proportion of such relicted land as he may be lawfully entitled to and enter judgment accordingly; a certified copy of which judgment, showing the area of such relicted land to which each owner is entitled, shall be recorded in the office of the register of deeds in each county where such land or any part thereof is situated. Proceedings for new trial and appeal may be had the same as in other civil cases.
- 43-17-19. **Costs of action to enforce plat and survey of relicted lands.** The court may adjudge the defendants who are owners of such land or any part thereof to pay the costs and disbursements of such action in such proportions as the court may deem just and equitable, including a reasonable amount for the survey, the fees of recording, and reasonable counsel fees for the plaintiff, and three dollars per day for the two commissioners other than the surveyor and ten cents per mile for each mile by them necessarily traveled.
- 43-17-20. **Establishment of water marks on lakes--Definition of terms.** Terms used in §§ 43- 17-21 to 43-17-26, inclusive, unless the context otherwise requires, mean:
- (1) "Board," the Water Management Board created by § 1-40-15 and further defined in § 1- 40-19;
 - (2) "Ordinary high water mark," the term as defined in decisions rendered by the courts of this state;
 - (3) "Ordinary low water mark," the term as defined in decisions rendered by the courts of this state.
- 43-17-21. **Water Management Board to establish and mark high and low water marks on public lakes--Change on change in natural conditions.** The Water Management Board shall establish, pursuant to § 43-17-28 and in accordance with the contested case provisions of chapter 1-26, the ordinary high water mark and install benchmarks and may establish the ordinary low water mark on public lakes which are used for public purposes including, but not limited to boating, fishing, swimming, hunting, skating, picnicking, and similar recreational pursuits. The board may rescind and redetermine the ordinary high water mark and ordinary low water mark, in accordance with the contested case provisions of chapter 1-26, should significant natural changes occur in these levels as determined by the board.
- 43-17-23. **Natural factors given precedence in water marks--When man-made influences considered.** In determining the ordinary high water mark, natural factors take precedence. Man-made influences,

either those that have been constructed to lower the mark or those constructed to raise the mark, shall be disregarded unless the influences have been lawfully constructed or have existed and been accepted for a period of time determined by the Water Management Board to be the equivalent of natural conditions.

- 43-17-24. **Investigation of site where water mark to be established--Consultation with other agencies--Public hearings.** To determine the ordinary high water mark and ordinary low water mark for a lake, the Water Management Board may on the application of any of the parties or on its own motion, physically investigate the site, confer with other state and local agencies having responsibilities in the lake or its bed, and may hold public hearings in addition to those required by chapter 1-26.
- 43-17-24.1. **Notice of public hearings on water marks.** The Water Management Board shall serve notice on all persons who can be identified with reasonable diligence and who own property which may be affected by a water mark determination, of the date of the hearing required by this chapter. Notice shall consist of service by first class mail at least twenty days prior to the hearing and publication in an official newspaper in each county where a lake is located at least once a week for two consecutive weeks. The second publication shall occur at least four days before the initial day of the board meeting at which the hearing will be held.
- 43-17-24.2. **Prior decisions on water marks validated--Rights barred by no action.** Any decision of the Water Management Board setting a high water mark or a low water mark prior to January 1, 1992, is hereby cured, legalized, and validated as fully as if the decision had been issued in full compliance with § 43-17-24.

If any person has any vested right in any real or personal property by reason of any omission referred to in this section, and if no action or proceeding to enforce such right was commenced prior to July 1, 1993, such right shall be forever barred. No action or proceeding brought involving real property shall be of any force or effect, or maintainable in any court of this state, unless prior to July 1, 1993, there was recorded in the office of the register of deeds of the county in which the real property affected is situated, a notice of the pendency of such action, in accordance with chapter 15- 10.

- 43-17-25. **Reconsideration of water marks established by board--Final unless appealed to courts.** The Water Management Board shall reconsider its establishment of water marks upon request, if the request is made within a period of sixty days following the publication of the order establishing the water marks, and if additional pertinent information or data is made available to the board in the request. The decision on the establishment of water marks by the board, including those resulting from any reconsideration request, is final unless an appeal is made to the courts as provided by law.
- 43-17-26. **Ownership and rights of use unaffected.** Nothing in §§ 43-17-20 to 43-17-25, inclusive, shall be construed to alter rights of ownership and use of any lands bordering upon navigable lakes or streams or those portions of such lands between ordinary high water mark and ordinary low water mark.

- 43-18-1. **Registered surveyor required to make survey or subdivision.** No survey of land or plat subdivision shall be legal unless made by a registered land surveyor.
- 43-18-2. **Licensed engineers, architects, and surveyors may administer oaths to assistants.** Every licensed engineer, architect, or surveyor shall be authorized to administer oaths to draftsmen, chainmen, rodmen, instrumentmen, and other assistants, who may be assisting them or participating in any work in which said engineer, architect, or surveyor is engaged in the practice of his profession.
- 43-18-3. **Disturbance of monument erected by coast and geodetic survey or geological survey as misdemeanor.** It is a Class 2 misdemeanor to injure, destroy, deface, or remove any monument erected by the United States Coast and Geodetic Survey or the United States Geological Survey.
- 43-18-4. **Disturbance of survey corners as petty offense.** No United States government survey corner nor any corner established by any registered land surveyor may be disturbed, removed, or in any manner changed by any person in the prosecution of any public or private work. A violation of this section is a petty offense.
- 43-18-5. **Restoration, relocation, or referencing of survey corner.** Any registered land surveyor may restore, relocate, or reference a survey corner if same is recorded as provided by statute.
- 43-18-6. **Resurvey and subdivision of lands--Law governing.** The resurvey and subdivision of lands by all surveyors shall be in all respects according to the laws of the United States and the instructions issued by the officers thereof in charge of the public land surveys; and in the subdivision of fractional sections, bounded on any side by a meandered lake or river, or the boundary of any reservation or irregular survey, the subdivision lines running toward and closing upon the same shall be run at courses in all points intermediate and equidistant, as near as may be, between like section lines established by the original survey.
- 43-18-7. **Original boundaries and monuments--Use in resurveys.** In retracing lines or making the survey the surveyor shall take care to observe and follow the boundaries and monuments as run and marked by the original survey, but shall not give undue weight to partial and doubtful evidence or appearances of monuments, the recognition of which shall require the presumption of marked errors in the original survey, and he shall note an exact description of such apparent monuments.
- 43-18-8. **Survey of lines or monuments in dispute--Disinterested persons as chainmen.** Whenever the survey made is of lines or monuments in dispute, or by order of any court, the chainmen must be disinterested persons, approved and sworn by the surveyor to measure justly and impartially to the best of their skill and ability.
- 43-18-9. **Record of field notes and plats--Matters required to be shown.** The record of the field notes and plats shall show distinctly of what piece of land it is a survey, at whose request it was made, what owners were notified and present, the date of the survey, the names of the chainmen, and that they were approved and sworn by the surveyor, when so required by law. The courses shall be taken according to the true meridian, and the variation of the magnetic needle therefrom shall be noted, and also when any material change therein shall occur.

- 43-18-10. **Chainmen and other assistants--Liability for payment for services.** All necessary chainmen and other assistants must be paid for their services by the person for whom the survey is made, unless otherwise specially agreed.
- 43-19-1. **Erection of permanent landmarks by organized township--Monuments of durable material--Size and characteristics--Placement under contract.** Whenever a civil township meeting shall have lawfully ordered the erection of landmarks, the board of supervisors shall procure a sufficient number of monuments of stone, or other durable material, each not less than thirty inches in length and six inches square, flat top, having engraved thereon the characters used and designated in United States government surveys, and shall also contract with a registered land surveyor for the survey of all sections of such township and the erection of such monuments, one at each section corner and one at each external quarter section corner in such township, each to be set two feet in the ground, except in highways, where the top shall be even with or below the surface.
- 43-19-2. **Unidentified section corners upon public highways--Location by township board of supervisors.** Whenever section corners upon the public highways cannot be identified the township board of supervisors may, without previous vote of the township meeting, have such corners located by a competent surveyor and cause landmarks similar to those described in § 43-19-1 to be erected at such corners so established.
- 43-19-3. **Bond of surveyor contracting to erect permanent landmarks for organized township.** The surveyor with whom a contract is made pursuant to § 43-19-1 shall, before the signing and delivery of such contract, give a bond to the township in the sum of one thousand dollars, with sufficient sureties, to be approved by the board, conditioned that he will make a correct and true survey of all the sections in such township, and cause landmarks to be set permanently at the section and quarter section corners as established by the United States survey, and faithfully perform such work and the duties imposed upon him according to law.
- 43-19-4. **Manner of setting permanent landmarks--Reestablishment of section corners-- Certificate of survey.** Such landmarks shall in all cases be set on section corners and quarter posts established by the United States survey, but if there be a clerical error or omission in the government field notes, or the bearing trees, mounds, or other locating evidences specified therein be destroyed or lost, and there be no other reliable evidence by which such corner can be identified, such surveyor shall reestablish such corner under the rules adopted by the general government in the survey of public lands. Such surveyor shall, in all cases, set forth such action in his certificate of the survey.
- 43-19-5. **Minutes of survey--Bearings and distances between monuments--Recording.** Such surveyor shall make, in all cases, a certificate setting forth correct and full minutes of the survey, and giving exact bearings and distances of each monument from each other monument nearest it on any line in the township, and such statement shall be recorded in the office of the register of deeds of the county.
- 43-19-6. **Tax levy for erection of permanent landmarks by organized township.** In case any township shall vote in favor of the erection of permanent landmarks, the township board shall ascertain the amount of money requisite for such purpose, and deliver a statement of such amount to the township clerk, who shall add such amount to the other amounts to be raised for township purposes for the

current year and insert the same in the tax roll, and it shall be collected and paid to the treasurer in like manner as other taxes.

- 43-19-7. **Petition in unorganized township to establish permanent landmarks--Filed with county commissioners--Consent to tax levy for payment of costs of survey--Notice and hearing.** Whenever two-thirds of all the owners of lands situated in any unorganized township shall petition the board of county commissioners for a survey of the sections and the establishment of section and quarter section landmarks in such township, and that such board procure materials for and cause such survey to be made, and shall propose and offer in such petition to have the cost of such survey and establishment of landmarks paid by a special levy of taxes upon all the real property situated in such township, such board shall cause to be published in one or more newspapers of general circulation published in the county, once each week for two successive weeks, a notice signed by the chairman of the board, to the effect that such petition has been filed, stating briefly the contents of such petition and that the cost of such proposed survey and establishment of landmarks is therein proposed and offered to be paid by such special levy, and that a hearing will be had by the board upon such petition at a time and place named in the notice.
- 43-19-8. **Hearing on petition in unorganized township to establish permanent landmarks-- Order of board of county commissioners.** Any person interested in any real property in such township may appear and be heard, for or against the granting of the petition, on the day named in such notice. After a hearing is had upon the petition the board shall by order grant or deny the petition.
- 43-19-9. **Appeal from order granting petition to establish permanent landmarks--Stay of proceedings.** Any person feeling aggrieved by the granting of the petition may appeal from the order granting the same to the circuit court, at any time within thirty days after the order from which the appeal is taken was made. But no stay of proceedings upon such petition shall be had pending such appeal, unless the party appealing shall execute an undertaking with two sufficient sureties in the sum of five hundred dollars, to be approved by the clerk of courts, conditioned for the payment of all costs and damages which may be adjudged against the appellant upon such appeal.
- 43-19-10. **Monuments for landmarks in unorganized township--Procurement by board of county commissioners--Contract for survey and erection.** If such petition shall be granted, and in case no stay bond shall have been given upon an appeal from the order granting the petition, the board of county commissioners shall immediately proceed to procure monuments for such landmarks, and shall contract with a registered land surveyor, for the survey of all the sections of such township and the erection of such monuments, one at each corner and one at each external quarter section corner in such township; such materials to be procured and such monuments to be set in all respects as provided in this chapter.
- 43-19-11. **Bond of surveyor contracting to erect landmarks in unorganized township.** The surveyor with whom a contract is made pursuant to § 43-19-10 shall give bond as provided in this chapter, except that such surveyor's bond shall run to the county for the use of the township and such bond may be sued on by the county, and any judgment recovered thereon shall inure to the use and benefit of the township.

- 43-19-12. **Survey for erection of landmarks in unorganized township--Certificate--Recording.** Sections 43-19-4 and 43-19-5 shall apply to and govern such survey and the certificate thereof and the recording of the surveyor's certificate.
- 43-19-13. **Levy of taxes for erection of landmarks in unorganized township.** In case any board of county commissioners shall grant any petition presented thereto under this chapter, such board shall ascertain the amount of money requisite for such purpose, and shall add such amount to the other amounts, if any, to be raised for township purposes in any such unorganized township as may be affected by such petition, and such board is empowered and it shall be its duty to make a specific levy of taxes upon all of the real property situated in any such unorganized township in a sufficient amount to pay the cost and expense of such survey and the establishment of such landmarks; such levy to be made at the time of the making of the annual tax levy by such board for the current year.
- 43-19-14. **Tax levy for erection of landmarks in unorganized territory where petition was granted by board of county commissioners after time of making annual tax levy.** In case any petition presented under this chapter shall have been granted after the time of making the annual tax levy, such specific levy shall be made at the time of making the annual tax levy for the ensuing year; and the amount so levied shall be inserted in the tax roll and be collected and paid into the county treasury in like manner as other taxes, and shall be applied exclusively in payment of the cost and expenses of such survey and establishment of landmarks.
- 43-19-15. **Landmarks set at originally established section corners--Presumption.** All landmarks set under authority of this chapter shall be presumptively deemed to be at the section and quarter section corners, as originally established by the United States survey, at which they respectively purport to be set.
- 43-19-16. **Change of section corner established by United States survey unauthorized.** Nothing in this chapter shall authorize the changing of any section corner established by the United States survey.
- 43-20-1. **Purpose of chapter.** It is the purpose of this chapter to protect and perpetuate public land survey corners and information concerning the location of such corners by requiring the systematic establishment of monuments and filing of information concerning the marking of the location of such public land survey corners and to allow the systematic location of other property corners, thereby providing for property security and a coherent system of property location and identification; and thereby eliminating the repeated necessity for reestablishment and relocations of such corners once they are established and located.
- 43-20-2. **Definition of terms.** Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:
- (1) A "property corner" is a geographic point on the surface of the earth, and is on, a part of, and controls a property line;
 - (2) A "property controlling corner" for a property is a public land survey corner, or any property corner, which does not lie on a property line of the property in question, but which controls the location for one or more of the property corners of the property in question;

- (3) A "public land survey corner" is any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government or the State of South Dakota;
- (4) A "corner," unless otherwise qualified, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these;
- (5) An "accessory to a corner" is any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects;
- (6) A "monument" is an accessory that is presumed to occupy the exact position of a corner;
- (7) A "reference monument" is a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded, and which serves to witness the corner;
- (8) A "survey" is any field operation in which corners are used to locate streets, roads, utilities, airports, railroads, buildings, dams, canals, drainage ways, or any other works as well as property boundaries;
- (9) A "registered land surveyor" is a surveyor who is registered to practice land surveying under Title 36 and has a current certificate for that calendar year;
- (10) The "commission" is the State Commission of Engineering, Architectural, and Land Surveying Examiners.

43-20-3. **Record of corner establishment or restoration--Execution and filing.** A surveyor shall complete, sign, and file with the register of deeds of the county where the corner is situated, a written record of corner establishment or restoration to be known as a "corner file" for every public land survey corner and accessory to the corner which is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated, or used as control in any survey by the surveyor, and within ninety days thereafter, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this chapter.

43-20-4. **Corner records which may be filed.** A surveyor may file such corner record as to any property corner, property controlling corner, reference monument, or accessory to a corner.

43-20-5. **Survey corner required to be filed under chapter--Reconstruction of monument of corner.** In every case where a corner record of a public land survey corner is required to be filed under the provisions of this chapter, the surveyor must reconstruct or rehabilitate the monument of such corner, and accessories to such corner, so that the same shall be left by him in such physical condition that it remains as permanent a monument as is reasonably possible and so that the same may be reasonably expected to be found with facility at all times in the future.

43-20-6. **Corners established or restored before July 1, 1967--Records may be filed.** Corner records may be filed concerning corners established, reestablished, or restored before July 1, 1967.

43-20-7. **Corner file--Information to be included--Form--Presentment and filing.** The Commission of Engineering, Architectural, and Land Surveying Examiners shall by rule adopted pursuant to chapter 1-26 prescribe the method of construction and placement of corner markers or monuments used to identify reference points on plats and the information which is necessary to be included in the corner

file. The commission shall also prescribe the form in which the corner record shall be presented and filed.

- 43-20-8. **Signatures required for filing of corner record.** No corner record shall be filed unless the same is signed by a registered surveyor, or, in the case of an agency of the United States government the certificate may be signed by the survey party chief making the survey.
- 43-20-9. **Filing in accordance with chapter required.** No filing shall be of any force or legal effect unless and until filed as provided in this chapter.
- 43-20-10. **Corner record--Filing fee.** The register of deeds of the county in which the corner is located shall charge a recording fee as set forth in subdivision 7-9-15(1) for the first page and two dollars for each additional page indexed.
- 43-20-11. **Filing fees--Exemption of surveys by United States.** All filings relative to official cadastral surveys of the Bureau of Land Management of the United States of America performed by authorized personnel shall be exempt from filing fees.
- 43-20-12. **Completed corner record--Preservation in hardbound book--Numbering and indexing.** The county register of deeds of the county containing the corner shall receive the completed corner record and preserve it in a hardbound book. The books shall be numbered in numerical order and indexed by legal description showing section, township, and range (or addition, block, and lot).
- 43-20-13. **Inspection of corner records.** The register of deeds shall make these records available for public inspection during all usual office hours.
- 43-20-14. **Citation of chapter.** This chapter may be cited as the "Corner Perpetuation and Filing Act."
- 43-21-1. **Necessity for platting subdivision or tract of land into lots--Survey of lands-- Recording of plat--Inapplicability to certain parcels being transferred to or from South Dakota Building Authority.** When any owner of a government subdivision or a platted tract or lot which is within or without the corporate limits of any municipality shall divide the same into parcels for the purpose of transfer that cannot be described except by metes and bounds, he shall cause the parcels of land so divided to be platted into lots and have the lots numbered and a plat thereof recorded before any instrument of transfer of such divided parcels of land shall be recorded. If such plat cannot be made without an actual survey he shall have such lands surveyed and the plat thereof recorded. The provisions of this section do not apply to parcels subject to a contract with the United States secretary of agriculture pursuant to the United States Conservation Reserve Program, as established in Subtitle D of Title XII of the United States Food Security Act of 1985, as amended on January 25, 1988, and which parcel is being transferred to or from the South Dakota Building Authority.
- 43-21-2. **Refusal or neglect to comply with law requiring plat and survey--Auditor to make and record plat.** If the owner of any parcel or lot of land that has been divided as set forth in § 43-21- 1 shall refuse or neglect to cause such plat and survey to be made and recorded within thirty days after written request by the county auditor at the direction of the board of county commissioners then said

auditor shall cause such plat to be made from the records of the register of deeds or from an actual survey of the land when necessary and shall have the same recorded.

- 43-21-3. **Cost of platting, surveying, and recording when made by auditor--Payment by county--Added to tax upon tract of land.** When the owner of such divided parcels of land fails to comply with the provisions of § 43-21-1, the cost of platting and recording, and surveying when necessary, shall be paid by the county and the amount thereof shall be added to the tax upon such tract or lot of land the next ensuing year, which tax when collected shall be credited to the county general fund.
- 43-21-4. **Description of property in accordance with certified and recorded plat valid.** Such plat being duly certified and recorded, a description of the property in accordance with the numbers and description set forth in such plat shall be deemed a good and valid description of the lots or parcels of land so described.
- 43-21-4.1. **Recording real property described by metes and bounds.** Conveyances describing real property by metes and bounds shall be recorded if a previous conveyance by the same metes and bounds has been made and recorded.
- 43-21-5. **Plats of federal, state, county, and municipality property--Recording--Exemption from law pertaining to filing of private plats for record--Use for descriptive purposes.** Each plat of real property acquired by the forest service of the United States Department of Agriculture, the State Department of Transportation, the South Dakota Building Authority, and the several counties and municipalities of the State of South Dakota and, which plat is subscribed to by the forest engineer of the forest service of the United States Department of Agriculture, an authorized agent of the State Department of Transportation, or any registered land surveyor in the employ of the forest service of the United States Department of Agriculture, the State Department of Transportation, the South Dakota Building Authority, or the several counties or municipalities of the State of South Dakota, shall be entitled to record in the office of the register of deeds, in which such lands or any portion thereof are situated without compliance with the provisions of chapter 11-3 or this chapter, pertaining to the filing of plats for record. Any amendments or vacations of plats filed by the forest service of the United States Department of Agriculture, the State Department of Transportation, the South Dakota Building Authority, or several counties or municipalities of the State of South Dakota may be entitled to record in like manner. All plats filed by the counties subsequent to January 1, 1968 shall be valid and covered by the provisions of this section. No plats filed for record under this section may operate of themselves to transfer title to the property described but such plats are for descriptive purposes only.
- 43-21-6. **Plats of governmental acquisitions filed with director of equalization.** Notwithstanding the provisions of § 43-21-5, copies of plats filed in accordance therewith shall be furnished to the director of equalization in each county wherein such plat is to be filed within ten days after such filing.
- 43-22-1. **Designation of South Dakota coordinate systems.** The systems of plane coordinates which have been established by the United States Department of Commerce, National Oceanic and Atmospheric Administration, for defining and stating the geographic positions or locations of points on the

surface of the earth within the State of South Dakota are hereafter to be known and designated as the "South Dakota coordinate system of 1927" and the "South Dakota coordinate system of 1983."

- 43-22-2. **Division of state into zones for purpose of systems.** For the purpose of the use of these systems the state is divided into a "north zone" and a "south zone."
- 43-22-3. **Counties included in north zone.** The area now included in the following counties shall constitute the north zone: Beadle, Brookings, Brown, Butte, Campbell, Clark, Codington, Corson, Day, Deuel, Dewey, Edmunds, Faulk, Grant, Hamlin, Hand, Harding, Hyde, Kingsbury, Lawrence, McPherson, Marshall, Meade, Perkins, Potter, Roberts, Spink, Sully, Walworth, and Ziebach.
- 43-22-4. **Counties included in south zone.** The area now included in the following counties shall constitute the south zone: Aurora, Bennett, Bon Homme, Brule, Buffalo, Charles Mix, Clay, Custer, Davison, Douglas, Fall River, Gregory, Haakon, Hanson, Hughes, Hutchinson, Jackson, Jerauld, Jones, Lake, Lincoln, Lyman, McCook, Mellette, Miner, Minnehaha, Moody, Pennington, Sanborn, Shannon, Stanley, Todd, Tripp, Turner, Union, and Yankton.
- 43-22-5. **Zone designations.** As established for use in the north zone the South Dakota coordinate system of 1927 or the South Dakota coordinate system of 1983 shall be named, and in any land description in which it is used it shall be designated, the "South Dakota coordinate system of 1927, north zone" or the "South Dakota coordinate system of 1983, north zone."

As established for use in the south zone, the South Dakota coordinate system of 1927 or the South Dakota coordinate system of 1983 shall be named, and in any land description in which it is used it shall be designated, the "South Dakota coordinate system of 1927, south zone" or the "South Dakota coordinate system of 1983, south zone."

- 43-22-6. **Definition of systems.** For purposes of more precisely defining the South Dakota coordinate systems of 1927 and 1983, the following definition by the United States Department of Commerce, National Oceanic and Atmospheric Administration, is adopted:
- (1) The South Dakota coordinate system of 1927, north zone, is a Lambert conformal projection of the Clarke Spheroid of 1866, having standard parallels at north latitudes 44 degrees 25 minutes and 45 degrees 41 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 100 degrees 00 minutes west of Greenwich and the parallel of 43 degrees 50 minutes north latitude. This origin is given the coordinates: x equals 2,000,000 feet and y equals 0 feet.
 - (2) The South Dakota coordinate system of 1927, south zone, is a Lambert conformal projection of the Clarke Spheroid of 1866, having standard parallels at north latitudes 42 degrees 50 minutes and 44 degrees 24 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 100 degrees 20 minutes west of Greenwich and the parallel 42 degrees 20 minutes north latitude. This origin is given the coordinates: x equals 2,000,000 feet and y equals 0 feet.

(3) The South Dakota coordinate system of 1983, north zone, is a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 44 degrees 25 minutes and 45 degrees 41 minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 100 degrees 00 minutes west of Greenwich and the parallel 43 degrees 50 minutes north latitude. This origin is given the coordinates: x equals 600,000 meters and y equals 0 meters.

(4) The South Dakota coordinate system of 1983, south zone is a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 42 degrees 50 minutes and 44 degrees 24 minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 100 degrees 20 minutes west of Greenwich and the parallel 42 degrees 20 minutes north latitude. This origin is given the coordinates: x equals 600,000 meters and y equals 0 meters.

43-22-8. **Plane coordinate values--X and Easting--Y and Northing--Definitions.** The plane coordinate values for a point on the earth's surface, used to express the geographic position or location of such point in the appropriate zone of these systems, shall consist of two distances, expressed in United States survey feet and decimals of a foot when using the South Dakota coordinate system of 1927 and expressed in United States survey feet and decimals of a foot when using the South Dakota coordinate system of 1983. One of these distances, to be known as the "x-coordinate" on North American Datum 1927 and "Easting" on North American Datum 1983, shall give the position in an east-and-west direction; the other, to be known as the "y-coordinate" on North American Datum 1927 and "Northing" on North American Datum 1983, shall give the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to plane rectangular coordinate values for the monumented points of the North American Horizontal Geodetic Control Network as published by the United States Department of Commerce, National Oceanic and Atmospheric Administration, and whose plane coordinates have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to either South Dakota coordinate system.

43-22-9. **Recordation of land description based on coordinate systems--Limitation.** No coordinates based on either South Dakota coordinate system, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless such point is within one kilometer of a monumented horizontal control station established in conformity with the standards of accuracy and specification for first or second-order geodetic surveying as prepared and published by the federal geodetic control committee of the United States Department of Commerce. Standards and specifications of the federal geodetic control committee in force on date of the survey apply. Publishing existing control stations, or the acceptance with intent to publish the newly established stations, by the United States Department of Commerce, National Oceanic and Atmospheric Administration, shall constitute evidence of adherence to the federal geodetic control committee specifications. Above limitations may be modified by a duly authorized state agency to meet local conditions.

43-22-10. **Use of terms on maps, reports of survey, or other documents--Limitation.** The use of the term "South Dakota coordinate system of 1927 north zone," or "South Dakota coordinate system of 1927

south zone," or the use of the term "South Dakota coordinate system of 1983 north zone," or "South Dakota coordinate system of 1983 south zone," on any map, report of survey, or other document, shall be limited to coordinates based on the South Dakota coordinate systems as defined in this chapter.

- 43-22-11. **Description of land located in more than one zone.** If any tract of land to be defined by a single description extends from one into the other of the coordinate zones described by §§ 43- 22-3 and 43-22-4, the positions of all points on its boundaries may be referred to either of the two zones, the zone which is used being specifically named in the description.
- 43-22-12.1. **Description of location on system of plane coordinates.** For purposes of describing the location of any survey station or land boundary corner in the state, it shall be considered a complete, legal, and satisfactory description of such location to give the position of the survey station or land boundary corner on the system of plane coordinates defined in this chapter.
- 43-22-13. **Purchaser, mortgagee, or insurer not required to rely on description which depends exclusively upon coordinate systems.** Nothing contained in this chapter requires a purchaser, mortgagee, or insurer of real property to rely wholly on a land description, any part of which depends exclusively on either South Dakota coordinate system.
- 43-31-6. **Selection of homestead, marking, platting, and recording--Execution against unselected homestead--Officer may mark off, plat, and record--Expense embraced in execution.** The owner or the husband or wife may select the homestead, and cause it to be marked off, platted, and recorded as provided in this code. If not so marked off, platted, and recorded, the officer having an execution against the property of such a defendant may cause the homestead to be marked off, platted, and recorded, and may add the expense thence arising to the amount embraced in his execution.
- 43-31-7. **Marking off and platting of homestead--Exception.** The homestead shall be marked off by fixed and visible monuments and platted, unless the same shall embrace the whole of a subdivision or lot, and in giving the description thereof, then marked off and platted as aforesaid, the direction and distance of the starting point from some corner of the dwelling house shall be stated.
- 43-31-8. **Description of homestead--Certification and acknowledgment--Recording and indexing.** The description of the homestead, certified and acknowledged by the owner, shall be recorded by the register of deeds of the proper county in a book to be called the "homestead book," which shall be provided with a proper index.
- 43-31-9. **Change of homestead--Metes and bounds--Record of description--Prior conveyances or liens not prejudiced--Effect of nonconcurrence of spouse.** The owner may from time to time change the limits of the homestead by changing the metes and bounds, as well as the record of the description, or may change it entirely; but such changes shall not prejudice conveyances or liens made or created previously thereto; and no such change of the entire homestead made without the concurrence of the husband or wife shall affect his or her rights or those of the children.

- 43-31-12. **Disagreement as to extent of homestead--Determination by circuit court.** When a disagreement takes place between the owner and any person adversely interested, as to whether any land or buildings are properly a part of the homestead, it shall be competent for the circuit court in any proper case to determine such question and all questions relating thereto.
- 45-4-1. **Discovery of lode within limits of claim essential.** No location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located.
- 45-4-2. **Conditions precedent to filing of location certificate--Monument at place of discovery--Posting notice--Marking of surface boundaries.** Before filing a location certificate pursuant to § 45-4-4, the discoverer shall locate his claim:
- (1) By erecting a monument at the place of discovery and post thereon a plain sign or notice containing the name of the lode, the name of the locator or locators, and the date of discovery, the number of feet claimed in length on either side of the discovery, and the number of feet in width claimed on each side of the lode; and
 - (2) By marking the surface boundaries of the claim.
- 45-4-3. **Marking of surface boundaries of claim--Posts required--Placing in monument of stone.** Such surface boundaries shall be marked by eight substantial posts, hewed or blazed on the side or sides facing the claim and plainly marked with the name of the lode and the corner, end, or side of the claim that they respectively represent and sunk in the ground; one at each corner and one at the center of each side line and one at each end of the lode. When it is impracticable on account of rock or precipitous ground to sink such posts, they may be placed in a monument of stone.
- 45-4-4. **Location certificate--Recording of claim--Contents--Validity.** The discoverer of a lode shall within sixty days from the date of discovery record his claim in the office of the register of deeds of the county in which such lode is located by a location certificate which shall contain:
- (1) The name of the lode;
 - (2) The name of the locator or locators;
 - (3) The date of location;
 - (4) If a lode claim, the number of linear feet in length claimed along the course of the vein each way from the point of discovery, with the width claimed on each side of the center of the vein, and the general course of the vein or lode as near as may be, and such a description of the claim located by reference to some natural object or permanent monument as will identify the claim.
- Any location certificate of a lode claim which shall not contain the matters specified in this section shall be void.
- 45-4-5. **Location certificate limited to single location.** No location certificate shall claim more than one location whether the location be made by one or several locators. If it purports to claim more than

one location, it shall be absolutely void except as to the first location therein described, and if they are described together or so that it cannot be told which location is first described, the certificate shall be void as to all.

45-4-6. **Lode claim--Dimensions--Maximum length--Width, determination by election.** The length of any lode claim hereafter located within this state may equal but shall not exceed fifteen hundred feet along the vein or lode.

The width of a lode claim shall be three hundred feet on each side of the center of the vein or lode, provided that any county may, at any general election, determine upon a width less than three hundred feet but not less than twenty-five feet on each side of the vein or lode.

45-4-7. **Location certificate--Fee for recording and certification--Certified copy on demand.** The register of deeds shall be entitled to receive the fee as established by subdivisions 7-9-15(1) and (2) for each location certificate recorded and certified by him and shall furnish the locator or locators with a certified copy of such certificate if demanded.

45-4-8. **Additional location certificate--Relocation--Existing rights of others not affected-- Claimant not precluded from proving title under previous location.** If at any time the locator of any mining claim heretofore or hereafter located or his assigns shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing or shall be desirous of changing his surface boundaries or of taking in any part of an overlapping claim which has been abandoned and he shall be desirous of securing the benefit of this chapter, such locator or his assigns may file an additional certificate subject to the provisions of this chapter. Such relocation does not interfere with the existing rights of others at the time of such relocation and no such relocation or the record thereof shall preclude the claimant from proving any such title as he may have held under any previous location.

45-4-9. **Relocation of abandoned lode--Fixing of boundaries--Erection of new discovery monument--Contents of relocation certificate.** The relocation of an abandoned lode mining claim shall be by fixing new boundaries in the same manner as if it were the location of a new claim, or the relocater may erect new or adopt the old boundaries, renewing the posts if removed or destroyed. In either case a new discovery monument shall be erected. In any case whether the whole or part of an abandoned claim is taken, the location certificate must state that the whole or any part of the new location is located as abandoned property.

45-4-10. **Location certificate--Surface ground included and excluded.** The location or location certificate of any lode claim shall be construed to include all surface ground within the surface lines thereof and all lodes and ledges throughout their entire depth, the top or apex of which lie inside of such lines extended vertically with such parts of the lodes or ledges as continue by dip beyond the side lines of the claim but shall not include any portion of such lodes or ledges beyond the end lines of the claim or the end lines continued, whether by dip or otherwise, or beyond the side lines in any other manner than by the dip of the lode.

45-4-11. **Longitudinal limits of claim.** If the top or apex of the lode in its longitudinal course extends beyond the exterior lines of the claim at any point on the surface or as extended vertically downward, such

lode may not be followed in its longitudinal course beyond the point where it is intersected by the exterior.

- 45-4-16. **Actions involving mining claims--Survey ordered by circuit court.** In all actions in any circuit court of this state wherein the title or right of possession to any mining claim shall be in dispute the court or judge thereof may, upon application of any of the parties to such suit, enter an order for the underground as well as surface survey of such part of the property in dispute as may be necessary to a just determination of the question involved.
- 45-4-17. **Order of circuit court requiring survey of disputed mining claim--Designation of surveyors--Witnesses to examine property.** Such order shall designate some competent surveyor not related to any of the parties to such suit or in anywise interested in the result of the same; and upon the application of the party adverse to such application, the court may also appoint some competent surveyor to be selected by such adverse applicant whose duty it shall be to attend upon such survey and observe the method of making the same at the cost of the party asking therefor. It shall also be lawful in such order to specify the names of witnesses named by either party, not exceeding three on each side, to examine such property, who shall be allowed to enter into such property and examine the same.
- 45-4-18. **Order of circuit court requiring survey of disputed mining claim--Requirements to be observed in making order--Affidavits as to necessity.** No such order shall be made for survey and inspection except in open court or in chambers upon notice of at least six days, and not then except by agreement of parties or upon the affidavit of two or more persons that such survey and inspection is necessary to the just determination of the suit, which affidavits shall state the facts in such case and wherein the necessity for survey exists; nor shall such order be made unless it appears that the party asking therefor has been refused the privilege of survey and inspection by the adverse party.
- 46A-4-57. **Rejection of petition for change of boundaries of irrigation district by board of directors--Resolution of board ordering change of boundaries, contents.** The board of directors, if it deems it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if it deems it for the best interest of the district that the boundaries of the district be changed and if no person interested in the proposed change of its boundaries shows cause in writing why the proposed change should not be made, or if having shown cause, withdraws the same, or if having shown cause shall not withdraw the same and the board of directors deems it for the best interests of the district that the boundaries thereof be so changed, the board shall by resolution order that the boundaries of the district be so changed as to include therein the lands mentioned in the petition, or some part thereof. The resolution shall describe the exterior boundaries of the lands which the board is of the opinion should be included within the boundaries of the district when changed. The order shall describe the entire boundaries of the district as they will be after the change thereof, and for that purpose the board may cause a survey to be made of such portions of such boundaries as is deemed necessary.
- 46A-4-61. **Order of board in conformity with election results on boundary change.** If at such election a majority of all the votes cast shall be against such change of boundaries, the board of directors shall order that the petition be denied and shall proceed no further in the matter. But if a majority of such

votes be in favor of such change, or if no election is held due to a lack of sufficient written protests as provided in § 46A-4-60, the board shall thereupon order the boundaries of the district to be changed in accordance with the resolutions adopted by the board. The order shall describe the entire boundaries of the district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

- 46A-4-71. **Majority vote against exclusion, denial and dismissal of petition--Majority vote in favor of exclusion, order of board of directors excluding land from irrigation district, contents.** If at such election a majority of all the votes cast shall be against the exclusion of the lands from the district, the board of directors shall deny and dismiss such petition and proceed no further in the matter; but if a majority of such votes be in favor of the exclusion of the lands from the district, the board shall thereupon order that the lands mentioned in the resolution be excluded from the district. The order shall describe the boundaries of the district, should the exclusion of the lands from the district change the boundaries of the district, and for that purpose the board may cause a survey to be made of such portions of the boundaries as the board may deem necessary.
- 46A-10A-48. **Survey and map of proposed coordinated drainage area required--Availability for examination.** Any person making application for establishment of a coordinated drainage area shall first obtain an accurate survey and map of the territory intended to be embraced within the limits of such area, showing the boundaries and area thereof. The accuracy thereof shall be verified by affidavit of a licensed surveyor. The survey and map, when completed and verified, shall be left at a convenient public office, to be designated by the county auditor of the county in which the application is filed, within the area for a period of not less than twenty days for examination by those having an interest in the application.
- 46A-10A-61. **Survey and report contracted by board--Contents--Right of entry--Copy to department.** If the board determines it is necessary, it shall contract for a survey of the proposed drainage to be made by an engineer selected by the board. The survey and subsequent report shall show the starting point, the route, the terminus of any proposed ditch or drain or other improvement, and the course and length of any drain through each tract of land, together with the number of acres from each tract required for construction of improvements. The survey and report shall show the elevation of all lakes, ponds, and sloughs or depressions in the project and the boundary of the proposed project, to include all land that will be benefited by the proposed improvements. The survey and report shall include the approximate location of watersheds within the district, a description of each tract of land therein and the names of the owners and shall identify that tract of land most likely to receive average benefit from the project. The survey and report shall estimate the probable cost and shall include other facts and recommendations the engineer deems material so the board may determine the feasibility of the project. The survey may extend to lands other than those affected by the proposed project to determine the best practical method of draining the entire area under study. For the purpose of inspection or surveys, board members, engineers, or their employees may enter upon any land traversed by the proposed project that, in their judgment, is likely to be affected. The county auditor shall furnish the Department of Water and Natural Resources a copy of the engineer's report and all maps and plans prepared by the engineer.

- 47-29-13. **Surveying and platting of cemetery grounds--Recordation--Lot numbering.** A cemetery corporation shall cause its land, or such portion thereof as may from time to time become necessary for that purpose, to be surveyed into lots, avenues, and walks, and platted, and the plat of ground as surveyed shall be acknowledged and recorded in the office of the register of deeds of the county. Each lot shall be regularly numbered by the surveyor and such number shall be marked on the plat and recorded.
- 47-29-15. **Sale of platted but unused, unsold and unneeded ground--Determination by governing body of corporation--Confirmation.** If any cemetery association or cemetery corporation owns a tract of land surveyed and platted as required by § 47-29-13 which is included within the boundaries of real estate acquired for cemetery purposes, and which tract lies adjacent to the outer boundaries of such real estate acquired for cemetery purposes, and in which tract no interment has been made, and in which tract nobody holds any existing right, acquired by purchase or otherwise, to make an interment, said corporation or association may sell such tract either as an entirety or in subdivisions, if and when it is determined, as hereinafter provided, that there is no reasonable ground for belief that such tract or any part thereof will be needed for interment purposes for a period of twenty years in the future. Such determination shall be by the governing body of such corporation or association, confirmed as provided in §§ 47-29-16 and 47-29-17.
- 47-29-18. **Judgment as vacating plat or survey--Replatting.** Judgment granting a petition filed under § 47-29-16 shall have the effect of vacating any plat or survey theretofore made of such tract, whether or not such plat or survey has been recorded, and the cemetery corporation or association shall thereupon be authorized to cause to be made, as provided by law, a new plat of said tract or any part thereof and to cause such plat to be recorded.
- 49-16A-57. **Plat of proposed road filed with commissioner of school and public lands-- Duplicate to register of deeds.** Each railroad authorized to construct a road in this state, that has surveyed its road, shall cause a plat of the road, clearly indicating the boundary line of the right-of-way and area in acres and fractions, to be certified by its chief engineer or president, and acknowledged, and filed with the commissioner of school and public lands, and a duplicate with the register of deeds of each county in which the land is situated.
- 49-30-4. **Powers of corporation--Survey for proposed pole line--Entry upon property.** Every corporation formed under the provisions of this chapter, and every corporation formed under the laws of any other state or territory or of the United States, owning or operating lines of telegraph or telephone within this state, shall have power to cause such examination and surveys for its proposed lines of telegraph or telephone to be made as may be necessary to the selection of the most advantageous routes, and for such purposes, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damage that shall be done thereto.
- 49-33-6. **Powers of corporation--Survey of proposed route--Entry upon property.** Every corporation organized under this chapter shall have power to cause such examinations and surveys to be made as may be necessary to the selection of the most advantageous route for its proposed street railroad, electric light, or power line, and for such purpose to enter, by its agents, officers, and

servants, upon the lands or waters of any person; subject, however, to responsibility for all damage done to such property by such entry.

55-1A-16. **Land development or dedication--Valuation adjustments.** A trustee may subdivide, develop or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on the exchange or partition of land by giving or receiving consideration; or dedicate easements to public use without consideration.