South Dakota Association of Towns & Townships

(SDATAT)

Working for Local Government since 1979

TOWNSHIP OFFICERS MANUAL

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South Dakota Association of Towns and Townships

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FORWARD

To the Members of the South Dakota Association of Towns and Townships

This manual is being produced for you, the township officials in South Dakota, with the assistance of the EMC Safety Dividend Program. We hope you will find it helpful in administering the duties of your office.

We want to caution you, however, this manual is designed to be a guide only. Each year changes are made to South Dakota law and some of those changes affect townships. This updated version of the manual reflects South Dakota law as it exists in 2017. Much of SDCL 8, the township section, has remained the same for decades. However, there are some sections that have been changed and others may be changed within the next few years. You may access all of South Dakota Codified Law at your local courthouse or by accessing the Legislative Research Council Home Page on the Internet at http://legis.state.sd.us/statutes/index.aspx .

As a township official, you may have questions or problems that arise which are not answered in the book. The South Dakota Association of Towns and Townships Board of Directors and staff are available to assist those townships and small towns which are members of the South Dakota Association of Towns and Townships. If necessary, we will assist you in obtaining competent legal counsel to ensure and protect the interests of the citizens of the township you represent. Any legal cost incurred in such instances will be the sole responsibility of the township.

We hope this manual will help simplify the demanding position of being a township officer. If you have any questions or concerns, please feel free to contact the South Dakota Association of Towns and Townships office.

South Dakota Association of Towns and Townships

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1-25-27

OPEN PUBLIC MEETINGS

Selected Statues Only

1-25-1. Official meetings open to the public--Exceptions--Teleconferences--Violation as misdemeanor. The official meetings of the state, its political subdivisions, and any public body of the state or its political subdivisions are open to the public unless a specific law is cited by the state, the political subdivision, or the public body to close the official meeting to the public. For the purposes of this section, a political subdivision or a public body of a political subdivision means any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, or other agency of the state, which is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law. For the purposes of this section, an official meeting is any meeting of a quorum of a public body at which official business of that public body is discussed or decided, or public policy is formulated, whether in person or by means of teleconference.

It is not an official meeting of one political subdivision or public body if its members provide information or attend the official meeting of another political subdivision or public body for which the notice requirements of § 1-25-1.1 have been met.

Any official meeting may be conducted by teleconference as defined in § 1-25-1.2. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference shall be taken by roll call.

If the state, a political subdivision, or a public body conducts an official meeting by teleconference, the state, the political subdivision, or public body shall provide one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, which has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to an executive or closed meeting.

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

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. Notice of meetings of public bodies other than the state and its

boards, commissions, and departments--Violation as misdemeanor. All public bodies, except the state and each state board, commission, or department as provided in § 1-25-1.3, shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any meeting, by posting a copy of the notice, visible to the public, at the principal office of the public body holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the public body's website upon dissemination of the notice, if such a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each public body shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.2. Teleconference defined. For the purposes of this chapter, a teleconference is information exchanged by any audio, video, or electronic medium, including the internet.

1-25-2. Executive or closed meetings--Purposes--Authorization--Violation as misdemeanor.
Executive or closed meetings may be held for the sole purposes of:

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

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

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

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

(5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business. However, any official action concerning such matters shall be made at an open official meeting. An executive or closed meeting shall be held only upon a majority vote of the members of such body present and voting, and discussion during the closed meeting is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section may be construed to prevent an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a Class 2 misdemeanor.

1-25-3. Boards and commissions to keep minutes of proceedings--Availability to public--Violation as misdemeanor. Any board or commission of the various departments of the State of South Dakota shall keep detailed minutes of the proceedings of all regular or special meetings. The minutes required in this section shall report how

each individual member voted on any motion on which a roll call vote is taken. The minutes shall be available for inspection by the public at all times at the principal place of business of the board or commission. A violation of this section is a Class 2 misdemeanor.

1-25-6. Duty of state's attorney on receipt of complaint alleging chapter violation. If a complaint alleging a violation of this chapter is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

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

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

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

1-25-7. Consideration by commission of complaint or written submissions alleging chapter violation--Findings--Public censure. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney, and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-11. Recording of open public meeting to be permitted. No state, political subdivision, or public body may prevent a person from recording, through audio or video technology, a public meeting that is open to the public as long as the recording is reasonable, obvious, and not disruptive.

1-27-1. Public records open to inspection and copying. Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records, as defined in § 1-27-1.1, are hereby fully empowered and authorized to examine such public record, and make memoranda and

abstracts therefrom during the hours the respective offices are open for the ordinary transaction of business and, unless federal copyright law otherwise provides, obtain copies of public records in accordance with this chapter.

Each government entity or elected or appointed government official shall, during normal business hours, make available to the public for inspection and copying in the manner set forth in this chapter all public records held by that entity or official.

8-1

TOWNSHIP LAW
GENERAL PROVISIONS

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. Creation - 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 / Minimum number of voters. 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 - Recording - Alterations. 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.

8-1-5. Organization on petition of voters. Whenever a majority of the legal voters of a civil township, formed as provided in §8-1-2, shall petition the board of county commissioners for civil township organization, such board shall perfect the civil township organization thereof by appointing a board of supervisors for such township to act until its officers are duly elected and qualified as provided by this title.

8-1-6. Name. The township so organized shall be named in accordance with the expressed wish of a majority of the voters thereof; but if they fail to so designate a name, the board of county commissioners may select the name.

8-1-7. Reorganization - Division - Merger. Any township may be reorganized, divided, or merged as provided in §§ 8-1-8, 8-1-9, and 8-1-10 if each resulting township contains at least five resident voters.

8-1-8. Attachment of fractions - Requirements - Election. Any township or fraction of a township may be reorganized, divided, or merged with another township or fraction of a township, subject to approval by the voters in the affected civil townships and the affected portions of unorganized congressional townships as provided in §§ 8-1-7 through 8-1-10, inclusive, if:

(1) The board of county commissioners proposes that the townships or fractions of townships be reorganized, divided, or merged; or

(2) The affected township boards propose to the board of county commissioners that the townships or fractions of townships be reorganized, divided, or merged; or

(3) A majority of the registered voters residing in the affected portions of the affected townships petition the board of county commissioners to propose that the townships or fractions of townships be reorganized, divided, or merged.

8-1-9. Hearing on proposed action - Notice - Publication. If the conditions of subdivisions (1), (2), or (3) of § 8-1-8 are met, the board of county commissioners shall hold a public hearing to consider the proposed reorganization, division, or merger. The hearing may be conducted in conjunction with a regularly scheduled meeting of the board. At least twenty days before the hearing, the board shall publish notice of the hearing in the official newspapers of the county and shall send the notice to the township clerk and to each member of the board of supervisors of the affected townships.

8-1-10. Election - Notice - Tabulation of votes - Implementation. Following the hearing required in § 8-1-9, the proposed reorganization, division, or merger shall be decided by the voters of the affected civil townships and the affected portions of unorganized congressional townships by ballot at the next regular township election. Any registered voter residing in the affected portion of an unorganized congressional township shall be afforded the opportunity to vote in conjunction with the election held in the township to which the unorganized area is proposed to be attached, except that the votes of such persons shall be tabulated separately by officials of the township. The board of supervisors of each affected township shall publish notice of election in the same manner as provided in chapter 8-3 for publication of notice of the annual township meeting. If any portion of an unorganized congressional township is proposed to be attached to a civil township, the affected civil township shall also publish its notice in any official newspaper of the county that is not an official newspaper of the township. If a majority of the votes cast in each of the affected townships and in the affected portion of each affected unorganized congressional township are in favor of the proposed reorganization, division, or merger, the proposal shall be implemented as provided in this chapter. If no vote is cast by any resident of an affected portion of a civil township or unorganized congressional township, the board of county commissioners of the county in which the affected portion is located shall determine the status of the affected portion for purposes of deciding the results of the election in the affected portion.

8-1-11. Name of merged or separated township. Any civil township so formed by merger of townships or by separation from the original township shall be named

in accordance with the expressed wish of a majority of the legal voters of the new township; but if they fail to designate a name, or the same cannot be properly given to such township, the board of county commissioners may designate a name.

8-1-12. First annual meeting of separated township - Notice. The board of county commissioners shall designate suitable places in each new civil township so formed for holding the first annual township meeting. Notice of the time and place of holding the annual township meeting shall be given by the township clerk of the township so divided as provided by law.

8-1-13. Continuation of original township. The civil township, a division of which has been declared as hereinbefore provided, shall continue as previously organized, and the officers thereof shall hold their offices until the next annual township meeting, at which meeting there shall be elected in each of the new townships so organized, by the legal voters thereof, all the township officers provided by law.

8-1-14. Adjustment of assets and indebtedness after division. If any civil township is subdivided, reorganized, or merged according to the provisions of this chapter, which has been bonded for school or other purposes, or against which there is any other outstanding indebtedness, and if money raised by taxation in the township has been expended for the erection of school buildings or other public improvements, which on such subdivision, reorganization, or merger inures to the benefit of one of the new townships to a greater extent than is equitable, the matter shall be adjusted as provided in §§ 8-1-15 to 8-1-19, inclusive.

8-1-15. Board for adjustment and settlement. Within ten days after the election and qualification of the boards of supervisors of the respective townships that have been reorganized, divided, or merged as provided in § 8-1-8, each of the boards shall appoint one suitable person, who shall be a legal voter of the township where appointed, and the board of county commissioners at its first meeting after the township election shall choose one disinterested person, who shall be a legal voter of the county but not a resident of either of the townships. The three persons so appointed shall constitute a board for the adjustment and settlement of all differences between the townships growing out of the division, reorganization, or merger of the original township.

8-1-16. Board of adjustment - First meeting. The first meeting of such board of adjustment shall be at a time and place to be designated by the board of county commissioners at the time of its appointment.

8-1-17. Board of adjustment - Powers - Factors. The board of adjustment may determine and declare what portion of the bonded or other indebtedness of the original township shall be assumed and paid by each of the new townships so organized, and also to ascertain and determine what sum either of the new townships shall pay to the other on account of school buildings or other public improvements which the township may have received prior to and retained on the division, reorganization, or merger, and also to make a just and equitable division of all money or other property belonging to the original township at the time of the division, reorganization, or mer-

ger. All such divisions and adjustments shall be made, as near as may be, on the basis of the assessed valuation of property in each of the townships, as determined by the director of equalization for the year preceding the division, reorganization, or merger, and on the value of the school buildings and other property at the time of the division, reorganization, or merger of the townships.

8-1-18. Board of adjustment - Determination statement - Filing - Binding effect. A written statement of the determination of such board, signed by the members or a majority thereof shall be filed with the township clerk of each of the newly organized townships and also with the county auditor, which determination, when so filed, shall be binding upon each of the townships to which the same relates.

8-1-19. Board of adjustment - Compensation. Each member of the board of adjustment shall receive a sum not to exceed thirty dollars per day for each day employed in the discharge of his duties. The sum shall be paid in equal portions by the townships represented by the board.

8-1-20. Separation of village from civil township - Petition - Contents - Signatures. Whenever in any civil township, whether such civil township is or is not coextensive in area with a congressional township, containing an area platted, developed and occupied as a village in which reside more than twenty-five percent of the legal voters of the civil township, in which village legal voters are no less than fifty in number, and which village has a population of not less than one hundred and has not been incorporated as a municipality, sixty percent of the legal voters residing in the portion of the civil township outside the area of the village shall petition the board of county commissioners, the existing or original civil township shall be divided and the area of the village and the area of the balance of the original civil township shall be set apart and each organized into a separate civil township. The said petition shall describe the original civil township, the area of the village and give the approximate number of legal voters therein, describe the area of the balance of the original civil township and give the approximate number of legal voters therein and state that it is the wish of the signers that the original civil township be divided and that the village area and the area outside the village be set apart and each organized as a separate civil township; said petition shall have endorsed thereon and attached thereto an affidavit of three or more of the signers that it is signed by sixty percent of the legal voters of the area outside the village area.

8-1-21. Notice of petition for separation of village - Mailing. Upon filing such petition with the county auditor such board shall appoint a time and place for consideration of such petition, not less than twenty days thereafter, and shall cause notice thereof to be sent by regular mail or delivered personally to the township clerk and to each member of the board of supervisors of the original civil township at least twenty days before the date set for hearing.

8-1-22. Hearing by county commissioners on separation of village from township--Decision and determination of boundaries. At the time and place so appointed such board of county commissioners shall proceed to the consideration of such petition, and shall at the same time afford opportunity to any resident of the civil town-

ship to be affected thereby to be heard in opposition thereto, and if upon such hearing it shall appear to such board that such petition is signed by and is in accordance with the wishes of sixty percent of the legal voters of the portion of said civil township outside the area of the village, such board shall proceed at once to divide such original civil township into separate civil townships, determine and fix the boundaries of such civil townships resulting from such division. All proceedings thereupon shall be as provided in §§ 8-1-7 to 8-1-9, inclusive, for the division and reorganization of townships.

8-1-23. Petition for abolition of township - Election. Except as provided in § 8-1-28, if fifteen percent of the registered voters of any civil township, based upon the total number of registered voters at the last preceding general election, petition the township clerk, the clerk, at the direction of the board of supervisors, shall call an election. The election shall be called in the manner prescribed by law for holding special township meetings and the question shall be submitted, "Shall the civil township organization of _____ township be abolished?" "Yes." "No." The election shall be held within sixty days of the filing of the petition and in the manner provided by law for holding elections for the election of civil township officers. The township clerk shall provide a sufficient number of printed ballots for the proper conduct of the election.

8-1-23.1. Waiting period for filing petition for abolition. No petition to abolish a township may be filed within one year following an election on the question of abolishing the township.

8-1-24. Abolition of township - Approval by voters - Abstract of votes - Delivery of township property. If a majority of the votes cast at such election shall be in favor of abolishing such civil township organization, it shall be abolished. The clerk of such township shall forthwith transmit to the county auditor, a statement of such action, together with an abstract of the number of votes cast for and against such proposition at such election. Within thirty days after the holding of such election the officers of such township shall deliver to the county auditor all township books, moneys, papers, and personal property of every kind, and shall thereupon cease to be such officers.

8-1-25. Deposit property after abolition. The county auditor shall pay all money so received to the county treasurer to be by him disposed of as provided in this chapter. The county auditor shall make an inventory of all books, records, papers, and personal property so received. The books, papers, and records shall become a part of the permanent record of such auditor's office. The auditor shall be the custodian of all personal property belonging to such civil township until it is disposed of as provided in this chapter.

8-1-26. Payment of indebtedness after abolition – Disposition of property - Tax levy. At its next session the board of county commissioners shall audit the accounts of such township and shall order the payment of its outstanding debts out of any money in the hands of the county treasurer to the credit of such township, and shall dispose of the personal property of such township and place the proceeds of such

sale in the custody of the county treasurer to the credit of such township. If there be not sufficient money for the payment of all outstanding indebtedness, the board of county commissioners shall levy a tax sufficient for such purpose upon the property situated in such territory, which shall be extended by the county auditor upon the tax lists for the year following such election and shall be collected by the county treasurer, and shall be devoted to the extinguishing of the debts of such township in the order of their priority as shown by the records of such township.

8-1-27. Surplus funds for road work after abolition. At its first meeting after any township ceases to be a civil township as provided by this chapter, the board of county commissioners shall expend all money in the hands of the county treasurer to the credit of such township, in excess of the amount required to pay the indebtedness of such township, for road work in such former township territory according to the laws governing such road work.

8-1-28. Township with real property or bonded indebtedness not permitted to abolish organization. The provisions of §§8-1-23 to 8-1-27, inclusive, relating to abolishing of township organizations shall not apply to any township having an outstanding bonded indebtedness nor to any township owning any real property.

8-1-29. Reestablishment of township--Reestablishment defined. Any township may be reestablished pursuant to §§ 8-1-29 to 8-1-32, inclusive, if such township contains at least five resident voters. For the purposes of §§ 8-1-29 to 8-1-32, inclusive, the term, reestablishment, means organizing a township that has been dissolved.

8-1-30. Reestablishment of township proposed by county commissioners or petition of voters. Any township may be reestablished subject to approval by the voters in any unorganized congressional township as provided in §§ 8-1-29 to 8-1-32, inclusive, if:

(1) The board of county commissioners proposes that the township be reestablished; or

(2) Fifteen percent of the registered voters residing in the affected township petition the board of county commissioners proposing that the township be reestablished.

8-1-31. Public hearing on reestablishment of township--Notice. If one of the conditions of § 8-1-30 is met, the board of county commissioners shall hold a public hearing to consider the proposed reestablishment. The hearing may be conducted in conjunction with a regularly scheduled meeting of the board. At least twenty days before the hearing, the board shall publish notice of the hearing in the official newspapers of the county.

8-1-32. Election on reestablishment of township. Following the hearing required in § 8-1-31, the proposed reestablishment shall be decided by the voters of the affected civil townships on the date set for the township election by the board of county commissioners. Any registered voter residing in the affected portion of an unorganized congressional township shall be afforded the opportunity to vote. If a majority of the votes cast in the township are in favor of the proposed reestablishment, the

proposal shall be implemented as provided in this chapter.

8-2

POWERS AND OBLIGATIONS

8-2-1. Corporate and regulatory powers. Each organized township in the state is a body corporate and has power:

(1) To sue and be sued;

(2) To acquire, by purchase, condemnation, or other lawful means, real property within or without the limits of the township, necessary or convenient for township purposes, or for the exercise of the powers granted to the township;

(3) To make such contracts and purchase and hold such personal property as may be necessary for the exercise of its corporate or administrative powers or for the protection of the property of its inhabitants, including the purchase of or contracting for fire-fighting equipment or protection;

(4) To pass bylaws or ordinances for the government of such township and for the protection of the lives and property of its inhabitants, and to enforce the same in its corporate name before any magistrate;

(5) To make such orders for the disposition, regulation, or use of its corporate property as may be deemed by the board of supervisors conducive to the best interests of the inhabitants.

8-2-2. Transactions - Conveyances. All transactions by or with a township in its corporate capacity shall be conducted in the name of such township, but any conveyance of land within the limits of such township, made in any manner for the use and benefit of its inhabitants, shall have the same effect as if made to the township by name.

8-2-3. Proceedings in township name. In all actions and proceedings the township shall sue and be sued by its name, except where township officers are authorized by law to sue in their official capacity for the benefit of the township.

8-2-6. Public library services. Each organized township in the state has power to provide for public library services, subject however to the same conditions as provided in chapter 14-2, and all provisions of such chapter, so far as reasonably adapted to townships, apply with reference to the establishment, management, and operation of such library services.

8-2-7. Liability insurance. Any township in this state may, through its board of supervisors, when and to the extent deemed expedient by said board, obtain and pay for public liability insurance insuring the township, its board, officers, and employees from any and all claims for damages arising from or caused in the discharge, performance or nonperformance of their duties or employment.

8-2-8. Regulation of unincorporated towns. Each organized township in the state has power, when an unincorporated town is within its limits:

(1) To regulate the laying of sidewalks and crosswalks along, over, or across the streets and alleys thereof;

(2) To regulate the depositing of garbage, ashes, offal, or any offensive matter which might endanger the health of its inhabitants;

(3) To prohibit within the limits of such unincorporated town the use of dangerous or defective stovepipes or chimneys;

(4) To abate any nuisance found within its corporate limits;

(5) To provide for the purchase and operation of such appliances as may be needed to protect the property of its inhabitants from fire;

(6) To provide for planting and caring for shade trees along the streets and on public squares or grounds of such town;

(7) To grant franchises and rights to persons, associations, or corporations, for the sale of electric current, the erection of lampposts, electric towers, light or power lines, or other apparatus;

(8) To authorize and regulate the erection and maintenance of street lamps, but the township shall incur no expense for such erection or maintenance;

(9) To vote any appropriation necessary for providing a jail, and prescribe such regulations as may be necessary regarding the same. Any civil township providing such jail shall cause notice of the same to be published in the newspaper having the largest circulation in such township, if there be any, or cause the township clerk to post notice therefore in three of the most public places in the township;

(10) To construct, operate, equip, maintain, extend and improve any system or part of a system of waterworks and sewers for supplying water and sewerage services for an unincorporated town within its boundaries for industrial and domestic use therein, for such compensation and terms and conditions as it may determine;

(11) To purchase, construct, maintain, operate and lease parks and public recreational facilities when approved by the voters as provided by subdivision 8-3-2 (8).

8-2-9. Regulation of township adjacent to municipality - Subordination to county or municipality. Each organized township in the state has power, when a municipality with a population of fifty thousand or more is within four miles of the township:

(1) To regulate the depositing of garbage, ashes, offal, or any offensive matter which might

endanger the health of its inhabitants;

(2) To compel any privy, sewer or cesspool maintained in such a manner as not to be offensive or endanger the health of any persons in the township;

(3) To prevent the pollution of or any injury to any water supply;

(4) To do what may be necessary or expedient for the promotion of health or the suppression of disease;

(5) To regulate the moving of any house or building into, within, or out of the township, and to prevent the moving into the township of any house or building of dangerous construction or condition, and to require that a license or permit shall first be obtained from the board of township supervisors before any house or building may be moved into, within, or out of the township. The granting of such license

or permit shall be within the sound discretion of the board of township supervisors and no house or building shall be moved into, within, or out of the township until such permit or license has first been issued;

(6) To prescribe the manner of constructing buildings and structures to be erected within the township, and to require that a building permit shall be first obtained from the board of township supervisors before the construction of any building or structure within the township;

(7) To prevent and provide for remedying any dangerous construction or condition of any building, enclosure or manufactory or any equipment used therein, and to require all buildings and places to be put in a safe condition;

(8) To regulate and restrict the height, and size of buildings and other structures and the location and use of buildings, structures and land for trade, industry, residence or other purposes, with the object of promoting the health, safety, morals and the general welfare of the township, and for such purpose to divide the township into districts for zoning purposes;

(9) To abate any nuisance found within its corporate limits;

(10) To compel compliance with and to prevent the violation of any of the provisions of this section.

The powers as provided in this section shall be subordinate to any zoning or other powers of the county or adjoining municipality when such powers are, or shall be, exercised by said county or municipality in respect to said township.

8-2-10. Restriction to express grant. No organized township shall possess or exercise any powers except such as are enumerated in this chapter, or are especially given by law or are necessary to the exercise of the powers so enumerated or granted.

8-2-11. Bylaws and changes - Publication - Effect. No bylaw made by any township shall take effect before the publication thereof for three consecutive days in a daily, or for two consecutive weeks in a weekly newspaper of general circulation in said township; and such bylaws, duly made and so published, are binding upon all persons coming within the limits of the township as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent township meeting.

The township clerk shall publish notice of any changes in the bylaws in the manner hereinbefore provided and shall make an entry in the township records of the time when and the manner in which such notice was published.

8-2-12. Trespass on township lands - Remedies. Whenever any action is brought to recover a penalty imposed for any trespass committed on the lands belonging to the township, if it appears on the trial thereof that the actual amount of injury to such lands in consequence of such trespass exceeds the sum of twelve dollars and fifty cents, the amount of actual damage with costs of suit shall be recovered in such action instead of any penalty for such trespass imposed by the township meeting, and such recovery shall be a bar to every other action for the same trespass.

8-2-14. Deferred compensation program for volunteer firefighters - Establishment - Management - Participation. Any township with a volunteer fire department may establish a deferred compensation program for its volunteer firefighters.

Such a program may be financed by the township or by the volunteer firefighters and may be managed through the township or through an insurance company or other financial institution. Such program shall be established by ordinance. Each township shall establish requirements for participation in the program. Participation in the program of deferred compensation shall be at the option of the volunteer firefighter.

8-2-14.1. Deferred compensation program for volunteer advanced life support personnel. Any township with volunteer advanced life support personnel may establish a deferred compensation program for its volunteer advanced life support personnel. Such a program may be financed by the township or by the volunteer advanced life support personnel and may be managed through the township or through an insurance company or other financial institution. Such program shall be established by ordinance. Each township shall establish requirements for participation in the program. Participation in the program of deferred compensation shall be at the option of the volunteer advanced life support personnel.

8-2-15. Maintenance of abandoned cemeteries. The township board of supervisors may regulate and maintain abandoned rural cemeteries within their township. The regulation and maintenance may include the mowing and cutting of weeds and grass, the repairing of fences and corrective measures relative to grave markers. Funds necessary to carry out the provisions of this section may be appropriated from the township general fund. The board of supervisors shall notify the board of county commissioners in writing that the board of supervisors will maintain an abandoned cemetery.

8-2-16. Enrollment in group health, life, and disability income insurance plans--Premiums. A township may enroll in any group health insurance plan, group life insurance plan, or group disability income insurance plan permitted by law to be offered in this state for township officers and any employee of the township who is employed for a minimum of one thousand forty hours per year by the township. A township may only pay the premiums or any portion thereof for the insurance programs allowed by this section for such employee.

8-3

ANNUAL MEETINGS AND ELECTIONS

8-3-1. Time and place of annual meeting--Publication of notice. The citizens of each organized civil township qualified to vote at general elections shall annually assemble and hold a township meeting on the first Tuesday of March. The township board of supervisors shall by resolution establish the location where the annual township meeting shall be held. The location of the annual meeting shall be in the county where the township is located. Notice of the time and place of such township meeting shall be given by the publication thereof for three consecutive days in a daily, or for two consecutive weeks in a weekly newspaper of general circulation in the township beginning not less than twelve calendar days prior to such meeting. In case of inclement weather, any required township meeting may be rescheduled for the following Tuesday at the same place and location without additional publication in the

newspaper and meeting requirements provided in § 1-25-1.1. If the board of supervisors requires nominating petitions pursuant to § 8-3-1.1, the notice required by this section shall include the names and the office they seek of those who have filed nominating petitions pursuant to § 8-3-1.2.

8-3-1.1. Candidates - Nominating petition. The board of supervisors of a township may, by ordinance, require a candidate for township office to file a nominating petition pursuant to §8-3-1.2. If a township has fifty or more registered voters, ten percent or more of the registered voters may file a petition, by October first, requesting that nomination petitions be filed by all candidates for township office. If such petition is filed, the board of supervisors shall adopt a resolution requiring each candidate for township office to file a nominating petition pursuant to § 8-3-1.2.

8-3-1.2. Candidates - Nominating petition - Contents - Circulation. If the board of supervisors requires nominating petitions pursuant to §8-3-1.1, no candidate for elective township office may be nominated unless a nominating petition is filed with the township clerk no later than five p.m. of the day twenty-five days prior to the annual township meeting at which such officer is to be elected. The nominating petition shall be signed by no less than ten registered voters of the township and shall be on a form approved by the state board of elections. The nominating petition shall contain the name of the candidate, his residence and business address and the office for which he is nominated. A formal declaration of the candidate shall be signed by him prior to the circulation of petitions. The signed declaration of the candidate, or a facsimile thereof, may accompany and be part of the petition. The original signed declaration shall accompany and be a part of the petition. The signer or the circulator of the petition shall add the signer's residence address and the date of the signing. No petition may be circulated until forty-five days prior to the annual meeting.

8-3-1.3. Election notice - Publication. If the board of supervisors requires nominating petitions pursuant to §8-3-1.1, the township clerk shall publish a notice stating the offices that will be voted upon at the annual meeting. The notice shall be published in the official newspapers of the township once a week for two consecutive weeks. The last notice shall be at least forty-five days prior to the annual meeting. The notice shall state where nominating petitions shall be filed and the date when the petitions must be filed.

8-3-1.4. Notice in small township. No township with a population of twenty or fewer resident voters is required to publish a notice of the time and place of an annual meeting more than once in any publication.

8-3-2. Powers of voters at annual meeting. The voters of each organized civil township have power at their annual meeting:

(1) To select such township officers as are required by law to be chosen;

(2) To vote to levy a tax for authorized township purposes, but the levy may not exceed the limit authorized by law.

8-3-3. Special meetings electors - Statement. Special meetings of the township electors may be held for the purpose of electing township officers to fill vacancies

that occur, or for the purpose of transacting any lawful business if the entire board of supervisors files or if two members of the board of supervisors, together with at least twelve other resident voters of the township, file in the office of the township clerk a written statement that a special meeting is necessary for the interests of the township. However, special meetings may be called in a township with a population of twenty or fewer resident voters by the entire board of supervisors or by two members of the board of supervisors and four resident voters of the township.

8-3-4. Notice of special meeting - Publication - Recording. Every township clerk with whom such statement is filed as required in § 8-3-3 shall record the same and immediately cause notice to be published in the same manner as provided for the publication of notice of the annual township meeting. However, in a township with a population of twenty or fewer resident voters, the notice of the time and place of any special meeting need not be published more than once in any publication, shall be provided not less than three days before the special meeting, and may be provided by first class mail in lieu of publication.

8-3-5. Notice of special meeting - Contents - Business for stated purposes. Every notice given for a special township meeting shall specify the purpose for which it is to be held, and no business shall be transacted at such meeting except such as is specified in such notice. If vacancies in office are to be filled at such meeting, the notice shall specify the vacancies, how they occurred, who was the last incumbent, and when the legal term of each such office expires.

8-3-6. Officers - Procedure. The voters present at the annual or special township meeting shall be called to order by the township clerk, if there is one present, and if not the voters shall elect one of their number chairman. Such voters shall elect three of their number judges, who shall be duly sworn and be judges of the qualifications of township voters. They shall then proceed to choose one of their number to preside as moderator. The township clerk shall be clerk of the meeting and keep full minutes of its proceedings, in which he shall enter at length every order or direction and all rules and regulations made by the meeting. If the township clerk is absent, then such person as is elected for that purpose shall act as clerk of the meeting.

8-3-7. Voting eligibility - Residence - Registration. No person may vote at any township meeting unless the person is registered to vote pursuant to chapter 12-4 and resides in the township. For the purposes of this section, a person resides in the township if the person actually lives in the township for at least thirty consecutive days each year, is a full-time postsecondary education student who resided in the township immediately prior to leaving for the postsecondary education, or is on active duty as a member of the armed forces whose home of record is within the township. A voter's qualification as a resident may be challenged in the manner provided in § 12-18-10. No election may be contested on the grounds that any nonresident was allowed to vote if the nonresident was not challenged in the manner provided in § 12 -18-10.

8-3-8. Unlawful voting at meeting. Every person who votes at any civil township meeting, in a township in which he does not reside, or who offers to vote at any an-

nual township meeting, after having voted at an annual township meeting held at another township within the same year, is guilty of a Class 2 misdemeanor.

8-3-9. Challenge to voter - Determination. If any person offering to vote at any election or upon any question arising at any township meeting is challenged as unqualified, the judges shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the township meeting.

8-3-10. Order of business - Rules of procedural. At the opening of every township meeting the moderator shall state the business to be transacted, and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator, and no proposition to reconsider any vote shall be entertained unless such proposition to reconsider is made within one hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll list at such election up to the time such motion is made; and all questions upon motions made shall be determined by a majority of the voters voting; and the moderator shall ascertain and declare the result of the votes on each question.

8-3-11. Minutes of meeting - Filing. The minutes of the proceedings of every township meeting, subscribed by the clerk and judges of such meeting, shall be filed in the office of the township clerk within two days after such meeting.

8-3-12. Supervisor - Representation of county seat. There shall be elected at such annual township meeting one supervisor, who shall hold his office for the term of three years and until his successor is elected and qualified, the senior member of the board of supervisors to be chairman thereof. In any organized civil township containing an unincorporated platted town which is a county seat, at least one member of such board shall be a resident voter of such town.

8-3-13. Additional officers elected - Constable - Term. At each annual meeting, a clerk and a treasurer shall be elected, and a constable may be elected. If a constable is elected, the term of office is two years, except to fill vacancies.

8-3-13.1. Offices of the clerk and treasurer combined--Nomination and election--Powers and responsibilities. The voters of each organized civil township with fifty or fewer resident voters may combine the offices of the clerk and treasurer during the annual meeting. If a majority of the voters vote to combine the offices, the combined office of the clerk and treasurer shall be nominated and elected in the same manner as other officers are nominated and elected. Any person elected to the combined office of the clerk and treasurer shall have all of the powers and responsibilities of the offices of the clerk and treasurer.

8-3-14. Elections - Polls - Opening - Adjournment - Closing. Before the voters proceed to elect any township officer, proclamation shall be made at the opening of the polls by the moderator, and proclamation shall in like manner be made of the adjournment, and of the opening and closing of the polls, until the election is ended.

8-3-15. Elections - Voting on officers. The supervisors, treasurer, clerk and constable in each township shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas and nays or by a division, as the voters determine.

8-3-16. Elections - Voting by ballot. When the voters vote by ballot for township officers, a poll list shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received. The ballot, which may be written or printed, or partly written and partly printed, shall include all officers to be elected. It shall contain the name of each person voted for and the office for which such person is intended to be chosen. It shall be delivered by the voter to one of the judges, so folded as to conceal its contents, and the judge shall deposit the ballot in a box provided for that purpose.

8-3-17. Elections - Canvass and return. At the close of the election the judges shall proceed publicly to canvass the votes, which canvass, when commenced, shall continue without adjournment or interruption until the same is completed. The canvass shall be conducted by taking one ballot at a time from the ballot box and counting until the number of ballots is equal to the number of names on the poll list, and if there are any left in the box they shall be immediately destroyed; the person having the greatest number of votes for any office shall be declared duly elected. If two or more persons have an equal and the highest number of votes for any office, the judges of election shall at once publicly, by lot, determine which of such persons shall be declared elected. If on opening the ballots two or more ballots are found to be so folded that it is apparent the same person voted them, such ballots shall immediately be destroyed. The canvass having been completed, a statement of the result shall be entered at length by the clerk in the minutes and publicly read by him to the meeting. Such reading shall be deemed notice of the result of the election to every person whose name is entered on the poll list as a voter.

8-3-17.1. Elections - Absentee ballot. If nominating petitions are required pursuant to § 8-3-1.1, then any voter qualified to vote in a township candidate election may vote by absentee ballot as prescribed in chapter 12-19. Absentee voting shall be allowed for any township ballot question election and shall be conducted as prescribed in chapter 12-19.

8-3-18. Elections - Notice to persons elected. The clerk of every township meeting, within ten days thereafter, shall transmit to each person elected to any township office, whose name is not entered on the poll list as a voter, notice of his election.

8-3-19. Special meeting after failure to elect officers. If any township refuses or neglects to organize and elect officers at the time fixed by law for holding the annual meeting, twelve resident voters of the township may call a meeting for such purpose by notice published in the same manner as provided for the publication of notice of the annual township meeting. The notice shall set forth the time, place, and object of the meeting; and the voters, when assembled by virtue of such notice, shall possess all the powers conferred upon them at the annual township meeting.

8-3-20. Appointment of officers by county commissioners. If no such notice is given as provided in § 8-3-19 within thirty days after the time for holding the annual meeting, the board of county commissioners shall, on the affidavit of any resident voter of the township, filed in the office of the county auditor setting forth the facts, proceed at any regular or special meeting of the board to appoint the necessary township officers. The persons so appointed shall hold their respective offices until others are elected and qualified in their places, and shall have the powers and be subject to the same duties as if they had been duly elected.

8-3-21. Adoption of campaign finance law. Option to adopt campaign finance law. The township governing body may, by ordinance or resolution, adopt the provisions of chapter 12-27.

8-4

OFFICERS

8-4-1. Qualifications. Any person qualified to vote at a township meeting is eligible to any township office. No person may hold a township office unless he resides in the township.

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8-4-3. Oath of office of township officers. Each person elected or appointed to any township office, shall, within ten days after receiving notice of election or appointment and before entering upon the discharge of the officer's duties, take and subscribe an oath or affirmation as required by § 3-1-5. Each oath shall be filed in the office of the county auditor by the last day of March. No fee may be charged or received by any officer for administering or filing the oath, or for filing or recording any township officer's official bond.

8-4-4. Qualification - Refusal. The township clerk shall require all legally elected officers, who accept the office to which they are elected, to duly qualify within the time prescribed by law and in accordance with the provisions of law. A township clerk who refuses or neglects to procure and file the bonds of the township officers as **prescribed** by this section commits a petty offense.

8-4-5. Failure to file oath or bond. If any person elected or appointed to any township office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law, such neglect shall be deemed a refusal to serve in such office.

8-4-6. Forfeiture for failure to take oath. If any township officer who is required by law to take an oath of office enters upon the duties of his office before taking such oath, he forfeits to such township the sum of fifty dollars.

8-4-7. Terms. All township officers, except as otherwise expressly provided, shall hold their offices for the term of one year and until their successors are elected or

appointed and qualified.

8-4-8. Salary and compensation of clerk, treasurer, and supervisors. Except as otherwise provided in this section and § 1-27-35, the clerk, treasurer, and supervisors may each receive an annual salary, plus compensation for each day necessarily devoted to the discharge of their official duties when attending to business in the township. The voters of each township shall establish the annual salary and the hourly or daily rate of compensation at the annual township meeting. In addition, the clerk, treasurer, and supervisors may also receive mileage compensation at the rate established for state employees by the State Board of Finance when attending to the business of the township. The township board of supervisors shall limit the total amount of salary and compensation that the clerk, treasurer, and any one supervisor may receive in a year. Any salary and compensation limit established by the township board of supervisors does not apply to compensation received for road work.

8-4-10. Resignation - Acceptance - Notice. The board of supervisors may, for sufficient cause shown, accept the resignation of any township officer and thereupon it shall give notice thereof to the township clerk.

8-4-11. Filling of vacancy in township office. If any township fails to elect any township officer, or if any person elected to an office fails to qualify by refusing to serve in such office or by not being a registered voter or by not having residence in the township, or if any vacancy happens in any office from death, resignation, removal from the township, or other cause, the board of supervisors, or a majority of them, shall fill the vacancy by appointment, by warrant under their hands. Any person so appointed shall hold his office until the next annual township meeting and until his successor has been elected and qualified. Such person shall have the same power and be subject to the same duties and penalties as if he had been duly elected. The township clerk according to § 8-6-6 shall prescribe the oath or affirmation of office required by § 31-1-5 and require the person so appointed to qualify pursuant to §§ 8-4-3 and 8-4-4.

8-4-12. Vacancy on board. If for any cause any member of the appointing board prescribed by §8-4-11 is unable to act, the remaining members of such appointing board shall select a voter of the township to act in his place, and the board so constituted shall proceed as required by §8-4-11.

8-5
BOARD OF SUPERVISORS

8-5-1. Time and place of regular meetings. The township board of supervisors shall hold regular meetings on the last Tuesday of February, the last Tuesday of March, and the last Tuesday of October, of each year. The meetings shall be held at the office of the township clerk or the location established in § 8-3-1 at a time determined by the board. If any two supervisors submit a written statement signed by them not less than twelve days before the meeting requesting that the next regular meeting be held at a different time, the township clerk shall give notice of the time and place of the meeting as provided by § 8-3-1. In case of inclement weather, any required township meeting may be rescheduled for the following Tuesday at the same place and location without additional publication in the newspaper and meeting requirements provided in § 1-25-1.1.

8-5-2. Meetings - Business - Special meetings - Notice - Filing. At each regular meeting, the board shall perform the duties required of it by law and transact any other business that may legally come before it. The board may adjourn from time to time. The township clerk or the chairman of the board of township supervisors may call special sessions if the interests of the township demand it upon giving three days' notice of such session by mailing a copy of such notice to each of the supervisors at their several post office addresses or by giving such notice to each supervisor by telephone. It shall be the duty of all persons having business to transact with the board to appear before such board at any regular meeting, or file such business with the clerk to be laid before the board by him at its next meeting.

8-5-3. Meetings - Quorum. Except as otherwise specifically provided any two of the supervisors shall constitute a quorum for the performance of any duties required by law of the supervisors.

8-5-4. Board - General Powers - Disbursement of funds. The board shall have charge of such affairs of the township as are not by law committed to other officers; and it shall have power to draw orders on the township treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the township and for all money raised by the township to be disbursed for any other purpose. As to any power conferred upon a township when the manner of exercising the same is not otherwise specifically provided, the same shall be exercised by such board, which may by bylaw provide the details necessary for such exercise.

8-5-5. Prosecution of actions for township - Trespass. The board shall, in the name of the township, prosecute for the benefit of the township all actions upon bonds given to it and shall also sue for and collect all penalties and forfeitures in respect to which no other provision is made, incurred by any officer or inhabitant of the township; and it shall have power, in like manner, to prosecute for any trespass committed on any public enclosure, highway, or property belonging to the township, and shall pay all money collected under this section to the township treasurer.

8-5-6. Equalization of township assessments. The township board of supervisors shall perform the duties of a board of equalization of township assessments, as provided in the section of this code relating to assessment and taxation.

8-5-8. Appeals from board of supervisors--Time for taking--Service and filing of notice. From all decisions, orders, and resolutions of the boards of supervisors of townships, there shall be allowed an appeal by any person aggrieved thereby upon compliance with this section. Such appeals shall be taken within twenty days after the publication of the decision, order, or resolution of the board, if such be published; and in those cases where there is no publication, then within twenty days from the time of receiving actual notice thereof, by serving a written notice on one of the members of the board, which notice shall describe with reasonable certainty the decision, order, or resolution appealed from, and shall briefly set forth the grounds upon which the appeal is made. The original of such notice of appeal, together with proof of service, shall be filed forthwith in the office of the clerk of courts of the county in which the township is located, and it shall be docketed in the same manner as complaints in civil actions. However, the filing fee is twenty-five dollars.

8-5-9. Appeals - Transcript - Settlement - Issues. Within thirty days after the service of such notice of appeal, the board of supervisors of the township shall cause to be filed with the clerk of courts a transcript of the proceedings of such board relative to the decision, order or resolution being appealed, which transcript shall be certified to by the township clerk as being correct. The issue shall be deemed to have been joined from the time of filing of such transcript and the matter may be brought on for trial in the same manner as provided for in civil cases. If the issues do not sufficiently appear from the notice of appeal and such transcript, the court may, upon notice to the parties, settle and frame the issues to be tried.

8-5-10. Hearing de novo on appeals--Judgment and order of circuit court. All appeals taken as prescribed by § 8-5-8 shall be heard and determined de novo. The circuit court may make a final judgment and cause the same to be executed or may send the same back to the board of township supervisors with an order how to proceed, and require the board to comply therewith by mandamus or attachment as for contempt.

8-5-11. Appeals - Supreme Court. An appeal to the Supreme Court from the final judgment of the circuit court shall be permitted as provided for in civil cases.

8-5-12. Appeals - Other remedies. The provisions of §§8-5-8 to 8-5-11, inclusive, shall be cumulative to any existing remedies, proceedings, or actions available against township and township officers.

8-5-13. Firearms regulation ordinances prohibited. No township may pass any ordinance that restricts possession, transportation, sale, transfer, ownership, manufacture or repair of firearms or ammunition or their components. Any ordinances prohibited by this section are null and void.

8-6

CLERK

8-6-1. Bond required of clerk. Any person elected or appointed to the office of township clerk shall, before the person enters the office and within the time prescribed by law for filing the oath of office, execute a bond, conditioned upon the faithful discharge of the duties of the office, paid for by the township, and with a surety company authorized to conduct business in this state or through a pool arrangement as provided in §§ 1-24-11 to 1-24-17, inclusive. The bond shall be for an amount set by and approved by the board of township supervisors and filed in the office of the county auditor. The bond shall be set for an amount approximately equal to the sum of money that the township is expected to receive in any one fiscal year or two hundred thousand dollars, whichever is less.

8-6-2. Deputy Clerk - Appointment - Oath. The township clerk may in his discretion appoint a deputy, for whose acts he shall be responsible. Before any deputy shall enter upon the duties of his office he shall take and subscribe the oath or affirmation required by §3-1-5, which oath shall be filed in the office of the county auditor.

8-6-3. Minutes of meetings - Records and accounts - Preservation - Destruction. The township clerk shall record, in the book of records of his township, minutes of the proceedings of every township meeting, and he shall enter therein every order or direction and all rules and regulations of any such meeting, and shall also file and preserve all accounts audited by the township board or allowed at a township meeting, and enter a statement thereof in such book of records. However, the township clerk may destroy any record which the records destruction board, acting pursuant to §1-27-19, declares to have no further administrative, legal, fiscal, research or historical value.

8-6-4. Record of supervisor's proceedings - Preservation - Destruction. The township clerk shall be clerk of the township board of supervisors and shall manage and file a true record of all its proceedings except the records for accounts maintained by the treasurer as prescribed in §8-10-27 and when no other provision is made by law. However, the township clerk may destroy any record which the records destruction board, acting pursuant to §1-27-19, declares to have no further administrative, legal, fiscal, research or historical value.

8-6-5. Preservation and destruction of records. If no other provision is made by law, the township clerk shall duly file and safely keep all records and papers required by law to be filed by the township clerk. However, the township clerk may destroy any record which the records destruction board, acting pursuant to §1-27-19, declares to have no further administrative, legal, fiscal, research or historical value.

8-6-6. Oaths and acknowledgments by clerk. The township clerk is authorized to administer all oaths and take all acknowledgments of instruments authorized or required by law.

8-6-7. Filing annual fiscal report. The township clerk shall file the annual fiscal report of the township with the county auditor pursuant to § 6-9-1 by the last day of March of the year immediately following the close of the township's fiscal year.

8-6-8. Notice of injury - Filing. The township clerk shall file for the township pursuant to §3-21-3 any record of notice of injury received by the township.

8-7

TREASURER

8-7-1. Bond required of treasurer. Any person elected or appointed to the office of township treasurer, before the person enters the office, shall give to the county a bond, conditioned upon the faithful discharge of the duties of the office, paid for by the township, and with a surety company authorized to conduct business in this state or through a pool arrangement as provided in §§ 1-24-11 to 1-24-17, inclusive. The bond shall be for an amount set by and approved by the board of township supervisors and filed in the office of the county auditor. The bond shall be set for an amount approximately equal to the sum of money that the township is expected to receive in any one fiscal year or two hundred thousand dollars, whichever is less.

8-7-2. Custodian of township money - Accounting. The township treasurer shall receive and take charge of all money belonging to the township or which is by law required to be paid into the township treasury, and shall pay over and account for the same upon the order of the township or the officers thereof duly authorized in that behalf, made pursuant to law, and shall perform such other duties as may be required of him by law.

8-7-3. Forfeiture of costs and expenses for failure to comply with law. Each township treasurer, who refuses or neglects to comply with the provisions of § 8-7-2, shall forfeit not more than the amount the township was required to expend in costs and expenses due to the failure of the treasurer to comply with the law to be recovered by a civil action in the name of the township, for its use and benefit, in any court of competent jurisdiction; the amount to be fixed by the jury trying the cause or by the court if no jury be impaneled.

8-9 & 10

CONTRACTS AND PURCHASES

8-9-1. Board meeting required - Void contracts. All contracts made by any civil township officer or supervisor, in his capacity as such officer, except contracts made at a regular or special meeting of the civil township board, shall be deemed unlawful and not binding upon such civil township.

8-9-2. Contract with township officer - Removal. No township officer shall become a party to or interested directly or indirectly in any contract made by the township of which he is an officer; and every contract or payment voted for or made contrary to the provisions of this section is void. Any violation of this section shall be a malfeasance in office for which the officer so offending may be removed from office.

8-9-3. Purchase, lease, or lease purchase of equipment--Approval of voters. No township board of supervisors may purchase, lease, or lease purchase any road grader or any other machine or tool, the cost of which exceeds fifteen thousand dollars, without the approval of the voters of such township in the manner provided by law.

8-9-4. Fire protection contracts--Maximum term--Cost negotiated--Estimated costs--Amount of contract. Every civil township in this state shall, through its board of supervisors, enter into a contract for fire-fighting equipment and protection with a political subdivision or subdivisions of this state or with a nonprofit fire protection corporation or association legally organized and certified in this state. No contract may have a term that exceeds ten years in length. The amount of money each township pays shall be determined through negotiation and shall be specified in the contract. Any political subdivision or nonprofit fire protection corporation or association providing fire protection services shall, as part of any negotiation conducted pursuant to this section, provide full disclosure of the fire department's total assets and expenses and estimate the cost of fire protection, including equipment, buildings, material, and personnel. A contract entered into pursuant to this section shall be for an amount equal to the estimated cost of fire protection as agreed to by the parties. The contract may be for an amount other than the estimated cost of fire protection if agreed to by the parties to such contract. The provisions of this section do not apply to any township or portion thereof that lies within a rural fire protection district established pursuant to chapter 34-31A or an emergency services district established pursuant to chapter 34-47. However, nothing in this section prevents any township and rural fire district from entering into a contract to coordinate and cooperate for mutual fire protection and prevention purposes within any area which they might logically serve.

8-9-6. Nonprofit fire protection corporation or association defined. The term, nonprofit fire protection corporation or association, as used in § 8-9-4 shall include any corporation or association legally organized within this state for the primary purpose of providing fire-fighting equipment and protection for a particular political

subdivision or subdivisions within this state and operating on a nonprofit basis.

8-9-7. Ambulance service contracts - Maximum term - Expenditures. Ambulance service contracts authorized--Maximum term and expenditures. Any civil township in this state may, through its board of supervisors, when and to the extent deemed expedient by the board, enter into contracts for the furnishing of ambulance service, equipment and protection for the township, with any other political subdivision or subdivisions of this state, or any fire protection, ambulance service, or funeral service corporation or association legally organized in this state. No contract authorized by this section may exceed a term of ten years. Further, no contract authorized by this section may provide for an expenditure by a township of more than one thousand dollars per year, unless it has been submitted to, and approved by, the voters of the township in the manner provided by subdivision 8-3-2(8).

8-10-1. Property tax levy. Taxes necessary to defray the township charges shall be levied on the taxable property in the township in the manner prescribed in this code for raising revenue and other money for state and county purposes and expenses.

8-10-2. Notice to county auditor of township tax levy--Entry on tax list. The township clerk shall notify the county auditor by the last day of March of the amount of the taxes levied by the board of supervisors. The county auditor shall enter the amount on the county tax list to be collected by the county treasurer as county taxes are collected.

10-11

EQUALIZATION AND CORRECTION OF ASSESSMENTS

Selected Statues Only

10-11-13. Composition of local boards of equalization--Time and place of annual meeting. The board of supervisors of each township and the governing body of each incorporated municipality, together with a member of the school board or school boards whose district comprises all or a part of the township or municipality, shall meet on the third Monday of March for the purpose of equalizing the assessment of property in each township or municipality. The meeting shall be held at the office of the municipal clerk or finance officer, the office of the township clerk, or the location established pursuant to § 8-3-1 by the township board. The equalization board shall immediately ascertain whether all taxable property in the respective township or municipality has been properly placed upon the assessment roll and has been duly valued by the director of equalization.

10-11-16. Complaints and grievances heard by local board of equalization. Notice of complaint. Any property owner or taxpayer of a township or municipality, as

an individual or through an attorney or agent, feeling aggrieved by anything in the assessment roll may appeal to the local board of equalization for the correction of alleged errors in the listing or valuation of the person's property. Any lessee responsible for payment of taxes pursuant to the provisions of a lease shall be considered the taxpayer and may appeal anything in the assessment roll for the correction of alleged errors in the listing or valuation of the leased property. An appeal to the local board of equalization shall be perfected by mailing or by filing a notice of appeal with the clerk of the local board of equalization. If perfected by mailing, the postmark shall be conclusive evidence regarding the timeliness of the appeal. The clerk of the local board of equalization shall be notified of the appeal no later than the Thursday preceding the third Monday in March. An appeal to the local board shall encompass the aggregate valuation of the property being appealed or the property classification.

10-11-16.1. Procedure - Notice of decision - Time limit. A local board of equalization shall hear individual valuation, classification, and assessment questions of property owners or taxpayers who have appealed to the local board of equalization, and may make adjustments and corrections in the assessment roll. The board shall notify each appellant of the decision affecting the appellant's property in writing seven days after the adjournment of the local board of equalization.

10-12

PROPERTY TAX LEVIES

Selected Statues Only

10-12-26. Annual levy of organized township--Certification to county auditor. On the last Tuesday in March of each year, or within ten days thereafter, the board of supervisors of each organized civil township shall levy the annual taxes for the ensuing year, as voted at the annual town meeting, and immediately thereafter the township clerk shall certify to the county auditor the amounts of such levies, in substantially the following:

For general purposes _____ dollars.
For bridge purposes _____ dollars.
For fireguard purposes _____ dollars

10-12-28. Maximum rate of township levy. The total rate of the annual tax levy in civil townships may not exceed three dollars per thousand dollars of taxable valuation.

10-12-28.1. Additional township levy for fire protection. If the allowable tax levy for a township in § 10-12-28 is insufficient to meet other allowable expenses and fire protection expenses, an additional annual tax for the purpose of providing fire protection may be levied. However, such additional levy may not exceed one dollar and twenty cents per thousand dollars of taxable valuation within the township

10-12-36. Special election on tax levy exceeding limitations - Vote required for approval - Maximum excess. If the governing body of any county, municipality, or township, determines that the amount of taxes which may be levied under the rates limited by this chapter will be insufficient to meet the needs of the taxing district for the current year, the question of an increased levy may be submitted to the voters thereof at a special election called and conducted in the same manner as other special elections therein. If three-fourths of the votes cast at any such election are in favor of the increased levy, the governing board may, without further act, increase the maximum rate as limited by this chapter to the extent of six dollars per thousand dollars of taxable valuation.

12-2

ELECTION SCHEDULES

Selected Statues Only

12-2-1. Date of primary election. The primary election provided for in chapter 12-6 shall be held at the regular polling place in every voting precinct throughout the state on the first Tuesday in June of every even-numbered year.

12-2-2. Date of general election - Officers elected. On the first Tuesday after the first Monday in November of each even-numbered year an election shall be held in the several election precincts in the state, which shall be known as the general election and the several state, district, and county officers, members of the Legislature, senators and representatives in Congress, and judges of the Supreme and circuit Courts shall be elected at the general election next preceding the expiration of the term of each of such officers, respectively, except such officers as are required by law to be elected at a special election; and in a year when a President and vice-president of the United States are to be chosen, a number of electors of President and vice-president of the United States, equal to the number of senators and representatives in Congress to which the state may be entitled or such other number as the Congress of the United States may require, shall be selected at such election.

12-2-2.1. Statewide elections limited to primary, runoff and general election dates. No statewide election or referendum may be held on a date other than a date ordinarily provided by statute for a primary, runoff or general election.

12-2-3. Opening and closing times for polls - Voters in line at closing time. At each election to be held under this title, the polls shall be opened at the hour of seven a.m. and remain continuously open until seven p.m., standard time or daylight savings time, whichever is in effect. However, no polling place may be closed at any election until all the voters who have presented themselves at the polling place inside or outside for the purpose of voting prior to the time of the closing of the polls have had time to cast their ballots.

12-2-4. Emergency extension of closing times--Reopening after extended emergency. Notwithstanding § 12-2-3, the county auditor may, upon request of the super-

intendent of an election precinct, if an emergency exists by reason of mechanical failure of a voting machine or an unanticipated shortage of ballots or like unforeseen event warrants it, extend the polling hours for that precinct until the emergency situation has been resolved. If the emergency situation is not resolved within two hours, except for a primary or general election, the polling place shall remain closed for one week and reopen at the time of the closure of the polling place.

12-4

REGISTRATION OF VOTERS

Selected Statues Only

12-4-5. Entry of applicants in registration file--Deadline--List for runoff election. The county auditor shall enter in the master registration file the names of all eligible persons who have had their completed applications for registration and mail registration cards received by any county auditor or any local, state, or federal agency responsible for conducting voter registration under this chapter no later than 5:00 p.m. local time fifteen days preceding the election. However, any completed mail registration card mailed to the appropriate county auditor and postmarked no less than thirty days preceding an election shall be added to the registration file. A voter registration completed at any local, state, or federal agency during any given week commencing on Tuesday through the following Monday shall be sent to the appropriate county auditor no later than the following Wednesday. The State Board of Elections may promulgate rules, pursuant to chapter 1-26, for the alternative transmission of voter registration information by computer from the agency to the secretary of state. The name of any voter who has registered to vote by 5:00 p.m. local time fifteen days preceding a runoff election shall be added to the file used for the runoff election.

12-18

ARRANGEMENTS AND CONDUCT OF VOTING

Selected Statues Only

12-18-10. Grounds for challenge of applicant to vote--Determination by judges--Notation on registration list. If a person makes an application for ballots, or if an absentee ballot has been cast, the person's right to vote at that poll and election may be challenged only as to the person's identity as the person registered whom the person claims to be or on grounds that within fifteen days preceding the election the person has been convicted of a felony or declared by proper authority to be mentally incompetent. The proceedings shall be conducted before the precinct superintendent and precinct deputies who shall determine from the evidence presented whether or not the person is permitted to vote and the members of the precinct election board shall indicate beside the name on the registration list the ground stated and the result of the precinct election board's decision.

ROADS AND RIGHT OF WAYS

31-3

LOCATION, CHANGE AND VACATION

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 therefore 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. 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.

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--Recording. 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. A certified copy of the resolution and order shall be filed with the register of deeds.

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 date of the first publication pursuant to § 31-3-9, that they appeal the decision on whether the 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 pay-

ing 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.

31-3-45. Rights of utilities unaffected. No vacation, change or relocation of any highway as provided for in this chapter shall diminish any existing right of use enjoyed by any public utility, municipally owned utility or cooperative utility which provides electricity, gas, water or telephone service.

31-3-46. Procedures for highway appeals from township board of supervisors. Upon the filing of a notice of appeal pursuant to §31-3-14 and unless a petition or motion is filed with circuit court, the question shall be submitted to a vote of the voters at the next regular or special township meeting of the voters. The township clerk shall in the notice of such meeting state that the question of vacating, changing, or locating such highway shall be submitted to a vote of the voters. The result of the vote upon such question shall be spread upon the minutes of the meeting and the decision of the voters upon such question is final. If a two-thirds majority of the votes cast is in favor of vacating, changing, or locating the highway, the highway shall be vacated, changed, or located without further proceedings.

31-13

TOWNSHIP ROADS

31-13-1. Township road system--Township board responsible for township roads. The board of township supervisors shall construct, repair, and maintain all of the township roads within the township except for section lines designated as no maintenance section lines pursuant to § 31-13-1.4 and roads designated as no maintenance roads pursuant to § 31-13-1.6. The township road system consists of section line roads; judicially declared roads; roads impliedly accepted by the township through routine performance of certain maintenance activities, such as grading, graveling and snow removal, and accepting funds from the county pursuant to §§ 32-11-4.1 and 32-11-6 for a period of at least fifteen years; and any other roads designated by resolution of the board as being on the township road system. A road may only be vacated through the process specified in chapter 31-3. Before a road may be added to the township road system, the road shall meet the minimum requirements specified in §§ 31-18-2 and 31-13-4, unless the board, by resolution, waives this requirement.

31-13-1.1. Designation of minimum maintenance road--Level of maintenance. The board of township supervisors may designate a township road within the township as a minimum maintenance road if the board determines that the road or a segment of the road is used only occasionally or intermittently for passenger and

commercial travel. The board shall identify the beginning and end points of the road designated as minimum maintenance. A minimum maintenance road may be maintained at a level less than the minimum standards for full maintenance roads, but shall be maintained at the level required to serve the occasional or intermittent traffic.

31-13-1.2. Posting of warning signs on minimum maintenance roads. The board of township supervisors shall post signs on a minimum maintenance road to notify the motoring public that it is a minimum maintenance road and that the public travels on the road at its own risk. The signs shall be posted at the entry points to and at regular intervals along a minimum maintenance road. A properly posted sign shall be prima facie evidence that adequate notice of a minimum maintenance road has been given to the motoring public.

31-13-1.3. Designation of full and minimum maintenance roads at annual meeting--Map. The board shall, at its annual meeting, designate which township roads are full maintenance roads and which are minimum maintenance roads. The board of township supervisors shall publish any resolution designating a township road as minimum maintenance if the road is a school route. The designation is final, after a lapse of thirty days, unless appealed as provided in chapter 31-3. Following its annual meeting, the board shall submit to the county auditor an official map showing each road on the township road system, including any road designated as a minimum maintenance road.

31-13-1.4. Designation of no maintenance section line. The board of township supervisors may designate an unimproved section line not maintained for vehicle travel as a no maintenance section line. The board shall identify the beginning and end point of the section line designated as no maintenance. The board does not have any responsibility on a no maintenance section line except to require removal or remediation of a manmade obstruction, if needed, to maintain the public access.

31-13-1.5 Posting of signs on no maintenance section line. The board of township supervisors shall post signs on a no maintenance section line to notify the motoring public that it is a no maintenance section line and that no travel is advised. The signs shall be posted at each entry point and at regular intervals along a no maintenance section line. A properly posted sign is prima facie evidence that adequate notice of a no maintenance section line has been given to the motoring public.

31-13-2. Designation of board member as overseer - Compensation. The board of township supervisors shall designate at least one of its members to attend to the road business in the township. The member shall receive for his services four dollars per hour, unless otherwise provided by resolution at the annual township meeting. Not more than one supervisor may be paid for services rendered as overseer of any work of construction or repair.

31-13-3. Hiring of help authorized. The township supervisors may hire such help as may be necessary by the hour at such rates as may be agreed upon by the town-

ship board of supervisors.

31-13-4. Width of highway grades. Plans and specifications for contracts let by the board of township supervisors shall provide that all highway grades shall be not less than twenty feet in width.

31-13-7. Written contracts required when let without advertising - Performance bond.
Contracts let by the board of township supervisors without advertising for bids shall also be in writing specifying the work to be done, the time in which it is to be completed, and the amount to be paid, and the board may require the contractor to furnish a bond with approved sureties in such sum as it shall deem sufficient, conditioned for the faithful performance of the contract according to the plans and specifications.

31-13-8. Payments on contracts. All work done under any contract let by the supervisors of any township shall be paid by the township treasurer out of the highway fund in his hands belonging to the township in which such work is done, on an order of the board of supervisors of such township certifying the amount of work done and the amount to be paid for the same.

31-13-9. Restriction on progress payments. In no case shall more than seventy-five percent of the contract price be paid on any contract let by a board of township supervisors until the work is completed and accepted by the board and so certified by it, except as provided in this title for payment upon estimates prepared by the county highway superintendent.

31-13-10. Township highway tax. There shall be voted and levied each year in each civil township, as taxes for other township purposes are voted and levied, a highway tax for the construction and repair of secondary highways within such township.

31-13-11. Township highway tax - Certification to county auditor - Collection.
It shall be the duty of the township clerk, immediately after the board of township supervisors shall have made a levy of taxes for highway purposes, or within three days thereafter, to notify the county auditor of the amount of the levy, who shall enter the same upon the county tax list, to be collected by the county treasurer in the same manner as other township taxes are collected, and such taxes shall be levied by the township supervisors on the fourth Monday of June each year. Such taxes shall become payable and delinquent and, if not paid, shall draw interest and penalty as other township taxes, and when collected shall constitute a highway fund belonging to the township from which it was collected, to be turned over to the township treasurer in the same manner as other funds are transferred to him.

31-13-12. County aid roads - Designation by county commissioners. The board of county commissioners of each county is hereby empowered to designate in its discretion township roads or roads in unorganized townships within the county, as it may deem advisable and in the public interest as "county aid roads," and to expend

any funds available from the county highway funds for laying out, constructing, graveling, and maintaining such township roads or roads in unorganized townships so designated as "county aid roads."

31-13-13. Joint contracts for construction and maintenance of township roads. The board of supervisors of any township may jointly contract with the county of which the township is a part, and also with any municipality within or adjoining the township, for the laying out, construction, graveling, hard surfacing, or maintenance of designated township roads. The agreement shall designate the governing board to be charged with contracting for performance of the work, provide for supervision of the work and allocate the costs between the units of government participating. The board of township supervisors may also contract with any other political subdivision, homeowners' association, or rural subdivision developer to perform maintenance work on any road that is not on the township road system. Maintenance work performed on a road under contract does not imply dedication or acceptance of the road to the township road system.

31-13-14. Township funds from motor vehicle license fees - Transfer to county. Each organized township in the state has power to transfer upon resolution to the county in which it is situated for its highway purposes surplus funds acquired from the pro rationing of the fees from the motor vehicle licenses as provided in §§32-11-4 to 32-11-7, inclusive.

31-13-15. Road districts. Each organized township may divide the roads or streets in the township into road districts which shall include not more than:

(1) One-half mile of township road which provides access to a rural subdivision or unincorporated town;

(2) Three miles of streets in an unincorporated town; or

(3) Five miles of streets in a rural subdivision as defined in § 31-13-32.

31-13-16. Petition for improvement of road district - Notice to property owners. Whenever the owners of eighty percent of the property fronting upon any road in a road district established pursuant to § 31-13-15 shall by petition in writing filed with the township clerk request that the property in the road district be assessed for road improvement, the supervisors shall set a time for hearing the petition and notice shall be given to the abutting property owners whose property it is proposed to assess who shall not have joined in the petition, by either delivery to the property owners of a copy of the notice of hearing or by mailing a copy of notice of hearing to such abutting property owner at his last known post-office address, or if such address cannot be determined, then by publishing such notice in a legal newspaper designated by the supervisors as most likely to give notice, which notice shall be given at least ten days prior to the hearing.

31-13-17. Hearing on road district improvement--Assessments for improvement. At the time and place of hearing pursuant to § 31-13-16, the board of supervisors shall consider the petition. If the supervisors determine it advisable, the supervisors may, by resolution, assess such properties in the road district for purposes of road improvement for an amount as the supervisors determine advisable. The assess-

ment may not exceed the amount set forth in the petition and in no event may the assessment exceed two dollars a foot front in any one calendar year. The assessment shall be certified to the county and collected as a part of the real estate taxes against the property so assessed and may only be used by the township for the purpose of road improvement in the road district, or part thereof, in which assessed.

31-13-18. Affidavit of township failure to maintain mail route - Service of affidavit and notice on township. Whenever it shall appear by an affidavit filed by a patron of the mail route with the county auditor that a certain described secondary road in any township of the county is regularly used as part of a United States mail route, and is, in certain designated places, in urgent need of repairs to put such road in reasonably suitable condition for travel, or is, in certain designated places, likely to be made impassable by reason of the weeds along such highway not being cut, as provided by law, so as to prevent the forming of snowdrifts, or is in other respects not being suitably maintained as provided by law, and that the board of supervisors of the proper township has been notified of the condition complained of and has refused or neglected to attend thereto, it shall be the duty of the county auditor to cause copies of such affidavit to be served upon the clerk of the proper township and upon the chairman of the board of supervisors thereof, together with a notice that unless the repairs or maintenance referred to in the affidavit are attended to forthwith by such board and a certificate that the same has been done delivered to the county auditor, that such repairs or maintenance will be executed by the county at the expense of the township as in this chapter provided. Such copy and notice may be served by registered or certified mail.

31-13-19. County maintenance and repair of mail route or failure by township. If the fact of the execution of the repairs or maintenance referred to in§31-13-18 be not certified to the county auditor within a reasonable time, or if the county auditor be satisfied that such repairs or maintenance have not been or will not be attended to by the township board within such time, he shall immediately refer the matter to the county highway superintendent who shall personally examine the road and investigate the facts stated in the affidavit and if he finds the statements in such affidavit to be true and that the condition complained of still exists, he shall cause the necessary repairs and maintenance to be made at once and may purchase material and employ day labor therefore, or may contract the work necessary to put such road in a reasonable state of repair and maintenance.

31-13-20. Payment from township funds for county repair and maintenance of mail routes - Expense limitation. The expense of repair and maintenance pursuant to §31-13-19 shall be paid, on the presentment of itemized and verified vouchers approved by the county highway superintendent to the county auditor, by warrants drawn on the county treasurer payable out of funds belonging to the township which are in the hands of the county treasurer or out of the first funds belonging to such township which thereafter come into the county treasury; but such expense incurred by the county highway superintendent shall not exceed the sum of two hundred dollars for any one mile of road during any year.

31-13-21. Registration of warrants when township funds insufficient to pay for

repair of mail route - Call for payment. When a warrant as provided in§31-13-20 is presented and there are insufficient funds in the county treasury to pay it, the county treasurer shall register the warrant and endorse the date of registration on the back thereof and shall pay it, with interest to be negotiated by the parties, out of the first money belonging to such township which thereafter comes into the treasury. Previously registered warrants, if any, shall be paid first in the order of their registration. Call for payment shall be made by mail addressed to the payee named in the warrant at the address left with the county treasurer, or to any assignee who may have left his address with the county treasurer.

31-13-22. Township snow removal reserve fund - Tax levy. The board of township supervisors may establish a township snow removal reserve fund by the levy of a tax up to but not exceeding sixty cents per thousand dollars of taxable valuation within the township, and which levy hereby authorized shall be in addition to all other township tax levies.

31-13-23. Intent of snow removal reserve fund law. The intent of§31-13-22 to 31-13-28, inclusive, is for the accumulation and continuation of a sufficient fund for the use of the respective townships so as to permit and make possible in any year the efficient and immediate snow removal on township roads and for repairs thereon caused by melting snow.

31-13-24. Expenditures from snow removal reserve fund. All money collected and received under the provisions of the tax levy authorized by§31-13-22 shall be remitted at the times and in the manner required by the laws of this state relating to townships. All money allowed and paid from said fund shall first be authorized and approved by the board of township supervisors, and the township clerk shall keep a separate and detailed record of all expenditures showing exact amounts, dates, places, type and nature of work performed.

31-13-25. Purposes of snow removal reserve fund. The township snow removal reserve fund after the creation thereof shall be used as provided by §§ 31-13-26 to 31 -13-28, inclusive, and for these purposes only.

31-13-26. Contracts for snow removal and repair of damages. After establishment of a township snow removal reserve fund, the board of township supervisors is hereby authorized to contract for the removal of snow on township roads, to purchase equipment for the removal of snow or repair the same, and to repair damages to township roads resulting from or caused by melting snow.

31-13-27. Snow removal contracts with or without advertising. Contracts pursuant to §31-13-26 are authorized without advertising for bids if the total cost in a winter's season will not exceed thirty-five hundred dollars. If the cost will be less than thirty-five hundred dollars, the township supervisors may make contracts with any person, firm or corporation, including any county, for the removal of snow on its roads, or repair of such roads damaged from or caused by melting snow, either at an hourly or day rate. If it is anticipated that the cost in any one winter would exceed that sum, the snow removal or road repair shall be done by bids as provided by law.

In case of such road damage, the work may be undertaken on bids as above specified, or upon an hourly or day rate for such work.

31-13-27.1. Snow creating emergency - Expenditures for removal without advertising for bids. In the event that in the judgment of the board of township supervisors a disaster exists resulting from snow and that the public peace and the health or safety of the people or their property is in jeopardy, the board of township supervisors may by resolution declare that an emergency exists, and any or all of the township snow removal fund may be expended for the purposes set forth herein without the necessity of advertising for bids.

31-13-28. Accumulation of unexpended money as snow removal moneys. Any unexpended balance remaining in the township snow removal reserve fund shall be allowed to accumulate as a reserve fund and available for future use as set forth under §§ 31-13-26 and 31-13-27. No part of the fund created in § 31-13-22 shall revert to the general funds of the township nor shall any of said fund be used for any other purposes.

31-13-29. Authority of township to open snowbound roads used for school bus routes. When any highway within any township is regularly traveled by a bus or other motor vehicle used for free transportation of school children, the township board may, in its discretion, open snowbound roads and keep them passable for such vehicles. Such expense shall be paid from the general road fund.

31-13-30. Street improvements in unincorporated towns. Whenever any unincorporated town which is laid out into streets is included in the limits of an organized civil township, the township supervisors may cause improvements to be made in said streets.

31-13-31. Validation of construction and repair contracts between townships and residents or landowners. All contracts or agreements of supervisors of organized civil townships, entered into between such supervisors and residents or landowners of such township, whereby such residents or landowners were to perform work, furnish equipment and material in the construction or repair of secondary highways of such township, and whereby such residents or landowners were to be compensated for work performed in the construction and repair of such highways and be reimbursed for funds advanced in the purchase of material or for the use of equipment, are hereby legalized and validated; the board of supervisors of such township is hereby authorized to pay such resident or landowner or cause them to be paid from township funds, for such services performed, compensation for the use of equipment and for materials furnished in the construction or repair of such road and the said board of supervisors is authorized to approve and issue warrants for such payment and to pay or cause such warrants to be paid from township funds. The allowance of such claims for said services performed, materials furnished or for use of equipment and the payment for the same shall be deemed valid and for a lawful purpose. Provided, that the provisions of this section shall apply only to contracts of this kind entered into prior to July 1, 1953, and provided further that where such contracts have been entered into before July 1, 1953, and funds have been expended

pursuant to such contracts, such contracts and the funds expended there under are hereby legalized and validated.

31-13-32. Improvement of platted streets by special assessment - Definition of terms. For the purposes of §§ 31-13-32 to 31-13-54, inclusive, "subdivision" means the division of any tract or parcel of land into two or more lots, sites or other division for the purpose, whether immediate or future, of sale or building development. For the purposes of §§ 31-13-32 to 31-13-54, inclusive, "street" shall mean any road, road right-of-way, road area, or street dedicated to the public or for the public use located entirely within platted land or a subdivision, and abutted on both sides along its entire length by the platted land or subdivision.

31-13-33. Supervisors' resolution of necessity for improvement - Contents. Whenever the board of supervisors of any township deem it necessary to open, widen, extend, grade, gravel, surface with oil or other bituminous material, pave, repave, bridge, construct a viaduct upon or over, erect equipment for street lighting in, curb, gutter, drain, or otherwise improve any streets within platted land or subdivision for which a special assessment is to be levied, it shall declare in a resolution the necessity of the improvement. The resolution shall state the streets to be improved, the general nature of the proposed improvement, the material to be used or materials from which a choice may be made, an estimate of the total cost per linear foot, a description of the classes of lots to be assessed, and the method of apportioning the benefits thereto as provided in §§ 31-13-42 to 31-13-46, inclusive.

31-13-34. Combining of streets in one resolution - Uniformity required. The improvement of more than one street may be embraced in one proposed resolution if the improvement is substantially uniform as to all streets embraced therein. Minor variations in the amount of earth work, drainage, or labor or other minor variations in the construction expense on different portions of the proposed improvement project shall not be considered as any departure from the uniformity required in this section.

31-13-35. Combining of streets in one resolution when improvements not uniform. If the improvements are not substantially uniform, then the improvement of two or more streets or portions of the same on which the improvements are not uniform may be included in one resolution, if the nature of the improvement or its estimated cost per linear foot on each portion of the project is specified in the resolution. Any two or more improvements of the types herein specified which have been commenced by separate resolutions of necessity may thereafter be combined for all purposes, as determined by the board of township supervisors.

31-13-36. Assumption of portion of cost by township - Referendum. If it is deemed expedient for the township to assume and pay any portion of the cost of the improvement, the resolution may so provide, or the portion to be assumed may be provided by a subsequent resolution, subject to the right of referendum on such resolution, pursuant to the procedure set forth in §§ 31-3-14 through 31-3-16.

31-13-37. Publication of resolution - Notice of supervisors' meeting - Hearing of objections. The resolution required by §31-13-33 shall be published once in the

official newspapers of the county, with an appended notice stating the place and time, at least two weeks after such publication, at which the board of supervisors will meet for the consideration of the adoption of the resolution. The notice shall state the time and place at which the board of supervisors will consider any objections to the proposed resolution by owners of property liable to be assessed for the improvement.

31-13-38. Resolution not requiring publication. If the improvement is petitioned for by the owners of more than fifty-five percent of the frontage of the property to be assessed therefore, it may be provided for by resolution without publication.

31-13-39. Notice by mail to property owners - Contents - Address to which sent. In addition to the published notice required by § 31-13-37, the board of supervisors, at least fifteen days prior to the hearing on the adoption of the resolution, shall cause personal notice to be sent by first-class, registered or certified mail to each person owning property liable to be assessed for the improvement. The notice shall include all information required of the published notice. If the property is occupied and has a street address, the written notice shall be sent to the owner in care of such address and, if not, to the last known address of the owner.

31-13-40. Consideration of objections to improvement - Adoption of resolution - Notice to owners added by amendment. At the time of the meeting referred to in § 31-13-37 or at any adjournment thereof the governing body shall consider any objections to such proposed resolution and may adopt such resolution, with or without amendment as it may deem proper. No amendment shall be made affecting property of any class not included in the original resolution until the owner thereof shall have been given the notice and opportunity to be heard provided by §§ 31-13-37 to 31-13-39, inclusive.

31-13-41. Waiting period before actions on improvement - Ratification of prior actions. After twenty days from the adoption and publication of the resolution referred to in § 31-13-40, unless the referendum be invoked, pursuant to §§31-3-14 through 31-3-16, or unless a written protest shall have been filed with the township clerk and signed by the owners of more than fifty-five percent of the frontage of property liable to assessment, the board of supervisors may cause the improvement to be made, may contract therefore, and may levy and collect special assessments therefore as provided in this chapter. Any proceedings taken prior to the adoption of the resolution shall be deemed ratified.

31-13-42. Apportionment of benefits of improvement. In the circumstances mentioned in §§ 31-13-33 to 31-13-41, inclusive, the benefits shall be apportioned in the manner prescribed by § 31-13-43.

31-13-43. Costs paid by township - Deduction before assessment to property. If the board of supervisors by resolution so provides, any portion of the cost may be paid by the township out of its general funds appropriated for that purpose and the proper deduction shall be made of the cost to be so paid before the cost to be assessed is distributed to the several lots as required. The sum determined to be paid may be a fixed amount or fraction of the total cost of the improvement, or of a speci-

fied portion thereof on which the construction is substantially uniform. Such amount or fraction may be additional to any amounts assumed by the township in accordance with the provisions of §§ 31-13-47 to 31-13-49, inclusive, or the costs referred to in those sections may be paid therefrom, as determined by the resolution.

31-13-44. Assessment of costs to abutting property - Computation on front foot basis. The cost of the improvement, except the cost of street intersections, may be assessed to the property fronting or abutting on the improvement. The cost of each portion of the project on which the construction is by resolution substantially uniform shall be divided by the number of feet fronting or abutting on said portion of the project. The quotient shall be the rate of assessment per front foot throughout said portion of the project on which such uniformity exists.

31-13-45. Assessment to nearby property of intersection costs. The cost of each street intersection may be assessed to all lots according to area so as to include one-half of the property between the street improved and the next street, whether the property abuts the street. In no case may the property situated more than three hundred feet from the intersection be assessed.

31-13-46. Assessment according to special benefits - Investigation of benefits. In lieu of the method of apportionment prescribed in §§ 31-13-44 and 31-13-45, it may be provided in and by the resolution determining the necessity of any street improvement that the cost shall be assessed against all assessable lots and tracts of land fronting or abutting thereon or lying within one-half block or three hundred feet thereof, whichever is less, according to the benefits determined by the board of supervisors to accrue to each of such lots and tracts from the construction of the improvement. In that event the board of supervisors, in preparing, considering, and hearing objections to the assessment, shall make such investigation as may be necessary and shall find and determine the amount in which each such lot and tract will be especially benefited by the construction of the improvement. The board of supervisors shall assess against each such lot and tract an amount, not exceeding the benefit, as shall be necessary to pay its just portion of the total cost of the work to be assessed.

31-13-47. Intersection cost assumed by township. In the resolution of necessity it may be provided that the township will pay any definite, specified portion or all of the cost of the improvements in street intersections.

31-13-48. Corner lot costs assumed by township or assessed to other property. In the resolution of necessity it may be provided that the township will pay any definite, specified portion or all of the cost of street improvements fronting or abutting on the long side of a corner lot, or it may be provided by a resolution that such portion of the cost may be spread as an area tax on the blocks fronting and abutting on said pavement so as to include one-half of the property between the street improved and the next street whether the property abuts the street. In no case may the property situated more than three hundred feet from the improvement be assessed.

31-13-49. Cost assumed by township when street has been previously improved. In the resolution of necessity it may be provided that the township will pay any portion or all of the cost of resurfacing, rebuilding, or repaving the portion of any street in which pavement has previously been placed or which has been previously constructed within the township.

31-13-50. Use of special assessment law. Notwithstanding the provisions of chapter 8-11, the board of supervisors of a township may use, as a method for the financing or repayment for the improvement, the provisions of chapter 9-43.

31-13-51. Annual front foot assessment for maintenance and repairs. The township board of supervisors or, in the case of any township which is no longer organized, the board of county commissioners, prior to the assessment of real property within the township, or unorganized township, for the next fiscal year, may levy annually for the purpose of maintaining or repairing street surfaces, whether of a permanent type or not, a special front foot assessment not to exceed two dollars per front foot upon the real property fronting and abutting the roadway. Such assessment shall be apportioned on a front foot basis and shall be levied pursuant to § 31-13-52. If the board of county commissioners is levying a special assessment on real property pursuant to this section, the board of county commissioners shall perform the duties, as applicable, that are required of the township board of supervisors pursuant to §§ 31-13-32 to 31-13-54, inclusive.

31-13-52. Levy of special assessments - Addition to general levy - Review and equalization. The township board of supervisors prior to the assessment of real property may, by resolution, designate the real property, the lot, or the portion of lots or real property against which the assessment is to be levied, the amount of the assessment against the real property, lot or portions thereof for such purposes, and direct the county auditor to add such assessment to the general assessment against the property to be collected as township taxes for general purposes. The assessment shall be subject to review and equalization the same as assessments or taxes for general purposes. For the purposes of this section, "front foot" shall mean the actual front of the premises as established by the buildings thereon, record title and use of the property regardless of the original plat thereof.

31-13-53. Records maintained by township clerk - Destruction of certain records. The township clerk shall keep on file a record of all proceedings taken in the matter of opening, altering, vacating, paving, or otherwise improving any street, and after the confirmation of any report in such matters he shall record all the proceedings taken in relation to the improvement. But, the clerk may destroy any record which the records destruction board, acting pursuant to §1-27-19, declares to have no further administrative, legal, fiscal, research or historical value.

31-13-54. Contracts and assessments not invalidated by defects - Supervisors' determination conclusive. No contract made or assessment levied for any such improvement shall be void by reason of any defect or irregularity in the resolution or notice or in the publication thereof. The determination of the board of supervisors as to the sufficiency or insufficiency of protests thereto shall be conclusive unless such

determination is unreasonably and arbitrarily or fraudulently made.

31-13-55. Indemnity requirement for construction or survey work within road right-of-way. An organized township may require any person performing construction or survey work within any township road right-of-way which may damage such right-of-way to furnish an indemnity bond in a reasonable amount as determined by the township board to indemnify the township for any damage done beyond normal wear. However, if a registered professional engineer or a registered land surveyor is surveying land, as defined in subdivision 36-18-4.1 (5), for an individual landowner of the township, the provisions of this section do not apply.

31-13-56. Removal of baled or stacked foliage from right-of-way - Violation as petty offense. If the right-of-way of a township road has been mowed and the cut foliage has been baled or stacked in the right-of-way, the person owning the baled or stacked foliage shall remove the bales or stacks from the right-of-way by the first day of November. A violation of this section is a petty offense.

31-13-57. Private landowner assessed for erosion repair costs. If any landowner fails to prevent damage to a township road caused by severe and persistent wind or water erosion on the landowner's property, the township may repair the damage and assess the cost of the repairs against the landowner. If the landowner fails to pay the cost of the repairs before the first day of November in the year in which the repairs are performed, the cost shall be assessed against the landowner's property.

31-13-58. Approval of conservation district for repair of erosion damage - Notice to landowner - Declaration. No operations to repair erosion damage pursuant to §31-13-57 may be undertaken by the township unless the conservation district in which the land is located has by resolution approved such action and until a notice that the erosion on the lands constitutes a nuisance has been given to the owner by the township. Notice shall be given by personal service upon the owner or by personal service upon the person in actual possession of the premises, with a copy of the declaration filed in the office of the county auditor. The declaration shall state that unless the owner corrects the damage within thirty days of the declaration, repairs shall be undertaken by the township, and the cost shall be assessed against the landowner's property if not paid before the first of November. The resolution of assessment shall be recorded in the minutes of the board of county commissioners, the original delivered by the clerk of the board to the county auditor, and a copy sent by registered mail to the landowner at the address shown on the records of the county auditor and to the operator.

31-14

COUNTY AND TOWNSHIP BRIDGES AND CULVERTS

31-14-1. Definition of terms. Terms used in this chapter mean:

(1) "Bridge," a structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, the structure having a length measured along the center of the roadway of more than twenty feet between under couplings of abutments or extreme ends of openings for multiple boxes and pipes where the clear distance between openings is less than half of the smaller contiguous opening;

(2) "Culvert," any structure not classified as a bridge that provides an opening under any roadway;

(3) "Department," the Department of Transportation.

31-14-2. County commissioners' responsibility for bridges and culverts. The duty to construct and maintain all bridges and culverts throughout the county, except upon the state trunk highway system, is hereby imposed upon the board of county commissioners, subject to conditions relating to bridges and culverts on secondary highways in townships.

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.

31-14-4. Plans and specifications for bridge construction--Preparation by department or engineer. Any bridge, abutment, and approach or repair to a bridge required in any county of this state, shall be constructed in accordance with plans and specifications prepared by the department or a registered engineer retained by the board of county commissioners for such purpose. The plans and specifications shall show and describe the style and size thereof, the kind, weight, and quality of all materials to be used in the construction and the proper proportion of the ingredients for mixture and reinforcements.

31-14-5. Bridge plans forwarded to department--Design requirements--Filing by county auditor. The profile, location, soundings, and estimated watershed provided for in § 31-14-3 may then be forwarded to the department together with a

request for plans and specifications for such bridge or abutments, piers, or other related piece of work, or may be used by a registered engineer retained by the board of county commissioners in preparing plans and specifications for such work. Plans and specifications prepared by a registered engineer retained by the board of county commissioners shall conform to the design requirements of the American Association of State Highway and Transportation Officials. The plans and specifications, whether prepared by the department or by a registered engineer retained for that purpose, shall be forwarded to the proper county auditor who shall place them on file in the auditor's office.

31-14-6. Cost estimate for bridge construction - Preparation and filing. Upon receipt of such plans and specifications, it shall be the duty of the county highway superintendent to make and file a detailed estimate of the cost of the bridge, abutment, pier, or other work contemplated by such plans, and file such estimate of cost with the county auditor.

31-14-7. Lump-sum bids on bridge construction - Unit price bids on foundation or abutment materials. Upon determining the necessity of any such bridges, abutments, repairs, or approaches to bridges, the county commissioners shall immediately cause to be filed in the office of the county auditor of such county, complete plans and specifications thereof, as described in §31-14-5 and thereafter, if such bridges, abutments, repairs, or approaches be let by contract, bids in lump sum shall be procured on each bridge or piece of work separately, except that all materials for use in constructing foundations or abutments shall be bid on per cubic yard for concrete, per foot board measure for lumber, per pound for steel, and per lineal foot for piling driven, said unit prices to be added to or deducted from the contract price, if more or less material is required in such foundation than specified in the plans and specifications.

31-14-8. Deposit filed with bids - Amount. Each bid shall be made in accordance with the plans and specifications on file and shall be accompanied by a certified check, certified by a state or national bank domiciled within this state, in the sum of ten percent of the total amount of such bid. To be effectual for any purpose said bid and certified check shall be securely enclosed in a sealed envelope and deposited with the county auditor of the proper county before the hour of opening the sealed bids.

31-14-10. Awards of separate contracts - Rejection of bids - Notice of opening of bids on abutments and approaches or repairs. Contracts shall be awarded on each bridge or piece of work, separately, to the lowest bidder and the county commissioners shall have the right to reject any and all bids and advertise for new bids. It shall be the duty of the county commissioners of such county to cause to be published in the official papers of such county, for a period of fifteen days immediately prior to the opening of sealed bids, a brief notice to the effect that at the time and place above specified they will open all bids theretofore received for all bridge abutments and approaches or repairs to bridges required by such county during the ensuing month or longer.

31-14-11. Opening of bids--Notice to successful bidder--Execution of contract. Promptly at the hour specified, the board of county commissioners in open session shall proceed to examine all sealed bids and notify the successful bidder that the bid has been accepted, subject to the approval of the department as provided for in § 31-14-12. Upon being so notified, the successful bidder shall forthwith enter into a contract with such county in accordance with the bid, and the successful bid, together with the plans and specifications upon which the bid was based, is deemed a part of the contract.

31-14-12. Approval or rejection of contract by department. Before any contract for a bridge or piece of work, entered into by and between any successful bidder and the board of county commissioners, the total amount of which exceeds the sum of two thousand dollars, is valid, it shall first have the approval of the department. If the department finds upon examination of the contract that the contract price is too high, taking into account the material used and existing circumstances, the department shall inform the board of county commissioners of its reason for rejecting the contract and advise a method of proceeding in the matter. Whenever bids are rejected as being too high, the work may be let at private contract if so recommended and approved by the department.

31-14-13. Performance bond required - Filing of contract and bond. At the time of entering into a contract under § 31-14-11, the contractor shall execute to the county a satisfactory bond with sufficient surety, to be approved by the board of county commissioners, or a certified check in the total sum of the contract, conditioned that the contractor will fulfill his contract according to the plans and specifications and account for all moneys paid to him, and pay all bills and claims on account of supplies, materials, or labor used in connection with or consumed in carrying on of any work in connection with such contract including all demands of subcontractors, and such bond or certified check shall stand as security for the faithful performance of said contract and for the payment of all such bills, claims, and demands. Such contract and bond or certified check shall be filed in the office of the county auditor.

31-14-14. Award to next lowest bidder when successful bidder fails to enter contract. Should any bidder fail or refuse, for a period of ten days after notice pursuant to §31-14-11, to enter into such a contract, the board of county commissioners shall award the contract in the same manner to the next lowest responsible bidder and such delinquent bidder shall forfeit to the county the certified check accompanying his bid.

31-14-15. Return of deposits filed with bids. Upon the execution of all contracts under § 31-14-11, including the approving of the same by the department of transportation if necessary, the board of county commissioners shall promptly cause to be returned to all bidders the certified checks accompanying their sealed bids.

31-14-16. State's attorney to draft contracts and approve contracts, bonds, and deposits. It shall be the duty of the state's attorney to draw all contracts let under the provisions of § 31-14-11, and to approve the execution thereof, together with the form and execution of all bonds and certified checks given as security for such con-

tract.

31-14-17. Supervision of construction by county highway superintendent - Appointment and compensation of inspector. The county highway superintendent shall have supervision of construction of any and all bridges built by the county and he shall have the power to appoint an inspector for any such bridge or piece of work at any time when in his judgment constant inspection of the same is necessary. The compensation of such inspector shall be paid out of the county road and bridge fund and be charged as part of the cost of the particular bridge in question.

31-14-18. Progress reports by county highway superintendent - Partial payments on contracts. The county highway superintendent shall report to the board of county commissioners every thirty days, or so often as they may require, as to the progress and character of the work done by the contractor of each bridge, or piece of work built by the county, and upon the report of said superintendent, partial payments in the amounts and manner specified for each particular bridge or piece of work shall be made. None of such partial payments, however, shall be held to constitute an acceptance of the work in whole or in part by the county.

31-14-19. Cost statement prepared by county highway superintendent--Filing. The county highway superintendent shall keep a detailed account of all material found necessary to add to or deduct from each and every structure as set forth in the plans and specifications, and on completion, a detailed statement of the cost of the structure, including the additions or reductions from the contract price, and compensation to the inspector, if any, shall be filed with the county auditor by the county highway superintendent. The county auditor shall forward a copy of the cost statement to the department.

31-14-20. Bridge construction and repairs by county work authorized. Any county of this state may build its own bridges, abutments, approaches and foundations, and make repairs to same by day labor without advertising for bids on any such piece of work.

31-14-21. Bridge construction or repairs by county labor--Supervision--Plans and specifications. In lieu of accepting any bids received upon any bridge, approach, or abutment, or repair to bridge, or in case of emergency, the board of county commissioners may, if in their judgment the bridge or piece of work may be procured for less money than the amount of any bid submitted, cause the same to be built by day labor by regular county labor and county-owned equipment. The construction shall be in charge of the county highway superintendent. The superintendent shall hire a foreman, purchase the necessary material, and hire the necessary labor for the construction of each such bridge, or piece of work, and such work shall be done in accordance with plans and specifications furnished by the department the same as any other bridge or piece of work let by contract.

31-14-22. Cost statement of county work prepared by county highway superintendent--Filing. The county highway superintendent shall keep a careful and itemized account of the quantity and cost of all materials and labor used in the construc-

tion of each such bridge or piece of work, in a standard form prescribed by the department. The cost statement shall be filed with the county auditor and a copy transmitted to the department as in the case of the cost statement of any other bridge or piece of work as provided in this chapter.

31-14-23. Purchase of twelve months' supply of materials--Estimate by county highway superintendent--Specifications. If it is deemed advisable by the board of county commissioners, the board may purchase such materials as cement, sand, stone, metal, culverts, reinforcement steel, or other material to be used in the construction of roads, bridges, and culverts, in quantities sufficient to meet the estimated demand of the county for such materials for the next succeeding twelve months. Before purchasing any such materials, however, the board of county commissioners shall first have an estimate prepared by the county highway superintendent setting forth the needs of the county during the twelve months. The county highway superintendent shall prepare specifications of the quality of all materials, such specifications to be approved by the department. No patented material may be specified to the exclusion of unpatented material.

31-14-24. Emergency contracts for repair of bridges and approaches authorized. Whenever an emergency arises requiring immediate expenditure for the repair or rebuilding of bridges and approaches to bridges, when such bridges and approaches to bridges are required to be built immediately, and on such short time that in the judgment of the board of county commissioners the public would be seriously inconvenienced in awaiting the regular advertising for bids for such building and rebuilding of bridges and approaches, the board of county commissioners may enter into contract for any such building or rebuilding of bridges and approaches to bridges without advertising for the letting of any contract therefor.

31-14-25. Approval of emergency contract by transportation department. Before any contract is let by any board of county commissioners under § 31-14-24, the necessity for the emergency contract shall first be approved by the department and any contract let thereunder shall in all respects be first approved by the department.

31-14-26. Insufficient funds to pay emergency contract - Issuance of emergency warrants. If there are not sufficient funds in the road and bridge fund of any county for the payment of work authorized by § 31-14-24 the county commissioners are hereby authorized to issue emergency warrants based upon the assessments made and contemplated for road and bridge work.

31-14-27. County construction or replacement of bridges and culverts on township secondary roads - Reimbursement of county. If a township board of supervisors or county highway superintendent within this state requests of its board of county commissioners a construction or replacing in its entirety of any bridge or the placing or replacing of any culvert with an opening of sixteen square feet or more including material upon the secondary roads within such township, the board of county commissioners may cause the same to be done and the township shall reimburse the county up to and including five hundred dollars, and any cost in excess of five hun-

dred dollars shall be paid by the county. After the placing or replacing of any culvert as provided in this section, it shall be maintained and kept clean at the expense of the township. The construction or replacing of any bridge or the placing or replacing of any culvert with an opening of less than sixteen square feet upon a secondary road within a township shall be at the total expense of the township, and it shall be maintained and kept clean at the expense of the township.

31-14-31. Drainage ditch bridges. Bridges erected over drainage ditches shall, where necessary, be so constructed as to allow the superstructure to be removed for cleaning such ditches with as little damage in the removal to permanent parts of said bridge as practicable.

31-14-32. Inspection of bridges by county highway superintendent - Report required. It shall be the duty of the county highway superintendent at reasonable intervals to make a thorough inspection of each and every existing bridge in the county. Such inspection shall consist of a thorough examination of the whole structure for any conditions affecting the life and safety of the bridge such as faulty design, neglect of maintenance, excessive loading, development of cracks, conditions of footing, etc. The county highway superintendent shall make a report of the conditions of each such bridge as he finds it, together with recommendation for repairs, stating the date of inspection, and shall cause the same to be filed in the office of the county auditor who shall refer the matter to the board of county commissioners at their next regular or special meeting.

31-14-33. Inspection of township culverts--Duty of board of supervisors. The township board of supervisors shall have each culvert on the secondary highways within the township annually inspected and, if necessary, repaired.

31-14-34. Inspection of culverts on secondary highways and county highway system - Duty of county highway superintendent. The county highway superintendent shall make inspection of all culverts on secondary highways other than those described in § 31-14-33 and of all culverts on the county highway system and report to the board of county commissioners, which shall cause necessary repairs to be made.

31-14-35. County line bridges - Agreement apportioning responsibility - Cost of large bridges divided equally. It shall be lawful and the duty of the respective boards of county commissioners of the counties adjoining any highway or meandered stream on a county line in this state to divide that portion of such county line between such counties into two or more parts or districts, and to enter into an agreement and contract providing that each of such counties shall assume the liability and become responsible for the construction and maintenance of all necessary bridges upon such county line in the district allotted to such county. In case the stream forming the boundary between two counties shall be so large that one county alone is unable to build a bridge out of the ordinary amount of funds available, it shall be the duty of the two counties when a bridge is built over such stream to divide the expense equally between such two counties.

31-14-36. County line bridges--Considerations in apportioning responsibility--Apportionment by department. In making such apportionment of any highway or meandered stream constituting the county line between two or more counties, as provided by § 31-14-35, the respective boards of county commissioners shall take into consideration the number of streams crossing the highway and the probable necessity of the number of bridges to be constructed and to be kept in repair upon the county line. In apportioning the highway or stream, the boards shall equalize, as near as possible, the burden of building and maintaining the bridges on the highways of the county line. In case of a failure to apportion any such highway or meandered stream, as provided in § 31-14-35, the same shall be apportioned by the department.

31-14-37. County line bridges - Validation of prior contracts between counties. All contracts made before July 1, 1939 by and between the boards of county commissioners of any counties in this state dividing and apportioning the highway or meandered stream constituting the county lines between two or more counties into districts, and providing that each county shall be responsible for and shall bear the expenses of erecting and maintaining the bridges in one of such districts allotted according to the designation contained in such contract, shall be lawful and the same are hereby ratified and such contracts are declared to be binding upon each of such counties.

31-14-38. County line bridges - Sharing of costs in absence of apportionment contract. Whenever the highway on the line between two counties has not been divided and portions thereof assigned to each county, and it is intended to build, alter, or repair the bridges thereon, the cost shall be borne equally by such counties.

31-14-39. County line bridges - Petition and agreement for sharing costs in absence of prior apportionment contract. If a petition is filed with the board of county commissioners of either county affected thereby, praying for the building, altering, or repairing of any bridge described in § 31-14-38, and the petition is found to comply with the law relating to petitions for bridges, it shall be the duty of the board of county commissioners of such county immediately to cause a copy of such petition to be filed with the county auditor of the other county to be affected thereby, and at the same time to give the commissioners of such county notice of the time and place when and where the commissioners will meet to consider such petition. At such meeting of the county commissioners of the two counties jointly affected thereby, they shall view the site of such bridge, and if such petition is granted, then by agreement between such commissioners either county may build, alter, or repair such bridge and one-half the cost shall be borne by each of such counties.

31-14-40. County line bridges - Cost-sharing provisions not applicable where apportionment contract made. Where counties have heretofore, by mutual agreement, apportioned the boundary road and bridges between such counties, the provisions of §§ 31-14-38 and 31-14-39, shall not be applicable to such roads and bridges.

31-14-41. Taxpayer's petition for vehicle bridge across navigable rivers - Contents - Notice of hearing. Whenever one-third of the resident taxpayers of any county of this state, as shall appear by the last preceding assessment roll of such

county, shall petition the board of county commissioners praying for an appropriation to build a bridge across any navigable river on the line of such county, setting forth therein the location of such bridge as near as may be, its estimated cost and the necessity therefore to accommodate the general traveling public, the manner in which it is proposed to pay for such structure and the time when it will be completed, such petition to be duly verified by the affidavits of at least fifteen of the petitioners therein named, it shall be the duty of such board to publish a notice in the official papers of the county once each week for at least two successive weeks, briefly stating the subject of such petition and that the same will be heard and considered at the next regular meeting of the board.

31-14-42. Hearing on petition for vehicle bridge across navigable rivers - Appropriation of half of cost. At the time appointed for the hearing of a petition under § 31-14-41 the board of county commissioners shall investigate the need for such bridge and, finding the same to be demanded for the accommodation of the traveling public, shall by resolution duly entered upon the minutes of such board appropriate toward the building of such bridge, from the county treasury, a sum not exceeding one-half of the estimated cost of such bridge, to be paid as provided in § 31-14-43. Such appropriation shall be conditioned upon a sufficient bond or guaranty of the remaining one-half or more, as the case may be, of the costs of such bridge. But the consent of the general government to span such river must first be obtained.

31-14-43. Agreement for completion of vehicle bridge across navigable river on appropriation of other half of cost. If the remaining one-half of the cost of a bridge described in § 31-14-41 shall be provided by an appropriation from any neighboring state, or by any municipality in this state, to be expended under a commission or through any other suitable agency, it shall then be the duty of such board of county commissioners to appoint a committee of its own number, whether three or more, to meet such other agency, confer with its members, and advise and assist in the accomplishment of such improvement in the best possible manner, and when the work is completed and approved jointly by such agency and committee of such board of county commissioners, which approval shall be in writing and duly reported to such board and recorded in the minutes thereof, the board shall thereupon order the amount of the appropriation paid to the contractor or contractors of such improvement by warrant upon the county treasury in the usual form and manner.

31-14-44. Municipal bond issue authorized for vehicle bridge across navigable river. If one-half or other proportion of the cost of an improvement under §§ 31-14-41 to 31-14-43, inclusive, is provided by a municipality, the governing body may meet the necessary expense by issuing bonds. All bonds shall be authorized, issued and sold as provided in chapter 6-8B and
§9-54-12, if a majority of the registered voters voting at the bond election vote to authorize the bond issue.

31-14-45. Limitation on number and cost of vehicle bridges across navigable rivers. Not more than one vehicle bridge in each county so situated shall be constructed under §§ 31-14-41 to 31-14-44, inclusive, and the total cost of such bridge shall in no case exceed the sum of fifty thousand dollars.

31-14-46. Unlawful agreements on contracts - Offering or receiving bribes - Felony. Any person receiving, or having any agreement to receive, a royalty, commission, percentage, or discount upon the contract price of any bridge, or piece of work, or bridge material, and who shall submit his sealed bid thereon with intent to secure the advantage of any competitive bidder, or any two or more persons who shall conspire together with intent to prevent competitive bidding upon any contract authorized by the provisions of this chapter or chapter 31-10 or chapter 31-15, or any officer or agent for any bridge company who shall give, or offer to give, to any public official anything of value for the purpose of influencing such official in awarding any contract authorized by such chapters, or any public official who shall receive or accept anything of value from any officer or agent for any such bridge company, shall be guilty of a Class 6 felony.

31-17

BOUNDRY LINE HIGHWAYS

31-17-1. County highway system on state line--Agreements for assignment of responsibility. If any portion of a county highway system lies on a state line, the Department of Transportation may confer with the authorities of the bordering state and agree upon the assignment of portions of the highway to the counties of the two states for construction, repair, and maintenance.

31-17-2. Roads crossing county lines--Division of responsibility. Subject to approval of the department, boards of county commissioners of adjoining counties shall make proper connections between roads which cross county lines and which afford continuous routes of travel; adopt plans and specifications for highway construction, reconstruction, and repairs upon highways along and across county boundary lines, and make an equitable division between such counties of the cost and work of execution of such plans and specifications. In case of disagreement on the division, the Transportation Commission shall make the division.

31-17-3. Roads crossing county lines--Appeal to Transportation Commission on division of responsibility. If boards of county commissioners fail to perform the duty prescribed by § 31-17-2, or in case of disagreement by such boards, an appeal may be made to the Transportation Commission by one of them. The commission shall notify the county auditors of the counties concerned that the commission will, on a day not less than ten days thereafter, at a named time and place within one of such counties, hold a hearing to determine all matters involved. At the hearing the commission shall fully investigate all questions involved, and shall, as soon as practicable, certify its decision to the different boards. The decision is final, and such boards shall comply.

31-17-4. County highway system on county line--Effect of assignment to county. Any portion of a county highway system lying on a county line and assigned to a

county by the Transportation Commission for construction and maintenance shall be considered as lying fully within the county and all procedure and requirements apply as if the road lay wholly within the limits of one county.

31-17-5. Secondary highway on county line - Assignment of responsibility. The secondary highways on county lines shall be assigned to the charge of the boards of supervisors of organized civil townships or the board of county commissioners in the case of unorganized territory as may be agreed upon by the respective boards of county commissioners and in case of disagreement, as determined by the transportation commission.

31-17-6. Secondary highway on township line - Assignment of responsibility. The secondary highways wholly within one county on lines between organized townships shall be assigned to the charge of such townships as the respective boards of supervisors may agree, and, in case of disagreement, as the board of county commissioners shall determine; and those on the line between organized civil townships and unorganized territory as the board of commissioners shall determine.

31-17-7. Adjoining townships - Equal contribution - Agreements on contribution. Boundary line highways between organized townships - Equal contribution by townships required unless mutual agreement reached.

Adjoining townships shall contribute equally to the construction, improvement, and repair of any township highway that lies on a section line forming the boundary between the townships. However, this section and §§31-17-8 to 31-17-15, inclusive, do not prohibit the supervisors of adjoining townships, by a majority of the supervisors from each township, from scheduling and holding a joint meeting of their township boards to mutually agree on alternative procedures for apportioning the responsibilities and costs of constructing, altering, or repairing any township boundary line highway, bridge, or culvert. Each township clerk shall record the time and location of the joint meeting and shall immediately publish notice of the proposed joint meeting in the same manner provided in §§8-3-4 and 8-3-5. Any order, notice, award, or apportionment contract, and any other documents resulting from the joint meeting shall be produced in duplicate, filed with each township office, and recorded by each township clerk. Any order, contract, or mutual agreement made before July 1, 1995, between adjoining township boards of supervisors apportioning or reapportioning a township boundary line road, bridge, or culvert is hereby validated and has the same force and effect as though executed after that date.

31-17-8. Township boundary line highways - Resolution calling for contribution. The board of supervisors of an organized township, to be called "moving townships" may by resolution declare the necessity of the construction, improvement or repairing of a township boundary line highway and call upon an adjoining organized township with which said highway forms a common boundary line, to contribute equally to the cost of such construction, improvement or repair.

31-17-9. Township boundary line highways - Service of resolution - Notice of meetings. A copy of a resolution adopted under §31-17-8 may then be served upon the board of supervisors of the adjoining township and such board shall within thirty

days thereafter call a special meeting for the purpose of considering such resolution, and shall give notice in writing to the board of supervisors of the moving township of the time and place of such meeting, at least ten days in advance.

31-17-10. Township boundary line highways - Purpose of joint meeting. At the meeting provided for by §31-17-9, the board of supervisors of the moving township and that of the adjoining township shall meet jointly and consider the construction, improvement or repair of said boundary line highway, and shall endeavor to come to some mutual agreement thereon.

31-17-11. Township boundary line highways - Action brought on failure to agree on contribution. In the event that the board of supervisors of the adjoining township refuses to call a meeting as required in §31-17-9, or in the event that such meeting is held, but no agreement can be reached concerning the construction, improvement or repair of such highway, the board of supervisors of the moving township shall have the right, within thirty days, to bring an action in the circuit court against the adjoining township to require it to contribute equally to the cost of any necessary construction, improvement or repair of such highway.

31-17-12. Township boundary line highways - Parties and procedure in action to require contribution. In the action authorized by § 31-17-11 the moving township shall be the plaintiff and the adjoining township shall be the defendant; the action shall be commenced by the service of summons and complaint as in civil cases and shall be governed by the rules of civil procedure.

31-17-13. Township boundary line highways - Complaint and answer in action to require contribution. The complaint in an action pursuant to §31-17-11 shall briefly set forth sufficient facts to show that conditions exist which authorize the bringing of such action, a statement in reasonable detail
describing the construction, improvement or repair of such highway which is claimed to be necessary, the estimated cost thereof, and the reasons the same are necessary; the adjoining township shall have thirty days to answer the complaint and in its answer shall briefly set forth the reasons why it claims it should not be required to contribute to such construction, improvement or repair.

31-17-14. Township boundary line highways--Judgment in action to require contribution. The court, by its judgment in an action pursuant to § 31-17-11, may determine the necessity and extent of any construction, improvement, or repair of such highway; the right to enforce equal contribution to the costs thereof by both townships; and the right to require the board of supervisors of both townships to jointly meet and advertise for bids and enter into a contract for the construction, improvement, or repair of such highway in the manner provided by §§ 5-18A-14 and 5-18B-10.

31-17-15. Township boundary line highways - Cumulative effect of provisions for equal contribution. Sections 31-17-7 to 31-17-14, inclusive, shall be cumulative to any existing rights or remedies of townships.

31-17-16. Secondary highways on municipal boundaries - Assignment of responsibility. The secondary highways on the boundary line of any municipality shall be assigned to such municipality and adjoining civil township or unorganized territory as provided in §§31-17-5 and 31-17-6.

31-18

SECTION-LINE HIGHWAYS

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 under its jurisdiction and the board of supervisors of an organized township may vacate or change the location of any section-line highway under its jurisdiction, 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. Also, a board of supervisors may not vacate or change any portion of the county highway system, nor may a board of county commissioners vacate or change any portion of the township road 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.

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.

31-18-5. Liability for unimproved section line. Notwithstanding the provisions of § 20-9-16, a landowner owes no duty of care to keep an unimproved section line safe for entry or use by any uninvited person for an outdoor recreational purpose or tourism activity. The landowner does not have a duty to give any warning of a dangerous condition, use, or structure on an unimproved section line to any uninvited person entering for an outdoor recreational purpose or tourism activity, except for any condition created by the willful and wanton act of the landowner.

31-21

HIGHWAY DRAINAGE DITCHES

Selected Statues Only

31-21-12. Civil liability for obstruction of ditch. Any person who shall dam up, obstruct, or in any way injure any ditch opened pursuant to this chapter shall be liable to the township or county in double the damages which shall be assessed by the jury or court trying the case for such injury.

31-24

HIGHWAY INTERSECTIONS AND PRIVATE ENTRANCES

Selected Statues Only

31-24-1. Duty of highway authorities to provide access to abutting property at public expense--New construction. If the construction, improvement, and repair of any public highway by the state, or by any county or township, leaves a ditch or elevation along the roadside and deprives any abutting landowner of easy and convenient access from the owner's land to the highway, the highway authority, except as provided by chapters 31-7 and 31-8, shall provide the owner of the abutting tract or farm, as well as each church, school, park, playground, or other public building or ground, with one point of easy and convenient access to a public highway by constructing at the public expense, such grades, approaches, bridges, culverts, or other structures as may be necessary for that purpose. However, the provision authorizing construction of entrances at the expense of the authority having charge of the maintenance only applies to new construction.

31-24-2. Approaches necessitated by highway construction--Maintenance. Approaches required by § 31-24-1 shall be built by the highway authority constructing the highway if the building of such approach becomes necessary as a result of highway construction. In all cases any such structure, culvert, bridge, or

approach so constructed shall be maintained and kept in repair by the highway authorities who are charged with the maintenance of the highway.

31-24-3 Limitation on number of farm entrances--Additional entrances at owner's expense. The owner, as a matter of right, is not entitled under § 31-24-1 to the construction of more than one farm entrance on any one tract or parcel of land at the expense of the public authority whose duty it is to maintain the highway. However, the owner may at the owner's expense upon making application to and receiving written consent of the authority construct other entrances if the entrances are constructed at the place and in the manner designated by the authority in its written permit.

31-24-4. Additional entrances to property previously having more than one farm entrance--Limitations. Notwithstanding § 31-24-3, if at the time of the construction, improvement, or repair of any public highway the abutting owner has more than one farm entrance to the highway, which entrance has been in reasonably constant use for more than two years prior to the new construction the owner shall be furnished a like number of entrances by the authority having charge of the construction, improvement, or repair, if the entrances do not materially add to the hazard of public travel on the highway. However, no owner of property adjoining the highway is entitled to more than two such entrances at the expense of the authority charged with the maintenance of the highway, on any one continuous half mile of adjoining property.

31-24-5. Construction on private property prohibited. No connecting structure or approach described by § 31-24-1 may be constructed by the highway authorities upon private property nor beyond the right-of-way line.

31-24-6. Entrance to existing highway at owner's expense--Permit--Construction in accordance with approved plans. If any public highway as already constructed is of such character as to deprive the owner of the abutting land of easy and convenient access from the owner's land to the highway, the owner of the land may, at the owner's expense, except as provided by chapters 31-7 and 31-8, construct an entrance to the abutting land. However, no entrance may be constructed until the landowner has obtained a permit from the authority whose duty it is to maintain the highway for the construction of the entrance. The entrance shall be constructed in accordance with plans approved by the authority. The authority shall fix the width and location of the entrance and the entrance shall be constructed in accordance therewith.

31-24-7. Interference with drainage--Obstruction of right-of-way. No entrance may be so constructed pursuant to § 31-24-6 as to interfere with the proper and necessary drainage of the highway. No portion of the right-of-way of the highway other than that necessary for the entrance shall be occupied or used for business purposes.

31-24-9. Approaches to highway grade crossings--Failure to perform duty to provide--Petty offense. Township supervisors, county commissioners, the Department of Transportation, or others having direction of any highway grade shall pro-

vide at every place where such grade crosses an intersecting public highway an easy and accessible approach to such grade on each side thereof upon each such intersecting public highway. The approach shall be at least twenty-four feet in width. Any officer or other person charged with the duty of providing approaches at an intersection, as provided in this section, who fails in the performance of the duty, commits a petty offense.

31-25

FENCES, CATTLE WAYS AND LIVESTOCKS GUARDS

31-25-1. Fences across highways - Petition by adjacent landowners - Notice and hearing - Gates or grates required. The board of county commissioners of any county having within its boundaries, any county, township, or section-line highway not included in §31-25-1.1 extending or running through or across grazing land, may, upon petition, signed by a majority of the adjacent landowners along the portion of such highway involved, and after a hearing is had, on notice mailed by the county auditor to all of said landowners, not less than ten days before such hearing, authorize such landowners to erect and maintain fences across such highway. However, the board of county commissioners shall require the erection of gates or grates, or both, in such fences at points designated by the board, so that the public may have access to the highway.

31-25-1.1. Fences erected across unimproved section-line highways - Gates - Access to highways protected - Violation as misdemeanor. A landowner may erect a fence across an unimproved county, township or section-line highway. For the purposes of this section an unimproved county, township or section-line highway is any county, township or section line not commonly used as a public right-of-way and never altered from its natural state in any way for the purpose of facilitating vehicular passage. At any point where a fence crosses such highway, the landowner shall erect and maintain an unlocked gate which may be opened easily or provide other suitable access to the highway. If the gate or other access is not large enough or if the gate does not open easily enough to satisfy the needs of those using the highway, the landowner shall erect a larger gate or a gate that can be more easily opened or provide other suitable access to the highway. The landowner shall erect the larger gate or the gate which opens easily or provide the other suitable access upon a request filed with the sheriff of the county in which the land is located by an adversely affected person. If a request is filed, the sheriff shall notify the landowner. The landowner shall comply with the provisions of this section within seven days of notice. A landowner who violates any of the provisions of this section is guilty of a Class 2 misdemeanor.

31-25-2. Cattle ways authorized - Application to highway authority - Designation of construction particulars - Maintenance by landowner. Upon application to the department of transportation, board of county commissioners or board of township supervisors, by any person for permission to construct a cattle way across

or under any public road, such highway authority maintaining the highway described in the application may in its discretion grant the application upon condition that such way shall be constructed in all particulars as directed by such department or board and shall not interfere with public travel. The grade of the road over the cattle way shall not at any point exceed one foot in ten feet. Applicant must construct and agree to keep the same in repair at his own expense.

31-25-3. Failure of landowner to maintain cattle way - Repair by highway authorities - Recovery of cost. If any person on whose land a cattle way is constructed pursuant to §31-25-2 fails to keep the same in repair, the proper board shall cause the same to be repaired and charge the cost thereof to the owner of such cattle way and such cost shall be recovered by a civil action by the state, county, or township against the owner of such land and cattle way.

31-25-4. Livestock guards across county or secondary highways authorized - Guards not considered highway obstruction. The construction and maintenance of livestock guards over or across county or secondary highways so constructed that automobiles and trucks may pass over the same and which will prevent the passage of livestock across such livestock guards is hereby authorized. The construction and maintenance of such livestock guards shall not be considered as creating a barrier or obstruction on such highways.

31-25-5. Dimensions of livestock guard - Passage for wider vehicles. All livestock guards shall be at least ten feet wide on the ground. In addition, at one side of such livestock guard there shall be provided or constructed a gate, at least twenty feet wide to accommodate the passage of teams, and wider vehicles.

31-25-6. Authority of governing body required - Removal of livestock guard on order of governing body. No livestock guards shall be constructed under §31-25-4, unless constructed by or under the express authorization of the governing body having jurisdiction over such highways, provided that such livestock guards may be removed or ordered removed by such governing bodies whenever such livestock guards shall be deemed no longer necessary.

31-25-7. Appeal from order authorizing or forbidding livestock guard - Procedure for appeal - Trial de novo. Whenever any interested person shall feel aggrieved by reason of the action of the governing body in authorizing or refusing to authorize the construction, erection and maintenance of livestock guards, or ordering removal of said livestock guard, such person may within sixty days after the decision of such governing body, appeal to the circuit court for the county wherein such governing body is situated. Such appeal shall be in writing, and signed by the person feeling aggrieved or by his attorney. Upon the serving of such appeal and the filing of the same with the clerk of the circuit court, the same may be brought on for trial de novo in said circuit court upon ten days' notice. The circuit court shall hear all relevant evidence and shall make and enter such findings, conclusions and judgment as it deems proper.

31-25-8. Appeal upon failure of governing body to act on request for authoriza-

tion. If any person shall file a request for authorization to construct a livestock guard, with the governing body having jurisdiction over such highway, and the governing body shall fail or neglect to act upon such request at its next regular meeting, such failure or neglect to take any action shall be deemed to be a refusal of such authorization, and the person filing such request may appeal the same as provided in §31-25-7.

31-25-9. Livestock guards constructed prior to enactment of statute. Sections 31 -25-4 to 31-25-8, inclusive, shall not apply to livestock guards which had been constructed and maintained and were in existence on February 20, 1959.

31-25-10. Regulatory signs for unfenced roads in livestock grazing area - Application for erection. Any person grazing livestock in an area where there are no fences along a road may apply to the governing body that has the responsibility to maintain that road to erect a regulatory sign that livestock will be at large along the road. If the governing body permits the erection of such signs, it shall erect at least one sign where the road enters the grazing area which shall state how far the grazing area continues and one sign where the road leaves the grazing area.

31-25-11. Uniform signs. The transportation commission shall design, produce and make available a uniform sign pursuant to § 31-25-10.

31-25-12. Cost of signs. The cost of the sign shall be arranged between the governing body and the person applying for it. The sign shall be erected by the governing body.

31-28

MARKERS AND SIGNS

Selected Statues Only

31-28-6. Warning signs at points of danger--Maintenance--Violation as misdemeanor. The public board or officer whose duty it is to repair or maintain any public highway shall erect and maintain at points in conformity with standard uniform traffic control practices on each side of any sharp turn, blind crossing, or other point of danger on such highway, except railway crossings marked as required in § 31-28-7, a substantial and conspicuous warning sign. The sign shall be on the right-hand side of the highway approaching such point of danger. Failure to comply with the provisions of this section is a Class 1 misdemeanor.

31-28-7. Railway crossing signs--Maintenance--Violation as misdemeanor. The public board or officer whose duty it is to repair or maintain any public highway shall erect and maintain at points in conformity with standard uniform traffic control practices on each side of the place at which a highway crosses an operational railway track or right-of-way, except within the limits of municipalities, a standard railroad advance warning sign. The sign shall be on the right-hand side of the highway approaching such crossing and at a distance from the crossing as the department or

other controlling body shall direct. Any legally abandoned or nonoperational track which is crossed by a public highway and at which the crossing has been properly marked as a railway grade crossing may be marked with a supplemental sign, meeting uniform traffic control practices, to inform drivers of vehicles identified in § 32-29-5 that a stop is not required at that crossing. Failure to comply with the provisions of this section is a Class 1 misdemeanor.

31-28-13. Markings by local authorities--Local regulations not enforceable in absence of sign--Location and legibility of sign. Local authorities in their respective jurisdictions may cause appropriate signs to be erected and maintained, designating residence and business districts, highway and steam or interurban railway grade crossing, and such other signs as may be deemed necessary to carry out the provisions of chapters 32-14, 32-22, and 32-25 to 32-31, inclusive, and such additional signs as may be appropriate to give notice of local parking and other special regulations. Local parking and other special regulations shall not be enforceable against an alleged violator if, at the time and place of the alleged violation, an appropriate sign giving notice thereof is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

31-28-14. Unauthorized signs, markers, and signals prohibited--Authorization to organization. No unauthorized person may erect or maintain upon any highway, any warning or direction sign, marker, signal, or light in imitation of any official sign, marker, signal, or light erected under the provisions of this chapter. No person may erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial or political campaign advertising. Nothing in this section prohibits the erection or maintenance of any sign, marker, or signal bearing thereon the name of an organization authorized to erect the sign, marker, or signal by the department or any local authority as defined in this chapter.

31-28-22. Prohibited sign as nuisance. Every sign, signal, marking, or device prohibited by §§ 31-28-19 and 31-28-20 is hereby declared to be a public nuisance, and the Department of Transportation or local authorities within their respective jurisdictions shall remove the sign, signal, marking, or device or cause it to be removed immediately. The removal may be done without notice.

31-28-23. Tampering, molesting, or interfering with markers, signs, or control devices--Violation as misdemeanor--Liability for costs. No person may, without lawful authority, attempt or actually alter, deface, injure, knock down, remove, or in any manner molest or interfere with any official highway marker, sign, guide board, traffic-control device, interstate highway gate, or any railroad sign or signal, barrier, warning device, or sign erected in connection with highway maintenance or construction activities. A violation of this section is a Class 1 misdemeanor. Any person who violates this section is responsible for the cost of repairing or replacing such markers, signs, signals, barriers, or devices.

31-28-23.1. Civil penalty for tampering, removing, or interfering with highway marker, sign, or control device. In addition to any damages and penalties provided by § 31-28-23, any person who is convicted of the offense of intentionally tamper-

ing, removing, or interfering with any official highway marker, sign, or control device pursuant to § 31-28-23 is subject to a civil penalty, to be set by the court, not to exceed two thousand dollars. Any civil penalty collected pursuant to this section shall be distributed to the state or the political subdivision with jurisdiction on the involved highway.

31-31

WEED REMOVAL

31-31-1. Weed removal on state or county roads. The department of transportation and board of county commissioners of the various counties shall cut or remove, or cause to be cut or removed, grass, weeds and brush growing within the right-of-way of all public highways within their respective jurisdiction and over which such department and boards exercise control as to repair and maintenance. A violation of this section is a petty offense.

31-31-2. Weed removal on township roads - duty of abutting landowner. The owner or occupant of any land abutting or adjoining upon township roads shall cut, remove, or destroy or cause to be cut, removed or destroyed, grass, weeds, trees and brush growing on or in the right-of-way of such roads, provided that such roads are left in such condition that any and all undergrowth thereby or thereon can be cut with a mower. A violation of this section is a petty offense.

31-31-3. Time for weed removal. Grass, weeds, trees or brush referred to in §§31-31-1 and 31-31-2 shall be cut, removed or destroyed between the first day of September and the first day of October of each year, or between dates annually fixed by the board of supervisors.

31-31-4. Employment of assistance in weed removal. The Department of Transportation and any board of county commissioners may employ the necessary assistance to carry out the necessary provisions of this chapter or may have the work done by the employees regularly employed by the department or the board. The department and the board may fix the compensation and expenses of persons employed by them for the purpose of carrying out the provisions of this chapter. The department and board may be paid out of any fund or funds available to the department or board for the maintenance and repair of the highway.

31-31-5. Failure of abutting landowner to remove weeds - Removal by board of supervisors - Compensation for removal. If the owner or occupant of land abutting upon or adjoining township roads does not cut, remove or destroy, or cause to be cut, removed or destroyed, the grass, weeds, trees or brush in the right-of-way of such roads between the first day of September and the first day of October, or between the dates annually fixed by the board, the board of supervisors of the township in which the land is located may employ a person or persons to immediately cut and remove the grass, weeds, trees and brush on or in the right-of-way of such township

roads with compensation at a rate to be fixed and paid by the board.

31-31-6. Payment for cleanup by landowner or township - Election to determine. The voters at each annual township election shall by majority vote determine whether the amount paid for the cleanup of township roads pursuant to §31-31-5 shall be paid for by the landowner or the township. If the vote is to have the landowner pay, the amount shall be certified by the township clerk to the county auditor not later than November first of the same year. The amount shall be extended on the tax list in a separate column headed "Removal or destruction of grass, weeds and brush on highways" and shall become a tax on the land adjoining the highway where the grass, weeds and brush were cut or removed and shall be collected as other taxes. If the vote is to have the township pay, the cost of cutting and removal of grass, weeds and brush shall be paid out of township funds without extending such cutting and removal costs on the tax lists as tax on the land of the adjoining township landowner.

31-32

OBSTRUCTIONS AND DEFECTS

31-32-1. Intentionally damaging highway or bridge - Felony. Every person who intentionally digs up, removes, displaces, breaks, or otherwise injures or destroys any public highway or bridge, or any private way laid out by authority of law, or bridge upon such way, is guilty of a Class 6 felony.

31-32-3.1. Intentional dumping on highway right-of-way prohibited - Violation as misdemeanor. No person except as provided in §31-32-3.2 may intentionally dump any load of any material or cargo on or within the highway right-of-way. A violation of this section is a Class 1 misdemeanor.

31-32-3.2. Authorized dumping on highway right-of-way. Any governmental employee or person involved in the construction or maintenance of public highway right-of-way or any person authorized by permit or contract with the governmental entity with jurisdiction over the highway right-of-way may dump a load of highway construction or maintenance materials on or within the highway right-of-way.

31-32-4. Intentional destruction of tollhouse or turnpike gate - Felony. Every person who intentionally injures or destroys any tollhouse or turnpike gate is guilty of a Class 6 felony.

31-32-5. Placing barbed wire across traveled road without visible obstruction - Petty offense - Civil liability. Any person who shall place a barbed wire fence across any traveled road, whether the same be or be not a public highway, without at the same time building an obstruction across said road outside of and not farther away from said fence than two rods, consisting of at least two boards or poles securely fastened to three upright posts, commits a petty offense and is liable to the person injured for all damages sustained.

31-32-6. Duty to notify where bridge or highway is obstructed. It shall be the duty of every person who so injures or obstructs any bridge or highway as to render the same unsafe immediately to put up a danger sign and use diligence to notify one or more of the members of the board or commissioners having jurisdiction or supervision over such bridge or highway of such injury or obstruction. A violation of this section is a petty offense.

31-32-7. Destruction, etc., of highway grade or ditch - Violation as misdemeanor. No unauthorized person may injure any highway by removing, destroying or otherwise altering the grade constructed for such highway or by filling, obstructing or otherwise altering the ditch which drains the grade of such highway or otherwise injures such highway in any manner. A violation of this section is a Class 2 misdemeanor.

31-32-8. Civil liability for violating § 31-32-3.1, 31-32-6, or 31-32-7--Attorney fees. Any person violating the provisions of § 31-32-3.1, 31-32-6, or 31-32-7, in addition to the judgments authorized by those sections, shall also be liable in a civil action to the township, county, municipality, or other public corporation to which the highway, highway right-of-way, or bridge belonged, in the amount as may be recovered against the township, county, municipality, or other public corporation, including a reasonable amount for attorney's fees, on account of the injury or obstruction referred to in § 31-32-3.1, 31-32-6, or 31-32-7.

31-32-9. Duty of governing body to remove obstructions or repair--Recovery of expense from wrongdoer--Temporary obstruction for building purposes. The governing body or board having charge of any street, road, or highway shall cause rock, stone, glass, or other obstruction placed in the street, road, or highway, to be removed, or in the event that the same is flooded by irrigation water, the street, road, or highway shall be repaired. The municipality, township, county, or other public corporation is entitled to recover from any person placing the obstruction in the street, road, or highway, or allowing the water to flow upon the same, the amount necessarily expended in the removal or repair, including a reasonable amount for attorney's fees, and the action may be commenced in any court in the county having jurisdiction. This section does not apply to the placing of rock or stone in the streets, roads, or highways temporarily for building purposes.

31-32-10. Duty of governing body to give notice of dangerous road - Time for notice - Guards - Guards along abandoned roadway - Violation as petty offense. If any highway, culvert, or bridge is damaged by flood, fire or other cause, to the extent that it endangers the safety of public travel, the governing body responsible for the maintenance of such highway, culvert, or bridge, shall within forty-eight hours of receiving notice of such danger, erect guards over such defect or across such highway of sufficient height, width, and strength to guard the public from accident or injury and shall repair the damage or provide an alternative means of crossing within a reasonable time after receiving notice of the danger. The governing body shall erect a similar guard across any abandoned public highway, culvert, or bridge. Any officer who violates any of the provisions of this section commits a pet-

ty offense.

31-32-12. Bridges over ditches and canals excepted from notice requirements. Nothing contained in§31-32-10 or 31-32-11, shall be construed as imposing any liability upon the county for any injury sustained by reason of any violation of §46-8-16 relating to bridges over ditches and canals.

31-32-13. Business requiring use of highway by customers as misdemeanor--Exceptions. It is a Class 2 misdemeanor for any person to conduct an establishment or maintain a business the nature of which requires the use by patrons or customers of any part of the right-of-way of a state trunk highway while the patron or customer is receiving or discharging any merchandise or commodity at the place of business. This section does not apply to streets within the limits of municipalities which are under the control and regulation of the municipality. This section does not apply to a vending facility allowed pursuant to § 31-29-83.

31-32-14. Approved ingress and egress exempted from highway use restriction. The provisions of § 31-32-13 do not, in any way, interfere with the rights of any person to use such means of ingress or egress to a place of business as are approved as to safety and design by the Department of Transportation and as are reasonably useful for the business conducted by the person on privately owned property.

31-32-15. Unlawful use of right-of-way as public nuisance. The conducting of an establishment or maintaining of a business in violation of § 31-32-13 constitutes a public nuisance and the department may bring an action to abate the nuisance or may fence the right-of-way of the state trunk highway to prevent the unlawful use.

31-32-16. Objects likely to fall on highway as public nuisance. Any tree, structure, or other object, that, because of its location and because of its age, infirmity, angle of stance, or other condition, is likely to fall, in whole or in part, upon any public highway within the State of South Dakota, so that any person using the highway at the time of the fall might be injured thereby, is a public nuisance against which the remedies prescribed by § 21-10-5 may be employed.

31-32-17. Negotiation with owner for abatement of nuisance. If it appears to the satisfaction of any department, board, or governing body charged with the duty of the maintenance of any highway in this state, that a nuisance as defined by § 31-32-16 exists along any highway in respect to which highway the department, board, or governing body has the duty of maintaining, the department, board, or governing body shall negotiate with the owner of the property on which the nuisance exists for the voluntary abatement of the nuisance.

31-32-18. Failure of owner to abate nuisance--Civil action--Cost charged against owner. If the owner of the property referred to in § 31-32-17 or of the nuisance refuses or fails to voluntarily abate the nuisance within a reasonable time, the department, board, or governing body, shall bring a civil action on behalf of the public, in the proper court, to abate the nuisance. If abatement is ordered in the suit, the

cost of the action shall be charged against the owner of the land on which the nuisance was maintained and against whom the action in abatement was brought.

32-14

TRAFFIC REGULATION GENERALLY

Selected Statues Only

32-14-1. Definitions. Terms used in chapters 32-14 to 32-19, inclusive, 32-12 and 32-22 to 32-34, inclusive, mean: (14) "Local authorities," a county, municipal, township, road district, and other local board or body having authority to adopt local police regulations under the Constitution and laws of this state;

32-14-2. Applicability to drivers of publicly owned vehicles - Exceptions. The provisions of chapters 32-14 to 32-19, inclusive, and of chapters 32-22 to 32-34, inclusive, applicable to the drivers of vehicles upon the highways, shall apply to the drivers of all vehicles owned or operated by this state or any county, municipality, district, or any other political subdivision of the state subject to such specific exceptions as are set forth in said chapters.

32-14-3. Power of local authorities - Speed limitations - Vehicle traffic and safety provisions - Exceptions. Local authorities, except as expressly authorized by chapter 32-25 and § 32-29-2, may not alter any speed limitations declared in chapter 32-25 or enact or enforce any ordinance, charter provision, or bylaw duplicating the provisions of chapter 32-23 or enact or enforce any rule or regulation contrary to the provisions of chapters 32-14 to 32-19, inclusive, or 32-22 and 32-24 to 32-34, inclusive, except as provided by §§ 32-14-4 and 32-14-5.

32-14-5. Traffic control devices - One-way traffic - Processions and assemblages. Local authorities may provide by ordinance for the regulation of traffic on highways under their jurisdiction by means of traffic officers or traffic control devices on any portion of the highway where traffic is heavy or continuous or local authorities may prohibit other than one-way traffic upon certain highways and may regulate the use of the highway by processions or assemblages.

32-14-6. Restrictions respecting weight of vehicle - Duration of period of restriction - Erection of signs designating restricted area. Local authorities, including road districts, may by ordinance or resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles allowed. Such prohibitions or restrictions apply only to vehicles to be operated upon any highway under the jurisdiction of and for the maintenance of which such local authorities are responsible and only if the highway by reason of physical condition, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles on the highway is prohibited or the permissible weights of the vehicles are reduced. Any local authority enacting any such ordinance or resolution shall erect

and maintain or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected by the ordinance or resolution. The ordinance or resolution is not valid unless such signs are erected and maintained.

32-14-7. Prohibiting trucks or commercial vehicles from use of designated highways - Erection of signs. Local authorities, including road districts, may by ordinance or resolution prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weights of such vehicles on designated highways. The prohibitions and limitations shall be designated by appropriate signs placed on such highways.

32-14-8. Road construction vehicles excepted - Traveling to and from road work. The provisions of chapters 32-14 to 32-19, inclusive, chapter 32-22 and of chapters 32-26 to 32-32, inclusive, do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway, but shall apply to such persons and vehicles when traveling to or from such work.

32-14-9. Conditions imposed by owner upon permissive use of private property. Nothing in chapters 32-14 to 32-19, inclusive, or in chapters 32-22 to 32-34, inclusive, shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting such use nor from requiring other or different or additional conditions than those specified in said chapters or otherwise regulating such use as may seem best to such owner.

32-22

WEIGHT, SIZE AND LOAD RESTRICTIONS

Selected Statues Only

32-22-24. Reduced load maximums from February fifteenth to April thirtieth - Changing restrictions - Overweight permits - Violation as misdemeanor. The maximum axle and axle group loadings as set forth in § 32-22-16 shall be reduced during the period of each year from February fifteenth to April thirtieth, inclusive. The proper highway authority, responsible for maintenance of the highways, shall set reduced load limits during this period and may increase, lessen, or remove these restrictions if highway conditions warrant. That authority may be exercised without formal resolution if the highway authority erects or causes to be erected and maintained signs designating the restrictions. If highway and climatic conditions warrant, the proper highway authority may extend the time period mentioned in this section by ordinance or resolution. Nothing in this requirement, however, removes or interferes with the proper highway authority imposing restrictions as set forth in §§ 32-14-6, 32-14-7, and 32-22-25. Moreover, during the time period mentioned in this section the transportation commission may, pursuant to § 32-22-42, allow the issuance

of overweight permits to heavier vehicles to permit such vehicles to be operated on those highways which the commission designates as capable of handling heavier loads. A violation of this section is a Class 2 misdemeanor.

32-22-25. Reduced weight maximums on specific roads - Notice - Exceeding weight limit as misdemeanor. If, for any reason, the improved highways of this state are rendered incapable of bearing the customary traffic without undue damage, or if it is considered by the Department of Transportation, the board of county commissioners of any county, the board of supervisors of any township, or the board of trustees of any road district, that the improved highways or any section of them under their jurisdiction would be damaged or destroyed by heavy traffic by reason of thawing or excessive moisture, or for any reason, the maximum weight of the vehicle and the load shall be reduced. Notice of any restriction under this section shall be given by placing at each end of that section of highway on which the allowable weight limit is reduced and at points of intersection, as deemed necessary by the proper highway authority, signs of substantial construction which conspicuously indicate the limitations of the gross weight of the vehicle. Exceeding such weight limits is a Class 2 misdemeanor.

32-25

SPEED ZONES

32-25-9.1. Establishment of speed zones by county commissioners--Posting of zones. Any board of county commissioners may determine and establish speed zones upon all or any part of the highways under its jurisdiction and upon streets and highways on the request of and after any other local authority, including any road district, having charge of the maintenance of the highway has declared its intention to post speed zones. Such speed zones shall be conspicuously posted at the beginning and ending of the zones.

32-25-9.2. Township road speed limit--Violation as misdemeanor. No person may drive a vehicle on a township road in excess of fifty-five miles per hour. However, notwithstanding the provisions of § 32-25-9.1, any board of township supervisors may determine and establish speed zones upon all or any highways under its jurisdiction. The township board shall notify the county of any changes and the speed zones shall be conspicuously posted at the beginning and ending of the zones. Driving in excess of the speed limit established in this section or by the township board pursuant to this section is a Class 2 misdemeanor.

38-22

WEED AND PEST CONTROL

Selected Statues Only

38-22-22. Responsibility for cost of operations on publicly owned land. The responsibility for and the cost of controlling and eradicating weeds and pests on all lands or highways owned or supervised by a state agency or subdivision shall be upon the state agency or subdivision supervising such lands or highways, and paid out of funds appropriated to its use.

38-22-22.1. Responsibility for weed and pest control. All provisions, requirements, and responsibility for weed and pest control included in this chapter apply to all state government agencies and subdivisions on lands, highways, and roads owned, managed, maintained, or supervised by the government entity.

SAMPLE FORMS

Available at www.sdtownships.com

Agendas for Townships, Samples - First & Last Tuesdays in March

Annual Meeting Notice

Annual Report Instructions **Sample Disbursement Journal**

Sample Receipt Journal

Annual Report in Excel

Annual Twp Audits

Being a Fiscally Responsible Council

Bid Laws

Bid/Disposition Booklet

Bid Notice - Sample

Call for Special Meeting Form

Certificate of Levy

Conflict of Interest Laws

Drainage Article (Page 7)

Farming the ROW
Farming the ROW - Cease & Desist

Farming the ROW - Sample Letter

Gravel Calculation Chart

Gravel - Section 882 Aggregates

Gravel-Successful Dust Control

Gravel Specifications

Haul Route Agreement

Inspection/Marking Form - Culverts, Signs, Etc.

Inspection/Marking Exec Sheet - Culverts, Signs, Etc.

Manual on Uniform Control Devices-2009 version

Notice of Road Closure

Notary Application

Oath_of_Office.pdf

Open Meeting Laws (Revised Fall 2015)

Opt Out Information

Records Retention and Destruction Schedule

Retroreflectivity-Final Rule

Road Repair Agreement

Sign Delineation Design Manual

Signage - Installation

Signage - Road Closure

Snow Removal Responsibility

Speed Limit Notification Form

Vacate a Road - Instructions & Forms

Weed & Tree Removal

NOTES: