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The NDTOA wishes to express our thanks to the North Dakota Insurance Reserve Fund for making it possible to produce and update this Township Officers Handbook.

We would like to offer special thanks to Brennan Quintus and Mark Verke for being an integral part of our newsletter, handbook, and workshop programs.

2022 EDITION

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North Dakota Township Officers' Handbook

First published in 1986

2022 Edition

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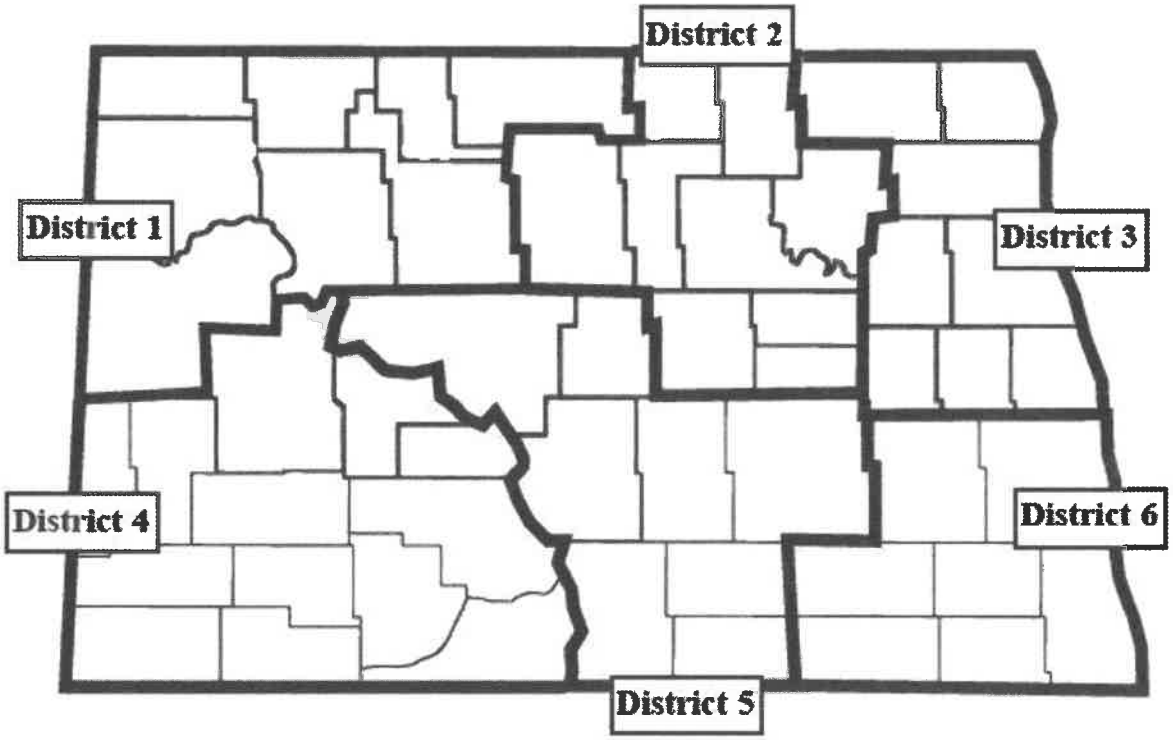
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Ward
Mountrail
Williams
McKenzie

DISTRICT TWO
Rolette
Towner
Benson
Ramsey
Pierce
Eddy
Foster
McHenry
Wells

DISTRICT THREE
Cavalier
Pembina
Walsh
Nelson
Grand Forks
Griggs
Steele
Traill

DISTRICT FOUR
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Billings
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Morton
Grant
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Adams
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NORTH DAKOTA TOWNSHIP OFFICER'S HANDBOOK

2022 REVISED EDITION

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NORTH DAKOTA TOWNSHIP OFFICERS ASSOCIATION

PHILOSOPHY

The Board of Directors believes the following statement embodies the philosophy and goals of the North Dakota Township Officers Association.

We believe in the democratic ideal of government of the people, by the people, and for the people. Towards this ideal, we feel that the best and the most responsive government is that government which is closest to the people, the township. The members of the North Dakota Township Officers Association will endeavor to act to establish, to implement, and to protect the rights of its citizens at this basic level. We affirm our belief in our National Constitution and our national unity which provides the basis in which democracy functions, and we affirm our belief in our North Dakota State Constitution which envisioned and structured a role for strong local government. In accordance with these beliefs, we will work for the following objectives:

1. To provide citizens at the local level an opportunity to assemble, discuss and influence decisions concerning their own government.
2. To provide an organizational structure for townships to act in common accord in regard to common concerns at the county level.
3. To provide an organizational structure for townships to be represented in the state legislature processes so that the needs and issues of townships may be supported and implemented.
4. To cooperate and act with any national or regional association of local governments to secure for our rural communities just and proportionate treatment under Federal laws and programs.
5. To formulate policies and make recommendations.
6. To provide education, leadership and leadership training to all associated township members.

CONSTITUTION

NORTH DAKOTA TOWNSHIP OFFICERS ASSOCIATION

As Amended December 6, 2021

I.

The name of this association shall be "North Dakota Township Officers Association".

II.

The objectives of this association shall be:

1. To provide a means whereby the interests of townships, as such, can be represented before various governmental boards and agencies such as the Board of County Commissioners, the State Legislature, the U.S. Department of Agriculture, and other State, County, and Federal agencies, and departments.
2. Coordinate and provide a means for joint action between townships covering matter which involves two or more townships.
3. To promote the best interest of the townships and of persons residing within the townships.

III.

The membership of this association shall consist of Township Officers of the State of North Dakota for the townships which have paid the membership dues hereinafter provided for. The association shall meet annually in December. The Board of Directors shall have the power to allow attendance by electronic means. The Quorum for said meeting shall be the number of members present at that time. If a county township association has not designated two members to represent and vote on behalf of the county association, then and in that event those members present at the annual meeting shall meet with and caucus with other members from their same county of residence for the purpose of designating two (2) members to represent and vote on any issue presented at the annual meeting. Each county's caucus shall have two (2) votes. The Board of Directors shall have the power to allow voting by electronic means.

IV.

The membership of the Board of directors shall consist of those members as outlined in the By-Laws of the Association. There shall be elected from the membership of the association during annual meetings held in odd numbered years a president and vice-president who shall hold office for a term of two years, not to exceed three consecutive terms. At the time of the election, the president and vice-president must be currently holding an elected township office. The Board of Directors shall meet annually in December and at other special meetings as called by the president or any five members of the Board of Directors.

V.

This constitution may be amended by a two-thirds affirmative vote of the members present at the annual meeting. By-Laws may be amended by a majority vote of members present at the annual meeting. Constitutional and By-Law Amendments shall be published in writing in the NDTOA official newsletter at least thirty (30) days prior to the annual meeting.

BY-LAWS

NORTH DAKOTA TOWNSHIP OFFICERS ASSOCIATION

As amended December 2014

I.

The management of the business and affairs of the association when the association is not in session at its annual meeting shall be in the hands of the Board of Directors.

II.

The Board of Directors shall have the power to fill any vacancy occurring on said board for any cause other than the expiration of their terms. Such vacancies filled shall only be until the next annual meeting.

III.

The president shall preside at all meetings of the association, and at all meetings of the Board of Directors.

IV.

The secretary shall keep a record of all meetings of the association and of the Board of Directors and perform such duties as are usually performed by secretaries of such association.

V.

The treasurer shall collect all funds and pay all expenses of the association. At each annual meeting the treasurer shall render a complete accounting of all funds. The treasurer shall not serve as a member of the Audit Committee.

VI.

The membership of the Board of Directors shall consist of the President, Vice President, immediate Past President, and six (6) members, each representing a separate district, but elected by the association. Directors must be elected township officers and members of the association as defined in Article III of the Constitution. District boundaries shall be determined from time to time by the association. The members elected to the Board of Directors shall serve for a term of two years, said terms staggered so that the odd-numbered district directors are elected in odd-numbered years, and the even numbered district directors are elected in even numbered years.

VII.

The Officers of the association, or anyone of them, may be removed from office by a two-thirds affirmative vote of the Board of Directors for cause. Should any officer be unable or unwilling to serve, the Board of Directors shall appoint a replacement.

VIII.

The annual fee for membership in the association shall be $125.00 per year per township in counties with a county organization and $130.00 per year per township in counties without a county organization. All dues shall be paid by May 1 and if unpaid shall become delinquent on October 1. A township shall be ineligible to vote at the Annual Meeting of the Association if dues are not paid by October 31 or may be allowed to vote at the discretion of the Association President.

IX.

In the absence or inability of the president to serve, the vice-president shall perform all such duties as are usually performed by the president.

X

The Board of Directors may authorize payment of any bill out of the treasury of the association.

XI.

At the first meeting of the Board of Directors after the annual meeting, the Board of Directors shall annually appoint an Executive Secretary who shall also serve as Secretary of the association and a Treasurer who shall serve as Treasurer of the association.

XII.

Robert's Rules of Order shall govern all meetings of the Association and the Board of Directors.

XIII.

No part of the net earnings of the Corporation shall inure to the benefit of any member, officer of the Corporation or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes), and no member, officer of the Corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

In the event of the dissolution of this corporation, or in the event it shall cease to carry out the objects and purposes herein set forth, then and in that event all liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provisions shall be made therefore. All the remaining business, property, and assets of the corporation shall go to and be distributed to such nonprofit charitable corporation, municipal corporation, or corporations, as may be selected by the board of directors of this corporation so that the business properties and assets of this corporation shall then be used for, and devoted to, carrying on township government purposes; it being the intent that in the event of the dissolution of this corporation, or upon its ceasing to carry out the objects and purposes herein set forth, that the property and assets then owned by the corporation shall be transferred to each respective County Auditor for distribution to member townships,

Notwithstanding any other provision of these articles the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501 (c) (4) of the Internal Revenue Code of 1054 and its regulations as they now exist or as they may hereafter be amended.

POLICIES

NORTH DAKOTA TOWNSHIP OFFICERS ASSOCIATION

As Amended January 3, 2022

THE FOLLOWING STATEMENTS OUTLINE THE RESPONSIBILITIES OF THE STATE OFFICERS AND COMMITTEES:

I. THE PRESIDENT SHALL:

1. Preside at all Board of Director meetings.
2. Be a member of the Budget Committee and will be an ex-officio member of all committees. Will attend all meetings of the Budget Committee and will attend all other committee meetings at the president's pleasure.
3. Be the spokesperson for the state association and will assure that the image and prestige of the association will be at high level.
4. Be responsible to the state association for the activities of the Executive Secretary and Treasurer and will assure that the Executive Secretary and Treasurer are performing their duties in a satisfactory manner.
5. Authorize members of the association to attend meetings and other functions of interest to the association and authorize per diem and travel expense for same.
6. Have access to the checkbook in the absence of the Treasurer.
7. Acknowledge and accept invitations to attend county meetings or recommend a representative to attend on the president's behalf.
8. Make appointments to committees, subject to approval by the Board of Directors.
9. At all times act in a manner that will do credit to the state association.

II. THE VICE-PRESIDENT SHALL:

1. Preside at all meetings and perform all the functions of the President in the case of absence or inability of the President to serve.
2. Be chairman of the Legislative Committee.
3. Perform promotional duties on behalf of the state association's Board of Directors
4. At all times act in a manner that will do credit to the state association.

III. THE TREASURER SHALL:

1. Be responsible to the state association for a complete, accurate, and up to date set of financial records.
2. Collect yearly dues from townships throughout the state and keep all monies collected in any way by the state association.
3. Write all checks for the state association, and when not able to do so, will allow the President access to the check book in order that he may issue checks.
4. Close the state association's books and present them to the Auditing Committee November 1st of each year.
5. At all times act in a manner that will do credit to the state association.

IV. THE BOARD OF DIRECTORS SHALL:

1. Manage the business affairs of the state association and will bring to the association that which needs association approval.
2. Authorize the payment of bills, prepare the annual budget, and approve all other financial outlays of the state association, other than those amounts required to be approved by the association.
3. Act on state legislation affecting townships in an emergency situation and will call on members of the state association to testify during state legislative sessions, in accordance with any resolutions the association may have previously adopted pertaining to the subject matter of said legislation.
4. Appoint the Executive Secretary and Treasurer and establish the compensation for those positions.
5. Meet in sessions at least two times a year.
6. Select the time and place of the state association's annual meeting.
7. Have the power to remove from office any elected or appointed officer if cause is shown for such action.
8. Appoint the Directors of Intergovernmental Relations and establish the compensation for those positions.
9. Appoint the NATaT representative, and alternate if the board feels an alternate position is needed, and establish compensation for those positions for time, travel, and other possible related expenses.
10. At all times act in a manner that will bring credit to the state association.

V. THE EXECUTIVE SECRETARY SHALL:

1. Be directly responsible to the Board of Directors for the proper performance of the executive secretary's duties. The President will act as the executive secretary's immediate supervisor.
2. Perform public relations work for the state association.
3. Promote the state association by all means available and will assure the continuing high regard for the association whenever possible.
4. Be responsible for editing publishing and circulating the state association newsletter.
5. Perform communication work for the President such as letter writing, etc.
6. Write the proceedings for all meetings or any special meeting called by the President unless the President does not need the service of the executive secretary.
7. Perform any duties that are directed by the President or the Board of Directors.
8. Keep the Board of Directors informed of events which are pertinent to the state association.
9. Work with the President and the Board of Directors on special projects such as workshops, etc.
10. Keep all pertinent information regarding the state association and will present this information on request of any member of the Board of Directors.
11. The Executive Secretary shall perform any and all duties as agreed upon in the Contract for employment for said position.
12. Serve as secretary of the association.
13. At all times act in a manner that will bring credit to the state association.

VI. THE NEWSLETTER COMMITTEE SHALL:

1. Cause to be published the official newspaper of the North Dakota Township Officers Association.

VII. THE LEGISLATIVE COMMITTEE SHALL:

1. Monitor the legislative process and assure that the action taken by the legislature that is pertinent to township government will have the proper attention of the state association and will be acted upon promptly and accordingly.
2. Consist of two or more members of the Board of Directors and others as the President may appoint and will be chaired by the Vice President or an appointee of the President in the Vice President's absence or inability to serve.
3. Select the Legislator of the Year and present that award.

VIII. THE BUDGET COMMITTEE SHALL:

1. Prepare the annual budget prior to the state association's annual meeting. the budget will be subject to the approval of the association at its annual meeting.
2. Consist of the President, Vice President, Treasurer, and at least one member of the Board of Directors.

IX. THE RULES AND POLICY COMMITTEE SHALL:

1. Research the Constitution and By-Laws of the state association and bring recommended changes to the attention of the Board of Directors in time to consider and meet publishing requirements for any proposed changes.
2. Do continual research in the policy of the state association and bring recommended changes to the attention of the Board of Directors for consideration.

X. THE AUDITING COMMITTEE SHALL:

1. Consist of the President and a member of the Board of Directors.
2. Audit the financial records of the state association within thirty (30) days prior to the annual meeting.
3. Prepare an auditing report and present it to the Board of Directors at the annual meeting of the association.
4. The Committee may procure the services of a competent public accountant to carry out the above listed duties.

XI. THE RESOLUTIONS COMMITTEE SHALL:

1. Edit, accept, reject, condense, combine, and create resolutions to form an edited package for consideration by the voting delegates at the state convention.
2. Ensure that all resolutions are in proper form and received in a timely manner.
3. Ensure all resolutions presented state how it pertains or relates to township business or township government matters.

XII. THE NOMINATING COMMITTEE SHALL:

1. Solicit candidates for election to various offices of the association.
2. Report to the Board of Directors at least one day prior to the election the result of the candidate search.
3. Consist of members of the Board of Directors whose terms are not expiring.

XIII. THE AWARDS COMMITTEE SHALL:

1. Publish notice for nominations for the "Grassroots Leadership Award" and other awards that may be presented by the state association.
2. Solicit, review, and judge nominations presented for consideration except for the Legislator of the Year Award.
3. Select the recipient in all categories except for the Legislator of the Year.
4. Select a recipient of the President's Award each year.
5. Present awards at an appropriate awards ceremony.
6. Aid and provide assistance to both state and county organizations in soliciting nominees.

XIV. THE WORKSHOP COMMITTEE SHALL:

1. Select dates, sites, and program content for regional educational workshops to be held in even numbered years.
2. Determine registration fees which will defray all expenses of said workshops.

XV. THE HANDBOOK COMMITTEE SHALL:

1. Compile, edit, and cause to be published a handbook for the North Dakota Township Officers Association.
2. Make updates available as necessary.

XVI. THE CONVENTION COMMITTEE SHALL:

1. Plan and organize all convention activities.
2. Make all arrangements necessary to hold the convention in the Bismarck/Mandan area in even numbered years.
3. Consult with and seek approval for convention content from the Board of Directors
4. Consist of the Executive Secretary as chairman, the Treasurer, and the Director of the District in which the annual meeting is to be held.

XVII. STANDING COMMITTEES SHALL:

1. Meet at the direction of the president or as the need arises upon the call of the chair of said committee.
2. Conduct business by meeting at an appointed place and time, by telephone conference, or by other electronic means.

XVIII. THE EXECUTIVE COMMITTEE SHALL:

1. Consist of the President, Vice President, Immediate Past President, Treasurer, and a District Director in rotation.
2. Supervise the activities of the Executive Secretary, Treasurer, and any other appointed position or committee.
3. Meet at the call of the President.
4. Perform other duties as authorized by the Board of Directors.

XIX. ANY SPECIAL COMMITTEES SHALL:

1. Be appointed by the President and shall follow the president's guidelines for committee's purpose.

XX. NATaT DIRECTOR(S) SHALL:

1. Serve for a term of two years with a primary director appointed in odd-numbered years and alternate (if needed) appointed in even-numbered years.
2. Attend NATaT meetings as directed or approved by the Board of Directors.

Title 1
General Provisions

CHAPTER 1-08
MISCELLANEOUS

1-08-04. Authorizing state and counties, cities, and other municipalities to accept devises, bequests, legacies, and gifts. Devises, legacies, bequests, and gifts may be lawfully made to the state or any county, township, city, school district, or park district of the state of North Dakota. The title to any property that is devised, bequeathed, or given to the state, or to any such county, township, city, school district, or park district, for the use and benefit thereof, vests in the state or such county, township, city, school district, or park district, to be by it held in trust under the terms and conditions provided for in the devise, legacy, bequest, or gift. Unless otherwise authorized by the will or other instrument providing for the devise, legacy, bequest, or gift, no part of the property, nor of the income therefrom, may be diverted or used for any other purpose. The officers charged with the management of the fiscal affairs of the state may only accept and receive a devise, legacy, bequest, or gift that is consistent with the statutory responsibilities of the specific officer involved. The officers charged with the fiscal management of any county, township, city, school district, or park district may accept and receive any such devise, legacy, bequest, or gift. The officer who accepts and receives the devise, legacy, bequest, or gift shall administer the same for and on behalf of the state, or any such county, township, city, school district, or park district.

1-08-04.1. State property having historical or artistic significance - Responsibilities of state historical society and council on the arts - Review and advice on property for exhibition. Except for the board of higher education and state institutions under the jurisdiction of the board, every state official or entity that, on behalf of the state, holds, acquires, or receives property having historical or artistic significance shall document and inventory that property on forms furnished by the state historical society. One copy of the completed form must be retained in the office of that official or entity and one copy must be filed with the state historical society. The information filed with the society must include a description of the property, the identity of the donor if acquired by gift, the date the property was acquired or received, any conditions on acceptance of the property if given by gift, and appropriate evidence of ownership. The information must also indicate whether the property is intended for permanent or long-term exhibition on the capitol grounds or in public areas in the state capitol. With respect to property intended for permanent or long-term exhibition on the capitol grounds or in public areas in the state capitol, the state historical society shall notify the state council on the arts. The council on the arts shall advise the capitol grounds planning commission with respect to permanent or long-term exhibition of the property on the capitol grounds or in public areas in the capitol. Before transfer of ownership or other disposal of property documented and inventoried under this section, that property must be offered to the state historical society for inclusion in its historical collections.

Title 2
Aeronautics

CHAPTER 2-06
AIRPORT AUTHORITIES ACT

2-06-14.Tax levy may be requested by airport authority or municipality - Financial report. An airport authority may request annually from the governing bodies of the municipalities within the authority, an amount of tax to be levied by each municipality, and the municipalities may levy the amount requested, under the law authorizing cities and other political subdivisions of this state to levy taxes for airport purposes. With its levy request under this section, an airport authority may certify its current and anticipated revenues and resources, any anticipated revenue shortfall for bonded debt payment, and the amount necessary from its property tax levy authority for its annual principal and interest payment for bonded debt incurred under this chapter. If the authority finds the certified amount is necessary for the annual bonded debt payment, the municipality shall levy for the airport authority not less than the certified amount. In the year for which the levy is sought, an airport authority that is not a city or county governing body and which is seeking approval of a property tax levy of a city or county governing body under this chapter shall file with the auditor of each participating city or county, at a time and in a format prescribed by the auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the airport authority during that year. The levy made may not exceed the maximum levy permitted by the laws of this state for airport purposes.

The municipality shall collect the taxes levied for an airport authority in the same manner as other taxes are levied and collected. The proceeds of the taxes must be deposited in a special account in which other revenues of the authority are deposited, and may be expended by the authority as allowed under this chapter.

Before the issuance of bonds under section 2-06-10, the airport authority or the municipality may by resolution provide its commitment under section 2-06-10 that the total amount of taxes then authorized by law, or such portion as may be specified by the resolution, will be certified, levied, and deposited annually until the bonds and interest are fully paid.

2-06-15.Tax levy by county, city, or township for airport or airport authority purposes. A county, city, or township supporting an airport or airport authority may levy up to four mills for airport or airport authority purposes. If any city or township within the county is levying a tax for support of an airport or airport authority and the total of the county and city or county and township levies exceeds four mills, the county tax levy within the city or township levying under this section must be reduced so the total levy in the city or township does not exceed four mills.

Title 4.1
Agriculture

CHAPTER 4.1-47
NOXIOUS WEED CONTROL

4.1-47-01. Definitions. As used in this chapter:

1. "Board member area" means a geographical area within the county from which a member of the weed board is appointed.
2. "City weed control officer" means an individual designated by a city weed board to be responsible for the operation and enforcement of this chapter within the city.
3. "Commissioner" means the agriculture commissioner or the commissioner's designee.
4. "Control" means to prevent a noxious weed from spreading by:
   a. Suppressing its seeds or propagating parts; or
   b. Destroying either the entire plant or its propagating parts.
5. "County weed control officer" means an individual designated by the county weed board to be responsible for the operation and enforcement of this chapter within each county.
6. "Noxious weed" means a plant propagated by either seed or vegetative parts and determined to be injurious to public health, crops, livestock, land, or other property by:
   a. The commissioner in accordance with section 4.1-47-05;
   b. A county weed board in accordance with section 4.1-47-10; or
   c. A city weed board in accordance with section 4.1-47-21.
7. "Township road" means an improved public road that is:
   a. Located outside of an incorporated city;
   b. Not designated as part of a county, state, or federal aid road system; and
   c. Constructed, maintained, graded, and drained by the township, or by the county if the township is unorganized.

4.1-47-02. Control of noxious weeds.

1. Each person shall do all things necessary and proper to control the spread of noxious weeds.
2. No person may distribute, sell, or offer for sale within this state a noxious weed.

4.1-47-03. Noxious weed control - Agriculture commissioner - Powers. The commissioner may enter upon any land in the state to perform duties and to exercise powers under this chapter, including taking specimens of weeds or other materials, without the consent of the landowner or other person responsible for the land and without being subject to any action for trespass or damages, provided reasonable care is exercised.

4.1-47-04. Noxious weed control - Agriculture commissioner - Duties. The commissioner shall:

1. Maintain a state noxious weed list;
2. Direct the removal of a noxious weed from a county or city noxious weed list if the commissioner, after consultation with the respective weed board and the North Dakota state university extension service, determines there is insufficient justification for the continued inclusion of that particular noxious weed;
3. Except as otherwise provided, forward all signed complaints to the proper weed control authority; and
4. Call an annual meeting of all weed control officers to review noxious weed control efforts in this state.

4.1-47-05. State noxious weed list - Compilation.

1. Before the commissioner may add a weed to or remove a weed from the state noxious weed list, the commissioner shall consult with the North Dakota state university extension service.
2. Before January 1, 2010, and at least every five years thereafter, the commissioner shall review the state noxious weed list. The commissioner shall provide each county and city weed board with at least fourteen days' notice of the time and place at which the list will be reviewed and, no later than fourteen days after conclusion of the review, shall provide each county and city weed board with written notice of any changes to the state noxious weed list.

4.1-47-06. County weed board - Members - Terms - Compensation.

1. Each board of county commissioners shall:
   a. Establish contiguous county weed board member areas; or
   b. Determine that county weed board members must be appointed at large.
2. The board of county commissioners shall appoint a county weed board consisting of three, five, or seven members. Members shall serve for a term of four years or until their successors are appointed and qualified. The terms must be staggered so that no more than two expire each year.
3. If the board of county commissioners has established county weed board member areas as provided for in subsection 1, any qualified elector residing in the county weed board member area is eligible to represent that area on the board. If the board of county commissioners has determined that county weed board members must be appointed at large as provided for in subsection 1, any qualified elector residing in the county is eligible to serve on the county weed board.
4. A board member shall assume office at the first regular meeting of the county weed board following that member's appointment.
5. The board of county commissioners shall remove a member of the county weed board for repeated unexcused failures to attend meetings, for refusal to act as a board member, or for incapacity. If a vacancy occurs on a county weed board, the board of county commissioners, at its next regular meeting, shall appoint an individual who possesses the necessary qualifications to fill the unexpired term.
6. a. The county weed board shall elect a chairman and a vice chairman from among its members.
   b. The county weed board shall appoint a secretary and a treasurer. The secretary and treasurer need not be members of the board.
7. The board of county commissioners shall establish the rate of compensation for county weed board members. Actual expenses incurred by board members may be reimbursed at the official reimbursement rates of the appointing authority.

4.1-47-07. County weed board - Jurisdiction. The jurisdiction of a county weed board extends to all land within the county but does not include any land within the corporate limits of a city if that city has its own noxious weed control program under this chapter.

4.1-47-08. County weed board - Powers. A county weed board may:

1. Expend funds from all available sources if it determines that the extent of noxious weed infestation on certain land is so severe that control efforts would place an extreme financial burden on the landowner.
2. Employ and compensate additional personnel to assist with noxious weed control efforts.

4.1-47-09. County weed board - Duties. Each county weed board shall:

1. Implement a program for the control of noxious weeds;
2. Provide for the control of noxious weeds along county and township roads and along county highways;
3. Establish the time and place of regular board meetings;
4. Meet at least once each year;
5. Keep minutes of its board meetings and a complete record of all official acts;
6. Control and disburse all moneys received by the county from any source for noxious weed control;
7. a. Provide for the compensation of its members and its secretary and treasurer;
   b. Reimburse its members and its secretary and treasurer for actual and necessary expenses; and
   c. Provide a mileage allowance at the same rate as that established for state employees; and
8. a. Employ and provide for the compensation of a weed control officer;
   b. Reimburse the weed control officer for actual and necessary expenses; and
   c. Provide a mileage allowance at the same rate as that established for state employees.

4.1-47-10. County weed board - Development of county weed list.

1. A county weed board may designate as noxious certain weeds that are not on the state noxious weed list, provided the county weed board consults with the North Dakota state university extension service and that the designation is approved by the commissioner.
2. Before January 1, 2010, and at least every five years thereafter, each county weed board shall review its noxious weed list and, by majority vote, may remove any weed from its list. The county weed board shall provide the commissioner with at least fourteen days' notice of the time and place at which its list will be reviewed and, no later than fourteen days after conclusion of the review, shall provide the commissioner with written notice of any changes to the county list.
3. A county weed board shall immediately remove any noxious weed from its list when directed to do so by the commissioner in accordance with section 4.1-47-04.

4.1-47-11. County weed control officer - Membership on county weed board - Employment.

1. A county weed control officer may serve as a member of the weed control board by which the officer is employed if the officer is otherwise qualified to do so.
2. An individual may be employed as a weed control officer by several weed boards simultaneously.

4.1-47-12. County weed control officer - Powers. A county weed control officer may enter upon any land within the jurisdiction of the officer to perform duties and to exercise powers under sections 4.1-47-01 through 4.1-47-30, including taking specimens of weeds or other materials, without the consent of the landowner or other person responsible for the land and without being subject to any action for trespass or damages, provided reasonable care is exercised.

4.1-47-13. County weed control officer - Duties. The county weed control officer shall:

1. Cooperate with the board and be responsible for the operation and enforcement of this chapter within the county;
2. Become acquainted with the location of noxious weeds within the county;
3. Meet the pesticide certification requirements set forth in chapter 4-35;
4. Encourage noxious weed control by all landowners and land occupants within the county;
5. Investigate all signed complaints received by the officer regarding noxious weeds;
6. Post or publish in the official newspaper of the county any notices the commissioner deems necessary to further noxious weed control under this chapter;
7. Prepare reports as requested by the commissioner; and
8. Attend meetings called by the commissioner to further noxious weed control under this chapter.

4.1-47-14. County noxious weed control program - Payment of expenses - Financial report - Tax levy authorization.

1. The board of county commissioners may pay the expenses of a county noxious weed control program authorized under this chapter from the county general fund, the noxious weed control fund, or both. In addition to the other program expenditures authorized in this chapter, the board of county commissioners may expend funds from the levy authorized under subsection11 of section 57-15-06.7 to control noxious weeds or undesirable vegetation along county or township roads in the county..
2. a. The county weed board may annually request from the board of county commissioners the levy of a tax, not to exceed the levy limitation in subsection 11 of section 57-15-06.7, but any tax levied under this section does not apply to property that lies within the boundaries of a city having a noxious weed control program under this chapter. In the year for which the levy is sought, a county weed board seeking approval of a property tax levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the county weed board during that year.
   b. The board of county commissioners may levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the weed control fund, which may be used to pay the expenses authorized under this section.
3. For purposes of this section, the expenses of a county noxious weed control program include compensation for and the reimbursement of expenses incurred by the county weed board, the county weed control officer and other employees of the board, and expenses incurred as authorized by this chapter.

4.1-47-15. State appropriations for noxious weed control - Distribution - Determination.

1. The commissioner shall consult with the county and city weed boards and develop a method for the distribution to county and city weed boards of all moneys appropriated by the state for noxious weed control, other than the landowner assistance grants provided for in section 4.1-47-16.
2. The method must:
   a. Limit the amount that any county or city weed board is entitled to receive under this section to seventy-five percent of the board's actual expenditures under this section; and
   b. Allow the commissioner to waive the limit provided for in this subsection if the commissioner determines that a noxious weed is seriously endangering areas of a county, a city, or the state.

4.1-47-16. State appropriations for noxious weed control - Landowner assistance program.

1. The commissioner shall consult with representatives of county and city weed boards and develop a formula for the distribution to eligible county weed boards and eligible city weed boards of all moneys appropriated by the state for the landowner assistance program.
2. a. The formula must require that county officials budget, from revenues derived from county sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control against taxable property in the county which does not lie within the boundaries of a city having a noxious weed control program under this chapter..
   b. The formula must require that city officials budget, from city sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control.
3. a. The formula must require that the landowner contribute an amount equal to at least twenty percent of the cost to be expended on behalf of the landowner.
   b. The nature and type of the landowner's contribution must be determined by the weed board having jurisdiction over the area in which the landowner's property is located.

4.1-47-26. Publicly owned land - Noxious weed control. Each state agency shall provide for the control of noxious weeds on land within its jurisdiction. If a state agency fails to control noxious weeds on land under its jurisdiction, the county weed board, upon approval of the commissioner, may enter upon the land to control the noxious weeds. The state agency shall reimburse the county weed board for expenses incurred in controlling the noxious weeds, within thirty days after the agency receives the bill.

4.1-47-27. Noxious weed control - Enforcement responsibilities of other agencies. Law enforcement agents shall cooperate with the commissioner, a weed control board, and a weed control officer for the purpose of enforcing this chapter.

4.1-47-28. Entry upon land for noxious weed control purposes - Notices – Landowner rights - Remedial requirements - Liens.

1. a. If a county weed officer determines that any land other than that referenced in subsection 2 contains noxious weeds, the county weed control officer may first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the county weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the county weed officer shall serve upon the landowner written notice, either personally or by certified mail, requiring the landowner to control the noxious weeds within the time period prescribed by the county weed control officer.
   b. The notice must:
      (1) Specify the minimal remedial requirements;
      (2) Specify the time within which the landowner must meet the minimum remedial requirements;
      (3) Specify that the landowner may be subject to penalties provided under this chapter if the landowner fails to comply with the remedial requirements;
      (4) Include a statement of costs if the landowner fails to control the noxious weeds and the county weed officer must provide for control of the weeds; and
      (5) Provide that the landowner may stay any efforts by the county weed officer to control noxious weeds on the land by requesting in writing that the county weed board hold a hearing on the matter.
   c. If the landowner does not meet the minimum remedial requirements within the time specified in the notice and does not request a hearing on the matter by the county weed board, the county weed control officer may cause the noxious weeds to be controlled and the expenses charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.

d. If after holding a hearing on the matter, the county weed board directs that the noxious weeds be controlled by the county weed officer, the landowner may appeal the decision to the board of county commissioners. A decision by the board of county commissioners is final.

e. If the landowner does not appeal the decision to the board of county commissioners, or if the board of county commissioners upholds the decision of the county weed board, the county weed control officer may cause the noxious weeds to be controlled and any expenses incurred by the county weed officer in controlling the weeds must be charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.

4.1-47-30. Preventing the dissemination of noxious weeds - Penalty.

1. a. A person may not willfully transport any material that contains noxious weed seeds or propagating parts, on a public road, in a manner that allows for the dissemination of noxious weeds.

   b. A person may not willfully drive or transport any equipment, on a public road, in a manner that allows for the dissemination of noxious weeds.

   c. A person may not willfully dispose of any material that contains noxious weed seeds or propagating parts in a manner that allows for the dissemination of noxious weeds.

2. Any person who violates this section is guilty of a class B misdemeanor.

4.1-47-31. Civil penalty.

1. a. In addition to any other penalties provided for in this chapter, a person who violates this chapter or any rules adopted under this chapter is subject to a civil penalty in an amount not to exceed eighty dollars per day for each day of violation, subject to a maximum penalty of four thousand dollars per year.

   b. Penalties imposed upon a landowner for failing to comply with the remedial requirements, as set forth in section 4.1-47-28, are a lien against the property of the landowner from the day the notice is delivered to the landowner under section 4.1-47-28.

   c. A person who violates subsection 2 of section 4.1-47-02 is subject to a civil penalty not to exceed one hundred dollars for each violation.

2. All penalties collected under this section must be credited to the noxious weed control fund of:

   b. The city in which the violation occurred if the city has a noxious weed control program under this chapter; or

   c. The county in which the violation occurred.

3. Any penalties provided for under this section may be adjudicated by a court, a county weed board, or a city weed board after a hearing.

4. An aggrieved person may appeal the imposition of a penalty by a county weed board to the board of county commissioners. An aggrieved person may appeal the imposition of a penalty by a city weed board to the governing body of the city.

4.1-47-32. Action on complaint - Request for hearing.

1. a. If an individual filed a signed complaint with a county weed board or the county weed control officer and if the individual believes that the complaint has not been addressed satisfactorily within twenty-one days from the date of the complaint, the individual may file a written request for a hearing with the board of county commissioners.

   b. Upon receiving a request for a hearing, the board of county commissioners shall schedule a public hearing within twenty-one days and shall provide notice of the hearing by publishing its time, place, and date in the official newspaper of the county.

   c. Within fourteen days after the hearing, the board of county commissioners shall issue a determination regarding the matter and shall issue appropriate directives to the county weed board.

   d. A decision by the board of county commissioners under this section is final.

2. a. If an individual filed a signed complaint with a city weed board or the city weed control officer and if the individual believes that the complaint has not been addressed satisfactorily within twenty-one days from the date of the complaint, the individual may file a written request for a hearing with the governing body of the city.

   b. Upon receiving a request for a hearing, the governing body of the city shall schedule a public hearing and shall provide notice of the hearing by publishing its time, place, and date in the official newspaper of the county.

c. Within fourteen days after the hearing, the governing body of the city shall issue a determination regarding the matter and shall issue appropriate directives to the city weed board.

d. A decision by the governing body of the city under this section is final.

4.1-47-34. Noxious weed certification - Gravel and sand pits.

1. If requested by any person needing certification, a county weed board may certify, based on standards set by the commissioner after consulting with representatives of county or city weed boards, gravel, scoria, topsoil, or sand surface mining operations are not contaminated with noxious weeds.
2. The commissioner may adopt a schedule of fees that county weed boards may charge for inspecting, testing, analyzing, and certifying gravel, scoria, topsoil, or sand surface mining operations.
3. Certification of gravel, scoria, topsoil, or sand surface mining operations as being free from contamination of noxious weeds is not a warranty of any kind as to the quality of the gravel, scoria, topsoil, or sand from an inspected and certified location.

Title 5
Alcoholic Beverages

CHAPTER 5-01
GENERAL PROVISIONS

5-01-07. Township beer or liquor licenses. No retail beer or liquor license may be issued in any organized township without the written consent of the board of township supervisors.

Title 11
Counties

CHAPTER 11-10.1
COUNTY DIRECTOR OF TAX EQUALIZATION

11-10.1-01. County director of tax equalization.

1. The board of county commissioners of each county shall appoint a county director of tax equalization who must be experienced in assessment and equalization procedures and techniques, and who holds a current certification as a class I assessor issued by the state supervisor of assessments.
2. The board of county commissioners may appoint a county director of tax equalization on a probationary basis who does not hold a current certification as a class I assessor, if the board deems the individual qualified to act as county director of tax equalization by virtue of education, training, experience, and willingness to obtain certification as a class I assessor. The appointment must be for a term of not more than two years. Any person receiving a probationary appointment who does not obtain certification as a class I assessor within two years from the appointment is not eligible for re-appointment.
3. The county director of tax equalization shall serve at the pleasure of the board of county commissioners and may be employed on a full-time or part-time basis. Vacancies in the office of county director of tax equalization must be filled in the same manner as the original appointment.

11-10.1-05. Powers and duties of county director of tax equalization - Qualifications of assessors.

1. The county director of tax equalization has the power, duty, and responsibility to call upon and confer with assessors in the county and to assist them in the preparation and proper use of land maps and property record cards, preparation of assessment books, changes in assessment laws and rules, determination of proper standards of value, use of proper classifications of property, determination of what property qualifies as exempt from property taxes, and authority to require attendance at meetings, to promote uniform assessment of all real property in the county.
2. Any city with a population of under five thousand or township may, by resolution of its governing body, retain an assessor who is certified or eligible to be certified as a class II assessor who shall retain the powers, duties, and responsibilities of the office. Any city with a population of five thousand or greater may, by resolution of its governing body, retain an assessor who is certified or eligible to be certified as a class I assessor who shall retain the powers, duties, and responsibilities of the office. A person may not serve as an assessor for longer than twenty-four months before being certified by the state supervisor of assessments as having met the minimum requirements. The expenses of the city or township assessors must be paid by the city or township exercising this option.

3. The county director of tax equalization shall supervise all individuals performing assessor services in the county and arrange for the assessment of property within the county, except within the jurisdiction of a city or township in which the governing body retains a certified class I or class II assessor.
4. Any city or township that does not retain a certified class I or class II assessor shall utilize the certified assessor of the county in which the city or township is located. The county commission may require the city or township to reimburse the county for the expenses incurred in assessing the property of that city or township.
5. Any assessment made by an assessor who is not currently certified must be reviewed and approved by a certified assessor, prior to the township or city board of equalization annual meeting. The cost of the assessment review must be paid by the township or city having jurisdiction over the assessment at the same rate as paid to a special assessor in section 57-14-08.

11-10.1-06. Assumption of certain duties by county director of tax equalization. The county director of tax equalization shall succeed to all the powers and duties of the county auditor pertaining to the administration and enforcement of the mobile homes tax prescribed in chapter 57-55, assist the county auditor in preparation of assessment lists for taxing purposes and in the correction and omission procedures as defined in chapter 57-14, assist local equalization boards and assessors by providing information and instruction in the use of all methods and procedures to obtain uniform property assessments, and spot check all property assessments.

11-10.1-07. Joint county director of tax equalization - County directors may also be city assessors or township assessors. The respective boards of county commissioners of two or more counties may by agreement and resolutions of the respective boards of county commissioners employ a joint county director of tax equalization who shall act as county director of tax equalization for each of the counties participating in the agreement. The salary and expense of the joint county director of tax equalization and that of the office and staff must be prorated among the counties participating in accordance with the assessed valuation of the counties concerned or upon any other basis as may be agreed upon by the respective boards of county commissioners. The respective boards of county commissioners, acting jointly, shall appoint the joint county director of tax equalization on the same basis and in the same manner as a county director of tax equalization may be appointed for a single county. The joint county director of tax equalization may be discharged upon the resolution of the board of county commissioners of any county participating in the agreement. Any participating county may withdraw from the joint agreement upon resolution of the board of county commissioners and by giving written notice to the boards of county commissioners of the other participating counties at least ninety days in advance of July first of the year of withdrawal. The joint county director of tax equalization shall have all the powers and duties of the county director of tax equalization of a single county and shall keep all records of assessment for each county entirely separate from the records of other counties served by the joint county director of tax equalization. The governing boards of a county and of any city, or any township, may by agreement and resolutions of the respective boards employ a joint county director of tax equalization and city or township assessor.

11-10.3-03. Office sharing among political subdivisions. A proposal for combining appointive offices of two or more counties, appointive offices of a county and another political subdivision, or appointive offices of two or more political subdivisions which are not counties may be implemented through the execution of a joint powers agreement, unless a specific procedure for combining particular appointive offices is otherwise provided by law. The proposal is not subject to the referendum or election procedures of this chapter. A proposal for combining both elective and appointive offices of two or more counties, between a county and another political subdivision, or between two or more political subdivisions which are not counties, is subject to the referendum procedures of this chapter only in the county or other political subdivision of the elective office.

CHAPTER 11-11.1
JOB DEVELOPMENT AUTHORITIES

11-11.1-01. Job development authority - Board of directors' members qualifications.
1. The board of county commissioners, by resolution, may create a job development authority for the county, or may discontinue a job development authority which has been created for the county.
   a. If the authority is created, the question of discontinuing the authority may be placed on the ballot at the next regular election by petition filed with the county auditor at least ninety days before any countywide election and signed by electors of the county who are residents of the area subject to taxation under section 11-11.1-04 equal in number to ten percent of the votes cast in the county in the area subject to taxation under section 11-11.1-04 for the office of governor in the last general election.
   b. The question to be voted on at the election must be submitted by ballot in substantially the following form:

Should the (insert name of job development authority) _____ be terminated? Yes ☐ No ☐

c. Only electors of the county who are residents of the area subject to taxation under section 11-11.1-04 may vote on the question to discontinue the authority. The question to discontinue the authority requires a majority of the electors voting on the question for passage.

2. If the authority is created, a board of directors of not fewer than ten nor more than twenty members must be appointed by the county commissioners and must consist of representatives from the following groups, as they may exist:
   a. Two members from the county commission.
   b. One member from the city council or commission of each city within the county which has a population of five hundred or more.
   c. One member selected from among the city governments of the remaining cities of the county.
   d. If a majority of the townships in the county are organized townships, two members selected from the township governments of the organized townships in the county.
   e. The remaining members must be selected from a list of candidates from the following fields:
      (1) A representative of the local job service office nearest the county seat.
      (2) A member of the local airport authority.
      (3) A member of a local institution of higher education.
      (4) A member from among the school boards of the county.
      (5) A member from a local industrial development organization.
      (6) A member of the regional planning council serving the county.
      (7) A member of the legislative assembly representing a district within the county.
      (8) Members at large from the county.
3. The county commissioners shall make appointments to the board from a slate of candidates submitted by the chambers of commerce within the county. If no chamber of commerce exists in the county, the nominations may be submitted by any civic or patriotic organization within the county. If names submitted are unacceptable, the county commission may request additional nominees. The members must be appointed without regard to political affiliation and upon their fitness to serve as members by reason of character, experience, and training. All members of the board who do not reside in the area subject to taxation under section 11-11.1-04 are nonvoting members of the board.
4. The board of county commissioners in a county where an active industrial development organization exists may enter a contract with the industrial development organization for performance of the functions of a job development authority or joint job development authority as provided in this chapter and may use the proceeds of the levy authority under section 11-11.1-04 for that purpose.

11-11.1-01.1. Joint job development authority - Board of directors. The boards of county commissioners of two or more counties, by resolution, may create a joint job development authority for the counties. If the authority is created, boards of county commissioners shall appoint a board of directors in the size and manner established in the resolution. The resolution must include provision for discontinuing the authority by the boards of county commissioners. If the authority is created, the question of discontinuing the authority may be placed on the ballot at the next regular election by petition signed by electors, who are residents of the area subject to taxation under section 11-11.1-04, of any county creating the authority equal in number to ten percent of the votes cast in that county for the office of governor in the last general election. The question to discontinue the authority requires a majority of the electors voting on the question in that county for passage. Only electors of the county who are residents of the area subject to taxation under section 11-11.1-04 may vote on the question to discontinue the authority. If the question to discontinue in any county creating the authority is passed, the authority is discontinued.

11-11.1-02. Members of the job development authority board of directors - Term of office - Oath - Expenses. The members of the job development authority board of directors and the joint job development authority board of directors shall serve for a term of three years or until their successors are duly qualified. Terms of office begin on January first and must be arranged so that the terms of office of approximately one-third of the members expire on December thirty-first of each year. Each member of the board shall qualify by taking the oath provided for civil officers. The oath must be filed with the county auditor. The board of directors shall annually elect members to serve as chairman, vice chairman, secretary, and treasurer. The board shall also select an executive committee with such powers and duties as may be delegated by the board. The appointing authority shall establish the rate of compensation for the board members and actual expenses incurred by the members may be reimbursed at the official reimbursement rates of the appointing authority

11-11.1-03. Powers and duties of job development authorities. The job development authority or joint job development authority shall use its financial and other resources to encourage and assist in the development of employment and promotion of tourism within the county or counties. In fulfilling this objective, the authority may exercise the following powers:

1. To sue and be sued.
2. To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.
3. To hire professional personnel skilled in seeking and promoting new or expanded opportunities within the county or counties.
4. To make, amend, and repeal resolutions consistent with the provisions of this chapter as necessary to carry into effect the powers and purposes of the authority.
5. To acquire by gift, trade, or purchase, and to hold, improve, and dispose of property.
6. To certify a tax levy as provided in section 11-11.1-04 and to expend moneys raised by the tax for the purposes provided in this chapter. A job development authority may accept and expend moneys from any other source.
7. To insure or provide for insurance of any property in which the authority has an insurable interest.
8. To invest any funds held by the authority.
9. To cooperate with political subdivisions in exercising any of the powers granted by this section, including enabling agreements permitted under chapter 54-40.
10. To loan, grant, or convey any funds or other property held by the authority for any purpose necessary or convenient to carry into effect the objective of the authority established by this chapter.
11. To use existing uncommitted funds held by the authority to guarantee loans or make other financial commitments to enhance economic development.
12. To take equity positions in, provide loans to, or use other innovative financing mechanisms to provide capital for new or expanding businesses in this state or for businesses relocating to this state.
13. To exercise any other powers necessary to carry out the purposes and provisions of this chapter.

11-11.1-04. Tax levy for job development authorities - Financial report. The board of county commissioners of a county which has a job development authority or joint job development authority shall establish a job development authority fund and may levy a tax not exceeding the limitations in subsection 14 of section 57-15-06.7. In the year for which the levy is sought, a job development authority or joint job development authority seeking approval of a property tax levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the job development authority or joint job development authority during that year. The county treasurer shall keep the job development authority fund separate from other money of the county. The county treasurer shall transmit all funds received pursuant to this section within thirty days to the board of directors of the authority. The funds when paid to the authority must be deposited in a special account, or special accounts if the authority chooses to maintain a separate account for promotion of tourism, in which other revenues of the authority are deposited. Moneys received by the job development authority from any other source must also be deposited in the special accounts. The moneys in the special accounts may be expended by the authority as provided in sections 11-11.1-02 and 11-11.1-03.

11-11.1-07. Dedication of tax revenues. The governing body of a county may dedicate any portion of revenues from the tax authorized under this chapter or moneys received from any other source to payment of any loan entered or grant awarded for any purpose necessary or convenient to carry into effect the objective of the authority established by this chapter.

CHAPTER 11-14
COUNTY TREASURER

11-14-11. Report to township clerks. Repealed 2019 (redundant report) (see 11-14-12)

11-14-12. Statement to township clerk of amount paid to township treasurer. Whenever the county treasurer pays or remits any township funds to a township treasurer, the treasurer shall mail to the township clerk on the day of such remittance a statement of the amount so paid or remitted, separately stating the amount belonging to each fund.

11-14-16. When treasurer shall pay over the funds collected. The county treasurer shall pay over to the treasurer of the state, and to any municipal corporation or organized township, or to any body politic, on the order of the county auditor, all moneys received by the treasurer arising from taxes levied and collected, belonging to the state, or to such municipal corporation or organized township or school district on or before the tenth working day of each calendar month, provided, however, that foundation program allocations shall be made within seven days of receipt, excluding weekends and holidays. If any treasurer willfully and negligently shall fail to settle with the state treasurer at the times and in the manner prescribed by law, the county treasurer shall forfeit to the use of the state the sum of five hundred dollars, such sum to be recovered from the treasurer or the treasurer's sureties on suit

brought by the state treasurer in the name of the state. If the state treasurer fails to bring such suit, then any citizen of the state may bring the same.

CHAPTER 11-16
STATE'S ATTORNEY

11-16-01. Duties of the state's attorney. (Effective after August 31, 2022)

1. The state's attorney is the public prosecutor, and shall:
   a. Attend the district court and conduct on behalf of the state all prosecutions for public offenses.
   b. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses when the state's attorney has information that such offenses have been committed, and for that purpose, when the state's attorney is not engaged in criminal proceedings in the district court, the state's attorney shall attend upon the magistrates in cases of arrests when required by them except in cases of assault and battery and petit larceny.
   c. Attend before, and give advice to, the grand jury whenever cases are presented to it for consideration.
   d. Draw all indictments and informations.
   e. Defend all suits brought against the state or against the county.
   f. Prosecute all bonds forfeited in the courts of record of the county and prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or to the county.
   g. Deliver duplicate receipts for money or property received in the state's attorney's official capacity and file copies thereof with the county auditor.
   h. On the first Monday of January, April, July, and October in each year, file with the county auditor an account, verified by the state's attorney's oath, of all money received by the state's attorney in an official capacity in the preceding three months, and at the same time, pay it over to the county treasurer.
   i. Give, when required and without fee, the state's attorney's opinion in writing to the county, district, township, and school district officers on matters relating to the duties of their respective offices.
   j. Keep a register of all official business in which must be entered a note of each action, whether civil or criminal, prosecuted officially, and of the proceedings therein.
   k. Act as legal adviser of the board of county commissioners, attend the meetings thereof when required, and oppose all claims and actions presented against the county which are unjust or illegal.
   l. Institute an action in the name of the county to recover any money paid upon the order of the board of county commissioners without authority of law as salary, fee, or for any other purpose, or any money paid on a warrant drawn by any officer to that officer's own order or in favor of any other person without authorization by the board of county commissioners or by law.
   m. Institute an action in the name of the county to restrain the payment of any money described in any order or warrant of the kind described in subsection 13 when the state's attorney secures knowledge of such order or warrant before the money is paid thereon.
   n. Assist the district court in behalf of the recipient of payments for child support or spousal support combined with child support in all proceedings instituted to enforce compliance with a decree or order of the court requiring such payments.
   o. Institute proceedings under chapter 25-03.1 if there is probable cause to believe that the subject of a petition for involuntary commitment is a person requiring treatment.
   p. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20.1, 27-20.2, 27-20.3, 27-20.4, and 50-01 upon consultation with the human service zone director or the executive director of the department of human services.
   q. Act as the legal advisor and represent a human service zone as set forth in a plan approved under section 50 - 01.1 - 03. The state's attorney within the human service zone, by way of agreement, shall designate a singular state's attorney's office, within or outside the human service zone, to act as legal advisor of the human service zone. The host county state's attorney shall serve as the legal advisor if no agreement is reached. The agreement may not limit a state's attorney's individual discretion in court filings and representation.
   r. Act as the legal advisor and represent the human service zone regarding employer actions, including grievances and appeals, taken against the human service zone team member. The state's attorney of the county by which the human service zone team member is employed shall act as the legal advisor of the human service zone, unless a different agreement is established by the affected state's attorney.
2. The state's attorney may not require any order of the board of county commissioners to institute an action under subdivision l or m of subsection1.

CHAPTER 11-20
COUNTY SURVEYOR

11-20-01. Duties of county surveyor - Surveys presumptively correct. The county surveyor shall make all surveys of land within the county which the county surveyor may be called upon to make by the owner of the land or the owner's representative, or which the county surveyor is directed to make by the district court, by the board of county commissioners, or by the board of township supervisors of any township within the county. The county surveyor also shall make a survey of the public roads and of all lands, tracts, or lots owned by the county when directed to do so by the board of county commissioners. The surveys of the county surveyor or of the county surveyor's deputies are presumptively correct.

11-20-02. Deputies - Appointment - Removal. The county surveyor may appoint one or more deputies and may revoke any such appointment at pleasure. An appointment or revocation shall be in writing, signed by the surveyor, and filed with the recorder, unless the board of county commissioners designates a different official. Each deputy shall take the constitutional oath of office and may perform any duties imposed by law upon the county surveyor. The surveyor and the surveyor's sureties shall be responsible for the faithful performance of the duties of the surveyor's office by any deputy.

11-20-03. Assistants - Appointment - Qualifications. The county surveyor may appoint all chainmen, markers, and assistants required to make a survey. When the survey is of lines and monuments in dispute between parties or is made by order of the district court, the chainmen must be disinterested persons.

11-20-04. Oath of assistants to county surveyor. Every chainman and marker employed by the county surveyor in making surveys shall take an oath that the person will discharge the person's duties faithfully. The county surveyor or the surveyor's deputy making the survey may administer such oaths.

11-20-05. Certificate presumptive evidence. The certificate of the surveyor, or of the surveyor's deputy, of any survey of any lands in the county made by the person shall be presumptive evidence of the facts therein contained unless the surveyor shall be interested in the lands described in the certificate.

11-20-06. When surveyor of adjoining county may act. Whenever a survey is required of land in which the county surveyor or either of the surveyor's deputies may be interested, or when from any cause the surveyor or deputy surveyor of the county cannot be found or is unable to act, the survey may be made by the surveyor of an adjoining county or any of that surveyor's deputies. Such survey shall have the same effect as a survey made by the surveyor of the county in which the land is situated.

11-20-07. Form of surveys. All surveys made by the county surveyor must be made in accordance with the rules and regulations laid down by the commissioner of the United States general land office and in accordance with the following principles, when applicable:

1. All corners and boundaries which can be identified by the original field notes or other unquestionable testimony shall be regarded as the original corners and must not be Changed while they can be so identified. The surveyor shall not give undue weight to partial and doubtful evidence or to appearances of monuments the recognition of which requires the presumption of marked errors in the original survey, and shall note an exact description of such apparent monuments.
2. Extinct intersection corners must be reestablished at proportional distances as recorded in the original field notes from the nearest known points in the original section line, east and west and north and south from such extinct section corners.
3. Any extinct quarter section corner, except on fractional section lines, must be reestablished equidistant and in a right line between the section corners, and in all other cases, at proportional distances between the nearest known points in the original lines.
4. Central quarter corners of whole sections, and of fractional sections adjoining the north and west boundaries of townships, must be reestablished at the intersection of two right lines connecting their opposite quarter section corners, respectively. County surveyors shall perpetuate the original corners from which they may work by noting new bearing trees when timber is near. They also shall perpetuate the principal corners which they make in like manner.
5. In the subdivision of fractional sections bounded on any side by a meandered lake or river or the boundary of a reservation or irregular survey, the subdivision lines running toward and closing upon the same shall be run at courses in all points intermediate and equidistant, as near as may be, between the like section lines established by the original survey.

11-20-08. Record of original field notes required. Each county surveyor shall keep the original field notes of all surveys made by the surveyor or the surveyor's deputies for permanent purposes in well-bound books of

convenient size furnished by the county surveyor at the expense of the county. Each book shall contain an index referring to the surveys of which it contains the field notes.

11-20-09. Contents of record of original field notes. The original field notes shall be taken and set down in the manner in which field notes of the United States surveys are kept and shall contain all of the details of each survey in the order in which the survey was made. The notes shall include in full all calculations made by the surveyor to determine areas or to measure inaccessible distances, such as lake and river crossings, or for any other purpose required by the survey. Diagrams may be used for purposes of illustration but shall not be used instead of the written notes required to be kept. The field notebook shall contain the certificate of the surveyor who made the surveys stating that the field notes therein contained are the complete original field notes of the surveys therein referred to and described.

11-20-10. Original field notes part of record - Where books kept. The original field notes shall be a part of the record required to be kept by the county surveyor and the books containing the notes shall be kept with the surveyor's other records of the county. Whenever one of the field books is filled or whenever a deputy county surveyor shall have ceased taking notes in the book the deputy has been using, the book shall be deposited in the office of the county surveyor or county auditor. Whenever the term of office of a deputy county surveyor expires, the deputy shall turn over to the county surveyor the field books which the deputy has partly filled.

11-20-11. What surveys shall be recorded. The county surveyor shall record in a suitable book which the surveyor shall provide at the expense of the county all surveys for permanent purposes made by the surveyor and the surveyor's deputies, except surveys for township highways.

11-20-12. Contents of record of survey. The record of each survey shall contain:

1. The evidence by which the surveyor determined or identified the corners or other starting points of the survey.
2. A full description of the starting points and the means which were taken to perpetuate the starting points upon the ground or to assist in determining and preserving their locations.
3. The object of the survey.
4. The methods used by the surveyor in making the survey and, when necessary or convenient, diagrams or plats may be used to illustrate such methods. If diagrams are used, they shall be considered a part of the record and there shall be shown thereon the courses and distances of the boundary lines located by the survey and such other facts as may have been determined by it.
5. The amount and direction of the allowance made by the surveyor for the difference between the magnetic meridian and the true meridian when the courses of the lines shown on the survey are given by the magnetic needle.
6. The date of the survey.
7. A full description of the land covered by the survey.
8. A list of property owners who were notified of the survey and a list of such owners present when the survey was made.
9. The name of the person or the names of the persons for whom the survey was made.
10. The names of the persons employed as chainmen on the survey and a statement that they were sworn by the surveyor when so required by law.
11. The certificate of the surveyor that the surveyor has carefully compared the record with the original field notes which the surveyor took at the time of the survey and that it is a true statement of the facts of the survey as shown by the original field notes.

11-20-13. Records of county surveyor as evidence. The records of the county surveyor may be kept in the office of the county auditor and shall be competent evidence in all courts of the facts therein set forth.

11-20-14. Surveys for private landowners - How expenses paid. Whenever two or more resident owners of real estate desire to have the corners and lines of their lands established, relocated, or perpetuated, they shall give at least ten days' notice of the time of the proposed survey to all other persons owning lands in the same section, and to all other persons residing in the township owning lands abutting on such section if their lands will be affected by the survey. The county surveyor shall make the required surveys at the time specified in the notice and the expense thereof shall be borne by all the persons benefited to the amount of work done for each as determined by the surveyor. If a person benefited by the survey, whether a resident or not, refuses or neglects to pay that person's share of the expense within sixty days thereafter, the surveyor shall certify to the county auditor the amount due, the name of the person who is delinquent, a description of that person's land, and the name of the person to whom the amount is due. The county auditor shall assess such amount against the land of such person and it shall be collected

and paid to the county treasurer in the same manner as state and county taxes are collected and paid out by the county treasurer, on the order of the county surveyor.

11-20-14.1. Disputed property lines - Petition to district court - Effect of survey - Payment of expenses.

1. One or more owners of property may file with the clerk of district court a petition requesting the district court to direct the county surveyor to survey the property. The court shall set a time and place for a hearing on the petition. The hearing may not occur until three weeks after the petitioner has published notice of the petition, containing the substance of the petition, a description of the lands affected, and the names of the owners of the affected lands as they appear in the latest tax roll, and after the petitioner has mailed written notice to each occupant of land affected by the survey.
2. At the hearing on the petition, all interested parties may appear and be heard. If the district court finds that there is a dispute as to the location of a property line, the court may grant the petition. If a county surveyor is not available to conduct the survey, the court may appoint a registered land surveyor to conduct the survey. The surveyor shall provide reasonable advance written notice to occupants of affected lands specifying the date when the survey will begin.
3. After the survey has been completed, the surveyor shall file a record of survey under sections 11-20-12 and 11-20-13. The certificate of the surveyor is presumptive evidence of the facts contained in the survey and certificate.
4. After the survey has been completed, the surveyor shall make a certified report to the district court showing in detail the entire expense of the survey with recommendations as to apportionment of the expense. The court shall apportion equitably the expense of the survey to the several tracts affected and provide written notice of the proposed assessment to each owner affected. The notice must inform the affected owners of their right to appear in district court no sooner than fourteen days after the notices are mailed to object to the assessments. Following consideration of any objections, the court shall make any corrections or adjustments necessary, enter an order confirming the assessment, and order the parties to pay the surveyor within thirty days.
5. Upon certification by the surveyor that an affected owner has not paid the fees ordered by the district court within thirty days, the county auditor shall assess the amount against the land of each person affected. The county treasurer shall collect the assessments in the same manner as general property taxes are collected. On the order of the county auditor, the county treasurer shall pay any fees and expenses to a registered land surveyor who has conducted the survey.

11-20-15. Section corners - How made - Removal of markers - Penalty. The surveyor, when employed by private landowners as provided in section 11-20-14, shall sink into the earth at all section and quarter post corners a column of concrete or a cement block at least two feet [.61 meter] high, twelve inches [304.80 millimeters] square at the base, and six inches [152.40 millimeters] square at the top. The surveyor shall carefully describe the same in the records of the surveyor's survey. The surveyor also shall dig pits and shall mark and record new witness trees wherever possible to do so. Any person who willfully shall cut down, destroy, deface, or injure any living witness tree, or who shall remove a corner post in any shape as above established, is guilty of an infraction.

11-20-17. Assistants - How paid. All necessary chainmen and other assistants of the county surveyor shall be paid for their services by the person requiring the work to be done, unless it is otherwise specially agreed.

11-20-18. Papers to be delivered upon termination of employment - Penalty. When a county surveyor resigns or is removed from office, the surveyor shall deliver all books and papers relating to the office to the surveyor's successor or to the board of county commissioners if no successor has been appointed. A county surveyor who shall neglect to so deliver such books and papers within one month after the termination of employment, or any executor or administrator, within thirty days after appointment and qualification, of a deceased county surveyor who shall neglect to so deliver any such books and papers coming into the person's custody within one month after the death of the county surveyor, shall forfeit and pay to the county a sum of not less than ten dollars nor more than fifty dollars. Such amount shall be fixed by the board of county commissioners at its meeting after such failure. A similar sum shall be paid for each month thereafter until such books and papers are delivered as is required by this section.

CHAPTER 11-27
TRANSFER OF COUNTY PROPERTY

11-27-09.1. Federal payments for game and fish lands - Allocation within county. Payments made by the federal government under the provisions of Public Law No. 88-523 [16 U.S.C. 715s] to any county in the state for lands taken by the federal government for game and fish management purposes shall be apportioned by that county's treasurer. Twenty-five percent thereof shall be apportioned among the townships in which the land taken is located in proportion to the number of acres [hectares] taken in each township, and shall be earmarked for roads and deposited in the townships' special road fund. Such funds received by unorganized townships shall be deposited in a

special road and bridge fund maintained by the county for that township. The remaining seventy-five percent shall be apportioned among the school districts in which the land taken is located in proportion to the number of acres [hectares] taken.

CHAPTER 11-31
COUNTY HIGHWAY ENGINEER

11-31-03. Powers and duties. Under the direction and supervision of the board of county commissioners, the county engineer shall:

1. Design and make plans for county and township highways.
2. Set up a comprehensive plan of county highways, showing by the use of maps, existing roads, operations in progress, and future plans.
3. Superintend county construction and maintenance operations pertaining to highways and bridges.
4. Keep a complete record of costs and expenditures.
5. Check all accounts, claims, and demands for expenditures in connection with all matters supervised by the county engineer and indicate the county engineer's recommendation prior to the submission of such accounts, claims, and demands to the board of county commissioners.
6. Keep a complete inventory of all equipment, repairs, gasoline and oil, and miscellaneous items.
7. Supervise the use and disposition of all county-owned road equipment and materials.
8. Employ and supervise all other personnel engaged in county road operations, terminating such employment when required in the best interest of the county.
9. Prepare and submit to the board of county commissioners a complete yearly report and such additional reports as may be required by the board of county commissioners at any time.
10. Cooperate with the federal highway administration or successors, the state department of transportation, and the townships of the county.
11. Perform such other duties as may be designated by the board of county commissioners.

When so directed by the board of county commissioners, the county engineers shall also, under the direction and supervision of the board of county commissioners or the drainage board, as the case may be, prepare plans and specifications and supervise the construction and repair of drainage ditches.

CHAPTER 11-33
COUNTY ZONING

11-33-01. County power to regulate property. For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county may regulate and restrict within the county, subject to section 11-33-20 and chapter 54-21.3, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes. The board of county commissioners and a county zoning commission shall state the grounds upon which any request for a zoning amendment or variance is approved or disapproved, and written findings upon which the decision is based must be included within the records of the board or commission. The board of county commissioners shall establish zoning requirements for solid waste disposal and incineration facilities before July 1, 1994. The board of county commissioners may impose tipping or other fees on solid waste management and incineration facilities. The board of county commissioners may not impose any fee under this section on an energy conversion facility or coal mining operation that disposes of its waste onsite. The board of county commissioners may establish institutional controls that address environmental concerns with the department of environmental quality as provided in section 23.1-10-16.

11-33-02. Board of county commissioners to designate districts - Uniformity. For any or all of the purposes designated in section 11-33-01, the board of county commissioners may divide by resolution all or any parts of the county, subject to sections 11-33-02.1 and 11-33-20, into districts of such number, shape, and area as may be determined necessary, and likewise may enact suitable regulations to carry out the purposes of this chapter. These regulations must be uniform in each district, but the regulations in one district may differ from those in other districts.

11-33-02.1. Farming and ranching regulations - Requirements - Limitations - Definitions.

1. For purposes of this section:
   a. "Animal feeding operation" means a lot or facility, other than normal wintering operations for cattle and an aquatic animal production facility, where the following conditions are met:
      (1) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for at least forty-five days in a twelve-month period; and

(2) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility..

b. "Farming or ranching" means cultivating land for the production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include:
   (1) The production of timber or forest products; or
   (2) The provision of grain harvesting or other farm services by a processor or distributor of farm products or supplies in accordance with the terms of a contract.

c. "Livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, bison, elk, fur animals raised for their pelts, and any other animals that are raised, fed, or produced as a part of farming or ranching activities.

d. "Location" means the setback distance between a structure, fence, or other boundary enclosing a concentrated feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest buildings used for nonfarm or nonranch purposes, or the nearest land zoned for residential, recreational, or commercial purposes. The term does not include the setback distance for the application of manure or for the application of other recycled agricultural material under a nutrient management plan approved by the department of environmental quality.

2. For purposes of this section, animal units are determined as provided in subdivision c of subsection 7 of section 23.1-06-15.
3. A board of county commissioners may not prohibit or prevent the use of land or buildings for farming or ranching and may not prohibit or prevent any of the normal incidents of farming or ranching.
4. A board of county commissioners may not preclude the development of an animal feeding operation in the county.
5. A board of county commissioners may not prohibit the reasonable diversification or expansion of a farming or ranching operation.
6. A board of county commissioners may adopt regulations that establish different standards for the location of animal feeding operations based on the size of the operation and the species and type being fed.
7. If a regulation would impose a substantial economic burden on an animal feeding operation in existence before the effective date of the regulation, the board of county commissioners shall declare that the regulation is ineffective with respect to any animal feeding operation in existence before the effective date of the regulation.
8. a. A board of county commissioners may establish high-density agricultural production districts in which setback distances for animal feeding operations and related agricultural operations are less than those in other districts.

   b. A board of county commissioners may establish, around areas zoned for residential, recreational, or nonagricultural commercial uses, low-density agricultural production districts in which setback distances for animal feeding operations and related agricultural operations are greater than those in other districts; provided, the low-density agricultural production districts may not extend more than one and one-half miles [2.40 kilometers] from the edge of the area zoned for residential, recreational, or nonagricultural commercial uses.

   c. The setbacks provided for in this subsection may not exceed those established in subdivision a of subsection 7 of section 23.1-06-15 unless the county can demonstrate compelling, objective evidence specific to the county which requires a greater setback within the county, in which case the setbacks may exceed those established in subdivision a of subsection 7 of section 23.1-06-15 by no more than fifty percent. If a setback under this subsection is greater than the corresponding setback established in subdivision a of subsection 7 of section 23.1-06-15, a person whose animal feeding operation will be or has been affected by the applicable county ordinance may request the agriculture commissioner review the ordinance. After the review, the agriculture commissioner shall provide a summary of the review to the attorney general and request an opinion from the attorney general regarding whether the ordinance and setback are lawful.

   d. For purposes of this subsection, a "related agricultural operation" means a facility that produces a product or byproduct used by an animal feeding operation.

a. A person intending to construct an animal feeding operation may petition the board of county commissioners for a determination whether the animal feeding operation would comply with zoning regulations adopted under this section and filed with the department of environmental quality under section 11-33-22 before the date the petition was received by the county. The petition must contain a description of the nature, scope, and location of the proposed animal feeding operation and a site map showing road access, the location of any structure, and the distance from each structure to the nearest section line. If the board of county commissioners does not object to the petition within sixty days of receipt, the animal feeding operation is deemed in compliance with the county zoning regulations. If the county allows animal feeding operations as a conditional use, the conditional use regulations must be limited to the board's authority under this section, and the approval process must comply with this section. The county shall make a decision on the application within sixty days of the receipt of a

complete conditional use permit application. If the board of county commissioners determines the animal feeding operation would comply with zoning regulations or fails to object under this section, the county may not impose additional zoning regulations relating to the nature, scope, or location of the animal feeding operation later, provided an application is submitted promptly to the department of environmental equality, the department issues a final permit, and construction of the animal feeding operation commences within three years from the date the department issues its final permit and any permit appeals are exhausted. A board of county commissioners may not:

a. Regulate or impose zoning restrictions or requirements on animal feeding operations or other agricultural operations except as expressly permitted under this section; or
b. Impose water quality, closure, site security, lagoon, or nutrient plan regulations or requirements on animal feeding operations.

11-33-03. Object of regulations. These regulations shall be made in accordance with a comprehensive plan and designed for any or all of the following purposes:

1. To protect and guide the development of nonurban areas.
2. To provide for emergency management. "Emergency management" means a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment.
3. To regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, the height, number of stories, and size of buildings and structures, the percentage of lot that may be occupied, the size of courts, yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.
4. To lessen governmental expenditures.
5. To conserve and develop natural resources.

These regulations shall be made with a reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses. The comprehensive plan shall be a statement in documented text setting forth explicit goals, objectives, policies, and standards of the jurisdiction to guide public and private development within its control.

11-33-04. County planning commissions authorized - Membership. The board of county commissioners of any county desiring to avail itself of the powers conferred by this chapter shall establish, by resolution, a county planning commission to recommend the boundaries of the various county zoning districts and appropriate regulations and restrictions to be established therein. In counties with three-member boards of county commissioners, the planning commission consists of seven members, of whom at least one must be appointed from the governing body of the city that is the county seat, and of whom at most one may be appointed from the board of county commissioners. In counties with five-member boards of county commissioners the planning commission consists of nine members, of whom at least two must be appointed from the governing body of the city that is the county seat, and of whom at most two may be appointed from the board of county commissioners. The term of an ex officio member is coterminous with the member's term in the underlying office. The remaining members shall be appointed from the county at large. In counties that elect county commissioners from districts, at least one at large member of the planning commission must be appointed from each district. When appointments to said commission are first made, three members at large shall be appointed for a two-year term and two members at large for a four-year term, after which all subsequent appointments for members at large shall be for a four-year term. Appointments to fill vacancies shall be for the unexpired portion of the term. All appointments to the county planning commission shall be made by the board of county commissioners.

11-33-05. Meetings - Officers. The commission shall meet within thirty days after its appointment and elect a chairman and other necessary officers from its membership. The commission may adopt rules and bylaws not inconsistent with the provisions of this chapter. A majority of the members of the commission constitutes a quorum. The appointing authority shall establish the rate of compensation for commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.. The county auditor shall serve as secretary to the commission and shall keep all of the records and accounts of the commission.

11-33-06. Investigations. The county planning commission in conjunction with the township boards of the affected areas shall investigate and determine the necessity of establishing districts and prescribing regulations therefor, as herein provided; and, for that purpose, shall consult with residents of affected areas, and with federal, state, and other agencies concerned. State, county, township, and city officials, departments, or agencies are hereby

required to make available, upon request of the county planning commission, such pertinent information as they may possess, to render technical assistance, and to cooperate in assembling and compiling pertinent information.

11-33-07. County planning commission to prepare plan. After investigation, as herein provided, the county planning commission shall prepare a proposed resolution to be submitted to the board of county commissioners establishing districts and prescribing regulations therefor, as herein provided, which shall be filed in the office of the county auditor.

11-33-08. Hearings. After the filing of the proposed resolution, the county planning commission shall hold a public hearing thereon, at which the proposed resolution shall be submitted for discussion, and parties in interest and citizens shall have an opportunity to be heard. Notice of the time, place, and purpose of the hearing shall be published once each week for two consecutive weeks in the official newspaper of the county, and in such other newspapers published in the county as the county planning commission may deem necessary. Said notice shall describe the nature, scope, and purpose of the proposed resolution, and shall state the times at which it will be available to the public for inspection and copying at the office of the county auditor.

11-33-09. Publication of resolutions - Effective date. Following the public hearing, the board of county commissioners may adopt the proposed resolutions or any amendments thereto, with such changes as it may deem advisable. Upon adoption of any resolution or any amendment thereto, the county auditor shall file a certified copy thereof with the recorder. Immediately after the adoption of any such resolution or any amendment thereto, the county auditor shall cause notice of the same to be published for two successive weeks in the official newspaper of the county and in such other newspapers published in the county as the board of county commissioners may deem necessary. Said notice shall describe the nature, scope, and purpose of the adopted resolution, and shall state the times at which it will be available to the public for inspection and copying at the office of the recorder. Proof of such publication shall be filed in the office of the county auditor. If no petition for a separate hearing is filed pursuant to section 11-33-10, the resolution or amendment thereto shall take effect upon the expiration of the time for filing said petition. If a petition for a separate hearing is filed pursuant to section 11-33-10, the resolution shall not take effect until the board of county commissioners has affirmed such resolution or amendment in accordance with the procedures of section 11-33-10. Any such resolution may, from time to time, be amended or repealed by the board of county commissioners upon like proceedings as in case of the adoption of a resolution.

11-33-10. Separate hearings. Any person aggrieved by any provision of a resolution adopted hereunder, or any amendment thereto may, within thirty days after the first publication of such resolution or amendment, petition for a separate hearing thereon before the board of county commissioners. The petition shall be in writing and shall specify in detail the ground of the objections. The petition shall be filed with the county auditor. A hearing thereon shall be held by the board no sooner than seven days, nor later than thirty days after the filing of the petition with the county auditor, who shall notify the petitioner of the time and place of the hearing. At this hearing, the board of county commissioners shall consider the matter complained of and shall notify the petitioner, by registered or certified mail, what action, if any, it proposes to take thereon. The board of county commissioners, at its next regular meeting, shall either rescind or affirm such resolution or amendment. The provisions of this section shall not operate to curtail or exclude the exercise of any other rights or powers of the board of county commissioners or any citizen.

11-33-11. May adjust enforcement. The board of county commissioners is authorized to adjust the application or enforcement of any provision of a resolution hereunder in any specific case when a literal enforcement of such provision would result in great practical difficulties, unnecessary hardship, or injustice, so as to avoid such consequences, provided such action shall not be contrary to the public interest or the general purposes hereof.

11-33-12. Appeals to district court. Any person, or persons, jointly or severally, aggrieved by a decision of the board of county commissioners under this chapter, may appeal to the district court in the manner provided in section 28-34-01.

11-33-13. Not to affect use. The lawful use or occupation of land or premises existing at the time of the adoption of a resolution hereunder may be continued, although such use or occupation does not conform to the provisions thereof, but if such nonconforming use or occupancy is discontinued for a period of more than two years, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. If the state acquires title to any land or premises, all further use or occupancy thereof shall be a conforming use or occupancy.

11-33-14. Nonconforming uses regulated. The board of county commissioners, may, by resolutions, as herein provided, prescribe such reasonable regulations, not contrary to law, as it deems desirable or necessary to regulate and control nonconforming uses and occupancies.

11-33-16. Enforcement. The board of county commissioners shall provide for the enforcement of this chapter and of resolutions and regulations made thereunder and may impose enforcement duties on any officer, department, agency, or employee of the county.

11-33-17. Violation of zoning regulations and restrictions - Remedies. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure, or land is used in violation of this chapter, the proper county authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceedings:

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use.
2. To restrain, correct, or abate such violations.
3. To prevent the occupancy of the building, structure, or land.
4. To prevent any illegal act, conduct, business, or use in or about such premises.

11-33-18. Power of board of county commissioners to issue permits - Notification of director of the department of transportation - Power of board to appropriate money.

1. The board of county commissioners may authorize and provide for the issuance of permits as a prerequisite to construction, erection, reconstruction, alteration, repair, or enlargement of any building or structure otherwise subject to this chapter.
2. If a board of county commissioners provides for the issuance of permits, the board shall require the applicant to state whether the structure is reasonably anticipated to have a significant impact on the transportation system. A structure is deemed to have significant impact on the transportation system if, over a period of one year, it will have an average daily usage of at least twenty-five motor vehicles whose gross weight exceeds sixty thousand pounds [27215.54 kilograms]. The board shall require that, if the structure will have a significant impact on the transportation system, the director of the department of transportation be notified and be given an opportunity to comment on the application. However, approval of the director of the department of transportation of the proposed structure is not required.
3. The board may establish and collect reasonable fees for permits issued under this section. The fees so collected must be credited to the general fund of the county.
4. The board of county commissioners may appropriate, out of the general funds of the county, such moneys as may be necessary for the purposes of this chapter.

11-33-19. Joint planning commission may be established. If the area to be regulated and restricted is situated in two or more counties, a joint planning commission may be established. Membership of such a joint planning commission shall consist of five members from each county planning commission to be appointed by the chairman of the respective county planning commissions. Each joint commission shall make a preliminary report and hold public hearings thereon as is provided in the case of county planning commissions before submitting its final report and recommendations to the respective county planning commissions of each county concerned.

11-33-21. General penalties for violation of zoning regulations and restrictions. A violation of any provision of this chapter or the regulations and restrictions made thereunder shall constitute the maintenance of a public nuisance and shall be a class B misdemeanor.

11-33-22. Regulation of concentrated animal feeding operations - Central repository. Any zoning regulation that pertains to an animal feeding operation, as defined in section 11-33-02.1, is not effective until filed with the department of environmental quality for inclusion in the central repository established under section 23.1-01-10.

11-33-23. Highways - Roads. This chapter does not include any power relating to the role of the board of county commissioners in the establishment, repair, or maintenance of highways or roads.

CHAPTER 11-35
REGIONAL PLANNING AND ZONING COMMISSIONS

11-35-01. Regional commissions - Appointment - Powers. The governing boards of counties, cities, and organized townships may cooperate to form, organize, and administer a regional planning and zoning commission for the region defined as may be agreed upon by the governing bodies of such political subdivisions. The regional commission membership shall consist of five members, namely, one from the board of county commissioners, two from the rural region affected, and two from the city, the members from each to be appointed by the respective governing boards. The proportion of cost of regional planning, zoning, studies, and surveys to be borne respectively by each of the said political subdivisions in the region must be such as may be agreed upon by their governing boards. The regional commissions, when requested by the governing board of a political subdivision in its region,

may exercise any of the powers which are specified and granted to counties, cities, or organized townships in matters of planning and zoning. Upon organization of such commission, publication and hearing procedures must be conducted pursuant to sections 11-33-08 and 11-33-09. Appeal from a decision of the commission may be taken to the district court in accordance with the procedure provided in section 28-34-01.

11-35-02. Zoning of territory adjacent to cities. Until the organization of either a regional planning and zoning commission as provided in section 11-35-01 or township zoning board or county zoning commission pursuant to sections 58-03-11 through 58-03-15 and chapter 11-33, respectively, any city that determines to use zoning regulations has exclusive jurisdiction and power to zone over all land over which it has authority to control subdivisions and platting of land as provided in section 40-48-18.

Title 15
Education

CHAPTER 15-03
INVESTMENT OF FUNDS

15-03-17. Redemption of bonds by political subdivisions. The board of university and school lands shall allow any county, city, park district, township, or school district to redeem, at any time after two years from the date of issue, at par with accrued interest, any bonds issued by it which the state has purchased and holds as an investment of any of the permanent school funds of the state.

CHAPTER 15-08
PROVISIONS RELATING TO ORIGINAL GRANT AND TO NONGRANT LANDS

15-08-02. Township and district assessors to examine state lands - Compensation. All township and district assessors shall examine any lands designated by the commissioner of university and school lands and report thereon in the manner and form prescribed by the commissioner. Such assessors must be paid at the rate of three dollars per day for time actually devoted to making such examinations, upon vouchers approved by the commissioner.

Title 16.1
Elections

CHAPTER 16.1-01
GENERAL PROVISIONS

16.1-01-04. Qualifications of electors – Voting requirements.

1. To qualify as an elector of this state, an individual must be:
   a. A citizen of the United States;
   b. Eighteen years or older; and
   c. A resident of this state who has resided in the precinct at least thirty days immediately preceding any election.
2. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by individuals convicted and sentenced for a felony must be limited according to chapter 12.1-33.
3. A qualified elector may not authorize an attorney in fact, guardian, or other individual to apply for any ballot or to vote in any election on behalf of or in the place of the qualified elector.
4. An elector seeking to vote in an election must meet the identification requirements specified in section 16.1-01-04.1.

16.1-01-04.1. Identification verifying eligibility as an elector.

1. A qualified elector shall provide a valid form of identification to the proper election official before receiving a ballot for voting.
2. The identification must provide the following information regarding the elector:
   a. Legal name;
   b. Current residential street address in North Dakota; and
   c. Date of birth.
3. a. A valid form of identification is:
      (1) A driver's license or nondriver's identification card issued by the North Dakota department of transportation; or

(2) An official form of identification issued by a tribal government to a tribal member residing in this state.

b. If an individual's valid form of identification does not include all the information required under subsection 2 or the information on the identification is not current, the identification must be supplemented by presenting any of the following issued to the individual which provides the missing or outdated information:
   (1) A current utility bill;
   (2) A current bank statement;
   (3) A check issued by a federal, state, or local government;
   (4) A paycheck; or
   (5) A document issued by a federal, state, or local government; or
   (6) A printed document containing all of the information required by subsection 2 issued by an institution of higher education for an enrolled student residing in the state and containing the institution's letterhead or seal, along with a student photo identification card issued by the institution and containing the student's photograph and legal name.

4. The following forms of identification are valid for the specified individuals living under special circumstances who do not possess a valid form of identification under subsection 3.
   a. For an individual living in a long-term care facility, a long-term care certificate prescribed by the secretary of state and issued by a long-term care facility in this state;
   b. For a uniformed service member or immediate family member temporarily stationed away from the individual's residence in this state, or a resident of the state temporarily living outside the country, a current military identification card or passport; and
   c. For an individual living with a disability that prevents the individual from traveling away from the individual's home, the signature on an absentee or mail ballot application from another qualified elector who, by signing, certifies the applicant is a qualified elector.
5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official responsible for the administration of the election before the meeting of the canvassing board occurring on the sixth day after the election. Each ballot set aside under this subsection must be presented to the members of the canvassing board for proper inclusion or exclusion from the tally.
6. The secretary of state shall develop uniform procedures for the requirements of subsection 5 which must be followed by the election official responsible for the administration of the election.

16.1-01-04.2. Residence for voting - Rules for determining. For purposes of voting:

1. Every qualified elector may have only one residence, shown by an actual fixed permanent dwelling, establishment, or any other abode to which the individual returns when not called elsewhere for labor or other special or temporary purposes.
2. The street address verified by the individual as provided in section 16.1-01-04.1 when requesting a ballot to vote must be the address of residence for the individual.
3. An individual retains a residence in this state until another has been gained.
4. The acts of residing at a new address for thirty days and verifying that address as provided under section 16.1-01-04.1 constitute a change in the individual's voting residence.

16.1-01-05. Voting by qualified elector moving from one precinct to another. If a qualified elector moves from one precinct to another precinct within this state, the elector is entitled to vote in the precinct from which the elector moved until the elector has established a new residence pursuant to section 16.1-01-04.

16.1-01-09.1. Recall petitions - Signature - Form - Circulation.

1. A request of the secretary of state for approval of a petition to recall an elected official or appointed official of a vacated elected office may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the recall; the printed name, signature, and address of the committee member; and notarization of the signature. The filed signature forms must be originals. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. An individual may not sign a recall petition circulated pursuant to article III of the Constitution of North Dakota or section 44-08-21 unless the individual is a qualified elector. An individual may not sign a petition more than once, and each signer shall also legibly print the signer's name, complete residential, rural route, or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition. A petition must be in substantially the following form:

RECALL PETITION

We, the undersigned, being qualified electors request that _____(name of the individual being recalled) the _____(office of individual being recalled) be recalled for the reason or reasons of _____.

RECALL SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota and the political subdivision who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

	Name	Complete Residential, Rural Route, or General Delivery Address
1.	_____(Chairperson)	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota for thirty days, and you are a United States citizen. All signers shall also legibly print their name, complete residential, rural route, or general delivery address, and date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

	Month, Day, Year	Signed Name of Qualified Elector	Printed Name of Qualified Elector	Complete Residential, Rural Route, or General Delivery Address	City State, Zip Code
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter.

3. Each copy of a petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
) ss.
County of_____)
(county where signed)

I,_____, being sworn, say that I am a qualified elector; that I
(circulator's name)
reside at_____;
(address)
that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

_____
(signature of circulator)

Subscribed and sworn to before me on_____, _____, at

_____, North Dakota.
(city)
(Notary Seal) _____
(signature of notary)
Notary Public
My commission expires_____

4. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 2, the name of the individual being recalled, the office from which that individual is being recalled, and a list of the names and addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.
5. For the recall of an elected official under article III of the Constitution of North Dakota, circulators have one year to gather the required number of signatures of qualified electors on the recall petition from the date the secretary of state approves the recall petition for circulation. For the recall of an elected official under section 44-08-21, circulators have ninety days from the date the secretary of state approves the recall petition for circulation to submit the recall petition to the appropriate filing officer.
6. A petition may not be circulated under the authority of article III of the Constitution of North Dakota or section 44-08-21 by an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by an individual who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety.
7. When recall petitions are delivered to the secretary of state or other filing officer with whom a petition for nomination to the office in question is filed, the chairman of the sponsoring committee shall submit to the secretary of state or other filing officer an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. Upon submission of the petitions to the appropriate filing officer, the petitions are considered filed and may not be returned to the chairman of the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a later time. An elector's name may not be removed by the elector from a recall petition that has been submitted to and received by the appropriate filing officer.
8. The filing officer has a reasonable period, not to exceed thirty days, in which to pass upon the sufficiency of a recall petition. The filing officer may conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the filing officer to be invalid may not be counted and all violations of law discovered by the filing officer must be reported to the state's attorney for possible prosecution.
9. The filing officer shall call a special recall election to be held no sooner than ninety-five days nor later than one hundred five days following the date the filing officer certifies the petition valid and sufficient. No special recall election may be called if that date would be within ninety-five days of the next scheduled election.
10. A notice of the recall election must be posted in the official newspaper thirty days before the candidate filing deadline, which is by four p.m. on the sixty-fourth day before the election. The official notice must include the necessary information for a candidate to file and have the candidate's name included on the ballot.
11. An official may not be recalled if the recall special election would occur within one year of the next regularly scheduled election in which the official could be re-elected.

CHAPTER 16.1-05
ELECTION OFFICERS

16.1-05-07. Poll clerks to check identification and verify eligibility – Poll clerks to request, correct, and update incorrect information contained in the pollbook.

1. Before delivering a ballot to an individual in any election, the poll clerks shall require the individual to show a valid form of identification with the information required under section 16.1-01-04.1.
2. a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
   b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address.
   c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook and the central voter file.

3. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct or who does not meet the thirty-day residency requirement to the proper precinct and polling place.

Title 18
Fires

CHAPTER 18-06
FIREFIGHTING EQUIPMENT

18-06-10. Township may contract for prevention and extinguishment of fires.

The electors of each township at the annual township meeting may authorize and empower the board of township supervisors to fund from revenues derived from the general fund levy authority of the township and provide by contract or otherwise for the prevention of, protection from, and extinguishment of fires within the township.

When so authorized, the supervisors may enter into a five-year contract and levy for the payment of the services obtained under the contract. The contract may be renewed or renegotiated for another five-year period upon authorization by the electors of the township at the annual meeting.

A voter-approved levy under this section authorized by electors of a township before January 1, 2015, remains in effect under the provisions of this section at the time the levy was authorized but not exceeding ten taxable years. Upon expiration of any mill levy under this section authorized by electors of a township before January 1, 2015, the governing body of the township or county may, by resolution, transfer any unobligated balance in the fund in which the levy proceeds were deposited to the general fund of the township.

CHAPTER 18-10
RURAL FIRE PROTECTION DISTRICTS

18-10-04. Organization - Board of directors.

1. At the time and place fixed by the county auditor for the public meeting as provided in section 18-10-03, the electors who are owners of any interest in real or personal property assessed for taxation in the district and who are residing within the boundaries of the district may decide by majority vote of those present whether the organization of the district may be completed. Permanent organization must be effected by the election of a board of directors consisting of not less than five residents of the district, at least one of whom must represent each township by having an interest in real or personal property assessed for taxation in the township the director is representing, if the district includes more than one township. If the district is composed of more than seven townships, the board may elect to have only seven members, but no more than two members may be from any township.

TITLE 20.1
GAME, FISH, PREDATORS, AND BOATING

CHAPTER 20.1-02
GAME AND FISH DEPARTMENT

20.1-02-05.1. Land acquisitions - Statewide land acquisition plan.

1. The director shall establish a comprehensive statewide land acquisition plan that must be approved by the budget section of the legislative management. Every land acquisition made by the department exceeding ten acres [4.05 hectares] or ten thousand dollars must be approved by the budget section.
2. Before a land acquisition, the department shall have the land in question appraised by a certified appraiser. The department may not acquire any land for an amount that exceeds the appraised value except for parcels or tracts of land less than forty acres[16.19 hectares] which may be acquired for up to two hundred percent of the appraised value.
3. Before the appraisal, the director shall give notice of the intent to purchase to every landowner within one mile [1.16 kilometers] of the boundary of the land to be appraised unless the landowner is within the boundary of a city, then the director shall send notice to the governing body of the city or unless the landowner is within the geographical boundary of a rural subdivision where the lots are ten acres [4.04 hectares] or less, then the director shall send notice to the governing body of the township or other governing authority for the rural subdivision. The director shall send notice to the board of county commissioners in the county of the land to be appraised, the board of township supervisors if the land to be appraised is in an organized township, and the governing body of a city within twelve miles [19.32 kilometers] of the boundary of the land to be appraised. The director shall publish notice in the official newspaper of the county of the land to be appraised, once a week for

two consecutive weeks. The notice must contain the amount of acreage, the legal description, and the fact that the department intends to purchase the land.

Title 21
Governmental Finance

CHAPTER 21-02
CERTIFICATES OF INDEBTEDNESS

21-02-01. Definitions. In this chapter unless the context or subject matter otherwise requires:

1. "Political subdivision" means a local governmental unit created by statute or by the Constitution of North Dakota for local governmental or other public purposes.
2. "Revenues" means any of the following:
   a. Uncollected taxes.
   b. Amounts to be received from a distribution of federal moneys, including currently existing bureau of Indian affairs contracts.
   c. Amounts to be received from a distribution of moneys pursuant to a state appropriation or a state statutory or constitutional provision.
   d. Amounts to be received from a grant or loan of state or federal funds.
   e. Amounts to be received from the issuance and sale of obligations by a political subdivision.
3. "Uncollected taxes" means taxes for the year during which a certificate of indebtedness is issued and the preceding four years that have been levied but from which moneys have not come into the public treasury by payment or by satisfaction of tax lien, exclusive of tax levies dedicated to the payment of principal of and interest on outstanding evidences of indebtedness.

21-02-02. Certificates of indebtedness - By whom issued - Term - Interest – General obligation. Political subdivisions may borrow against revenues through the issuance of certificates of indebtedness. A certificate of indebtedness consists of an agreement on the part of a political subdivision to pay a stated sum on or before a specified date, together with interest thereon at a rate or rates resulting in an average annual net interest cost not exceeding twelve percent if the certificate is sold privately. There is no interest rate ceiling on a certificate sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. The certificate must be signed on behalf of the political subdivision by its president or chairman, or equivalent officer, and also by its auditor, business manager or secretary, or equivalent officer, and must be payable from revenues. A certificate of indebtedness issued wholly or in part against revenues that consist of levied and uncollected taxes is a general obligation of the issuing political subdivision to the extent of the levied and uncollected taxes.

21-02-03. Certificate of county auditor. A tax is deemed to have been levied when it has been voted by the tax levying board and certified to the county auditor. Each certificate of indebtedness issued wholly or in part against revenues that consist of levied and uncollected taxes must bear the certificate of the county auditor to the effect that it, together with all other outstanding certificates issued wholly or in part against revenues that consist of levied and uncollected taxes, is within the amount of uncollected taxes that have been levied lawfully in the then present year, plus uncollected taxes of the four preceding years. A county auditor who willfully signs a false certificate upon a certificate of indebtedness is guilty of a class A misdemeanor.

21-02-05. Record of certificates of indebtedness issued against levied and uncollected taxes. The county auditor shall keep a record in which must be entered, as to each certificate of indebtedness issued by a political subdivision and certified to by the county auditor as provided in section 21-02-03, the same information as required for the recording of bonds in section 21-03-23. Upon presentment and payment in full by a political subdivision of a certificate of indebtedness which has been recorded by the county auditor pursuant to this section, the political subdivision must provide the county auditor with a certificate of redemption for the certificate, which must be recorded by the county auditor.

21-02-06. Certifying amount of uncollected taxes. The county auditor, upon request of the officers of a political subdivision, shall certify to them the amount of uncollected taxes remaining upon the tax lists to the credit of the political subdivision on the last day of the preceding month, and annually shall certify such information to the clerk of each township on February fifteenth, to the auditor of each city on September tenth, and to the business manager of each school district on July tenth. The county auditor also shall certify to the clerk, auditor, business manager, or secretary, or equivalent officer, of each political subdivision, at the time of making the monthly apportionment of funds, the amount of cash collections apportioned for that month to the political subdivision and the amount derived from levies of each tax year.

21-02-07. Authorizing resolution - Sinking fund. When a political subdivision issues a certificate of indebtedness under this chapter, the political subdivision, by resolution authorizing the issuance of the certificate of indebtedness, shall establish a sinking fund for the retirement of the certificate of indebtedness, including interest, on its due date. The resolution must also provide for the regular accumulation of money in the sinking fund from the revenues pledged to the payment of the certificate of indebtedness. Upon the accumulation of sufficient money in the sinking fund to pay the principal and interest which will be due and owing on the maturity date of the certificate of indebtedness, no additional revenues may be credited to the sinking fund.

21-02-08. Percentage of current taxes used to pay delinquent certificates of indebtedness. If sufficient funds are not collected to retire outstanding certificates of indebtedness issued wholly or in part against revenues that consist of uncollected taxes within two months after their due date, there must be set aside monthly from current tax collections, exclusive of tax levies dedicated to the payment of principal of and interest on outstanding evidences of indebtedness, not less than ten percent of the amount of the collections until the past due certificates have been paid.

21-02-11. Advertising for bids - When required - Procedure similar to bond sales. If the governing board of a political subdivision determines to borrow upon certificates of indebtedness, the governing board shall follow the procedure and is subject to the penalties prescribed in the provisions relating to the sale of bonds in chapter 21-03.

21-02-14. Presumption of validity. After issuance by a political subdivision, a certificate of indebtedness that recites that it is issued under this chapter is conclusively presumed to be fully authorized and issued under the laws of the state, and any person or governmental unit is estopped from questioning its authorization, sale, execution, issuance, or delivery by the political subdivision.

21-02-15. Certificate of indebtedness exempt from state taxation - Review for exemption from federal taxation. Payments of the principal of and interest on a certificate of indebtedness issued under this chapter are exempt from all taxes, except inheritance, estate, and transfer taxes, imposed by this state, any county or city, or any other political subdivision. However, a political subdivision shall review, or cause to be reviewed, federal tax laws and regulations to determine the federal tax-exempt status of interest payments on a certificate of indebtedness prior to the issuance and sale of the certificate on a purported federally tax-exempt basis.

CHAPTER 21-03
BONDS

21-03-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Governing body" means a board of county commissioners, city council, board of city commissioners, school board of any school district, and the similarly constituted and acting board of any other municipality enumerated in subsection 3.
2. "Initial resolution" means any resolution or ordinance adopted pursuant to section 21-03-09, by which a proceeding is instituted for the purpose of authorizing a municipality to borrow money and issue bonds.
3. "Municipality" means a county, city, township, public school district, park district, recreation service district, or rural fire protection district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue.
4. "Population of a municipality" means its population according to the last officially published United States or state census, whichever was taken latest.
5. "Recorded" means copied at length in the record book required by section 21-03-17.
6. "Value of taxable property" or "the assessed valuation" of a municipality means the assessed value of all taxable property in such municipality as determined pursuant to chapter 57-02.

21-03-02. Provisions not applicable to certain issues.

This chapter is not applicable:

1. To issues of bonds, warrants, or other forms of public securities issued on account of public improvements and for the payment of which special assessments are or shall be levied upon and against property benefited thereby which do not constitute, at the time of their issuance, a general obligation or fixed liability of the municipality issuing the same, nor the portion of any such issue payable by general taxation on account of assumption of a portion of the cost of such improvement under section 40-24-10 or any similar law. Nothing in this subsection may be construed to prevent the issuance of bonds by any city for the purposes specified in subdivision g of subsection 2 of section 21-03-06.
2. To drainage bonds or irrigation bonds.
3. To borrowing of money in anticipation of tax collections by means of certificates of indebtedness, as provided by chapter 21-02.
4. To revenue bonds under the provisions of chapter 40-35.

5. To bank or credit union loans authorized in title 21.

21-03-03. Irregularities do not vitiate bonds. Defects and irregularities in any proceeding had in substantial compliance with this chapter, when the issue is for a lawful purpose and is unaffected by fraud and does not exceed any constitutional or statutory limitation of amount, do not invalidate the bonds issued nor the indebtedness incurred after the bonds have been sold and the proceeds thereof received by the municipality, nor after the performance of a contract has been entered upon by a party who is to receive the said bonds or the proceeds thereof as consideration for said contract.

21-03-04. Grant of power to borrow - General limitations of indebtedness.
Every municipality may borrow money and issue municipal obligations thereof for the purpose specified and by the procedure provided in this chapter, and for no other purpose and in no other manner, except as otherwise provided in section 21-03-02. No municipality may incur indebtedness in any manner or for any purpose in an amount which, with all other outstanding indebtedness of the municipality, exceeds five percent of the assessed value of the taxable property therein, except: (townships – none)

All bonds or obligations in excess of the amount of indebtedness permitted by this chapter, given by any municipality as herein defined, are void.

21-03-05. Limitation applicable to independent municipal indebtedness. The amount limited in section 21-03-04 includes such indebtedness only as may be incurred independently by a municipality for its own separate purposes and does not include any indebtedness, in whole or in part, that may be incurred independently by any other municipality for its own separate purposes, even though the territory and taxable property of either municipality constitutes the whole or a part of the territory and taxable property of the other.

21-03-06. Purposes and specific limitations of bond issues. Municipalities are empowered to borrow money, subject to the general limitations of amounts prescribed by sections 21-03-04 and 21-03-05, and subject, in certain cases, to the further limitations prescribed by the section, and to issue bonds thereof for the purposes enumerated in the section. Such bonds may be issued:

5. By any township:
   a. For the erection of a township hall and the purchase of a site therefor; and
   b. For the construction of roads and bridges, but all outstanding unpaid bonds for road and bridge purposes may not exceed in amount at any one time one and one-half percent of the value of the taxable property in such township.

21-03-07. Election required - Exceptions. No municipality, and no governing board thereof, may issue bonds without being first authorized to do so by a vote equal to sixty percent of all the qualified voters of such municipality voting upon the question of such issue except:

1. As otherwise provided in section 21-03-04.
2. The governing body may issue bonds of the municipality for the purpose and within the limitations specified by subdivision e of subsection 1 of section 21-03-06, subdivision g of subsection 2 of section 21-03-06, and subsections 4.1 and 7 of section 21-03-06 without an election.
3. The governing body of any municipality may issue bonds of the municipality for the purpose of providing funds to meet its share of the cost of any highway project undertaken under an agreement entered into by the governing body with the United States government, the director of the department of transportation, the board of county commissioners, or any of them, including the cost of any construction, improvement, financing, planning, and acquisition of right of way of a bridge eligible for matching funds, highway routed through the municipality and of any bridges and controlled access facilities thereon and any necessary additional width or capacity of the bridge or roadway thereof greater than that required for federal or state bridge or highway purposes, and of any necessary relaying of utility mains and conduits, curbs and gutters, and the installation of utility service connections and streetlights. The portion of the total cost of the project to be paid by the municipality under the agreement, including all items of cost incurred directly by the municipality and all amounts to be paid by it for work done or contracted for by other parties to the agreement, may not exceed a sum equal to thirty percent of the total cost, including engineering and other incidental costs, of all construction and reconstruction work to be done plus fifty percent of the total cost of all right of way to be acquired in connection therewith. The initial resolution authorizing issuance of bonds under this subsection must be published in the official newspaper of the municipality. Within sixty days after publication, an owner of taxable property within the municipality may file with the auditor or chief fiscal officer of the municipality a written protest against adoption of the resolution. A protest must describe the property that is the subject of the protest. If the governing body finds protests have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property in the municipality, as most recently finally equalized, all further proceedings under the initial resolution are barred. Nothing herein may be deemed to prevent any municipality

from appropriating funds for or financing out of taxes, special assessments, or utility revenues any work incidental to any such project, in the manner and to the extent otherwise permitted by law, and the cost of any work so financed may not be included in computing the portion of the project cost payable by the municipality, within the meaning of this subsection, unless the work is actually called for by the agreement between the municipality and the other governmental agencies involved.

9. The governing body of a municipality or other political subdivision, located at least in part within a county that is included within a disaster or emergency executive order or proclamation of the governor under chapter 37-17.1, may by resolution adopted by a two-thirds vote authorize and issue general obligation bonds of the political subdivision without an election for the purpose of providing funds to pay costs associated with the emergency condition. The political subdivision may dedicate and levy taxes for retirement of bonds under this subsection and such levies are not subject to limitations as otherwise provided by law.
10. The governing board of any county, city, public school district, park district, or township may by resolution adopted by a two-thirds vote dedicate the tax levy authorized by section 57-15-41 and authorize and issue general obligation bonds to be paid by the dedicated levy for the purpose of providing funds to prepay outstanding special assessments made in accordance with the provisions of title 40 against property owned by the county, city, public school district, park district, or township.

21-03-08. Maximum interest rate, maturity, and denominations. No bonds issued under the provisions of this chapter may bear interest at a rate or rates and be sold privately at a price resulting in an average net interest cost higher than twelve percent per annum. There is no interest rate ceiling on those issues sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. No bonds issued under this chapter may run for a longer period than twenty years from their date. The bonds may not bear a date earlier than the date of the election authorizing their issuance, if such election is required, nor earlier than the date of the adoption of the resolution of the governing body determining to issue bonds for which no election is required.

21-03-09. Initial resolution - Form. Proceedings for the issuance of bonds under the authority of this chapter must be instituted by the adoption of an initial resolution therefor. Such initial resolution must state:

1. The maximum amount of bonds proposed to be issued.
2. The purpose for which they are proposed to be issued.
3. The assessed valuation of all taxable property in the municipality as defined in section 21-03-01.
4. The total amount of bonded indebtedness of the municipality.
5. The amount of outstanding bonds of the municipality issued for a similar purpose.
6. Any other statement of fact deemed advisable by the governing body or voters proposing the same.

21-03-10. Initial resolution - How adopted. The initial resolution may be:

1. Adopted by a majority vote of the governing body at any regular meeting thereof or at any special meeting of which notice has been given as required by law, without any previous action thereon or request therefor by the qualified electors or property owners.
2. Proposed by filing a copy thereof in the office of the auditor or secretary of the municipality, together with a petition signed by qualified electors of the municipality aggregating in number one-fourth of the number of qualified electors of the municipality, as shown by the pollbook for the last preceding annual or general election held therein, or if such pollbook was not kept, then as shown by a census of the qualified electors of such municipality verified by the affidavit of one of such petitioners. Such petition must ask that an election on the question of issuing such bonds be called. Upon the filing of such proposed initial resolution and petition, the governing body shall call such election in the manner specified by section 21-03-11.

21-03-11. Elections - When and how called and held. Upon or after the adoption of an initial resolution by the governing body, or at the first meeting of the governing body held after the filing of a petition and proposed initial resolution by the qualified electors as specified in subsection 2 of section 21-03-10, the governing body by resolution shall provide for submitting to the qualified electors of the municipality the question whether the initial resolution shall be approved. The date of the election must be not less than twenty days after the passage of the initial resolution by the governing body or in the filing of a sufficient petition therefor by the qualified electors. The governing body shall designate the date of the election, the polling hours, and polling place, which must be the same as for municipal elections therein, and shall appoint an inspector, two judges, and two clerks of election for each polling place. In case of the absence of any election official, or the official's inability to act at the opening of the polls, the remaining election officials for the polling place shall appoint a qualified elector to fill the vacancy. The election must be conducted and the returns thereof made and canvassed as in the case of elections of members of the governing body of the municipality.

21-03-12. Notice of election to be given. The auditor, secretary, or similarly acting officer, by whatever name designated, of the municipality shall give notice of election by causing a notice thereof to be published once each

week for at least two weeks prior to the date thereof in the official newspaper of such municipality, if any, or if it has none, in any newspaper published therein, or if no newspaper is published therein, then by posting copies of such notice in five public places in the municipality. The date of such posting or first publication must be at least fifteen days before the date of such election, exclusive of the day of such posting or first publication. Such notice must specify the date, polling hours, and polling places of such election and must contain a complete copy of the initial resolution and a statement that the question to be submitted thereat shall be whether said initial resolution shall be approved. If said question is to be submitted at a municipal election, the notice herein prescribed may be separate from the notice of such municipal election and may refer to the notice of such municipal election for the designation of polling places.

21-03-13. Ballot - Contents. The ballot for a bond election must be separate from other ballots used on the same day for other elections, and must be written or printed, and must state the question in substantially the following form:

> Shall the _____ (here inserting the name of the municipality) issue its bonds in the amount of not to exceed $_____, (here inserting the amount) maturing within a maximum of _____, (here inserting the duration) resulting in an estimated additional millage of _____ (here inserting the number of mills) mills, equal to $_____ (here inserting the equivalent in dollars) on each $1,000 of taxable valuation for the first taxable year, for the purpose of _____ (here inserting the purpose)?
>
> Yes ☐
> No ☐
>
> Spoiled or blank ballots cast at such election may not be counted for or against the proposed issue.

21-03-14. Bonds issued without an election. Proceedings for the issuance of bonds under this chapter, if no election is required, must be instituted by a resolution of the governing body containing the facts required for an initial resolution as prescribed by section 21-03-09. At or after the adoption of the resolution, the governing body may proceed to sell, issue, and deliver the bonds as hereinafter provided for the sale, issuance, and delivery of bonds.

21-03-15. Direct, annual, irrepealable tax. The governing body of every municipality issuing bonds under the authority of this chapter, before the delivery thereof, shall levy by recorded resolution or ordinance a direct, annual tax which, together with any other moneys provided by, or sources of revenue authorized by, the legislative assembly, shall be sufficient in amount to pay, and for the express purpose of paying, the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or levies or to obstruct the collection of any such tax until such payments have been made or provided for, except that if the governing body in any year makes an irrevocable appropriation to the sinking fund of moneys actually on hand, or if there is on hand in the sinking fund an amount that would be sufficient to retire the bonds, the governing body shall cause its recording officer to certify the fact and amount to the county auditor with the direction that the county auditor should reduce by the amount so certified the amount otherwise to be included in the tax rolls next thereafter prepared. A copy of such resolution or ordinance must be certified to and filed with the county auditor, and after the issuance of such bonds, any such tax on property from year to year must be carried into the tax roll of the municipality and collected as other property taxes are collected. No further annual levy for that purpose is necessary. The governing body may, in its discretion and in anticipation of the sale of bonds, at any time after the issuance of bonds has been authorized by the electors or by resolution of the governing body when no election is required, levy and certify to the county auditor for collection a portion of the tax herein required, which must be credited against the amount otherwise required to be levied after the bonds have been sold. Any other tax or source of revenue authorized by the legislative assembly for such purposes and imposed or pledged by the municipality for those purposes is likewise irrepealable and subject to the same conditions and limitations as any taxes levied on property for the same purposes. Any annual or periodic amounts provided for the municipality issuing such bonds by the legislative assembly out of state funds for paying the interest and principal of such bonds constitute an irrepealable and continuing appropriation until the liability for all interest and principal payments of the bonds have been satisfied. When insufficient funds are available to pay the matured bonds, the county auditor shall notify the governing body of such municipality of such deficiency and the governing body thereupon may levy a direct tax on the taxable property to pay said deficiency and interest thereon. If the governing body of the issuing municipality no longer exists, the county auditor shall levy a direct tax against the taxable property in the original issuing municipality to pay said deficiency and the interest thereon. The manner of levy, certification, and collection of said tax must be the same as provided by this section for the levy, certification, and collection of taxes by this section. When such bonds are further sustained by revenue of a revenue-producing utility, industry, or enterprise, said resolution or ordinance may provide that the tax to be levied and assessed may be reduced by such amount and

under such conditions as must be determined in said resolution or ordinance so long as adequate provision is always made for the payment of such bonds and interest thereon.

21-03-16. Authority to borrow and issue bonds - When complete. Every municipality which has first complied with all requirements prescribed for and made applicable to it by this chapter, but not otherwise, may borrow money and issue and sell its municipal bonds to the amount and for the purpose or purposes specified in the initial resolution.

21-03-17. Record of proceedings. Every municipality shall provide and keep a record book in which its auditor or secretary shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing municipal bonds, including a statement of the affirmative and negative votes cast by the electors.

21-03-18. Form and contents of bonds. Every municipal bond must be a negotiable instrument payable to bearer, or to bearer or the registered owner, with or without interest coupons attached, interest to be payable annually or semiannually at the rate or rates specified in the accepted bid for the purchase of said bonds. Each bond must specify the time and place for payment of the principal and interest, and must be numbered consecutively with the other bonds of the same issue, which must begin with number one and continue upward, or if so directed by the governing body, must begin with any other number and continue upward. Each bond must bear upon its face a name indicative of the purpose of the issue specified in said initial resolution and must contain a certificate or recital of any direct, annual, irrepealable tax which has been levied by the municipality upon all the taxable property therein, together with any other tax or source of revenue which the municipality may be authorized to impose or pledge and any annual or periodic payments or distributions appropriated or allocated by the legislative assembly, sufficient to pay the interest when it falls due, and also to pay and discharge the principal of such bond at maturity, and may contain any other statement of fact not in conflict with said initial resolution. The entire issue may be composed of a bond or bonds of a single denomination or of two or more denominations.

21-03-19. Bonds - Terms. Bonds issued under this chapter must be authorized by resolution, bear such date or dates, be in such denomination or denominations, be in such form, be subject to redemption with or without premium, and be subject to such other terms or conditions as in the judgment of the municipality are in the public interest of the municipality, and must provide that the last installment of principal falls due not more than twenty years from the date of the bonds. The requirements of this section apply to each new issue of bonds, or if so determined by the governing body, to the bonds of a new issue combined with all of the outstanding bonds of one or more designated issues of bonds previously issued and similarly payable from taxes or other sources of revenues, or both, as the case may be.

21-03-20. Interest - Ceases at maturity unless presented for payment. All bonds issued pursuant to the provisions of this chapter must contain a provision that interest thereon ceases at maturity unless the holder thereof presents the same for payment and payment is refused.

21-03-21. Execution of bonds. Municipal bonds must be executed in the name of and for the municipality issuing them, by its qualified officers, who for that purpose shall sign the same by manual or facsimile signatures in their official capacities, as follows:

1. For a county, the chairman of the board of county commissioners and the county auditor.
2. For a city, the mayor or president of the board of city commissioners and the city auditor.
3. Repealed by S.L. 1967, ch. 323, § 285.
4. For any other municipality, the chairman or president of the governing board and the clerk or secretary thereof, or such other officer as the governing body thereof may determine.

The interest coupons attached to such bonds may be executed by the lithographed or engraved facsimile signature of such officers. The validity of every bond so executed remains unimpaired by the fact that any subscribing officer has ceased to be such officer before delivery to the purchaser. Bonds issued by a municipality having an official seal need not be sealed with such seal. The city auditor, county auditor, clerk, or secretary or such other officer as the governing body of the municipality may determine shall sign an endorsement on the back of each bond certifying that the bond is issued pursuant to law and is within the debt limit of the municipality issuing the bond.

21-03-23. Bond record. The county auditor shall keep a bond record in which must be entered, as to each issue of bonds issued by a taxing district in the county, a record of the date of issuance, the aggregate amount issued, the date of maturity of each bond, the rate of interest, the amount of the levy on taxable property for each year certified by the taxing board, the amount levied on any other object of taxation by the municipality, the amount pledged or

allocated from other sources of revenue of the municipality, and the amount of any annual or periodic payments or distributions appropriated or allocated by the legislative assembly.

21-03-24. Destruction of bonds not sold within three years. All bonds authorized pursuant to this chapter which are not delivered to the purchaser and paid for within three years of their date must be canceled. The registering and certifying officer, in the presence of at least two electors of the municipality which authorized their issuance, shall destroy such bonds by the burning thereof, and with such witnesses shall make and file in the records of that officer's office an affidavit as to the bonds so destroyed and the time and place of such destruction. The officer also shall make a record thereof in a proper book of record in that officer's office. A copy of such affidavit must be filed with the auditor or secretary of the municipality which authorized their issuance.

21-03-25. Bonds - Advertised for bids - Exception. A municipality may not sell or enter any contract for the sale of any issue of its bonds authorized by this chapter in an amount exceeding one million dollars, for whatever purpose issued, without first advertising for bids in the manner prescribed by section 21-03-26, except as provided in section 21-03-30, and except that bonds issued under the authorization of subdivision g of subsection 2 of section 21-03-06 with the consent of the warrant holders, may be exchanged for matured warrants or matured interest coupons of warrants of the special improvement fund having the deficiency on account of which such bonds are being issued, without such advertising. The par value and accrued interest of the bonds so delivered may not exceed the par value and accrued interest of the warrants and interest coupons, and accrued interest thereon, for which they are exchanged.

21-03-26. Bonds - Call for bids - How advertised. A notice calling for bids for each proposed issue of municipal bonds must be published at least once in the official newspaper of the municipality, or, if the municipality does not have an official newspaper, then in the county's official newspaper, not less than ten days nor more than thirty days before the date specified therein for the receiving of such bids. Such notice may be in any form but must specify the amount of bonds offered for sale and the date of the maturity thereof. Failure to publish such notice does not impair the validity of such bonds but renders unenforceable any executory contract entered into for the sale thereof.

21-03-27. Bids - Where received - Record. The notice must specify the time and place at which bids will be received. The place where bids shall be received must be fixed by the governing board and may be within or outside the state. At the time and place specified, the governing board of the taxing district must be represented by one of its officials, or by the county auditor or some other person acting at the request of the board, who shall receive competitive bids, whether submitted orally or in writing. When the bids are received, the county auditor, auditor, secretary, or other person acting at the request of the board shall enter in a permanent record the amount and rate of interest of each bid and the name and address of the bidder.

21-03-27.1. Sealed bids. The governing body of any municipality calling for bids for the purchase of municipal bonds, as provided in sections 21-03-26 and 21-03-27, may in its discretion determine, and may state in the notice calling for such bids, that only sealed bids shall be received and considered.

21-03-28. Bids - Accompanied by draft - Sale to best bidder - Rejection of all bids. All bids must be accompanied by a certified check, cashier's check, surety bond, or bank draft, in the amount of not less than one percent of the bid. After all bids have been received, they must be delivered forthwith to the governing body of the municipality, which shall award the sale of such bonds to the bidder who agrees to purchase them upon the terms most favorable to the municipality, unless the governing body determines to reject all bids. The governing body has the right to reject any and all bids. If no bids are received or if all bids received are rejected, the governing body may, without re-advertising the bonds for sale, negotiate the sale of all of the bonds to any person upon terms complying with those specified in the notice of sale theretofore published, and if bids were rejected, more favorable to the municipality than those specified in a rejected bid. No sale may be for less than ninety-eight percent of the par value of such bonds plus the interest accrued on the bonds to the date of the delivery thereof.

21-03-29. Unlawful for official to accept compensation from bidder. No auditor, secretary, or other official of a municipality may accept, from a bidder or prospective bidder at a sale of bonds, a commission or any other compensation for the official's services rendered or to be rendered in connection with the issuance, sale, or delivery of such bonds.

21-03-30. Municipal bonds - Private sale to United States or state agencies. The procedure prescribed in this chapter relative to calling for bids upon the sale of municipal bonds is not required in the case of bonds issued under the authorization of subdivision b or c of subsection 7 of section 21-03-06, or in case bonds are sold to: 1. The state board of university and school lands. 2. The Bank of North Dakota. 3. The public finance authority. 4. Trust funds administered by public officials. 5. The United States of America, or any agency or instrumentality thereof.

21-03-34. Registration of ownership of bonds - How made. The holder of any bond payable to "bearer or registered owner", as authorized by section 21-03-18, issued by any municipality, may have the ownership thereof registered as to the principal thereof by the county auditor, or in the case of a municipality of over four thousand population, by the auditor or secretary of the municipality issuing the same, or such other officer as the governing body of the municipality may determine. Registration by such officers must be made in the bond register and must be noted on the bond.

21-03-35. Effect of registration - Discharge therefrom. After registration of a municipal bond as provided in section 21-03-34, no transfer thereof is valid unless made on the records of the county auditor or the records of the municipality by the registered owner in person, or by the registered owner's duly authorized attorney, and similarly noted on the bond, but the same may be discharged from registration by being transferred in like manner to bearer, and thereafter transferability by delivery is restored, but such bond again from time to time may be registered or transferred to bearer as before. Such registration, however, does not affect the negotiability of the appurtenant coupons, but every such coupon continues to be transferable by delivery only and must remain payable to bearer.

21-03-36. Money borrowed or payable to be lawful money of United States. All money borrowed by municipalities and all money received in payment of any tax levied in accordance with this chapter is lawful money of the United States, and all municipal bonds must be payable in such money.

21-03-37. Appointment of fiscal agents. The governing body of any municipality indebted on account of outstanding municipal bonds is authorized in its discretion to appoint a fiscal agent located in some city within or without the state, or if deemed convenient, one such agent, in each of two cities. Every such fiscal agent must be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to do a banking or trust company business. The custodian of the sinking funds of the municipality, when necessary, shall deposit with such fiscal agent such sums of money as are required for the payment of the principal or interest of municipal bonds.

21-03-38. Bond proceeds - Kept in separate fund - Protection of purchaser. All borrowed money must be paid into the treasury of the municipality borrowing it, must be kept there until used, in a fund separate and distinct from all other funds, to be used for the purpose for which it was borrowed and for no other purpose except that such funds may be temporarily invested in securities as are approved by the governing board in accordance with the provisions of section 21-03-43 and as otherwise provided by section 21-03-42, and may be withdrawn only upon order or warrants made payable out of said fund and expressing the purpose for which they were drawn. The purchaser of any bonds issued pursuant to this chapter is not obliged to see to the application of the purchase price thereof, but is protected fully in paying for such bonds by the receipt of the county treasurer or of the officer delivering such bonds. Income from the temporary investing of receipts from bond issues must be available for use for such purpose as such bond issue was approved or, upon resolution of the governing body of the municipality, must be paid into the sinking fund for use in payment of bonds issued.

21-03-38.1. Disposal of bond proceeds. The proceeds of any municipal bond sale, which have not been used for the purpose issued within three years after date of issue, may be disposed of by the governing body of the municipality as follows:

1. Sufficient funds must be transferred to the sinking fund of the issue in an amount equal to the principal of bonds outstanding and the interest requirements.
2. The governing body may, by a two-thirds vote of all its members, transfer the funds to any or all other debt sinking funds of the municipality.
3. The governing body, upon approval by a majority vote of the qualified electors, voting on the question at an election called therefor, may use the funds for some other purpose authorized by law.

If any funds remain, they must be transferred to the general fund of the municipality.

21-03-39. Ancillary contract authorized. After any municipality has provided, as required by section 21-03-16, for an issue of bonds for a lawful purpose which can be accomplished only through performance of an executory contract by some other contracting party, such contract may be entered into before the actual execution or sale of the bonds with like effect as if the necessary cash for payments on the contract already were in the treasury.

21-03-40. Sinking funds - Custodian. The city auditor, park district treasurer, or business manager of the school district or similarly acting officer of the respective municipality is custodian of each of its sinking funds, unless the governing body by resolution appoints the county treasurer.

21-03-41. Sinking funds - Duty of county treasurer. When the county treasurer is custodian of any sinking fund, the county treasurer may not remit to the treasurer of the taxing district any taxes levied or any other moneys received for the purpose of paying the interest on or retiring the principal of bonds issued, but the county treasurer shall retain the same in a separate special fund maintained as a sinking and interest fund for the bonds of such

taxing district. The county treasurer shall make quarterly reports to the treasurer of the taxing district whose sinking fund the county treasurer possesses, showing all collections and amounts added to each such fund, all payments made from such fund, and the net balance in each such fund from time to time. The county treasurer shall keep the sinking funds of each taxing district on deposit in such public depository as may have furnished proper bond therefor and as may have been designated by the governing board of the taxing district. When a sinking fund is so deposited, the county treasurer is relieved of personal responsibility for its safekeeping.

21-03-42. Sinking fund - Sources and uses. The sinking fund must be disbursed by the county treasurer or treasurer of the municipality, as the case may be, upon the directions therefor by resolution of the governing body of the municipality issuing such bonds. As such bonds mature, the county treasurer, upon warrant drawn upon the county treasurer by the county auditor, shall apply such sinking fund in retirement thereof, and also in payment of the interest thereon as it becomes payable. The county auditor shall draw such warrants so as to pay the interest and retire the bonds at as early a date as possible. If the bonds are retired or if the balance in the sinking fund is sufficient to retire the bonds, the county auditor shall notify the governing body of the municipality of its obligation under section 21-03-15 to terminate the levy for payment of principal and interest on the bonds. The county treasurer or treasurer of the municipality may not disburse any of such fund contrary to the provisions of this chapter, even though so directed by such governing body. The county treasurer or treasurer of the municipality may disburse such fund for the purpose of paying the principal and interest, or either, of the bonds for which such fund was created without any authorization therefor by the governing body. The sinking fund of each bond issue must be kept separate and must be designated by a name indicative of the issue of bonds on account of which it was created. The sources of such fund must be:

1. All moneys accruing to the borrowed money fund prescribed by section 21-03-38 which at any stage are not needed for the purpose for which the money was borrowed, and any moneys becoming applicable to the sinking fund must be transmitted by the treasurer of the municipality to the county treasurer, in case such municipality has a population of four thousand or less, upon direction therefor by the governing body of the municipality.
2. All moneys raised by taxation and received from other sources pursuant to section 21-03-15 for the purpose of paying said bond.
3. Moneys derived from licenses or other sources, the expenditure of which is not otherwise provided for by law, as the governing body may elect to place in the sinking fund, and which must be paid over to the county treasurer for deposit in such sinking fund by the treasurer of the municipality, in case such municipality has a population of four thousand or less, upon a resolution directing such payment by the governing body.
4. The premium, if any, for which the bonds have been sold over and above the par value and accrued interest.

21-03-43. Investment of sinking funds. Taking care that enough cash is retained always in the sinking fund to provide for annual payments of principal and interest, the surplus, if any, may be loaned or invested under the direction of the proper governing body as follows:

1. In the outstanding bonds for the payment of which the sinking fund is required, at any price not exceeding the principal, accrued interest, and a premium of not to exceed two years' interest on such bonds.
2. In interest-bearing bonds of the United States, or of the state of North Dakota, or of any municipality as defined in section 21-03-01.
3. In conformity with the provisions of chapter 21-04.

Investments of the class specified in subsection 2 continue a part of the sinking fund and must be held in custody of the treasurer of the municipality. Bonds representing such investments may be sold by the governing body at any time, but the money received remains, until used, a part of the sinking fund.

21-03-44. Sinking fund - Use for unauthorized purpose. Money may not be withdrawn from a sinking fund and appropriated to any purpose other than the purpose for which the fund was instituted until that purpose has been accomplished, except as authorized by section 6-09.4-23 and sections 21-03-42 through 21-03-45.

21-03-45. Sinking fund - Surplus placed in general fund. Any surplus in a sinking fund after all of the bonds for the payment of which the fund was created have been paid and canceled and after all investments of the second and third class finally have been disposed of or realized upon, must, within two years, be placed in the general fund of the municipal treasury.

21-03-47. Limitation of action. No action may be brought or maintained in any court in this state questioning the validity of any bonds issued pursuant to this chapter, or of any tax levied pursuant hereto, unless such action has been commenced within thirty days after the adoption of the resolution of the governing body awarding the sale of such bonds.

CHAPTER 21-04
DEPOSITORIES OF PUBLIC FUNDS

21-04-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the governing board of any public corporation, including the board of county commissioners, the city council, the board of city commissioners, the school board, the board of township supervisors, and the park board.
2. "Clerk" means the person who performs for any public corporation the duties ordinarily performed by a clerk, including the county auditor, the city auditor, the township clerk, and the business manager of the school district.
3. "Financial institutions" includes state and national banks insured by the federal deposit insurance corporation, state-chartered or federally chartered savings and loans insured by the federal savings and loan insurance corporation, and state-chartered or federally chartered credit unions insured by the national credit union administration.
4. "Public corporation" includes a county, city, township, school district, and any body corporate except a private corporation.
5. "Public funds" includes all funds derived from taxation, fees, penalties, sale of bonds, or from any other source, which belong to and are the property of a public corporation or of the state, and all sinking funds of such public corporation or of the state, and all funds from whatever source derived and for whatever purpose to be expended of which a public corporation or the state have legal custody. The term includes funds of which any board, bureau, commission, or individual, created or authorized by law, is authorized to have control as the legal custodian for any purpose whatsoever whether such funds were derived from general or special taxation or the assessment of persons or corporations for a specific purpose. The term does not include funds of students or student organizations deposited in a student financial institution approved by and under the control of the school board.
6. "State" includes the state of North Dakota and any institution, industry, enterprise, or agency of the state.

21-04-04. Money deposited promptly - Withdrawal - Penalty. The treasurer of a public corporation and every other person legally charged with the custody of public funds, which, according to the provisions of this chapter, must be deposited in the Bank of North Dakota or in a depository duly designated as provided in this chapter, promptly upon receipt of such funds, shall deposit the same in such depository. All such public funds must be deposited in the name of the state, state institution, or public corporation to which the same belong. Checks or drafts on funds deposited as herein provided must be drawn by the legal custodian thereof in the legal custodian's official capacity only, and no checks or drafts on such deposits may be paid or honored by such depository unless so drawn.

21-04-15. Townships and public school districts - Selection of depositories at any time. The board of supervisors of any township and the school board of any public school district may designate depositories at any meeting of such board and no notice to financial institutions need be given and no formal proposals need be received.

CHAPTER 21-05
CLAIMS AGAINST TOWNSHIPS AND COUNTIES

21-05-01. Claims against township or county - How accounts stated. No account or claim against any township or county of this state may be allowed by the governing body thereof until a full itemized statement in writing has been filed with the governing body or unless otherwise authorized by the governing body pursuant to contract or other action. The governing body, in its discretion, may require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim or account and it may require the filing of a sworn statement in such form as it may prescribe. The provisions of this section, however, do not apply to any claim or demand for an annual salary or per diem of jurors or witnesses fixed by or in pursuance of any statute. Whenever the county auditor is not readily available to sign and issue warrants upon the county treasurer for the payment of the salary or per diem of jurors or witnesses, the county treasurer is authorized to pay such salary or per diem upon the written order of the judge of the court in which such jurors or witnesses have served and in such cases the county treasurer shall furnish the county auditor with statements of all claims paid.

21-05-02. Accounts may be verified. The verification described in section 21-05-01 may be in substantially the following form:

Certificate

I do hereby certify that the within bill, claim, account, or demand is just and true; that the money therein charged actually was paid for the purpose therein stated; that the services therein charged actually were rendered and of the value therein charged, that no part of such bill, claim, account, or demand has been paid; and that the goods therein charged actually were delivered and were of the value charged.

Sign Here _____

(If signed for a firm or company show authority on this line.)

21-05-03. Additional proof may be required. The board of county commissioners or board of township supervisors before which any bill, claim, account, or demand against the county or township shall come for audit and approval, if deemed necessary, may require to be furnished a statement made under oath containing such other information as is deemed necessary for the further verification of any such bill, claim, account, or demand.

21-05-06. What accounts not verified. In case any account, claim, or demand against a county or township is made or presented by any administrator or executor on behalf of the estate of a deceased person, the administrator or executor may not be required to verify the same but may prove the same otherwise to the satisfaction of the governing board.

21-05-07. Consideration of account - Action thereon. Whenever an account, claim, or demand against any township or county is reviewed in the manner prescribed in section 21-05-01, the board to which the same is presented may receive and consider the same and may allow or disallow the same, in whole or in part, as to the board appears just and lawful, saving to such claimant the right of appeal in accordance with the procedure provided in section 28-34-01. Approval by the board must be recorded in the record of its proceedings and this is sufficient to indicate approval without requiring a majority of the members of the board to sign or initial the voucher or order for payment.

21-05-08. Penalty for auditing account not itemized. Any person, whether or not acting as a member of any board, who audits and allows any account, claim, or demand against any county or township required to be itemized, without having the same first duly itemized, is guilty of a class B misdemeanor.

CHAPTER 21-06
MISCELLANEOUS PROVISIONS

21-06-07. Political subdivisions may invest funds.

1. Counties, cities, school districts, park districts, and townships in this state may invest moneys in their general fund, or balances in any special or temporary fund, in:
    a. Bonds, treasury bills and notes, or other securities that are a direct obligation of, or an obligation insured or guaranteed by, the treasury of the United States, or its agencies, instrumentalities, or organizations created by an act of Congress.
    b. Securities sold under agreements to repurchase written by a financial institution in which the underlying securities for the agreement to repurchase are of a type listed above.
    c. Certificates of deposit fully insured by the federal deposit insurance corporation or by the state.
    d. Certificates of deposit, savings deposits, or other deposits fully insured or guaranteed by the federal deposit insurance corporation and placed for the benefit of the public depositor by a public depository through an appropriate deposit placement service as determined by the commissioner of financial institutions.
    e. State and local securities:
        (1) Any security that is a general obligation of any state or local government with taxing powers and is rated in the highest three categories by a nationally recognized rating agency.
        (2) An obligation of the state housing finance agency that is rated in the highest two categories by a nationally recognized rating agency.
        (3) Any security that is a general obligation of a school district and is rated in the highest two categories by a nationally recognized rating agency.
        (4) Obligations of this state and general obligations of its political subdivisions.
    f. Commercial paper issued by a United States corporation rated in the highest quality category by at least two nationally recognized rating agencies and matures in two hundred seventy days or less.
2. Bonds, treasury bills and notes, or other securities so purchased must be taken into consideration in making levies for the ensuing year, and when funds are needed for current expenses, the governing board and authorities of such municipalities may convert those obligations into cash.

21-06-09. Authorization to make loans or accept grants. The state, any of its departments, boards, bureaus, or commissions, by and with the approval of the governor, may make loans, or accept advances from the federal government, any agency or instrumentality thereof, for the purpose of aiding in financing the cost of architectural, engineering, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions preliminary to the construction of public works and improvements, and may repay to the federal government, any of its agencies or instrumentalities thereof, such loans or advances at such times as the construction of said public works or improvements so planned are undertaken; and any county, city, park district,

school district, and township, may likewise, by action of the governing body of the same, also make such loans and accept such advances and repay the same in the same manner. Such loans made or grants accepted may be made or accepted under such rules and regulations as the federal government, or any of its agencies or instrumentalities may prescribe. Provided, however, that neither the state, any of its boards, bureaus, departments, or commissions, nor any of the political subdivisions enumerated herein may incur any liability for the payment of such loans or advances unless the actual construction of such public works and improvements is undertaken; and provided, further, that the provisions of this section may not be construed to apply to loans, grants, or advances to the department of transportation made or to be made by the federal government, any agency or instrumentality thereof, or to such loans, grants, or advances made to political subdivisions by the said department of transportation.

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads. The state treasurer shall pay the moneys allocated to the state under 33 U.S.C. 701(c)(3) to the counties entitled to receive them in proportion to the area of the land in the county acquired by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) as that area bears to the total of these federal lands in the state. A county receiving an allocation under this section shall disburse the moneys received as follows:

1. One-half must be paid to the school districts in the county which have lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) in proportion to the area of these federal lands in each district as that area bears to the total of such lands in all of the school districts in the county. If, however, all of the land in a district has been acquired by the United States, that district's proportionate share of the funds allocated under this subsection must be paid into the county tuition fund and expended according to the law governing that fund.
2. One-quarter must be paid to the county for road purposes to be expended as the county commissioners shall determine.
3. The final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation because of land acquisitions by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) and the county for road purposes in proportion to the area of these lands in each township as that area bears to the total area of these federal lands in the county. The county must be allocated a similar proportionate share based on the area of these lands in the county not within an organized township. This section applies to all funds heretofore received or to be received by the counties entitled thereto.

21-06-11. Expenditure of federal revenue-sharing moneys. A political subdivision may expend federal revenue-sharing moneys for any purpose for which general or special fund moneys of the political subdivision may be expended, regardless of whether a tax levy by a vote of the political subdivision electorate has been made or is required for such purpose. For the purposes of this section, "political subdivision" means any county, city, township, or other unit of local government.

CHAPTER 21-13
POLITICAL SUBDIVISION BORROWING

21-13-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Political subdivision" means a local government unit created by statute or by the Constitution of North Dakota for local governmental or other public purposes.
2. "Revenue" means any of the following:
   a. Amounts to be received from a distribution of federal moneys, including bureau of Indian affairs contracts.
   b. Amounts to be received from a distribution of state moneys pursuant to a state appropriation or a state statutory or constitutional provision.

21-13-02. Political subdivision authority to enter agreement for bank or credit union loans. A political subdivision may borrow against its anticipated revenue, from a bank or credit union located in this state. A bank or credit union loan and terms must be authorized by resolution of the governing body for the political subdivision. The resolution must identify the revenue to be used to repay the loan and any collateral that will secure repayment of the loan. The loan agreement must be signed on behalf of the political subdivision by the president, chairman, or equivalent officer, and also by the political subdivision's auditor, business manager, secretary or equivalent officer.

21-13-03. Limit on amount of loans - Loan terms. Except as limited by this section, a bank or a credit union and political subdivision may agree to terms and conditions of a bank or credit union loan, including the rate of interest and any collateral.

1. A political subdivision may have no more than five hundred thousand dollars in outstanding principal on bank or credit union loans at any time.
2. A political subdivision bank or credit union loan must be paid in full within five years from the date of loan origination.
3. The loan documents must describe the revenues from which the loan is anticipated to be paid and may require the political subdivision to establish a separate fund for the repayment of the loan, including interest, on or before the due date.
4. Collateral for a loan may consist only of property that is purchased with loan proceeds.

21-13-04. Delinquent loans. If designated revenues are not sufficient to pay a loan balance, in addition to the designated revenues, the political subdivision may set aside up to ten percent of the amount of the collections from current tax revenues to pay to the lending bank or credit union on a monthly basis until the delinquent loans have been paid in full.

Title 23.1
Environmental Quality

CHAPTER 23.1-01
DEPARTMENT OF ENVIRONMENTAL QUALITY

23.1-01-10. Zoning regulation of concentrated animal feeding operations – Central repository. The department of environmental quality shall establish, operate, and maintain an electronically accessible central repository for all county and township zoning regulations that pertain to concentrated animal feeding operations. The county auditor of a county and a township clerk of a township having a zoning regulation that pertains to concentrated animal feeding operations shall file the regulation with the department of environmental quality for inclusion in the central repository.

CHAPTER 23.1-04
HAZARDOUS WASTE MANAGEMENT

23.1-04-07. Municipal underground storage tank ordinances. A county, city, or township may not enact and enforce an underground storage tank ordinance if the ordinance is more stringent than this chapter and the rules authorized to be adopted under this chapter.

CHAPTER 23.1-06
AIR POLLUTION CONTROL

23.1-06-15. Regulation of odors - Rules.

1 In areas located within a city or the area over which a city has exercised extraterritorial zoning as defined in section 40-47-01.1, a person may not discharge into the ambient air any objectionable odorous air contaminant that measures seven odor concentration units or higher outside the property boundary where the discharge is occurring. If an agricultural operation as defined by section 42-04-01 has been in operation for more than one year, as provided by section 42-04-02, and the person making the odor complaint was built or established after the agricultural operation was established, the measurement for compliance with the seven odor concentration units standard must be taken within one hundred feet [30.48 meters] of the subsequently established residence, church, school, business, or public building making the complaint rather than at the property boundary of the agricultural operation. The measurement may not be taken within five hundred feet [.15 kilometer] of the property boundary of the agricultural operation.

2 In areas located outside a city or outside the area over which a city has exercised extraterritorial zoning as defined in section 40-47-01.1, a person may not discharge into the ambient air any objectionable odorous air contaminant that causes odors that measure seven odor concentration units or higher as measured at any of the following locations:

a Within one hundred feet [30.48 meters] of any residence, church, school, business, or public building, or within a campground or public park. An odor measurement may not be taken at the residence of the owner or operator of the source of the odor, or at any residence, church, school, business, or public building, or within a campground or public park, that is built or established within one-half mile [.80 kilometer] of the source of the odor after the source of the odor has been built or established;

b At any point located beyond one-half mile [.80 kilometer] from the source of the odor, except for property owned by the owner or operator of the source of the odor, or over which the owner or operator of the source of the odor has purchased an odor easement; or

c If a county or township has zoned or established a setback distance for an animal feeding operation which is greater than one-half mile [.80 kilometer] under either section 11-33-02.1 or 58-03-11.1, or if the setback distance under subsection 7 is greater than one-half mile [.80 kilometer], measurements for compliance with the seven odor concentration units standard must be taken at the setback distance rather than one-half mile [.80 kilometer] from the facility under subdivision b, except for any residence, church, school, business, public building, park, or campground within the setback distance which was built or established before the animal feeding operation was established, unless the animal feeding operation has obtained an odor easement from the pre-existing facility.

3 An odor measurement may be taken only with a properly maintained scentometer, by an odor panel, or by another instrument or method approved by the department of environmental quality, and only by inspectors certified by the department who have successfully completed a department-sponsored odor certification course and demonstrated the ability to distinguish various odor samples and concentrations. If a certified inspector measures a violation of this section, the department may send a certified letter of apparent noncompliance to the person causing the apparent violation and may negotiate with the owner or operator for the establishment of an odor management plan and best management practices to address the apparent violation. The department shall give the owner or operator at least fifteen days to implement the odor management plan. If the odor problem persists, the department may proceed with an enforcement action provided at least two certified inspectors at the same time each measure a violation and then confirm the violation by a second odor measurement taken by each certified inspector, at least fifteen minutes, but no more than two hours, after the first measurement.

4 A person is exempt from this section while spreading or applying animal manure or other recycled agricultural material to land in accordance with a nutrient management plan approved by the department of environmental quality. A person is exempt from this section while spreading or applying animal manure or other recycled agricultural material to land owned or leased by that person in accordance with rules adopted by the department. An owner or operator of a lagoon or waste storage pond permitted by the department is exempt from this section in the spring from the time when the cover of the permitted lagoon or pond begins to melt until fourteen days after all the ice cover on the lagoon or pond has completely melted. Notwithstanding these exemptions, all persons shall manage their property and systems to minimize the impact of odors on their neighbors.

5 This section does not apply to chemical compounds that can be individually measured by instruments, other than a scentometer, that have been designed and proven to measure the individual chemical or chemical compound, such as hydrogen sulfide, to a reasonable degree of scientific certainty, and for which the department of environmental quality has established a specific limitation by rule.

6 For purposes of this section:

a. "Business" means a commercial building used primarily to carry on a for-profit or nonprofit business which is not residential and not used primarily to manufacture or produce raw materials, products, or agricultural commodities;

b. "Campground" means a public or private area of land used exclusively for camping and open to the public for a fee on a regular or seasonal basis;

c. "Church" means a building owned by a religious organization and used primarily for religious purposes;

d. "Park" means a park established by the federal government, the state, or a political subdivision of the state in the manner prescribed by law;

e. "Public building" means a building owned by a county, city, township, school district, park district, or other unit of local government; the state; or an agency, industry, institution, board, or department of the state; and

f. "School" means a public school or nonprofit, private school approved by the superintendent of public instruction..

7. a. In a county or township that does not regulate the nature, scope, and location of an animal feeding operation under section 11-33-02.1 or 58-03-11.1, the department shall require that any new animal feeding operation permitted under chapter 61-28 be set back from any existing residence, church, school, business, public building, park, or campground.

(1) If there are fewer than three hundred animal units, there is no minimum setback requirement.

(2) If there are at least three hundred animal units but no more than one thousand animal units, the setback for any animal operation is one-half mile [.80 kilometer].

(3) If there are at least one thousand one animal units but no more than two thousand animal units, the setback for a hog operation is three-fourths mile [1.20 kilometers], and the setback for any other animal operation is one-half mile [.80 kilometer].

(4) If there are at least two thousand one animal units but no more than five thousand animal units, the setback for a hog operation is one mile [1.60 kilometers], and the setback for any other animal operation is three-fourths mile [1.20 kilometers].

(5) If there are five thousand one or more animal units, the setback for a hog operation is one and one-half miles [2.40 kilometers], and the setback for any other animal operation is one mile [1.60 kilometers].

b The setbacks set forth in subdivision a do not apply if the owner or operator applying for the permit obtains an odor easement from the pre-existing use that is closer.

c For purposes of this section:

(1) One mature dairy cow, whether milking or dry, equals 1.33 animal units;
(2) One dairy cow, heifer or bull, other than an animal described in paragraph 1 equals 1.0 animal unit;
(3) One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
(4) One cow-calf pair equals 1.0 animal unit;
(5) One swine weighing fifty-five pounds [24.948 kilograms] or more equals 0.4 animal unit;
(6) One weaned swine weighing less than fifty-five pounds [24.948 kilograms] equals 0.1 animal unit;
(7) One horse equals 2.0 animal units;
(8) One sheep or weaned lamb equals 0.1 animal unit;
(9) One turkey equals 0.0182 animal unit;
(10) One chicken equals 0.01 animal unit;
(11) One duck or goose equals 0.2 animal unit; and
(12) Any weaned livestock not listed in paragraphs 1 through 11 equals 1.0 animal unit per each one thousand pounds [453.59 kilograms], whether single or combined animal weight.

d. In a county or township that regulates the nature, scope, or location of an animal feeding operation under section 11-33-02.1 or 58-03-11.1, an applicant for an animal feeding operation permit shall submit to the department with the permit application the zoning determination made by the county or township under subsection 9 of section 11-33-02.1 or subsection 9 of section 58-03-11.1, unless the animal feeding operation is in existence by January 1, 2019, and there is no change in animals or animal units which would result in an increase in the setbacks provided for in this section. The department may not impose additional odor setback requirements.

e. An animal feeding operation is not subject to zoning regulations adopted by a county or township after the date an application for the animal feeding operation is submitted to the department, provided construction of the animal feeding operation commences within three years from the date the application is submitted. Unless there is a change to the location of the proposed animal feeding operation, this exemption remains in effect if the department requires the applicant to submit a revised application

8 A permitted animal feeding operation may expand its permitted capacity by twenty-five percent on one occasion without triggering a higher setback distance.

9 A county or township may not regulate or impose restrictions or requirements on animal feeding operations or other agricultural operations except as permitted under sections 11-33-02.1 and 58-03-11.1.

CHAPTER 23.1-08
SOLID WASTE MANAGEMENT AND LAND PROTECTION

23.1-08-06. Local government ordinances.

Any political subdivision of the state may enact and enforce a solid waste management ordinance that is equal to or more stringent than this chapter and the rules adopted under this chapter.

23.1-08-07. Littering and open burning prohibited – Penalty.

1. A person may not discard and abandon litter, furniture, or major appliances upon public property or upon private property not owned by that person, unless the property is designated for the disposal of litter, furniture, or major appliances and that person is authorized to use the property for that purpose.
2. A person may not engage in the open burning of solid waste, unless the burning is conducted in accordance with rules adopted by the department.
3. A person violating this section is guilty of an infraction for which a minimum fine of two hundred dollars must be imposed, except if the litter discarded and abandoned amounted to more than one cubic foot [0.0283 cubic meter] in volume or if the litter consisted of furniture or a major appliance, the offense is a class B misdemeanor and the person is subject to the civil penalty provided in section 23.1-08-23.

23.1-08-23. Penalties.

1. Any person that violates this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is subject to a civil penalty not to exceed twelve thousand five hundred dollars per day per violation, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.

2. Any person that willfully violates any provision of this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is guilty of a class C felony, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.

Title 24
Highways, Bridges, and Ferries

CHAPTER 24-01
STATE HIGHWAY SYSTEM

24-01-10. Local jurisdictions may provide additional capacity to state highway. The governing board of any county, municipality, or township, as the case may be, may enter into a written agreement with the director for the construction of a roadway or structure of greater width or capacity than would be necessary to accommodate the normal state highway traffic, upon any state highway within its boundaries, and may appropriate from any funds available, and pay into the state highway fund, such sum or sums of money as may be agreed upon. Nothing herein contained prevents any such municipality from constructing the portions of the street not included in the state highway system independent of any contract with the department, if such construction conforms to such reasonable regulations as the department may prescribe as to grade and drainage.

24-01-12. Regulation of advertising signs on highways. No person, firm, corporation, or limited liability company may place, put, or maintain any sign, billboard, or advertisement within the limits of a public highway, or in any manner paint, print, place, put, or affix, or cause to be painted, printed, placed, or affixed, any advertisement on or to any stone, tree, fence, stump, pole, mileboard, milestone, danger sign, danger signal, guide sign, guidepost, billboard, building, or other object within the limits of a public highway, or place, put or maintain any sign or billboard upon private property within one thousand feet [304.8 meters] of any highway grade crossing in such place or manner as to obstruct or interfere with a free and clear view of such crossing from any highway or railroad intersecting thereat. None of the provisions of this section prohibit the placing of public notices on billboards erected for that purpose by authority of the governing body of a municipality. Any advertisement in or upon a public highway or private property which, in the judgment of the director, may be deemed to be a hazard to traffic, or in the future may tend to create a hazard to traffic, may be taken down, removed, or destroyed by direction or authority of the department in the case of the state highway system, by the board of county commissioners in the case of the county road system, and by the board of township supervisors in the case of township roads.

24-01-12.1. Harvesting hay on state highway system - Storage and removal. Every person harvesting hay on the rights of way of the state highway system, who stores the harvested hay on the rights of way for later removal, shall store the harvested hay at the outer edge of the rights of way. The director may remove any hay that is not stored as prescribed in this section. All hay stored on the rights of way must be removed by November first of each year.

24-01-12.2. Hay disposal. Any stored hay remaining on the right of way on November first of each year must be disposed of in a manner deemed proper by the director.

24-01-12.3. Entry into no-mow agreements. No state agency or political subdivision of the state may enter into any agreement to increase the no-mow acres contained in the rights of way of the state highway system.

CHAPTER 24-02
DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION

24-02-03.2. Director may protect roads from damage and negotiate settlement for damages. Whenever federally financed construction or maintenance activities are likely to affect any public road within this state, the director is hereby authorized to take such action as may be necessary to protect such public road from any damages that may be caused, and to negotiate with any contractor or any officer or agency of the federal government for the repair of damage or extraordinary maintenance that may be required on such public road. If the public road affected is under the jurisdiction of any county, city, or township, the director shall obtain the concurrence of the appropriate governing board of such county, city, or township before any agreement is entered into or any other action is taken with respect to such public road.

24-02-35.1. Casual sale of road materials to local governmental units. The department may sell road materials in small quantities on an occasional basis to local governmental units, when the local governmental units are unable to economically procure those quantities of road materials from the private sector.

CHAPTER 24-03
CONSTRUCTION AND MAINTENANCE OF STATE HIGHWAY SYSTEM

24-03-06. Method of construction of highway ditches. All highways constructed or reconstructed by the department, board of county commissioners, board of township supervisors, their contractors, subcontractors, or agents, or by any individual firm, corporation, or limited liability company must be so designed as to permit the waters running into the ditches to drain into coulees, rivers, and lakes according to the surface and terrain where the highway or highways are constructed in accordance with the stream crossing standards prepared by the department and the department of water resources so as to avoid the waters flowing into and accumulating in the ditches to overflow adjacent and adjoining lands. In the construction of highways the natural flow and drainage of surface waters to the extent required to meet the stream crossing standards prepared by the department and the department of water resources may not be obstructed, but the water must be permitted to follow the natural course according to the surface and terrain of the particular terrain. The department, county, township, their contractors, subcontractors, or agents, or any individual firm, corporation, or limited liability company is not liable for any damage caused to any structure or property by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the department of water resources.

24-03-08. Determinations of surface water flow and appropriate highway construction. Whenever and wherever a highway under the supervision, control, and jurisdiction of the department or under the supervision, control, and jurisdiction of the board of county commissioners of any county or the board of township supervisors has been or will be constructed over a watercourse or draw into which flow surface waters from farmlands, the department of water resources, upon petition of the majority of landowners of the area affected or at the request of the board of county commissioners, township supervisors, or a water resource board, shall determine as nearly as practicable the design discharge that the crossing is required to carry to meet the stream crossing standards prepared by the department and the department of water resources. When the determination has been made by the department of water resources, the department of transportation, the board of county commissioners, or the board of township supervisors, as the case may be, upon notification of the determination, shall install a culvert or bridge of sufficient capacity to permit the water to flow freely and unimpeded through the culvert or under the bridge. The department, county, and township are not liable for any damage to any structure or property caused by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the department of water resources.

24-03-09. Warning signs of road construction. Whenever the department or any county or township enters into a contract for the construction and improvement of any road or culvert, or bridge thereon, it, as a condition of such contract, shall provide therein that the contractor shall place warning signs and devices which are in conformity with chapter 39-13. When a highway is so marked, the traveler shall proceed only with great care and diligence, but nothing contained in this section makes any township, county, or the state liable for the failure of any contractor to erect such warning signs.

24-03-10. Public officers - Warning sign placement duty. Whenever a township, county, or the department shall construct, improve, or repair any road, culvert, or bridge, or shall gravel any road, and such work renders travel on such road, culvert, or bridge unsafe or dangerous, the board of supervisors of any such township, the board of county commissioners of any such county, or the director or any foreman or other person in charge of such work, shall place such warning signs as provided in section 24-03-09.

24-03-11. Penalty for failure to erect warning signs. Any person in charge of any work or repairs on any public road, culvert, or bridge who fails or neglects to erect and maintain suitable warning signs as provided in sections 24-03-09 and 24-03-10 is guilty of a class B misdemeanor.

CHAPTER 24-05
COUNTY ROADS

24-05-04. Contracts to be advertised – Road construction - Requirements for rental contracts.

1. If a contract for a highway improvement exceeds one hundred thousand dollars, the board of county commissioners shall seek bids by publishing an advertisement at least once each week for two consecutive weeks in the official newspaper of the county and in other newspapers as the board deems advisable. The first publication must be made at least fifteen days before the day set for the opening of the bids. For any contract for a highway improvement that exceeds fifty thousand dollars but does not exceed one hundred thousand dollars, the county, when possible, shall seek quotes from at least two contractors.
2. Except as provided in section 54-44.4-13. a purchase of county road machinery and any rental contract or agreement for the use of road machinery and other articles, except necessary repairs for road machinery, which exceeds the sum of one hundred thousand dollars must be advertised by publishing an advertisement for bids at least once each week for two consecutive weeks in the official newspaper of the county and in any other newspapers as the board deems advisable. The first publication must be made at least fifteen days before the

day set for the opening of the bids. The board of county commissioners may not enter a rental contract or agreement for the use of road machinery and other articles for a longer period than twelve months from the date of the rental contract or agree to pay rental for the use of road machinery and other articles which would result in the lessor receiving rental at a rate in excess of twenty percent per year of the cash sale price of the road machinery or other articles. The cash sale price of the road machinery and other articles must be clearly set forth in any rental contract for road machinery and other articles and failure to include this data in any rental contract for the use of road machinery and other articles renders the rental contract void. A payment made under a void rental contract is recoverable from the county commissioners making the contract, jointly and severally.

3. Notwithstanding the provisions of this section relating to the duration of rental contracts, the board of county commissioners may enter lease-purchase agreements for the road machinery and articles covered by this section if those agreements provide for the complete performance and full payment of the purchase price of the machinery or articles within seven years from the date of the execution of the lease-purchase agreement according to section 44-08-01.1.
4. Notwithstanding the provisions of this section relating to bidding of road machinery, the board of county commissioners or its designee may purchase used road machinery at public auction or as surplus property from the office of management and budget.
5. Bids received under this section must be opened and awarded under the procedure provided in section 48-01.2-07.

24-05-04.1. County not to lease its equipment for less than cost of operation. No county, city, or township may lease, rent, or enter into a contract or agreement for the use of any road construction or maintenance equipment belonging to any county, city, or township on other than county, city, or township roads or projects at a rate which is less than the current equipment rental rates adopted by the North Dakota department of transportation as shown in its Standard Specifications for Road and Bridge Construction manual.

24-05-20. County and township road grades and ditches to be back sloped – Planting of grass - Plant pest control. All county and township roads shall be constructed with back sloped grades and ditches. Such grades and ditches shall be sloped to a sufficient degree to permit farm implements used for cutting and gathering hay to operate thereon, and such grades and ditches shall be cleared of all stones or other obstructions that would hinder the operation of such implements. Upon completion of such newly constructed or reconstructed roads, the governing body having authority over such roads shall plant grass upon the back slopes of the grades and ditches. The grass or hay growing upon or within the right of way of such roads may be cut for hay by any owner or tenant of lands adjoining the right of way.

1. The governing body of a township or a county may control, or cause to be controlled, grasshoppers and other plant pests which are infesting vegetation in the road rights of way under their authority. Only pesticides that are labeled for use on forage crops may be used so that the forage may be cut and used for hay. At least three days prior to treatment, the governing body of the township or county shall provide written notice to all of the landowners or tenants, or both, of all land adjacent to the rights of way to be treated. The notice must include the approximate date of treatment, the name of the pesticide that will be used, and any restrictions on the harvest and use of the treated forage. If a landowner or occupant of land adjacent to the road right of way to be treated gives notice opposing the treatment to the governing body of the township or county prior to the treatment date that section of the right of way must be excluded from treatment. The landowner or tenant of the land is responsible for clearly marking or flagging the section of the right of way to be excluded from treatment.
2. The governing body of a county may enter into agreements with the department of transportation for the purpose of controlling grasshoppers and other plant pests in state highway system rights of way. The governing body of a township may enter into agreements with the governing body of a county for controlling grasshoppers and other plant pests in rights of way of the county road system. The governing body of a county may use the county emergency fund, as provided for in section 57-15-28, to pay for the cost of control in rights of way of the county road system. The county emergency fund may also be used to cost share with townships for control expenses in township rights of way. The electors of an organized township may appropriate funds as provided for in section 57-15-19 for controlling grasshoppers and other plant pests in rights of way controlled by the township.

24-05-21. Roads and approaches intersecting with county or township roads -Requirement. All roads and approaches constructed after July 1, 1973, which intersect with county or township roads, must have a graded inslope at the place of intersection of at least a three-to-one ratio, thus permitting vehicles which may accidentally leave any county or township road and strike the inslope a reasonably safe access over the road or approach.

24-05-22. Graded inslope requirement - Exceptions. The requirement of section 24-05-21 as to a graded inslope of all roads and approaches does not apply:

1. Where the governing body having authority over such roads and approaches exempts such roads and approaches from the requirement of section 24-05-21 due to factors causing an unduly prohibitive cost of compliance.
2. To roads and approaches of the state highway system which intersect county or township roads.
3. To roads and approaches which intersect county roads constructed in compliance with requirements of the federal-aid system.

24-05-23. Encroachment upon county roads, ditches, approaches - Liability for damages. A landowner who encroaches upon a county road or its ditches or approaches must be given notice by the board of commissioners for that county that the encroachment has been discovered. If the landowner fails to remedy the encroachment within twenty days after receiving the notice, that landowner is liable to the county for damages resulting from the encroachment. The board of commissioners for that county shall issue to the landowner written notice of the amount of damages determined to be a result of the encroachment. If the landowner fails to pay the county for the damages, the expense of the repair must be charged to the land of the landowner. The expenses charged become a part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes are collected and placed to the credit of the county that incurred the expense of the repair.

24-05-24. County and township road rights of way - Removal of obstructions. The governing body having authority over the right of way of a county or township road may develop and implement rules governing the disposal of any stored hay or other obstruction placed on the right of way.

CHAPTER 24-06
LOCAL ROAD IMPROVEMENTS

24-06-01. Board of township supervisors has supervision over township roads. The board of township supervisors of any township in the state has general supervision over the roads, highways, and bridges throughout the township.

24-06-02. Township may purchase road machinery - Credit terms. The board of supervisors of any township may contract for and purchase, upon credit or otherwise, any road machinery, implements, or equipment for the use of such township.

24-06-04. Cost of township road machinery - How paid. Road implements purchased by a township must be paid out of the highway taxes of the township and may be paid in not to exceed five annual installments. A copy of the note or contract issued upon the purchase must be filed in the office of the township clerk, and such township clerk shall present a statement of the sum due thereon to the board of township supervisors at each regular meeting held thereafter for the audit of the township claims and charges, and the board shall audit the same. Not more than one-half of the highway taxes of the township may be applied to the payment thereof in any one year.

24-06-05. Overseer responsible for machinery. Each overseer of highways is responsible personally for the proper use and care of all implements while in the overseer's charge, or in use in the overseer's district, and any overseer of highways, or other person who, through negligence or willfully injures or damages such implements or permits them to be injured, is liable for such damage to the township, in an action to be brought by the chairman of the board of township supervisors in the township or any adjoining township.

24-06-06. Storage of implements. Each board of township supervisors shall provide suitable places for the storage and proper housing of all tools, implements, and machinery owned by the township and shall cause such tools, implements, and machinery to be stored and housed therein when not in use.

24-06-07. Road machinery - Sale, purchase, lease. In townships owning road machinery, the board of township supervisors may make such disposition of the same as in its discretion is best for the interests of the township, or it may purchase or lease such machinery as may be necessary.

24-06-09. Contract for township road and bridge work by county, township, or soil conservation district. The board of supervisors of any township may enter into a contract with the board of county commissioners of the county, the board of supervisors of another township, or the directors of a soil conservation district for the construction, improvement, or repairing of township roads and bridges without the necessity of advertising for bids.

24-06-10. Roads contiguous to municipality - Grades - How established. In all places where highways are improved and graded under the contract system in a township where land contiguous to, adjoining, and outside of the limits of any city has been surveyed into a block or blocks and divided into city lots, the person to whom such contract is awarded shall comply strictly with the ordinances of such city as to roads, streets, grades, space for sidewalks, berms, and gutters, if, in the opinion of the board of township supervisors having control of the same, the

cost of such grading is one hundred dollars or upwards. An estimate, profile, and cross section of such desired improvement must be made by the county surveyor of said county, and the contract for such improvement must be let to the lowest responsible bidder not a member of the said board and the work done under such contract may not be accepted or paid for until said surveyor has reported that the said contract has been complied with substantially. All roads and streets in city additions of outlots must be graded according to the requirements of such city ordinance or custom as to space for sidewalks, berms, and gutters.

24-06-11. Construction of crossings over ditches, drains, and roads. Whenever a township constructs a ditch or drain in connection with road building, and such ditch, drain, or road interferes with the ingress or egress of any owner of adjoining land, the township shall install crossings at such point or points as will afford the owner or owners of the premises suitable ingress thereto or egress therefrom.

24-06-12. Townships may unite efforts. The electors of any township, at the annual township meeting, may direct such portion of the road tax to be expended on the highways in an adjoining township as they deem conducive to the interests of the township. In such instance, labor and taxes must be expended under the joint direction of the townships interested and furnishing the same.

24-06-13. Townships composed of more than one congressional township -Expenditure of road taxes. Where more than one congressional township is included within a civil township, the road taxes raised within the limits of each congressional township must be expended within such congressional township, unless raised to be expended outside of such civil township.

24-06-14. District overseer of highways. In unorganized territory, the board of county commissioners shall appoint a district overseer of highways whose power and duties are the same as in an organized township, and whose compensation must be fixed by the board of county commissioners to be paid on presentation of a verified bill at the regular meeting of the board of county commissioners. The board may, by resolution, appoint one or more of its members as district overseers.

24-06-15. Road taxes in unorganized territory - How expended. The board of county commissioners shall order the expenditure of all road taxes paid into the county treasury from unorganized territory in the improvement of the highways, paying the district overseer of highways, purchasing implements, and repairing bridges in the road district in which such taxes were levied, under such regulations as it may deem most expedient for the public interests, and for this purpose shall order the payment of such sum by the treasurer to the persons performing such labor upon the certificate of the overseer of highways.

24-06-16. Report of district overseer of highways. On or before the first Monday in January in each year, each district overseer of highways appointed by the board of county commissioners shall make a report to the board of the overseer's doings as such during the preceding year, the amount of labor performed, and the number of days' labor necessarily performed by the overseer in the discharge of the overseer's duties, and the board of county commissioners thereupon shall cause a warrant to be drawn on the county treasurer in favor of such overseer for such services.

24-06-17. Road taxes must be paid in cash. All road taxes and assessments upon persons or property must be paid in cash, and the township clerk, immediately after the board of township supervisors has made the levy of taxes for road purposes, shall notify the county auditor of the amount of the levy. The county auditor shall enter the same upon the county tax lists to be collected by the county treasurer in the same manner as other township taxes are collected. Such taxes, when collected, constitute a road fund belonging to the township in which it is levied, and must be returned by the county treasurer to the township treasurer.

24-06-19. Expenditure of road taxes. The board of township supervisors shall order the expenditure of all road taxes paid into the township treasury in the improvement of the highways under such regulations as it may deem most expedient for the public interests, and for this purpose, shall issue a warrant upon the road funds of the township upon the certificate of the township overseer that such work has been performed satisfactorily; provided, however, that not over fifty percent of the township road and bridge fund, collected within each tax year may be expended upon highways which are a part of a state or county highway system as designated under the provisions of section 24-01-02, 24-01-05, or 24-05-16, unless such expenditure is specifically authorized by resolution adopted by a majority of the electors of the township present and voting at any special or annual township meeting. This limitation also applies to any special road fund as set up under section 57-15-19.2.

24-06-20. Work on roads to proceed upon levy of taxes. The officers charged with the duty of expending road taxes may proceed at once, upon the levy of taxes, with the work upon the roads in their districts and may cause warrants to be issued in payment thereof in anticipation of the current year's taxes.

24-06-26. Ditches to drain highways - Proceedings to establish. Whenever any overseer of highways files with the board of township supervisors or with the board of county commissioners, as the case may be, the overseer's affidavit stating that a certain road in the overseer's district runs into or through swamp, bog, meadow, or other lowland, and that it is necessary or expedient that a ditch should be constructed and maintained through land belonging to any person, and also stating the probable length of such ditch and the width and depth of the same as near as may be, the point at which it is to commence, its general course and the point at or near which it is to terminate, the names of the persons owning the land, if known, and a description of the land over which such ditch must pass, the board of township supervisors or board of county commissioners, as the case may be, if the right to construct and maintain such ditch is not given voluntarily by the person owning the land over which it is to pass, shall cause proceedings to be instituted in its name under the provisions of chapter 32-15 to acquire the right to construct and maintain the same.

24-06-26.1. Township road and drainage construction standards. When the construction or reconstruction of a township road or bridge, the insertion of a culvert in a township road, or the construction or reconstruction of a ditch or drain in connection with a township road affects the flow of surface waters and increases the surface waterflow through ditches, drains, bridges, and culverts in other townships, the board of township supervisors or the township overseer of highways of the township undertaking the construction or reconstruction shall give notice to the boards of township supervisors or township overseers of highways in all townships affected by the construction or reconstruction projects. The boards of township supervisors of townships affected by any road or bridge construction that changes or increases the flow of surface waters shall cooperate in the construction projects expending on any portion of the projects the portions of the road and bridge tax as deemed conducive to the interests of the township. The board of township supervisors shall construct the ditches, drains, bridges, and culverts in accordance with stream crossing standards prepared by the department and the department of water resources. A township, board of township supervisors, and township overseer of highways are not liable for any damage caused to any structure or property by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the department of water resources.

24-06-26.2. Maintenance of township road ditches - Limited duty. The party with an interest in land adjacent to a township road is not responsible for maintaining that ditch unless improper conservation practices on that party's adjoining land have led to unreasonable wind and water erosion, not commonly experienced in the locality, which resulted in conditions adversely affecting the ditch. On the occurrence of such improper conservation practices, the board of township supervisors may require the adjoining party with an interest in the land to clean the ditch at that party's expense. If that party fails to clean the ditch, the procedures applicable to the duty to cut weeds under chapter 63-05 apply with respect to the cleaning of the ditch.

24-06-26.3. Maintenance of township road ditches by private party - Power of board of township supervisors - Approval - Standards of construction. The board of township supervisors may authorize any private party to maintain, clean, or shape a ditch along a township road at that party's own expense and in accordance with this section. In maintaining, cleaning, or shaping a ditch, the private party may not spread any soil or debris from that ditch along adjoining land without the permission of all parties with an interest in that land. The ditch may be on a continuous grade from the bottom of the upstream water outlet to the bottom of the downstream water outlet structure. The grade ratio in that distance must be a slope that, in light of the soil types and potential for vegetative cover in the ditch, will resist erosion. In order for any action to be considered maintenance of a ditch in accordance with this section, the ditch must be entirely contained within the township right of way, must have a bottom that is not wider than twelve feet [3.66 meters], and may not alter the side slope of the ditch to a slope steeper than the existing side slope. The board of township supervisors may not approve private maintenance of a ditch that does not comply with the standards of this section. If the board of township supervisors denies permission to maintain a ditch under this section, the petitioner may appeal that decision to the water resource board that has jurisdiction over the ditch. This section does not relieve any person from compliance with any requirements for a drainage permit which are required by statute or rule.

24-06-27. Penalty for injuring ditch. Any person who obstructs or in any way injures any ditch opened as provided in section 24-06-26 is liable to pay to the overseer of highways of such road district double the damages caused by such injury, which must be assessed by the jury or court, and also is guilty of a class B misdemeanor, and the civil damages, when collected by the overseer, must be deposited in the road fund established by section 24-06-17, and must be expended in accordance with section 24-06-19.

24-06-28. Obstruction of section lines prohibited - Exception - Certain fences not considered obstructions - Obstructions and traffic safety hazards - Penalty.

1. A person may not place or cause to be placed any permanent obstruction within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first

secured from the board of county commissioners or the board of township supervisors, as appropriate. The permission must be granted where the section line has been closed pursuant to section 24-07-03 or where the topography of the land along the section line is such that in the opinion of the board of county commissioners or board of township supervisors, as the case may be, the construction of a road on the section line is impracticable.

2. A person may not place or cause to be placed any obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or board of township supervisors, as appropriate.
3. Subsection 1 may not be construed to prohibit construction of fences:
   a. Along or across section lines which have been closed pursuant to section 24-07-03 or which have not been opened because construction of a road is impracticable due to the topography of the land along the section line, but such fences are subject to removal as provided in section 24-06-30.
   b. Across section lines which have not been closed pursuant to section 24-07-03 if cattle guards are provided in accordance with chapter 24-10 where fences cross the section lines.
4. The construction of fences pursuant to subsection 3 may not be considered an obstruction of section lines and any person who damages any fence or who opens and fails to close any gate constructed under subsection 3 is guilty of an infraction.
5. Subsection 2 does not apply to a railroad company performing maintenance and repair work of railroad track, crossings, or other railroad facilities.

24-06-29. Removal of permanent obstructions - Removal of obstructions and traffic safety hazards - Cost.

1. If a person places or causes to be placed a permanent obstruction within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, the board of county commissioners or board of township supervisors, as appropriate, when a public highway is opened, shall notify the owners of adjacent property to remove the permanent obstruction. Written notice by registered mail to the record owner of the adjacent property mailed to the owner's last-known address and to any other persons in possession of the property constitutes valid notice. If the owners fail to remove the permanent obstruction within thirty days after the notice is mailed, the board of county commissioners or the board of township supervisors, as appropriate, shall remove the permanent obstruction. The cost of removal must be entered the same as taxes against the adjacent property and paid in the same manner as taxes.
2. If a person places or causes to be placed an obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway road surface, the board of county commissioners or board of township supervisors, as appropriate, shall issue a written order to the person who caused the obstruction or traffic safety hazard to be placed there to remove the obstruction or traffic safety hazard. If the person notified fails to remove the obstruction or traffic safety hazard as soon as practical after the notice is received, the board of county commissioners or board of township supervisors, as appropriate, shall remove the obstruction or traffic safety hazard. The person responsible for placement of the obstruction or traffic safety hazard is responsible and may be billed for any costs incurred by the county or township for removal of the obstruction or traffic safety hazard.
3. Subsection 2 does not apply to railroad facilities.

24-06-30. Removal of fences - Notice - Cost. When a public highway is opened along any section line, the board of county commissioners or the board of township supervisors, as the case may be, shall notify the owner of adjacent property to remove any fences not constructed pursuant to subsection 2 of section 24-06-28 within thirty-three feet [10.06 meters] of the section line in the manner provided for notice to remove stones, trees, or rubbish. If the owner of adjacent property fails to remove the fences within thirty days after the notice is given, the board of county commissioners or the board of township supervisors, as the case may be, shall remove the fences. The cost of removal must be entered the same as taxes against the adjacent property and paid in the same manner as taxes.

24-06-31. Obstructions in highway. Each overseer of highways having personal knowledge, or on being notified in writing, of any obstruction in the highway or public street in the overseer's district immediately shall remove or cause any such obstruction to be removed. The overseer's district may seek recovery of costs incurred for the removal of any obstruction from the individual who is responsible for causing or placing any obstruction in the highway or public street. If the individual responsible is an adjacent landowner, the removal cost may become a part of the taxes to be levied against the landowner for the ensuing year to be collected in the same manner as other real estate taxes are collected.

24-06-34. Notice to water resource districts. Whenever a county or township plans to construct or reconstruct a bridge, install or modify a culvert, or construct or reconstruct a drain in connection with a roadway or railway, the

county or township shall provide notice in any way to the water resource board of the water resource district in which is located the bridge, culvert, or drain. This notice must be given at least thirty days prior to the date construction or reconstruction is to begin. The water resource board may submit comments concerning the construction or reconstruction to the appropriate officials of the county or township. This section does not apply in times of emergency, unexpected events, or acts of God.

CHAPTER 24-07
OPENING AND VACATING HIGHWAYS

24-07-01. Public roads by prescription. All public roads and highways within this state which have been or which shall be open and in use as such, during twenty successive years, hereby are declared to be public roads or highways and confirmed and established as such whether the same have been laid out, established, and opened lawfully or not.

24-07-02. Established roads are public highways. Every road laid out by the proper authorities, as provided for in this chapter, from the laying out of which no appeal has been taken within the time limited for taking such appeal, hereby is declared a public highway to all intents and purposes, and all persons having refused or neglected to take an appeal, as provided for in this chapter, are debarred forever from any further redress.

24-07-03. Section lines considered public roads open for public travel - Closing same under certain conditions. In all townships in this state, outside the limits of incorporated cities, and outside platted townsites, additions, or subdivisions recorded pursuant to sections 40-50.1-01 through 40-50.1-17 or recorded prior to July 1, 1987, under former chapter 40-50, the congressional section lines are considered public roads open for public travel to the width of thirty-three feet [10.06 meters] on each side of the section lines. The board of county commissioners, if petitioned by a person having an interest in the adjoining land or a portion thereof, after public hearing and a finding by the commissioners of public benefit, may close section lines or portions thereof which are not used for ten years, are not traveled due to natural obstacles or difficulty of terrain, are not required due to readily accessible alternate routes of travel, or are intersected by interstate highways causing the section line to be a deadend, providing the closing of the dead-end section line does not deprive adjacent landowners access to the landowners' property. After the section lines are closed, they may be used to the benefit of the adjacent landowners. However, survey or property reference monuments may not be disturbed, removed, or destroyed. If drainage is interfered with due to the farming operations, alternate means of drainage must be provided for by the landowners or tenants farming the lands.

24-07-03.1. Improvement of section line by landowner. A person having a surface interest in a parcel of land connected by a section line to another parcel of land in which that person has a surface interest or to a highway may petition the board of county commissioners in an unorganized township or the board of township supervisors in an organized township to authorize the petitioner to improve the section line or a portion of the section line for the purpose of travel for agricultural purposes. The petition may be approved if the section line cannot be traveled due to natural obstacles or difficulty of terrain and if the petitioner does not have a readily accessible alternative route of travel to the parcel of land. The petitioner must improve the section line or a portion of the section line at the petitioner's expense.

24-07-04. Jurisdiction of proceedings to open or vacate highway. Except as otherwise provided in this title, all proceedings for the opening, vacating, or changing of a highway outside of the limits of an incorporated city, including the acquisition of right of way when necessary, must be under the charge and in the name of:

1. The board of county commissioners, if the road is in territory not organized into a civil township.
2. The board of township supervisors of an organized township.
3. The board of county commissioners of each county in case the road is between or in two or more counties.
4. The board of township supervisors of each organized civil township in which any part of the road is situated if the road is situated between two civil townships or in more than one civil township.
5. The board of township supervisors of each organized township and of the board of county commissioners in case the road is situated partly in an organized township and partly in an unorganized township.
6. The board of county commissioners in any case arising under subsection 4 when the boards of township supervisors of the respective civil townships cannot agree or will not take action on petition so to do.

24-07-05. Petition for laying out, altering, or discontinuing roads. The board having jurisdiction as provided in this chapter may alter or discontinue any road or lay out any new road upon the petition of not less than six qualified electors who have an ownership interest in real estate in the vicinity of the road to be altered, discontinued, or laid out. Said petition must set forth in writing a description of the road and what part thereof is to be altered or

discontinued, and if for a new road, the names of the owners of the land, if known, over which the road is to pass, the point at which it is to commence, its general course, and the point where it is to terminate.

24-07-06. Public road may be established to give access to highway. Whenever any tract of land is surveyed or sold in tracts less than the original subdivision as established by the government survey thereof, so that any part thereof does not touch upon a public road so as to allow the owner of such tract access to a public highway, the board of county commissioners or board of township supervisors, upon petition of such owner, may open a public road to gain access to any such tract or tracts when in the judgment of such board such public road is necessary and that it is of sufficient benefit to the county or township as a whole, but no such public road may exceed two rods [10.06 meters] in width unless in the judgment of such board a roadway of such width is not sufficient to accommodate the travel thereon.

24-07-07. Survey of proposed road - Deviation from petition. Whenever a petition is received by the board having jurisdiction, requiring a new road to be laid out, said board, when in its judgment circumstances warrant the same, shall employ a competent surveyor to survey and lay out said road, and such survey must include a line of levels to be run over the laid out road and a grade line to be established thereon, such grade line not to be greater than ten percent when completed. In laying out said road the board may deviate or depart, or may direct a deviation or departure, from the road described in the petition when it is practicable and less expensive to do so in order to obtain a grade line not exceeding ten percent. Such surveyor shall prepare a plan and profile of the surveyor's survey and shall file a copy of the same with the township clerk or the county auditor, as the case may be, and the board having jurisdiction shall require that such road, when completed, must conform to the plan and profile of the surveyor as filed with the township clerk or county auditor.

24-07-08. State land subject to chapter. The provisions of this chapter apply to all lands owned by the state or any institution thereof, or held by virtue of any contract with the state, and notice of the altering, laying out, or discontinuing of any cartway or highway pursuant to this chapter must be served by registered or certified mail upon the board of university and school lands or other state agency having the control of the land affected, not less than thirty days prior to the taking of action by such board in regard to altering, laying out, or discontinuing such cartway or highway.

24-07-09. Copy of petition to be posted. The petitioners for the alteration or discontinuance of any road, or for laying out any new road, shall cause copies of their petition to be posted in three of the most public places in the county or township having jurisdiction thereof, twenty days before any action is had in relation thereto.

24-07-10. Notice to all parties to be given - What deemed to be notices. Within thirty days after the board having jurisdiction receives a petition in compliance with provisions of this chapter for laying out, altering, or discontinuing any highway, it shall make out a notice and fix therein a time and place at which it will meet and decide upon such application, and the applicant, ten days previous to the time so fixed, shall cause such notice to be given to all occupants of the land through which such highway may pass. Such notice must be served personally or by copy left at the abode of such occupant. The board also shall cause copies of such notice to be posted in three public places in said county or township at least ten days previous to such meeting. Every such notice must specify, as nearly as practicable, the highway proposed to be laid out, altered, or discontinued, and the tract of land through which the same may pass.

24-07-11. When notice dispensed with. When at least seventy percent of the qualified electors who are owners or part owners of land bordering on any existing or proposed road or highway have signed the original petition and thereby released all their claims to damages arising from altering, discontinuing, or laying out such road or highway, it is not necessary to post copies of the petition as provided for in section 24-07-09, nor to post notices or serve notices as provided for in section 24-07-10, except that the notices must be served personally or left at the abode of such occupants as may have failed to sign the petition and whose land borders on the road or highway proposed to be opened, altered, or discontinued. The general knowledge, and the fact, that seventy percent of the qualified electors have signed the original petition in compliance with this provision must be deemed sufficient notice to all concerned and for all intents and purposes.

24-07-12. Petition must be filed with county auditor. If the petition is for the opening, altering, or discontinuing of a road or highway between two or more counties, it must be filed with the auditor of one of the counties affected at least fifteen days before any action is taken, and the auditor immediately shall transmit certified copies of such petition to the auditors of all other counties to be affected by such changing, discontinuing, or laying out of roads or highways. Each county auditor shall lay such petition before the board of county commissioners of the auditor's county at its next meeting for action in the matter as provided in this chapter.

24-07-13. Examination of proposed highway. The board having jurisdiction, upon being satisfied that copies of the petition have been posted and notices have been served and posted as required, or that at least seventy

percent of the qualified electors who are owners of lands affected have signed the original petition and that notices have been served personally or left at the abode of those who may have failed to sign the original petition, proof of which shall be shown by affidavit, shall proceed to examine the proposed highway and shall hear any reasons for or against the laying out, altering, or discontinuing of the same, and shall decide upon the application as it deems proper.

24-07-14. Proceedings when road is laid out, altered, or discontinued. Whenever the board of county commissioners or the board of township supervisors shall lay out, alter, or discontinue any highway, it shall cause a survey thereof to be made when necessary, and it shall make out an accurate description of the highway so altered, discontinued, or laid out, and shall incorporate the same in an order to be signed by the members of such board, and shall cause such order, together with all the petitions and affidavits of service and posting of notices to be filed in the office of the county auditor, if by the board of county commissioners, and in the office of the township clerk, if by the board of township supervisors. The auditor or clerk shall note the time of filing the same. On the refusal of either board to lay out, alter, or discontinue a road, it shall note the fact on the back of the petition and file the same as aforesaid. All orders, petitions, and affidavits, together with the award of damages, must be made out and filed within five days after the date of the order for laying out, altering, or discontinuing a highway. But the county auditor or township clerk may not record such order within thirty days, nor until a final decision is had, and not then unless such order is confirmed. When the order, together with the award, has been recorded by the county auditor or township clerk, as the case may require, the same must be filed in the office of the county auditor. In case the board having jurisdiction fails to file such order within twenty days, it must be deemed to have decided against such application.

24-07-15. Order or certified copy - Competent evidence. The order laying out, altering, or discontinuing any highway, or a copy of the record duly certified by the county auditor or township clerk, as each case may require, must be received in all courts as competent evidence of the facts therein contained and must be prima facie evidence of the regularity of the proceedings prior to the making of such order, except in cases of appeal, when such appeal has been taken within the time limited in this chapter.

24-07-16. Damages - How ascertained. The damages sustained by reason of laying out, altering, or discontinuing any road may be ascertained by the agreement of the owners and the board of county commissioners or the board of township supervisors, as the case may be, and unless such agreement is made, or the owners in writing shall release all claim to damages, the same must be assessed in the manner herein prescribed before the road is opened, worked, or used. Every agreement and release must be filed in the township clerk's office, when with a township, and in the county auditor's office, when with a county, and precludes such owners of land forever from all further claim for damages. In case the board and the owners of land claiming damages cannot agree, or if the owner of any land through which any highway shall be laid out, altered, or discontinued, is unknown, the board in its award of damages shall specify the amount of damages awarded to each such owner, giving a brief description of such parcel of land in the award. The board having jurisdiction shall assess the damages at what it deems just and right to each individual claimant with whom it cannot agree. The board of township supervisors shall deposit a statement of the amount of damages assessed with the township clerk, and the board of county commissioners shall deposit the same with the county auditor. The auditor or clerk shall note the time of filing the same. The board in assessing damages shall estimate the advantages and benefits the new road or alteration of an old one will confer on the claimant for the same as well as the disadvantages. Any person living on land belonging to the United States who has made that person's declaratory statement for the same in the proper land office, for all the purposes of this chapter, must be considered the owner of such lands.

24-07-17. When damages not allowed. Except as otherwise provided in this chapter, no damages may be assessed or allowed to any person, corporation, or limited liability company by reason of the laying out of any new road or the altering of any old one, if the title of the land on which such road passes was vested in the state or the United States at the time of the location of such road.

24-07-18. Determination final for one year. The determination of a board of county commissioners, or a board of township supervisors in refusing to lay out, alter, or discontinue any highway, is final, unless such determination is appealed from as is provided in this chapter, for the term of one year after the filing of such order or determination in the county auditor's or township clerk's office, as the case may be, and no application for laying out, altering, or discontinuing any such highway again may be acted upon by such board within said period of one year, and in case the determination of any such board in laying out, altering, or discontinuing any highway is appealed from, as provided in this chapter, and such determination is reversed on appeal, the said board may not, within one year after the making of the determination so reversed on appeal, act again upon an application to lay out, alter, or discontinue any such highway.

24-07-19. Notice to party to remove fences. Whenever any public road has been laid out through any enclosed, cultivated, or improved lands, pursuant to this chapter and the decision of the board laying out the road

has not been appealed from, the board shall give the owner or occupant of the land through which the road is laid out thirty days' written notice to remove the owner's or occupant's fences. If the owner does not remove the fences within thirty days after the notice, the board shall cause the fences to be removed and shall direct the road to be opened and worked, but no enclosure may be ordered opened between April first and October first.

24-07-20. Notice to overseer of highways. When any highway is to be changed or laid out, the county auditor or clerk of the township, as the case may be, shall notify the overseer of highways of each district affected and shall furnish the overseer of highways with a certified copy of the proceedings of the board.

24-07-21. Repair of highways across railroads, canals, or ditches. Whenever highways are laid out across railroads, canals, or ditches on public lands, the owners at their own expense shall so repair their railroads, canals, or ditches that the public highway may cross the same without damage or delay, and when the right of way for a public highway is obtained through the judgment of any court, over any railroad, canal, or ditch, no damages must be awarded for the simple right to cross the same.

24-07-22. Appeals - When and where taken. Any person who feels aggrieved by any determination or award of damages made by the board having jurisdiction, either in laying out, altering, or discontinuing, or in refusing to lay out, alter, or discontinue, any highway or cartway, within thirty days after the filing of such determination or award of damages, as provided in this chapter, may appeal therefrom to the district court in accordance with the procedure provided in section 28-34-01.

24-07-23. Appeals - How taken - Notice - Bond. The appeal provided for in section 24-07-22 must be taken by the service and filing of a notice of appeal and an undertaking for costs. The notice of appeal must specify:

1. The court to which the appeal is taken.
2. Whether the appeal is taken in relation to damages assessed or in relation to the laying out, altering, or discontinuing, or to the refusal to lay out, alter, or discontinue any highway.
3. Whether the appeal is taken from the whole of the order of the board or only from a part thereof, and if from a part only, then what part.
4. The grounds upon which the appeal is taken. The undertaking must be made in favor of the county or township, as the case may be, and must be conditioned for the payment of all costs that may arise upon such appeal if the determination appealed from is affirmed.

24-07-24. Appeals - Filing - Approval of undertaking - Service. The notice of appeal and undertaking to the district court must be filed with the clerk of the court and the undertaking must be approved by the judge thereof or by the county auditor. The notice of appeal must be served upon some member of the board by which the determination was made.

24-07-26. Trial in district court. Upon an appeal to the district court, the issues must be submitted to a jury unless the parties otherwise agree, and must be tried as other cases are tried in district court upon appeal.

24-07-27. Scope of review upon appeal. An appeal as provided for in this chapter brings before the appellate court the propriety of the amount of damages allowed and all matters referred to in the notice of appeal. The court or jury, as the case may be, shall reassess the damages. The rules for ascertaining and fixing the damages must be based upon the principles which the board was required to adopt in originally determining the same.

24-07-28. Judgment - Copy filed. When judgment has been entered upon an appeal taken as provided in this chapter, the clerk of the district court shall file with the county auditor or clerk of the township a certified copy of the judgment.

24-07-29. Costs of appeal. If the determination of the board appealed from is affirmed, or if the amount of damages allowed is reduced, the party appealing shall pay all costs and disbursements incurred in the appellate court, but if the amount of damages allowed is increased, or if the determination is altered, modified, or reversed, otherwise than as to the amount of damages, such costs and disbursements must be paid by the township or county, as the case may be. Said costs and disbursements must be taxed as in other cases in the appellate court, and judgment entered therefor in like manner.

24-07-30. When appeal sustained - Duty of the board. When an appeal has been made from the determination of any board of township supervisors or board of county commissioners, and such determination has been reversed or altered, the board from whose determination such appeal was taken shall proceed to lay out, alter, or discontinue such highway, in conformity with the decision of such appeal, and the proceedings thereon must be the same as if the board originally had determined to lay out, alter, or discontinue such highway. The amount of damages finally determined and awarded by the board or by the court or jury, together with all the charges of officers and other persons necessarily employed in laying out, altering, or discontinuing any township or county road, must

be audited by the board of county commissioners or board of township supervisors, as the case may be, specifying the amount of charges and damages due each individual, and the respective amounts must be certified by said board and by it deposited with the county auditor or township clerk and paid by the county or township, as the case may be. Before any road may be opened or used, warrants of the county or township, as the case may be, equal to the damages assessed to individuals, must be issued and deposited with the county auditor or township clerk, as the case may be, for the use and benefit of said individuals, and must be delivered to them on demand. The issuing and depositing of said warrants must be deemed to be sufficient security for the payment of said damages. In no case may a township be compelled to pay any damages that may be awarded in laying out, altering, or discontinuing any county road.

24-07-31. Nonuse for ten years will vacate highway. Any road or part thereof laid out by authority of a board of county commissioners or a board of township supervisors, and not opened to public use within ten years from the time when it was laid out, or which thereafter is abandoned and not used for ten years, hereby is declared vacant.

24-07-32. Highways on county and township lines. A public highway established on a county or township line, or a public highway laid out parallel and adjacent to a county or township line, where such line is occupied by a railroad or other obstruction, must be opened, established, and repaired by the supervisors of the proper road districts on each side thereof.

24-07-33. Public lands - Damages. When any person acquires the title to government land over which any road has been or hereafter may be laid out, subsequent to the laying out of such road, the person so acquiring such title, within three months after the receipt of the person's patent therefor, shall assert the person's claim for damages in the manner provided in this chapter in case of locating highways, and such roads must remain and be public highways, but the person's damages, if any, must be paid, and in case of a failure to assert the person's claim for damages within the time aforesaid, the person thereafter is barred from asserting such claim.

24-07-34. Roads on lines between township and city. Whenever the board of supervisors of any township and the governing body of any incorporated city shall receive a petition praying for the location of a road or for the altering or discontinuing of any road on the line between such township and such city, such road may be laid out, altered, or discontinued by the action of both boards. The provisions of this chapter applicable to the laying out, altering, or discontinuing of a road on the line between two townships are applicable to a road on the line between any township and an incorporated city.

24-07-35. Designation of minimum maintenance road. A board having jurisdiction as described in this chapter, and the governing body of a city, may designate a road under its jurisdiction as a minimum maintenance road in accordance with sections 24-07-35 through 24-07-37. The designation may be made only if the board or governing body determines that the road to be so designated is used only occasionally or intermittently for passenger and commercial travel. Further, the designation cannot be made if the road is used as a school bus route, mail route, or as the only access to any existing residence. In its action designating the minimum maintenance road, the board or governing body shall identify the beginning and end of the road. The board or governing body shall notify each adjoining political subdivision of a designation made under this section. If a road runs along the boundary of political subdivisions, the designation as a minimum maintenance road is not applicable unless the board or governing body of each adjoining political subdivision agrees with the designation.

24-07-36. Required signs on minimum maintenance roads. The body making a designation of a minimum maintenance road shall post signs at the beginning of the road and at regular intervals along the road. The signs must conform to standards adopted by the director by rule. If the signs are properly posted, that fact is prima facie evidence that adequate notice of the road's status as a minimum maintenance road has been given to the public.

24-07-37. Limitations on designation of minimum maintenance roads. A road is not eligible for designation as a minimum maintenance road if federal highway aid to this state would be reduced as a result of that designation. A road is not eligible for that designation if additional right of way or easement by eminent domain is required for constructing or designating the road as a minimum maintenance road, unless the consent of the landowner is given or the designation is necessary for drainage or public safety.

CHAPTER 24-08
BRIDGES

24-08-01. Construction of bridges by board of county commissioners - Petition – Bids - Rejection. Whenever a majority of the freeholders of a civil township, or a majority of the freeholders living within a radius of three miles [4.83 kilometers] of the proposed location, petition the board of county commissioners for a bridge at a specified location within such township, or within any incorporated city, if the cost of the bridge exceeds the sum of five hundred dollars, the board of county commissioners shall view and investigate the necessity of the proposed

bridge. If the board approves the petition, it shall proceed to advertise in the official newspaper of the county, for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of such bridge, to be submitted to it at the next regular or special meeting, at which the board shall proceed to examine all proposals or bids for the building of such bridge. The board shall award the contract to the lowest responsible bidder, requiring the bidder to give a bond in a sum not less than the amount stipulated in the bid or contract, conditioned for the faithful compliance with the terms of the bid or contract, the bond to be approved by the board and filed in the office of the county auditor but the board may reject all bids. If all bids are rejected, the board shall re-advertise as provided herein. Provided, however, that if the amount of the lowest responsible bid is less than fifteen thousand dollars, the board may refuse all bids received and proceed to construct the bridge under its own supervision as it deems most expedient and may enter into contracts for the labor or material to be used in the construction of the bridge.

24-08-02. Expense of bridge - How paid. The expense of constructing a bridge built as provided in section 24-08-01 must be paid out of the county bridge fund, if such bridge is accepted and approved by the board of county commissioners.

24-08-02.1. County to furnish and pay for culverts on township roads. The county shall furnish and install, at county expense, such culverts as are necessary to be used along township roads at points of intersection with established drains, in accordance with sections 24-08-01 and 24-08-02.

24-08-03. Bridges - Supervision, repairs, bids, signs - Liability.

1. Each bridge built under the provisions of section 24-08-01 is under the supervision of the board of county commissioners, and the county shall pay the cost of rebuilding or repairing these bridges.
2. If the cost of rebuilding or repairing a bridge would exceed thirty thousand dollars on estimate of the county engineer and upon the approval of the estimate by the department, the county commissioners shall advertise for bids and award the contract pursuant to section 24-08-01. If a bridge is destroyed by flood, fire, or other casualty and the public interest would suffer by the delay from advertising for bids and awaiting the contract pursuant to section 24-08-01, the county commissioners may promptly contract for the rebuilding or repair of the bridge without advertising for bids, regardless of the cost.
3. The board of county commissioners at least every four years, and so far as time and conditions may permit, shall cause an inspection to be made of all bridges on the county road system in the county.
4. If any bridge on the county road system is deemed unsafe for public use by the board of commissioners, it immediately shall take steps to close the bridge and prevent its use by the public.
5. If any bridge on the county road system is deemed unsafe for loads in excess of a certain weight, the board of commissioners shall post, by January 1, 1985, load limit signs which must comply with the standards for uniform traffic control devices prescribed by the director under section 39-13-07.
6. The county is not immune from claims or suits for damages arising out of negligent failure to perform the inspection, signing, and repair duties required by this section.

24-08-04. Bridges part of highway. Bridges erected or maintained by the public constitute a part of the public highway.

24-08-07. Issuance of bonds to meet expenses of construction of bridge. When one-half, or such other proportion as may be provided, of the cost of a bridge to be constructed as provided in section 24-08-05 is provided by any municipality within this state, it may issue bonds for this purpose in accordance with chapter 21-03. In case the limit of indebtedness of such municipality would be exceeded thereby, then it is lawful for such municipality to provide funding from revenues derived from its general fund levy authority

24-08-10. Counties or municipalities may assist in constructing bridge. Any county or municipality within this state desiring to assist in the construction, maintenance, or repair of a bridge over a navigable river, regardless of whether such county or municipality borders the river at the point where the bridge is to be built, by a majority vote of its board or governing body:

1. May enter into an agreement for the construction, maintenance, and repair of such a bridge with other municipalities or counties, whether such municipalities or counties are located within the state of North Dakota or a state bordering North Dakota; and
2. May appropriate any sum that to the said board or governing body may seem reasonable and shall direct the proper officer to draw a warrant on the general fund for the payment of such appropriation.

Bridges constructed pursuant to this section may not be required to comply with the provisions of sections 24-08-01 and 24-08-05, except that bridges constructed entirely within the state of North Dakota must comply with the bidding requirements of section 24-08-01.

24-09-02. Uniform warning systems at railroad crossings. The department shall adopt and prescribe uniform warning systems in conformity with sections 39-13-06 and 39-13-07 for use at public grade crossings in this state which will be deemed adequate and appropriate warning of the existence and nature of such grade crossings for all purposes whatsoever.

24-09-03. Railroads to establish signs. At each grade crossing in this state hereafter established and at each grade crossing where and when the existing crossing signs are replaced, the railway company operating the railroad thereat shall erect and maintain on the highway on each side of the railroad track or tracks, and within a distance of seventy-five feet [22.86 meters] from the nearest rail, one or more of such uniform home-crossing signs.

24-09-04. Advance warning signs - Exceptions. The sole signing duty of the road authority, except as otherwise designated by the commission under section 24-09-08, at public grade crossings in the state is the erection and maintenance of advance warning signs in accordance with the manual on uniform traffic control devices. The road authorities have a reasonable length of time, not exceeding two years, in which to fully implement this requirement.

24-09-05. Stop signs may be required. At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection to life and property makes it necessary for all persons approaching the same to stop before crossing the railroad tracks thereat, stop signs shall be installed. The department, after performing an engineering study of the crossing, may designate any crossing requiring such additional protection as a stop crossing and shall notify the road authority with jurisdiction over the roadway of such designation and of the location where the stop sign is to be installed. Within thirty days after such notification, the road authority shall erect uniform stop signs on separate posts at the designated location on each side of said crossing.

24-09-08. Additional safeguards at crossings may be required. The commission, upon written application made to it by the director, the board of county commissioners of any county, the board of supervisors of any township, any municipality, the railroad company, or upon its own motion, shall investigate and determine whether any railroad grade crossing over any state, county, township, or municipal highway in the state is dangerous to life and property and needs protection further than that set out in this chapter, and may order the same protected in any manner it may find reasonable and proper, including a requirement that the railroad company separate the grades. In such cases, the commission shall give the railroad company interested such notice of the investigation as it deems reasonable and an opportunity to be heard before any order is made. The railroad company interested, within thirty days after the service of a copy of such order upon it, may appeal to the district court of the county within which such crossing is situated.

24-09-08.1. Department of transportation to apportion cost - Exception. In order to promote public safety at intersections of railroad lines and all classes of highways, the department shall apportion the cost of automatic grade crossing protection devices in accordance with this section. In the event that the commission in accordance with the provisions of section 24-09-08 orders that any grade crossing must be protected by automatic grade crossing protection devices, the commission shall in its order apportion the cost thereof between the railroad interested, the political subdivision having jurisdiction of the highway involved, and the state of North Dakota. Such cost must be apportioned to such parties or to any one or more of such parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device. For the purpose of this section, the cost attributable to the benefit of the highway users must be apportioned to the state of North Dakota or to the political subdivision having jurisdiction of the highway involved or to both of such parties. The cost apportioned to the state of North Dakota must be paid out of the highway fund in the state treasury, provided that not more than one hundred thousand dollars may be expended for this purpose in any one biennium.

24-09-09. Warning devices must be approved by department of transportation. The department, so far as practicable, shall secure uniformity in the devices used to protect grade crossings. No such devices may be installed until the same have been approved by the department. Except for devices prescribed under section 24-09-08, all devices installed, which conflict with the devices approved by the department, either in their design or method of operation, so as to create a hazardous condition to travel at such crossing, must be modified immediately by the railway company controlling the same so as to conform to those approved by the department.

24-09-10. Changing or closing railroad crossing - Power of public service commission - Hearing. It is in the interest of public safety to eliminate unnecessary railroad grade crossings whenever reasonable access can be safely provided at another crossing. Whenever it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to establish, vacate, or relocate any crossing of a public highway and a railroad, or to separate grades, and an agreement cannot be reached between the public official and the railway company, either as to the necessity for establishing, vacating, or relocating a crossing or for separating

grades, as to place, manner of construction, or a reasonable division of the expense, either party may file a petition with the commission, setting forth the facts and submitting the matter to it for determination. The commission, after giving notice as it shall deem reasonable, shall conduct a hearing and shall issue its order determining whether there should be an establishment, vacation, or relocation of the crossing in question, or a separation of grades, and dividing the expense of the establishment, relocation, or separation of grades. Irrespective of the establishment, relocation, or the consideration of further reasonable protection of a crossing, if the commission finds any railroad crossing to be unnecessary or unsafe, it shall order the crossing closed after reasonable notice and hearing. Whenever a final order is entered vacating or closing a crossing, it must be vacated or closed at the railroad company's expense.

24-09-11. Overhead and underground railroad crossings may be required. The commission may require any railroad to construct and maintain overhead or underground crossings and separate grades when in its opinion the interest and safety of the public require, and may apportion the costs therefor in such manner as the commission deems proper, and no overhead or underground crossing, nor separation of grades, may be made except upon petition therefor to the commission and with the commission's approval.

24-09-12. Advertising signs not to obstruct or resemble crossing signs. No person, firm, corporation, or limited liability company may place or maintain any advertising sign or other similar obstruction upon, over, or adjacent to any highway between any approach sign and the grade crossing which it marks, nor may any person, firm, corporation, or limited liability company place or maintain, upon, over, or adjacent to any public highway in this state any sign or symbol in any manner resembling the signs provided for in this chapter.

CHAPTER 24-10
CATTLE GUARDS AND GATEWAYS

24-10-01. Cattle guards - How permitted. Whenever the erection of cattle guards is necessary to complete an enclosure which includes land on both sides of any highway in the state, except a highway which has been designated as part of the state highway system, or to cross a section line pursuant to section 24-06-28, the board of county commissioners, if the cattle guard is to be erected across a county road or a section line subject to jurisdiction of the board of county commissioners, or the board of township supervisors, if the cattle guard is to be erected across a township road or a section line subject to jurisdiction of the board of township supervisors, may issue permission to any person, firm, or corporation to erect a cattle guard and gateway across the highway or section line upon the conditions hereinafter prescribed.

24-10-02. Cattle guards - Construction - Maintenance - Effect. Before any cattle guard and gateway may be erected across any highway or section line as authorized in section 24-10-01, the board of county commissioners or board of township supervisors, as the case may be, shall approve written specifications of the cattle guard and gateway. Specifications approved by the board of county commissioners must be filed with the county auditor and specifications approved by the board of township supervisors must be filed with the township clerk. The specifications must include requirements for warning signs to be placed approximately three hundred feet [91.44 meters] from and plainly visible to persons approaching the cattle guard upon the highway or section line. A cattle guard must be so constructed as to permit the passage of motor vehicles through and over the same. No cattle guard may be erected upon any highway or section line unless there also is provided adjacent thereto an ample gateway in which must be erected a gate which may be opened easily and closed by the public. The person who applied for permission to erect the cattle guard shall maintain the cattle guard and gateway, unless application is otherwise assigned. Within the limits of an enclosure so completed by authorized cattle guards erected in accordance with such specifications, livestock must be permitted to run at large without liability for being upon the highway or section line.

24-10-03. Leaving gates open - Penalty. Any person who opens and fails to close promptly any gate provided for in this chapter is guilty of an infraction.

24-10-04. Cattle guards may be ordered removed. The board having authority to permit the erection of a cattle guard and gateway across any highway or section line also has authority to cause the same to be removed, if the same is not kept in repair, or if in the judgment of said board, it becomes necessary to remove the cattle guard and gateway for the purpose of improving the highway or section line. If the board determines any cattle guard and gateway should be removed under this section, written notice by registered or certified mail must be sent to the occupant of the enclosure, notifying the occupant to effect such removal within thirty days from the date of mailing. If the notice is not complied with, the board, upon expiration of the period, is authorized to remove or destroy the cattle guard and gateway.

24-10-05. County and townships exercise joint authority. If the cattle guard and gateway provided for in section 24-10-01 are sought to be erected upon any township or county line, the governing boards of the adjacent

territory shall exercise joint authority and jurisdiction and the proceedings required in section 24-10-02 must be taken in both jurisdictions.

24-10-06. Cattle ways under highways. Upon application to the board of county commissioners of any county or the board of township supervisors of any organized township, by any person, for permission to construct a cattle way under any public road, such board may grant the same upon condition that the cattle way may not interfere with the public travel, that the grade of the road over the cattle way may not exceed one foot [.30 meter] in ten feet [3.05 meters], and that it may not obstruct watering at any running stream. The applicant shall construct the same at the applicant's own expense and is responsible for all damages that may arise from its construction or from failure to keep the same in repair.

24-10-07. Failure to keep cattle way in repair. If the person on whose land a cattle way is constructed fails to keep the cattle way in repair, the overseer of highways shall make all necessary repairs and shall charge the expenses to the person who requested the way be constructed or to that person's assignee. Upon refusal by that person to pay, the county or township board in which the cattle way is situated shall recover the expenses in an action brought in the name of the county or township and the state's attorney shall prosecute the action. The money, when collected, must be expended in improving or repairing the public roads in the road district where the cattle way is constructed.

24-10-08. Board may prescribe regulations. The board granting an application to construct a cattle way may prescribe such further regulations and specifications in the construction of such way as it may deem proper, not inconsistent with the provisions of sections 24-10-06 and 24-10-07.

CHAPTER 24-12
MISCELLANEOUS PROVISIONS

24-12-01. Injuries to highways. No person may willfully dig up, remove, displace, break, or otherwise injure or destroy any public highway, right of way, or bridge, or any rest area, picnic area, or tourist camp, or improvements thereon, operated in connection with a public highway, or any private way laid out by authority of law, or any bridge upon such way without first securing permission from the person or governing body having jurisdiction and control thereof.

24-12-02. Obstructing highways. No person may:
1. Obstruct any public highway in any manner with intent to prevent the free use thereof by the public;
2. Willfully and knowingly obstruct or plow up, or cause to be obstructed or plowed up, any public highway or right of way, except by order of the officials having jurisdiction over such highway for the purpose of working or improving the same;
3. Build or place a barbed wire fence across any well-traveled trail which has been the usual and common route of travel for not less than one year without placing on the outside of the top tier of barbed wire on said fence a board, pole, or other suitable protection, to be at least sixteen feet [4.88 meters] in length; or
4. Plow up a section line in a manner so as to obstruct usual travel on the section line.

24-12-04. Injury to mileboards, guideposts, traffic-control signals, signs, or markings. No person may remove, injure, or destroy any mileboard, milestone, or guidepost, traffic-control signals, signs, or markings, or any inscription thereon, erected or placed upon any highway, road, or street by any public authority or by any contractor, subcontractor, or employee engaged in construction activities pursuant to a contract with a public authority therefor.

24-12-04.1. Rewards authorized. The director or any political subdivision of this state is hereby authorized to offer a reward, the amount of which must be determined by the director or the governing body of the political subdivision not exceeding, however, the sum of three hundred dollars, for any information leading to the conviction of any person or persons violating the provisions of this chapter.

24-12-05. Penalties. Any person who violates any provision of this title for which another penalty is not specifically prescribed is guilty of a class B misdemeanor.

Title 26.1
Insurance

CHAPTER 26.1-21
STATE BONDING FUND

26.1-21-06. Condition of bond created by chapter - Limitation. Unless otherwise provided, the bond provided under this chapter is a blanket bond. The blanket bond is a fidelity bond. The blanket bond is conditioned on

the public employee or public official, as principal, rendering a true account of all moneys and property possessed as a public employee or public official, and delivering the money or the property as required by law. The provisions of this chapter and of any statute requiring a bond constitute the bond of each public official and public employee for the purposes of any law of this state requiring the bond and constitute the entire contract between the fund and a state agency or a political subdivision as the obligee for the bond.

26.1-21-07. Coverage. The amount of coverage afforded to each state agency or political subdivision must be determined by the commissioner based upon the amount of money or property handled and the opportunity for defalcation but the amount must at least equal the amount of money or property actually handled or ten thousand dollars, whichever is less. The coverage may be greater than but not less than the amount required by law or determined under law for a position. The coverage for a state legislative or judicial branch agency, however, may be determined by the legislative council or supreme court, respectively. Notwithstanding any other provision of law, the commissioner may issue bonds in such amounts as the commissioner determines necessary to carry out the purposes of the fund and, in determining the amount of coverage to be offered, the commissioner may consider the reserves necessary to pay the bonds and for all other necessary costs or expenses to carry out the purposes of the fund.

26.1-21-09. Premiums - Amount to whom paid - Minimum. The commissioner shall determine the premium for a blanket bond. Each state agency and political subdivision shall pay the premium in advance to the fund and the premiums collected must be kept in the fund. The minimum premium for each bond must be two dollars and fifty cents per public employee per year. Payments must be made for one year or for a longer term as prescribed by the commissioner. The premiums referred to in this section must be waived until the reserve fund of the state bonding fund has been depleted below the sum of two million dollars. The collection of premiums must be resumed on the bonds, at the rates provided under this section, whenever the reserve fund is depleted below the sum of two million dollars. The premiums must continue to be collected until the reserve fund reaches a total of three million dollars, at which time all premiums must again be waived until the reserve fund has been depleted below the sum of two million dollars.

26.1-21-24. State agency or political subdivision may purchase bond in addition to fund bond. Nothing in this chapter prohibits a state agency or political subdivision from purchasing a bond issued by a duly authorized surety company in addition to the bond provided by the fund. A state agency or political subdivision that purchases an additional bond shall file evidence of that bond with the commissioner.

CHAPTER 26.1-22
STATE FIRE AND TORNADO FUND

26.1-22-08. Townships and school districts have option as to insurance on certain property. This chapter does not apply to the property of any township or school district located outside of the incorporated limits of a city unless the clerk of the township or business manager of the school district, at the direction of the board of township supervisors or the school board, files with the commissioner a written application for insurance and a request that the township or school district come under this chapter. To be effective, the application must be approved in writing by the commissioner.

26.1-22-09. Buildings to be reported to commissioner. In each odd-numbered year, or upon application for insurance, the state board of higher education, and each officer, department, or agent of the state and of any industry thereof having in charge any public building belonging to the state, each county auditor, city auditor, township clerk, and school district business manager, as the case may be, the agent for an international peace garden, and the agent for a winter show, if applicable, shall report to the commissioner the insurable value of each public building, or of each building owned by an international peace garden or a winter show with the exception of buildings insured by private insurance companies, and of the fixtures and permanent contents therein, with the exception of fixtures and permanent contents insured by private insurance companies, belonging to the state, political subdivision, an international peace garden, or a winter show, and shall supply such other information as may be required by the commissioner on forms provided by the commissioner.

26.1-22-10. Commissioner to provide insurance on buildings and personal property.

1. Upon application the commissioner shall provide for insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosions, riot attending a strike, aircraft, smoke, vehicles, or may insure any other risks of direct physical loss, subject to the restrictions and exclusions deemed necessary by the commissioner, on all buildings owned by the state, state industries, political subdivisions, international peace gardens, and winter shows, and the fixtures and permanent contents in such buildings, to the extent of not to exceed the insurable value of such property, as the value is agreed to between the commissioner and

the officer or board having control of such property, or, in case of disagreement, by approval through arbitration. The commissioner may allow property to be insured on a blanket basis.

2. All buildings and the contents of the buildings owned by the state mill and elevator association, in lieu of coverage under this chapter, may, at the option of the industrial commission, be insured by private insurance companies licensed to do business in this state, against at least all the types of hazards insured against by the fund. If the industrial commission exercises the option provided in this section, the commission shall seek competitive sealed bids, shall invite the fund to submit a bid, and may reject any or all bids received.
3. All public buildings owned by a political subdivision, in lieu of coverage provided for in this section, may at the option of the governing body of the political subdivision be insured on the basis of competitive sealed bids, through the fund which must be invited to submit a sealed bid or private insurance companies licensed to do business in this state, against damage resulting from hazards, which include those types of hazards that may be insured against by the fund. The governing body may reject any or all such bids.
4. All public libraries owned by the state or political subdivisions may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If this coverage cannot be extended to the public libraries situated within this state, the libraries may contract for this coverage with private insurance companies; provided, that this coverage meets the recommendations of the insurance code of the American library association.

Title 32

Judicial Remedies

CHAPTER 32-12.1
GOVERNMENTAL LIABILITY

32-12.1-01. Legislative intent. This chapter creates additional powers and optional and alternative methods for the single and specific purpose of enabling political subdivisions to pay and to compromise claims and judgments, to issue bonds to fund and satisfy the same, to levy taxes in amounts necessary for such purposes without respect to limitations otherwise existing, and to compromise judgments and make periodic payments on such compromised amount.

32-12.1-02. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Claim" means any claim permitted by this chapter brought against a political subdivision for an injury caused by a political subdivision or an employee of the political subdivision acting within the scope of the employee's employment or office.
2. "Commissioner" means the insurance commissioner.
3. "Employee" means any officer, employee, board member, volunteer, or servant of a political subdivision, whether elected or appointed and whether or not compensated. The term does not include an independent contractor, or any person performing tasks the details of which the political subdivision has no right to control.
4. "Injury" means personal injury, death, or property damage.
5. "Personal injury" includes bodily injury, mental injury, sickness, or disease sustained by a person, and injury to a person's rights or reputation.
6. "Political subdivision":
   a. Includes all counties, townships, park districts, school districts, cities, public nonprofit corporations, administrative or legal entities responsible for administration of joint powers agreements, and any other units of local government which are created either by statute or by the Constitution of North Dakota for local government or other public purposes, except no new units of government or political subdivisions are created or authorized by this chapter.
   b. Does not include nor may it be construed to mean either the state of North Dakota or any of the several agencies, boards, bureaus, commissions, councils, courts, departments, institutions, or offices of government which collectively constitute the government of the state of North Dakota.
7. "Property damage" includes injury to or destruction of tangible or intangible property.
8. "Public nonprofit corporation" means a nonprofit corporation that performs a governmental function and is funded, entirely or partly, by the state, a city, county, park district, school district, or township.

32-12.1-03. Liability of political subdivisions - Limitations.

1. Each political subdivision is liable for money damages for injuries when the injuries are proximately caused by the negligence or wrongful act or omission of any employee acting within the scope of the employee's employment or office under circumstances in which the employee would be personally liable to a claimant in accordance with the laws of this state, or injury caused from some condition or use of tangible property, real or personal, under circumstances in which the political subdivision, if a private person, would be liable to the

claimant. The enactment of a law, rule, regulation, or ordinance to protect any person's health, safety, property, or welfare does not create a duty of care on the part of the political subdivision, its employees, or its agents, if that duty would not otherwise exist.

2. The liability of political subdivisions under this chapter is limited to a total of three hundred seventy-five thousand dollars per person and one million dollars for any number of claims arising from any single occurrence regardless of the number of political subdivisions, or employees of such political subdivisions, which are involved in that occurrence. A political subdivision may not be held liable, or be ordered to indemnify an employee held liable, for punitive or exemplary damages. The liability limits under this subsection must be adjusted annually as follows:
   a. On July 1, 2023, a total of four hundred six thousand two hundred and fifty dollars per person and one million six hundred twenty-five thousand dollars for any single occurrence.
   b. On July 1, 2024, a total of four hundred thirty-seven thousand five hundred dollars per person and one million seven hundred fifty thousand dollars for any single occurrence.
   c. On July 1, 2025, a total of four hundred sixty-eight thousand seven hundred fifty dollars per person and one million eight hundred seventy-five thousand dollars per occurrence.
   d. On July 1, 2026, a total of five hundred thousand dollars per person and two million dollars per occurrence.
3. A political subdivision or a political subdivision employee may not be held liable under this chapter for any of the following claims:
   a. A claim based upon an act or omission of a political subdivision employee exercising due care in the execution of a valid or invalid statute or regulation.
   b. The decision to undertake or the refusal to undertake any legislative or quasi-legislative act, including the decision to adopt or the refusal to adopt any statute, charter, ordinance, order, regulation, resolution, or resolve.
   c. The decision to undertake or the refusal to undertake any judicial or quasi-judicial act, including the decision to grant, to grant with conditions, to refuse to grant, or to revoke any license, permit, order, or other administrative approval or denial.
   d. The decision to perform or the refusal to exercise or perform a discretionary function or duty, whether or not such discretion is abused and whether or not the statute, charter, ordinance, order, resolution, regulation, or resolve under which the discretionary function or duty is performed is valid or invalid.
   e. Injury directly or indirectly caused by a person who is not employed by the political subdivision.
   f. A claim relating to injury directly or indirectly caused by the performance or nonperformance of a public duty, including:
      (1) Inspecting, licensing, approving, mitigating, warning, abating, or failing to so act regarding compliance with or the violation of any law, rule, regulation, or any condition affecting health or safety.
      (2) Enforcing, monitoring, or failing to enforce or monitor conditions of sentencing, parole, probation, or juvenile supervision.
      (3) Providing or failing to provide law enforcement services in the ordinary course of a political subdivision's law enforcement operations.
      (4) Providing or failing to provide fire protection services in the ordinary course of a political subdivision's fire protection operations.
   g. "Public duty" does not include action of the political subdivision or a political subdivision employee under circumstances in which a special relationship can be established between the political subdivision and the injured party. A special relationship is demonstrated if all of the following elements exist:
      (1) Direct contact between the political subdivision and the injured party.
      (2) An assumption by the political subdivision, by means of promises or actions, of an affirmative duty to act on behalf of the party who allegedly was injured.
      (3) Knowledge on the part of the political subdivision that inaction of the political subdivision could lead to harm.
      (4) The injured party's justifiable reliance on the political subdivision's affirmative undertaking, occurrence of the injury while the injured party was under the direct control of the political subdivision, or the political subdivision action increases the risk of harm.
4. This chapter does not obligate political subdivisions for an amount that is more than the limitations upon liability imposed by this chapter. Subject to this chapter, any payments to persons constitute payment in full of any compromised claim or judgment or any final judgment under this chapter.
5. Notwithstanding this chapter, a political subdivision or its insurance carrier is not liable for any claim arising out of the conduct of a ridesharing arrangement, as defined in section 8-02-07.
6. A political subdivision is not liable for any claim based on an act or omission in the designation, repair, operation, or maintenance of a minimum maintenance road if that designation has been made in accordance with sections 24-07-35 through 24-07-37 and if the road has been maintained at a level to serve occasional and intermittent traffic.

7. Any party to an action against a political subdivision or a political subdivision employee acting within the scope of employment as defined in this chapter shall comply with applicable rules of civil procedure when requesting documents or other information in the possession or control of the political subdivision.

32-12.1-04. Political subdivision to be named in action - Personal liability of employees - Indemnification of claims and final judgments.

1. An action for injuries proximately caused by the alleged negligence, wrongful act, or omission of an employee of a political subdivision occurring within the scope of the employee's employment or office shall be brought against the political subdivision. If there is any question concerning whether the alleged negligence, wrongful act, or omission occurred within the scope of employment or office of the employee, the employee may be named as a party to the action and the issue may be tried separately. A political subdivision must defend the employee until the court determines the employee was acting outside the scope of the employee's employment or office.
2. An employee shall not be personally liable for money damages for injuries when the injuries are proximately caused by the negligence, wrongful act, or omission of the employee acting within the scope of the employee's employment or office.
3. No employee may be held liable in the employee's personal capacity for acts or omissions of the employee occurring within the scope of the employee's employment unless the acts or omissions constitute reckless or grossly negligent conduct, or willful or wanton misconduct. An employee may be personally liable for money damages for injuries when the injuries are proximately caused by the negligence, wrongful act, or omission of the employee acting outside the scope of the employee's employment or office. The plaintiff in such an action bears the burden of proof to show by clear and convincing evidence that the employee was either acting outside the scope of the employee's employment or office or the employee was acting within the scope of employment in a reckless, grossly negligent, willful, or wanton manner. Employees may be liable for punitive or exemplary damages. The extent to which an employee may be personally liable pursuant to this section and whether the employee was acting within the scope of employment or office shall be specifically stated in a final judgment.
4. A political subdivision shall indemnify and save harmless an employee for any claim, whether groundless or not, and final judgment for any act or omission occurring within the scope of employment or office of the employee. The indemnification shall be made in the manner provided by this chapter and shall be subject to the limitations herein.

32-12.1-05. Liability insurance policy coverage. An insurance policy or insurance contract purchased by a political subdivision or a government self-insurance pool in which a political subdivision participates pursuant to this chapter may provide coverage for the types of liabilities established by this chapter and may provide such additional coverage as the governing body of the political subdivision determines to be appropriate. The insurer may not assert the defense of governmental immunity, but this chapter confers no right upon a claimant to sue an insurer directly. If a dispute exists concerning the amount or nature of the required insurance coverage, the dispute must be tried separately. The insurance coverage authorized by this chapter may be in addition to any insurance coverage purchased by a political subdivision pursuant to any other provision of law and if premium savings will result therefrom, any insurance policy purchased pursuant to this chapter or any other provision of law may be written for a period which exceeds one year.

32-12.1-07. Authorized insurance.

1. The insurance authorized by this chapter may be provided by:
   a. Self-insurance, which may be funded by appropriations to establish or maintain reserves for self-insurance purposes.
   b. An insurance company authorized to do business in this state which the commissioner has determined to be responsible and financially sound, considering the extent of the coverage required.
   c. Any combination of the methods of obtaining insurance authorized in subdivisions a and b.
2. This chapter does not prohibit a political subdivision from uniting with other political subdivisions in order to purchase liability insurance or to self-insure.

32-12.1-08. Political subdivision risk funding.

1. A political subdivision may provide funding from revenue derived from its general fund tax levy as determined by the governing body to be necessary for risk financing purposes.
2. Any unobligated balance in a political subdivision insurance reserve fund must be transferred to the political subdivision's general fund and the insurance reserve fund must be closed out by December 31, 2015. The general fund of the political subdivision may be used for risk financing purposes and the payment of claims against the political subdivision which have been settled or compromised, judgments rendered against the political subdivision, or costs incurred in the defense of claims.

32-12.1-09. Duties of insurance commissioner. The commissioner shall be responsible for determining the specifications for the liability insurance covering the areas of risk as specified in this chapter. The commissioner shall require the insurance company to guarantee that its policy provides minimum coverages pursuant to required specifications. The commissioner may certify to political subdivisions obtaining liability insurance from an insurance company whether such company is responsible and financially sound considering the extent of coverage which the insurance company is offering.

32-12.1-10. Statute of limitations. An action brought under this chapter must be commenced within three years after the claim for relief has accrued.

32-12.1-11. Judgment against political subdivision - Levy authority - Additional tax levy for insured subdivisions.. If a final judgment is obtained or a settlement is agreed for a claim against any political subdivision, except a school district, the governing body of the political subdivision may by resolution provide for the levy and collection of an annual tax not exceeding the limitation in section 57-15-28.1 upon the taxable valuation of property within the political subdivision for the payment of such judgment. This section also applies to a judgment obtained or a settlement agreed for a claim against the political subdivision by the state or any agency or instrumentality of the state.

32-12.1-13. Bonds may be issued to pay compromised amount – Regulations governing. The compromised amount of a judgment agreed upon may be made payable in stated annual installments over a period not exceeding twenty-five years and at an annual rate of interest of not more than five percent. The governing body, by a resolution adopted by an affirmative vote of two-thirds of its members, may issue bonds payable serially and maturing annually, as the parties may agree, and in the amounts of the annual installments and interest determined by the compromise, in satisfaction and discharge of the judgment. Bonds issued under this section shall be delivered to the judgment creditor upon the release of the judgment and in consideration of the full satisfaction thereof. The bonds shall be executed in the name of the political subdivision by the executive officer and the auditor or fiscal officer thereof. Except as otherwise provided in this chapter, the bonds shall be in the form prescribed for political subdivision bonds which are payable from the levy of a general tax. Prior to the delivery of the bonds to the judgment creditor, the bonds shall be certified and recorded by the auditor or fiscal officer in the manner provided by the laws of this state for the certification and recording of general obligation bonds of political subdivisions.

CHAPTER 32-12.2
CLAIMS AGAINST THE STATE

32-12.2-13. Contract between the state and a political subdivision. A contract between the state and a political subdivision may not contain a provision that requires one party to assume the liability of the other or the liability of a third party or to bear the costs of defense of actions against the other or against a third party.

Title 38
Mining and Gas and Oil Production

CHAPTER 38-09
EXPLORATION AND PRODUCTION ON PUBLICLY OWNED LANDS

38-09-02. Township, city, school district, or park district may lease land for oil and gas development. The governing body of any township, city, school district, or park district in this state may lease the grounds or lands of such political subdivision, or any part thereof, for oil and gas development for a primary term of not more than ten years, and may renew or extend any such lease from time to time for as long thereafter as oil or gas is or can be produced on the land described therein.

38-09-03. Provisions may be inserted in lease for consolidation of adjoining lands -Royalty - How shared. Any oil or gas lease made by any of the political subdivisions mentioned in section 38-09-02 may provide that the lessee may consolidate the land covered by such lease with other adjoining lands for the purpose of joint development and operation of the entire consolidated premises as a unit. In such a case, the lessor shall share in the royalty on oil and gas produced from the consolidated tract in the proportion that the area of the land covered by such lease bears to the total area of such consolidated tract.

38-09-04. Leases and occupancy not to interfere with use of land by subdivision - Drilling wells - Limitation. A lease made by a political subdivision under the provisions of section 38-09-02 and the occupancy of the lands under such lease may not interfere materially with the purposes for which such lands are used and occupied by the political subdivision. No oil or gas well may be drilled or located within one hundred feet [30.48 meters] of any public building upon any such land.

38-09-13. Disposition of moneys collected by counties and political subdivisions on mining, oil, and gas leases. All moneys received by any county from mining, oil, or gas lease and from royalties on any such lease must be paid to the county treasurer. Such amounts must be allocated to the state and county, and to any city, township, school district, or other taxing subdivision which has levied any tax thereon, in the proportions which the tax interests of the state, county, and other taxing subdivisions respectively bear to the tax charges to which the moneys are applicable. Moneys derived by the county from lands which are not subject to any tax charge must be paid into the general fund of the county. Moneys received by any township, city, school district, or park district under the provisions of this chapter other than for credit upon taxes must be placed in the general fund of the taxing subdivision receiving the same.

Title 39
Motor Vehicles

CHAPTER 39-06
OPERATORS' LICENSES

39-06-03.1. Nondriver photo identification card issued by director - Release of information - Penalty - Public awareness.

1. The director shall issue a nondriver color photo identification card to any resident of this state who fulfills the requirements of this section. An application for an identification card must be made on a form furnished by the director. Within thirty days from receipt of a complete application that includes the applicant's social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number, the director shall determine whether to issue and, if appropriate, issue a nondriver photo identification card to an applicant. The director may not withhold the issuance of a nondriver color photo identification card without reasonable cause. If the applicant is under the age of eighteen or at least the age of eighteen and under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license for an operator of that age. Subject to section 39-06-19, identification cards expire eight years from the date of issue and may be renewed. The application must contain other information as the director may require to improve identity security.
2. The director shall issue a nondriver color photo identification card to any resident who at the time of application is not a citizen of the United States and who fulfills the requirements of this section. The identification card must be designed in a manner to clearly make the card distinguishable from a similar card issued to a citizen of the United States and resident of this state. The card may be replaced with a card issued to a citizen of this country and resident of this state only when proof of United States citizenship is provided by the individual and any applicable replacement fee listed in section 39-06-49 is paid.
3. To confirm the identity, date of birth, and legal presence of the applicant, the director or examining officer shall require satisfactory evidence be provided by the applicant. Satisfactory evidence includes a certified copy of the applicant's birth certificate or other evidence reasonably calculated to permit the determination of the date of birth, identification, and legal presence of the applicant by the director or examining officer. The director may require an applicant for an identification card to provide a social security card and proof of residence address.
4. The application fee is listed in section 39-06-49. Except for a duplicate or replacement card, the director may not charge a fee to provide a nondriver photo identification card to an eligible applicant.
5. Any information obtained by the director from an applicant for the issuance, renewal, or replacement of an identification card may not be released unless allowed under section 39-16-03.
6. The director may advertise the availability and the use of the card.
7. Identification cards issued under this section are sufficient identification for all identification purposes.

CHAPTER 39-12
SIZE, WIDTH, AND HEIGHT RESTRICTIONS

39-12-01. State and local authorities may classify highways as to weight and load capacities. The director, the board of county commissioners, and other appropriate bodies having control of roads, may classify public highways and roads under their respective jurisdictions and limitations as to the weight and load of vehicles thereon for such respective classifications must be enforced as provided in section 39-12-07.

39-12-02. Special permits for vehicles of excessive size and weight issued - Contents - Fees.

1. (authority)
   a. The highway patrol and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle, mobile home, or modular unit of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. A permit may designate the route to be traversed and may contain other restrictions or conditions deemed necessary by

the body granting the permit. The permit must be carried in the vehicle to which it refers in printed or electronic format and must be opened to inspection by a peace officer or agent of the superintendent of the highway patrol unless prior approval is obtained from the highway patrol. It is a violation of this chapter for a person to violate the terms or conditions of the permit. The highway patrol and local authorities may adopt rules governing the movement of oversize and overweight vehicles.

b. Each township in a county that participates in a uniform truck permitting system for authorization of oversized or overweight vehicle movements shall participate in the same system.
c. When fee changes are proposed, a uniform permit system shall provide public notice of the date, hour, and place at which the public may comment on the proposed fee changes.
d. Notwithstanding any other provision of this chapter, a city, county, or township having control of roads may not impose additional fees for the use of roads beyond the fees established under a uniform permit program. A city, county, or township may issue a penalty to a person that violates a posted road restriction. If a permit is denied, a person may receive an additional fee or condition from the city, county, or township in exchange for authorization to move an oversized or overweight vehicle on a road under the jurisdiction of the city, county, or township.

2. Upon an application for a permit to move a new manufactured building or modular unit from outside this state to be located anywhere within this state, the manufacturer is deemed to have certified that the new manufactured building or modular unit meets all applicable building codes and all applicable electrical wiring and equipment, plumbing, and fire standards. The state is not liable to a person for issuing a permit in violation of this subsection.
3. An appropriate charge must be made for a permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the department. Permit fees generated by a political subdivision must be deposited in the local authority's general fund for support of the local road system. Publicly owned vehicles that provide service beyond the agency's jurisdiction, official, publicly owned, emergency, or military vehicles are not subject to charges for permits. The minimum fee for selected charges is as follows:
   a. The fee for the ten percent weight exemption, harvest and wintertime, is fifty dollars per month for fees paid on a monthly basis or two hundred fifty dollars per year for fees paid on a yearly basis. Unused fees paid on a monthly basis are refundable. Unused fees paid on a yearly basis are not refundable.
   b. The fee for an interstate permit is ten dollars per trip or three hundred dollars per twelve-month period for unlimited trips.
   c. The fee for special mobile equipment is twenty-five dollars per trip.
   d. The fee for engineering is twenty-five dollars per trip.
   e. The fee for faxing a permit is five dollars.
   f. The fee for a single trip permit is twenty dollars per trip.
   g. The fee for a bridge length permit is thirty dollars per trip or one hundred fifty dollars per twelve-month period.
   h. The fee for a longer combination vehicle permit is one hundred dollars per month for fees paid on a monthly basis.
   i. The fee for an overwidth vehicle or load that is fourteen feet six inches [4.42 meters] or less is twenty dollars per trip or one hundred fifty dollars per twelve-month period unless the vehicle is a noncommercial fishhouse trailer being moved by the owner, then the fee is twenty dollars per twelve-month period.
   j. The fee for an overlength vehicle or load that is one hundred twenty feet [36.58 meters] or less is twenty dollars per trip or one hundred fifty dollars per twelve-month period.
   k. The highway patrol may establish an online electronic permit system. If the highway patrol establishes an online electronic permit system, the highway patrol shall assess an additional fee of up to fifteen dollars for every permit issued under this section to be deposited into the motor carrier electronic permit transaction fund.
4. The director of tax equalization of the county of destination must be furnished a copy of the permit for the movement of an overdimensional mobile home.
5. Permits issued for overdimensional movements of vehicles not exceeding ten feet [3.05 meters] in total width, including load, are valid for travel during the day and night. Permits issued for overdimensional movements of vehicles not exceeding one hundred twenty feet [36.58 meters] in total length, including load, are valid for travel during the day and night with proper lighting.
6. There is created in the state treasury a fund known as the motor carrier electronic permit transaction fund. All money in the fund is appropriated on a continuing basis to the highway patrol to defray the costs of establishing and maintaining an online electronic permit system for permitting and routing oversize and overweight vehicles in this state. The highway patrol may contract with a private entity to establish, operate, and maintain an online electronic permit system. The online electronic permit system includes the issuance of permits under this section and an automated routing system. The automated routing system must include integration of department of

transportation traveler information system information, all other data required for the automated routing system, and integration of the highway patrol computer-aided dispatch system.

39-12-03. Director or local authorities may limit use of vehicles on highways - Exception for inclement weather.

1. Whenever a highway will be seriously damaged or destroyed by reason of deterioration, rain, snow, or other climatic conditions unless the use of vehicles is prohibited or the weight of the vehicle thereon is limited, the director or employees authorized by the director by an order, and local authorities by ordinance or resolution, may prohibit the operation of vehicles upon such highway or may impose weight restrictions on vehicles. The director or employees making the order and local authorities enacting the ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the order, ordinance, or resolution. The signs must be erected and maintained at each end of the portion of highway affected, and the order, ordinance, or resolution is not effective until the signs are erected and maintained. The operation of trucks or other commercial vehicles or limitations as to the weight of vehicles on designated highways may be prohibited or limited in the same manner.
2. In instances of inclement weather, as determined by the local authorities, changes may be made to existing posted restrictions on a portion of a highway if the local authority: a. Gives public notice of the change in the posted restrictions on any portion of a highway by publishing the inclement weather restriction on the local authority's website and a uniform county permit system or similar permit system within one hour after the initial determination of inclement weather; and b. Within five days of the first date of inclement weather, erects and maintains a sign at each end of the portion of the highway affected by the inclement weather restriction.

39-12-04. Width, height, and length limitations on vehicles - Exceptions.

1. Vehicles operated on a highway in this state may not exceed a total outside width, including load thereon, of eight feet six inches [2.59 meters]. This limitation does not apply to:
   a. Construction and building contractors' equipment and vehicles used to move such equipment which does not exceed ten feet [3.05 meters] in width when being moved by contractors or resident carriers.
   b. Implements of husbandry being moved by resident farmers, ranchers, governmental entities, dealers, or manufacturers between sunrise and sunset. Furthermore, the limitation does not apply to implements of husbandry being moved between sunset and sunrise by resident farmers, ranchers, governmental entities, dealers, or manufacturers on public state, county, or township highway systems other than interstate highway systems.
   c. Hay in the stack or bale being moved along the extreme right edge of a roadway between sunrise and sunset by someone other than a commercial mover.
   d. Commercial movement of haystacks or hay bales with vehicles designed specifically for hauling hay, commercial movement of self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators, whether operating under their own power or being transported by another vehicle, commercial movement of portable grain cleaners, commercial movement of forage harvesters, and the commercial movement of hay grinders, which may be moved on the highway after obtaining a seasonal permit issued by the highway patrol. The highway patrol shall issue seasonal permits that are valid during daylight hours on any day of the week, or that are valid at all times for the movement of self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators, to any commercial entity otherwise qualified under this subdivision. Self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators operating under their own power between sunset and sunrise must display vehicle hazard warning signal lamps as described in subsection 3 of section 39-21-19.1. The seasonal permit is in lieu of registration requirements for the permit period. No seasonal permit may be issued, unless proof of financial responsibility in a minimum of three hundred thousand dollars is filed and the appropriate permit fee is paid. The seasonal permit may also be issued for hauling hay bales with vehicles or vehicle combinations other than those designed specifically for hauling haystacks. This seasonal permit, however, will not be in lieu of registration requirements. All permit fees must be deposited in the state highway distribution fund.
   e. Safety devices that the highway patrol determines are necessary for the safe and efficient operation of motor vehicles may not be included in the calculation of width.
   f. Any non-load-carrying safety appurtenance as determined by the highway patrol which extends no more than three inches [7.62 centimeters] from each side of a trailer is excluded from the measurement of trailer width. The width of a trailer is measured across the sidemost load-carrying structures, support members, and structural fasteners.
   g. The highway patrol may adopt reasonable rules for those vehicles exempted from the width limitations as provided for in this subsection.
2. Vehicles operated on a highway in this state may not exceed a height of fourteen feet [4.27 meters], whether loaded or unloaded. This height limitation does not affect any present structure such as bridges and underpasses

that are not fourteen feet [4.27 meters] in height. This limitation does not apply to vehicles that are at most fifteen feet six inches [4.72 meters] high when all of the following apply: a. The vehicle is an implement of husbandry and is being moved by a resident farmer, rancher, dealer, or manufacturer. b. The trip is at most sixty miles [96.56 kilometers]. c. The trip is between sunrise and sunset. d. None of the trip is on an interstate highway.

3. A vehicle operated on a highway in this state may not exceed the following length limitations: a. A single unit vehicle with two or more axles including the load thereon may not exceed a length of fifty feet [15.24 meters]. b. A combination of two units including the load thereon may not exceed a length of seventy-five feet [22.86 meters]. c. A combination of three or four units including the load thereon may not exceed a length of seventy-five feet [22.86 meters], subject to any rules adopted by the director that are consistent with public highway safety. The rules do not apply to a three-unit combination consisting of a truck tractor and semitrailer drawing a trailer or semitrailer. d. A combination of two, three, or four units including the load thereon may be operated on all four-lane divided highways and those highways in the state designated by the director and local authorities as to the highways under their respective jurisdictions and may not exceed a length of one hundred ten feet [33.53 meters], subject to any rules adopted by the director that are consistent with public highway safety. e. The length of a trailer or semitrailer, including the load thereon, may not exceed fifty-three feet [16.5 meters] except that trailers and semitrailers titled and registered in North Dakota before July 1, 1987, and towed vehicles may not exceed a length of sixty feet [18.29 meters].
4. Length limitations do not apply to: a. Building moving equipment. b. Emergency tow trucks towing disabled lawful combinations of vehicles to a nearby repair facility. c. Vehicles and equipment owned and operated by the armed forces of the United States or the national guard of this state. d. Structural material of telephone, power, and telegraph companies. e. Truck-mounted haystack moving equipment, provided the equipment does not exceed a length of fifty-six feet [17.07 meters]. f. A truck tractor and semitrailer or truck tractor, semitrailer, and the trailer when operated on the interstate highway system or parts of the federal aid primary system as designated by the director, only when federal law requires the exemption. g. Safety and energy conservation devices and any additional length exclusive devices as determined by the highway patrol for the safe and efficient operation of commercial motor vehicles. Length exclusive devices are appurtenances at the front or rear of a commercial motor vehicle semitrailer or trailer, whose function is related to the safe and efficient operation of the semitrailer or trailer.
5. Motor homes, house cars, travel trailers, fifth-wheel travel trailers, camping trailers, and truck campers may exceed eight feet six inches [2.59 meters] in width if the excess is attributable to an appurtenance that extends beyond the body of the vehicle no more than six inches [15.24 centimeters] on either side of the vehicle. For purposes of this subsection, the term appurtenance includes a shade awning and its support hardware, and any appendage that is intended to be an integral part of a motor home, house car, travel trailer, fifth-wheel travel trailer, camping trailer, or truck camper.

39-12-05.3. Weight limitations for vehicles on highways other than the interstate system.

1. A person may not operate on a highway that is not part of the interstate system any vehicle with a single axle that carries a gross weight in excess of twenty thousand pounds [9071.85 kilograms] or a wheel load over ten thousand pounds [4535.92 kilograms]. A wheel may not carry a gross weight over five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. Axles spaced forty inches [101.60 centimeters] apart or less are considered as one axle. On axles spaced over forty inches [101.60 centimeters] and under eight feet [2.44 meters] apart, the axle load may not exceed nineteen thousand pounds [8618.26 kilograms] per axle, with a maximum of thirty-four thousand pounds [15422.14 kilograms] gross weight on a tandem axle and a maximum of forty-eight thousand pounds [21772.32 kilograms] gross weight on any grouping of three or more axles. The wheel load, in any instance, may not exceed one-half the allowable axle load. Spacing between axles is measured from axle center to axle center.
2. Subject to the limitations imposed by subsection 1 on tires, wheel, and axle loads, a person may not operate on a highway that is not part of the interstate system any vehicle the gross weight of which exceeds that determined by the formula of:

$$W = 500 (LN/N-1 + 12N + 36)$$

where W equals the maximum gross weight in pounds on any vehicle or combination of vehicles; L equals distance in feet between the two extreme axles of any vehicle or combination of vehicles; and N equals the number of axles of any vehicle or combination of vehicles under consideration. The gross weight on state highways may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms] unless otherwise posted and on all other highways the gross weight may not exceed eighty thousand pounds [36287.39 kilograms] unless designated by local authorities for highways under their jurisdiction for gross weights not to exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. Local authorities

are encouraged to assess all roads under their jurisdiction and designate the roads for the appropriate weight limits allowed under this subsection.

3. The gross weight limitations in subsections 1 and 2 do not apply to equipment the director and the state highway patrol approve for exemption. The exemption may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. For every vehicle approved for exemption the highway patrol shall issue a nontransferable permit valid for one year. The highway patrol may charge an administrative fee for the permit.

4. a. The director, and local authorities, as to the highways under their respective jurisdictions, may issue permits authorizing:
   (1) A farmer's farm vehicle or a motor carrier hired by a farmer to exceed the weight limitations stated in subsections 1 and 2 by ten percent. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854 kilograms]. The permits must provide only for the movement of agricultural products:
      (a) From the field of harvest to the point of initial storage or to the first point of sale and transfer of possession during harvest; or
      (b) From the point of initial storage to the first point of sale and transfer of possession during the current year's harvest; or
   (2) A specific motor vehicle to exceed the weight limitations stated in subsections 1 and 2 by ten percent. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854 kilograms]. The permits must provide only for the collection and transport of solid wastes, during the period from July fifteenth to December first, and for the general movement of products during the period from December first to March seventh.

   b. The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.

5. The director, and local authorities, as to highways under their respective jurisdictions, may issue permits authorizing all vehicles carrying potatoes or sugar beets to exceed weight limitations stated in subsections 1 and 2 by ten percent during the period from July fifteenth to December first. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854.00 kilograms]. The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.

6. The director may issue a permit for a truck with a gross weight that exceeds one hundred five thousand five hundred pounds [47854 kilograms], not to exceed one hundred twenty nine thousand pounds [58513.41 kilograms]. The monthly permit fee is one hundred dollars per month or seven hundred dollars annually. Vehicle weight under this subsection is determined according to the formula under subsection 2 of section 39-12-05.

7. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled fertilizer spreader if the weight of a single axle does not exceed twenty-two thousand pounds [9973.03 kilograms] and does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled agricultural chemical applicator if the weight of a single axle does not exceed twenty-two thousand pounds [9973.03 kilograms] and does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. The highway patrol shall issue a seasonal permit for the commercial movement of vehicles exempted by this subsection. The seasonal permit issued under this subsection or under subdivision d of subsection 1 of section 39-12-04 entitles an individual with the permit to operate a vehicle as allowed by either of these provisions. A seasonal permit issued under this subsection is subject to the requirements of subdivision d of subsection 1 of section 39-12-04.

8. The weight limitations in subsections 1 and 2 do not apply to equipment the director and the state highway patrol approve for exemption but the weight limitations in section 39-12-05 do apply to that equipment. For every vehicle approved for exemption, the highway patrol shall issue a nontransferable bridge length permit valid for a single trip or a calendar year.

9. The axle weight limitations in subsection 1 do not apply to movements of implements of husbandry or equipment with pneumatic tires used for construction which is used by an agricultural producer while using the equipment for the producer's agricultural, horticultural, or livestock operations if the maximum wheel load does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width and if the gross weight limitation in this section is not exceeded.

Title 40
Municipal Government

CHAPTER 40-01.1

40-01.1-01. Advisory study of local governance options. An advisory study committee may be established under this chapter to provide local citizens and leaders with the means for fully and adequately studying options available for positioning their local governments for effective, creative, and efficient service in the future, in a manner suited to the economic, social, geographic, demographic, and other circumstances influencing the needs and resources of local communities. An advisory study committee is encouraged to prepare a comprehensive program for the performance of local government functions and the furnishing of local government services within the jurisdiction of the governing body or cooperating governing bodies that established the committee. In its study, the committee may consider:

1. The need for maintaining citizen access to, control of, and participation in local government;
2. The existing land use within the area, including the location of highways and natural geographic barriers to, and routes for, transportation;
3. The need for organized local government functions, services, and controls; the present cost and adequacy of local government functions, services, and controls; probable future needs for those functions, services, and controls; and the probable effect of alternative courses of action on the cost and adequacy of local government functions, services, and controls;
4. The trends in population density and distribution, and the potential or likelihood for significant growth or decline;
5. The tax base and other factors bearing on the capacity for local government to provide essential functions and services necessary to the general welfare of local citizens;
6. The boundaries of existing units of local government;
7. Data necessary for analyzing the strengths, weaknesses, challenges, and opportunities that are unique to the community; and
8. Other factors that may affect the provision of local government functions, services, and controls.

40-01.1-02. Local advisory study committee.

1. The governing body or electors of a county, city, city park district, township, school district, or any other political subdivision of this state may establish an advisory committee to study the existing form and powers of that political subdivision for comparison with other forms and powers available under the laws of this state. A local advisory study committee is established:
   a. By a majority vote of the governing body; or
   b. By a petition signed by ten percent or more of the total number of qualified electors of the political subdivision voting for governor at the most recent gubernatorial election and submitted to the governing body.
2. The governing body shall appoint the members of the advisory study committee and set the duration of the committee. The members are not entitled to receive compensation, but may receive actual and necessary expenses incurred in the performance of official duties as determined by the governing body.
3. The governing body may provide office and meeting space and legal, clerical, facilitation, training, and other assistance to the study committee, and may appropriate funds in its final budget, or expend any unexpended balances in its general fund otherwise designated for current expenditure, for the necessary expenses of the advisory study committee. The committee, with the approval of the governing body, may:
   a. Employ and fix the compensation and duties of necessary staff;
   b. Contract and cooperate with other individuals and public or private agencies considered necessary for assistance, including institutions of higher education;
   c. Establish advisory subcommittees that may include persons who are not members of the study committee;
   d. Hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the committee's purpose, progress, conclusions, and recommendations;
   e. Cooperate with a like committee established pursuant to this section by another political subdivision in the conduct of the study. A cooperative study does not preclude a study committee from making separate recommendations to the governing body; and
   f. Do any other act consistent with and reasonably required to perform its advisory function.

40-01.1-03. Cooperative advisory study committee.

1. The governing bodies of any two or more political subdivisions, including any combination of counties, cities, city park districts, townships, school districts, or other political subdivisions, may establish an advisory committee to

study the potential for cooperative or combined efforts for providing local government functions and services. A cooperative advisory study committee is established:

a. By execution of a joint powers agreement between participating political subdivisions or by joint resolution pursuant to separate majority votes of each participating governing body; or

b. By petitions signed by ten percent or more of the total number of qualified electors of each affected political subdivision voting for governor at the most recent gubernatorial election and submitted to the governing bodies.

2. The composition and duration of the advisory study committee is as prescribed in the joint powers agreement, resolutions of the governing bodies, or petitions. However, the governing bodies may agree, by joint resolution, to limit the duration or composition of the advisory study committee created by petition pursuant to subdivision b of subsection 1. Any vacancy may be filled as prescribed in the agreement, resolution, or petitions or, if not prescribed, by the governing body that was represented by the person vacating the position.

3. A governing body may agree to provide office and meeting space and legal, clerical, facilitation, training, and other assistance to the study committee, and may appropriate funds in its final budget, or expend any unexpended balances in its general fund otherwise designated for current expenditure, for the necessary expenses of the advisory study committee. The committee, with the approval of the governing body, may:

a. Employ and fix the compensation and duties of necessary staff;

b. Contract and cooperate with other individuals and public or private agencies considered necessary for assistance, including institutions of higher education;

c. Establish advisory subcommittees that may include persons who are not members of the study committee;

d. Hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the committee's purpose, progress, conclusions, and recommendations; and

e. Do any other act consistent with and reasonably required to perform its advisory function.

40-01.1-04. Advisory recommendations. A local or cooperative advisory study committee established for one or more political subdivisions may recommend that a local governing body or the electors pursue any course of action permitted by law or home rule charter for that political subdivision. The committee may recommend:

3. With respect to a township:

a. Execution of a joint powers agreement between the township and one or more other political subdivisions or the state for the cooperative or joint administration of any service or function pursuant to chapter 54-40.3 or as otherwise specifically provided by law, or an agreement between the township and a tribal government pursuant to chapter 54-40.2.

b. Exercise of the township's general authority to contract pursuant to section 58-03-01 and any other law, including service agreements with public or private parties under the terms and conditions of the agreements.

c. Participation in a community or leadership development, assessment, education, planning, or training program offered by any public or private agency, institution, or organization.

d. Combination of the offices of township clerk and treasurer pursuant to section 58-05-02 or the sharing of officers with other townships or other political subdivisions pursuant to chapter 11-10.3.

e. An increase in the number of board of township supervisors from three to five pursuant to section 58-04-02.1.

f. Contract with the county, another political subdivision, or any individual for assessor services pursuant to section 58-05-02.

g. Consolidation of boards of township officers pursuant to chapter 58-05.1.

h. Transfer of a power or function of the township to the county pursuant to chapter 54-40.5.

i. Creation of an organized civil township pursuant to chapter 58-02.

j. Division or annexation of a township pursuant to chapter 58-02.

k. Dissolution of the township pursuant to chapter 58-02.

l. That any other action be taken that is permitted by law.

m. That no action be taken.

CHAPTER 40-02
INCORPORATION OF MUNICIPALITIES IN UNORGANIZED TERRITORY

40-02-15. Division of property and indebtedness between municipality and township. If a municipality is organized under the provisions of this chapter from territory which has been a part of a civil township, any property owned, and any debts owed, by the township prior to the separation shall be divided between the municipality and the township in the proportion which the valuation of the property in the municipality bears to the valuation of the property in the township. The valuations used shall be the valuations as equalized by the board of county commissioners at the last equalization previous to the separation. Real estate which is owned jointly shall belong to the municipality if it is situated therein, and in such case, the municipality shall pay to the township its proportion of the value thereof and shall assume its just proportion of any indebtedness thereon.

40-02-16. Arbitration of differences between township and newly organized municipality upon division of property and indebtedness. If the officers of a township and of a municipality which has been organized from territory situated therein cannot agree upon the valuation of any real estate, or of any indivisible property which is held jointly, or upon the just apportionment of the joint indebtedness, the officers of the township or municipality, upon five days' notice of the time and place, may apply to the director of the office of administrative hearings for arbitration of such differences. Thereupon, the director shall appoint three residents of the county, not residents or taxpayers of the municipality or township involved, to act as arbitrators. After being duly sworn to perform the duties imposed upon them, the arbitrators shall view and appraise the property and fix the valuation thereof for the purpose of making the division. If the property to be divided is personal property and no satisfactory arrangement can be made otherwise, it must be sold at public auction to the highest bidder, and the municipality and township may bid at the sale. The township and municipality involved in the arbitration shall share equally in the costs and expenses of the arbitration. The director of the office of administrative hearings shall request payment from the township and municipality and the township and municipality shall pay to the office of administrative hearings both the costs and expenses of the arbitration proceedings and the cost of the services provided by the arbitrators and the director of the office of administrative hearings.

CHAPTER 40-05
POWERS OF MUNICIPALITIES

40-05-10. Municipalities to have powers of townships. In addition to the powers conferred by this title, each incorporated municipality shall have and shall exercise, within its limits and in the manner prescribed by law, the same powers as are conferred upon townships by the laws of this state.

CHAPTER 40-23.1
ALTERNATIVE ALLOCATION OF SPECIAL ASSESSMENTS

40-23.1-06. Political subdivisions not exempt from special assessments. Benefited property belonging to counties, cities, school districts, park districts, and townships shall not be exempt from assessment and such public corporations whose property is assessed shall provide for the payment of such assessments, installments thereof, and interest thereon by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

CHAPTER 40-26
CORRECTION, REASSESSMENTS, AND FUND DEFICIENCIES

40-26-01. Courts to review levy and apportionment of special assessments - De novo review for agricultural property assessments. The courts shall review the levy and apportionment of the special assessments in all actions and proceedings involving the validity or apportionment of any special assessment for local or special improvements. If an action challenges the determination of benefits and special assessments imposed for agricultural property, the decision of the special assessment commission regarding agricultural property is not entitled to deference by the court and the court shall consider the determination of benefits and special assessments imposed for agricultural property de novo. An appeal taken under this section must be in accordance with the procedure provided in section 28-34-01.

40-26-02. Correcting errors, mistakes, and deficiencies in special assessments. If errors or mistakes occur in making an assessment in respect to the total cost of the improvement or otherwise, or if there was a deficiency in any assessment, the governing body shall cause additional assessments to be made in the manner provided in section 40-26-03 to supply such deficiencies or correct such errors or mistakes. The total of all special assessments for an improvement shall not exceed the benefits to the property derived from such improvement. An additional assessment shall be a lien upon the lots and lands on which it is levied, shall be payable in the same manner and in the same installments, shall draw interest at the same rate, and shall be enforced through the same procedure as the original assessment.

40-26-03. Reassessment - Regulations governing - Enforcement and collection. When a special assessment, or any part thereof, as to any lot, lots, or parcels of land assessed under any of the provisions of the laws of this state shall be set aside or declared void by any court for any cause, the governing body, without unnecessary delay, shall cause a reassessment or new assessment to be made to defray the expense of such improvement. Such reassessment or new assessment shall comply as closely as possible with the making of the assessment in the first instance and may bear interest from the date of the approval of the assessment so set aside. When the reassessment or new assessment shall have been made and confirmed by the governing body, it shall be enforced and collected in the same manner that other special assessments are enforced and collected.

40-26-04. Reassessment made upon refusal of judgment for collection of special assessments or assessment declared void. When judgment for the collection or enforcement of any special assessment shall be refused or denied by any court, or when any court shall set aside any special assessment upon any lot or parcel of land or declare the same to be void for any cause, such lot or parcel of land may be reassessed or newly assessed from time to time until each separate lot, piece, or parcel of land has paid its proportionate part of the costs and expenses of such improvement.

40-26-05. Supreme court setting aside judgment - Effect - Reassessment. When any special assessment shall be declared void or shall be set aside by the judgment of the supreme court for a cause affecting other like assessments, all assessments affected may be vacated by a resolution of the governing body of the municipality in which any such assessment was spread. A reassessment of the property affected thereby shall be made and may bear interest as is provided in section 40-26-03.

40-26-06. Error or omission does not vitiate assessment - Assessment altered if substantial injury has been done. No error or omission which may be made in the proceedings of the governing body, or of any officer of a municipality in referring, reporting upon, ordering, or otherwise acting upon any local improvement to be financed by special assessments or in making or certifying any such assessment shall vitiate or in any way affect the assessment. If it shall appear that by reason of any such error or omission substantial injury has been done to any party or parties claiming to be aggrieved thereby, the court shall alter such assessment as may be just, and the same then shall be enforced.

40-26-07. Actions to restrain collection of special assessments, avoid tax judgments - Duty of court. The court shall determine the true and just amount which any property attempted to be specially assessed for a special improvement should pay to make the same uniform with other special assessments for the same purpose, whenever any action or proceeding shall be commenced and maintained before the court to prevent or restrain the collection of any special assessment or part thereof made or levied by the officers of any municipality for any purpose authorized by law, if such assessment shall be held to be void by reason of noncompliance with any provision of the laws of this state. Unless the action challenges the determination of benefits and special assessments imposed for agricultural property, the amount of the assessment as the same appears on the assessment list shall be prima facie evidence of the true and just amount, and judgment must be rendered and given therefor against the party liable for such special assessment without regard to the proceedings had for the levy thereof. The judgment shall be a lien upon the property upon which a special assessment shall have been levied, of the same force and effect as the lien of a special assessment, and the lien of such special judgment shall be enforced by the court in such action. No action for said purposes shall be maintained unless it is commenced within six months after the special assessment is approved.

40-26-08. Municipality liable generally for deficiencies in special improvement fund.

Whenever all special assessments and all utility revenues and taxes, if any, appropriated and theretofore collected for a special improvement, made under authority of any law authorizing the payment of the cost thereof in whole or in part from special assessments, are insufficient to pay principal or interest then due on the special improvement warrants issued against such improvement, the governing body shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency. If at any time a deficiency is likely to occur within one year in such special improvement fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. This section applies to any deficiency in a special improvement fund, including a sewer and water connections assessment fund under chapter 40-28, sidewalk special fund under chapter 40-29, curbing special fund under chapter 40-31, and boulevard special fund under chapter 40-32. In case a balance remains unexpended in a special improvement fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

CHAPTER 40-47
CITY ZONING

40-47-01. Cities may zone - Application of regulations. For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing body of any city may, subject to the provisions of chapter 54-21.3, regulate and restrict the height, number of stories, and the size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. The regulations may provide that a board of adjustment may determine and vary the application of the regulations in harmony with the regulation's general purpose and intent and in accordance with general or specific rules contained in the regulations. The governing body of a city may establish institutional controls that address environmental concerns with the department of environmental quality as provided in section 23.1-10-16.

40-47-01.1. Extraterritorial zoning - Mediation - Determination by administrative law judge - Definition.

1. a. A city may, by ordinance, extend the application of a city's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:
   (1) One mile [1.61 kilometers] if the city has a population of fewer than five thousand. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction from one-half mile [.80 kilometer] to one mile [1.61 kilometers] with the other political subdivision.
   (2) Two miles [3.22 kilometers] if the city has a population of five thousand or more, but fewer than twenty-five thousand. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction from one mile [1.61 kilometers] to two miles [3.22 kilometers] with the other political subdivision.
   (3) Four miles [6.44 kilometers] if the city has a population of twenty-five thousand or more. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction from two miles [3.22 kilometers] to four miles [6.44 kilometers] with the other political subdivision.

   b. Any section or portion of a section of unincorporated territory within the area of joint zoning and subdivision regulation jurisdiction in which a plat or site plan has been presented before May 1, 2009, remains subject to the zoning designations and the regulations in place on May 1, 2009, unless changed as allowed under this section.

   c. The extraterritorial zoning jurisdiction and authority to receive applications and issue permits under this section may be changed by written agreement between the city and the other political subdivision.

2. Joint jurisdiction is jurisdiction in which the other political subdivision has jurisdiction to receive applications and issue permits and impose administrative fees for applications and permits. In addition, under this jurisdiction the other political subdivision may adopt, modify, and enforce any zoning designation or regulation and approve any subdivision plat or regulation. For a decision to be final, the other political subdivision shall give written notice to the city. The city may request negotiation as to any decision made by the other political subdivision under the other political subdivision's jurisdiction within thirty days of notice. If negotiation is not requested, the decision of the other political subdivision is final. If the governing body of the other political subdivision and the city do not come to an agreement as to the disputed zone or subdivision regulation within thirty days of request for negotiation, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor and two members of the governing body of the other political subdivision and two members of the governing body of the city. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies, the dispute must be resolved by the board of county commissioners.

3. Notwithstanding subsection 2, in any section or portion of a section of unincorporated territory in which there would otherwise be joint jurisdiction and in which a plat or site plan has been presented before May 1, 2009, the city has jurisdiction to receive applications and issue permits and impose administrative fees for applications and permits relating to zoning and subdivision regulation. In addition, under this jurisdiction the city may adopt, modify, and enforce any zoning designation or regulation and approve any subdivision plat or regulation. For a decision of the city made after May 1, 2009, to be final, the city shall give written notice of the decision of the governing body of the political subdivision that would otherwise have jurisdiction. The governing body may request negotiation as to any decision made by the city under the city's jurisdiction within thirty days of notice. If negotiation is not requested, the decision of the city is final. If the city and governing body of the political subdivision that would otherwise have jurisdiction do not come to an agreement as to the disputed zoning or subdivision regulation within thirty days of the request for negotiation, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor and two

members of the governing body of the other political subdivision and two members of the governing body of the city. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies, the dispute must be resolved by the board of county commissioners.

4. If a quarter quarter section line divides a platted lot and the majority of that platted lot lies within the quarter quarter section, a city may apply its extraterritorial zoning authority to the remainder of that platted lot. If the majority of the platted lot lies outside the quarter quarter section, the city may not apply its extraterritorial zoning authority to any of that platted lot.
5. A city exercising its extraterritorial zoning authority shall hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The city's zoning or planning commission shall provide at least fourteen days' notice of the meeting to the zoning board or boards of all political subdivisions losing their partial zoning authority. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition. The zoning transition meeting must take place before the city's adoption of an ordinance exercising extraterritorial zoning.
6. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial zoning authority under this section, the governing bodies of the cities may enter into an agreement regarding the extraterritorial zoning authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial zoning authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.
7. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection 6 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:
   a. The proportional extraterritorial zoning authority of the cities involved in the dispute;
   b. The proximity of the land in dispute to the corporate limits of each city involved;
   c. The proximity of the land in dispute to developed property in the cities involved;
   d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;
   e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
   f. The growth pattern of the cities involved in the dispute; and
   g. Any other factor determined to be relevant by the administrative law judge.
8. For purposes of this section, the population of a city must be determined by the last official regular or special federal census. If a city has incorporated after a census, the population of the city must be determined by a census taken in accordance with chapter 40-22.
9. When a portion of the city is attached to the bulk of the city by a strip of land less than one hundred feet [30.48 meters] wide, that portion and strip of land must be disregarded when determining the extraterritorial zoning limits of the city. This subsection does not affect the ability of a city to zone land within its city limits.

10. For the purposes of this section, a section or a quarter quarter section is as determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752]. When appropriate, the phrase "quarter quarter section" refers to the equivalent government lot.
11. As used in this section, "other political subdivision" means a political subdivision, not including another city, which would otherwise have zoning or subdivision regulation jurisdiction.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the sixty-first legislative assembly that land use regulations under consideration by local governments be readily available to the public. Local governments are encouraged to jointly discuss their land use regulations and consider the cumulative impact of local regulations.

40-47-01.2. Agreements to not oppose annexation void. The zoning commission or governing body may not require as a condition of approval of a request to amend or modify a zoning regulation the execution of an agreement by the owner of the property requesting the amendment or modification stating that the owner will not oppose the annexation of the property by the municipality. This section does not apply to property located within one quarter mile [.40 kilometer] of the municipality's corporate limits or to an agreement that contains a provision whereby the municipality agrees to provide a municipal service or services before the annexation. Any agreement entered in violation of this section is void.

40-47-01.3. Extraterritorial zoning - Limitation. Notwithstanding any other provision of law, a city that exercises extraterritorial jurisdiction under this chapter may not impose building permit fees on any section of unincorporated territory which are higher than the building permit fees within the city exercising the jurisdiction.

40-47-03. Regulation for zoning made for what purposes. The regulations provided for in this chapter shall be made in accordance with a comprehensive plan and shall be designed to:

1. Lessen congestion in the streets;
2. Provide for emergency management. "Emergency management" means a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment;
3. Promote health and the general welfare;
4. Provide adequate light and air;
5. Prevent the overcrowding of land;
6. Avoid undue concentration of population; and
7. Facilitate adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.

The regulations shall be made with reasonable consideration as to the character of each district and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. The comprehensive plan shall be a statement in documented text setting forth explicit goals, objectives, policies, and standards of the jurisdiction to guide public and private development within its control.

40-47-06. Zoning commission - Appointment - Duties - Preliminary and final report. The governing body of a city desiring to avail itself of the powers conferred by this chapter shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. In addition to the members appointed by the city, the zoning commission shall include at least one person residing outside of the corporate limits of a city having a population of less than five thousand, two persons residing outside the corporate limits of a city having a population of five thousand or more, but less than twenty-five thousand, or three persons residing outside the corporate limits of a city having a population of twenty-five thousand or more if zoning authority is exercised pursuant to section 40-47-01.1. Such persons shall be appointed by the board or boards of county commissioners of the county or counties within which such zoning authority is to be exercised and shall reside within the territorial limits of the zoning regulation authority exercised by the city, if such persons are available and will serve on the zoning commission. Of the members of the commission appointed by a board or boards of county commissioners pursuant to this section, the first member appointed shall hold office for five years, the second member appointed shall hold office for three years, and the third member appointed shall hold office for one year. Thereafter, the members shall be appointed for terms of five years. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report. The governing body shall not hold its public hearings or take action until it has received the final report of the zoning commission. If a city has a planning commission, it may be appointed as the zoning commission.

CHAPTER 40-48
MUNICIPAL MASTER PLANS AND PLANNING COMMISSIONS

40-48-03. Planning commission - Creation - Members - Ex officio members. The governing body of any city may create, by ordinance, a planning commission to consist of not more than ten members to be appointed by the executive officer of the city with the approval of its governing body. In addition to the members appointed by the city, the planning commission shall include at least one person residing outside of the corporate limits of a city having a population of less than five thousand, two persons residing outside the corporate limits of a city having a population of five thousand or more, but less than twenty-five thousand, or three persons residing outside the corporate limits of a city having a population of twenty-five thousand or more if zoning authority is exercised pursuant to section 40-47-01.1. Such persons shall be appointed by the board or boards of county commissioners of the county or counties within which such subdivision authority is to be exercised and shall reside within the territorial limits of the subdivision regulation authority exercised by the city, if such persons are available and will serve on the planning commission. Of the members of the commission appointed by a board or boards of county commissioners pursuant to this section, the first member appointed shall hold office for five years, the second member appointed shall hold office for three years, and the third member appointed shall hold office for one year. Thereafter, the members shall be appointed for terms of five years. The executive officer, the engineer, and the attorney of the city shall be ex officio members of the commission.

40-48-18. Extraterritorial subdivision regulation - Mediation - Determination by administrative law judge.

1. A city may, by ordinance, extend its regulation of subdivisions beyond its corporate limits to the same extent as a city is authorized to extend its zoning authority under section 40-47-01.1.
2. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial subdivision regulation authority under this section, the governing bodies of the cities may enter into an agreement regarding the extraterritorial subdivision regulation authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial subdivision regulation authority of a city, and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. The meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.
3. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial subdivision regulation authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection 2 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed subdivision regulation, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the subdivision regulation authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:
    a. The proportional extraterritorial subdivision regulation authority of the cities involved in the dispute;
    b. The proximity of the land in dispute to the corporate limits of each city involved;
    c. The proximity of the land in dispute to developed property in the cities involved;
    d. Whether any of the cities has exercised extraterritorial subdivision regulation authority over the disputed land;
    e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
    f. The growth pattern of the cities involved in the dispute; and
    g. Any other factor determined to be relevant by the administrative law judge.

40-48-18.1. Agreements to not oppose annexation void. The planning commission or governing body may not require as a condition of approval of a request for approval of a plat the execution of an agreement by the owner of the property requesting the approval stating that the owner will not oppose the annexation of the property by the municipality. This section does not apply to property located within one quarter mile [.40 kilometer] of the municipality's corporate limits or to an agreement that contains a provision whereby the municipality agrees to provide a municipal service or services before the annexation. Any agreement entered in violation of this section is void.

Title 42
Nuisances

CHAPTER 42-04
AGRICULTURAL OPERATIONS AS NUISANCES

42-04-01. Agricultural operation defined. As used in this chapter, "agricultural operation" means the science and art of producing plants and animals useful to people, by a corporation or a limited liability company as allowed under chapter 10-06.1, or by a corporation or limited liability company, a partnership, or a proprietorship, and includes the preparation of these products for people's use and the disposal of these products by marketing or other means. The term includes livestock auction markets and horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products, and farm production.

42-04-02. Agricultural operation deemed not nuisance. An agricultural operation is not, nor shall it become, a private or public nuisance by any changed conditions in or about the locality of such operation after it has been in operation for more than one year, if such operation was not a nuisance at the time the operation began, except that the provisions of this section shall not apply when a nuisance results from the negligent or improper operation of any such agricultural operation.

42-04-03. Recovery for water pollution, condition, or overflow. The provisions of section 42-04-02 shall not affect or defeat the right of any person to recover damages for any injury or damage sustained by the person on account of any pollution of or change in the condition of the waters of any stream or on account of any overflow of lands of any such person.

42-04-04. Effect on local ordinances. Any ordinance or resolution of any unit of local government that makes the operation of any agricultural operation a nuisance or provides for the abatement thereof as a nuisance under the circumstances set forth in this chapter is void, except that the provisions of this section shall not apply when a nuisance results from the negligent or improper operation of any such agricultural operation or from an agricultural operation located within the corporate limits of any city as of July 1, 1981.

42-04-05. Effect on contracts. This chapter shall not be construed to invalidate any contracts made prior to the enactment of this chapter, but, insofar as contracts are concerned, it is only applicable to contracts and agreements to be made on or after July 1, 1981.

Title 44
Offices and Officers

CHAPTER 44-01
ELIGIBILITY AND QUALIFICATIONS OF OFFICERS

44-01-04. State, district, and county officers - Failure to qualify - Vacancy. If any person elected to any state, district, county, or other political subdivision office fails to qualify and enter upon the duties of such office within the time fixed by law, such office must be deemed vacant and must be filled by appointment as provided by law. If there is a contest for such office or if the person elected to such office is prevented or obstructed in any manner from entering upon the duties thereof, the time above prescribed does not govern and the person must be allowed twenty days after the day such contest is determined or such obstruction removed in which to qualify.

CHAPTER 44-02
VACANCIES IN OFFICE

44-02-01. Vacancies - Causes thereof. An office becomes vacant if the incumbent shall:

1. Die in office;
2. Be adjudged mentally ill;
3. Resign from office;

4. Be removed from office;
5. Fail to discharge the duties of office, when the failure has continued for sixty consecutive days, except when prevented from discharging the duties by reason of the person's service in the armed forces of the United States, by sickness, or by other unavoidable cause. However, as to any office which under the law the vacancy must be filled by the governor, the governor for good cause shown may extend the period, which the incumbent may be absent, for an additional period of sixty days. No remuneration on account of such office may be paid to an absentee officeholder during that person's absence, and the office in all cases becomes vacant upon the termination of the term for which the person was elected or appointed;
6. Fail to qualify as provided by law, which includes taking the designated oath of office prescribed by law;
7. Cease to be a resident of the state, district, county, or other political subdivision in which the duties of the office are to be discharged, or for which the person may have been elected;
8. Be convicted of a felony or any offense involving moral turpitude or a violation of the person's official oath;
9. Cease to possess any of the qualifications of office prescribed by law; or
10. Have the person's election or appointment declared void by a competent tribunal.

44-02-02. Resignations of officers - To whom made. The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state.
2. Any other state or district officer, to the governor.
3. A member of the legislative assembly, to the presiding officer of the branch of which the individual is a member, when in session, and when not in session, to the chairman of the legislative management. When made to the presiding officer, the presiding officer at once shall notify the chairman of the legislative management of the resignation.
4. An officer of the legislative assembly, to the branch of which the individual is an officer.
5. An elective county officer, by filing or depositing the resignation in the office of the county auditor, except that the resignation of the county auditor must be filed or deposited with the board of county commissioners. Any resignation under this subsection, unless a different time is fixed therein, takes effect upon the filing or deposit.
6. An officer of a civil township, to the board of supervisors of the township, except that a member of the board shall submit the member's resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with that officer.
7. A member of a school board, to the business manager of the district.
8. Any officer holding office by appointment, to the body, board, court, or officer which appointed the officer.

CHAPTER 44-04
DUTIES, RECORDS, AND MEETINGS

44-04-01. When official reports to be made. All county, township, and city officers, except such as are required to make their reports at some other specified time, who are required by law to make annual reports for any purpose to any state officer, shall prepare and transmit the same on or before the fifteenth day of August of each year to the proper officer. For the purpose of preparing such report, the year begins on the first day of July of each year and ends on the last day of June of the succeeding year.

44-04-03. Attorney general and state's attorney to prosecute officer for failure to make report. Upon the willful neglect of any public officer to make any report required by law, the officer or board to whom such report should be made promptly shall notify the attorney general or the state's attorney of such failure to report. The attorney general or state's attorney shall investigate the neglect of duty complained of, and, if in the opinion of the attorney general or state's attorney, the officer has not a sufficient excuse for such failure, the attorney general or state's attorney shall prosecute such officer.

44-04-06. Peace officers to report law violations. The state's attorney, assistant state's attorney, sheriff, deputy sheriff, or peace officer of any county, township, city in this state, having any evidence, knowledge, or notice of any violation of any liquor, gambling, cigarette, snuff, pool hall, bawdyhouse, prostitution, white slave, or habit-forming drug laws of North Dakota shall investigate and seek evidence of the violation and the names of witnesses by whom the violation may be proved. Any peace officer shall report the information to the state's attorney of the county in which the violation occurs and shall assist the state's attorney in the prosecution of the violators of said laws.

44-04-12. Public property must be delivered to successor. Unless otherwise specifically provided by law, every officer elected or appointed under the laws of this state, on going out of office, shall deliver to that officer's successor in office all public moneys, books, records, accounts, papers, documents, and property in that officer's possession belonging or appertaining to such office.

44-04-13. Property delivered to successor. Upon the death, resignation, suspension, or removal from office of any officer, all books and papers belonging to the office, and all moneys and property in the officer's hands, must be delivered to the officer's successor.

44-04-15. Examination of records of local officers - State's attorney to prosecute. At the end of the term of office of each city, township, or school district officer, the city council or board of city commissioners, board of township supervisors, or school board, as the case may be, shall examine the records of that officer's office in the manner provided by section 44-04-14 or shall employ a competent accountant to make such examination. Upon complaint of irregularity by the proper board, the state's attorney shall prosecute as provided in section44-04-03.

44-04-16. Officer to provide blanks and records for office. Each county, city, township, or school district officer shall provide, at the expense of the county, city, township, or school district, as the case may be, such blanks and records as are necessary for making proper records and for transacting any official business connected with the office.

44-04-17.1. Definitions. As used in this section through section 44-04-32:

1. "Closed meeting" means all or part of an exempt meeting that a public entity in its discretion has not opened to the public, although any person necessary to carry out or further the purposes of a closed meeting may be admitted.
2. "Closed record" means all or part of an exempt record that a public entity in its discretion has not opened to the public.
3. "Confidential meeting" or "confidential record" means all or part of a record or meeting that is either expressly declared confidential or is prohibited from being open to the public.
4. "Executive session" means all or part of a meeting that is closed or confidential.
5. "Exempt meeting" or "exempt record" means all or part of a record or meeting that is neither required by law to be open to the public, nor is confidential, but may be open in the discretion of the public entity.
6. "Governing body" means the multimember body responsible for making a collective decision on behalf of a public entity. "Governing body" also includes any group of persons, regardless of membership, acting collectively pursuant to authority delegated to that group by the governing body.
7. "Information technology resources" includes data processing hardware and software or technology support services necessary to facilitate a response to a request for electronic records.
8. "Law" includes federal statutes, applicable federal regulations, and state statutes.
9. a. "Meeting" means a formal or informal gathering or a work session, whether in person or through electronic means, of:
      (1) A quorum of the members of the governing body of a public entity regarding public business; or
      (2) Less than a quorum of the members of the governing body of a public entity regarding public business, if the members attending one or more of the smaller gatherings collectively constitute a quorum and if the members hold the gathering for the purpose of avoiding the requirements of section 44-04-19.

   b. "Meeting" does not include:
      (1) A chance or social gathering at which public business is not considered;
      (2) Emergency operations during a disaster or emergency declared under section 37-17.1-10 or an equivalent ordinance if a quorum of the members of the governing body are present but are not discussing public business as the full governing body or as a task force or working group; and
      (3) The attendance of members of a governing body at meetings of any national, regional, or state association to which the public entity, the governing body, or individual members belong; and
      (4) Training seminars at which no other public business is considered or discussed; and
      (5) Administration of examinations by a regulatory board when no other public business is considered or discussed.

   c. Notwithstanding subdivisions a and b, as applied to the legislative assembly, "meeting" means any gathering subject to section 14 of article IV of the Constitution of North Dakota.
10. "Organization or agency supported in whole or in part by public funds" means an organization or agency in any form which has received public funds exceeding the fair market value of any goods or services given in

exchange for the public funds, whether through grants, membership dues, fees, or any other payment. An exchange must be conclusively presumed to be for fair market value, and does not constitute support by public funds, when an organization or agency receives a benefit under any authorized economic development program.

11. "Political subdivision" includes any county or city, regardless of the adoption of any home rule charter, and any airport authority, township, school district, park district, rural fire protection district, water resource district, solid waste management authority, rural ambulance service district, irrigation district, hospital district, soil conservation district, recreation service district, railroad authority, or district health unit.
12. "Public business" means all matters that relate or may foreseeably relate in any way to:
    a. The performance of the public entity's governmental functions, including any matter over which the public entity has supervision, control, jurisdiction, or advisory power; or
    b. The public entity's use of public funds.
13. "Public entity" means all:
    a. Public or governmental bodies, boards, bureaus, commissions, or agencies of the state, including any entity created or recognized by the Constitution of North Dakota, state statute, or executive order of the governor or any task force or working group created by the individual in charge of a state agency or institution, to exercise public authority or perform a governmental function;
    b. Public or governmental bodies, boards, bureaus, commissions, or agencies of any political subdivision of the state and any entity created or recognized by the Constitution of North Dakota, state statute, executive order of the governor, resolution, ordinance, rule, bylaw, or executive order of the chief executive authority of a political subdivision of the state to exercise public authority or perform a governmental function; and
    c. Organizations or agencies supported in whole or in part by public funds, or expending public funds.
14. "Public funds" means cash and other assets with more than minimal value received from the state or any political subdivision of the state.
15. "Quorum" means one-half or more of the members of the governing body, or any smaller number if sufficient for a governing body to transact business on behalf of the public entity.
16. "Record" means recorded information of any kind, regardless of the physical form or characteristic by which the information is stored, recorded, or reproduced, which is in the possession or custody of a public entity or its agent and which has been received or prepared for use in connection with public business or contains information relating to public business. "Record" does not include unrecorded thought processes or mental impressions, but does include preliminary drafts and working papers. "Record" also does not include records in the possession of a court of this state.
17. "Task force or working group" means a group of individuals who have been formally appointed and delegated to meet as a group to assist, advise, or act on behalf of the individual in charge of a state agency or institution when a majority of the members of the group are not employees of the agency or institution.

44-04-18. Access to public records - Electronically stored information.

1. Except as otherwise specifically provided by law, all records of a public entity are public records, open and accessible for inspection during reasonable office hours. As used in this subsection, "reasonable office hours" includes all regular office hours of a public entity. If a public entity does not have regular office hours, the name and telephone number of a contact person authorized to provide access to the public entity's records must be posted on the door of the office of the public entity, if any. Otherwise, the information regarding the contact person must be filed with the secretary of state for state-level entities, for public entities defined in subdivision c of subsection 13 of section 44-04-17.1, the city auditor or designee of the city for city-level entities, or the county auditor or designee of the county for other entities.
2. Upon request for a copy of specific public records, any entity subject to subsection 1 shall furnish the requester one copy of the public records requested. An initial request need not be made in person or in writing, and the copy must be mailed upon request. A public entity may require written clarification of the request to determine what records are being requested, but may not ask for the motive or reason for requesting the records or for the identity of the person requesting public records. A public entity may charge up to twenty-five cents per impression of a paper copy. As used in this section, "paper copy" means a one-sided or two-sided duplicated copy of a size not more than eight and one-half by fourteen inches [19.05 by 35.56 centimeters]. For any copy of a record that is not a paper copy as defined in this section, the public entity may charge a reasonable fee for making the copy. As used in this section, "reasonable fee" means the actual cost to the public entity of making the copy, including labor, materials, and equipment. The entity may charge for the actual cost of postage to mail a copy of a record. An entity may require payment before locating, redacting, making, or mailing the copy. The

public entity may withhold records pursuant to a request until such time as a requester provides payment for any outstanding balance for prior requests. An entity may impose a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for locating records, including electronic records, if locating the records requires more than one hour. An entity may impose a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for excising confidential or closed material under section 44-04-18.10 from the records, including electronic records. If a public entity receives five or more requests from the same requester within seven days, the public entity may treat the requests as one request in computing the time it takes to locate and excise the records. If the entity is not authorized to use the fees to cover the cost of providing or mailing the copy, or both, or if a copy machine is not readily available, the entity may make arrangements for the copy to be provided or mailed, or both, by another entity, public or private, and the requester shall pay the fee to that other entity. This subsection does not apply to copies of public records for which a different fee is specifically provided by law.

3. Automation of public records must not erode the right of access to those records. As each public entity increases its use of and dependence on electronic recordkeeping, each agency must provide reasonable public access to records electronically maintained and must ensure that exempt or confidential records are not disclosed except as otherwise permitted by law. A public entity may not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of the agency, including public records online or stored in an electronic recordkeeping system used by the agency. An electronic copy of a record must be provided upon request at no cost, other than costs allowed in subsection 2, except if the nature or volume of the public records requested to be accessed or provided requires extensive use of information technology resources, the agency may charge no more than the actual cost incurred for the extensive use of information technology resources incurred by the public entity. "Extensive" is defined as a request for copies of electronic records which take more than one hour of information technology resources to produce.
4. Except as provided in this subsection, nothing in this section requires a public entity to create or compile a record that does not exist. Access to an electronically stored record under this section, or a copy thereof, must be provided at the requester's option in either a printed document or through any other available medium. A computer file is not an available medium if no means exist to separate or prevent the disclosure of any closed or confidential information contained in that file. Except as reasonably necessary to reveal the organization of data contained in an electronically stored record, a public entity is not required to provide an electronically stored record in a different structure, format, or organization. This section does not require a public entity to provide a requester with access to a computer terminal or mobile device. A public entity is not required to provide a copy of a record that is available to the requester on the public entity's website or on the internet. The public entity shall notify the requester the record is available online and direct the requester to the website where the record can be accessed. If the requester does not have reasonable access to the internet due to lack of computer, lack of internet availability, or inability to use a computer or the internet, the public entity shall produce paper copies for the requester, but may charge the applicable fees under this section.
5. A state-level public entity as defined in subdivision a of subsection 13 of section 44-04-17.1 or a political subdivision as defined in subsection 11 of section 44-04-17.1, may establish procedures for providing access from an outside location to any computer database or electronically filed or stored information maintained by that entity. The procedures must address the measures that are necessary to maintain the confidentiality of information protected by federal or state law. Except for access provided to another state-level public entity or political subdivision, the state or political subdivision may charge a reasonable fee for providing that outside access. If the original information is keyed, entered, provided, compiled, or submitted by any political subdivision, the fees must be shared by the state and the political subdivision based on their proportional costs to make the data available.
6. Any request under this section for records in the possession of a public entity by a party to a criminal or civil action, adjudicative proceeding as defined in subsection 1 of section 28-32-01, or arbitration in which the public entity is a party, or by an agent of the party, must comply with applicable discovery rules or orders and be made to the attorney representing that entity in the criminal or civil action, adjudicative proceeding, or arbitration. The public entity may deny a request from a party or an agent of a party under this subsection if the request seeks records that are privileged under applicable discovery rules.
7. A denial of a request for records made under this section must describe the legal authority for the denial, or a statement that a record does not exist, and must be in writing if requested.
8. This section is violated when a person's right to review or receive a copy of a record that is not exempt or confidential is denied or unreasonably delayed or when a fee is charged in excess of the amount authorized in subsections 2 and 3.

9. It is not an unreasonable delay or a denial of access under this section to withhold from the public a record that is prepared at the express direction of, and for presentation to, a governing body until the record is mailed or otherwise provided to a member of the body or until the next meeting of the body, whichever occurs first. It also is not an unreasonable delay or a denial of access to withhold from the public a working paper or preliminary draft until a final draft is completed, the record is distributed to a member of a governing body or discussed by the body at an open meeting, or work is discontinued on the draft but no final version has been prepared, whichever occurs first.
10. For public entities headed by a single individual, it is not an unreasonable delay or a denial of access to withhold from the public a working paper or preliminary draft until a final draft is completed, or work is discontinued on the draft but no final version has been prepared, whichever occurs first. A working paper or preliminary draft shall be deemed completed if it can reasonably be concluded, upon a good-faith review, that all substantive work on it has been completed.
11. A disclosure of a requested record under this section is not a waiver of any copyright held by the public entity in the requested record or of any applicable evidentiary privilege.
12. A public entity may allow an individual to utilize the individual's own personal devices for duplication of records and, if so, shall establish reasonable procedures to protect the integrity of the records as long as the procedures are not used to prevent access to the records.
13. If repeated requests for records disrupt other essential functions of the public entity, the public entity may refuse to permit inspection of the records, or provide copies of the records. A public entity refusing to provide access or copies of public records under this section shall state in writing the reasons supporting the refusal and provide the reasoning to the requester. The requester may seek an attorney general's opinion under section 44-04-21.1, on whether the public entity's decision was proper.

44-04-18.1. Public employee personal, medical, and employee assistance records - Confidentiality - Personal information maintained by state entities.

1. Any record of a public employee's medical treatment or use of an employee assistance program is not to become part of that employee's personnel record and is confidential and, except as otherwise authorized by law, may not be used or disclosed without the written authorization of the employee. As used in this section, the term "public employee" includes any individual who has applied for employment, is employed, or has been employed by a public entity.
2. Except as otherwise specifically provided by law, personal information regarding a public employee contained in an employee's personnel record or given to the state or a political subdivision by the employee in the course of employment is exempt. As used in this section, "personal information" means a person's month and day of birth, home address; home telephone number or personal cell phone number; photograph; medical information; motor vehicle operator's identification number; public employee identification number; payroll deduction information; the name, address, telephone number, and date of birth of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution. Information regarding the type of leave taken by an employee is exempt, although the amount of leave taken or accrued, and the dates of the leave taken, is public record. Information regarding leave applied for but not yet taken is exempt until the leave is taken.
3. Nonconfidential information contained in a personnel record of an employee of a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 is exempt.
4. Except as otherwise specifically provided by law, personal information regarding a licensee maintained by an occupational or professional board, association, state agency, or commission created by law is exempt. As used in this section, "licensee" means an individual who has applied for, holds, or has held in the past an occupational or professional license, certificate, credential, permit, or registration issued by a state occupational or professional board, association, agency, or commission.
5. Information relating directly to persons engaged in an organized public safety peer counseling or a public safety peer debriefing is exempt.
6. Records relating to a public entity's internal investigation of a complaint against a public entity or employee for misconduct are exempt until the investigation of the complaint is complete, but no longer than seventy-five calendar days from the date of the complaint.

44-04-18.10. Disclosure of public records.

1. A public entity may not deny a request for an open record on the ground that the record also contains confidential or closed information.

2. Subject to subsection 3 of section 44-04-18, if confidential or closed information is contained in an open record, a public entity shall permit inspection and receipt of copies of the information contained in the record that is not confidential or closed, but shall delete, excise, or otherwise withhold the confidential or closed information.
3. An officer or employee of a public entity may disclose or comment on the substance of an open record. Any agreement prohibiting the disclosure or comment is void and against public policy.
4. Unless otherwise prohibited by federal law, records of a public entity which are otherwise closed or confidential may be disclosed to any public entity or federal agency for the purpose of law enforcement or collection of debts owed to a public entity, provided that the records are not used for other purposes and the closed or confidential nature of the records is otherwise maintained. For the purpose of this subsection, "public entity" is limited to those entities defined in subdivision a or b of subsection 13 of section 44-04-17.1.
5. Confidential records that are authorized by law to be disclosed to another entity continue to be confidential in the possession of the receiving entity, except as otherwise provided by law.

44-04-19. Access to public meetings. Except as otherwise specifically provided by law, all meetings of a public entity must be open to the public. That portion of a meeting of the governing body of a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 which does not regard public business is not required to be open under this section.

1. This section is violated when any person is denied access to a meeting under this section, unless such refusal, implicitly or explicitly communicated, is due to a lack of physical space in the meeting room for persons seeking access or lack of electronic capacity to allow public viewing of the meeting through electronic means..
2. For purposes of this section, if the meeting is held in person, the meeting room must be accessible to, and the size of the room must accommodate, the number of persons reasonably expected to attend the meeting. If the meeting is held by electronic means, the electronic capacity must accommodate the number of persons reasonably expected to attend the meeting remotely.
3. The right of a person to attend a meeting under this section includes the right to photograph, to record on audiotape or videotape and to broadcast live on radio or television the portion of the meeting that is not held in executive session, provided there is no active interference with the conduct of the meeting. The exercise of this right may not be dependent upon the prior approval of the governing body. However, the governing body may impose reasonable limitations on recording activity to minimize the possibility of disruption of the meeting.
4. For meetings subject to this section, if the meeting is held through any electronic means, the information necessary to join or view the meeting electronically must be included in the notice issued under section 44-04-20.

44-04-19.1. Open records and open meetings - Exemptions for attorney work product, attorney consultation, and negotiation preparation.

1. Attorney work product is exempt from section 44-04-18. Attorney work product and copies thereof shall not be open to public inspection, examination, or copying unless specifically made public by the public entity receiving such work product.
2. Attorney consultation is exempt from section 44-04-19. That portion of a meeting of a governing body during which an attorney consultation occurs may be closed by the governing body under section 44-04-19.2.
3. Active investigatory work product is exempt from section 44-04-18.
4. "Adversarial administrative proceedings" include only those administrative proceedings in which the administrative agency or institution of higher education acts as a complainant, respondent, or decision maker in an adverse administrative proceeding. This term does not refer to those instances in which the administrative agency or institution acts in its own rulemaking capacity.
5. "Attorney consultation" means any discussion between a governing body and its attorney in instances in which the governing body seeks or receives the attorney's advice regarding and in anticipation of reasonably predictable or pending civil or criminal litigation or adversarial administrative proceedings or to receive its attorney's advice and guidance on the legal risks, strengths, and weaknesses of an action of a public entity which, if held in public, would have an adverse fiscal effect on the entity. All other discussions beyond the attorney's advice and guidance must be made in the open, unless otherwise provided by law. Mere presence or participation of an attorney at a meeting is not sufficient to constitute attorney consultation.
6. "Attorney work product" means any document or record that:
   a. a. Was prepared by an attorney representing a public entity or prepared at such an attorney's express direction;
   b. Reflects a mental impression, conclusion, litigation strategy, or legal theory of that attorney or the entity; and

c. Was prepared exclusively for civil or criminal litigation, for adversarial administrative proceedings, in anticipation of reasonably predictable civil or criminal litigation or adversarial administrative proceedings, or for guidance on the legal risks, strengths, and weaknesses of an action of a public entity.

7. "Investigatory work product" means records obtained, compiled, or prepared by a public entity in an effort to monitor and enforce compliance with the law or an order. Investigatory work product must be considered active as long as it is related to monitoring and enforcement activity conducted with a reasonable good-faith belief that it will lead to enforcement of the law or an order the public entity is charged by statute or other law with monitoring and enforcing.
8. Following the final completion of the civil or criminal litigation or the adversarial administrative proceeding, including the exhaustion of all appellate remedies, attorney work product must be made available for public disclosure by the public entity, unless another exception to section 44-04-18 applies or if disclosure would have an adverse fiscal effect on the conduct or settlement of other pending or reasonably predictable civil or criminal litigation or adversarial administrative proceedings, or the attorney work product reflects mental impressions, opinions, conclusions, or legal theories regarding potential liability of a public entity.
9. A governing body may hold an executive session under section 44-04-19.2 to discuss negotiating strategy or provide negotiating instructions to its attorney or other negotiator regarding a pending claim, litigation, adversarial administrative proceedings, or contracts, which are currently being negotiated or for which negotiation is reasonably likely to occur in the immediate future. An executive session may be held under this subsection only when an open meeting would have an adverse fiscal effect on the bargaining or litigating position of the public entity. A record revealing negotiation strategy or instruction under this section is exempt. Drafts of contracts or agreements subject to negotiations are exempt but only for so long as release would have an adverse fiscal effect on the public entity, unless the records are otherwise exempt or confidential.
10. Nothing in this section may be construed to waive any attorney-client privilege of a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 regarding matters that do not pertain to public business.
11. A settlement agreement between a public entity and another party is exempt from disclosure until it has been fully executed and accepted by all concerned parties unless the records are otherwise exempt or confidential. In the case of multiple settlement agreements involving multiple parties involved in the same incident or undertaking, a settlement agreement is exempt until settlement agreements have been fully executed by all concerned parties unless the records are otherwise exempt or confidential.
12. Unless subject to subsection 6 of section 44 - 04 - 18, active litigation records are exempt from section 44 - 04 - 18. For purposes of this subsection, "active litigation records" means records obtained, compiled, or prepared by a public entity or the attorney representing a public entity for the purpose of litigation unless the records already have been filed publicly or the litigation is completed.

44-04-19.2. Confidential or closed meetings.

1. A governing body may hold an executive session to consider or discuss closed or confidential records.
2. Unless a different procedure is provided by law, an executive session that is authorized by law may be held if:
   a. The governing body first convenes in an open session and, unless a confidential meeting is required, passes a motion to hold an executive session;
   b. The governing body announces during the open portion of the meeting the topics to be discussed or considered during the executive session and the body's legal authority for holding an executive session on those topics;
   c. The executive session is recorded under subsection 5;
   d. The topics discussed or considered during the executive session are limited to those for which an executive session is authorized by law and that have been previously announced under this subsection; and
   e. Final action concerning the topics discussed or considered during the executive session is taken at a meeting open to the public, unless final action is otherwise required by law to be taken during a closed or confidential meeting. For purposes of this subsection, "final action" means a collective decision or a collective commitment or promise to make a decision on any matter, including formation of a position or policy, but does not include guidance given by members of the governing body to legal counsel or other negotiator in a closed attorney consultation or negotiation preparation session authorized in section 44-04-19.1.
3. The remainder of a meeting during which an executive session is held is an open meeting unless a specific exemption is otherwise applicable.
4. The minutes of an open meeting during which an executive session is held must indicate the names of the members attending the executive session, the date and time the executive session was called to order and

adjourned, a summary of the general topics that were discussed or considered that does not disclose any closed or confidential information, and the legal authority for holding the executive session.

5. All meetings of the governing body of a public entity that are not open to the public must be recorded electronically or on audiotape or videotape. The recording must be disclosed pursuant to court order under subsection 2 of section 44-04-18.11 or to the attorney general for the purpose of administrative review under section 44-04-21.1. The attorney general may not disclose to the public any recording received under this subsection and must return the recording to the governing body upon completion of the administrative review. The recording may be disclosed upon majority vote of the governing body unless the executive session was required to be confidential. Disclosure of the recording by a public servant except as provided in this subsection is a violation of section 12.1-13-01. All recordings under this subsection must be retained for a minimum of six months after the executive session that is the subject of the recording.
6. A public entity may sequester all competitors in a competitive selection or hiring process from that portion of a public meeting wherein presentations are heard or interviews are conducted.

44-04-19.3. Open meetings exemption - Legislative caucuses. A caucus of members of either house of the legislative assembly may meet in an executive session that is not subject to section 44-04-19.2 if the meeting is not held on public property.

44-04-20. Notice of public meetings required - Exceptions - Schedule set by statute, ordinance, or resolution.

1. Unless otherwise provided by law, public notice must be given in advance of all meetings of a public entity as defined in section 44-04-17.1, including executive sessions and meetings held remotely. Unless otherwise specified by law, resolution, or ordinance, or as decided by the public entity, notices required by this section need not be published.
2. The notice required in this section must contain the date, time, and location of the meeting and, if practicable, the topics to be considered. However, the lack of an agenda in the notice, or a departure from, or an addition to, the agenda at a meeting, does not affect the validity of the meeting or the actions taken thereat. The notice also must contain the general subject matter of any executive session expected to be held during the meeting. For meetings to be held by electronic means, the location of the meeting is the electronic address and any other information necessary to allow the public to join or view the electronic meeting as required under section 44-04-19.
3. If the governing body holds regularly scheduled meetings, the schedule of these meetings, including the aforementioned notice information, if available, must be filed annually with the secretary of state for state-level bodies or for public entities defined in subdivision c of subsection 13 of section 44-04-17.1, the city auditor or designee of the city for city-level bodies, and the county auditor or designee of the county for all other bodies or the schedule must be posted on the public entity's website. This schedule must be furnished to anyone who requests the information. When reasonable and practicable, a governing body of a public entity should attempt to set a regular schedule for its meetings by statute, ordinance, or resolution. This subsection does not apply to meetings of the legislative assembly or any committee thereof. Filing a yearly schedule of upcoming meetings does not relieve a public entity from its obligation to post an agenda for each meeting as required in subsections 2 and 4.
4. The notice required in this section must be posted at the principal office of the governing body holding the meeting, if such exists, and at the location of the meeting on the day of the meeting. In addition, unless all the information contained in the notice was previously filed with the appropriate office under subsection 3, the notice must be filed in the office of the secretary of state for state-level bodies or for public entities defined in subdivision c of subsection 13 of section 44-04-17.1, the city auditor or designee of the city for city-level bodies, the county auditor or designee of the county for all other bodies, or posted on the public entity's website. This subsection does not apply to meetings of the legislative assembly or any committee thereof.
5. The governing body's presiding officer has the responsibility of assuring that public notice of a meeting's date, time, and location, is given at the same time as such governing body's members are notified, and that this notice is available to anyone requesting such information. As soon as an agenda is prepared for a meeting with the information required in subsection 2 and given to members of the governing body, the agenda must be posted at the locations as required by subsection 4 and given to anyone requesting the information. When a request is made for notice of meetings, the request is effective for one year unless a different time period is specified.
6. In the event of emergency or special meetings of a governing body, the person calling such a meeting shall, in addition to the notices in subsection 4, also notify the public entity's official newspaper, if any, and any representatives of the news media which have requested to be so notified of such special or emergency meetings, of the time, place, date, and topics to be considered at the same time as such governing body's members are notified. If the public entity does not have an official newspaper, then it must notify the official

newspaper of the county where its principal office or mailing address is located. Topics that may be considered at an emergency or special meeting are limited to those included in the notice.

7. A committee of an institution under the authority of the state board of higher education, in lieu of the notice requirements in this section, may file in the office of the president of the institution the name, address, and telephone number of a person who may be contacted to obtain specific times, dates, and locations of any meetings of that committee or to request specific notification of each meeting of that committee.
8. The attorney general shall prepare general guidelines to assist public entities in following the provisions of this section.
9. This section is violated when a notice is not provided in substantial compliance with this section.

44-04-21. Open voting at public meetings required - Results recorded in minutes.

1. Unless otherwise specifically provided by law, all votes of whatever kind taken at any public meeting governed by the provisions of section 44-04-19 must be open, public votes, and all nonprocedural votes must be recorded roll call votes, with the votes of each member being made public at the open meeting. Procedural votes must be recorded roll call votes upon the request of any member of a governing body holding a meeting subject to this section. As used in this section, "nonprocedural" should be broadly interpreted and includes all votes that pertain to the merits of the matter before the governing body.
2. Minutes must be kept of all open meetings and are records subject to section44-04-18. The minutes must include, at a minimum:
   a. The names of the members attending the meeting;
   b. The date and time the meeting was called to order and adjourned;
   c. A list of topics discussed regarding public business;
   d. A description of each motion made at the meeting and whether the motion was seconded;
   e. The results of every vote taken at the meeting; and
   f. The vote of each member on every recorded roll call vote.

Notwithstanding subsection 8 of section 44-04-18, the disclosure of minutes kept under this subsection may not be conditioned on the approval of the minutes by the governing body.

44-04-21.1. Administrative review procedure.

1. Any interested person may request an attorney general's opinion to review a written denial of a request for records under section 44-04-18, a denial of access to a meeting under section 44-04-19, or other alleged violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 by any public entity other than the legislative assembly or any committee thereof. A request made under this section must be made within thirty days of the alleged violation, except that a request based on allegations that a meeting occurred without the notice required by section 44-04-20, must be made within ninety days of the alleged violation. In preparing an opinion under this section, the attorney general has discretion to obtain and review a recording made under section 44-04-19.2. The attorney general may request and obtain information claimed to be exempt or confidential for the purpose of determining whether the information is exempt or confidential. Any such information may not be released by the attorney general and may be returned to the provider of the information. The attorney general shall issue to the public entity involved an opinion on the alleged violation, which may be a summary opinion, unless the request is withdrawn by the person requesting the opinion or a civil action has been filed involving the possible violation. If the request pertains to a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1, the opinion must be issued to the public entity providing the public funds. In any opinion issued under this section, the attorney general shall base the opinion on the facts given by the public entity.
2. If the attorney general issues a written opinion concluding that a violation has occurred, the public entity has seven days after the opinion is issued, regardless of whether a civil action is filed under section 44-04-21.2, to disclose the record, to issue a notice of a meeting that will be held within a reasonable time to correct the violation, or to take steps to correct any other violation. If the public entity fails to take the required action within the seven-day period and the person requesting the opinion prevails in a civil action brought under section 44-04-21.2, the person must be awarded costs, disbursements, and reasonable attorney's fees in the action and on appeal. The attorney general may require officials of the public entity at issue in the opinion to obtain mandatory training by a certain date. The consequences for failing to comply with an attorney general's opinion issued under this section will be the same as for other attorney general's opinions, including potential personal liability for the person or persons responsible for the noncompliance.
3. If a state-level public entity as defined in subdivision a of subsection 13 of section 44-04-17.1 does not comply in full with the attorney general's opinion, and a civil action is brought under section 44-04-21.2 or is reasonably

predictable, the entity, at its sole cost and expense, shall retain separate counsel who has been approved and appointed by the attorney general as a special assistant attorney general to represent the entity in that action.

44-04-21.2. Remedies for violations and enforcement procedure.

1. A violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 may be the subject of a civil action brought by an interested person or entity. For an alleged violation of section 44-04-18, the complaint must be accompanied by a dated, written request for the requested record. If a court finds that any of these sections have been violated by a public entity, the court may award declaratory relief, an injunction, a writ of prohibition or mandamus, costs, disbursements, and reasonable attorney's fees against the entity. For an intentional or knowing violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21, the court may also award damages in an amount equal to one thousand dollars or actual damages caused by the violation, whichever is greater. An action under this subsection must be commenced within sixty days of the date the person knew or should have known of the violation or within thirty days of issuance of an attorney general's opinion on the alleged violation, whichever is later. Venue for an action is in the county where the entity has its principal office or, if the entity does not have a principal office within the state, in Burleigh County.
2. Any action that is a product of a violation of section 44-04-19, 44-04-20, or 44-04-21 is voidable by a court in a civil action authorized by this section.
3. The remedies provided in this section are not available if a violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 has been corrected before a civil action is filed and no person has been prejudiced or harmed by the delay. An interested person or entity may not file a civil action under this section seeking attorney's fees or damages, or both, until at least three working days after providing notice of the alleged violation to the chief administrative officer for the public entity. This subsection does not apply if the attorney general has found under section 44-04-21.1, on a prior occasion, that the public entity has violated section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21.

44-04-21.3. Attorney general referral and criminal penalties. The attorney general may refer to the appropriate state's attorney any public servant as defined in section 12.1-01-04 who has been found in more than one opinion issued pursuant to section 44-04-21.1 to have violated section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21. A public servant as defined in section 12.1-01-04 who knowingly violates section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 is guilty of an offense under section 12.1-11-06.

CHAPTER 44-05
ADMINISTRATION OF OATHS

44-05-01. Officers authorized to administer oaths.

The following officers are authorized to administer oaths:

1. Each justice of the supreme court, each judge of the district court, the clerk of the supreme court, and the clerk's deputy.
2. The clerk of the district court, county auditor, recorder, and the deputy of each such officer within that officer's county.
3. Each county commissioner and public administrator within that officer's county.
4. Notary public anywhere in the state.
5. Each city auditor, municipal judge, and township clerk, within that officer's own city or township.
6. Each sheriff and the deputy sheriff within the sheriff's county in the cases prescribed by law.
7. Other officers in the cases prescribed by law or by rule of the supreme court.

44-05-02. Person may affirm.

A person conscientiously opposed to swearing may affirm and is subject to the penalties of perjury as in case of swearing.

44-05-03. Fee for taking acknowledgment and administering an oath. Any officer authorized by law to take and certify acknowledgment of a deed or other instrument is entitled to charge and receive not more than five dollars.

44-05-04. Place of filing oath of office. Unless otherwise provided by law, any civil or public officer required by section 44-01-05 or any other provision of law to take an oath of office must file the original oath as follows:

1. If a state official or member of a state board, with the secretary of state.
2. If a county official or member of a county board, with the county auditor.
3. If a city official or member of a city board, with the city auditor.
4. If a member of a district or political subdivision that is larger than a county, with the secretary of state.

CHAPTER 44-08
MISCELLANEOUS PROVISIONS

44-08-03. Traveling expenses - What allowed. No elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, may willfully make claim upon, or willfully receive, any public funds for traveling expenses, while engaged upon public business, in an amount in excess of that allowed by law for such travel. If more than one public officer, employee, representative, or agent travels in the same car while engaged upon official duty, whether belonging to different departments, subdivisions, boards, or commissions or not, no claim may be made for more than one mileage, such claim to be made by the owner or lessee of such car.

44-08-21. Recall of elected officials of political subdivisions.

1. An elected official of a political subdivision, except a township officer or an official subject to recall under section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the official sought to be recalled was on the ballot, not including other recall elections. An official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The provisions of section 16.1-01-09.1, as they relate to signing and circulating recall petitions, apply to petitions under this section.
2. A recall petition must include a stated reason for the recall and be approved as to form before circulation by the secretary of state. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays. To be effective, a recall petition must be submitted to the appropriate filing officer within ninety days after the date the recall petition is approved for circulation by the secretary of state.
3. Once circulated, the recall petition must be filed with the filing officer with whom a petition for nomination to the office in question is filed unless that filing officer is the individual subject to recall, in which case the petition must be filed with the secretary of state. The filing officer with whom the petition is filed shall pass on the sufficiency of a petition pursuant to section 16.1-01-09.1. Except as otherwise provided in this section, the filing officer shall call a special election to be held not sooner than ninety-five days nor later than one hundred-five days following the date the filing officer certifies the petition valid and sufficient. No special election may be called if that date would be within ninety-five days of the next scheduled election. An elector's name may not be removed from a recall petition that has been submitted to and received by the appropriate filing officer.
4. The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate filing officer by the sixty-fourth day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint an individual to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected. An official whose office is on the ballot at a regularly scheduled election occurring within one year is not subject to recall if the recall special election would occur within one year of the next regularly scheduled election in which the official could be reelected.

44-08-23. Removal of political subdivision officer. Notwithstanding any other provision of law, the governing body of a political subdivision may remove from office any individual the governing body has appointed to any office, board, or commission, for misconduct, malfeasance, crime in office, or neglect of duty or for habitual drunkenness or gross incompetence, after notice and opportunity for a hearing.

CHAPTER 44-10
REMOVAL BY JUDICIAL PROCEEDINGS

44-10-02. Accusation by grand jury - Causes for removal. An accusation in writing against any district, county, township, city, or municipal officer, school board member, or any state officer not liable to impeachment, except a representative in Congress and a member of the legislative assembly, for misconduct, malfeasance, crime, or misdemeanor in office, or for habitual drunkenness or gross incompetency, may be presented by the grand jury to the district court of the county in or for which the officer accused is elected or appointed. When the proceedings are against a state officer not liable to impeachment, the accusation may be presented by the grand jury of the county in which the officer resides or in which the officer has an office for the transaction of official business.

CHAPTER 44-11
REMOVAL BY GOVERNOR

44-11-01. What officers removable by governor - Grounds. The governor may remove from office any county commissioner, sheriff, coroner, county auditor, recorder, state's attorney, county treasurer, superintendent of schools, county commissioner, surveyor, public administrator, city auditor, city commissioner, mayor, township officer, rural fire protection district board member, school board member, or any custodian of public moneys, except the state treasurer, whenever it appears to the governor by a preponderance of the evidence after a hearing as provided in this chapter, that the officer has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, or of habitual substance abuse or gross incompetency.

Title 47
Property

CHAPTER 47-01
GENERAL PROVISIONS

47-01-23. Landowner immunity - Use and condition of roads. A landowner may not be held liable for a claim resulting from the use or condition of a road across the landowner's property unless the landowner is primarily and directly responsible for the construction and maintenance of the road or an affirmative act of the landowner causes or contributes to the claim.

CHAPTER 47-05
SERVITUDES

47-05-13. Restrictions on easements for forest purposes. Notwithstanding any other provision of law, a person may not create, convey, or record any easement, servitude, or nonappurtenant restriction on the use of real property within thirty-three feet [10.06 meters] of the centerline of any section line if the purpose of that easement, servitude, or restriction is to retain or protect forests.

CHAPTER 47-26
PARTITION FENCES

47-26-01. Definition of legal fence. The following shall constitute a legal fence:

1. Any fence four and one-half feet [1.37 meters] high, in good repair, consisting of rails, timber, boards, stone walls, or any combination thereof.
2. All brooks, rivers, ponds, creeks, ditches, or hedges.
3. All things which, in the judgment of the fence viewers within whose jurisdiction the fence may be, are equivalent to the things specified in subsections 1 and 2.
4. Any fence upon which the interested parties may agree.
5. A barbed wire fence consisting of at least three barbed wires with at least number twelve and one-half gauge wire, the wire to be fastened firmly to posts which shall be not more than twenty feet [6.10 meters] or not more than forty feet [12.19 meters] and three stays apart. The top wire shall be not less than forty inches [101.6 centimeters] high, the bottom wire shall be not more than sixteen inches [40.64 centimeters] above the ground, and no two adjacent wires shall be separated by more than sixteen inches [40.64 centimeters].
6. A wire fence consisting of five smooth wires with posts not more than two rods [10.06 meters] apart and with good stays not more than eight feet [2.44 meters] apart, the top wire being not less than forty-eight inches [121.92 centimeters] nor more than fifty-six inches [142.24 centimeters] and the bottom wire being not less than sixteen inches [40.64 centimeters] nor more than twenty inches [50.8 centimeters] above the ground.
7. An electrified fence consisting of:
   a. One smooth wire located twenty-six inches to thirty-two inches [66.04 centimeters to 81.28 centimeters] above the ground and posts no more than one hundred feet [30.48 meters] apart;
   b. Two smooth wires, with the top wire located at least twenty-six inches [66.04 centimeters] above the ground, the bottom wire located eight inches to ten inches [20.32 centimeters to 25.40 centimeters] below the top wire, and posts no more than one hundred feet [30.48 meters] apart; or
   c. Three smooth wires, with the top wire located at least twenty-six inches [66.04 centimeters] above the ground, the middle and bottom wires located eight inches to twelve inches [20.32 centimeters to 30.48 centimeters] apart, and posts no more than seventy-five feet [22.86 meters] apart.

47-26-02. Fence viewers. In an organized township, the members of the board of township supervisors shall act as fence viewers.

47-26-03. Fence viewers taken from each township when a fence is on line between two townships. When the line upon which a partition fence is to be made or divided is the boundary line between civil townships or is partly in one civil township and partly in another, a township supervisor shall be taken from each township affected when the services of fence viewers are required.

47-26-04. Fees of fence viewers. Each township supervisor may be paid by the employing person at the rate of no more than fifteen dollars per day for the time employed as a fence viewer. If such person neglects to pay such fees within thirty days after the service is performed, the township supervisor may recover the amount thereof in a civil action.

47-26-05. Partition fences - Maintained by occupants and owners of land – Partition fence exceeding legal fence. The occupants and the coterminous owners of lands enclosed with fences are mutually and equally bound to maintain the partition fences between their own and the next adjoining enclosures unless one of such owners chooses to let that owner's land lie open. If one of such occupants or owners shall require a partition fence which shall exceed the requirements for a legal fence, the occupant or owner who shall require such a fence shall bear the entire cost of erecting and maintaining such a fence unless both such occupants or owners shall otherwise agree.

47-26-06. Fences to be kept in repair throughout the year. All partition fences shall be kept in good repair throughout the year unless the occupants of the lands on both sides thereof mutually agree otherwise.

47-26-07. Fence viewers may order partition fence maintained. If any party neglects to repair or rebuild any partition fence which it is that party's duty to maintain, the aggrieved party may complain to the proper fence viewers, or a majority of them, who, after due notice to each party, shall proceed to examine the fence. If they determine that the fence is insufficient, they shall signify the determination in writing to the delinquent party, and direct that party to repair or rebuild the fence within such time as they deemed reasonable. If the fence is not repaired or rebuilt accordingly, the complainant may repair or rebuild the same.

47-26-08. Person rebuilding or repairing fence may recover expenses. A complainant who has rebuilt or repaired a deficient fence as provided in section 47-26-07 may recover, from either the owner or the occupant of the land where the fence was deficient, the value of repairing or rebuilding the same and the fees of the fence viewers after:

1. The rebuilt or repaired fence has been adjudged sufficient by two or more of the township supervisors; and
2. The fence viewers have executed a certificate stating the value of repairing or rebuilding the fence and the amount of their fees.

Before bringing suit for such sum, however, the complainant shall make demand upon the owner or occupant who shall have one month after such demand within which to make such payment. If suit is commenced to recover such amount, the claimant shall recover interest upon the total sum stated in the certificate at the rate of one percent per month.

47-26-09. Fence viewers to settle controversy as to rights in fence and duty to maintain. When a controversy arises relative to rights in a partition fence or the obligation to maintain the same, either party may apply to a majority of the proper fence viewers who, after notice to each party, may assign in writing to each person that person's share of the fence and direct the time within which each party shall erect or repair that party's share of the fence. If a party refuses or neglects to erect or maintain the part of a fence assigned to that party, the aggrieved party may erect or repair the fence and the value thereof shall be ascertained and recovered in the manner provided in section 47-26-08.

47-26-10. Party erecting all or more than just share of partition fence may recover. If, in a controversy which has arisen between the occupants of adjoining lands as to their rights in a partition fence, it shall appear to the proper fence viewers that either of the occupants, before the making of a complaint, had voluntarily erected all, or more than that occupant's just share, of the fence or otherwise had become proprietor thereof, the other occupant shall pay for as much of the fence as shall be assigned to that occupant to repair and maintain. The amount that shall be paid to the aggrieved party shall be ascertained and recovered as provided in section 47-26-08.

47-26-11. Application to fence viewers to settle controversy when land is bounded by river or pond. When lands of different persons which are required to be fenced are bounded or divided by a river, brook, pond, or creek and the occupant of the land on one side of the river, brook, pond, or creek refuses or neglects to join with the occupant of the land on the other side in making a partition fence on one side or the other of the river, brook, pond, or

creek or if the occupants of the lands disagree respecting the fence, the parties may apply to two or more of the proper fence viewers to adjust the controversy.

47-26-12. Determination of fence viewers when land bounded by water - Notice - Liability of delinquent party. The fence viewers to whom an application is made under section 47-26-11 shall proceed to view the premises described in the application forthwith. If such supervisors shall determine that the river, brook, pond, or creek is not, of itself, a sufficient fence and that it is impracticable, without unreasonable expense, to build a fence in the waters upon the true boundary line, they, after giving notice to the parties, shall determine whether the fence shall be erected and maintained on one side, or partially on one side and partially on the other side, of the river, brook, pond, or creek, and shall reduce to writing and sign their determination. If either party refuses to erect or maintain that part of the fence assigned to that party in the determination, the other party may erect and maintain the same and may recover the expense and costs in connection therewith ascertained in the manner provided in section 47-26-08.

47-26-13. Partition fence erected in body of water erected in equal shares. When it is necessary to erect a partition fence in a body of water, such fence shall be built in equal shares unless it is agreed otherwise by the parties. If either party refuses or neglects to build or maintain that party's share of the fence, the other party may build or maintain the same and recover therefor in the manner provided in section 47-26-08.

47-26-14. Fencing of lands owned by different persons in severalty but occupied in common. When lands belonging to different persons in severalty have been occupied in common by such persons without a partition fence between their respective lands and one of the occupants desires to occupy that occupant's part in severalty, that occupant may apply to a majority of the proper fence viewers:

1. If the other occupant or occupants shall refuse or neglect, upon demand, to divide with the applicant the line where the partition fence ought to be built, to divide such line and assign to the parties the parts thereof upon which each party shall build the fence; or
2. If the other occupant or occupants, when the line has been divided, shall refuse or neglect, upon demand, to build a sufficient fence upon the line assigned, to order such fence built.

Upon a division or assignment as provided in subsection 1, the fence viewers, in writing over their signatures, may assign a reasonable time for building the fence, having regard to the season of the year. If either party shall not build that party's part of the fence within the time assigned, the other party, after having completed that party's part thereof, may build the part assigned to the other party or parties and recover therefor the ascertained expense thereof, together with the fees of the fence viewers.

47-26-15. When partition fence removable. When one party ceases to improve that party's land or opens that party's enclosure, that party may take away any part of the partition fence belonging to that party and adjoining the next enclosure unless the owner or occupant of the adjoining enclosure shall pay the sum determined by a majority of the proper fence viewers to be the value of the part of the partition fence belonging to the party who has ceased to improve that party's land or who has opened that party's enclosure. The determination shall be in writing and signed by at least two fence viewers and the payment shall be made within two months after the value of the fence is ascertained.

47-26-16. Owner of unenclosed lands to pay value of fence when land is enclosed. When unenclosed ground is enclosed, the owner or occupant thereof shall pay one-half of the value of each partition fence standing upon the line between that person's land and the enclosure of any other owner or occupant. If the parties do not agree on the value of the fence, it shall be ascertained by a majority of the proper fence viewers. Such determination shall be in writing and shall be signed by a majority of the fence viewers. If the owner of the unenclosed land refuses or neglects to pay for one-half of the value of the partition fence within sixty days after the value of the fence has been ascertained and demand made, the proprietor of the fence may maintain a civil action for such value and the cost of ascertaining the same.

47-26-17. If owner determines not to fence land, notice to adjacent landowners - Removal of partition fence. If a person shall determine not to fence any of that person's lands adjoining a partition fence that has been divided according to the provisions of this chapter and shall give six months' notice of such determination to all the adjoining occupants of the lands, that person shall not be required to maintain any part of the fence during the time that person's lands are open, and that person thereafter may remove that person's portion of the fence if the owner or occupant of the adjoining enclosure will not pay the sum determined by the fence viewers to be the value of the fence in the manner provided in section 47-26-15.

47-26-18. Division of fences valid against parties to agreement and their heirs and assigns. All divisions of fences or of the lines upon which partition fences are to be erected between unfenced land, which are made by the fence viewers in the manner provided in this chapter and recorded in the office of the recorder, and all such divisions which are made by the owners of adjoining lands in writing, witnessed by two witnesses, and signed and

acknowledged by the parties making the division, and recorded in the office of the recorder, shall be valid against and binding upon the parties thereto and upon their heirs and assigns and all the succeeding occupants of the land, and they shall be obliged always thereafter to maintain their respective portions of the fence.

47-26-19. Fence viewers neglecting to perform duty - Penalty. A township supervisor who unreasonably neglects to view a fence after having been requested to do so, or who refuses to perform any other duty required under the provisions of this chapter, shall forfeit the sum of five dollars and shall be liable to the party injured for all damages consequent upon such neglect.

47-26-20. Duty to maintain partition fence when lands enclosed for pasturage or grazing. The provisions of this chapter shall apply to the respective occupants of lands which have been enclosed with fences for pasturage or grazing purposes.

CHAPTER 47-27
CLOSING FENCE GATES

47-27-01. Fence gates to be closed. A person who opens a gate or bars in a fence enclosing farm premises shall not leave such gate or bars open unless that person is in lawful possession of the premises.

47-27-02. Private road not changed to public road. Nothing contained in this chapter shall in any way change a private road through enclosed farm premises into a public road, nor take from a person in lawful possession of any premises the right to close any private road through such premises.

47-27-03. Violations - Penalty. Anyone who shall violate the provisions of this chapter shall be guilty of a class B misdemeanor and, in addition, shall be civilly liable for any damages that may result, directly or indirectly.

Title 48
Public Buildings

CHAPTER 48-04
JOINT OWNERSHIP

48-04-01. Joint ownership and use of public buildings and grounds - Townships - Cities - Special elections. Any civil township and incorporated city located within the boundaries thereof, when authorized by three-fourths of the legal voters of each municipality present and voting at separate elections, may acquire and use jointly any public buildings and grounds within the corporate limits of either one. The question of such joint acquisition and use may be submitted at regular or legally called special elections of both municipalities held not more than three months apart and when once submitted may not again be submitted within one year.

48-04-02. Joint custody and control of public buildings and grounds. Such public buildings and grounds as are provided for in section 48-04-01 shall be in the joint custody and control of the governing boards of such city and township, which shall make and enforce lawful and reasonable regulations for the care, protection, and use thereof.

48-04-03. Incurring indebtedness for payment of public buildings and grounds. Townships or cities may incur indebtedness and may provide for the payment thereof severally, but not jointly, for the acquisition of any such public buildings and grounds in the manner provided by chapter 21-03.

48-04-04. Meetings - Held in public buildings. All meetings and elections of the municipalities mentioned in section 48-04-01, provided by law to be held, and otherwise legally called and held, may be held in such public buildings whether wholly or partly within one or wholly or partly within the other municipality.

CHAPTER 48-08
RESTRICTIONS ON USE OF PUBLIC BUILDINGS

48-08-01. Rental of hall and provision of funds by taxation. The city council or board of city commissioners of any city, the board of supervisors of any township, or the school board of any school district, in this chapter designated as the governing board, may pay the rental of any hall or auditorium, when it is used in such municipality for any public meeting or purpose and no charge is made for admission, and annually may provide by taxation a sum sufficient to defray any such expense for rental as may be anticipated for the coming year. This section does not apply to any city where there exists a public hall owned by the municipality suitable for the purpose.

48-08-02. May pay rental out of other funds until tax available. Until such funds as are provided by section 48-08-01 shall become available, any such governing board shall pay out of funds on hand not otherwise appropriated or required such sums as may be deemed a fair rental for any hall or auditorium when used for a public meeting.

48-08-06. Lease of public buildings - Authorized. The governing body of any county, city, or township may permit the use of or may lease any public building or any part of a public building under its charge for any legal purpose, giving equal opportunity to all persons, and without religious or political distinctions, and may make such reasonable rules and restrictions on the use of such building as may seem necessary, and shall fix proper rentals and fees for such use. Such governing body, in its discretion, may require a bond from the lessee or user of such building, conditioned upon the payment of charges made for such lease or use and indemnifying the county, city, or township against damage or destruction of or to such building or any part thereof.

48-08-07. Lease of public buildings - Terms. No lease of any public building or part of any public building under the provisions of section 48-08-06 may be for a longer term than two years, except as may be otherwise provided by city ordinance or by resolution of the board of county commissioners. Such lease must be to a responsible party offering the highest return to the political subdivision and the use or occupation of the building may not interfere with the use of such building for public purposes. The governing body may reserve the right to reject any and all bids.

48-08-08. State, county, or local municipal buildings - Space for disaster activities. The director of the office of management and budget and any other group, board, or commission having control of the use of any state, county, or local municipal buildings are authorized to provide space for emergency operating centers and disaster offices in such buildings.

Title 49
Public Utilities

CHAPTER 49-11
RAILROAD BRIDGES, CROSSINGS, INTERSECTIONS, AND FENCES

49-11-00.1. Definitions. In this chapter, unless the context otherwise requires:

1. "Public railroad crossing" means a location where a public highway, road, or street, including associated sidewalks or pathways, crosses one or more railroad tracks at grade. The term includes a crossing if a public authority maintains the roadway on both sides of the crossing.
2. "Private railroad crossing" means any railroad at grade crossing of a roadway which is not a public railroad crossing.

49-11-01. Obstruction of crossing by railroad - Provision for temporary way. Every railroad corporation while engaged in raising or lowering any railroad track or in making any other alterations, by means of which a railroad crossing may be obstructed, shall provide and keep in good order a suitable temporary way and crossing with adequate protection to enable travelers to avoid or pass such obstruction.

49-11-02. Railroad bridges must be in good repair. Every railroad corporation shall maintain and keep in good repair all bridges and their abutments which the corporation shall construct for the purpose of enabling its road to pass over or under any public highway, watercourse, or other way. Railroad corporations which have transferred railway property to the public service commission in trust for the purposes of reorganization or reopening are not liable for failure to maintain railroad bridges in good repair during the period of trust.

49-11-03. Railroad bridge must provide clear passage over highway. When it shall be necessary in the construction of a railroad to erect a bridge or culvert over any public highway or street, it shall be sufficient to construct the same so as to give a clear passageway of twenty feet [6.10 meters] or two passageways of fourteen feet [4.27 meters] each.

49-11-04. Highways and watercourses to be restored to former state. Every corporation constructing, owning, or using a railroad shall restore every stream of water, watercourse, street, highway, or canal across, along, or upon which such railroad may be constructed to its former state or to such condition that its usefulness shall not be materially impaired and thereafter shall maintain the same in such condition against any effects in any manner produced by such railroad.

49-11-06. Railroad crossings - Construction and maintenance.

1. A public highway-railroad crossing at grade shall be constructed of a grade of earth on one or both sides of the railroad track, as the location may require, for the entire width of the highway grade but in no case less than twenty feet [6.10 meters] in width, the middle point of which shall be as nearly as practicable at the middle point of the highway and such grade shall be of such slope as shall be necessary for the safety and convenience of the traveling public.
2. Firmly fastened planks, concrete, asphalt, or other suitable material for highway construction shall be used on and for the full length of the ties used in the roadbed of such railway where such crossing occurs. The highway

material next inside of the rail shall not be more than two and one-half inches [6.35 centimeters] from the inside surface of such rail. The highway material used in the crossing shall not be less than three inches [7.62 centimeters] in thickness, and shall be laid so that the upper surface of the highway material shall be on a level with the upper surface of the rail.

3. At such time as tracks through a railroad crossing are raised or otherwise altered by the railroad, the railroad shall, unless otherwise ordered by the commission, adjust and restore the crossing and the highway approaches, surfaces, and grades as shall be necessary for the safety and convenience of the traveling public. At such time as a public highway at a railroad crossing is altered by the road authority, the road authority at its expense shall adjust and restore the crossing and the highway approaches, surfaces, and grades as shall be necessary for the safety and convenience of the traveling public.
4. It shall be the duty of the railroad to maintain all railroad crossings in a safe and convenient condition for the traveling public. Such responsibility for maintenance shall be limited to that portion of the crossing lying between the tracks and for two feet [.61 meters] beyond the ends of the crossties on each side of the crossing.

49-11-19. Blocking or obstructing crossing with train - Penalty.

1. A person may not operate any train in a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:
   a. When necessary to comply with safety signals affecting the safety of the movement of trains;
   b. When necessary to avoid striking any object or person on the track;
   c. When the train is disabled, by accident or otherwise;
   d. When the train is in motion except when engaged in switching operations or loading or unloading operations;
   e. When vehicular traffic is not waiting to use the crossing;
   f. When necessary to comply with a government statute or regulation; or
   g. When allowed by written agreement between the governmental entity that controls the roadway and the interested commercial entities. The agreement must indicate which party is responsible for the timely notification of local emergency service providers regarding the crossing that will be blocked and the period of time the crossing will be blocked.
2. A person that violates this section is guilty of a class B misdemeanor. This section does not apply to a city that has an ordinance covering the same subject matter.

49-11-19.1. Blocking or obstructing alternative crossings - Penalty. Any person operating a train who shall block or obstruct a public railroad crossing and who has the alternative of blocking or obstructing a crossing with active grade crossing traffic control devices or a crossing without such device shall, where feasible, and subject to the exception set forth in section 49-11-19, leave open the crossing with active grade crossing control devices. Any person who violates this section is guilty of an infraction.

Title 53
Sports and Amusements

CHAPTER 53-08
LIABILITY LIMITED FOR OWNER OF RECREATION LANDS

53-08-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Charge" means the amount of money asked in return for an invitation to enter or go upon the land. "Charge" does not include vehicle, parking, shelter, or other similar fees required by any public entity.
2. "Commercial purpose" means a deliberative decision of an owner to invite or permit the use of the owner's property for normal business transactions, including the buying and selling of goods and services. The term includes any decision of an owner to invite members of the public onto the premises for recreational purposes as a means of encouraging business transactions or directly improving the owner's commercial activities other than through good will. "Commercial purpose" does not include the operation of public lands by a public entity except any direct activity for which there is a charge for goods or services.
3. "Land" includes all public and private land, roads, water, watercourses, and ways and buildings, structures, and machinery or equipment thereon.
4. "Owner" includes tenant, lessee, occupant, or person in control of the premises.
5. "Recreational purposes" includes any activity engaged in for the purpose of exercise, relaxation, pleasure, or education.

53-08-02. Duty of care of owner.

1. Subject to the provisions of section 53-08-05, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, regardless of the location and nature of the recreational purposes and whether the entry or use by others is for their own recreational purposes or is directly derived from the recreational purposes of other persons, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.
2. This section does not apply to:
   a. A person that enters land to provide goods or services at the request of, and at the direction or under the control of, an owner; or
   b. An owner engaged in a for-profit business venture that directly or indirectly invites members of the public onto the premises for commercial purposes or during normal periods of commercial activity in which members of the public are invited.

53-08-03. Not invitee or licensee of landowner. Subject to the provisions of section 53-08-05, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:
1. Extend any assurance that the premises are safe for any purpose;
2. Confer upon such persons, or any other person whose presence on the premises is directly derived from those recreational purposes, the legal status of an invitee or licensee to whom a duty of care is owed other than a person that enters land to provide goods or services at the request of, and at the direction or under the control of, the owner; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

53-08-04. Leased land to state or political subdivisions. Unless otherwise agreed in writing, an owner of land leased to the state or its political subdivisions for recreational purposes owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon such land of any hazardous conditions, uses, structures, or activities thereon. An owner who leases land to the state or its political subdivisions for recreational purposes does not by giving such lease:
1. Extend any assurance to any person using the land that the premises are safe for any purpose;
2. Confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land. The provisions of this section apply whether the person entering upon the leased land is an invitee, licensee, trespasser, or otherwise.

53-08-05. Failure to warn against dangerous conditions - Charge to enter. This chapter does not limit in any way any liability that otherwise exists for:
1. Willful and malicious failure to guard or warn against a dangerous condition, use, structure, or activity; or
2. Injury suffered in any case in which the owner of land:
   a. Charges the person for entry onto the land other than the amount, if any, paid to the owner of the land by the state; and
   b. The total charges collected by the owner in the previous calendar year for all recreational use of land under the control of the owner are more than:
      - Twice the total amount of property taxes imposed on the land for the previous calendar year; or
      - In the case of agricultural land, four times the total amount of property taxes imposed on the land for the previous calendar year.

53-08-06. Duty of care or liability for injury. Nothing in this chapter may be construed as creating a duty of care or grounds of liability for injury to person or property. Nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in that person's use of such land and in that person's activities thereon.

Title 54
State Government

CHAPTER 54-01
SOVEREIGNTY AND JURISDICTION OF STATE

54-01-19. Rights of state over persons enumerated. The state has the following rights over persons within its limits, to be exercised in the cases and in the manner provided by law:

1. To punish for crime.
2. To imprison or confine for the protection of the public peace or health or of individual life or safety.
3. To imprison or confine for the purpose of enforcing civil remedies.
4. To establish custody and restraint for the persons of unsound mind dangerous to themselves or society.
5. To establish custody and restraint of paupers for the purpose of their maintenance.
6. To establish custody and restraint of minors unprovided for by natural guardians for the purpose of their education, reformation, and maintenance.
7. To require services of persons, with or without compensation, as follows:
   a. In military duty;
   b. In jury duty;
   c. As witnesses;
   d. As township officers;
   e. In highway labor;
   f. In maintaining the public peace;
   g. In enforcing the service of process;
   h. In protecting life and property from fire, pestilence, wreck, or flood; and
   i. In such other cases as are provided by law.

54-01-26. Residence - Rules for determining. Every person has in law a residence. In determining the place of residence, the following rules must be observed:

1. It is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.
2. There can be only one residence.
3. A residence cannot be lost until another is gained.
4. The residence of the supporting parent during the supporting parent's life, and after the supporting parent's death, the residence of the other parent is the residence of the unmarried minor children.
5. An individual's residence does not automatically change upon marriage, but changes in accordance with subsection 7. The residence of either party to a marriage is not presumptive evidence of the other party's residence.
6. The residence of an unmarried minor who has a parent living cannot be changed by either that minor's own act or that of that minor's guardian.
7. The residence can be changed only by the union of act and intent.

54-01-29. Prohibition on the purchase of certain real property and easements with public funds. A governmental entity may not provide funds through grant, contract, or other agreement to a nongovernmental entity that is a nonprofit organization for the purpose of holding any interest in real property or an easement for wildlife or conservation purposes. This section does not apply to a governmental entity in a partnership with a nongovernmental entity, if the governmental entity derives a benefit from the partnership. In addition, the recipient of these funds is subject to civil action by any person for the return of any public funds used by the recipient for any of the same purposes

CHAPTER 54-21.3
STATE BUILDING CODE

54-21.3-01. Purposes of chapter. The purposes of this chapter are to:

1. Provide the citizens of this state with nationally recognized standards and requirements for construction and construction materials.
2. Eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction or provide preferential treatment to types or classes of materials or products or methods of construction.
3. Ensure adequate construction of buildings throughout the state and to adequately protect the health, safety, and welfare of the people of this state.

54-21.3-02. Definitions. As used in this chapter, unless the context requires otherwise:

1. "Agricultural purposes" includes purposes related to agriculture, farming, ranching, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

2. "Building" means a combination of any materials fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof".
3. "City" means any city organized under the laws of this state.
4. "Code enforcement agency" means an agency of the state or local government with authority to inspect buildings and enforce the law, ordinances, and regulations which establish standards and requirements applicable to the construction, installation, alteration, repair, or relocation of buildings.
5. "Construction" means the construction, erection, reconstruction, alteration, conversion, or repair of buildings.
6. "Jurisdictional area" means the area within which a city or township has zoning jurisdiction.
7. "State building code" means the state building code provided for in this chapter.
8. "Temporary work camp housing" includes a modular residential structure used to house workers on a temporary basis for a maximum period of five years.

54-21.3-03. State building code.

1. The department of commerce, in cooperation with the state building code advisory committee, shall adopt rules to implement, amend, and periodically update the state building code, which must consist of the international building, residential, mechanical, and fuel gas codes.
2. The state building code advisory committee consists of:
   a. Two representatives appointed by the North Dakota building officials association, one of whom must be from a jurisdiction of fewer than ten thousand people.
   b. One representative appointed by the North Dakota chapter of the American institute of architects.
   c. One representative appointed by the North Dakota society of professional engineers.
   d. One representative appointed by the North Dakota association of builders.
   e. One representative appointed by the North Dakota association of mechanical contractors.
   f. One representative appointed by the associated general contractors.
   g. A fire marshal appointed by the state fire marshal.
   h. One individual appointed by the state electrical board.
3. The state building code advisory committee shall meet with the department of commerce or a designee of the commissioner of commerce at least once each calendar year to address proposed amendments to the state building code. The department of commerce may not adopt an amendment to the state building code unless the amendment is approved by a majority vote of:
   a. One representative appointed by the North Dakota chapter of the American institute of architects;
   b. One representative appointed by the North Dakota society of professional engineers;
   c. One representative appointed by the North Dakota association of builders;
   d. One representative appointed by the North Dakota association of mechanical contractors;
   e. One representative appointed by the associated general contractors; and
   f. Representatives of eligible jurisdictions as established by administrative rule.
4. The state building code or a building code adopted by a city, township, or county may not include a requirement that fire sprinklers be installed in a single family dwelling or a residential building that contains no more than two dwelling units. The state building code, plumbing code, electrical code, or an equivalent code adopted by a political subdivision must provide that a building designed for and used as a school portable classroom may be constructed and inspected as a temporary structure as defined by the state building code or may be permitted as a permanent school portable classroom. The foundation system of such a structure must comply with the recommendations of the manufacturer's engineering report for a preengineered unit or a structural engineer's report. Frost-free footings may not be required for a temporary structure that meets the requirements of the state building code unless required by an engineering report. Temporary electrical and plumbing installations may be allowed for any structure by the governmental entities governing those areas of construction or the applicable codes.
5. For the purposes of manufactured homes, the state building code consists of the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.].
6. The governing body of a city, township, or county that elects to administer and enforce a building code shall adopt and enforce the state building code. However, the state building code may be amended by cities, townships, and counties to conform to local needs.
7. A modular residential structure or a prebuilt home placed in the state must be constructed in compliance with the state building code. A modular residential structure or a prebuilt home placed in a jurisdiction that has

amended the state building code must be constructed in compliance with the state building code and the amendments adopted by that jurisdiction.

54-21.3-04. Exemptions.

1. Except as specifically provided in this chapter, the following statewide codes are exempt from this chapter:
   a. The Standards for Electrical Wiring and Equipment, as contained in North Dakota Administrative Code article 24-02.
   b. The State Plumbing Code, as contained in North Dakota Administrative Code article 62-03.
   c. The State Fire Code, as contained in the rules of the state fire marshal as provided in section 18-01-04.

   The following buildings are exempt from this chapter:
   d. Buildings which are neither heated nor cooled.
   e. Buildings used whose peak design rate of energy usage is less than one watt per square foot [929.0304 square centimeters] or three and four-tenths British thermal units an hour per square foot [929.0304 square centimeters] of floor area.
   f. Restored or reconstructed buildings deliberately preserved beyond their normal term of use because of historical associations, architectural interests, or public policy, or buildings otherwise qualified as a pioneer building, historical site, state monument, or other similar designation pursuant to state or local law.
2. Any building used for agricultural purposes, unless a place of human habitation or for use by the public, is exempt from this chapter.

54-21.3-04.1. Accessibility standards – Automatic doors.

1. Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the 2010 Americans with Disabilities Act standards for accessible design as contained in title 28, Code of Federal Regulations, parts 35 and 36 [28 CFR 35 and 36].
2. A state agency or the governing body of a political subdivision shall require from any individual preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that individual, in conformance with the Americans with Disabilities Act standards for accessible design as provided under subsection 1. A statement of conformance must be submitted to the department of commerce division of community services for recording.
3. After July 31, 2013, a newly designed and constructed building in excess of seven thousand five hundred square feet [696.77 square meters] which is classified within the state building code as assembly, business, educational, institutional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010. If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters].

54-21.3-04.2. Notice of federal accessibility guidelines required. A building permit issued under section 11-33-18, subsection 6 of section 40-05-02, or other similar grant of authority must contain the following statement: Federal law may require this construction project to conform with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities.

54-21.3-04.3. Used temporary work camp housing - Exemption. State or local government code enforcement agencies may allow exemptions or accept alternate methods for construction and placement of temporary work camp housing that has been previously used as housing or temporary work camp housing in a different location, provided that the waiver does not substantially compromise the health or safety of workers. This authority is granted to code enforcement agencies enforcing the state building code, the State Electrical Code, and the State Plumbing Code when acting within their existing jurisdiction. This section does not apply to newly constructed temporary work camp housing.

1. State or local government code enforcement agencies, acting within their existing jurisdiction, may conduct a nondestructive walkthrough inspection of previously used temporary work camp housing to ensure compliance with applicable codes, including the state building code, State Electrical Code, and State Plumbing Code. If the housing is found to be compliant with these codes, or to not substantially compromise the health or safety of workers pursuant to a waiver under this section, the code enforcement agency may issue a limited certificate of inspection, which is effective for a period of five years. Residents may not be permitted to move into or live in temporary work camp housing unless the housing has a current limited certificate of inspection or has been found to meet all applicable codes and requirements by any code enforcement agency having jurisdiction.

2. The applicable codes, including the state building code, the State Electrical Code, and the State Plumbing Code, are applicable as a standard for liability in legal actions against owners or operators of temporary work camp housing if exemptions are granted.
3. An owner of temporary work camp housing has the duty to remove that housing and all related above-grade and below-grade infrastructure within one hundred twenty days after the temporary work camp housing is vacated. Any city or county may abate any public nuisance caused by vacated temporary work camp housing within its jurisdiction. An owner of temporary work camp housing shall provide the city or county where the temporary work camp housing is installed with a surety bond, letter of credit, or other security instrument in the form and in an amount specified by the city or county. These funds must be used to cover actual expenses that may be incurred by the city or county in removal of the temporary work camp housing, including any above-grade or below-grade infrastructure. The owner is liable for any expenses that are reasonably incurred by the city or county which exceed the amount of the security.

54-21.3-05. Enforcement of code by city, township, or county - Relinquishment. A city or township may administer and enforce the state building code only within its jurisdictional area. A county may administer and enforce the state building code within those areas of the county in which the state building code is not administered by a city or township. Cities and townships may relinquish their authority to administer and enforce the state building code to the county in which they are located in the manner provided by section 11-33-20. The governing body of a city, township, or county electing to administer and enforce the state building code may designate an enforcement agency. Cities, townships, and counties may provide by agreement for joint administration and enforcement and may contract for private enforcement of the state building code.

54-21.3-07. Modular residential and commercial structures - Third-party inspections - Rules. The manufacturer of a modular residential or commercial structure that is built in a factory shall contract with a third party for the inspection of the structure for compliance with all applicable building, electrical, fire, and plumbing codes and standards during the manufacturing process in the factory. A third party that conducts inspections and certifies compliance with all applicable codes and standards must be approved as a certified third-party inspector by the division of community services. The department of commerce shall adopt rules for the certification of inspectors and for the procedures to be followed in conducting inspections of modular residential and commercial structures. When a manufacturer of modular residential or commercial structures contracts with a certified third-party inspector to monitor compliance with all applicable building, electrical, fire, and plumbing codes and standards for a modular residential or commercial structure, no further inspection by state or local building, electrical, fire, or plumbing inspectors may be required for that structure during the manufacturing process in the factory. This section does not apply to a factory manufacturing fewer than two residential or commercial structures per year.

54-21.3-08. Adoption of an installation program - Penalty. The department of commerce shall adopt rules establishing a manufactured home installation program for all manufactured homes built in accordance with the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.]. The rules must establish minimum installation standards. The rules may include standards, fees, and requirements for certification and training of installers, inspections of installations, dispute resolution, penalties for noncompliance, and costs of processing complaints. The standards do not apply to manufactured homes installed before the original effective date of the rules. Manufactured homes may be installed in accordance with either standards adopted in the rules or the manufacturer's instructions. The rules must include provisions for the enforcement of these standards. Any person who violates this section or any rule adopted under this section is guilty of a class A misdemeanor.

CHAPTER 54-27
FISCAL ADMINISTRATION

54-27-19. Highway tax distribution fund - State treasurer to make allocation to state, counties, and cities. A highway tax distribution fund is created as a special fund in the state treasury into which must be deposited the moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. The state treasurer shall transfer the first five million five hundred thousand dollars per biennium from the highway tax distribution fund to the state highway fund for the purpose of providing administrative assistance to other transferees. After the transfer of the first five million five hundred thousand dollars, any moneys in the highway tax distribution fund must be allocated and transferred monthly by the state treasurer, as follows:

1. Sixty-one and three-tenths percent must be transferred monthly to the state department of transportation and placed in a state highway fund.
2. Two and seven-tenths percent must be transferred monthly to the township highway fund.
3. One and five-tenths percent must be transferred monthly to the public transportation fund.

4. Thirty-four and five-tenths percent must be allocated to the counties of this state in proportion to the number of vehicle registrations credited to each county. Each county must be credited with the certificates of title of vehicles registered by residents of the county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund must be set aside in a separate fund called the "highway tax distribution fund" and must be appropriated and applied solely for highway purposes in accordance with section 11 of article X of the Constitution of North Dakota. The state treasurer shall compute and distribute monthly the sums allocated to the incorporated cities within each county according to the formulas in this subsection using the incorporated cities' populations as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to the census.
   a. For counties having no cities with a population of ten thousand or more, twenty-seven percent of the total county allocation must be distributed to all of the incorporated cities within the county on a countywide per capita basis. The remaining county allocation amount must be transferred into the county highway tax distribution fund..
   b. For each county having a city with a population of ten thousand or more, the amount transferred each month into the county highway tax distribution fund must be the difference between the amount allocated to that county pursuant to this subsection and the total amount allocated and distributed to the incorporated cities in that county as computed according to the following formula:
      (1) A statewide per capita average as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state.
      (2) The share distributed to each city in the county having a population of less than one thousand must be determined by multiplying the population of that city by the product of 1.50 times the statewide per capita average computed under paragraph 1.
      (3) The share distributed to each city in the county having a population of one thousand to four thousand nine hundred ninety-nine, inclusive, must be determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average computed under paragraph 1.
      (4) The share distributed to each city in the county having a population of five thousand or more must be determined by multiplying the population of that city by the statewide per capita average for all such cities, which per capita average must be computed as follows: the total of the shares computed under paragraphs 2 and 3 for all cities in the state having a population of less than five thousand must be subtracted from the total incorporated cities' share in the state as computed under paragraph 1 and the balance remaining must then be divided by the total population of all cities of five thousand or more in the state.
5. The moneys allocated to the incorporated cities must be distributed to them monthly by the state treasurer and must be deposited by the cities in a separate fund and may only be used in accordance with section 11 of article X of the Constitution of North Dakota and an incorporated city may use the fund for the construction, reconstruction, repair, and maintenance of public highways within or outside the city pursuant to an agreement entered into between the city and any other political subdivision as authorized by section 54-40-08.

54-27-19.1. Township highway aid fund - Distribution. The state treasurer shall no less than quarterly allocate and distribute all moneys in the township highway aid fund to the counties of the state based on the length of township roads in each county compared to the length of all township roads in the state. To receive any funds under this section, organized townships must provide fifty percent matching funds. The county treasurer shall allocate the funds received to the organized townships in the county which provide fifty percent matching funds based on the length of township roads in each of those organized townships compared to the length of all township roads in the county. The funds received must be deposited in the township road and bridge fund and used for highway and bridge purposes. If a county does not have organized townships, or has some organized and some unorganized townships, the county shall retain a pro rata portion of the funds received based on the length of roads in unorganized townships compared to the length of township roads in organized townships in the county. Moneys retained by a county for the benefit of unorganized townships under this section must be deposited in the county road and bridge fund. Moneys retained by the county treasurer due to the failure of organized townships to provide required matching funds must be returned to the state treasurer who shall deposit the funds in the highway tax distribution fund. The board of county commissioners shall certify to the state treasurer any change in township road mileage when a change occurs and shall, by July first of each even-numbered year, certify the total number of township road mileage in each of the county's organized and unorganized townships. The state treasurer shall prescribe the form and manner by which the certification is made.

54-27-26. Report on transportation funding and expenditures. Each county, city, and township shall provide to the tax commissioner an annual report on funding and expenditures relating to transportation projects and programs. The report must be provided within ninety days after the close of a calendar year. The report must contain by fund the beginning balance, revenues by major source, expenditures by major category, the ending balance, and any other information requested by the tax commissioner. A township may provide a copy of the appropriate annual township financial report that was provided to the county as the annual report.

CHAPTER 54-35.2
STATE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

54-35.2-01. Task force on intergovernmental issues - Membership - Meetings.

1. The legislative management may appoint task forces on intergovernmental issues assigned by the legislative management based on a study directive of a legislative bill or resolution and may appoint to each task force representatives of political subdivisions, the governor or the governor's designee, and members of the legislative assembly. The majority of the members of any task force appointed must be members of the legislative assembly. Task force appointees as representatives of political subdivisions may be selected from nominees of the North Dakota league of cities, association of counties, township officers association, recreation and park association, and school boards association.
2. The legislative management shall designate the chairman and vice chairman and the study directive of each task force.
3. Each task force shall meet at the call of its chairman.

54-35.2-02. Functions and duties. Each task force on intergovernmental issues shall serve as a forum for the discussion of resolution of issues relating to its study directive.

54-35.2-03. Staff services. Each task force on intergovernmental issues may request provision of appropriate staff services from the legislative council.

54-35.2-04. Compensation and expenses. A member of the task force on intergovernmental issues who is a member of the legislative assembly is entitled to receive, from funds available to the task force, compensation per day for each day spent in attendance at task force meetings in the same amount as provided for members of interim committees of the legislative management and reimbursement for travel and other necessary expenses incurred in the performance of official duties in the amounts provided by law for other state officers. Members of the task force on intergovernmental issues who represent political subdivisions may be reimbursed for attendance at task force meetings by the organization they represent.

54-35.2-05. Reports. Each task force on intergovernmental issues shall report its findings and recommendations and any proposed legislation necessary to implement the recommendations to the legislative management by the deadline provided by the legislative management when the task force was appointed. A majority of the members of each task force and a majority of the legislative assembly members of each task force must vote in favor of any proposed legislation before the proposed legislation may be recommended to the legislative management.

CHAPTER 54-40
JOINT EXERCISE OF GOVERNMENTAL POWERS

54-40-01. Agreement - Exercise of joint powers - Bonds.

1. Two or more governmental units or municipal corporations having in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised for the purpose of acquiring, constructing, and maintaining any building for their joint use. The term "governmental unit" as used in this section includes every city, county, park district, school district, states and United States governments and departments of each thereof, and all other political subdivisions even though not specifically named or referred to herein.
2. Two or more counties or cities, or any combination of counties or cities, whether or not they have in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, for the purpose of acquiring equipment or constructing roads, bridges, and road and bridge improvements.

3. An agency, department, or institution of this state may enter an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized by law to perform. Any agreement entered under this subsection must be submitted to the legislative assembly or, if the legislative assembly is not in session, to the legislative management for approval or rejection and may not become effective until approved by the legislative assembly or the legislative management.
4. Counties or cities, or any combination of counties or cities, may jointly issue bonds in the same manner and for the purposes provided for in chapter 21-03.

54-40-02. Agreement to state purpose. Such agreement must state the purpose of the agreement or the power or powers to be exercised, and it must provide for the method by which the purpose sought shall be accomplished or the manner in which the power or powers shall be exercised.

54-40-02.1. Building management commission for county and city building – Lease authority. Any agreement entered into between a county and a city under this chapter for the acquisition, construction, and maintenance of a building for their joint use by bonds issued pursuant to section 54-40-03 must provide for a building management commission composed of elected officials of the county, elected officials of the city, and representatives of the public, with the exact number of each to be specified in the agreement. The agreement must specify the powers to be exercised by the building management commission with respect to the acquisition, construction, and maintenance of the building, and with respect to any lease entered into by the commission and any noncounty and noncity governmental entity for use of a portion of the building. Notwithstanding section 48-08-07, a lease of a portion of any building used jointly by a county and a city pursuant to this section may be for a term longer than two years.

54-40-03. Disbursement of funds - Issuance of bonds. The parties to such agreement may provide for disbursements from public funds, including funds already raised to buy real estate for public buildings, proceeds of bonds issued pursuant to chapter 21-03, and other proper funds or properties already on hand, to carry out the purposes of the agreement. The total amount of bonds issued by a county and a city under this section must be in proportion to the joint usage of the building by the county and the city and must also consider the tax base of the county and the tax base of the city. When a county and a city wholly within the county boundaries propose to issue bonds for the purpose of a building for their joint use, the governing body of the county may submit to its qualified voters the proposition of issuing bonds in the total amount required to be borrowed for the building, under an initial resolution and ballot stating the maximum total principal amount of the bonds and the maximum principal amount thereof for which the city shall be obligated. In this event the governing body of the city shall adopt an ordinance or resolution stating the maximum amount of the obligation proposed to be incurred by the city and the other matters of information required for an initial resolution for bonds under the provisions of section 21-03-09, which ordinance or resolution shall be subject to referral to the qualified electors of the city by petition of the percentage of the qualified electors referred to in chapter 40-12 and upon the conditions and in the manner therein set forth. If the issuance of the bonds is approved by the required majority of the qualified electors of the county voting thereon, and if the city ordinance or resolution is not referred or is approved by a majority of the qualified electors of the city voting thereon, the bonds may be issued by the county and the obligation incurred by the city. The principal amount of the obligation incurred by the city to the county, as provided in the agreement, must be a general obligation and indebtedness of the city as referred to and limited by section 21-03-04 and by section 15 of article X of the Constitution of North Dakota, and must be deducted from the principal amount of the bonds in determining the net indebtedness incurred by the county in the issuance thereof. The city shall levy a direct, annual, irrepealable tax for the payment of its obligation and the interest thereon as required for the payment of general obligation bonds under the provisions of section 21-03-15, which tax must be retained by the county auditor in the sinking and interest fund for the county bonds as provided in section 21-03-41. Each payment of principal, interest, and premium, if any, due with respect to the county bonds must be the obligation of the city in the proportion that the original principal amount of the city's obligation bears to the original principal amount of the bonds, for the purpose of ascertaining the amount of net indebtedness of the city and the county outstanding at any time, of determining the amounts of taxes required to be assessed and collected annually by the city and the county for the bond sinking and interest fund, and of determining the amounts of income from the investment of the sinking and interest fund which are to be credited against the obligations of the city and county, respectively, and for all other purposes whatsoever. Nothing herein requires the city-county agreement to be executed before the authorization of the bonds and the city's obligation thereon. The agreement when executed must fix the relative contributions of the city and county to the capital cost of the building in a manner consistent with the maximum net indebtedness authorized to be incurred by each of them, respectively. If so provided in the agreement, the city may evidence its obligation by the issuance of general obligation bonds of the city and appropriate the proceeds of its bonds for expenditure in accordance with the terms of the agreement, and the amount of the county bonds may be reduced by the amount issued by the city. Funds other than taxes for debt service may be paid to and disbursed by such agency as may be agreed upon, but the method of disbursement

must agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement. Strict accountability of all funds and report of all receipts and disbursements must be provided for.

54-40-04. Termination of agreement. Such agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms.

54-40-05. Agreement shall provide for disposition of property. Such agreement must provide for the disposition of any property acquired as the result of such joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting parties after the purpose of the agreement has been completed.

54-40-06. Residence requirement. Residence requirements for holding office in any governmental unit do not apply to any officer appointed to carry out any such agreement.

54-40-08. Agreements for the use by political subdivisions of buildings and facilities of the state.

1. Any county, city, township, city park district, school district, or other political subdivision of this state may enter into an agreement with any agency, board, or institution of the state for the use of buildings and facilities under the control of that state agency, board, or institution for a period of time as the parties may determine to be necessary. Before an agreement pursuant to this section is effective, the respective governing body or officer of the state agency, board, or institution must approve the agreement and the attorney general must determine that the agreement is legally sufficient.
2. The political subdivision, pursuant to an agreement for the use of buildings and facilities, may make improvements to the buildings or facilities instead of any rental or other payments, but all improvements must first be approved by the governing body or officer of the state agency, board, or institution. The buildings and facilities may be moved or replaced at any time during the term of an agreement, and the political subdivision may use the buildings and facilities constructed in place of the original buildings and facilities for the remainder of the term of the agreement.

54-40-12. Joint agreements for heat from a central heating source. Any political subdivision, nonprofit hospital, or nursing home of this state, through its governing body, may enter into an agreement with any state agency or institution to furnish or receive heat from a central heating source. The director of the office of management and budget or any supervisory state agency must be the contracting party in an agreement involving a state institution under the director's or health officer's control. Political subdivisions, nonprofit hospitals, nursing homes, and state agencies and institutions are encouraged to enter into agreements pursuant to this section.

CHAPTER 54-40.3
JOINT POWERS AGREEMENTS

54-40.3-01. Joint powers agreements - General authority.

1. Any county, city, township, city park district, school district, or other political subdivision of this state, upon approval of its respective governing body, may enter into an agreement with any other political subdivision of this state for the cooperative or joint administration of any power or function that is authorized by law or assigned to one or more of them. Any political subdivision of this state may enter into a joint powers agreement with a political subdivision of another state or political subdivision of a Canadian province if the power or function to be jointly administered is a power or function authorized by the laws of this state for a political subdivision of this state and is authorized by the laws of the other state or province. A joint powers agreement may provide for:
   a. The purpose of the agreement or the power or function to be exercised or carried out.
   b. The duration of the agreement and the permissible method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of any property upon the partial or complete termination.
   c. The precise organization, composition, and nature of any separate administrative or legal entity, including an administrator or a joint board, committee, or joint service council or network, responsible for administering the cooperative or joint undertaking. Two or more political subdivisions which enter into a number of joint powers agreements may provide a master administrative structure for the joint administration of any number of those agreements, rather than creating separate administrative structures for each agreement. However, no essential legislative powers, taxing authority, or eminent domain power may be delegated by an agreement to a separate administrative or legal entity.
   d. The manner in which the parties to the agreement will finance the cooperative or joint undertaking and establish and maintain a budget for that undertaking. The parties to the agreement may expend funds pursuant to the agreement, use unexpended balances of their respective current funds, enter into a lease-option to buy and contract for deed agreements between themselves and with private parties,

accumulate funds from year to year for the provision of services and facilities, and otherwise share or contribute property in accordance with the agreement in cooperatively or jointly exercising or carrying out the power or function. The agreement may include the provision of personnel, equipment, or property of one or more of the parties to the agreement that may be used instead of other financial support.

e. The manner of acquiring, holding, or disposing of real and personal property used in the cooperative or joint undertaking.

f. The acceptance of gifts, grants, or other assistance and the manner in which those gifts, grants, or assistance may be used for the purposes set forth in the agreement.

g. The process to apply for federal or state aid, or funds from other public and private sources, to the parties for furthering the purposes of the agreement.

h. The manner of responding for any liability that might be incurred through performance of the agreement and insuring against that liability.

i. Any other necessary and proper matters agreed upon by the parties to the agreement.

2. Any county, city, township, city park district, school district, or other political subdivision of this state may enter into an agreement in the manner provided in subsection 1 with any agency, board, or institution of the state for the undertaking of any power or function which any of the parties is permitted by law to undertake. Before an agreement entered into pursuant to this subsection is effective, the respective governing body or officer of the state agency, board, or institution must approve the agreement and the attorney general must determine that the agreement is legally sufficient.

3. An agreement made pursuant to this chapter does not relieve any political subdivision or the state of any obligation or responsibility imposed by law except to the extent of actual and timely performance by a separate administrative or legal entity created by the agreement. This actual and timely performance satisfies the obligation or responsibility of the political subdivision.

54-40.3-02. Clarification of constitutional authority and effect of other statutes - Construction.

1. The specificity of this chapter, chapter 54-40, or any other law may not be construed to limit the general authority of a political subdivision to enter into agreements pursuant to section 10 of article VII of the Constitution of North Dakota, except for specific limitations on that authority, and subject to specific procedural requirements, imposed by this chapter, any other law, or a home rule charter.
2. This chapter does not dispense with the procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.

CHAPTER 54-40.5
LOCAL GOVERNMENT POWERS TRANSFER

54-40.5-01. Purpose. The purpose of this chapter is to provide procedures for political subdivisions by mutual agreement to transfer the administrative, legal, and financial responsibility for any powers or functions to the county, as authorized by section 10 of article VII of the Constitution of North Dakota. Nothing in this chapter may be construed to affect the authority of political subdivisions to enter into joint powers agreements for the cooperative or joint administration of powers or functions or other contracts as permitted by law.

54-40.5-02. Definitions. As used in this chapter:

1. "County" means the county in which a political subdivision is located.
2. "Political subdivision" means a city, township, city park district, school district, or other unit of local government or special district or authority in this state.

54-40.5-03. Transfer of powers or functions to the county. A political subdivision may enter into an agreement for the transfer of the legal, administrative, and financial responsibilities for carrying out a power or function of the political subdivision as required or permitted by law or home rule charter. The agreement must include:

1. The nature of the power or function to be transferred;
2. The effective date of the proposed transfer;
3. The responsibility for administration of the power or function to be transferred;
4. The manner in which affected employees currently engaged in the performance of the power or function will be transferred, reassigned, or otherwise treated;
5. The manner in which real property, facilities, equipment, or other personal property required in the exercise of the power or function are to be transferred, sold, or otherwise disposed of;
6. The method of financing, establishing, and maintaining a budget for the power or function; and

7. Other legal, financial, and administrative arrangements necessary to affect the transfer in an orderly and equitable manner.

54-40.5-04. Revocation of transfer. An agreement may be amended by further agreement of the parties in the same manner as the original agreement was made. An agreement may be terminated as provided in the agreement or, if no provision is made for the termination, by joint action of all parties, or by an individual party not less than one year after its notice in writing to all other parties. If a political subdivision that is a party to the agreement is dissolved, the agreement may be terminated as provided in this section by the governing body of the political subdivision upon its reincorporation or reestablishment, by a petition submitted to the county and signed by a majority of the electors residing within the previous territorial jurisdiction of the dissolved political subdivision, or in some other manner specified in the agreement.

A township or city that unilaterally transferred its zoning authority to the county may reacquire that zoning authority by mutual agreement between the board of county commissioners and the board of township supervisors or city governing body.

Title 57
Taxation

CHAPTER 57-01
TAX COMMISSIONER

57-01-02. Powers and duties. The tax commissioner:

1. Shall perform all the duties imposed upon the tax commissioner by law.
2. Shall exercise general supervision over all assessors of general property or other taxes, over township, county, and city boards of equalization and over all other assessing officers, in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state.
3. Shall direct actions and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities, and punishments of persons, officers of corporations, limited liability companies, public officers, and others, for failure or neglect to comply with the provisions of law governing the returns, assessments, and taxation of property, income, or other objects of taxation, cause complaints to be made against officers for neglect or refusal to comply with the law, and generally shall enforce all tax proceedings and revenue laws of the state in the proper courts.
4. May require state's attorneys of the several counties to assist in the commencement and prosecution of actions and proceedings for the violation of any laws in respect to assessment or taxation.
5. May require township, city, county, and other public officers to report information as to the assessment and collection of property and other taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as may be needful in the administration of the tax laws, in such form and upon such blanks as the tax commissioner may prescribe.
6. May summon witnesses to appear and give testimony and produce books, records, papers, and documents relating to any matter which the tax commissioner or the state board of equalization may have authority to investigate or determine, and may cause the depositions of witnesses residing within or without the state, or temporarily absent therefrom, to be taken, upon notice to the interested parties, if any, in like manner as depositions of witnesses are taken in civil actions in the district court.
7. May require a new assessment of property in any county to be made in accordance with chapter 57-14, whenever that is deemed necessary, or may require county auditors to place on the assessment rolls property which may be discovered and which has not been taxed according to law. For purposes of this subsection, "new assessment" means a new assessment as defined in section 57-14-08.
8. Shall examine carefully all cases in which evasions or violations of the laws of assessment and taxation of property or other objects or subjects of taxation are alleged, complained of, or discovered, and shall ascertain wherein existing laws are defective or are administered improperly or negligently.
9. Shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. The report must contain the biennial report of the state board of equalization.
10. Shall visit other states and confer with taxing officials and attend tax or other economic conferences or conventions, in person or by the tax commissioner's authorized agent.
11. Shall certify all levies, assessments, equalizations, or valuations made by the tax commissioner or the state board of equalization, not more than thirty days after the same have been made, or at periods otherwise provided by law.
12. May execute reciprocal agreements with the appropriate officials of any other state under which the tax commissioner may waive all or any part of the requirements imposed by the laws or statutes of this state upon

those who use or consume in this state gasoline, other motor vehicle fuel, or special fuel upon which the tax has been paid to that other state; provided, that the officials of that other state grant the equivalent privileges with respect to gasoline, other motor vehicle fuel, or special fuel used in that other state upon which the tax has been paid to this state.

13. May maintain an accounting system that includes a special category of accounts designated as noncurrent accounts. The noncurrent accounts must be those accounts that are uncollectible as a matter of law or those accounts in which all reasonable collection efforts over a period of six years have produced no results. After examination by the state auditor, and upon the state auditor's recommendation for cause, specific accounts may be removed by the commissioner from noncurrent status and all records pertaining thereto immediately destroyed.
14. May waive, upon a showing of good cause, any and all tax due. A lien must have been filed against the debtor's property prior to the request for a waiver. The attorney general shall approve the waiver. Notwithstanding the provisions of this section, if a debtor and the internal revenue service enter into an offer in compromise pursuant to section 7122 of the Internal Revenue Code [26 U.S.C. 7122], as amended, the tax commissioner may reduce a debtor's individual income tax liability. However, if the federal offer in compromise, for any reason, is subsequently declared void by the internal revenue service, the debtor is liable for the original amount of tax due.
15. a. May allow a taxpayer to elect to pay the tax liability to the state no later than the date the payment is required by law to be made in funds which are immediately available to the state on the date of payment. An election to pay the tax under this subdivision is binding until the taxpayer applies to the tax commissioner to rescind the election. Payment in immediately available funds may be made by wire transfer of funds through the federal reserve system or by any other means established by the commissioner which ensures the availability of the funds to the state on the date of payment. Evidence of the payment must be furnished to the commissioner on or before the due date of the tax as established by law. Failure to timely make the payment in immediately available funds or failure to provide evidence of payment in a timely manner subjects the taxpayer to penalty and interest as provided by law for delinquent or deficient tax payments.
    b. May establish by rule periodic filing and payment dates that are subsequent to the dates otherwise established by law for any taxes collected by the commissioner in those instances in which the commissioner deems it to be in the best interest of the state, provided that the alternative date may not be later than the last day of the month in which the tax was otherwise due.
    c. May adopt rules necessary for the administration of this subsection.
16. May participate in the treasury offset program administered by the United States department of treasury as prescribed by federal law and regulation. An amount equal to the amount of fees for participation in this program and any repayment of refunds erroneously received is appropriated as a standing and continuing appropriation to the tax commissioner for payment of fees due under this program and any required repayments.
17. Upon receipt of a written request from the chairman of the legislative management or the chairman of a standing committee of the legislative assembly, the tax commissioner shall disclose the amount of any tax deduction or credit that was claimed or earned by a taxpayer. This subsection does not authorize disclosure of the taxpayer's name or any other information prohibited from disclosure under title 57. The tax commissioner shall provide notice to taxpayers of possible disclosure under this subsection, in a manner as prescribed by the tax commissioner.

57-01-05. State supervisor of assessments. The state tax commissioner shall appoint a state supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. The state supervisor of assessments serves at the pleasure of the state tax commissioner and office space must be furnished to the state supervisor of assessments by the commissioner. The state supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. The state supervisor of assessments shall advise and give assessors the necessary instructions and directions as to their duties under the laws of this state, to promote uniform assessment of property in this state.
2. The state supervisor of assessments shall assist and instruct assessors in use of soil surveys, land classification methods, preparation and proper use of land maps and record cards, proper classification of real and personal property, and determination of proper standards of value.
3. The state supervisor of assessments may require the attendance of groups of assessors at meetings called by the state supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.

4. The state supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the counties and cities of this state to properly advise the assessors and directors of tax equalization in the state and to recommend to the tax commissioner changes to be made by the state board of equalization in the performance of its equalization powers and duties. In any sales, market, and productivity study made according to section 57-01-06, the county directors of tax equalization or city assessors shall compile a record of sales of property made in the county or city, and in conjunction with the board of county commissioners shall analyze the sales for the purpose of advising the state supervisor of assessments as to the value of using the sales in any such study. The compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or that person's assistants shall make appraisals of properties in order to determine the market value.
5. The state supervisor of assessments shall cooperate with North Dakota state university in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. The state supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. Whenever an investigation by the state supervisor of assessments shows there is probable cause to believe the holder of a certificate issued by the state supervisor of assessments under section 57-02-01.1 has failed to comply with any of the provisions of law pertaining to assessments, or any rules adopted by the tax commissioner, the state supervisor of assessments may petition the tax commissioner for a hearing to show cause why the certificate should be suspended or revoked.
   a. The state supervisor of assessments must provide the certificate holder at least ten days' notice of the time and place of the hearing.
   b. If cause to suspend or revoke the certificate is shown, the tax commissioner may suspend or revoke the certificate.
   c. The tax commissioner may restore a certificate after suspension or revocation.
   d. An individual whose certificate has been suspended or revoked in the manner provided in this section may appeal that determination to the district court as provided in section 28 - 32 - 42.
8. If a certificate holder's certificate is suspended or revoked under this section, the governing body of the county in which the certificate holder performs duties shall ensure the continued administration of assessments within that county by a person authorized under section 11-10.1-05 and be responsible for any expenses associated with the fulfillment of this responsibility. Expenses incurred by a county to fulfill the duties of a township or city assessment official whose certificate has been suspended or revoked must be charged to the political subdivision in which the certificate holder is employed and must either be paid directly to the county by the political subdivision or deducted by the county treasurer from funds coming into the treasurer's control which are apportionable to the subdivision.
9. The state supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner directs.
10. The tax commissioner may adopt rules under chapter 28-32 necessary for the administration of this section.

CHAPTER 57-02
GENERAL PROPERTY ASSESSMENT

57-02-01. Definitions. As used in this title, unless the context or subject matter otherwise requires:

1. "Agricultural property" means platted or unplatted lands used for raising agricultural crops or grazing farm animals, except lands platted and assessed as agricultural property prior to March 30, 1981, shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals. Agricultural property includes land on which a greenhouse or other building is located if the land is used for a nursery or other purpose associated with the operation of the greenhouse. The time limitations contained in this section may not be construed to prevent property that was assessed as other than agricultural property from being assessed as agricultural property if the property otherwise qualifies under this subsection.
   a. Property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:

(1) The land is platted by the owner.
(2) Public improvements, including sewer, water, or streets, are in place.
(3) Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise crops or graze farm animals.
(4) Property is zoned other than agricultural.
(5) Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.
(6) The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property.
(7) The property sells for more than four times the county average true and full agricultural value.

b. Land that was assessed as agricultural property at the time the land was put to use for extraction of oil, natural gas, or subsurface minerals as defined in section38-12-01 must continue to be assessed as agricultural property if the remainder of the surface owner's parcel of property on which the subsurface mineral activity is occurring continues to qualify for assessment as agricultural property under this subsection.

2. "Air carrier transportation property" means the operative property of each airline whose property is assessed for taxation purposes pursuant to chapters 57-06 and 57-32.
3. "Assessed valuation" means fifty percent of the true and full value of property.
4. "Centrally assessed property" means all property which is assessed by the state board of equalization under chapters 57-05, 57-06, and 57-32.
5. "Commercial property" means all property, or portions of property, not included in the classes of property defined in subsections 1, 4, 11, and 12.
6. "Credits" means and includes every claim and demand for money or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deeds or mortgages, due or to become due.
7. "Governing body" means a board of county commissioners, city council, board of city commissioners, school board, or board of education, or the similarly constituted and acting board of any other municipality.
8. "Money" or "moneys" means gold and silver coin, treasury notes, bank notes, and every deposit which any person owning the same or holding in trust and residing in this state is entitled to withdraw as money or on demand.
9. "Municipality" or "taxing district" means a county, city, township, school district, water conservation and flood control district, Garrison Diversion Conservancy District, county park district, joint county park district, irrigation district, park district, rural fire protection district, or any other subdivision of the state empowered to levy taxes.
10. "Person" includes a firm, corporation, or limited liability company.
11. "Railroad property" means the operating property, including franchises, of each railroad operated in this state, including any electric or other street or interurban railway.
12. "Residential property" means all property, or portions of property, used by an individual or group of individuals as a dwelling, including property upon which a mobile home is located but not including hotel and motel accommodations required to be licensed under chapter 23-09 nor structures providing living accommodations for four or more separate family units nor any tract of land upon which four or more mobile homes are located.
13. "Taxable valuation" signifies the valuation remaining after deducting exemptions and making other reductions from the original assessed valuation, and is the valuation upon which the rate of levy finally is computed and against which the taxes finally are extended.
14. "Tract", "lot", "piece or parcel of real property", or "piece or parcel of land" means any contiguous quantity of land in the possession of, owned by or recorded as the property of, the same claimant, person, or company.
15. "True and full value" means the value determined by considering the earning or productive capacity, if any, the market value, if any, and all other matters that affect the actual value of the property to be assessed. This shall include, for purposes of arriving at the true and full value of property used for agricultural purposes, farm rentals, soil capability, soil productivity, and soils analysis.
16. "Unencumbered cash" means the total cash on hand in any fund, less the amount belonging to the fund in closed banks and less the amount of outstanding warrants, bills, accounts, and contracts which are chargeable against the fund.
17. There shall be a presumption that a unit of land is not a farm unless such unit contains a minimum of ten acres [4.05 hectares], and the taxing authority, in determining whether such presumption shall apply, shall consider such things as the present use, the adaptability to use, and how similar type properties in the immediate area are classified for tax purposes.

57-02-01.1. Certification of assessors.

The state supervisor of assessments shall certify assessors as provided in this section.

1. To be certified as a class I assessor, an individual must:
   a. Have a high school diploma or its equivalent.
   b. Successfully complete one hundred eighty hours of assessment and appraisal instruction approved by the state supervisor of assessments. The number of hours of instruction determined necessary by the state supervisor of assessments for each of the following topics is required:
      (1) Tax administration.
      (2) Principles and theory of value.
      (3) Residential property appraisal.
      (4) Commercial property appraisal.
      (5) Agricultural property valuation.
2. To be certified as a class II assessor, an individual must:
   a. Have a high school diploma or its equivalent.
   b. Successfully complete eighty hours of assessment and appraisal instruction approved by the state supervisor of assessments. The number of hours of instruction determined necessary by the state supervisor of assessments for each of the following topics is required:
      (1) Tax administration.
      (2) Principles and theory of value.
      (3) Residential property appraisal.
      (4) Commercial property appraisal.
      (5) Agricultural property valuation.
3. The state supervisor of assessments may allow credit against required instruction in any topic under subdivision b of subsection 1 and subdivision b of subsection 2 upon receipt of documented training in this state or another state in the topic.
4. An individual appointed as an assessor must hold the required assessor certificate at the time of appointment or obtain that certificate within two years after initial appointment or by July 31, 2017, whichever is later. An assessor who does not obtain the required certificate within two years after initial appointment or by July 31, 2017, whichever is later, or who does not maintain that certificate in good standing is not eligible for re-appointment.
5. An assessor certificate is valid for a term of two years from the first day of the calendar year for which it becomes effective.
6. A class I assessor certificate may be renewed if the holder has completed twenty hours of approved classroom instruction or seminars during the term of the certificate. For purposes of this subsection, an assessor certificate holder is entitled to one and one-half hours of credit for each hour spent as an instructor of approved classroom instruction or seminars during the term of the certificate.
7. A class II assessor certificate may be renewed if the holder has completed ten hours of approved classroom instruction or seminars during the term of the certificate.
8. The state supervisor of assessments shall notify the holder of an assessor certificate of the time for application for renewal of the individual's certificate. The state supervisor of assessments shall notify the governing body of the taxing district employing an assessor whose certificate is not renewed or whose certificate is suspended or revoked.
9. Any person who is denied a certificate under this section may appeal to the tax commissioner for a hearing under chapter 28-32.
10. The tax commissioner may adopt rules under chapter 28-32 for the administration of this section.

57-02-03. Property subject to taxation. All property in this state is subject to taxation unless expressly exempted by law.

57-02-04. Real property defined. Real property, for the purpose of taxation, includes:

1. The land itself, whether laid out in town lots or otherwise, and improvements to the land, such as ditching, surfacing, and leveling, except plowing and trees, and all rights and privileges thereto belonging or in anywise appertaining, and all mines, minerals, and quarries in and under the same and shall expressly include all such improvements made by persons to lands held by them under the laws of the United States, all such improvements to land the title to which still is vested in any railroad company and which is not used exclusively for railroad purposes, and improvements to land belonging to any other corporation or limited liability company whose property is not subject to the same mode and rule of taxation as other property.
2. All structures and buildings, including manufactured homes as defined in section 41-09-02 with respect to which the requirements of subsections 1 through 3 of section 39-05-35, as applicable, have been satisfied, including systems for the heating, air-conditioning, ventilating, sanitation, lighting, and plumbing of such structures and

buildings, and all rights and privileges thereto belonging or in anywise appertaining, but shall not include items which pertain to the use of such structures and buildings, such as machinery or equipment used for trade or manufacture which are not constructed as an integral part of and are not essential for the support of such structures or buildings, and which are removable without materially limiting or restricting the use of such structures or buildings.

3. Machinery and equipment, but not including small tools and office equipment, used or intended for use in any process of refining products from oil or gas extracted from the earth, but not including such equipment or appurtenances located on leased oil and gas production sites.

57-02-05.1. Personal property defined. Personal property, for the purpose of taxation, includes all property that is not included within the definition of real property.

57-02-08. Property exempt from taxation. All property described in this section to the extent herein limited shall be exempt from taxation:

1. All property owned exclusively by the United States except any such property which the state and its political subdivisions are authorized by the laws of the United States to tax.
2. All property owned by this state, but no lands contracted to be sold by the state shall be exempt.
3. All property belonging to any political subdivision and the leasehold interest in property leased by a political subdivision from another political subdivision.
4. Property of Indians if the title of that property is inalienable without the consent of the United States secretary of the interior.
5. All lands used exclusively for burying grounds or cemeteries.
6. All property belonging to schools, academies, colleges, or other institutions of learning, not otherwise used with a view to profit, and all dormitories and boarding halls, including the land upon which they are situated, owned and managed by any religious corporation for educational or charitable purposes for the use of students in attendance upon any educational institution, if such dormitories and boarding halls are not managed or used for the purpose of making a profit over and above the cost of maintenance and operation.
7. Repealed by S.L. 2011, ch. 445, § 2.
8. All buildings belonging to institutions of public charity, including public hospitals and nursing homes licensed pursuant to section 23-16-01 under the control of religious or charitable institutions, used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit. The exemption provided by this subsection includes any dormitory, dwelling, or residential-type structure, together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code which is occupied by members of said organization who are subject to a religious vow of poverty and devote and donate substantially all of their time to the religious or charitable activities of the owner.
9. a. The land and any buildings on a parcel on which a church building is located, and which is owned by a religious corporation or organization and used predominantly for the religious purposes of the organization, must be deemed to be property used exclusively for religious purposes, and exempt from taxation. The land and any buildings on a parcel contiguous to the parcel on which a church building is located, which is owned by a religious corporation or organization, is exempt from taxation if any building located on the parcel is used predominantly for religious purposes.
   b. If the parsonage and residence of the bishop, priest, rector, minister, or other clergy is located on property owned by the religious corporation or organization, which is not adjacent to the church, that residence, with usual outbuildings and Page No. 5 land on which it is located, up to two acres [.81 hectare], must be deemed to be property used exclusively for religious purposes and is exempt from taxation.
   c. Up to twenty acres [8.09 hectares] of undeveloped land owned by a religious corporation or organization for the purpose of a future church building or buildings is exempt from taxation. This exemption expires ten years after the taxable year in which the property was acquired by the religious corporation or organization if construction improvements to accommodate a church building have not commenced.
   d. The exemption for a building used for the religious purposes of the owner continues to be in effect if the building in whole, or in part, is rented to another otherwise tax-exempt corporation or organization, provided no profit is realized from the rent.
10. Property of an agricultural fair association duly incorporated for the purpose of holding agricultural fairs, and not conducted for the profit of any of its members or stockholders; provided, that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.

11. Property owned by lodges, chapters, commanderies, consistories, farmers' clubs, commercial clubs, and like organizations, and associations, grand or subordinate, not organized for profit, and used by them for places of meeting and for conducting their business and ceremonies, and all property owned by any fraternity, sorority, or organization of college students if such property is used exclusively for such purposes; provided, further, that any portion of such premises not exclusively used for places of meeting and conducting the business and ceremonies of such organization shall be subject to taxation. Provided, further, that if any such organization as contemplated by this subsection is licensed for the sale of alcoholic beverages as defined by the statutes of the state of North Dakota, such portion of such premises where such alcoholic beverages are consumed or sold shall be deemed not to be so used exclusively for conduct of its business and meeting if such beverages are sold at a profit. Provided, further, that if food other than that served at lodge functions and banquets and food sold or consumed in any fraternity or sorority house, is sold at a profit on the premises, that portion of the premises where such food is sold at a profit shall be deemed not to be used exclusively for places of meeting or conducting the business and ceremonies of such organization; provided, that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.
12. Repealed by S.L. 1983, ch. 595, § 3.
13. All land used as a public park or monument ground belonging to any military organization, and not used for gain.
14. The armory, and land or lots upon which situated, owned by a regiment, battalion, or company of the North Dakota national guard, and used for military purposes by such organization.
15. a. All farm structures and improvements located on agricultural lands.
    (1) This subsection must be construed to exempt farm buildings and improvements only, and may not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence.
    (2) "Farm buildings and improvements" includes a greenhouse or other building used primarily for the growing of horticultural or nursery products from seed, cuttings, or roots, if not used on more than an occasional basis for a showroom for the retail sale of horticultural or nursery products. A greenhouse or building used primarily for display and sale of grown horticultural or nursery products is not a farm building or improvement.
    (3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, any structure or improvement used by a manufacturing facility as defined in section 19-24.1-01, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection. For purposes of this paragraph, "business other than farming" includes processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.
    (4) The following factors may not be considered in application of the exemption under this subsection:
        a) Whether the farmer grows or purchases feed for animals raised on the farm.
        b) Whether animals being raised on the farm are owned by the farmer.
        c) Whether the farm's replacement animals are produced on the farm.
        d) Whether the farmer is engaged in contract feeding of animals on the farm.

    b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
    (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
    (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry, livestock, or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:

a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.

b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

(3) "Gross income" means gross income as defined under the federal Internal Revenue Code and does not include a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "farm machinery" means all vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57 - 40.3.

(4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

(5) When exemption is claimed under this subdivision for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.

(6) For purposes of this subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.

(7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

16. Property now owned, or hereafter acquired, by a corporation organized, or hereafter created, under the laws of this state for the purpose of promoting athletic and educational needs and uses at any state educational institution in this state, and not organized for profit.
17. Moneys and credits, including shares of corporate stock and membership interests in limited liability companies, except moneyed capital which is so invested or used as to come into direct competition with money invested in bank stock.
18. Repealed by S.L. 1983, ch. 595, § 3
19. Repealed 1983.
20. Fixtures, buildings, and improvements up to the amount of valuation specified, when owned and occupied as a homestead, as hereinafter defined, by any of the following persons:
    a. A paraplegic disabled veteran of the United States armed forces or any veteran who has been awarded specially adapted housing by the department of veterans' affairs, or the unremarried surviving spouse if such veteran is deceased, for the first one hundred twenty thousand dollars of true and full valuation of the fixtures, buildings, and improvements.

b. Any permanently and totally disabled person who is permanently confined to use of a wheelchair, or, if deceased, the unremarried surviving spouse of a permanently and totally disabled person. If the spouse of a permanently and totally disabled person owns the homestead or if it is jointly owned by them, the same reduction in assessed valuation applies as long as both reside thereon. The provisions of this subdivision do not reduce the liability for special assessments levied upon the homestead. The phrase "permanently confined to use of a wheelchair" means that the person cannot walk with the assistance of crutches or any other device and will never be able to do so and that a physician selected by the local governing board has so certified.

Any person claiming an exemption under this subsection for the first time shall file with the county auditor an affidavit showing the facts herein required and a description of the property. The affidavit must be open for public inspection. A person thereafter shall furnish to the assessor or other assessment officials when requested to do so any information that is believed will support the claim for exemption for a subsequent year.

For purposes of this subsection, and except as otherwise provided in this subsection, "homestead" has the meaning provided in section 47-18-01 except that it also applies to any person who otherwise qualifies under the provisions of this subsection whether or not the person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which the qualifying owner has held title to the exempt property.

21. Repealed by S.L. 1983, ch. 595, § 3.
22. All or any part of fixtures, buildings, and improvements upon any nonfarmland up to a taxable valuation of seven thousand two hundred dollars, owned and occupied as a home by a blind person. Residential homes owned by the spouse of a blind person, or jointly owned by a blind person and spouse, shall also be exempt within the limits of this subsection as long as the blind person resides in the home. For purposes of this subsection, a blind person is defined as one who is totally blind, has visual acuity of not more than 20/200 in the better eye with correction, or whose vision is limited in field so that the widest diameter subtends an angle no greater than twenty degrees. The exemption provided by this subsection extends to the entire building classified as residential, and owned and occupied as a residence by a person who qualifies for the exemption as long as the building contains no more than two apartments or rental units which are leased.
23. All, or any portion of structural improvements other than paving and surfacing to land used exclusively for the business of operating an automobile parking lot within a city open for general public patronage. If a portion of the structure is exempt from taxation as being open for general public patronage, the amount of such exemption shall be computed by determining the value of the public parking area in proportion to the total value of the structure.
24. Repealed by S.L. 1983, ch. 595, § 3.
25. All personal property is exempt except:
    a. Personal property of entities, other than railroads, required by section 4 of article X of the Constitution of North Dakota to be assessed by the state board of equalization.
    b. Any property that is subjected to a tax which is imposed in lieu of ad valorem taxes.
    c. Any particular kind or class of personal property, including mobile homes or housetrailers, that is subjected to a tax imposed pursuant to any other provision of law.
26. Fixtures, buildings, and improvements when owned and occupied as a homestead, as hereinafter defined, by a paraplegic disabled person, or if the person is deceased the unremarried spouse, if the income from all sources of the person and spouse, or if the person is deceased the income from all sources of the unremarried surviving spouse, in the calendar year prior to the year for which the exemption is claimed did not exceed the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section. To obtain the exemption for the first time, a certificate from a medical doctor who is approved by the board of county commissioners, accompanied by an affidavit, showing the facts herein required and a description of the property, must be filed with the county auditor. The affidavit and accompanying certificate must be opened to public inspection. Any person claiming the exemption for any year after the first year shall furnish to the assessor or other assessment officials when requested to do so any information which the person believes will support the claim for the exemption for any subsequent year. For purposes of this subsection, "homestead" has the meaning provided in section 47-18-01 except that it also applies to any person who otherwise qualifies under the provisions of this subsection whether or not the person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which the person has held title to the exempt property.
27. Installations, machinery, and equipment of systems in new or existing buildings or structures, designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by utilization of solar, wind, or geothermal energy; provided, that if the solar, wind, or geothermal

energy device is part of a system which uses other means of energy, only that portion of the total system directly attributable to solar, wind, or geothermal energy shall be exempt. Provided, however, that any exemptions granted by this subsection shall be valid for a five-year period following installation of any such system and apply only to locally assessed property. For the purposes of this subsection, solar or wind energy devices shall have the meaning provided in section 57-38-01.8 and geothermal energy device means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, by a method which extracts or converts the energy naturally occurring beneath the earth's surface in rock structures, water, or steam.

28. All fixtures, buildings, and improvements owned by any cooperative or nonprofit corporation organized under the laws of this state and used by it to furnish potable water to its members and customers for uses other than the irrigation of agricultural land.
29. Property to which title is held by a city pursuant to chapter 40-57 which is leased to an entity described in subsection 8 and used by the entity as provided in subsection 8 or subleased to a public school district for educational purposes; provided, that the entity is qualified as an exempt organization under section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.
30. Property, but not including property used for residential purposes, owned by an organization described in subsection 9 and leased to a public school district for educational purposes; provided, that the property had previously been owned and occupied by the organization for an exempt purpose described in subsection 9 for a period of at least five years.
31. All group homes owned by nonprofit corporations, not organized with a view to profit and recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)], including those for persons with developmental disabilities as defined in section 25-01.2-01, and the real property upon which they are located during the period in which the group homes are under construction or in a remodeling phase and while they are used as group homes. For the purposes of this subsection, the term "group home" means a community-based residential home which provides room and board, personal care, habilitation services, or supervision in a family environment, and which, once established is licensed by the appropriate North Dakota licensing authority.
32. Minerals in place in the earth which at the time of removal from the earth are then subject to taxes imposed under chapter 57-51, 57-61, or 57-65.
33. Property used for athletic or recreational activities when owned by a political subdivision and leased to a nonprofit corporation organized for the purpose of promoting public athletic or recreational activities.
34. Any building located on land owned by the state if the building is used at least in part for academic or research purposes by students and faculty of a state institution of higher education.
35. Up to one hundred fifty thousand dollars of the true and full value of all new single-family and condominium and townhouse residential property, exclusive of the land on which it is situated, is exempt from taxation for the first two taxable years after the taxable year in which construction is completed and the residence is owned and occupied for the first time if all of the following conditions are met:
    a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of the property by resolution. A resolution adopted under this subsection may be rescinded or amended at any time. The governing body of the city or county may limit or impose conditions upon exemptions under this subsection, including limitations on the time during which an exemption is allowed.
    b. Special assessments and taxes on the property upon which the residence is situated are not delinquent.
36. The governing body of the city, for property within city limits, or of the county, for property outside city limits, may grant a property tax exemption for the portion of fixtures, buildings, and improvements, used primarily to provide early childhood services by a corporation, limited liability company, or organization licensed under chapter 50-11.1 or used primarily as an adult day care center. The exemption applies regardless of whether the early childhood or adult day care service provider owns the property. However, this exemption is not available for property used as a residence.
37. a. A pollution abatement improvement. As used in this subsection, "pollution abatement improvement" means property, exclusive of land and improvements to the land such as ditching, surfacing, and leveling, that is:
        (1) Part of an agricultural or industrial facility which is used for or has for its ultimate purpose the prevention, control, monitoring, reducing, or eliminating of pollution by treating, pretreating, stabilizing, isolating, collecting, holding, controlling, measuring, or disposing of waste contaminants; or

(2) Part of an agricultural or industrial facility and required to comply with local, state, or federal environmental quality laws, rules, regulations, or standards.

b. The exemption under this subsection applies only to that portion of the valuation of property attributable to the pollution abatement improvement on which construction or installation was commenced after December 31, 1992, and does not apply to the valuation of any property that is not a necessary component of the pollution abatement improvement. The governing body of the city, for property within city limits, or the governing board of the county, for property outside city limits, shall determine whether the property proposed for exemption is a pollution abatement improvement and may grant an exemption for the pollution abatement improvement based upon the requirements of this subsection.

38. Property owned by the state upon which payments in lieu of property taxes are made by the state.

39. Notwithstanding any other law, all property, including any possessory interest therein, relating to any waterworks, mains, and water distribution system leased to the state, or any agency or institution of the state, or to a private entity pursuant to subsection 5 of section 40-33-01, subsection 12 of section 61-24.5-09, or subsection 23 of section 61-35-12, which property is operated by, or providing services to, a municipality or other political subdivision or agency of the state, or its citizens.

40. Notwithstanding any other law, all property, including any possessory interest therein, relating to any sewage systems and facilities for the collection, treatment, purification, and disposal in a sanitary manner of sewage leased to the state, or any agency or institution of the state, or to a private entity pursuant to section 40-34-19 or subsection 23 of section 61-35-12, which property is operated by, or providing services to, a municipality or other political subdivision or agency of the state, or its citizens.

41. Notwithstanding any other law, all property, including any possessory interest therein, leased to a private entity pursuant to section 54-01-27, which property is operated by, or providing services to, the state or its citizens.

42. a. New single-family residential property, exclusive of the land on which it is situated, is exempt from assessment for the taxable year in which construction began and the next two taxable years, if the property remains owned by the builder, remains unoccupied, and all of the following conditions are met:

(1) The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of property under this subsection by resolution. A resolution adopted under this subsection may be rescinded or amended at any time. The governing body of the city or county may limit or impose conditions upon exemptions under this subsection, including limitations on the time during which an exemption is allowed.

(2) Special assessments and taxes on the property upon which the residence is situated are not delinquent.

b. A builder is eligible for exemption of no more than ten properties under this subsection in a taxable year within each jurisdiction that has approved the exemption under this subsection. For purposes of this subsection, "builder" includes an individual who builds that individual's own residence.

43. All residential rental property, inclusive of land and administrative and auxiliary buildings, used as affordable housing shall be exempt from taxation for the property's period of affordability.

a. The property is exempt under this section if the housing finance agency certifies to the county director of tax equalization that on January 1, 2013, or thereafter, the residential rental property complies with the following:

(1) The property is subject to and in compliance with a land use restriction agreement that enumerates the mandatory income and rent restrictions;

(2) The property is owned by a qualified nonprofit entity, as defined in section 42 of the Internal Revenue Code [26 U.S.C. 42]. If under a partnership agreement or other legally enforceable instrument, a for-profit entity, such as a limited partner, has an ownership interest in the property, then the agreement must provide that the nonprofit entity must have the right of first refusal in any transfer of the ownership interest in the property. The partnership agreement or other legally enforceable instrument also must provide that any transfer of the ownership interest by the for-profit entity must be without financial gain; and

(3) The general partner or other ownership entity is owned or controlled by a nonprofit entity or a political subdivision.

b. For projects beginning after December 31, 2012, the exemption begins for the first taxable year after the owners of the rental property receive a building permit from the local jurisdiction in which the affordable housing residential rental property will be located.

c. If part of the residential rental property is not eligible to receive assistance through local, state, or federal affordable housing programs, the exemption under this section is calculated by dividing the number of income and rent-restricted units by the total number of rental units.

d. In lieu of the ad valorem taxes that would otherwise be assessed, the project owners shall make a payment equal to five percent of the balance of the total annual rents collected during the preceding calendar year, minus the utility costs for the property paid by the owner of the property.

e. If an affordable housing rental property fails to comply with the requirements of this section, or fails to comply with rent and household income restrictions under a local, state, or federal affordable housing program, on or before March fifteen of each calendar year, the housing finance agency shall notify the director of tax equalization and the state supervisor of assessments that the property is no longer eligible for the exemption.

f. For the purposes of this subsection, "affordable housing" includes property eligible for or receiving assistance through a local, state, or federal affordable housing program and in which rent and household income restrictions apply, and which is owned by nonprofit entities organized for the purpose of providing affordable housing. Affordable housing is limited to residential rental property owned by or with a controlling ownership or management interest by an organization organized and operated exclusively for exempt purposes set forth in section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)].

57-02-08.1. Homestead credit.

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.

b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.

c. The exemption must be determined according to the following schedule:

(1) If the person's income is not in excess of twenty-two thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of five thousand six hundred twenty-five dollars of taxable valuation.

(2) If the person's income is in excess of twenty-two thousand dollars and not in excess of twenty-six thousand dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of four thousand five hundred dollars of taxable valuation.

(3) If the person's income is in excess of twenty-six thousand dollars and not in excess of thirty thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of three thousand three hundred seventy-five dollars of taxable valuation.

(4) If the person's income is in excess of thirty thousand dollars and not in excess of thirty-four thousand dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand two hundred fifty dollars of taxable valuation.

(5) If the person's income is in excess of thirty-four thousand dollars and not in excess of thirty-eight thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand one hundred twenty-five dollars of taxable valuation.

(6) If the person's income is in excess of thirty-eight thousand dollars and not in excess of forty-two thousand dollars, a reduction of ten percent of the taxable valuation of the person's homestead up to a maximum reduction of five hundred sixty-three dollars of taxable valuation.

d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are co-owners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.

e. This subsection does not reduce the liability of any person for special assessments levied upon any property.

f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility. Any income information contained in the statement of facts is a confidential record.

g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person exceeds five hundred thousand dollars, including the value of any assets divested within the last three years.

h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.

i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.

2. a. Any person who would qualify for an exemption under subdivisions a and c of subsection 1 except for the fact that the person rents living quarters is eligible for refund of a portion of the person's annual rent deemed by this subsection to constitute the payment of property tax.

b. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, the applicant is entitled to receive a refund from the state general fund for that amount in excess of four percent of the person's annual income, but the refund may not be in excess of four hundred dollars. If the calculation for the refund is less than five dollars, a minimum of five dollars must be sent to the qualifying applicant.

c. Persons who reside together, as spouses or when one or more is a dependent of another, are entitled to only one refund between or among them under this subsection. Persons who reside together in a rental unit, who are not spouses or dependents, are each entitled to apply for a refund based on the rent paid by that person.

d. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall issue refunds to applicants.

e. This subsection does not apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if those living quarters are exempt from property taxation and the owner is not making a payment in lieu of property taxes.

f. A person may not receive a refund under this section for a taxable year in which that person received an exemption under subsection 1.

3. All forms necessary to effectuate this section must be prescribed, designed, and made available by the tax commissioner. The county directors of tax equalization shall make these forms available upon request.

4. A person whose homestead is a farm structure exempt from taxation under subsection 15 of section 57-02-08 may not receive any property tax credit under this section.

5. For the purposes of this section:

a. "Dependent" has the same meaning it has for federal income tax purposes.

b. "Homestead" has the same meaning as provided in section 47-18-01.

c. "Income" means income for the most recent complete taxable year from all sources, including the income of any dependent of the applicant, and including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, any amount excluded from income by federal or state law, and medical expenses paid during the year by the applicant or the applicant's dependent which is not compensated by insurance or other means.

d. "Medical expenses" has the same meaning as it has for federal income tax purposes, except that for transportation for medical care the person may use the standard mileage rate allowed for state officer and employee use of a motor vehicle under section 54-06-09.

e. "Permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months as established by a certificate from a licensed physician or a written determination of disability from the social security administration, or any federal or state agency that has authority to certify an individual's disability.

57-02-08.2. Homestead credit - Certification.

1. Prior to the first of March of each year, the county auditor of each county shall certify to the state tax commissioner on forms prescribed by the state tax commissioner the name and address of each person for whom the homestead credit provided for in section 57-02-08.1 was allowed for the preceding year, the amount of exemption allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in such taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.

2. On or before the first of June of each year, the tax commissioner shall audit the certifications, make the required corrections, and certify to the state treasurer for payment to each county, the sum of the amounts computed by

multiplying the exemption allowed for each such homestead in the county for the preceding year by the total of the tax mill rates, exclusive of any state mill rates, that was applied to other real estate in such taxing districts for that year.

3. The county treasurer upon receipt of the payment from the state treasurer shall apportion and distribute it without delay to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.
4. The tax commissioner shall annually certify to the state treasurer the amount computed by multiplying the exemption allowed for all homesteads in the state for the preceding year by one mill for deposit into the state medical center fund.
5. Supplemental certifications by the county auditor and by the state tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make such corrections as may be necessary because of errors or because of approval of any application for abatement filed by a person because the exemption provided for in section 57-02-08.1 was not allowed in whole or in part.

57-02-08.3. Homestead credit for special assessments - Certification - Lien.

1. Any person who has qualified for the property tax credit provided for in section 57-02-08.1 may elect to also qualify for an additional homestead credit against that person's homestead for the portion of any special assessment levied by a taxing district which becomes due for the same year. The total amount of credits allowed for any one property must not exceed six thousand dollars excluding any interest charged by the body levying the special assessment. This credit may be granted only at the election of the qualifying person. The person making the election shall do so by filing with the county auditor a claim for the special assessment credit on a form prescribed by the tax commissioner. The claim must be filed with the county auditor on or before February first of the year in which the special assessment installment thereof becomes payable.
2. a. By March first of each year, the county auditor of each county shall certify to the state tax commissioner, on forms prescribed by the tax commissioner, the following information:
   (1) The name and address of each person for whom the special assessment credit provided for in subsection 1 was allowed for the preceding year.
   (2) The amount of credit allowed for the special assessment installment thereof due for the preceding year.
   (3) The total amount of the special assessment credits due in each special assessment district.
   (4) Other information that the tax commissioner requires.

   b. The tax commissioner shall audit the certifications, make such corrections as may be required, and certify to the state treasurer for payment to each county by June first of each year the sum of the amounts computed by adding the credits allowed for portions of special assessments which were due for each homestead in the county for the preceding year. No more than the portion of special assessments due for the preceding year shall be allowed as a credit for any homestead in any year.

   c. The county treasurer upon receipt of the payment from the state treasurer shall forthwith apportion and distribute the payment to each special assessment district in the county according to the total credits allowed for each respective special assessment district.

   d. Supplemental certifications by the county auditor and by the state tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed herein to make such corrections as may be necessary because of errors therein.
3. a. Any credit allowed under subsection 1, plus interest in the amount of nine percent per year from June first of the year for which the special assessment installment for which a credit is taken becomes payable, creates a lien in favor of the state against the property upon which the special assessment credit is allowed and remains a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. If the amount of the lien exceeds the market value of the property, the state may accept the amount of the market value of the property as payment in full on the lien.

   b. (1) Except as otherwise provided in this subdivision, a transfer of title to the homestead because of sale, death, or otherwise may not be made without the lien being satisfied. When a credit under subsection 1 is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the recorder.

   (2) The recorder may not record any deed for property on which the county auditor has determined that there is an unsatisfied lien created under this section, except for a transfer between spouses because of the death of one of them as provided in paragraph 3.

(3) When a transfer occurs between spouses because of the death of one of them, the lien allowed by this section need not be satisfied until the property is again transferred.

c. This lien has precedence over all other liens except general tax liens and prior special assessment liens and shall not be divested at any judicial sale. A mistake in the description of the property covered by this lien or in the name of the owner of the property does not defeat the lien if the property can be identified by the description in the special assessment list.

57-02-08.4. Conditional property tax exemption for owners of wetlands. Wetlands qualifying under this section are exempt from taxation. To qualify for the tax exemption, the owner of wetlands must annually file with the county director of tax equalization, on a form prescribed by the state tax commissioner, a legal description of the wetlands for which an exemption is claimed and an agreement to not drain, fill, pump, or concentrate water in a smaller and deeper excavation in the wetland basin or alter the physical nature of the wetland in any manner that reduces the wetland's ability to function as a natural system during the year for which the exemption is claimed. To qualify for the exemption the agreement must be filed by June thirtieth of the year for which the exemption is claimed. The exemption is not available for years prior to filing of the agreement or for any year in which the terms of the agreement are violated. The county director of tax equalization shall certify to the county auditor, for each landowner receiving the exemption, the landowner's name, the amount of tax which would have been due on the exempt acreage for the most recent past tax year, and that the landowner has filed the required agreement. The amount of the wetlands exemption must be reflected upon the property tax statement of each eligible taxpayer. For purposes of this section, "wetlands" means all types 3, 4, and 5 wetlands, as determined by the agriculture commissioner and the director of the game and fish department, in accordance with United States fish and wildlife service circular no. 39 (1971 edition), drainage of which would be feasible and practical. When wetlands are drained or altered so the land no longer qualifies for the exemption provided by this section, the land is subject to additional taxes which would have been assessed if the property had not qualified for the exemption provided by this section. The taxes which would have been due on the land without the exemption for the ten years preceding the year in which the exemption is terminated must be computed, and the property owner shall pay the difference between this amount and the taxes which were actually paid on the property in addition to taxes currently due. Absence of water on property qualifying for the exemption under this section, caused by drought conditions, does not disqualify the property from the exemption under this section. The wetlands tax exemption provided by this section does not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands. The owner of property exempt under this section may use the property in any manner which does not violate the agreement filed with the county director of tax equalization. No property is exempt under this section unless the tax commissioner has certified to the county auditor of each county by December tenth of the taxable year that funds are available in the state treasury which may be used for payment in full of any state obligations under section 57-02-08.5.

57-02-08.5. Wetlands tax exemption payment - Certification. Prior to November first of each year, the county auditor of each county shall certify to the state tax commissioner on forms prescribed by the commissioner the total amount of property tax which would have been due on property exempt under section 57-02-08.4 within the county and other information as may be prescribed by the commissioner. The county auditor shall forward to the commissioner copies of all agreements described in section 57-02-08.4 in effect in the county. The commissioner shall audit the claims for exemption, make corrections as required, and certify to the state treasurer for payment to each county on or before June thirtieth of each year the sum of property taxes due on property exempt under section 57-02-08.4 for the county in the preceding year. The county treasurer upon receipt of the payment from the state treasurer shall apportion and distribute it to the county and local taxing districts on the basis on which the general real estate tax for the preceding year is apportioned and distributed. Supplemental certifications by the county auditor and the state tax commissioner and supplemental payments by the state treasurer may be made after the date prescribed in this section to make corrections as may be necessary. No certifications must be made and no apportionment or distribution of payments to political subdivisions may be made under this section unless property was exempt under section 57-02-08.4 in the preceding year.

57-02-08.6. Authorization for receipt of funds. The state treasurer may receive funds for this program by legislative appropriation and by gift, grant, devise, or bequest of any money or property from any private or public source. Funds appropriated from any source for this purpose are not subject to section 54-44.1-11 and all income and moneys derived from the investment of the funds must be credited to the fund for this program. The director of the game and fish department, the agriculture commissioner, and the director of the department of water resources shall work with the governor, the United States fish and wildlife service, nonprofit conservation organizations, and any other public official or private organization or citizen to develop a source of funding to implement sections 57-02-08.4 and 57-02-08.5.

57-02-08.7. License fee in lieu of property taxes on leases for tourism or concession purposes. Payment of the license fee as provided in this section by the lessee of any leasehold interest in state-owned property leased

from the director of the state historical society or the director of the parks and recreation department is a payment in lieu of all ad valorem taxes on the leasehold interest or any associated building or other improvement if the lessee uses the property, building, or other improvement primarily for tourism or concession purposes. The director of the state historical society or the director of the parks and recreation department shall establish the license fee at an annual amount not less than one dollar and not more than one percent of the gross receipts from the tourism or concession enterprise. The lessee shall pay the license fee to the treasurer of the county in which the tourism or concession enterprise is located, and all fees received under this section must be deposited in the county general fund. The lease must indicate that the director of the state historical society or the director of the parks and recreation department approves use of the property primarily for tourism or concession purposes and intends the license fee paid by the lessee to be in lieu of ad valorem taxes.

57-02-08.8. Property tax credit for disabled veterans - Certification - Distribution.

1. A disabled veteran of the United States armed forces with an armed forces service-connected disability of fifty percent or greater or a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, who was discharged under honorable conditions or who has been retired from the armed forces of the United States, or the unremarried surviving spouse if the disabled veteran is deceased, is eligible for a credit applied against the first eight thousand one hundred dollars of taxable valuation of the homestead owned and occupied by the disabled veteran or unremarried surviving spouse equal to the percentage of the disabled veteran's disability compensation rating for service-connected disabilities as certified by the department of veterans' affairs for the purpose of applying for a property tax credit. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation receives a one hundred percent credit as described in this subsection.
2. If two disabled veterans are married to each other and living together, their combined credits may not exceed one hundred percent of eight thousand one hundred dollars of taxable valuation of the homestead. If a disabled veteran co-owns the homestead property with someone other than the disabled veteran's spouse, the credit is limited to that disabled veteran's interest in the homestead, to a maximum amount calculated by multiplying eight thousand one hundred dollars of taxable valuation by the disabled veteran's percentage of interest in the homestead property and multiplying the result by the applicant's certified disability percentage.
3. A disabled veteran or unremarried surviving spouse claiming a credit under this section for the first time shall file with the county auditor an affidavit showing the facts required under this section, a description of the property, and a certificate from the United States department of veterans' affairs, or its successor, certifying to the amount of the disability. The affidavit and certificate must be open for public inspection. A person shall thereafter furnish to the assessor or other assessment officials, when requested to do so, any information which supports the claim for credit for any subsequent year.
4. For purposes of this section, and except as otherwise provided in this section, "homestead" has the meaning provided in section 47-18-01 except that it also applies to a person who otherwise qualifies under the provisions of this section whether the person is the head of the family.
5. This section does not reduce the liability of a person for special assessments levied upon property.
6. A credit under this section terminates at the end of the taxable year of the death of the applicant.
7. The board of county commissioners may cancel the portion of unpaid taxes that represents the credit calculated in accordance with this section for any year in which the qualifying owner has held title to the homestead property. Cancellation of taxes for any year before enactment of this section must be based on the law that was in effect for that tax year.
8. Before the first of March of each year, the county auditor of each county shall certify to the tax commissioner on forms prescribed by the tax commissioner the name and address of each person for whom the property tax credit for homesteads of disabled veterans was allowed for the preceding year, the amount of credit allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in the taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.
9. On or before the first of June of each year, the tax commissioner shall audit the certifications, make the required corrections, and certify to the state treasurer for payment to each county the sum of the amounts computed by multiplying the credit allowed for each homestead of a disabled veteran in the county by the total of the tax mill rates, exclusive of any state mill rates that were applied to other real estate in the taxing districts for the preceding year.
10. The county treasurer upon receipt of the payment from the state treasurer shall apportion and distribute the payment without delay to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

11. On or before the first day of June of each year, the tax commissioner shall certify to the state treasurer the amount computed by multiplying the property tax credit allowed under this section for homesteads of disabled veterans in the state for the preceding year by one mill for deposit in the state medical center fund.
12. Supplemental certifications by the county auditor and by the tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make such corrections as may be necessary because of errors or because of approval of an application for abatement filed by a person because the credit provided for the homestead of a disabled veteran was not allowed in whole or in part.

57-02-09. Basis of exemptions. The exemptions provided for in section 57-02-08 must be made in each case on the basis of the full cash valuation both of the exemption and of the property upon which such exemption is allowed.

57-02-10. Inundated and highway easement lands exempt from taxation. The board of county commissioners is authorized and directed to remove from the tax rolls and to declare as exempt from taxation all inundated lands upon which the owner thereof has granted or hereafter shall grant a permanent easement to the United States of America, its instrumentalities, or agencies, for the purpose of constructing, maintaining, and operating water or wildlife conservation projects, and all lands upon which the owner thereof has granted or hereafter shall grant an easement for a highway or road right of way to the United States, its instrumentalities or agencies, or to the state or its political subdivisions, and such lands so removed from the tax rolls shall remain exempt until such time as such water or wildlife conservation projects or highway shall have been abandoned. Such lands shall not be removed from the tax rolls and declared exempt from taxation until such time as the construction of such water or wildlife conservation projects or highway thereon shall have been completed.

57-02-11. Listing of property - Assessment thereof. Certified assessment officials must list and assess property as follows:

1. All real property subject to taxation must be listed and assessed every year with reference to its value, on February first of that year.
2. An individual property record must be kept by the appropriate assessment official for each parcel of taxable property. The record may be in electronic or paper form and must include identifying information as prescribed by the state supervisor of assessments. Assessors shall prepare the records and provide copies of all property records prepared by the assessor to the county director of tax equalization. The county director of tax equalization shall maintain those records for ten years from the date the records were received from the assessors. A city with an assessor who holds a current certification as a class I assessor under section 57-02-01.1, and which has been determined by the state supervisor of assessments to have enough sales for an adequate sales ratio study, may elect to maintain the records required under this subsection on behalf of the county. A city that makes this election must include these records in a city database of taxable property to be maintained in the office of city assessor for ten years from the assessment date.
3. Whenever after the first day of February and before the first day of April in any year, it is made to appear to the assessor by the oath of the owner that any building, structure, or other improvement, or tangible personal property, which is listed for taxation for the current year has been destroyed or damaged by fire, flood, tornado, or other natural disaster, the assessor shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property an amount which in the assessor's judgment fairly represents such deduction as should be made.

57-02-11.1. Townhouses - Common areas - Assessment and taxation. Townhouse property must be classified and valued as is other property except that the value of the townhouse property must be increased by the value added by the right to use any common areas in connection with the townhouse development. The common areas of the development may not be separately taxed. The value of a common area of the townhouse development must be assessed in an equal amount to each townhouse in the development unless a declaration setting out a different apportionment is recorded in the office of the county recorder. The total value of the townhouse property, including the value added as provided herein, must have the benefit of any homestead credit under section 57-02-08.1 or other special classification if the townhouse otherwise qualifies.

57-02-11.2. Confidentiality of information provided by commercial property owners for assessment purposes. Unless directed otherwise by judicial order or as otherwise provided by law, records and information provided by the owner or occupant of commercial property with regard to income and expenses of the property in connection with an assessment are confidential. This section does not prohibit the publication of statistics classified to prevent the identification of a particular property and information relating to that property or the disclosure of the records or information when an action or proceeding has been brought by the owner or occupant to set aside or review the assessment.

57-02-14. Valuation of real property exempt from taxation. At the time of making the assessment of real property, the assessor shall enter in a separate list each description of property exempt by law and shall value it in the same manner as other property, designating in each case to whom such property belongs and for what purpose used. This section does not apply to property of the United States, this state, or a political subdivision of this state or farm buildings or farm residences exempt from property taxes by law.

57-02-14.1. Tax exemption certificate for real property to be filed - Exceptions. Any person, corporations, limited liability companies, associations, or organizations owning real property located within a municipality which claims that such real property is exempt from assessment and taxation shall file with the assessor and with the county auditor a certificate setting out all facts on which the claim for exemption is based, including the names of owners, the date such property was acquired, the legal description, the use to which the property was put during the twelve months preceding the assessment date, and any other information which the assessor may request. This certificate shall be filed with the assessor and the county auditor each year before the assessment date. If the certificate is not filed as provided herein, the assessor shall regard the property as nonexempt property and shall assess it as such. The provisions of this section shall not apply in any case when the real property is owned by the United States or the state of North Dakota or any of its departments, institutions, agencies, or political subdivisions.

57-02-15. Place of listing personal property. Except as otherwise provided by statute, or by the constitution, all taxable tangible personal property shall be assessed in the county, city, township, or district in which it is situated. Moneyed capital within the meaning of 12 U.S.C. 548 and such other moneys and credits as hereafter may be made taxable, including stocks and bonds other than bank stock, shall be listed and assessed against the owner thereof at the owner's place of business, and, if a corporation or limited liability company, at its principal place of business, and if there is no principal place of business or office in this state, then such personal property shall be listed in the assessment district in which the business of the corporation, limited liability company, or person is carried on.

57-02-26. Certain property taxable to lessee or equitable owner - Exception.

1. Property held under a lease for a term of years, or under a contract for the purchase thereof, belonging to the United States or to the state or a political subdivision thereof, except such lands upon which the state makes payments in lieu of property taxes, or to any religious, scientific, or benevolent society or institution, whether incorporated or unincorporated, or to any railroad corporation whose property is not taxed in the same manner as other property, must be considered, for all purposes of taxation, as the property of the person so holding the same.
2. Property held under an easement or a lease for a term of years and any improvements upon that property which are used for any purpose relating to discovery, exploration, processing, or transportation of oil or gas must be considered the property of the lessee or easement holder. For the purposes of this subsection, "improvements" does not include property subject to the provisions of chapter 57-06 or property subject to the in lieu of ad valorem tax provisions of chapter 57-51.
3. Property owned by the state and held under a lease and any structure, fixture, or improvement located on that property is not taxable to the leaseholder if the structure, fixture, or improvement is used primarily for athletic and educational purposes at any state institution of higher education.

57-02-27. Property to be valued at a percentage of assessed value - Classification of property - Limitation on valuation of annexed agricultural lands. All property subject to taxation based on the value thereof must be valued as follows:

1. All residential property to be valued at nine percent of assessed value. If any property is used for both residential and nonresidential purposes, the valuation must be prorated accordingly.
2. All agricultural property to be valued at ten percent of assessed value as determined pursuant to section 57-02-27.2.
3. All commercial property to be valued at ten percent of assessed value.
4. All centrally assessed property to be valued at ten percent of assessed value except as provided in section 57-06-14.1.

The resulting amounts must be known as the taxable valuation. In determining the assessed value of real and personal property, except agricultural property, the assessor may not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor may the assessor adopt as a criterion of value the price at which said property would sell at auction, or at forced sale, or in the aggregate with all the property in the town or district, but the assessor shall value each article or description by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. In assessing any tract or lot of real property, there must be determined the value of the land, exclusive of improvements, and the value of all taxable improvements and structures thereon, and the aggregate value of the property, including all taxable structures and other improvements, excluding the value

of crops growing upon cultivated lands. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same must be valued at such a price as such property, including the mine or quarry, would sell for at a fair voluntary sale for cash. Agricultural lands within the corporate limits of a city which are not platted constitute agricultural property and must be so classified and valued for ad valorem property tax purposes until such lands are put to another use. Agricultural lands, whether within the corporate limits of a city or not, which were platted and assessed as agricultural property prior to March 30, 1981, must be assessed as agricultural property for ad valorem property tax purposes until put to another use. Such valuation must be uniform with the valuation of adjoining unannexed agricultural land.

57-02-27.1. Property to be valued at true and full value. All assessors and boards of equalization shall place the values of all items of taxable property at the true and full value of the property except as otherwise specifically provided by law, and the amount of taxes that may be levied on such property must be limited as provided in this chapter. For the purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04, the term "true and full value" has the same meaning as provided in subsection 15 of section 57-02-01, except that "true and full value" of agricultural lands must be as determined pursuant to section 57-02-27.2. The governing body of the city or township may establish valuations that recognize the supply of vacant lots available for sale.

57-02-27.2. Valuation and assessment of agricultural lands.

1. "True and full value" of agricultural lands must be their agricultural value for the purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural value is defined as the "capitalized average annual gross return", except for inundated agricultural land. The "annual gross return" must be determined from crop share rent, cash rent, or a combination thereof reduced by estimated property taxes and crop marketing expenses incurred by farmland owners renting their lands on a cash or crop share basis.
2. For purposes of this section, "annual gross return" for cropland used for growing crops other than sugar beets and potatoes means thirty percent of annual gross income produced, "annual gross return" for cropland used for growing sugar beets and potatoes means twenty percent of annual gross income produced, and "annual gross return" for land used for grazing farm animals means twenty-five percent of an amount determined by the department of agribusiness and applied economics of North Dakota state university to represent the annual gross income potential of the land based upon the animal unit carrying capacity of the land.
3. The "average annual gross return" for each county must be determined as follows:
   a. Total the annual gross returns for the ten years immediately preceding the current year for which data is available and discard the highest and lowest annual gross returns of the ten.
   b. The department of agribusiness and applied economics of North Dakota state university shall establish a base year index of prices paid by farmers using annual statistics on that topic compiled by the national agricultural statistics service for the seven-year period ending in 1995, discarding the highest and lowest years' indexes, and averaging the remaining five years' indexes. The department of agribusiness and applied economics shall gather the national agricultural statistics service annual index of prices paid by farmers for the ten years ending with the most recent year used under subdivision a, discard the highest and lowest years' indexes, average the remaining eight years' indexes, and divide the resulting amount by the base year index of prices paid by farmers. This amount must be divided into the amount determined under subdivision a.
   c. Divide the figure arrived at in subdivision b by eight.
4. To find the "capitalized average annual gross return", the average annual gross return must be capitalized by a rate that is a ten-year average of the gross agribank mortgage rate of interest for North Dakota. The ten-year average must be computed from the twelve years ending with the most recent year used under subdivision a of subsection 3, discarding the highest and lowest years, and the gross agribank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in section 20.2032A-4(e)(2).
5. The department of agribusiness and applied economics of North Dakota state university shall compute annually an estimate of the average agricultural value per acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis; shall compute the average agricultural value per acre [.40 hectare] for cropland, noncropland, and inundated agricultural land for each county; and shall provide the tax commissioner with this information by December first of each year. Fifty percent of the annual gross income from irrigated cropland must be considered additional expense of production and may not be included in computation of the average agricultural value per acre [.40 hectare] for cropland for the county as determined by the department of agribusiness and applied economics. Before January first of each year, the tax commissioner shall provide to each county director of tax equalization these estimates of agricultural value for each county.

6. For purposes of this section, "inundated agricultural land" means property classified as agricultural property containing a minimum of ten contiguous acres if the value of the inundated land exceeds ten percent of the average agricultural value of noncropland for the county, which is inundated to an extent making it unsuitable for growing crops or grazing farm animals for two consecutive growing seasons or more, and which produced revenue from any source in the most recent prior year which is less than the county average revenue per acre for noncropland calculated by the department of agribusiness and applied economics of North Dakota state university. Application for classification as inundated agricultural land must be made in writing to the township assessor or county director of tax equalization by March thirty-first of each year. Before all or part of a parcel of property may be classified as inundated agricultural land, the board of county commissioners must approve that classification for that property for the taxable year. The agricultural value of inundated agricultural lands for purposes of this section must be determined by the department of agribusiness and applied economics of North Dakota state university to be ten percent of the average agricultural value of noncropland for the county as determined under this section. Valuation of individual parcels of inundated agricultural land may recognize the probability that the property will be suitable for agricultural production as cropland or for grazing farm animals in the future. Determinations made under this subsection may be appealed through the informal equalization process and formal abatement process provided for in this title.
7. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors within the county an estimate of the average agricultural value of agricultural lands within each assessment district. The estimate must be based upon the average agricultural value for the county adjusted by the relative values of lands within each assessment district compared to the county average. In determining the relative value of lands for each assessment district compared to the county average, the county director of tax equalization shall use soil type and soil classification data from detailed and general soil surveys.
8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization. In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations, which are listed in descending order of significance to the assessment determination:
   a. Soil type and soil classification data from detailed or general soil surveys.
   b. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments under subsection 9.
   c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.
9. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.
10. For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys by February first of any taxable year after 2011, the tax commissioner shall direct the state treasurer to withhold five percent of that county's allocation each quarter from the state aid distribution fund under section 57-39.2-26.1 beginning with the first quarter of 2013, and continuing until the tax commissioner certifies to the state treasurer that the county has fully implemented use of soil type or soil classification data. The amount withheld from the allocation must be deposited into the agricultural land valuation fund. The amount withheld from the allocation must be withheld entirely from the portion of the allocation which may be retained by the county and may not reduce allocations to any political subdivisions within the county.

57-02-28. Basis for computation of tax. The value of all property subject to a general property tax to be used in the computation of taxes levied thereon is its taxable valuation as computed pursuant to section 57-02-27.

57-02-29. Bond and oath of district assessor. Every person elected or appointed to the office of assessor in an assessor district consisting of unorganized territory, at or before the time of receiving the assessment books, must be bonded for the faithful discharge of the duties of the office, in the state bonding fund or by a corporate surety company authorized to do business in this state, in the penal sum of one thousand dollars. The assessor shall take and subscribe the oath prescribed for civil officers. Failure to be bonded or to take such oath must be deemed a refusal to serve and creates a vacancy in the office.

57-02-30. Assessor may administer oaths. The assessor may administer oaths to all persons who are required to swear to any statement or return in connection with the assessment and may examine, under oath, any person whom the assessor may believe to have knowledge of the amount or value of the personal property of any person refusing to list or to verify the list of personal property.

57-02-31. Auditor to furnish books to assessors at meeting. The county auditor annually shall provide the necessary books and blanks at county expense for each assessment district or township in the county. Every year, the county auditor shall enter in the real property assessment book a complete list of all lands or lots subject to taxation. The list must show the name of the owner, if known, the number of acres [hectares], and the lots and parts of lots or blocks included in each description. On or before the second Wednesday in February of each year, following notice by mail from the county auditor, all the assessors in the county shall meet in the county auditor's office for a conference on their duties as assessors, and the county auditor shall then deliver to each assessor the assessment books and blanks for each assessor's assessment district. Each assessor must be allowed a sum not to exceed twenty dollars a day, at the discretion of the board of county commissioners, for each day's attendance at the conference and mileage in the amounts provided in section 11-10-15.

57-02-32. Auditor to furnish tax list. The auditor of each county shall make and transmit to the township clerk of each civil township within such county, on the first day of March of each year, a copy of the tax list of such township for the preceding year showing the owner and description of each piece or parcel of land assessed and the valuation thereof.

57-02-33. Assessor services for unorganized territory. Any area not within an organized township or city must be assessed by a certified assessor under the supervision and direction of the county director of tax equalization. The county director of tax equalization may serve as an assessor of property under this section. Every individual performing assessor services under this section is entitled to compensation and mileage and travel expenses determined by the board of county commissioners for the time actually and necessarily employed in assessment of property. The compensation and expenses must be paid from the treasury of the county in which the assessed property is located only upon submission of an itemized statement setting forth the actual time spent in the work of the assessor and mileage traveled, approved by the board of county commissioners.

57-02-34. When and how assessment made. The assessor shall perform the duties required of the office during the twelve-month period prior to April first in the manner provided in this section. The assessor shall determine both the true and full value as defined by law and the assessed value of each tract or lot of real property listed for taxation, and shall enter those values in separate columns, and the true and full value and assessed value of all improvements and structures taxable thereon in separate columns, opposite such description of property, and in another column shall show the total assessed value of the property by adding the totals of the two previous assessed value columns.

57-02-38. Units of real property for assessment. In all assessment books and tax lists and in all proceedings for the collection of taxes and proceedings founded thereon, unplatted land and undeveloped land platted before March 30, 1981, not situated within the limits of an incorporated city must be described in subdivisions not exceeding quarter sections. Real property in the platted portion of a city or real property platted on or after March 30, 1981, that is located outside any city and is not agricultural property under the conditions set out in subsection 1 of section 57-02-01, must be assessed separately as to each lot. When a building or structure covers two or more contiguous lots or parts of lots owned by the same person the assessment may not be entered separately as to each lot or part of lot, but the tract upon which the building is located must be described and assessed as one parcel. A block which has not been subdivided may be described, assessed, and taxed in a unit of one block. A failure to comply with the provisions of this section does not impair the validity of taxes.

57-02-39. Irregularities of land to be platted into lots if required. If any tract or lot of land is divided into irregular shapes which can be described only by metes and bounds, or if any addition or subdivision which already has been platted into blocks and lots and subsequently sold into parts of blocks or lots which can be described only by metes and bounds, or if the courses, distances, and sizes of each lot or fractional lot are not given or marked upon the plat so that the precise location of each lot and fractional lot can be ascertained accurately, surveyed, or laid out, the owner of such tract or tracts, upon the request of the county auditor, shall have such land platted or replatted, as the case may be, into lots or blocks according to deeds on record. If such plat cannot be made without an actual survey of the land, the same must be surveyed and platted and the plat thereof recorded. If the owners of any such tract refuse or neglect to cause such plat and survey, when necessary, to be made and recorded within thirty days after such request, the county surveyor, or some other competent surveyor, upon the request of the county auditor, shall make out such plat from the records of the recorder if practicable, but if it cannot be made from such records, then the surveyor shall make the necessary survey and plat thereof, and the county auditor shall have the same recorded, but no such plat may be recorded until approved by the city engineer of the city affected thereby,

and if there is no city engineer, then by the county surveyor. A certificate of the approval of such plat must be made by the officer making the same endorsed on the plat or map. Such certificate also must be recorded and forms a part of the record. When such plat has been duly certified and recorded, any description of the property in accordance with the number and description set forth in such plat must be deemed a good and valid description of the lots or parcels of land so described. No such plat or description may bear the name or number which already has been applied to any plat or description previously made and recorded as a part of any such city. When the owner of such land fails to comply with the provisions of this section, the cost of surveying, platting, and recording must be paid by the county, upon allowance by the board of county commissioners, and the amount thereof must be added to the taxes upon such tracts or lots the ensuing year. Such taxes, when collected, must be credited to the county general fund. The surveyor making such survey or plat is entitled to receive for services in making the same the compensation allowed by law for doing other county surveying or platting, and such fees become a legal charge upon such tracts of land.

57-02-40. Taxes paramount lien on real estate - Statute of limitations not applicable to personal property taxes.

1. Taxes upon real property are a perpetual paramount lien thereon against all persons, except the United States and this state.
2. Taxes upon personal property shall not be affected by any general statute of limitations.
3. A tax lien includes the principal of the tax, and all costs, penalties, interest, charges, and expenses which by law accrue, attach, or are incurred.

57-02-41. Attachment of tax lien and prorating taxes as between vendor and purchaser. All taxes, as between vendor and purchaser, become a lien on real estate on and after the first day of January following the year for which such taxes were levied. If taxable real property is acquired in any year after the assessment date by an owner in whose hands it will be exempt from taxation, the taxes on it for the portion of the year that it was not exempt, computed to the nearest month, constitute a personal charge against the person from whom it was acquired and all of the provisions of law for payment and collection of personal property taxes are applicable to such prorated taxes. If exempt real property is acquired in any year after the assessment date by an owner in whose hands it is taxable, it must be assessed as omitted property and the taxes on it for that portion of the year that it is not exempt, computed to the nearest month, are subject to all of the provisions for payment and collection that are applicable to taxes for the same year on other real property.

57-02-47. Name of billboard owner. No person may erect and rent or lease any billboard for advertising purposes upon any land or attached to any building, unless at the time of the erection of such billboard there is attached and firmly affixed thereto a plate or sign containing the name and address of the owner of such billboard, which plate or sign must be kept and maintained thereon at all times.

57-02-48. Failure to designate billboard owner - Penalty. If the owner of such billboard fails to comply with the provisions of section 57-02-47 within sixty days after the erection of such billboard, such owner is guilty of an infraction.

57-02-50. Agricultural land valuation fund - Deposits - Continuing appropriation. There is established a special fund in the state treasury to be known as the agricultural land valuation fund. The moneys withheld under subsection 10 of section 57-02-27.2 must be deposited into the agricultural land valuation fund. All moneys deposited in the agricultural land valuation fund are appropriated as a continuing appropriation and must be allocated to the county from which the withholding was made upon certification from the tax commissioner of the implementation of subsection 7 of section 57-02-27.2 by that county.

57-02-51 Notice of township and city equalization meetings to be published - Date of equalization meeting. Each year the county auditor shall publish in the official county newspaper for two successive weeks, a notice that proceedings for the equalization of assessments will be held by the several local equalization boards. The first publication of the notice may not be earlier than March first and the second publication may not be later than March twentieth. The notice must contain a statement that the proceedings will be held at the regular meeting place of the governing board or other place designated by that board of the township or city, as the case may be. The notice must also contain a statement that each taxpayer has the right to appear before the appropriate board of review or equalization and petition for correction of the taxpayer's assessment. The equalization proceedings in an organized township must be held on the second Monday in April and in a city on the second Tuesday in April.

57-02-52. Notice of county equalization meetings to be published - Date of equalization meeting. Each year the county auditor shall publish in the official county newspaper for two successive weeks, a notice that proceedings for the equalization of assessments for all real property in the county will be held by the county board of equalization. The first publication of the notice may not be earlier than May first and the second publication may not

be later than May twentieth, however, the second notice must be published more than ten days prior to the date of the meeting. The notice must contain the date, time, and location of the meeting. The notice must also contain a statement that each taxpayer has the right to appear before the appropriate board of review or equalization and petition for correction of the taxpayer's assessment. The county equalization proceedings must be held no later than June tenth.

57-02-53. Assessment increase notice to property owner. (Effective for taxable years beginning after December 31, 2017)

1. a. When any assessor has increased the true and full valuation of any lot or tract of land and improvements to an amount that is an increase of three thousand dollars or more and ten percent or more from the amount of the previous year's assessment, the assessor shall deliver written notice of the amount of increase and the amount of the previous year's assessment to the property owner at the expense of the assessment district for which the assessor is employed. Delivery of written notice to a property owner under this subdivision must be completed at least fifteen days before the meeting of the local board of equalization.

   b. If written notice by the assessor was not required under subdivision a and action by the township, city, or county board of equalization or order of the state board of equalization has increased the true and full valuation of any lot or tract of land and improvements to an amount that results in a cumulative increase of three thousand dollars or more and ten percent or more from the amount of the previous year's assessment, written notice of the amount of increase and the amount of the previous year's assessment must be delivered to the property owner. The written notice under this subdivision must be mailed or delivered at the expense of the township, city, or county that made the assessment increase or at the expense of the township, city, or county that was ordered to make the increase by the state board of equalization. Delivery of written notice to a property owner under this subdivision must be completed within fifteen days after the meeting of the township, city, or county board of equalization that made or ordered the assessment increase and within thirty days after the meeting of the state board of equalization, if the state board of equalization ordered the assessment increase.

   c. The tax commissioner shall prescribe suitable forms for written notices under this subsection. The written notice under subdivision a must show the true and full value of the property, including improvements, that the assessor determined for the current year and for the previous year and must also show the date prescribed by law for the meeting of the local board of equalization of the assessment district in which the property is located and the meeting date of the county board of equalization.

   d. Delivery of written notice under this section must be by personal delivery to the property owner, mail addressed to the property owner at the property owner's last-known address, or electronic mail of the property owner directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice.

2. The form of notice prescribed by the tax commissioner must require a statement to inform the taxpayer that an assessment increase does not mean property taxes on the parcel will increase. The notice may not contain an estimate of a tax increase resulting from the assessment increase.

CHAPTER 57-09
TOWNSHIP BOARD OF EQUALIZATION

57-09-01. Membership of board - Meeting.

1. The township board of equalization consists of the members of the board of supervisors of each township, and the township clerk shall act as clerk of the board. The board shall meet in April in each year at the usual place of meeting of the township board of supervisors.
2. If the same person performs the duties of assessor for two or more townships or cities, the township clerk may, after consultation with the assessor involved, designate the hour and day in the month of April at which the meeting provided for in subsection 1 must be held for each township board of equalization; provided, that notice of the hour and day must be published in the official newspaper of the political subdivisions involved and posted at the usual place of meeting by the township clerk at least ten days before the meeting

57-09-02. Duties of clerk. The clerk shall keep an accurate record of the proceedings of the board of equalization, showing the facts and evidence upon which its action is based, a copy of which must be furnished to the assessor and filed by the assessor with the county auditor as part of the assessment returns.

57-09-04. Duties of board – Limitation of increase – Notice. The township board of equalization shall ascertain whether all taxable property in its township has been properly placed upon the assessment list and duly valued by the assessor. In case any real property has been omitted by inadvertence or otherwise, the board shall place the same upon the list with the true value thereof. The board shall proceed to correct the assessment so that

each tract or lot of real property is entered on the assessment list at the true value thereof. The board may not increase the valuation returned by the assessor to an amount that results in a cumulative increase of more than fifteen percent from the amount of the previous year's assessment without giving the owner or the owner's agent reasonable notice and opportunity to be heard regarding the intention of the board to increase it. All complaints and grievances of residents of the township must be heard and decided by the board and it may make corrections as appear to be just. Complaints by nonresidents with reference to the assessment of any real property and complaints by others with reference to any assessment made after the meeting of the township board of equalization must be heard and determined by the county board of equalization. The board must comply with any requirement for notice of an assessment increase under section 57-02-53.

57-09-05. Quorum - Time for completing equalization. Any two members of a three-member board of equalization and any three members of a five-member board of equalization are authorized to act at the meeting of the board and they may adjourn from day to day, but the equalization must be completed within ten days.

57-09-06. Assessor's statement and return to auditor. The assessor shall add and note the amount of each column in the assessor's assessment books after making the corrections ordered by the township board of equalization. The assessor also shall make in each book a tabular statement showing the footings of the several columns on the page and shall add and set down under the respective headings the total amount of the several columns. On or before the second Monday in May in each year, the assessor shall make returns to the county auditor of the assessment books, and shall deliver the lists and statements of all persons assessed, all of which must be filed and preserved in the office of the county auditor. The returns must be verified by the assessor's affidavit substantially in the following form:

STATE OF NORTH DAKOTA)

) ss.

County of _____)

I, _____, assessor of _____, swear that the book to which this is attached contains a full list of all property subject to taxation in _____ so far as I have been able to ascertain, and that the assessed value set down in the columns opposite the several kinds and descriptions of property in each case is fifty percent of the true and full value of the property, to the best of my knowledge and belief, except where and as corrected by the township board of equalization, and that the footings of the several columns in the book, and the tabular statement returned herewith, are correct, as I verily believe.

_____

Assessor

Subscribed and sworn to before me on _____, _____.

_____

Auditor of _____

County, North Dakota

CHAPTER 57-12
COUNTY BOARD OF EQUALIZATION

57-12-01. Membership of board - Meeting - Required attendance of certain officials. The board of county commissioners shall meet within the first ten days of June of each year and shall constitute a board of equalization of the assessments made within the county. The chairman of the board shall preside. The county board of equalization shall conduct a continuous day-to-day meeting, not to include Saturdays, Sundays, or legal holidays, until it has completed all duties prescribed by this chapter. The first order of business must be the equalization of assessments of property assessed by city boards of equalization. The second order of business must be the equalization of assessments of property assessed by township boards of equalization. The chairman of each city board of equalization, or the chairman's appointed representative, and each city assessor must be present at such meeting during the first order of business. The chairman of each township board of equalization, or the chairman's appointed

representative, and each township assessor must be present at such meeting during the second order of business. Each person required by this section to attend the meeting of the county board of equalization must be compensated at a rate not to exceed ten dollars per day for each day actually and necessarily spent in attendance at such meeting plus the same mileage and expenses as are authorized for subdivision employees and officials. Such per diem and expenses must be paid by the city or township in the same manner as other city or township expenses are paid.

57-12-01.1. Spot checks of real property. Prior to the annual meeting of the county board of equalization, the board of county commissioners of each county within this state shall provide for spot checks upon property within each county to properly verify the accuracy of the real property listings and valuations. The spot checks must be reviewed by the county boards of equalization at their annual meeting in June and such boards shall make the necessary corrections in the property assessment listings and valuations. Such changes in the assessments must be made in accordance with the provisions of this chapter. In case any person whose duty it is to list property with the assessor refuses to list such property or intentionally omits a portion of such property in the person's listing as indicated by the spot check, the county boards of equalization, as a penalty for such refusal or omission, may make an added assessment on such property of twenty-five percent in excess of its true valuation. The board of county commissioners may select such persons or agencies as may be necessary to carry out the provisions of this section and provide for their compensation.

57-12-02. Duties of board as to assessments in unorganized territory. The members of the board of county commissioners also shall meet as a board of equalization as respects all assessments made in assessment districts not embraced in a city or organized township, and shall perform the duties prescribed for a township board of equalization as respects unorganized territory, and such board must be regarded as the local board of equalization for such territory.

57-12-03. Duties of county auditor. The county auditor shall act as clerk of the county board of equalization and shall keep an accurate journal or record of the proceedings and orders of said board, showing the facts and evidence upon which its action is based. Such record must be published as other proceedings of the board of county commissioners are published, and a copy of such published proceedings must be transmitted to the state tax commissioner with the abstract of assessment required by law.

57-12-04. Duties of board. At its meeting, the county board of equalization shall examine and compare the assessments returned by the assessors of all the districts within the county and shall proceed to equalize the same throughout the county between the several assessment districts.

57-12-05. Requirements to be followed in equalization of individual assessments. The county board of equalization, when equalizing individual assessments, shall observe the following rules:

1. The valuation of each tract or lot of real property which is returned below its true and full value must be raised to the sum believed by such board to be the true and full value thereof.
2. The valuation of each tract or lot of real property which, in the opinion of the board, is returned above its true and full value must be reduced to such sum as is believed to be the true and full value thereof.

57-12-06. County board of equalization - Equalizing between assessment districts and between properties - Limitation on increase - Notice.

1. The rules prescribed in section 57-12-05 apply when the board of county commissioners is equalizing assessments between the several assessment and taxing districts in the county provided that in such case, except as otherwise provided in subsection 2, the board may raise or lower the valuation of classes of property only so as to equalize the assessments as between districts. If the board orders an increase under this subsection, the board must comply with any requirement for notice of an assessment increase under section 57-02-53.
2. Notwithstanding any other provision of this section:
   a. The county board of equalization after notice to the local board of equalization may reduce the assessment on any separate piece or parcel of real estate even though such property was assessed in a city or township having a local board of equalization. The county board of equalization may not reduce any such assessment unless the owner of the property or the person to whom it was assessed first appeals to the county board of equalization, either by appearing personally or by a representative before the board or by mail or other communication to the board, in which the owner's reasons for asking for the reduction are made known to the board. The proceedings of the board shall show the manner in which the appeal was made known to the board and the reasons for granting any reduction in any such assessment.
   b. The county board of equalization after notice to the local board of equalization may increase the assessment on any separate piece or parcel of real property even though such property was assessed in a city or township having a local board of equalization. The county board of equalization may not increase the

valuation returned by the assessor or the local board of equalization to an amount that results in a cumulative increase of more than fifteen percent from the amount of the previous year's assessment without giving the owner or the owner's agent notice by mail to the owner of the property that such person may appear before the board on the date designated in the notice, which date must be at least five days after the mailing of the notice. The county auditor as clerk of the board shall send such notice to the person or persons concerned. If the board orders an increase under this subdivision, the board must comply with any requirement for notice of an assessment increase under section 57-02-53.

c. If the county board of equalization during the course of its equalization sessions determines that any property of any person has been listed and assessed in the wrong classification, it shall direct the county auditor to correct the listing so as to include such assessment in the correct classification.

3. The owner of any separate piece or parcel of real estate that has been assessed may appeal the assessment thereon to the state board of equalization as provided in section 57-13-04; provided, however, that such owner has first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed. Notwithstanding this requirement, an owner of property which has been subjected to a new assessment authorized under section 57-14-08 may appeal the new assessment to the state board of equalization in the manner provided for in section 57-14-08.

57-12-08. Auditor to correct list and send abstract to state tax commissioner. The county auditor shall calculate the changes in the assessment lists determined by the county board of equalization and shall make corrections accordingly. After making such corrections, the county auditor shall make duplicate abstracts of the real property lists, one copy of which must be filed in the office of the county auditor and one copy of which must be forwarded to the state tax commissioner on or before the last day of June following each county equalization.

CHAPTER 57-13
STATE BOARD OF EQUALIZATION

57-13-01. Membership of board. The governor, state treasurer, state auditor, agriculture commissioner, and state tax commissioner constitute the state board of equalization. The governor must be chairman of the board and the tax commissioner is secretary.

57-13-02. Annual meeting to assess taxable property. (Effective through December 31, 2017) The state board of equalization shall meet annually on the first Tuesday in August at the office of the state tax commissioner and shall assess all of the taxable property which such board is required to assess pursuant to and in accordance with the provisions of section 4 of article X of the Constitution of North Dakota, as amended, and the statutes of this state.

57-13-02.Annual meeting to assess taxable property. (Effective for taxable years beginning after December 31, 2017) The state board of equalization shall meet annually on the second Tuesday in July at the office of the state tax commissioner and shall assess all of the taxable property which such board is required to assess pursuant to and in accordance with the provisions of section 4 of article X of the Constitution of North Dakota, as amended, and the statutes of this state.

57-13-03. Annual meeting to equalize taxable property. The state board of equalization shall meet annually on the second Tuesday in August at the office of the state tax commissioner or, if deemed advisable by the board because of inadequate space, at such other place on the grounds of the state capitol as may be adequate, and then shall examine and compare the returns of the assessment of taxable property as returned by the several counties in the state, and shall proceed to equalize the same so that all assessments of similar taxable property are uniform and equal throughout the state at the full and true value thereof in money or at such percentage of the full and true value as may be required by law.

57-13-04. General duties and powers of board. The state board of equalization shall equalize the valuation and assessment of property throughout the state, and has power to equalize the assessment, classification, and exemption status of property in this state between assessment districts of the same county, and between the different counties of the state. It shall:

1. Equalize the assessment of real property by adding to the aggregate value thereof in any assessment district in a county and in every county in the state in which the board may believe the valuation too low, such percentage rate as will raise the same to its proper value as provided by law, and by deducting from the aggregate assessed value thereof, in any assessment district in a county and every county in the state in which the board may believe the value too high, such percentage as will reduce the same to its proper value as provided by law. City lots must be equalized in the manner provided for equalizing other real property.

2. In making such equalization, add to or deduct from the aggregate assessed valuation of lands and city lots such percentage as may be deemed by the board to be equitable and just, but in all cases of addition to or deduction from the assessed valuation of any class of property in the several assessment districts in each county and in the several counties of the state, or throughout the state, the percentage rate of addition or deduction must be even and not fractional.
3. In equalizing individual assessments:
   a. If it believes an assessment to be too high, the board may reduce the assessment on any separate piece or parcel of real estate if the owner of the property has appealed such assessment to the board either by appearing personally or by a representative before the board or by mail or other communication to the board in which the property owner's reasons for asking for the reduction are made known to the board.
      (1) The board does not have authority to reduce an assessment until the owner of the property has established to the satisfaction of the board that the owner of the property had first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed.
      (2) The board does not have authority to reduce a new assessment provided for under section 57-14-08 until the owner of the property has established to the satisfaction of the board that the owner of the property had first appealed the assessment to the county board of equalization of the county in which the property was assessed.
   b. If it believes an assessment to be too low, the board may increase the assessment on any separate piece or parcel of real estate. The secretary of the board, by mail sent to the last-known address of the owner to whom the property was assessed, shall notify such person of the amount of increase made by the board in such assessment.
   c. The percentage of reduction or increase made by the board under this subsection in any assessment must be a whole-numbered amount and not a fractional amount.
4. Equalize the classification and taxable status of real property in any assessment district in a county and in every county in the state in which the board determines the classification or taxable status is incorrect or inequitable. The board may equalize property under this subsection if information is received indicating that property within the assessment district or county may be erroneously classified or the property's taxable status is incorrect. The board may also equalize property under this subsection if a property owner has properly appealed the property's classification or taxable status. In the case of an appeal, the owner of the property must establish to the satisfaction of the board that the owner of the property had first appealed the classification or taxable status determination to the local equalization board of the taxing district in which the property is situated and to the county board of equalization of the county in which the property is situated.
5. Provide for reviews of selected properties, parcels, or lots within each county by the tax commissioner, state supervisor of assessments, or their designee, to verify the accuracy of real property assessment listings, valuations, classifications, and eligibility for exemptions. The reviews must be examined by the state board of equalization at its annual meeting in August. The board may make necessary corrections in the property assessment listings, valuations, classifications, and eligibility for exemptions or direct the affected township, city, or county governing body to make the corrections ordered by the state board of equalization resulting from its examination of the reviews provided for in this section.
6. The board may prescribe rules and regulations necessary and advisable for the detailed administration of and compliance with this section.
7. If any county or county official fails to take action ordered by the state board of equalization under the authority granted to it in this chapter or chapter 57-02, the board may petition any judge of the district court to issue a restraining order, writ of mandamus, or other form of declaratory or injunctive relief requiring the county or county official to comply with the order of the board. The order or notice upon the petition shall be returnable not more than ten days after the filing of the petition. The petition must be heard and determined on the return day, or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the case consistent with the rights of the parties. The county or county official must show cause why the county or county official should not comply with any directive or order of the board. The judgment must include costs in favor of the prevailing party.
8. The board may order a new assessment of any class of property, or of all the property, located within any political subdivision if, in its opinion, taxable property located within that subdivision has escaped assessment in whole or in part, has been assessed unfairly, or has not been assessed according to law. A new assessment ordered by the board must be made as provided in section 57-14-08.

9. A property owner may appeal the assessment, classification, and exempt status of the owner's property to the state board of equalization if the property owner was foreclosed from attending assessment proceedings because of the failure to substantially comply with the notice requirements in chapters 57-02 or 57-12, or because of an irregularity in the township, city, or county assessment proceedings.

57-13-04.1. Residential and commercial property true and full value. In equalizing valuation and assessment of property among assessment districts, the state board of equalization may not approve valuation and assessment in any taxing district in which the true and full value for residential and commercial property as assessed and equalized in that district exceeds the true and full value for those property classifications in that taxing district as determined by the sales ratio study.

57-13-05. Hearing before state board of equalization. The board of county commissioners of any of the several counties, or any representative thereof in its place or stead, or any city council or board of city commissioners or any representative thereof, any township supervisors, or representative groups of taxpayers or taxpayers' associations, or any individual representing the same, may appear before the state board of equalization to be heard for the purpose of opposing any unreasonable or unjust increase or decrease in the valuation or determination of classification of the taxable property of the county, city, or township represented as equalized by the county board of equalization, opposing any increase or decrease in the valuation or determination of classification as proposed by the state board of equalization, or opposing a determination of taxable status made by a county board of equalization, to the end that all valuations or classifications of like taxable property may be uniform and equal throughout the state and exemption determinations made by a county board of equalization are found reasonable by the state board of equalization.

57-13-06. Presumption of regularity. The proceedings of the state board of equalization must be presumed to be regular and the determination of such board may not be impaired, vitiated, nor set aside upon any ground not affecting substantially the reasonableness of the tax. The provisions in this title prescribing a date or period at or within which an act must be performed or a determination must be made by the state board of equalization must be deemed directory only, and no failure to perform any such act or make such determination at or within the time prescribed therefor affects the validity of such act or of any determination made by the state board of equalization unless it appears that substantial injustice has resulted therefrom.

57-13-07. Proceedings to be published - Abstract sent to county auditors. The secretary shall keep a record of the proceedings of the board, which must be published by the secretary in an annual report. Upon final adjournment, the secretary shall transmit to each county auditor an abstract of such proceedings specifying the percentage added to or deducted from the valuation of the real property of each of the counties, in case an equal percentage has not been added to or deducted from each, and specifying also the percentage added to or deducted from the several classes of personal property in each of the counties in the state, and such other information as will enable each auditor properly to equalize or make corrections to the valuation or classification of taxable property or status with regard to exemption of property in the auditor's county, and to determine the taxable rates thereof.

57-13-08. Duty of county auditor after equalization by state board. Upon receipt of the report of the proceedings of the state board of equalization, the county auditor shall add to or deduct from each tract or lot of real property in the auditor's county the required percentage of the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding in each case any fractional sum of fifty cents or more, and deducting in each case any fractional sum of less than fifty cents, so that the value of any separate tract or lot contains no fraction of a dollar. The county auditor shall revalue each tract or lot of real property that is reclassified by the state board of equalization using the proper valuation method for the class of taxable property as specified by the state board of equalization. The county auditor shall adjust the status of a tract or lot to comply with any determinations made by the state board of equalization in which the tract or lot is found by the state board of equalization to be taxable or exempt.

CHAPTER 57-14
CORRECTION OF ASSESSMENTS OF PROPERTY

57-14-01. Duty of county auditor upon discovery of clerical error, omission, or false statement in assessment. Whenever the county auditor discovers that:

1. Taxable real property has been omitted in whole or in part in the assessment of any year or years;
2. Any building or structure has been listed and assessed against a lot or tract of land other than the true site or actual location of such building;
3. The assessor has not returned the full amount of all property required to be listed in the district or has omitted property subject to taxation; or

4. The assessor has made a clerical error in valuing real property, provided the assessor furnishes the county auditor with a written statement describing the nature of the error, which statement the county auditor shall keep on file,

the county auditor shall proceed to correct the assessment books and tax lists in accordance with the facts in the case and shall correct such error or omission in assessment, and shall add such omitted property and assess it at its true and full value, and if a building or other structure, assessed as real estate in the assessment thereof, is described as though situated upon a lot or tract of land other than that upon which it in fact is situated, the county auditor shall correct the description and add the assessment thereof to the assessment of the lot upon which it actually is located, if the rights of a purchaser for value without actual or constructive notice of such error or omission are not prejudiced by such correction, addition, or assessment.

57-14-02. Notice to be given. The county auditor shall give notice by mail to the person who owns or is in possession of any omitted property, or to that person's agent, of the county auditor's action in adding property upon the assessment books and shall describe the property and notify such person to appear before the county auditor at the county auditor's office at a specified time within fifteen days after the date of mailing such notice, to show cause, if any, why such property should not be added to the assessment rolls or such other correction made.

57-14-03. County auditor to act as assessor. If the party notified as provided in section 57-14-02 does not appear, or if the party appears and fails to give a good and sufficient reason why the assessment should not be made, the same must be made, and the county auditor may exercise all the powers of an assessor in discharging the duties assigned to the county auditor by this chapter.

57-14-04. Board of county commissioners to hear complaints and equalize. The board of county commissioners, at its regular meeting next after the assessment of any omitted property, shall hear all grievances and complaints thereon, and then shall proceed to review and equalize any such assessment so as to harmonize it with the equalized assessed value of other like property.

57-14-05. Auditor to enter property on tax lists - Correcting errors. The county auditor shall enter the valuation of property as equalized by the board of county commissioners and shall extend the taxes thereon, and, upon completing such assessment and extending the taxes thereon, shall correct the current year's tax list in accordance with such assessment, if the current year's tax list has not been certified to the treasurer for collection. In case the current year's tax list has been certified to the treasurer for collection, the county auditor shall certify to the county treasurer a tax list covering omitted property which has been added to the tax list for the current year. The county treasurer shall correct the current year's tax list accordingly without obliterating any name, description, or figure in the original tax list as delivered. The county auditor always has the power to correct clerical errors occurring in making up tax lists so as to make them conform to the assessment books. If the tax list has been delivered to the county treasurer, the county auditor shall certify such corrections to the treasurer, and the treasurer shall make the indicated corrections in the tax lists.

57-14-06. Auditor to keep roll of omitted property. The county auditor of each county shall keep a book to be called "Assessment Roll of Property Which has Escaped Taxation", in which the county auditor shall enter from time to time all real property, which has been omitted in the assessment of any previous year or years, or the assessment of which has been set aside by the judgment of any court, such property thereby having escaped taxation. If omitted property is assessed for a prior year or years, the county auditor shall enter the assessment of such property in the assessment roll of property which has escaped taxation at the rate and in the amount for which such omitted property should have been assessed in said year or years. Omitted property must be assessed for each year during which it escaped assessment and taxation.

57-14-07. Entry on delinquent lists. After review by the board of county commissioners, the taxes against escaped property for prior years must be entered upon the tax list. In the case of personal property, such taxes must be entered upon the most recent delinquent personal property tax list. If such list, at the time, is in the hands of the treasurer, the auditor shall certify such taxes to the treasurer, and the treasurer shall enter them upon such delinquent tax list. If the most recent delinquent personal property tax list, at the time, is in the hands of the sheriff, the auditor shall certify such taxes to the sheriff, and the sheriff shall enter them upon such tax list. In the case of escaped real property, such taxes, if entered between the first day of July and the first day of November, must be entered upon the most recent delinquent real property tax list. If entered between November first and July first following, such taxes must be entered upon the current real property tax list. In either case, such real property taxes must be certified to the treasurer by the auditor and entered in the tax list by the treasurer. Taxes upon escaped property for prior years, whether upon real or personal property, are subject to the same penalties as other taxes, and such taxes must be enforced and apportioned as other taxes upon the lists upon which they are entered are enforced and apportioned.

57-14-08. New assessment of property - Allowance. For purposes of this section, a "new assessment" means an assessment ordered by a board of county commissioners, or as authorized under section 57-01-02 or 57-13-04, of any class of property, or of all property, located within any political subdivision of the county if taxable property located within a subdivision has escaped assessment in whole or in part, has been assessed unfairly, or has not been assessed according to law. A new assessment may be made as follows:

1. Upon the filing of a petition signed by not less than ten freeholders in a political subdivision, or by the governing body of that subdivision, requesting a new assessment of property in the subdivision or upon investigation by the board of county commissioners, the board of county commissioners, before October first, may order a new assessment of any class of property, or of all property, located within the subdivision or within any subdivision. The state board of equalization or the tax commissioner may order a new assessment of any class of property or all property located in any political subdivision. The new assessment and equalization must be conducted under the terms and conditions as set forth in the state board of equalization or tax commissioner's order. The local governing body responsible for performing the new assessment may petition the state board of equalization or tax commissioner for a modification of any or all of the order's terms and conditions. The state board of equalization or tax commissioner may for good cause shown grant all or part of the modification request.
2. The board of county commissioners then may appoint a competent citizen of this state as a special assessor who shall make a new assessment of the property specified by the board and who shall proceed in accordance with the provisions of law governing assessors. The special assessor may be selected by competitive bidding or a process determined by the board of county commissioners. The special assessor is entitled to reasonable compensation by the board of county commissioners for the special assessor's services, together with meals and lodging as allowed by law, and mileage expense at the rate allowed by law for each mile [1.61 kilometers] actually and necessarily traveled in the performance of that person's duties, which must be audited and allowed by the board of county commissioners and paid out of the county treasury upon warrant of the county auditor. If the new assessment was ordered by the state board of equalization or tax commissioner, the state board of equalization or tax commissioner shall appoint a competent citizen of this state as a special assessor who shall make a new assessment of the property specified by the state board of equalization or tax commissioner to be completed under the terms and conditions set forth in the order; the special assessor shall proceed in accordance with the provisions of the law governing assessors; the special assessor is entitled to reasonable compensation by the state board of equalization or tax commissioner for that person's services plus meals, lodging, and mileage expense at the rates provided by law, and the state board of equalization or tax commissioner shall audit and allow the bill, and the same must be paid out of the county treasury. In either case, the compensation must be charged to the political subdivision in which the new assessment was made and must be deducted by the county treasurer from funds coming into the treasurer's hands apportionable to the subdivision. The board of county commissioners, state board of equalization, or tax commissioner who appoints a special assessor may authorize such assistants as may be necessary to aid the special assessor and shall allow reasonable compensation for each of the assistants plus meals, lodging, and mileage expense at the rates provided by law, which amounts must be audited, allowed, and paid and must be charged to the political subdivision in which the new assessment occurred in the manner provided for the special assessor.
3. Upon completion of the terms and conditions of the new assessment order, the assessor shall certify the result to the county auditor, who forthwith shall give notice by mail to the state tax commissioner and the board of county commissioners and the governing boards of each township, city, and school district which is wholly or partially within the newly assessed district, that a new assessment has been completed in the named assessment district as provided under this section and that a meeting for the purpose of equalizing the assessment will be held in the county courthouse on the day and at the time specified for the meeting of the county board of equalization. Each board shall appoint one of its members to attend the equalization meeting and the tax commissioner shall attend or appoint a representative from the commissioner's office to attend the meeting. A notice that the new assessment provided for under this section will be considered during the meeting of the county board of equalization must be published at least once in the official newspaper of the county in which the new assessment was made not less than one week prior to the meeting. The claims for mileage expense and necessary expenses for meals and lodging of the tax commissioner or the commissioner's appointee in attending the special equalization meeting must be audited, allowed, and paid as are other similar claims made by them.
4. When any special assessor has increased the true and full valuation of any lot or tract of land including any improvements to that lot or tract of land by three thousand dollars or more and by ten percent or more of the last assessment as a result of the new assessment provided for under this section, written notice of the amount of increase over the last assessment and the amount of the last assessment must be delivered in writing by the special assessor to the property owner, mailed in writing to the property owner at the property owner's last-known address, or provided to the property owner by electronic mail directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice. The tax commissioner shall prescribe

suitable forms for this notice and the notice must also show the true and full value as defined by law of the property, including improvements, that the special assessor used in making the new assessment and must also show the date prescribed by law for the meeting of the county board of equalization of the county in which the property is located. Delivery of notice to the property owner under this section must be completed at least fifteen days in advance of the meeting date of the county board of equalization and at the expense of the assessment district for which the special assessor is employed.

5. At the meeting, the county board of equalization shall hear all grievances and complaints in regard to the new assessment provided for under this section and shall proceed to equalize the same. All tax lists must be corrected to comply with the action.
6. Any property owner aggrieved by a decision of the county board of equalization with regard to the new assessment provided for under this section may appeal that decision to the state board of equalization at its August meeting. The board does not have authority to reduce a new assessment until the owner of property has established to the satisfaction of the board that the owner of the property had first appealed the new assessment to the county board of equalization of the county in which the property was assessed.

CHAPTER 57-15
TAX LEVIES AND LIMITATIONS

57-15-01. Levy in specific amounts - Exceptions. With the exception of special assessment taxes and such general taxes as may be definitely fixed by law, all state, county, city, township, school district, and park district taxes must be levied or voted in specific amounts of money.

57-15-01.1. Protection of taxpayers and taxing districts. Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
   a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year;
   b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
   c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
   d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
   a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
   b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
   c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
   d. Reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lessor of, the base year mil rate of the school district minus sixty mills or fifty mills, if the base year is a taxable year before 2013.

e. Reduced by the base year human services county levy in dollars if the base year is a taxable year before 2017. (After December 31, 2018; Increased by the highest amount received by the taxing district in a taxable year under chapter 50-34).

4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
   a. Any irrepealable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
   b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

57-15-02. Determination of rate. The tax rate of all taxes, except taxes the rate of which is fixed by law, must be calculated and fixed by the county auditor within the limitations prescribed by statute. If any municipality levies a greater amount than the prescribed maximum legal rate of levy will produce, the county auditor shall extend only such amount of tax as the prescribed maximum legal rate of levy will produce. The rate must be based and computed on the taxable valuation of taxable property in the municipality or district levying the tax. The rate of all taxes must be calculated by the county auditor in mills, tenths, and hundredths of mills.

57-15-02.2. Estimated property tax and budget hearing notice.
(Effective for taxable years beginning after December 31, 2017)

1 On or before August tenth of each year the governing body of a taxing district shall provide to the county auditor in each county in which the taxing district has taxable property a preliminary budget statement and the date, time, and location of the taxing district's public hearing on its property tax levy, which may be no earlier than September seventh. A taxing district that fails to provide the information required under this subsection on or before August tenth may not impose a property tax levy in a greater amount of dollars than was imposed by the taxing district in the prior year.
2 By August thirty-first of each year the county treasurer shall provide a written notice to the owner of each parcel of taxable property with a total estimated property tax of at least one hundred dollars. The text of the notice must contain:
   a. The date, time, and location of the public budget hearing for each of the taxing districts in which the property owner's parcel is located, which anticipate levying in excess of one hundred thousand dollars in the current year, and the location at which the taxing district's budget is available for review;
   b. The true and full value of the property based on the best information available;
   c. A column showing the actual property tax levy in dollars against the parcel by the taxing district that levied taxes against the parcel in the immediately preceding taxable year and a column showing the estimated property tax levy in dollars against the parcel by the taxing district levying tax in the taxable year for which the notice applies based on the preliminary budget statements of all taxing jurisdictions;
   d. A column indicating the difference between the taxing district's total levy from the previous year and the taxing district's estimated levy with the word "INCREASE" printed in boldface type if the proposed tax levy is larger in dollars than the levy in dollars in the previous year;
   e. Information identifying the estimated property tax savings that will be provided pursuant to section 57-20-07.1 based on the best information available; and
   f. A statement that there will be an opportunity for citizens to present oral or written comments regarding each taxing district's property tax levy.

3 Delivery of written notice under this section must be by personal delivery to the property owner, mail addressed to the property owner at the property owner's last-known address, or electronic mail to the property owner directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice. If a parcel of taxable property is owned by more than one owner, notice must be sent to only one owner of the property. Failure of an owner to receive a notice under this section will not relieve the owner of property tax liability or modify the qualifying date under section 57-20-09 for which an owner may receive a discount for early payment of tax.

4 The tax commissioner shall prescribe suitable forms for written notices under this section.

5 The direct cost of providing taxpayer notices under this section may be allocated in a manner proportionate to the number of notices mailed on behalf of each taxing district that intends to levy in excess of one hundred thousand dollars in property taxes in the current year.

57-15-06. County general fund levy. The board of county commissioners may levy property taxes for county general fund purposes at a tax rate not exceeding sixty mills per dollar of taxable valuation of property in the county. A county that levied more than sixty mills for taxable year 2015 for the combined number of mills levied for general fund purposes plus the number of mills levied for other purposes which were combined into the general fund for taxable years after 2014 may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2017 sixty mills plus seventy-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2018 sixty mills plus fifty percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2019 sixty mills plus twenty-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015.
Unless a specific exception is provided by statute, the county general fund levy limitation under this section applies to all property taxes the board of county commissioners is authorized to levy for general county purposes.

57-15-06.7. Additional levies - Exceptions to tax levy limitations in counties. The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county.

11. A county levying a tax for weed control as provided in section 4.1-47-14 may levy a tax not exceeding four mills.

57-15-19. Township tax levies. The electors of each township have power at the annual meeting to vote to raise such sums of money for the repair and construction of roads and bridges, and for all township charges and necessary expenses as they deem expedient, within the limitations prescribed in section 57-15-20, and on the fourth Tuesday in March, or within ten days thereafter, of each year, the board of supervisors of each civil township shall levy annual taxes for the ensuing year, as voted at the annual township meeting, and the tax levy must be limited by the amount voted to be raised at such annual meeting. The electors at such annual meeting may direct the expenditure of the road tax, or a part of it, in an adjoining township under the joint direction of the boards of supervisors of the townships interested and furnishing such funds.

57-15-19.2. Township supervisors authority to transfer funds into special road fund - Limitations - Use. The board of supervisors, at the time of the annual township meeting, upon resolution, may transfer or set aside a part or all of any funds into a special road fund, which fund must be separate and distinct from all other funds. The special road fund may not exceed the sum of one hundred thousand dollars for any one congressional township. The special road fund may be expended, at the option of the board of supervisors, for the purpose of road construction, graveling, snow removal or surfacing.

57-15-19.3. Funds not considered in determining budget. The special road fund may not be considered in determining the budget of the amount to be levied for each township fiscal year, for normal tax purposes, but must be shown in such budget as a special road fund and may not be deducted therefrom as otherwise provided by law.

57-15-19.4. Township levy for roads.

1. The electors of each township at the annual meeting may levy a tax not to exceed the limitation in subsection 1 of section 57-15-20.2 for the purpose of cooperating with the county in constructing and maintaining roads and bridges that are part of the county road system and located within the township. This tax levy may be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01. A township levy for roads approved by qualified electors of a township under this section before January 1, 2015, may continue to be imposed for five taxable years or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time

it was approved. After January 1, 2015, approval by electors of increased levy authority under this section may not be effective for more than five taxable years.

2. If funds from a levy under subsection 1 are not expended for purposes of cooperating with the county in constructing and maintaining roads and bridges that are part of the county road system and located within the township, the board of township supervisors may by resolution authorize the expenditure of all such funds collected and accumulated and the earnings thereon for the construction, improvement, or maintenance of other roads or for any other township purpose..

57-15-19.5. Township levy for law enforcement - Authorization - Cooperation with other political subdivisions. The electors of an organized township may authorize the township to provide funding from revenues derived from its general fund levy authority for the purpose of hiring law enforcement personnel. In providing for law enforcement services, the board of supervisors may cooperate with one or more additional townships, with a city, or with the county in accordance with the provisions of chapter 54-40.

57-15-19.6. Township levy for mowing or snow removal. The budget of each township approved at the annual meeting may include provision of funding from revenues derived from the general fund levy authority of the township for the purpose of mowing or snow removal.

57-15-19.7. Township levy for emergency purposes.

1. Upon approval of a majority of electors of the township voting on the question, a township may levy the number of mills necessary for the purpose of addressing natural disasters or other emergency conditions.
2. The levy under this section may be made only if notice of the question of the approval of the levy has been included with the notice of the annual or special meeting provided in chapter 58-04.
3. Approval by the electors of increased levy authority under this section may not be effective for more than five taxable years.

57-15-20. Township general fund levy – Approval of increased general fund levy authority. The general fund levy in a civil township, exclusive of levies to pay interest on any bonded debt and to provide a sinking fund to pay and discharge the principal of bonded debt at maturity, may not exceed the amount produced by a levy of eighteen mills on the dollar of the taxable valuation of property in the township.

Upon approval of a majority of electors of the township voting on the question, a civil township general fund levy may be increased by an additional amount not to exceed the amount produced by a levy of eighteen mills on the dollar of the taxable valuation of property in the township. The increased levy under this section may be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01. An excess levy approved by electors of a township under chapter 57-17 before January 1, 2015, may continue to be imposed for five taxable years or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval by electors of increased levy authority under this section may not be effective for more than five taxable years.

57-15-20.1. Excess levies in townships - Authorization for more than one year. The board of township supervisors may submit the question of authorizing an excess levy for not to exceed a total of five years, provided the notice of election and the ballot upon which the authorization for the excess levy is submitted both contain the specific years for which such authorization is sought. Upon approval by the voters as provided in section 57-17-05, such excess levy may be levied for the years specified in the ballot.

57-15-20.2. Exceptions to tax levy limitations in townships.

1. The tax levy limitations specified in section 57-15-20 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the township:
   a. A township levying a tax for the purpose of cooperating with the county in constructing and maintaining roads and bridges that are part of the county road system and located within the township in accordance with section 57-15-19.4 may levy a tax not exceeding five mills.
   b. A township levying a tax for airport purposes in accordance with section 02-06-15 may levy a tax not exceeding four mills.
   c. A township levying a tax for special assessment districts in accordance with chapter 58-18.
   d. A township levying tax for emergency purposes in accordance with section 57 - 15 - 19.7.
2. Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

57-15-21. Tax levies in unorganized townships. The board of county commissioners has the same jurisdiction in an unorganized township as the board of township supervisors has in an organized township. Such board may levy taxes in an unorganized township for road and bridge purposes and shall make such levy on the fourth Tuesday

in July in each year, or within ten days thereafter. Such levy has no relation to nor effect upon the county taxes for any purpose levied by the board of county commissioners.

57-15-22. Tax levy limitations in unorganized townships. The total tax levied by the board of county commissioners in any unorganized township for the construction, maintenance, and improvement of any roads and bridges may not exceed eighteen mills on the dollar of the taxable valuation of the township or the amount in dollars that the township would have been entitled to levy under section 57-15-01.1 if the township had remained organized, but this does not prohibit the levy of general county road and bridge taxes in such unorganized township.

57-15-22.1. Board of county commissioners may transfer unexpended balance in road and bridge fund in unorganized townships. The board of county commissioners, by resolution, may transfer any unexpended balance of the revenues produced under section 57-15-22 in any unorganized township to a special road and bridge fund to the credit of such unorganized township. Such special road and bridge fund may not be taken into consideration in determining the budget for the amount to be levied for road and bridge purposes in an unorganized township for the current fiscal year.

57-15-22.2. Levy of taxes for township legal contingency fund. The board of township supervisors of an organized township or the board of county commissioners for an unorganized township, may provide funding from revenue derived from the general fund levy authority for the township levy on property within the township for a legal contingency expenditure. Funding authorized under this section may be used only for purposes of expenses of legal actions authorized or entered into by the governing body of the township or the county, on behalf of unorganized townships. A levy under this section authorized by electors of an organized or unorganized township before January 1, 2015, remains effective for five taxable years or the period of time for which it was approved by the electors, whichever is less. Upon expiration of any mill levy authorized by electors of an organized or unorganized township before January 1, 2015, under this section, the governing body of the township or county may, by resolution, transfer any unobligated balance in the legal contingency fund to the general fund of the township or county

57-15-27. Interim fund. The governing body of any county, city, park district, or municipality, other than a school district, which is authorized to levy taxes may include in its budget an item to be known as the "interim fund" which must be carried over to the next ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the municipality may be legally extended, for that portion of such fiscal year prior to the receipt of taxes therein. In no case may the interim fund be in excess of the amount reasonably required to finance the municipality for the first nine months of the next ensuing fiscal year. The interim fund may not be in excess of three-fourths of the current annual appropriation for all purposes other than debt retirement purposes and appropriations financed from bond sources.

57-15-27.1. Cemetery tax levies. A city may levy a tax, not exceeding the limitation in subsection 14 of section 57-15-10 to be used exclusively for the care, maintenance, and improvement of established cemeteries, owned and maintained by the city. An organized township may provide funding from revenues derived from its general fund levy authority for the care, maintenance, and improvement of established cemeteries maintained by the township.

57-15-28.1. Judgment or claim payment levy limitations in political subdivisions. A political subdivision, except a school district, levying a tax for the payment of a judgment or a settlement of a claim in accordance with section 32-12.1-11 may levy a tax not exceeding five mills. If the political subdivision held a liability insurance policy or insurance contract, purchased by a political subdivision or a government self-insurance pool in which the political subdivision participates pursuant to chapter 32-12.1, which provides coverage to at least the liability limits under section 32-12.1-03 and that coverage was in force at the time of the occurrence that gave rise to the claim of relief, the political subdivision may levy a tax not exceeding a total of ten mills for the payment of a judgment or a settlement of a claim in accordance with section 32-12.1-11. The tax levy limitations specified by law do not apply to mill levies under this section, expressed in mills per dollar of taxable valuation of property in the political subdivision.

57-15-30. When tax in townships and cities to be levied by county commissioners. Whenever any city or township having an existing liability or indebtedness is authorized to levy taxes for the payment of the same and fails or refuses to elect proper officers for the government of the municipality, the board of county commissioners of the county in which the municipality is located, upon a proper showing by any person having a legal or subsisting claim against the municipality that there are no legal officers in the municipality authorized to levy a tax for the payment of such indebtedness, shall levy a tax as the governing body would be authorized to levy the same for the payment of such indebtedness. Any person having a claim against such municipality has the same right to enforce the levy of such tax by the board of county commissioners that the person would have had to compel such levy by the officers of the municipality had they been properly elected and qualified.

57-15-30.1. Tax levy for township debt - or debt existing upon dissolution Duty of county auditor - Duty of county treasurer.

1. Whenever any township is indebted to the county in which such township is located and such debt is more than one year past due, the county auditor, upon resolution of the board of county commissioners, shall levy a tax on the property within the township in an amount sufficient to pay the indebtedness, but in no case may the amount of the levy cause the total levy for such township to exceed the maximum levy limitations, including excess levy limitations, provided by law. The county treasurer shall place the taxes collected to the credit of the county in payment or partial payment of the township's indebtedness.
2. Upon the dissolution of a civil township, the board of county commissioners of the county in which the township lies shall attach the territory embraced within such township to such assessment district of the county as the board may deem advisable for the purpose of assessment and taxation. In addition to the other levies provided by law, the board shall levy on the taxable property in the township a sum sufficient to discharge all debts and liabilities of the township. The county auditor shall enter the levy on the county tax list to be collected by the county treasurer as other county taxes are collected. The county treasurer shall credit the money derived from such levy to a special fund to be used to pay the dissolved township's debts and liabilities. Any balance remaining in the special fund after the payment of the debts and liabilities must be transferred for use for road and bridge purposes within the assessment district to which the territory is attached.

57-15-30.2. Financial reporting requirements for taxing entities. The governing body of any county, city, township, school district, park district, recreation service district, rural fire protection district, rural ambulance service district, soil conservation district, conservancy district, water authority, or any other taxing entity authorized to levy property taxes or have property taxes levied on its behalf, in the year for which the levy will apply, shall file with the county auditor of each county in which the taxing entity is located, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund or account held by the taxing entity during that year.

57-15-31. Determination of levy.

1. The amount to be levied by any county, city, township, school district, park district, or other municipality authorized to levy taxes must be computed by deducting from the amount of estimated expenditures for the current fiscal year as finally determined, plus the required reserve fund determined upon by the governing board from the past experience of the taxing district, the total of the following items:
   a. The available surplus consisting of the free and unencumbered cash balance;
   b. Estimated revenues from sources other than direct property taxes;
   c. The total estimated collections from tax levies for previous years;
   d. Expenditures that must be made from bond sources;
   e. The amount of distributions received from an economic growth increment pool under section 57-15-61; and
   f. The estimated amount to be received from payments in lieu of taxes on a project under section 40-57.1-03..
2. Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five percent of the amount of the levy.

57-15-31.1. Deadline date for amending budgets and certifying taxes. No taxing district may certify any taxes or amend its current budget and no county auditor may accept a certification of taxes or amended budget after the tenth day of October of each year if such certification or amendment results in a change in the amount of tax levied. The current budget, except for property taxes, may be amended during the year for any revenues and appropriations not anticipated at the time the budget was prepared.

57-15-32. Certification of levy. The taxes levied or voted by any city, township, school district, park district, or other municipality authorized to levy taxes must be certified by the officer acting as business manager or clerk of the governing body of such municipality to the county auditor immediately following the action of the governing body, or within ten days thereafter.

57-15-41. Political subdivision tax levies for payment of special assessments exempt from levy limitations. No tax levy limitations provided by any statute of this state apply to tax levies by any county, city, school district, park district, or township for the purpose of paying any special assessments or paying debt service on bonds issued to prepay special assessments made in accordance with the provisions of title 40, against property owned by such county, city, school district, park district, or township. Any surplus in the special assessment fund after all of the special assessments for which the fund was created have been paid shall be placed in the general fund of the political subdivision.

57-15-51.1. Funding for township emergency medical service. The qualified electors of an organized township may authorize the township to provide funding from revenues derived from its general fund levy authority

for the purpose of subsidizing township emergency medical service. In providing for emergency medical service, the board of supervisors may cooperate with one or more additional townships or with a city, county, or rural ambulance service district in accordance with chapter 54-40.

57-15-58. Penalty for unlawful withdrawal from fund. Every officer participating in the unlawful withdrawal from any fund established by this chapter is guilty of a class A misdemeanor.

CHAPTER 57-17
EXCESS LEVIES IN COUNTIES, MUNICIPALITIES, AND TOWNSHIPS

Repealed 2015 (see 57-15-20)

CHAPTER 57-23
PROCEEDINGS TO ABATE OR REFUND TAXES

57-23-01. Correcting excessive assessment. All assessments of any taxable property in excess of the full and true value in money are subject to correction and abatement and refund under the provisions of this chapter.

57-23-04. County commissioners may abate or refund taxes.

1. Upon application filed in the office of the county auditor on or before November first of the year following the year in which the tax becomes delinquent, as in this chapter provided, the board of county commissioners may abate or refund, in whole or in part, any assessment or tax upon real property, in the following cases:
   a. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof, or in the extension of the tax, to the injury of the complainant.
   b. When improvements on any real property were considered or included in the valuation thereof which did not exist thereon at the time fixed by law for making the assessment.
   c. When the complainant, or the property, is exempt from the tax.
   d. When the complainant had no taxable interest in the property assessed against the complainant at the time fixed by law for making the assessment.
   e. When taxes have been erroneously paid, or errors made in noting payment, or in issuing receipts therefor.
   f. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid.
   g. When any building, mobile home, structure, or other improvement has been destroyed or damaged by fire, flood, tornado, or other natural disaster, the abatement or refund must be granted only for that part of the year remaining after the property was damaged or destroyed.
   h. When the assessment on the complainant's property is invalid, inequitable, or unjust.
2. An application for refund of taxes paid with respect to any part of an assessment abated under this section must be granted, regardless of whether or not such taxes were paid under protest, oral or written.
3. Any person aggrieved by any decision of the board of county commissioners may appeal in the manner provided by law.

57-23-05. Application for abatement or refund - Who may make. An application for an abatement or refund must be in writing and must be filed in duplicate with the county auditor. It must state the grounds relied upon for such abatement or refund and give the post-office address of the applicant. The county auditor shall note the date of filing, shall file the same, and, within five business days of the filing date, shall present a copy to the city auditor or the township clerk if the applicant's assessed property is within a city or an organized township. The county auditor shall present the application to the board of county commissioners at its next regular meeting. The county auditor shall give the applicant notice by mail of the time and place of hearing on any abatement or refund not less than ten days prior to such hearing. Any person having any estate, right, title, or interest in or lien upon any real property who claims that the assessment made or the tax levied against the same is excessive or illegal, in whole or in part, is entitled to make an application for abatement, refund, or compromise, as the case may be, and have such application granted if the facts upon which the application is based bring it within the provisions of this chapter for abatement, refund, or compromise. In addition, if an abatement is based upon any of the grounds specified in section 57-23-04 and if the application for abatement will not result in a refund of tax or a compromise of a tax, the abatement application may be signed and submitted by either the county auditor or the assessor who made the assessment resulting in the tax specified in the abatement application.

57-23-05.1. Appraisal of property - Premises open to inspection. The applicant, by filing an application for an abatement, refund, or compromise of a tax with the county auditor, consents to inspection of the premises

involved in the application by the board of county commissioners, the governing body of the city or township, or the state tax commissioner or the duly authorized agents thereof for the purpose of making an appraisal of said property. The premises must be open to inspection to the person having authorization to make the appraisal upon giving reasonable notice to the applicant.

57-23-06. Hearing on application.

1. Within ten days after receiving an application for abatement, the city auditor or the township clerk shall give the applicant a notice of a hearing to be held before the governing body of the city or township, or such other committee as it may designate, in which the assessed property is located. Said hearing must be set for no more than sixty days after the date of the notice of hearing, and in any event, must be held before the recommendations provided for in subsection 2 are made. The applicant may waive, in writing, the hearing before such governing body or designated committee at any time before the hearing. Any recommendations provided for in subsection 2 must be transmitted to the county auditor no more than thirty days after the date set for the hearing. The provisions of this subsection do not apply to applications for abatement pursuant to section 57-02-08.2.
2. At the next regular meeting of the board of county commissioners following the filing of an application for abatement or, if forthcoming, at the next regular meeting of the board of county commissioners following transmittal of the recommendations of the governing body of the municipality, the applicant may appear, in person or by a representative or attorney, and may present such evidence as may bear on the application. The applicant shall furnish any additional information or evidence requested by the board of county commissioners. The recommendations of the governing body of the municipality in which such assessed property is located must be endorsed upon or attached to every application for an abatement or refund, and the board of county commissioners shall give consideration to such recommendations. The board of county commissioners, by a majority vote, either shall approve or reject the application, in whole or in part. If rejected, in whole or in part, a written explanation of the rationale for the decision, signed by the chairman of the board, must be attached to the application, and a copy thereof must be mailed by the county auditor to the applicant at the post-office address specified in the application.
3. At a hearing before the board of county commissioners on an application for abatement, the applicant or the applicant's representative or attorney is limited to the relief claimed in the application for abatement submitted to the board of county commissioners. The applicant or applicant's representative or attorney may not submit evidence during a hearing on an application for abatement suggesting a lower valuation, a lower tax levy, or a different taxable status than was requested in the application for abatement submitted to the board of county commissioners.

57-23-07. County commissioners may compromise tax. If tax on any real estate remains unpaid after the second Tuesday in December in the year it is due, the board of county commissioners, subject to the approval of the state tax commissioner, by reason of depreciation in the value of the property or for other valid cause, may compromise with the owner of the property by abating a portion of the delinquent taxes, with any penalty and interest on that portion, on payment of the remainder. The county commissioners may not compromise the tax after the county auditor has issued a tax deed to the county.

57-23-08. Duties of county auditor and county commissioners after abatement action. After the granting of any application for abatement or refund or compromise of any tax, the county auditor shall correct all tax lists in accordance with the order of abatement or compromise, and the applicant is relieved of further liability for the tax abated or compromised and any penalties and interest on the abated or compromised portion of the tax. If the board of county commissioners disapproves any application for abatement or refund or compromise, in whole or in part, the reasons for disapproval must be stated thereon, and the applicant may appeal the rejection of the application for abatement or refund or compromise as provided by law.

57-23-09. Procedure when refund is made. When any application for refund is granted, the county auditor shall issue and deliver to the applicant a warrant drawn on the county treasurer for the amount ordered refunded, and the county treasurer shall refund the same, and shall write opposite such tax in the treasurer's list the word "refund", with the date and the number of the warrant. The amount so refunded must be charged to the state, county, city, township, school district, park district, or any other taxing district, which may have received any part of such money, in proportion to the levies for the year for which the tax was extended. The refund must include any penalties and interest previously paid on the portion of any tax abated or compromised.

57-23-12. Limitations of chapter. The right to proceed to recover taxes paid under protest, as provided by law, is not qualified or limited by this chapter.

CHAPTER 57-45
MISCELLANEOUS PROVISIONS

57-45-04. Tax commissioner to collect taxes when other officer neglects. When any tax assessed under the authority of the state, or any taxing subdivision thereof, is due and unpaid, and any state or county officer whose duty it is to enforce the payment of such tax, by the institution of legal proceedings or otherwise, neglects or refuses to take such action, the state tax commissioner shall institute such legal or other proceedings as the commissioner deems necessary for the enforcement of the payment of such taxes, or of the collection of the same, with all penalties provided by law, by the distraint of property or otherwise, and for these purposes the state tax commissioner may exercise any power conferred by law upon any state or local officer. For the carrying out of the purposes of this section, the state tax commissioner may employ such legal or other assistance as the commissioner deems necessary.

57-45-05. Officer's refusal to perform duty - Penalty. Every officer or employee of any political subdivision of this state who in any case knowingly refuses to perform any duty enjoined upon the officer or employee by any provision in this title, or who consents to or connives at any evasion of the provisions of this title whereby any proceeding is prevented or hindered, is guilty of malfeasance in office, and is subject to removal from office. Any person aggrieved by the failure of any officer or employee to perform the officer's or employee's duties as provided in this title may file a complaint under section 12.1-11-06. In addition, the state's attorney or any aggrieved party may proceed to obtain a writ of mandamus to compel performance by such officer or employee. Any failure of an officer or employee to do any act at the particular time specified in this title in no manner invalidates any tax levy, or any foreclosure of tax lien, or tax deed.

57-45-06. Suits against officers defended at expense of county. Whenever civil action is brought against any county treasurer, county auditor, or township, or district officer for performing or attempting to perform any duty authorized or decreed by any statute of this state for collection of the public revenue, such officer, in the discretion of the court before whom such action is brought, by an order made by said court and entered in the minutes thereof, may be allowed and paid reasonable fees for counsel and other expenses for defending such action, to be paid out of the county treasury.

TITLE 58
TOWNSHIPS

CHAPTER 58-01
GENERAL PROVISIONS

58-01-01. Township defined. Whenever in this title the word "township" is used without any other descriptive word or phrase, a civil township is referred to without regard to the number of congressional townships incorporated therein.

58-01-01.1. Freeholder defined. As used in this title, unless the context or subject matter requires otherwise, "freeholder" means the legal title owner of the surface estate in real property.

58-01-02. Territory in city not subject to provisions of title. Nothing contained in this title applies in any way to any portion of the state which is embraced within the limits of any incorporated city.

58-01-03. Conveyance to township - If for benefit of inhabitant need not be in township name. Each conveyance of land within the limits of a township made in any manner for the use or benefit of its inhabitants has the same effect as if made to the township by name.

58-01-04. Presumption of regular enactment, adoption, or amendment of bylaws, resolutions, or regulations. Three years after enactment or amendment of township bylaws or adoption or amendment of township resolutions or regulations it is conclusively presumed that the bylaws, resolutions, or regulations were enacted, adopted, or amended as required by law.

CHAPTER 58-02
CREATION, CONSOLIDATION, DIVISION, AND DISSOLUTION

58-02-01. Organization of township - Petition - Election. If twenty-five percent of the qualified electors who voted for governor in the last general election of a congressional township which has taxable valuation of more than twenty thousand dollars and which contains twenty-five or more qualified electors petition the board of county commissioners for the organization of the congressional township into a civil township, the board of county commissioners shall then submit the question whether said township shall be organized to the qualified electors in the congressional township. If twenty-five percent of the qualified electors who voted for governor in the last general election of two or more neighboring congressional townships which have an aggregate taxable valuation of more than twenty thousand dollars and which contain an aggregate of twenty-five or more qualified electors petition the board of county commissioners for the organization of the congressional townships into a civil township, the board of

county commissioners shall then submit the question whether said township shall be organized to the qualified electors in the congressional townships. Thirty days' published notice in at least one newspaper of general circulation in the township must be given of the election. The board of county commissioners shall appoint the election officials necessary for the election. If a majority of the votes cast approve of organization, the township must then be organized, and if the petitions filed for organization did not designate a name, the board of county commissioners shall select one.

58-02-02. Commissioners report to county auditor. The board of county commissioners shall make and file a full report with the county auditor in relation to all its proceedings in the establishment of a civil township.

58-02-03. Name of township. A township must be named in accordance with the expressed wish of a majority of the legal voters residing therein. If the legal voters fail to designate a name, the board of county commissioners may select one.

58-02-06. First township meeting. The first township meeting of a newly organized township must be held within twenty days after the township is organized at a time and place designated by the board of county commissioners. Notice of the time and place of the meeting must be prepared by the board. The sheriff shall post such notice in the township not less than ten days before the day set for the meeting.

58-02-07. Changing boundary lines of township. The boundary lines of an organized township may be changed only in the manner provided in this chapter.

58-02-08. Fractional township - Annexing to another township. The board of county commissioners may attach a fractional congressional township to an adjoining township within the same county or divide it between two or more townships within the same county upon the petition of a majority of the qualified electors to be affected.

58-02-09. Annexing parts of township divided by river from rest of township. If rivers, lakes, or creeks divide a civil or congressional township and make it inconvenient to do township business, the board of county commissioners of the county in which the township is located may annex that part of the township segregated by such river, lake, or creek to an adjoining township in the same county upon the petition of not less than two-thirds of the qualified electors residing in the part of the township so segregated.

58-02-10. Division of township in which there are two or more cities. The board of county commissioners may divide a township in which there are two or more cities, each containing two hundred or more inhabitants, upon the petition of a majority of the qualified electors to be affected. If the division is ordered, it must be made in the manner best suited to the convenience of the territory concerned.

58-02-11. Uniting congressional townships into civil townships. The board of county commissioners may unite two or more congressional townships into one civil township or may add not more than three congressional townships to any congressional township already organized as a civil township when petitioned to do so by a majority of the qualified electors to be affected.

58-02-12. Notice to board of supervisors when change is made in township boundaries. Before any change is made in the boundaries of a civil township, twenty days' notice of such proposed change must be given to the chairman of the board of supervisors of such township.

58-02-13. Obligation to pay taxes assessed or indebtedness incurred prior to township alteration continues. Property which has been detached from an organized civil township under any provision of this chapter remains liable for and subject to any tax levied or assessed in the township of which it was a part prior to such detachment. A portion of any township annexed to another township and a city separated from a civil township of which it was a part shall not be released or discharged from the payment of any bonded or other indebtedness that may have existed against the township from which it was detached or separated.

58-02-14. Consolidating townships - Majority of supervisors and clerks of townships affected determine amount due. When a township or a fraction of a township has been attached to another township, the several boards of township supervisors and the clerks of the townships affected by the change shall meet prior to the annual township meeting at the usual meeting place of the township to which the annexation has been made or at a location mutually agreed upon in the township to which the annexation has been made or in an adjacent township, and upon notice of such meeting given by the clerk thereof, for the purpose of determining the amount due to the township to which the annexation has been made. All questions arising at such meeting must be determined by a majority vote of the members of the boards of township supervisors and the clerks present at such meeting.

58-02-15. Determination of assets and liabilities of territory detached from one civil township and attached to another. When a fraction of a township has been detached from one organized township and attached to another, the detached territory shall assume and pay a just proportion of the indebtedness of the township from

which it has been detached, based upon the last assessed valuation of the original civil township and in the proportion that the valuation of the detached portion bears to the valuation within the whole of the township from which it has been detached. At the meeting described in section 58-02-14, the members of the boards of township supervisors and the township clerks there present shall ascertain, as near as may be, the total outstanding indebtedness of the original township, as of the date upon which the detachment became effective, and the amount of township assets which shall remain with the original township after the detachment, and the amount of the assets which must be paid over to the detached portion of such township and to the civil township to which such detached territory has been attached. Such determination must be based upon the last assessed valuation of the original township as provided in this section.

58-02-16. Determination of net assets of township to which territory is annexed and of annexed territory. At the meeting described in section 58-02-14, the members of the boards of township supervisors and the township clerks there present shall determine the value of the townhall and of all other property owned and used by the township to which the new territory has been annexed and the value of the property of the township or fraction of a township which has been annexed thereto, and shall compute the amount of moneys in the township treasury and of moneys due to the township to which the new territory has been annexed and to the township or fraction of a township annexed thereto, from the county and from other sources, and the amount of back or unpaid taxes due to the township to which the new territory has been annexed and due to and receivable by the township or fraction of a township annexed thereto, to determine the gross assets of the territories involved. They shall compute the amount of all bonds and debts which constitute the legal liabilities of the township to which the territory is annexed, and the difference between the gross assets and the liabilities constitutes the net assets or the net liabilities of such township for use in determining the pro rata amount, if any, due from the annexed territory.

58-02-17. Determination of pro rata amount due from annexed territory. The members of the boards of township supervisors and the township clerks present at the meeting provided for in section 58-02-14 shall determine the amount due from the annexed territory to the township to which it has been annexed by taking into account the assets and liabilities of the township to which the new territory has been annexed and of the township or fraction of a township annexed thereto. Such amount must be determined by the relative valuation of the annexed territory and of the township to which the annexation has been made as shown by the last preceding assessment.

58-02-18. Tax levies against territory annexed. At the first annual township meeting after the consolidation of the townships or the consolidation of a township and a fraction of a township, there must be levied against the fraction of a township or township annexed the sum found to be due to the township to which the annexation was made, and if the territory annexed is a fraction of a township which was detached from a civil township, the amount due to the original township to pay the outstanding indebtedness thereof, if any. Such levy is in addition to the levy provided by law. Taxes levied on the detached territory while it was a part of another civil township to pay anticipated obligations must be allocated to the detached territory, if the obligations for which the levy was made had not been incurred at the time the detachment became effective. Such taxes must be considered in levying the taxes provided for in this section. When the adjustment between a township and a fraction thereof detached therefrom and joined to another township involves the modification of tax levies theretofore made for the payment of any indebtedness for which an irrepealable levy was required to be made, notice of such modification must be given to all holders of bonds or other evidences of indebtedness. If such holders do not object to the modification within twenty days after such notice, they must be deemed to have concurred therein.

58-02-19. Division of organized township - Requirements. A fractional township which contains more than eighteen sections of land and borders on a lake or river or any congressional township may be set off from the civil township of which it is a part if:

1. There are one hundred or more inhabitants residing in the proposed township; and
2. The division does not leave less than one hundred inhabitants residing in the township from which it is separated.

58-02-20. Division made on congressional township lines. The separation of a congressional township or fractional township from an organized civil township must be made only along congressional township lines.

58-02-21. Petition for and notice of application for division - Publication. A petition for the division of a township as provided in section 58-02-19, addressed to the board of county commissioners and signed by a majority of the qualified electors residing within the proposed township, may be presented to the board at any regular meeting of the board. Notice of the time and place of the hearing on such petition must be given at least thirty days prior to such hearing by the publication of such notice at least three times in the newspaper in which the proceedings of the board of county commissioners are published, or if there is no such newspaper, the notice must be posted in at least three public places in the proposed new township and in at least three public places in the remainder of the township affected by the division. One of such notices must be posted at the place where the last township election was held for the township from which the separation is sought.

58-02-22. Board of county commissioners may establish new township. Upon presentation of the petition described in section 58-02-21, with proof of notice as provided in that section of the existence of the requirements for division and proof that the petition was signed by the requisite number of voters residing in the proposed township, the board of county commissioners shall set off the congressional township or fractional township described in the petition as a separate civil township.

58-02-23. Division of assets and liabilities of the original township. Within thirty days after the first election is held in a civil township established upon a petition described in section 58-02-21, the board of county commissioners, the county auditor, and a district judge designated by the presiding judge of the judicial district in which the new township is located shall meet as a board of arbitrators and shall determine a just and fair distribution of the property and apportionment of the debts of the original township between it and the township separated therefrom and established as a civil township. The new township shall succeed to a proportional share of the moneys and other property of the original township and shall assume a proportional share of the debts and liabilities thereof existing at the time of the division, such proportion to be determined by the relative valuation of the property of the respective parts as shown by the last preceding assessment. The board of arbitrators, upon subpoena issued by the clerk of the district court on the request of such board, may bring before it all necessary witnesses, books, and papers. The determination of the board of arbitrators may be reviewed by the district court on appeal in accordance with the procedure provided in section 28-34-01 and shall be enforced by the courts.

58-02-24. Obligations of original township enforced. The division of a congressional or fractional township from an organized civil township does not prevent the enforcement of the obligations of the original township existing prior to the division.

58-02-25. Dissolution of township - Petition - When considered by supervisors or board of county commissioners - Hearing. If a petition asking for the dissolution of an organized civil township and setting forth the reasons therefor and signed by one-half of the qualified electors of such township is presented to the board of township supervisors at least ten days prior to the second Tuesday in March in any year, the petition must be considered by such board at its regular meeting on the second Tuesday in March in such year. If the qualified electors of an organized township, as determined by the board of county commissioners, do not exceed five in number, said board of county commissioners, upon the petition of any qualified elector of such township or upon its own motion without any such petition, may dissolve such township by filing in the office of the county auditor its resolution to dissolve such township. Following the filing of the resolution by said board of county commissioners, the county auditor shall designate a time and place for a public hearing of all qualified electors who are owners of any interest in real property assessed for taxation in the township and who reside within the boundaries of the township as fixed by the order of the board of county commissioners. Notice of the hearing must be given by publication once each week for two consecutive weeks in a newspaper of general circulation in the township, the last publication appearing at least seven days prior to the hearing. The notice must be addressed to all qualified electors who are owners of any interest in real property assessed for taxation in the township or who are residing within the boundaries of the township. The county auditor shall also notify all owners of property within the township by mail at least two weeks in advance of the proposed dissolution hearing.

58-02-26. Question of dissolution submitted at annual meeting - Notice. If the petition described in section 58-02-25 has been signed by the requisite number of qualified signers, the question of dissolution must be submitted to the voters of the township at the annual township meeting. A notice specifying the question of dissolution to be submitted at the annual meeting must be signed by the township clerk and posted in five of the most public places in the township at least five days prior to the annual meeting and published once before the time appointed for the meeting in a legal newspaper published in the county in which the township is located.

58-02-27. Vote on question of dissolution - Form of ballot - Result. The board of township supervisors shall preside at the meeting. The polls must be opened and closed as at other township meetings. The voters shall vote by ballot. The ballot used must be in the following form:

Shall _____ township be dissolved?

Yes ☐

No ☐

The result of the vote must be announced publicly after the polls close and as soon as ascertained by the officers of the meeting. If a majority of all votes cast are in favor of dissolution, a statement of the vote, signed by the chairman of the board of township supervisors and attested by the township clerk, must be filed in the office of the county auditor of the county within which the township lies.

58-02-28. When township dissolved - Disposition of property and records. If a majority of votes cast at the township meeting are in favor of dissolution, the township ceases to be a corporation on the next succeeding January first. After payment of the township's debts and liabilities, any funds on hand derived from property taxes levied by the township may be allocated among taxpayers of the township in proportion to their relative ownership shares of the taxable valuation of property in the township, any funds on hand from sources other than property taxes levied by the township must be transferred by the township treasurer to the treasurer of the county in which the township is located for deposit in the county general fund, and any real or personal property must be disposed of in the manner directed by a majority of the voters of the township at any special meeting. All of the township records must be turned over for preservation and safekeeping to the county auditor of the county in which the township is located.

58-02-29. Personal rights not affected by township dissolution. The dissolution of a township may not affect the rights of any person in any contract or agreement to which the township is a party.

58-02-31. Duty of county auditor on dissolution. The county auditor, upon dissolution of any civil township in the auditor's county, shall enter the fact of the dissolution upon the proper record book.

58-02-32. Proof of signatures on petition. The fact that any petition required under any provision of this chapter is signed by the required number of signers residing in the territory described therein may be proved by the affidavit of any qualified elector residing in the territory and having knowledge of the facts.

CHAPTER 58-03
POWERS OF TOWNSHIP AND OF ELECTORS OF THE TOWNSHIP

58-03-01. Powers of township. Each township is a body corporate and has capacity:

1. To sue and be sued.
2. To purchase and hold lands within its limits and for the use of its inhabitants subject to the powers of the legislative assembly.
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.
4. To make such orders for the disposition, regulation, or use of its corporate property as may be deemed conducive to the interests of its inhabitants.

58-03-02. Powers of township limited. No township may possess or exercise any corporate powers except those enumerated in this chapter, those specially given by law, and those necessary to the exercise of the powers enumerated or granted.

58-03-03. Acts of township to be in corporate name. All acts or proceedings performed by a township in its corporate capacity must be done in the name of the township.

58-03-06. Township charges and levies. The following must be deemed township charges:

1. The compensation of township officers.
2. Contingent expenses necessarily incurred for the use and benefit of the township.
3. The moneys authorized to be raised by the vote of the township meeting for any township purpose.
4. Each sum directed by law to be raised for any township purpose.

58-03-07. Powers of electors. The electors of each township have the power at the annual township meeting:

1. To establish one or more pounds within the township, to determine the location of the pounds, to determine the number of poundmasters and to choose the poundmasters, and to discontinue pounds which have been established.
2. To select the township officers required to be chosen.
3. To direct the institution or defense of actions in all controversies in which the township is interested.
4. To direct the raising of such sums as they may deem necessary to prosecute or defend actions in which the township is interested.
5. To make all rules and regulations for the impounding of animals.
6. To make such bylaws, rules, and regulations as may be deemed necessary to carry into effect the powers granted to the township.
7. To impose penalties for each offense on persons offending against any rule or regulation established by the township.
8. To apply penalties when collected in such manner as they deem most conducive to the interests of the township.

9. To ratify or reject recommendations offered by the board of township supervisors for the expenditure of funds for the purpose of purchasing building sites and for the purchase, location, erection, or removal of any building or erection for township purposes. No recommendation shall be adopted except by a two-thirds vote of the electors present and voting at any annual township meeting.
10. To authorize and empower the board of township supervisors to purchase liquids, compounds, or other ingredients for the destruction of noxious weeds, and sprinklers to be used in spraying said liquids or compounds. No township shall purchase more than two such sprinklers in any one year.
11. To authorize aid to a district fair association within the limits provided in title 4.
12. To authorize the levy of township taxes for the repair and construction of roads and bridges and for other township charges and expenses within the limits prescribed in title 57.
13. To direct the expenditure of funds raised for the repair and construction of roads within the limits provided in title 24.
14. To authorize the dissolution of the township in the manner provided in this title.
15. To authorize the entering into a contract for fire protection as provided for in section18-06-10.
16. To authorize the expenditure of funds for the eradication of gophers, prairie dogs, crows, or magpies.
17. To authorize the expenditure of township funds for weather modification activities.
18. To authorize the expenditure of funds to pay membership fees in county, state, and national associations of township governments. This subsection may not be construed to authorize a mill levy.
19. To support an airport or to support or create an airport authority and to levy a tax for airport purposes within the limitations of section 2-06-15.
20. To direct the transfer of township funds to a rural fire protection district or rural fire department for fire protection within the township.
21. To direct the transfer of township funds to a rural ambulance service district for emergency medical service within the township.
22. To establish special assessment districts in accordance with chapter 58-18.

58-03-10. Township bylaws - Clerk must publish and record - On whom binding. Bylaws made by a township do not take effect until they are published. The township clerk shall have the bylaws published in a legal newspaper published in the township. If there is no such newspaper, the bylaws must be published in the county's official newspaper. The clerk shall make an entry in the township records of the time when and place where the bylaws were published. The township bylaws duly made and published are binding upon all persons coming within the limits of the township as well as upon the inhabitants thereof and remain in force until altered or repealed at some subsequent township meeting.

58-03-11. Establishment of zoning districts - Uniformity. For the purpose of promoting the health, safety, morals, or the general welfare, or to secure the orderly development of approaches to municipalities, the board of township supervisors may establish one or more zoning districts and within the districts, subject to the provisions of chapter 54-21.3 and section 58-03-11.1, may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures; the height, number of stories, and size of buildings and structures; the percentage of lot that may be occupied; the size of courts, yards, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. All regulations and restrictions under this section must be uniform throughout each district, but the regulations and restrictions in one district may differ from those in other districts. The board of township supervisors may establish institutional controls that address environmental concerns with the department of environmental quality as provided in section 23.1-10-16.

58-03-11.1. Farming and ranching regulations - Requirements - Limitations - Definitions.

1. For purposes of this section:
   a. "Animal feeding operation" means a lot or facility, other than normal wintering operations for cattle and an aquatic animal production facility, where the following conditions are met:
      (1) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and
      (2) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.
   b. "Farming or ranching" means cultivating land for the production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include:
      (1) The production of timber or forest products; or

(2) The provision of grain harvesting or other farm services by a processor or distributor of farm products or supplies in accordance with the terms of a contract.

c. "Livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, bison, elk, fur animals raised for their pelts, and any other animals that are raised, fed, or produced as a part of farming or ranching activities.

d. "Location" means the setback distance between a structure, fence, or other boundary enclosing an animal feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest buildings used for nonfarm or nonranch purposes, or the nearest land zoned as a residential, recreational, or commercial zoning district. The term does not include the setback distance for the application of manure or for the application of other recycled agricultural material under a nutrient management plan approved by the department of environmental quality..

2. For purposes of this section, animal units are determined as provided under subdivision c of subsection 7 of section 23.1-06-15.
3. A board of township supervisors may not prohibit or prevent the use of land or buildings for farming or ranching or any of the normal incidents of farming or ranching.
4. A regulation may not preclude the development of an animal feeding operation in the township.
5. A board of township supervisors may not prohibit the reasonable diversification or expansion of a farming or ranching operation.
6. A board of township supervisors may adopt regulations that establish different standards for the location of animal feeding operations based on the size of the operation and the species and type being fed.
7. If a regulation would impose a substantial economic burden on an animal feeding operation in existence before the effective date of the regulation, the board of township supervisors shall declare that the regulation is ineffective with respect to any animal feeding operation in existence before the effective date of the regulation.
8. a. A board of township supervisors may establish high-density agricultural production districts in which setback distances for animal feeding operations and related agricultural operations are less than those in other districts.

b. A board of township supervisors may establish, around areas zoned for residential, recreational, or nonagricultural commercial uses, low-density agricultural production districts in which setback distances for animal feeding operations and related agricultural operations are greater than those in other districts; provided, the low-density agricultural production districts may not extend more than one-half mile [0.80 kilometer] from the edge of the area zoned for residential, recreational, or nonagricultural commercial uses.

c. The setbacks provided for in this subsection may not exceed those established in subdivision a of subsection 7 of section 23.1-06-15 unless the township can demonstrate compelling, objective evidence specific to the township which requires a greater setback within the township, in which case the setbacks may exceed those established in subdivision a of subsection 7 of section 23.1-06-15 by no more than fifty percent. If a setback under this subsection is greater than the corresponding setback established in subdivision a of subsection 7 of section 23.1-06-15, a person whose animal feeding operation will be or has been affected by the applicable township ordinance may request the agriculture commissioner review the ordinance. After the review, the agriculture commissioner shall provide a summary of the review to the attorney general and request an opinion from the attorney general regarding whether the ordinance and setback are lawful.

d. For purposes of this subsection, a "related agricultural operation" means a facility that produces a product or byproduct used by an animal feeding operation.

9. A person intending to construct an animal feeding operation may petition the board of township supervisors for a determination whether the animal feeding operation would comply with zoning regulations adopted under this section and filed with the department of environmental quality under section 58-03-17 before the date the petition was received by the township. The petition must contain a description of the nature, scope, and location of the proposed animal feeding operation and a site map showing road access, the location of any structure, and the distance from each structure to the nearest section line. If the board of township supervisors does not object to the petition within sixty days of receipt, the animal feeding operation is deemed in compliance with the township zoning regulations. If the township allows animal feeding operations as a conditional use, the conditional use regulations must be limited to the board's authority under this section, and the approval process must comply with this section. The township shall make a decision on the application within sixty days of the receipt of a complete conditional use permit application. If the board of township supervisors determines the animal feeding operation would comply with zoning regulations or fails to object under this section, the township may not impose additional zoning regulations relating to the nature, scope, or location of the animal feeding operation later, provided an application is submitted promptly to the department of environmental quality, the department issues a final permit, and construction of the animal feeding operation commences within three years from the date the

department issues its final permit and any permit appeals are exhausted. A board of township supervisors may not:

a. Regulate or impose zoning restrictions or requirements on animal feeding operations or other agricultural operations except as expressly permitted under this section; or
b. Impose water quality, closure, site security, lagoon, or nutrient plan regulations or requirements on animal feeding operations.

58-03-12. Basis for township zoning regulations and restrictions. The regulations and restrictions established in any township zoning district must be made in accordance with a comprehensive plan with reasonable consideration as to the character of such district, its peculiar suitability for particular uses, the normal growth of the municipality, and the various types of occupations, industries, and land uses within the area, and must be designed to facilitate traffic movement, encourage orderly growth and development of the municipality and adjacent areas, promote health, safety, and general welfare, and provide for emergency management. "Emergency management" means a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment. The comprehensive plan must be a statement in documented text setting forth explicit goals, objectives, policies, and standards of the jurisdiction to guide public and private development within its control.

58-03-13. Township zoning commissions - Membership - Reports and recommendations - District boundaries - Hearings - Notice. The board of township supervisors of a township desiring to avail itself of the powers conferred by sections 58-03-11 through 58-03-15 shall establish, by resolution, a township zoning commission to recommend the boundaries of the various township zoning districts and appropriate regulations and restrictions to be established therein. Membership of the commission must consist of three township supervisors and two members appointed from the municipalities concerned in relation to which the zoning is contemplated. Where the area to be regulated and restricted is situated in two or more townships, a joint zoning commission may be established. Membership of a joint zoning commission must consist of two township supervisors from each township and two members from the municipality in relation to which the zoning is contemplated. A zoning commission shall make a preliminary report and hold public hearings before submitting its final report and recommendations to the board or boards of township supervisors. The board or boards of township supervisors may establish, and from time to time change, the boundaries of township zoning districts and establish, amend, supplement, and enforce regulations and restrictions in the districts. No regulation, restriction, or boundaries become effective until after a public hearing at which parties in interest and citizens have an opportunity to be heard. At least fifteen days' notice of the time and place of the hearing must be published in the official newspaper of the county and also in the official newspaper of the municipality in relation to which the zoning action is taken, if in the municipality an official newspaper other than the official newspaper of the county is published. The description of any land within any zoning district established by a zoning commission together with any regulations and restrictions established must be filed with the governing bodies of the township and municipalities concerned, and if amendments are made to the boundaries of the zoning district or the regulations or restrictions, the amendments must be filed in the same manner. A zoning commission established under this section and a board of township supervisors shall state the grounds upon which any request for a zoning amendment or variance is approved or disapproved, and written findings upon which the decision is based must be included within the records of the commission or board.

58-03-14. Violation of zoning regulations and restrictions - Remedies - Penalties.

1. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure, or land is used, in violation of any regulation or restriction made under the authority conferred by sections 58-03-11 through 58-03-15, the proper local authorities of the township or of the municipality in relation to which such zoning regulation or restriction is established, or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceeding:
   a. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
   b. To restrain, correct, or abate such violations;
   c. To prevent the occupancy of the building, structure, or land; or
   d. To prevent any illegal act, conduct, business, or use in or about such premises.
2. If after reasonable notice and opportunity for hearing by the board of township supervisors, a property owner fails to bring a building or structure or the use of land owned by that person into compliance with a regulation or restriction made under sections 58-03-11 through 58-03-15, in addition to any other remedies, the board of township supervisors may impose a civil penalty of up to two thousand dollars annually against the property owner and the property. The board of township supervisors may also assess the property owner for all costs of

the township in bringing the property into compliance or in instituting and prosecuting any appropriate action or proceeding under this section. Any civil penalty or assessment of costs, or both, against a property owner constitute a lien on the property and must be charged against the property and become a part of the taxes against the property for the ensuing year and must be collected in the same manner as other real estate taxes are collected and placed to the credit of the township.

58-03-15. Appeals. Appeals from any rule, restriction, or decision of the board of township supervisors may be made to the district court of the county in which such township lies. Appeals must be taken in accordance with the procedure provided in section 28-34-01. Upon a showing that any rule, restriction, or decision of the board of township supervisors is unreasonable under the circumstances or contrary to the intent of sections 58-03-11 through 58-03-15, any such rule, restriction, or decision may be set aside or reversed.

58-03-15.1. Highways - Roads. Sections 58-03-11 through 58-03-15 do not include any power relating to the role of the board of township supervisors in the establishment, repair, or maintenance of highways or roads.

58-03-16. Real property transfers. Every township may convey, sell, or dispose of real property of the township upon recommendation by the board of township supervisors and upon approval by the township electors at the annual meeting or at a special meeting called for such purpose. When the board estimates the real property to be of a value of less than one thousand dollars, it may be sold at private sale, but in all other cases such property may be sold only at public sale. A notice containing a description of the property to be sold and designating the place where and the day and hour when the sale will be held must be published in the official county newspaper once each week for two consecutive weeks with the last publication being at least ten days prior to the date set for the sale. The township electors shall determine and the notice must specify whether the bids are to be received at auction or as sealed bids. The property advertised must be sold to the highest bidder if that bid is deemed sufficient by a majority of the township supervisors.

58-03-17. Regulation of animal feeding operations - Central repository. Any zoning regulation that pertains to an animal feeding operation, as defined in section 58-03-11.1, is not effective until filed with the department of environmental quality for inclusion in the central repository established under section 23.1-01-10.

58-03-18. Limitation on authority - Seed. Notwithstanding any other law, a township may not impose any requirements or restrictions pertaining to the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of seed.

58-03-19. Building permit - Decision within sixty days of application .

1. A township that regulates the construction, erection, reconstruction, repair, or alteration of buildings and structures and issues building permits shall respond to a building permit application within sixty days of receiving the application either by approving the application and delivering the building permit or by providing the applicant written notice of the grounds for rejection of the application.
2. If the building or structure for which a permit is requested meets all applicable zoning regulations and the board of township supervisors or other appropriate official fails to respond as required under subsection 1, the application is deemed to be approved and the applicant may proceed with the construction, erection, reconstruction, repair, or alteration of the building or structure and the township shall return any permit fee submitted with the application.
3. A township's building permit application form must include a statement that if the building or structure for which the permit is requested meets all applicable zoning regulations and the board of township supervisors or other appropriate official fails to respond within sixty days of receiving the application, the application is deemed approved. Upon receipt of a building permit application, a township shall note on the application the date of receipt and shall provide a copy of the submitted application to the applicant with the date of receipt noted.

CHAPTER 58-04
TOWNSHIP MEETINGS AND ELECTIONS

58-04-01. Annual township meeting - When held - Change in meeting place - Notice. The electors of each township annually shall assemble and hold a township meeting on the third Tuesday in March at such place in the township or in an adjacent township as the board of township supervisors thereof shall designate. Notice of the time and place of holding the meeting must be given by the township clerk at least ten days prior to the meeting by publication in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper. Before a change in the place of holding the annual township meeting is made, notice of the contemplated change may be given by any member of the board of township supervisors to the township clerk, who shall have such change published if time allows. Otherwise, the township clerk shall post notice of the change. Where an incorporated city is wholly or partially within the boundaries of the township or an adjacent township, all

township meetings may be held in such place within such incorporated city, as the board of township supervisors thereof may designate.

58-04-02. Special meetings - When held. A special township meeting may be held for the purpose of:

1. Electing township officers to fill vacancies that occur;
2. Authorizing expansion of the board of township supervisors from three to five members;
3. Removing an elected township officer;
4. Transacting other lawful township business whenever the supervisors or township clerk, or any two of them, or twenty percent of the freeholders of the township, shall file in the office of the township clerk a written statement that a special meeting is necessary; or
5. Whenever a special meeting is required by any other provision of the laws of this state.

58-04-02.1. Expansion of membership of the board of township supervisors. At the annual township meeting or a special meeting, the electors of the township may approve expansion of the board of township supervisors from three to five members. At the first annual meeting after a special meeting at which the expansion is authorized, or at the annual meeting at which the expansion is authorized, the electors of the township shall elect three members of the board of township supervisors. Two of the members of the board elected under this section must be elected for three-year terms and one supervisor must be elected for a two-year term. Thereafter, terms of office of members of the board of township supervisors will be as provided in section 58-05-02.

58-04-02.2. Removal of township officers - Special meeting. An elected township officer may be removed from office upon an affirmative vote of the majority of votes cast at a special meeting of the township which is called for the purpose of removing an elected township officer. If an officer is removed from office at the special meeting, the voters shall elect a replacement officer at the same meeting.

58-04-03. Clerk to give notice of special meeting. Each township clerk with whom a statement provided for in section 58-04-02 is filed shall record the same and shall cause notice of the special meeting to be published at least ten days before the meeting in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper.

58-04-04. What notice of special meeting must specify - Business transacted at meeting limited. Each notice given for a special meeting must specify the purpose for which it is to be held. No business other than that specified in the notice may be transacted at such meeting. If vacancies in office are to be filled at the meeting, the notice must specify in what offices the vacancies exist, how they occurred, who was the last incumbent, and when the term of each office expires.

58-04-05. Organization of annual or special meetings. The qualified electors present on the day of the annual or special meeting must be called to order by the township clerk, or, if the township clerk is not present, the qualified electors may elect by acclamation one of their number to act as chairman for the purpose of calling the meeting to order and to act as clerk after the selection of a moderator. The qualified electors shall elect by acclamation three of their number as judges, and such judges must be sworn and shall act as the judges of the qualifications of the qualified electors of the township. The qualified electors shall proceed to choose one of their number to preside as moderator of the meeting. The township clerk, if present, or in the township clerk's absence, the clerk of the meeting, shall keep full minutes of its proceedings in which must be entered at length every order, direction, rule, and regulation made by the meeting. Meeting and voting hours of an annual or special meeting are optional with the township board, provided proper notice is given under the provisions of this chapter. The positions of moderator, clerk, and the three judges must be separate and distinct positions and no such positions may be held by the same person. The moderator, clerk, and the three judges each may be entitled to compensation of no more than sixty dollars per day for each day actually expended in the performance of their duties. Such salary must be paid out of township funds made available for such purpose. However, in those townships in which the offices of township clerk and treasurer have been merged, the person holding such office shall receive compensation as provided by law as township treasurer only and may not receive additional compensation for duties as clerk.

58-04-06. Duty of moderator - Reconsideration of vote - Majority vote required. At the opening of each meeting, the moderator shall state the business to be transacted and the order in which it must be entertained. A proposition to vote a tax may not be acted on out of the order of business as stated by the moderator. A proposition to reconsider a vote may not be entertained at any meeting unless the proposition is made within one hour from the time the vote was taken or unless the motion for the reconsideration is sustained by a number of electors equal to a majority of all the names entered upon the poll list at the election up to the time the motion is made. All questions upon motions made at township meetings must be determined by a majority of the electors voting. The moderator shall ascertain and declare the result of the vote on each question.

58-04-07. Proclamation of opening and closing polls. Before the electors proceed to elect any township officer, the moderator shall proclaim the opening of the polls, and proclamation in like manner must be made of any adjournment and of the opening and closing of the polls until the election is ended.

58-04-08. Who are voters at township meetings. A person may not vote at any township meeting unless that person is qualified to vote at general elections therein.

58-04-10. Officers to be elected by ballot. The supervisors, treasurer, and clerk in each township must be elected by ballot. All other officers, if not otherwise provided by law, must be chosen either by yeas and nays or by a division as the electors determine.

58-04-11. Names of all candidates to be on one ballot. When the electors vote by ballot, all the candidates voted for must be named on one ballot, which must contain, written or printed or partly written and partly printed, the names of the persons voted for and the offices to which such persons are intended to be chosen.

58-04-12. Judges to deposit ballots. When the election is by ballot, the marked ballot must be delivered to one of the judges so folded as to conceal its contents, and the judges shall deposit the ballots in a box provided for that purpose.

58-04-13. Poll list kept by clerk. When the election is by ballot, a poll list on which must be entered the name of each person whose vote is received shall be kept by the clerk of the meeting.

58-04-14. Judges to canvass the votes - Manner of canvassing - Declaration of election. At the close of every election by ballot, the judges shall proceed publicly to canvass the votes, which canvass when commenced must continue without adjournment or interruption until the same is completed. The canvass must 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 must be destroyed immediately. If on the opening of the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such unlawful ballots immediately. The person having the greatest number of votes for an office must be declared elected.

58-04-15. Tie vote - How determined. If two or more persons have an equal and the highest number of votes for an office, the judges of election, immediately and publicly, shall determine by a drawing of names who of such persons shall be declared elected. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules for filling an office when a vacancy exists.

58-04-16. Result of canvass to be announced - Notice to voters. When the canvass is completed, the clerk shall enter at length in the minutes of the meeting kept by the clerk, as required in section 58-04-05, a statement of the result of the election which must be read publicly by the clerk to the meeting, and such reading must be deemed notice of the result of the election to every person whose name is entered on the poll list as a voter.

58-04-17. Minutes to be filed. The minutes of the proceedings of each township meeting, subscribed by the clerk and judges of the meeting, must be filed in the office of the township clerk within two days after the meeting.

58-04-18. Township clerk to notify officers elected. The clerk of the township meeting, immediately after the votes are canvassed, shall transmit a notice of election to each person elected to any township office.

58-04-19. Special meeting when officers not elected at annual meeting. If a township meeting is not held for the purpose of organizing and electing its officers at the time fixed by law for holding the annual township meeting, a special township meeting for that purpose must be called by the township clerk. Such meeting must be held within the township or in an adjacent township. If notice of such meeting is not given by the clerk within ten days, any three electors of the township may call such meeting. Notices setting forth the time, place, and object of the meeting must be published at least five days prior to the meeting in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper. The electors, when assembled by virtue of such notice, shall possess all the powers conferred upon electors at the regular annual township meeting.

58-04-20. When board of county commissioners may designate township officers - Powers and duties of appointed officers. If notice of a township meeting is not given under section 58-04-19 within thirty days after the time set by law for the holding of the annual township meeting, the board of county commissioners of the county in which the township is located shall appoint the necessary township officers. Such appointment must be made upon the filing in the office of the county auditor of an affidavit of a freeholder of the township setting forth the facts. The persons appointed by the board shall hold their respective offices until their successors are elected and qualified.

CHAPTER 58-05
TOWNSHIP OFFICERS GENERALLY

58-05-01. Voter is eligible to office. Every person qualified to vote at a township meeting is eligible to any township office.

58-05-02. Officers of a township - Terms of office. The elected officers of a civil township must be:

1. Three or five supervisors.
2. One township clerk.
3. One assessor except as herein provided.
4. One treasurer.

In townships with three-member boards of township supervisors, one supervisor must be elected at each annual township meeting and shall hold office for a term of three years. In townships with five-member boards of supervisors, the number of members of the board of supervisors whose terms have expired must be elected at each annual township meeting and shall hold office for a term of three years. The other elective officers must be elected every two years and shall hold their respective offices for a term of two years. Each officer shall serve until that officer's successor is elected and qualified. The same person may hold the offices of township clerk and treasurer if a majority of the electors present vote in favor of the merging of such offices at the annual township meeting. The person elected to fill the merged office shall perform all of the duties required of both the township clerk and treasurer except as otherwise specifically provided by law. If a majority of the electors present and voting at an annual township meeting vote in favor of making the office of assessor appointive, the board of township supervisors shall appoint a township assessor for a four-year term of office, the first term commencing on January 1, 1974. In lieu of electing or appointing a township assessor, the board of township supervisors, if authorized by a majority of the electors present and voting at an annual township meeting, may on behalf of the township contract with the county in which the township is located or with any other political subdivision or with any individual to perform the duties of and have the powers of the township assessor. The length and terms of such a contract must be negotiated by the board of township supervisors with the governing body of the county or other political subdivision or with the individual, as the case may be, and the township is hereby authorized to make such payments as may be provided for in the contract. The electors of any township in which the office of township assessor was abolished prior to July 1, 1973, shall, at the next annual township meeting, elect a township assessor or authorize the board of township supervisors to appoint a township assessor or to contract for the making of the assessment as hereinbefore provided. The township electors may, by majority vote of those present and voting at an annual township meeting, change the previously adopted method of providing for the assessment to either of the other two methods authorized in this section, but such change does not become effective until expiration of the term of office of the assessor or until a vacancy occurs in the office of assessor or until expiration of the contract for making the assessments, whichever is applicable according to the method of providing for the assessment that was previously adopted.

58-05-03.1. Elected assessor - Commencement of term of office. In any township in which an assessor is elected at the annual township meeting, the term of office of the assessor elected at such meeting commences on the first Monday in January next succeeding that election.

58-05-04. Election of supervisors and other officers in newly organized townships. At the first meeting of a newly organized township, officers must be elected as follows: one supervisor to serve until the first annual township meeting; one supervisor to serve until the second annual meeting; and one supervisor to serve until the third annual meeting. All the other township officers must be elected to serve until the annual township meeting in an even-numbered year.

58-05-05. Bonds of officers. Each person elected or appointed to the office of township clerk, assessor, or treasurer, within ten days after the person is notified of the person's election or appointment, and before entering upon the duties of the person's office, must be bonded for the faithful discharge of the person's duties in the same manner as other civil officers are bonded and in the following amounts:

1. The bond of the township clerk must be in such amount as may be determined by the board of township supervisors.
2. The bond of the treasurer must be in such amount as may be determined by the board of township supervisors and must be not less than the maximum amount of money that shall be subject to such treasurer's control at any one time.
3. The bond of the assessor must be in the amount of one thousand dollars. Such bonds, or the certificates issued in lieu thereof, must be filed in the office of the township clerk.

58-05-06. Bonds of township officers - Premiums. All bonds required by this title for any township officer must be obtained from the North Dakota state bonding fund or from a corporate surety company authorized to do business in this state. Personal sureties may not be accepted on any such bond. The premiums for bonds of the North Dakota state bonding fund must be paid by the township, and the township may not pay the premium upon any other bond except such as is procured to replace a bond canceled by the state bonding fund.

58-05-07. Officers to take oath. Each person elected or appointed to the office of supervisor, township clerk, assessor, treasurer, or township overseer of highways, within ten days after the person is notified of the person's election or appointment, shall take and subscribe the oath prescribed in section 4 of article XI of the Constitution of North Dakota. If the oath is administered by the township clerk, no fee may be charged therefor.

58-05-08. Certificate of oath to be filed. The person taking the oath described in section 58-05-07, immediately and before entering upon the duties of the person's office, shall file the certificate of such oath in the office of the township clerk.

58-05-09. Penalty for neglect to take oath. If any township officer who is required by law to take an oath of office enters upon the duties of the office before taking such oath, the person shall forfeit to the township the sum of fifty dollars.

58-05-10. Neglect to qualify deemed refusal to serve. If any person elected or appointed to a township office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law, such neglect must be deemed a refusal to serve in such office.

58-05-11. Poundmaster to file acceptance - Neglect deemed refusal to serve. Each person appointed to the office of poundmaster, before entering upon the duties of the office and within ten days after being notified of the election or appointment, shall file a notice signifying acceptance of such office in the office of the township clerk. A neglect to file such notice must be deemed a refusal to serve.

58-05-12. Officers interested in contracts of township. Except as otherwise provided by this section, no township officer may become a party to or be interested, directly or indirectly, in any contract made by the board of which the officer is a member. Every contract or payment voted for or made contrary to this section is void. Any violation of this section constitutes malfeasance in office which subjects the offending officer to removal from office. A township officer may become a party to or be interested, directly or indirectly, in any contract made by the board if:

1. The officer is qualified to undertake the contract.
2. The board, when possible, has requested bids or offers from at least two persons.
3. The board gives due consideration to all reasonable bids or offers to provide the same service to the township.
4. The officer having an interest in the contract is a supervisor, that supervisor does not vote on the contract, and the other members of the board of supervisors vote unanimously in favor of the contract.
5. The officer having an interest in the contract is not a supervisor, all members of the board of supervisors vote unanimously in favor of the contract.

58-05-13. Records to be delivered. Upon going out of office, each supervisor, township clerk, or assessor shall deliver, upon demand of the person's successor and upon oath administered by the latter, all records, books, and papers in the person's possession or under the person's control belonging to the office. The successor shall make such demand immediately upon assuming the office.

58-05-14. Successor to demand records in case of death. Upon the death of a supervisor, township clerk, or assessor, the successor of such officer shall make such demand as is provided in section 58-05-13 of the personal representative of such deceased officer. The personal representative shall deliver upon oath all records, books, papers, or moneys in the personal representative's possession or under the personal representative's control belonging to the office held by the personal representative's testator or intestate.

58-05-15. Board may accept resignations. The board of township supervisors, for sufficient cause shown to it, may accept the resignation of any officer in its township. Whenever the board accepts a resignation, it shall give notice thereof to the township clerk.

58-05-16. Vacancies - How filled - Term of office - Powers of person appointed. If the electors of a township fail to elect the proper number of officers, or a person elected to a township office fails to qualify, or a vacancy happens in any such office from death, resignation, removal from the township, or other cause, the board of township supervisors, or a majority of them, shall fill the vacancy by appointment, and the person so appointed shall hold that office until the next annual meeting and until the person's successor is elected and qualified.

58-05-18. When county auditor to appoint township assessor. If a township assessor is elected or appointed and fails or refuses to qualify or to discharge the duties of the office, or if the electors of a township have provided that the assessor must be elected but fail for any reason to elect an assessor, and the board of township supervisors and the board of county commissioners fail or refuse to appoint such officer for the township on or before the fifteenth day of February of the year for which the assessor is to serve or if the electors of a township have authorized the assessment to be contracted for as provided in section 58-05-02 and the board of township supervisors fails or refuses to enter into such a contract by the fifteenth day of February, the county auditor shall appoint an assessor for the township.

CHAPTER 58-05.1
MULTITOWNSHIP OFFICERS

58-05.1-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Adjoining townships" means two or more townships that have a common boundary or touch at the corners and are in the same county.
2. "Multitownship board of officers" means a board of officers established for two or more townships consisting of a multitownship board of supervisors, a multitownship clerk, and a multitownship treasurer.

58-05.1-02. Consolidation of township officers - Petition - Membership. The board of township supervisors of a township shall propose a plan for the consolidation of the board of township officers with the officers of adjoining townships when three qualified electors or five percent of the qualified electors of the township, as determined by the number of qualified electors voting at the last annual township meeting, whichever is greater, petition the board. The township clerk, within fourteen days of receiving a petition, shall notify the board of township supervisors of each adjoining township of the proposal for consolidation and submit a copy of the proposal to the county auditor. The boards of township supervisors of each adjoining township shall respond to the proposal within thirty days. If the response of a board of township supervisors of an adjoining township indicates that the consolidation should be pursued, the clerk of the township proposing the consolidation shall call a meeting, or meetings if necessary, at a time and place agreed upon by the boards of each township. The chairman of the board of township supervisors of the township proposing the consolidation shall preside at the meeting. If requested by the board of township supervisors of the township proposing the consolidation, the board of township supervisors of each township shall submit a report of the assets, liabilities, and overall financial condition of each township for review by the other boards of township supervisors. If one or more boards of the townships responding to the proposal agreed to further pursue the proposed consolidation, the question of consolidation must be presented to the electors of each of the townships. However, no more than five adjoining townships may consolidate. Notice of the presentation of the question to the electors must be submitted to the county auditor by the board of township supervisors of the township proposing the consolidation. Upon receiving that notice, the county auditor shall assign an identifying number to the proposed multitownship board and notify the board of supervisors of each township of that number.

58-05.1-03. Submission of consolidation plan to electors. The board of township supervisors of each township that is involved in the proposed consolidation shall call a special township meeting to consider and vote on the proposed consolidation. The ballot used at the election must be in substantially the following form:

Shall the townships of _____ (name of townships to be consolidated)

consolidate township boards under one multitownship board of officers to be identified

as multitownship board number _____?

Yes ☐

No ☐

If a majority of all votes cast on the question in the township proposing the consolidation and in any adjoining townships are in favor of the consolidation, the consolidation is approved for those township boards of officers.

58-05.1-04. Equalization of assets and liabilities of townships. The boards of township officers of each township voting in favor of the consolidation shall meet at a place designated by the board of township supervisors of the township that proposed the consolidation within thirty days following the election to equalize the property, funds, and debts of the townships. In addition, the boards shall perform any other actions necessary to carry out the consolidation of the township, including conveying, selling, or disposing of property that is not necessary for the operation of the townships except the township halls.

58-05.1-05. Settlement of disagreement. If the boards of township officers of the consolidating townships are unable to equalize the property, funds, and debts of the townships, the chairman of the board of township

supervisors of the township that proposed the consolidation shall immediately notify the board of county commissioners of the disagreement. The chairman of the board of county commissioners shall call a meeting of the boards of township officers of the consolidating townships, the county commissioners, the state's attorney, and the county auditor to attempt to settle the disagreement to the satisfaction of all the township boards. If the disagreement is not settled to the satisfaction of all boards involved in the consolidation, the boards of the townships agreeing to the equalization may proceed with the consolidation. The township board of officers of each consolidating township shall meet at least once to review the final equalization of the assets and liabilities of the township.

58-05.1-06. Transition board. The board of township supervisors of each township involved in the consolidation shall select one supervisor to be a member of a transition township board. If there are fewer than three townships involved in the consolidation, each board of township supervisors may select two supervisors to be members of the transition board. The clerk of the township that proposed the consolidation shall act as clerk for the transition board. The transition board shall assume all the powers and duties of the township officers of each township approving the consolidation on the first of January following the election. The transition board shall continue in existence until the first annual meeting of the consolidated townships and shall prepare a proposed budget for the multitownship board.

58-05.1-07. Multitownship board - Election. On the third Tuesday of March following the consolidation election, a multitownship meeting must be held and the qualified electors shall elect a multitownship board of supervisors. If the number of consolidated townships is five or fewer, the multitownship board of supervisors must consist of one supervisor elected from each township. If the number of consolidated townships is two or four, an additional township supervisor must be elected at large so the multitownship board consists of three or five members. The length of the terms of the supervisors first elected must be staggered so that the terms of an equal amount of supervisors, or as nearly as practicable, expire each year. In addition, the qualified electors shall elect a multitownship clerk and a multitownship treasurer. The multitownship officers elected at the annual meeting shall assume all the powers and duties of the township officers of the townships approving the consolidation.

58-05.1-08. General township laws applicable. When applicable, all laws relating to a board of township supervisors apply to a multitownship board of supervisors.

CHAPTER 58-06
BOARD OF TOWNSHIP SUPERVISORS

58-06-01. General powers and duties of board of township supervisors. The board of township supervisors has the following powers and duties:

1. To manage and control the affairs of the township not committed to other township officers.
2. To draw orders on the township treasury for the disbursement of township funds.
3. To recommend to the electors the expenditure of a stated amount for the purpose of purchasing building sites, and for purchasing, erecting, locating, or removing any building, township hall, or library building for the use and benefit of the township.
4. When a city which is laid out into streets is included within the limits of the township, to cause improvements to be made in any street that may be needed as a highway if the city neglects to make the improvements.
5. To prosecute all actions upon bonds given to it or previous boards.
6. To sue for and collect all penalties and forfeitures incurred by any officer or inhabitant of the township when no other provision is made.
7. To prosecute any action for trespass committed on any public enclosure, highway, or property belonging to the township.
8. To pay all money collected by it for the township to the township treasurer.
9. To levy the annual taxes for the ensuing calendar year as voted at the annual township meeting.
10. To grant to any person the right of way for the erection of telephone lines, electric light systems, water or wastewater systems, or gas or oil pipeline systems over, under, or upon public grounds, streets, alleys, or highways.
11. To appoint the township overseer of highways.
12. To purchase road machinery and tools.
13. To request assistance from a county or district board of health or the department of environmental quality.
14. To perpetuate survey markings.
15. To erect and maintain guideposts on the highways and other ways within the township at such places as are necessary or convenient for the direction of travelers.

16. To examine, compare, and balance the books of the township clerk and the treasurer at the annual meeting in March of each year.
17. To pay all or a part of the cost of electricity used in electrically lighting the streets of cities located within the township.
18. To insure the township's property which is not required to be insured against loss by fire or tornado by the state fire and tornado fund in a stock or mutual fire insurance company or in the state fire and tornado fund.
20. To submit a budget for the township at its annual meeting.

58-06-02. Compensation of supervisors. A township supervisor is entitled to receive as compensation for services up to sixty dollars a day for each day necessarily devoted to the work of a supervisor's office not exceeding two thousand dollars in a calendar year. The electors of the township shall establish the daily compensation rate for township supervisors at each annual township meeting. Additional compensation over two thousand dollars may be provided for reimbursement of expenses as provided in section 44-08-04 and for mileage as provided in section 54-06-09 for each mile [1.61 kilometers] necessarily traveled in the performance of a supervisor's duties.

58-06-03. Regular meetings of board of township supervisors - When held. The board of township supervisors shall hold regular meetings on the second Tuesday in March, on the fourth Tuesday in March, and on the second Monday in June of each year, except that in the discretion of the township supervisors the meetings provided for the second Tuesday and fourth Tuesday in March may be held on the same day as the annual township meeting as provided in section 58-04-01.

58-06-04. May hold adjourned and special meetings. The board of township supervisors may adjourn from time to time and in cases of emergency may hold special meetings on the call of the township clerk.

58-06-05. Where meetings of board of supervisors held. The regular meetings of the board of township supervisors must be held at the office of the township clerk or at the usual place for holding the annual township meetings if there is one.

58-06-06. Quorum of the board. Two of the supervisors constitute a quorum for the performance of the duties of the board of township supervisors except when otherwise provided by law.

58-06-07. Board of township supervisors to elect chairman. At its first regular meeting following the annual township meeting, the board of township supervisors shall elect one of its members as chairman. The chairman shall serve for a term of one year.

58-06-08. Approve bonds of township officers. At its first meeting after the election of township officers, the chairman of the board of township supervisors shall approve the bonds of township officers and the officers immediately shall enter upon the discharge of their duties.

58-06-09. Audit accounts. At the last regular meeting in each year, the board of township supervisors shall audit accounts, settle with the township overseer of highways, and transact any other business that may come before it.

58-06-10. Business with board - When to appear. All persons having business to transact with the board of township supervisors shall appear before the board at any regular meeting or file such business with the township clerk to be laid before the board by the township clerk at its next meeting.

CHAPTER 58-07
TOWNSHIP CLERK

58-07-01. Compensation of clerk. The township clerk is entitled to receive as compensation for services up to sixty dollars a day for each day necessarily devoted to the work of the clerk's office not exceeding two thousand dollars in a calendar year. The electors of the township shall establish the daily compensation rate for the township clerk at each annual township meeting. Additional compensation over two thousand dollars may be provided for reimbursement of expenses as provided in section 44-08-04 and for mileage as provided in section 54-06-09 for each mile [1.61 kilometers] necessarily traveled in the performance of the clerk's duties. In those townships in which the offices of township clerk and treasurer have been merged, the individual elected to fill the new office is entitled to receive compensation as township clerk only.

58-07-02. Clerk may appoint deputy - Deputy to take oath. The township clerk may appoint a deputy for whose acts the township clerk is responsible. Before a deputy clerk enters upon the duties of the office, the deputy clerk shall take and subscribe the oath required by the Constitution of North Dakota and shall file the same in the office of the clerk of the district court. In those townships in which the offices of township clerk and treasurer have

been merged, the person elected to fill the new office shall appoint a deputy only after receiving the approval of the board of township supervisors.

58-07-03. Duties of township clerk. The township clerk shall perform the following duties:

1. Act as clerk of the board of township supervisors and keep in the township clerk's office a true record of all of its proceedings.
2. File and safely keep all certificates of oaths and bonds required to be kept in the township clerk's office and all other papers required by law to be filed in that office and have and keep custody of the record books and papers of the township when no other provision is made therefor by law.
3. Enter in the minutes of the proceedings of each township meeting each order or direction and every rule and regulation adopted at such meeting.
4. File and preserve all accounts audited by the township board or allowed at a township meeting and enter a statement thereof in the township record books.
5. File the township clerk's bond in the office of the county auditor and the township clerk's oath and the oath of the deputy clerk, if one is appointed, in the office of the clerk of the district court.
6. Preserve and record the annual statement of the treasurer, except that in those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the new office shall file a copy of the annual treasurer's statement with the chairman of the board of township supervisors.
7. Require all legally elected officers who accept the offices to which they are elected to qualify within the time prescribed by law and in accordance with all other provisions thereof.
8. Make a record of all statements of the remittances of any township funds from the county treasurer to the township treasurer as such statements are mailed to the township clerk by the county treasurer, except that in those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the new office shall make a record of all statements of the remittances of any township funds from the county treasurer to the township treasurer and shall file such statements with the chairman of the board of township supervisors.
9. Keep an account of the township funds in the same manner as is required of the township treasurer, except that in those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the office shall keep an account of the township funds and shall report the balance of such funds to the chairman of the board of township supervisors no less frequently than every sixty days.
10. Perform all duties imposed upon the township clerk under the laws of this state relating to the forming of jury panels.

58-07-04. Penalty for neglect. If a township clerk willfully neglects or refuses to perform any of the duties required of the township clerk under this chapter, that person is guilty of an infraction.

58-07-05. Destruction of township records. After the same have first been offered to the state archivist for preservation as archival resources, the township clerk shall destroy by any suitable means as determined by the board of township supervisors any of the following books, forms, or blanks after the same have become ten years old:

1. Election pollbooks.
2. Election registration books.
3. Petitions of candidates.
4. All election forms, blanks, books, and records of every kind and description except abstracts of votes.
5. Assessment slips.
6. Township board of equalization records.
7. Claims vouchers which have been audited and paid.
8. Certificates of officials' bonds.
9. Insurance policies which have become obsolete.

CHAPTER 58-08
TOWNSHIP TREASURER

58-08-01. Compensation of treasurer. The township treasurer is entitled to receive as compensation for services up to sixty dollars a day for each day necessarily devoted to the work of the treasurer's office not exceeding two thousand dollars in a calendar year. The electors of the township shall establish the daily compensation rate for the township treasurer at each annual township meeting. Additional compensation over two thousand dollars may be provided for reimbursement of expenses as provided in section 44-08-04 and for mileage as provided in section 54-

06-09 for each mile [1.61 kilometers] necessarily traveled in the performance of the treasurer's duties. The township treasurer may not be allowed a percentage on the balance turned over to the treasurer's successor in office.

58-08-02. Duties of treasurer - Form of warrant - Disbursement of funds. The township treasurer shall receive and take charge of all moneys belonging to the township or which by law are 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 and shall perform all such duties as may be required of the township's treasurer by law. Approval of orders or vouchers must be recorded in the record of the board's proceedings and this is sufficient to indicate approval without requiring a majority of the board to sign or initial the voucher or order for payment. The township treasurer shall pay out no township funds except upon the warrant of the board of supervisors signed by the chairman of the board and countersigned by the clerk. The treasurer shall pay all warrants when presented, if properly drawn and signed, and if there is money in the treasurer's hands or subject to the treasurer's order sufficient for payment. The township treasurer may not issue the treasurer's check on the depository bank, but shall countersign the warrant and insert the name of the depository bank thereon, and the warrant, when so countersigned and directed to the depository bank and properly endorsed by the payee, must be paid by the depository. Immediately upon countersigning any warrant, the township treasurer shall enter the payment in the township treasurer's official record.

58-08-03. Treasurer to draw moneys from the county. The township treasurer shall draw from the county treasurer such moneys as have been received by the county treasurer for the use of the township. Upon the receipt of such moneys, the township treasurer shall deliver proper vouchers therefor.

58-08-04. Treasurer to keep account of receipts and disbursements - Deliver books, property, and moneys to successor. Each township treasurer shall keep, in a book provided for that purpose at the expense of the township, a true account of all moneys which the township treasurer receives or disburses by virtue of that office. The township treasurer shall present such account, with the treasurer's vouchers, to the board of township supervisors at its meeting on the second Tuesday in March for adjustment. On demand, the township treasurer shall deliver to the person's successor in office all books and property belonging to the township treasurer's office and the balance of all moneys in that person's hands as treasurer.

58-08-05. Treasurer to make annual statement - Contents - Where filed. The township treasurer shall prepare an annual statement of receipts and disbursements for the period January first to December thirty-first of each year. The statement must include the amount, date, source, and fund credited for each receipt and the amount, date, payee, purpose, and fund debited for each disbursement. The statement must include the beginning and ending balances of moneys held by the township. After the statement has been reviewed at the annual township meeting, it must be filed in the office of the township clerk. If the offices of township clerk and treasurer have been merged, such statement must be filed with the chairman of the board of township supervisors. A duplicate of the statement at the same time must be filed by the township treasurer with the county auditor.

58-08-06. Penalty for neglect of duty - Action to recover forfeiture. Each township treasurer who refuses or neglects to comply with sections 58-08-02 through 58-08-05 shall forfeit not more than two thousand dollars to be recovered in a civil action brought in the district court in the name of the person who prosecutes the action. The amount of the forfeiture must be fixed by the jury, and one-half of the recovery must be paid to the person prosecuting the action, and the remainder of the recovery must be paid to the township of which the delinquent person is or has been treasurer.

58-08-07. Warrant record - Endorsement of warrants not paid. Each township treasurer shall keep a suitable book to be provided at the expense of the township in which the township treasurer shall register serially all township warrants which are presented for payment and which cannot be paid for want of funds. When such warrants are presented to the township treasurer and cannot be paid for want of funds, the township treasurer shall endorse upon the back of each the words "not paid for want of funds", giving the date of such endorsement, and shall sign that person's name to such endorsement as township treasurer. When so endorsed, each warrant must bear interest from that date until it has been called for payment. Such warrants must be paid in the order in which they are presented for payment and registered out of the first moneys that come into the treasurer's hands for such purposes.

58-08-08. Township moneys to be deposited in township name - Penalty. A township treasurer may not deposit, in that person's own name, moneys belonging to the township in any bank, savings bank, trust company, or other fiduciary institution. All township moneys must be deposited in the name of the township and any interest on such moneys must be credited to the township fund. Any person violating any provision of this section is guilty of a class A misdemeanor.

58-09-02. Compensation of assessor. The township assessor is entitled to compensation for services in the sum determined by the board of township supervisors for the time actually and necessarily employed in making and completing the assessment of the township and mileage at a rate not exceeding the allowable mileage rate accepted by the United States internal revenue service for each mile [1.61 kilometers] necessarily traveled in the performance of the duties of office. The compensation must be paid out of the township treasury upon an itemized statement setting forth the actual time spent in the work of assessor, approved by the board of township supervisors.

58-09-03. Assessors - How governed. The township assessor must be governed by, and shall make assessments and returns as provided in, title 57.

CHAPTER 58-10

CONSTABLES office eliminated 1989

CHAPTER 58-11

TOWNSHIP BOARD OF AUDITORS

58-11-01. Township board of auditors - Members - Duties. The board of township supervisors shall constitute a board of auditors for the purpose of auditing all accounts payable by the township. Two members of the board of township supervisors acting as the board of auditors constitute a quorum.

58-11-02. Meetings of board of auditors - When held - Duties. The board of auditors shall meet on the second Tuesday in March and on the second Monday in June in each year and at such other times as it deems necessary and expedient for the purpose of auditing and settling all charges against the township. It shall state on each account the amount allowed by it, but no allowance may be made for any account which does not state specifically each item and the nature thereof.

58-11-03. Auditing accounts of treasurer and other township officers. At its meeting on the second Tuesday of March in each year, the board of auditors shall examine and audit the accounts of the township treasurer for all moneys received and disbursed. At the meeting, the board shall audit the accounts of all other township officers who are authorized to receive or disburse money of the township. If a new treasurer has been elected at the annual meeting, the board of auditors shall audit the final statement of the outgoing treasurer at a meeting on the fourth Tuesday in March.

58-11-04. Board to report accounts audited and allowed and budget for ensuing year. The board of auditors shall make a report stating in detail the items of account audited and allowed, the nature of each account, and the name of the person to whom such account was allowed. It shall also prepare a statement of the fiscal concerns of the township and an estimate of the sum necessary for the current and incidental expenses thereof for the ensuing year.

58-11-05. Report to be read at township meeting - Reference to committee. The report of the board of auditors must be produced and must be read publicly by the township clerk at the next ensuing township meeting, and the whole or any portion of such report may be referred by order of the meeting to a committee whose duty it is to examine the same and report thereon to the meeting.

58-11-06. Treasurer shall pay all orders. The amount of any account audited and allowed by the board of auditors and the amount of any account voted to be allowed at any township meeting must be paid by the township treasurer on the order of the board signed by the chairman and countersigned by the clerk of the township. Approval of any account audited and allowed by the board must be recorded in the record of its proceedings and this is sufficient to indicate approval without requiring a majority of the board to sign or initial the voucher or order for payment. All orders issued to any person by the board for any sum due from such township shall be receivable in payment of the township taxes of such township.

CHAPTER 58-12

TOWNSHIP OVERSEER OF HIGHWAYS

58-12-01. Township overseer of highways - Appointment. The board of township supervisors, at its meeting on the fourth Tuesday in March, shall appoint one township overseer of highways who must be a practical roadbuilder.

58-12-02. Compensation of overseer. The compensation of the overseer must be fixed by the board of township supervisors and must be paid on the presentation of a proper claim at the meeting of the board on the last Tuesday in October.

58-12-03. Duties of the overseer. The township overseer of highways shall:

1. Have direct charge of the construction and maintenance of all township highways and bridges, whether the work done is by contract or day labor.
2. Be responsible for the maintenance of the township highways throughout the entire year.
3. Execute all lawful orders of the board of township supervisors.

58-12-04. Assistant overseers of highways. Upon the recommendation of the overseer, the board of township supervisors may appoint one or more assistant overseers of highways. An assistant overseer shall work under the direction of the overseer and the board of township supervisors.

58-12-05. Township overseer of highways ex officio deputy county superintendent of highways. In counties having a county superintendent of highways, the township overseer of highways is ex officio deputy county superintendent of highways for that township.

58-12-07. Penalty for neglect to perform duties. Every overseer who refuses or neglects to perform any of the duties which are required of the overseer shall forfeit the sum of ten dollars for each such refusal or neglect which is recoverable in a civil action brought by the township and which must be used in making and improving the township roads.

CHAPTER 58-13
POUNDS AND POUNDMASTERS

58-13-01. Poundmaster to have direction of pound. Any pound established by the township electors must be under the care and direction of a poundmaster appointed by the board of township supervisors. If a poundmaster is not appointed, the chairman of the board of township supervisors may contract with the county sheriff to perform the duties. The poundmaster shall enforce the ordinances, bylaws, or resolutions enacted by the board of township supervisors.

58-13-03. Poundmaster - Lien for charges and expenses. The poundmaster has a lien on every animal taken into the pound for the full amount of the poundmaster's actual charges and expenses and is entitled to the possession of any animal until the charges and expenses are paid.

58-13-04. Notice of impoundment - Foreclosure of lien. If the actual charges and expenses of the poundmaster are not paid and the animals are not removed within five days after they are impounded, the poundmaster shall give notice by publication in the official newspaper of the township if one has been designated or, if one has not been designated, in the official newspaper of the county in which the animals are impounded. The notice must provide that unless the animals are removed and the charges and expenses paid within ten days after the date of the notice, the poundmaster shall sell the animals at a public sale, as provided in the notice. On the day designated in the notice, the poundmaster shall expose the animals for sale and sell them to the highest bidder.

58-13-05. Humane treatment of animals - Poundmaster may destroy worthless animals. The poundmaster shall provide humane treatment and care for any animal in the pound. If any animal taken up by the poundmaster is deemed by the poundmaster to be worthless and cannot be sold, the poundmaster may offer the animal for adoption. If after five days the animal has not been adopted, the poundmaster shall destroy the animal and dispose of it. The board of township supervisors shall pay the poundmaster out of the general fund of the township.

58-13-06. Disposition of proceeds of sale. Out of the money realized from the sale of any impounded animals, the poundmaster shall deduct all of the poundmaster's legal fees and charges and shall deliver the balance, if any, to the chairman of the board of township supervisors, with an accurate description of the animals sold and the amount received by the poundmaster for each animal. The board of township supervisors shall give the poundmaster a receipt in duplicate for the money paid to it and the poundmaster shall file one of the receipts with the township clerk. The board, at any time within six months after the sale of the animals and upon sufficient proof from the owner of any animal sold, shall pay to the owner the amount received from the poundmaster. If the money is not claimed within six months after the sale, the sum received must be retained for the use of the township.

58-13-07. Pounds may be established in unorganized or dissolved townships. Upon the petition of a majority of the qualified electors of an unorganized township or a township dissolved as a civil township, the board of county commissioners shall have the same power to establish and regulate pounds as the qualified electors and supervisors of an organized township.

58-13-08. Immunity from liability. A poundmaster or an agent of the poundmaster who has custody of an animal under this chapter, is acting in an official capacity, and making a good-faith effort to comply with this chapter is immune from any civil or criminal liability for acts taken or omitted while attempting to comply with this chapter.

58-13-09. Estray - Notification of North Dakota stockmen's association. If the poundmaster comes into possession of any animal that the poundmaster believes is an estray, the poundmaster shall contact the brand inspector and deliver or arrange for the delivery of the animal to a licensed livestock auction market. The brand inspector shall provide for the disposition of the animal under chapter 36-22. The poundmaster may recover charges and expenses for the delivery of the estray.

CHAPTER 58-14
SUITS BY AND AGAINST TOWNSHIPS

58-14-01. Action by or against township - Procedure - Effect and judgment. Whenever any controversy or claim for relief exists between townships or between a township and a person, a civil action may be commenced and prosecuted for the purpose of trying and determining the controversy. The action must be conducted as any other action or proceeding of a similar kind is conducted.

58-14-02. Township to sue and be sued in its name. In all actions and proceedings, the township shall sue and be sued in its name.

58-14-03. Supervisors of township to provide for defense. When a township is sued, the member of the board of township supervisors upon whom service of process is made shall call a special meeting of the board within six days after service. At the special meeting, the board shall provide for the defense of the action and employ counsel for that purpose. The expense of the defense must be audited by the board and paid out of any unappropriated funds in the township treasury.

58-14-05. Recovery in cases of trespass. If it appears, on the trial of an action brought by a township to recover a penalty imposed for trespass committed on township lands, that the actual amount of injury to the township lands exceeds the sum of twelve dollars and fifty cents, the amount of actual damage with costs of the suit must be recovered in such action instead of the penalty imposed by the township bylaws. Such recovery is a bar to all other actions for the same trespass.

58-14-06. Payment of judgment against township. When a judgment is recovered against any township, an execution may not be issued upon the judgment, but the judgment, unless reversed or stayed on appeal, must be paid by the township treasurer upon demand and the delivery to the township treasurer of a certified copy of the docket of the judgment if there is sufficient money of the township in the treasurer's hands not otherwise appropriated. If the treasurer, after having been ordered to pay such judgment by the board of township supervisors, fails to pay it when there is sufficient unappropriated money on hand with which to do so, the township treasurer personally is liable for the amount unless collection thereof afterwards is stayed upon appeal.

58-14-07. When judgment against township is not satisfied supervisors to make levy. When a certified copy of an unsatisfied final judgment entered against a township is presented to the annual meeting of the township, the board of township supervisors shall make a levy in an amount sufficient to pay such judgment and shall certify the levy to the county auditor for computation and collection as other township taxes are levied and collected.

58-14-08. When execution may issue on judgment against township. If the township makes a levy for the payment of a judgment, the moneys derived from such levy shall be used for no other purpose. If the amount received by the township treasurer from the county treasurer on such levy is not paid upon such judgment within thirty days after its receipt, execution may be issued, but only township property is subject to levy.

CHAPTER 58-16
SIDEWALKS AND STREETLIGHTS IN UNINCORPORATED TOWNSITE

58-16-01. Petition for construction of sidewalks or installation of streetlights in unincorporated townsites - Contents - Ordering construction or installation. When a majority of the lot owners on any street in any block within the platted limits of an unincorporated townsite shall petition the board of supervisors of the township in which the unincorporated townsite, or the greater portion thereof, is situated, praying that a sidewalk be constructed or streetlights be installed along the side of a street or thoroughfare within the platted limits described in the petition, the board, by resolution, shall order the construction of the sidewalk or a portion thereof by the owner of the land along which the sidewalk is to be built, if it appears that the sidewalk described and prayed for in the petition is necessary to connect sidewalks already built or that public convenience and necessity require its construction, and shall order and make all necessary contracts and arrangements for the installation of streetlights if the public convenience or necessity require the installation.

58-16-02. Notice to owner to construct sidewalk - Failure to construct. Two publications of the resolution provided in section 58-16-01 in a paper printed or published in the unincorporated townsite are sufficient notice to the owner of the land along which the sidewalk is to be built to construct the same. If no newspaper is published in the

unincorporated townsite, the resolution must be published in a newspaper in the municipality nearest to the unincorporated townsite. If the owner fails to construct a fully completed sidewalk within thirty days after the last publication of the resolution, the board of township supervisors shall cause such portion of the sidewalk as has not been built by the owners of the lands to be built at the expense of the owners upon contract or in such manner as the board may determine.

58-16-03. Assessment and levy upon property - Form. The board of township supervisors shall assess and levy upon each lot or parcel of land along which the sidewalk has been built by the township a sum sufficient to cover the cost of the construction thereof and shall assess and levy against each lot or parcel of land benefited by the installation of streetlights by the township. The assessment must be in substantially the following form:

The board of supervisors of the township of _____ assesses upon and levies against the several parcels of land hereinafter described the respective sums of money set against each lot or parcel. This assessment is made to defray the cost of a _____ sidewalk or streetlights along the _____ side of _____ to _____ in accordance with the resolution of the board of township supervisors passed on _____, _____, and duly published in _____ on _____, _____. The amount assessed against and levied upon each lot or parcel being the amount that it cost to construct or reconstruct the sidewalk along and fronting upon the same lot or parcel of land. When streetlights are installed the cost of the installation must be assessed and levied against all lots or parcels of land that benefit from the streetlights.

_____

Description

Name of Owner, if known of land Amount

_____

Lot Block Dollars Cents

_____

Done at a meeting of the board of supervisors of the township of _____ on _____, _____.

_____

Chairman

Attest:

_____

Township Clerk

58-16-04. Petition for repair or reconstruction of a sidewalk or streetlights – Procedure followed. If the petition described in section 58-16-01 prays for the repair or reconstruction of a sidewalk or streetlights, the same procedure must be had as is prescribed for the construction of new sidewalks or streetlights.

58-16-05. Township supervisors to prescribe material for construction or repair of sidewalks or streetlights and the type of light fixture to be used. The board of township supervisors shall prescribe the material of which the sidewalks must be constructed or with which they must be repaired, or the type of light fixture or equipment used or with which they must be prepared. Whenever a sidewalk to be constructed as provided in this chapter connects sidewalks already in existence, the new sidewalk must be constructed, as nearly as practicable, of the same material as the sidewalks which it connects.

CHAPTER 58-17
TOWNSHIP PARKS

58-17-01. Townships - Authority to acquire, operate, and regulate parks. Any township may acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate, and police any park either within or without the geographic limits of such township and may use for such purposes any available property owned or controlled or occupied for the purpose or purposes enumerated in this chapter. Any such park must be declared to be acquired, owned, leased, controlled, or occupied for a public purpose in accordance with public need.

58-17-02. Townships - Parks - Tax levy for park purposes. In townships supporting parks, funding may be provided from revenues derived from the general fund levy authority of the township for park purposes.

58-17-03. Townships - Parks - Tax levy may be certified by board of supervisors. The board of township supervisors may certify annually to the county auditor the amount of tax to be levied by such township for park purposes in the same manner as provided by law for other township levies. The proceeds of such taxes must be deposited in a special fund or account into which other park revenues of the township are deposited and may be expended by the township only for park purposes.

CHAPTER 58-18
SPECIAL ASSESSMENTS BY TOWNSHIP

58-18-01. Power of townships to defray expenses of improvements by special assessment. A township, upon complying with the provisions of this chapter, may defray the expenses of improvements through special assessment districts.

58-18-02. Improvement districts to be created. For the purpose of making an improvement project and defraying the cost by special assessment, a board of township supervisors may create an improvement district upon petition of sixty percent of the freeholders in a proposed improvement district area. The improvement district must be designated by a name appropriate to the type of improvement and by a number distinguishing it from other improvement districts.

58-18-03. Size and form of improvement districts. Each improvement district must be of such size and form as to include all properties, which in the judgment of the board of township supervisors will be benefited by the construction of the improvement project that is proposed to be made in or for the district.

58-18-04. Approval of plans, specifications, and cost estimates - Special meeting. After an improvement district has been created, the board of township supervisors shall direct a competent engineer to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement and an estimate of the probable cost of the work. The board of township supervisors shall provide thirty days' written notice by first-class mail to each freeholder within the improvement district at the address shown on the records of the county treasurer and shall publish a notice in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper at least ten days prior to a special meeting for public disclosure of the findings of the engineer.

58-18-05. Election for proceeding. At the special township meeting for public disclosure of the findings of the engineer, the freeholders of the township in attendance are entitled to vote on the question of whether to proceed with the improvement project. Upon approval by sixty percent or more of the votes cast at the meeting or votes filed with the township clerk within fifteen days after the meeting, the improvement project may proceed. A freeholder affected by the project is entitled to one vote for each dollar of the proposed special assessment against the freeholder's property within the proposed improvement district. If there is more than one owner of a parcel of property, the votes available for the parcel must be prorated among the owners in accordance with each owner's percentage interest in the property. If fewer than sixty percent of the votes cast or filed on the question approve the project, the election result is a bar against proceeding further with the improvement project described in the plans and specifications. An election result barring proceeding further with the improvement project does not preclude the payment of any costs incurred in developing the plans, specifications, cost estimates, or other costs which must be paid from the general fund of the township. If the costs incurred pose a financial burden on the general levy of a township of forty percent or more, the board of township supervisors may levy and collect assessments from the improvement district in yearly assessments not exceeding five years. If under forty percent, the township may use methods approved by law.

58-18-06. Election approval of project - Assessment levy. If the election under this chapter results in approval of a project, the board of township supervisors may cause the improvement to be made and may levy and collect assessments from the improvement district.

58-18-07. Appeal notice - Special meeting - Assessment determination - Limitations. Any aggrieved freeholder may appeal the special assessment against the freeholder's real property by providing the township clerk a written notice of appeal, stating the grounds upon which the appeal is based, within twenty days after the special township meeting. The clerk shall notify the township board of supervisors of the appeal and schedule a special

meeting to hear the appeals by publishing a notice of the special meeting at least ten days before the meeting in a legal newspaper published in the township or, if no such newspaper exists, in the county's official newspaper. Any aggrieved freeholder who submitted an appeal may be heard and may present reasons to change the freeholder's assessment at the special meeting. The board of township supervisors may hear the appeals and reasons and may increase or diminish any of the assessments as it may deem just, providing that the total amount of the assessments may not be changed and an assessment as adjusted may not exceed the benefits to the parcel of land on which it is assessed.

58-18-08. Financing of special improvements - Procedure.
When it is proposed to finance in whole or in part the construction of a project with funds raised through the collection of special assessments, the township has the authority granted to municipalities in chapters 40-22, 40-23, 40-23.1, 40-24, 40-25, 40-26, 40-27, and 40-28, and the township shall comply with the provisions of those chapters regarding the issuance and sale of warrants and bonds for financing improvements. Whenever action is required of city officials in those chapters, the comparable township officials shall take the action.

TITLE 61
WATERS

CHAPTER 61-01
GENERAL PROVISIONS

61-01-01. Waters of the state - Public waters. All waters within the limits of the state from the following sources of water supply belong to the public and are subject to appropriation for beneficial use and the right to the use of these waters for such use must be acquired pursuant to chapter 61-04:

1. Waters on the surface of the earth, excluding diffused surface waters but including surface waters whether flowing in well-defined channels or flowing through lakes, ponds, or marshes which constitute integral parts of a stream system, or waters in lakes;
2. Waters under the surface of the earth whether such waters flow in defined subterranean channels or are diffused percolating underground water;
3. All residual waters resulting from beneficial use, and all waters artificially drained; and
4. All waters, excluding privately owned waters, in areas determined by the department of water resources to be noncontributing drainage areas. A noncontributing drainage area is any area that does not contribute natural flowing surface water to a natural stream or watercourse at an average frequency more often than once in three years over the latest thirty-year period.

61-01-06. Watercourse - Definition. A watercourse entitled to the protection of the law is constituted if there is a sufficient natural and accustomed flow of water to form and maintain a distinct and a defined channel. The supply of water is not required to be continuous or from a perennial living source. The criteria for constituting a watercourse are satisfied if the flow arises periodically from natural causes and reaches a plainly defined channel of a permanent character. If requested by a water resource board, the department of water resources shall determine whether a watercourse is constituted.

61-01-07. Obstruction of watercourses - Penalty. If any person illegally obstructs any ditch, drain, or watercourse, or diverts the water therein from its natural or artificial course, the person is liable to the party suffering injury from the obstruction or diversion for the full amount of the damage done, and, in addition, is guilty of a class B misdemeanor.

CHAPTER 61-02
WATER COMMISSION

61-02-14. Powers and duties of the commission. The commission shall have full and complete power, authority, and general jurisdiction:

1. To investigate, plan, regulate, undertake, construct, establish, maintain, control, operate, and supervise all works, dams, and projects, public and private, which in its judgment may be necessary or advisable.
   l. To provide for the drainage of lands injured by or susceptible of injury from excessive rainfall or from the utilization of irrigation water, and subject to the limitations prescribed by law, to aid and cooperate with the United States and any department, agency, or officer thereof, and with any county, township, drainage district, or irrigation district of this state, or of other states, in the construction or improvement of such drains.:

61-02-24.1. Cooperation and participation of political subdivisions. All political subdivisions, including counties, townships, cities, park districts, and water resource districts may separately or jointly with other political subdivisions, the state of North Dakota through the commission or federal departments or agencies, investigate, plan, and do all things necessary for participating in or undertaking underground or surface water surveys, development, construction, reconstruction, and maintenance of works, dams, and projects for the beneficial utilization and control of water resources, and may enter into contracts with the commission to pay rents, charges, or other payments for the use of works of the commission.

CHAPTER 61-14
GENERAL RULES GOVERNING IRRIGATION

61-14-16. Willfully allowing water to flow or fall upon roadway prohibited - Penalty. No person may place, erect, or operate a sprinkler irrigation system, center pivot irrigation system, or other irrigation works or equipment upon or across any highway, street, or road or in such a manner as to willfully allow water from the irrigation works or equipment to flow or fall upon any highway, street, or road. This section does not apply to the transportation of irrigation works or equipment upon a highway, street, or road. A person violating this section is guilty of an infraction.

CHAPTER 61-16.1
OPERATION OF WATER RESOURCE DISTRICTS

61-16.1-09. Powers of water resource board. Each water resource board shall have the power and authority to:

1. Sue and be sued in the name of the district.
2. Exercise the power of eminent domain as follows:
   a. Except as permitted under subdivision b, the board shall comply with title 32 for the purpose of acquiring and securing by eminent domain any rights, titles, interests, estates, or easements necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of dams, flood control projects, and other water conservation, distribution, and supply works of any nature and to permit the flooding of lands, and to secure the right of access to such dams and other devices and the right of public access to any waters impounded thereby.
   b. (1) If the interest sought to be acquired is an easement for a right of way for any project authorized in this chapter for which federal or state funds have been made available, the district may acquire the right of way by quick take eminent domain as authorized by section 16 of article I of the Constitution of North Dakota, after the district attempts to purchase the easement for the right of way by:
      (a) Conducting informal negotiations for not less than sixty days.
      (b) If informal negotiations fail, the district shall engage in formal negotiations by:
         [1] Sending the landowner an appraisal and written offer for just compensation, which includes a specific description of the exact location of the right of way, by certified mail or commercial delivery requiring a signed receipt, and receiving the signed receipt or documentation of constructive notice.
         [2] Sending the landowner a written request for a meeting by certified mail or commercial delivery requiring a signed receipt if there is no agreement regarding compensation or no response to the written offer within fifteen days of receipt, and receiving the signed receipt or documentation of constructive notice.
         [3] Sending the landowner a written notice, by certified mail or commercial delivery requiring a signed receipt, of intent to take possession of the right of way if there is no agreement regarding compensation or no response to the written request for a meeting within thirty days of receipt, and receiving the signed receipt or documentation of constructive notice.

   (2) Any written communication to the landowner must include contact information for responding to the board and a description of the required negotiation timeline.

   (3) A district may not include or utilize any reference to quick take eminent domain during negotiations to acquire the necessary easement for a right of way. If formal negotiation efforts fail, the district shall request approval from the board of county commissioners of the county in which the right of way is located to take possession of the right of way by quick take eminent domain. After receiving the request, the county commissioners shall hold a public meeting and give the landowner thirty days' notice of the meeting to allow the landowner to attend. After receiving verification from the district that there has been no reference or threat of quick take eminent domain by the district

during negotiations, the commissioners shall vote on whether to approve the taking of the easement for a right of way using quick take eminent domain. If the county commissioners approve the use of quick take eminent domain by a majority vote, the district may take immediate possession of the right of way, but not a blanket easement, if the district files an affidavit by the chairman of the water resource board which states the district has fulfilled the required negotiation steps and deposits the amount of the written offer with the clerk of the district court of the county in which the right of way is located.

(4) Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the acquiring agency, and the matter must be tried at the next regular or special term of court with a jury unless a jury be waived, in the manner prescribed for trials under chapter 32-15.

(5) If ownership of a right of way has not terminated, ownership of a right of way acquired under this subdivision terminates automatically when the district no longer needs the right of way for the purpose for which it was acquired.

3. Accept funds and property or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purposes of aiding the construction or maintenance of water conservation, distribution, and flood control projects; and cooperate and contract with the state or federal government, or any department or agency thereof, or any municipality within the district, in furnishing assurances and meeting local cooperation requirements of any project involving control, conservation, distribution, and use of water.
4. Procure the services of engineers and other technical experts, and employ an attorney or attorneys to assist, advise, and act for it in its proceedings.
5. Plan, locate, relocate, construct, reconstruct, modify, maintain, repair, and control all dams and water conservation and management devices of every nature and water channels, and to control and regulate the same and all reservoirs, artificial lakes, and other water storage devices within the district.
6. Maintain and control the water levels and the flow of water in the bodies of water and streams involved in water conservation and flood control projects within the district and regulate streams, channels, or watercourses and the flow of water therein by changing, widening, deepening, or straightening the same, or otherwise improving the use and capacity thereof.
7. Regulate and control water for the prevention of floods and flood damages by deepening, widening, straightening, or diking the channels or floodplains of any stream or watercourse within the district, and construct reservoirs or other structures to impound and regulate such waters.
8. Make rules and regulations concerning the management, control, regulation, and conservation of waters and prevent the pollution, contamination, or other misuse of the water resources, streams, or bodies of water included within the district.
9. Do all things reasonably necessary and proper to preserve the benefits to be derived from the conservation, control, and regulation of the water resources of this state.
10. Construct, operate, and maintain recreational facilities, including beaches, swimming areas, boat docking and landing facilities, toilets, wells, picnic tables, trash receptacles, and parking areas, and to establish and enforce rules and regulations for the use thereof.
11. Have, in addition to any powers provided in this chapter, the authority to construct an assessment drain in accordance with the procedures and provisions of chapter 61-21.
12. Acquire by lease, purchase, gift, condemnation, or other lawful means and to hold in its corporate name for its use and control both real and personal property and easements and rights of way within or without the limits of the district for all purposes authorized by law or necessary to the exercise of any other stated power.
13. Convey, sell, dispose of, or lease personal and real property of the district as provided by this chapter.
14. Authorize and issue warrants to finance construction of water conservation and flood control projects, assess benefited property for part or all of the cost of such projects, and require appropriations and tax levies to maintain sinking funds for construction warrants on a cash basis at all times.
15. Borrow money within the limitations imposed by this chapter for projects herein authorized and pledge security for the repayment of such loans.
16. Order or initiate appropriate legal action to compel the entity responsible for the maintenance and repair of any bridge or culvert to remove from under, within, and around such bridge or culvert all dirt, rocks, weeds, brush, shrubbery, other debris, and any artificial block which hinders or decreases the flow of water through such bridge or culvert.

17. Order or initiate appropriate legal action to compel the cessation of the destruction of native woodland bordering within two hundred feet [60.96 meters] of that portion of a riverbank subject to overflow flooding that will cause extensive property damage, or in the alternative, order, that, if such destruction is permitted, the party or parties responsible for the destruction must, when the board has determined that such destruction will cause excessive property damage from overflow flooding due to the erosion or blocking of the river channel, plant a shelterbelt which meets the specifications of the board. In the event the native woodland within such area has already been destroyed, the board may, in its discretion, order the planting of a shelterbelt which, in the judgment of the board, will curtail the erosion or blocking of such river channel where overflow flooding has caused extensive property damage. For purposes of this subsection, the words "riverbank" and "river channel" relate to rivers as defined in the United States geological survey base map of North Dakota, edition of 1963. The provisions of this subsection shall not be construed to limit, impair, or abrogate the rights, powers, duties, or functions of any federal, state, or local entity to construct and maintain any flood control, irrigation, recreational, or municipal or industrial water supply project.
18. Petition any zoning authority established pursuant to chapter 11-33, 11-35, or 40-47 or section 58-03-13 to assume jurisdiction over a floodplain for zoning purposes when such zoning is required to regulate and enforce the placement, erection, construction, reconstruction, repair, and use of buildings and structures to protect and promote the health, safety, and general welfare of the public within a floodplain area. In the event such zoning authority fails to act or does not exist, the board may request the state water commission to assist it in a study to determine and delineate the floodplain area. Upon completion of such study, the board shall make suitable recommendations for the establishment of a floodplain zone to all zoning authorities and the governing bodies of all political subdivisions having jurisdiction within the floodplain area.
19. Plan, locate, relocate, construct, reconstruct, modify, extend, improve, operate, maintain, and repair sanitary and storm sewer systems, or combinations thereof, including sewage and water treatment plants, and regulate the quantity of sewage effluent discharged from municipal lagoons; and contract with the United States government, or any department or agency thereof, or any private or public corporation or limited liability company, the government of this state, or any department, agency, or political subdivision thereof, or any municipality or person with respect to any such systems.
20. Develop water supply systems, store and transport water, and provide, contract for, and furnish water service for domestic, municipal, and rural water purposes, irrigation, milling, manufacturing, mining, metallurgical, and any and all other beneficial uses, and fix the terms and rates therefor. Each district may acquire, construct, operate, and maintain dams, reservoirs, ground water storage areas, canals, conduits, pipelines, tunnels, and any and all works, facilities, improvements, and property necessary therefor.
21. Coordinate proposals for installation, modification, or construction of culverts and bridges in an effort to achieve appropriate sizing and maximum consistency of road openings. The department of transportation, railroads, counties, and townships shall cooperate with the districts in this effort. Each district shall also consider the possibility of incorporating appropriate water control structures, where appropriate, as a part of such road openings.
22. Plug abandoned water wells and participate in cost-sharing arrangements with water well owners to plug water wells to protect aquifers from pollution or depletion, maintain pressure, and prevent damage to surrounding property.
23. Have, in addition to any powers provided in this chapter, the authority to conduct weather modification operations in accordance with the procedures and provisions of chapter 61-04.1.

61-16.1-09.1. Watercourses, bridges, and low-water crossings.

1. A water resource board may undertake the snagging, clearing, and maintaining of natural watercourses and the debrisment of bridges and low-water crossings. The board may finance the project in whole or in part with funds raised through the collection of a special assessment levied against the land and premises benefited by the project. The benefits of a project must be determined in the manner provided in section 61-16.1-17. Revenue from an assessment under this section may not be used for construction of a drain or reconstruction or maintenance of an existing assessment drain. Any question as to whether the board is maintaining a natural watercourse or is constructing a drain or reconstructing or maintaining an existing assessment drain must be resolved by the department of water resources. All provisions of this chapter apply to assessments levied under this section except:
   a. An assessment may not exceed fifty cents per acre [.40 hectare] annually on agricultural lands and may not exceed fifty cents annually for each five hundred dollars of taxable valuation of nonagricultural property; and
   b. If the assessment is for a project costing less than one hundred thousand dollars, no action is required for the establishment of the assessment district or the assessments except the board must approve the

project and assessment by a vote of two-thirds of the members and the board of county commissioners of the county in which the project is located must approve and levy the assessments to be made by a vote of two-thirds of its members.

(1) If a board that undertakes a project finds the project will benefit lands outside water resource district boundaries, the board shall provide notice to the water resource board where the benefited lands are located together with the report prepared under section 61-16.1-17.

(2) The board of each water resource district containing lands benefited by a project must approve the project and assessment by a vote of two-thirds of its members. The board of county commissioners in each county that contains lands benefited by a project must approve and levy the assessment to be made by a vote of two-thirds of its members.

(3) If a project and assessment is not approved by all affected water resource boards and county commission boards, the board of each water resource district and the board of county commissioners of each county shall meet to ensure all common water management problems are resolved pursuant to section 61-16.1-10. In addition, the water resource board that undertakes the project may proceed with the project if the board finances the cost of the project and does not assess land outside the boundaries of the district.

c. All revenue from an assessment under this section must be exhausted before a subsequent assessment covering any portion of lands subject to a prior assessment may be levied.

2. Before an assessment may be levied under this section, a public hearing must be held and attended by a quorum of the affected water resource boards and a quorum of the affected boards of county commissioners. The hearing must be preceded by notice as to date, time, location, and subject matter published in the official newspaper in the county or counties in which the proposed assessment is to be levied. The notice must be published at least ten days but not more than thirty days before the public hearing.

61-16.1-10. Responsibilities and duties of water resource board. Each water resource board shall:

1. Meet jointly with other water resource boards within a common river basin at least twice each year at times and places as mutually agreed upon for the purpose of reviewing and coordinating efforts for the maximum benefit of the entire river basin.
2. Cooperate with other water resource boards of a common river basin and provide mutual assistance to the maximum extent possible.
3. Exercise jointly with other water resource districts within a river basin to effectively resolve the significant and common water resource management problem or problems of the river basin or region and to jointly develop a comprehensive plan for the river basin or region.
4. Encourage all landowners to retain water on the land to the maximum extent possible in accordance with sound water management policies, and carry out to the maximum extent possible the water management policy that upstream landowners and districts that have artificially altered the hydrologic scheme must share with downstream landowners the responsibility of providing for proper management and control of surface waters.
5. Address and consider fully in the planning of any surface water project the downstream impacts caused by the project. A determination of whether to proceed with the construction of a project shall be based on the following principles:
   a. Reasonable necessity of the project.
   b. Reasonable care to be taken to avoid unnecessary injury by fully considering all alternatives.
   c. Consideration of whether the utility or benefit accruing from the project reasonably outweighs the adverse impacts resulting from the project.
6. Require that appropriate easements be obtained in accordance with applicable state and federal law when projects will cause an adverse impact to lands of other landowners.

61-16.1-11. Joint exercise of powers.

1. Two or more districts may, by agreement, jointly or cooperatively exercise any power which is authorized a board by this title. The agreement shall state its purpose and the powers to be exercised, and shall provide for the method by which the power or powers shall be exercised. When the agreement provides for the use of a joint water resource board, the joint board shall be representative of the boards which are parties to the agreement. Notwithstanding other provisions of law, the agreement may specify the number, composition, terms, or qualifications of the members of the joint board. A joint board created under this section is a political subdivision of the state.

2. The districts which are parties to such an agreement may provide for disbursements from their individual budgets to carry out the purpose of the agreement. In addition, a joint board established pursuant to this section may adopt, by resolution, on or before July first of each year, a budget showing estimated expenses for the ensuing fiscal year and the proposed contributions of each member district as determined by the agreement. The boards of the member districts then shall levy by resolution a tax not to exceed two mills upon the taxable valuation of the real property within each district within the river basin or region subject to the joint agreement. The levy may be in excess of any other levy authorized for a district.
3. The proceeds of one-half of this levy shall be credited to the joint board's administrative fund and shall be used for regulatory activities and for the construction and maintenance of projects of common benefit to the member districts. The remainder shall be credited to the construction funds of the joint board and shall be used for the construction and maintenance of projects of common benefit to more than one district.
4. Funds may be paid to and disbursed by the joint board as agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by individual districts. Contracts let and purchases made under the agreements shall conform to the requirements applicable to contracts and purchases by individual districts. The joint board shall be accountable for all funds and reports of all receipts and disbursements to the state water commission in a manner prescribed by the commission.
5. The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms. The agreement shall provide for the disposition of any property required as the result of a joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting districts after the purpose of the agreement has been completed.
6. Residence requirements for holding office in a district shall not apply to any officer appointed to carry out any agreement.
7. This section does not dispense with procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.

61-16.1-12. Scope of water resource board's extraterritorial contractual authority - Board may acquire property in adjoining states and provinces. A water resource board shall have the right, power, and authority to enter into contracts or other arrangements for water conservation, water supply, flood control, or other authorized projects with the United States government or any department thereof, with the Canadian government or any department thereof or any of its provinces or municipalities, with persons, railroads, other corporations, or limited liability companies, with public corporations, and state governments of this or other states, with drainage, water resource, conservation, conservancy, or improvement districts, or other such districts in this or other states. Such contracts or arrangements can provide for cooperation or assistance in planning, constructing, maintaining, and operating such projects and in making investigations and reports thereon, and for the carrying out of any other provision of this chapter. A water resource board may purchase, lease, or acquire land or other property in adjoining states or provinces to secure outlets to construct and maintain dikes or dams, or for other purposes authorized by this chapter and may let contracts or spend money for securing such outlets or works in adjoining states or provinces. No water resource board of any district shall have the right, power, or authority to connect boundary waters having different natural outlets by artificial means so that the waters of one may be discharged into the other.

61-16.1-20. Voting right or powers of landowners. In order that there may be a fair relation between the amount of liability for assessments and the power of objecting to the establishment of a proposed project, the voting rights of affected landowners on the question of establishing the project are as provided in this section. The landowner or landowners of tracts of land affected by the project have one vote for each dollar of assessment that the land is subject to or one vote for each dollar of the assessed valuation of land condemned for the project, as determined in accordance with title 57. The governing body of any county, township, or city to be assessed also has one vote for each dollar of assessment against such county, township, or city. There may be only one vote for each dollar of assessment, regardless of the number of owners of such tract of land. Where more than one owner of such land exists, the votes must be prorated among them in accordance with each owner's property interest. A written power of attorney authorizes an agent to protest a project on behalf of any affected landowner or landowners.

Title 63
Weeds

CHAPTER 63-05
CUTTING WEEDS AND GRASSES ON HIGHWAYS

63-05-01. Landowners or operators along county and township highways to cut weeds and grasses. It is the duty of landowners or operators with land adjoining regularly traveled county and township highways, as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways, to cut all weeds and grasses along the regularly traveled highways adjoining their lands, including weeds and grasses growing within the public right of way bordering the highways and their lands. The cutting shall be completed not later than September fifteenth or October first, as prescribed by the board of county commissioners. The board of county commissioners may also, if necessary, require an additional cutting be completed by August first.

63-05-02. Designation of time for cutting - Notice. The board of county commissioners of each county shall prescribe the time for cutting of the weeds and grasses, prescribe the height of stubble to be left and the minimum width of the cuts, designate the county highways along which weeds and grasses shall be cut, and request the board of township supervisors to designate township roads along which weeds and grasses shall be cut. The board of township supervisors shall make the designation, and the board of county commissioners shall publish notice of the designated highways, the time for cutting, and the height of stubble to be left and the minimum width of cut in the official county newspaper at least twice, and the last publication must appear not less than two weeks prior to the deadline date. If no official newspaper is published in the county, written notice must be given by posting, in the same manner as election notices are posted. Expenses incurred in publishing the notice must be paid from funds provided in section 63-01.1-06 by the board of county commissioners.

63-05-03. Failure to cut weeds and grasses - Expenses levied as taxes against land. If the landowner or operator fails to cut the weeds and grasses along the designated highways or roads as provided in this chapter, the board of township supervisors or the board of county commissioners, as the case may be, may cause the weeds and grasses to be cut and the actual expense of cutting shall be certified to the county auditor, and all of the expenses shall be charged against the land of the landowner and shall become a part of the taxes to be levied against the land for the ensuing year and shall be collected in the same manner as other real estate taxes are collected, and placed to the credit of the respective subdivisions entitled thereto.

63-05-04. Definition of operator. As used in this chapter, the word "operator" means a person chiefly responsible for the farming or other operations being performed on the land, whether for that person's own benefit or for the benefit of the landowner or another.

Title 65
Workforce Safety and Insurance

CHAPTER 65-04
THE FUND AND PREMIUM PAYMENTS THERETO

65-04-33. Failure to secure coverage - Noncompliance - Failure to submit necessary reports - Penalty.

5. An employer who fails or refuses to furnish to the organization the annual payroll report and estimate or who fails or refuses to furnish other information required by the organization under this chapter is subject to a penalty established by the organization of two thousand dollars. Upon the request of the organization, the employer shall furnish the organization any of that employer's payroll records, annual payroll reports, and other information required by the organization under this chapter and an estimate of payroll for the advance premium year. If the employer fails or refuses to provide the records within thirty days of a written request from the organization, the employer is subject to a penalty not to exceed one hundred dollars for each day until the organization receives the records, in addition to the five thousand dollar penalty set forth in subsection 4. The organization may not assess a penalty that exceeds one hundred fifty dollars under this subsection against an organized township. The organization may reduce penalties for employers under this subsection. However, an employer may not appeal an organization decision not to reduce a penalty. The organization shall notify an employer by regular mail of the amount of premium and penalty due the organization from the employer. If the employer fails to pay that amount within thirty days, the organization may collect the premium, penalties, and interest due by civil action. In that action, the court may not review or consider the action of the organization regarding the acceptance or payment of

a claim filed when the employer was uninsured. No exemptions except absolute exemptions under section 28-22-02 are allowed against any levy under executions pursuant to a judgment recovered in the action.

CHAPTER 65-07
EMPLOYER'S COVERAGE

65-07-03. Determination of weekly wage for premium purposes. If the organization enters a contract for insurance under this chapter, the premium for the protection must be based on:

1. The amount of money derived on an annual basis from the business of an employer or self-employed person as outlined in subdivision b of subsection 5 of section 65-01-02 for purposes of determining the premium for coverage of an employer, an employer's spouse, or a self-employed person. This amount may not be less than the limited payroll required to be reported for an employee in subsection 1 of section 65-04-04.2.
2. A reasonable wage or fee as determined by the organization for employees in the same class of industry that the volunteer organization is engaged.
3. Actual wages paid to a clerk, an assessor, a treasurer, or a member of the board of supervisors of an organized township, if the contract for insurance is to provide protection for a person mentioned in this subsection and that person is not employed by the township in any other capacity.
4. Actual wages paid to an employer's child if that child is under the age of twenty-two.

ADMINISTRATIVE RULES

ARTICLE 84-03

TOWNSHIP ROAD FUND DISTRIBUTION

Chapter
84-03-01
Distribution to Townships

CHAPTER 84-03-01
DISTRIBUTION TO TOWNSHIPS

Section
84-03-01-01 Township Road Defined

84-03-01-01. Township road defined.

A township road, for purposes of the administration of North Dakota Century Code section 57-50-01, is a public road established pursuant to North Dakota Century Code chapter 24-07 which is an improved road, constructed, maintained, graded, and drained by the township, or county in the case of an unorganized township. A township road includes a street in an unincorporated townsite and does not necessarily have to be surfaced. A sodded road is not a township road. In order for a section line to be a township road it must be graded and drained and be an improved maintained road. A township road is a public road which is not designated as part of a county, state, or federal-aid road system and is not located in an incorporated city.

History: Effective June 1, 1982.
General Authority: NDCC 54-27-19.1
Law Implemented: NDCC 54-27-19.1

ARTICLE 89-14

PUBLIC HIGHWAY STREAM CROSSINGS

Chapter
89-14-01
89-14-01 Stream Crossing Design

CHAPTER 89-14-01
STREAM CROSSING DESIGN

Section
89-14-01-01 Standards
89-14-01-02 Definitions
89-14-01-03 Design Flood Frequency
89-14-01-04 Floodplain Consideration - Upstream Development
89-14-01-05 Allowable Headwater
89-14-01-06 Deviations

89-14-01-01. Standards.

Except as provided in section 89-14-01-06, all highways constructed or reconstructed by the department of transportation, board of county commissioners, board of township supervisors, their contractors, subcontractors, or agents, or by any individual, firm, corporation, or limited liability company must be designed to meet the standards contained in this chapter. The department of transportation, board of county commissioners, board of township supervisors, their contractors, subcontractors, or agents, or any individual, firm, corporation, or limited liability company that fails to comply with these standards is not entitled to the immunity provided in North Dakota Century Code sections 24-03-06, 24-03-08, or 24-06-26.1.

History: Effective May 1, 2001; amended effective July 27, 2001; January 1, 2015.
General Authority: NDCC 24-02-01.1, 24-02-01.5, 28-32-02, 61-03-13
Law Implemented: NDCC 24-03-06, 24-03-08, 24-06-26.1

89-14-01-02. Definitions.

1. "Constructed" means to construct a new highway on a new location or corridor.
2. "Highway, street, or road" is defined in North Dakota Century Code section 24-01-01.1.
3. "Reconstructed" means to regrade, add a lane adjacent to the existing alignment, or do full depth road surface replacement on an existing highway location. For purposes of this chapter, reconstructed also includes replacing or installing a stream crossing.
4. "Stream crossing" means an opening to permit the flow of water under, adjacent to, or because of a highway.

History: Effective May 1, 2001; January 1, 2015.
General Authority: NDCC 24-02-01.1, 24-02-01.5, 28-32-02, 61-03-13
Law Implemented: NDCC 24-03-06, 24-03-08, 24-06-26.1

89-14-01-03. Design flood frequency.

The following table provides the minimum design standard recurrence interval of the event for which each type of stream crossing must be designed. Nothing contained in this chapter is intended to restrict an entity from providing greater capacity.

For township roads, the recurrence interval is 10 years.

Type of Crossing	State Highway System						County	
	Urban System		Rural System				Rural System	
	Regional	Urban Roads	Principal Arterial Interstate	Principal Arterial Other	Minor Arterial	Major Collector	Major Collector	Off[4] System
Bridges & Reinforced Concrete	25 year[2]	25 year[2]	50 year[2]	50 year[2]	50 year[2]	25 year[2]	25 year[2, 3]	15 year[2, 3]
Roadway Culverts	25 year[2]	25 year[2]	50 year[2]	25 year[2]	25 year[2]	25 year[2]	25 year[2, 3]	15 year[2, 3, 5]
Storm Drains	10 year[1]	5 year[1]	10 year[2]	10 year[2]	10 year[2]	10 year[2]		
Underpass Storm	25 year[1]	25 year[1]	50 year[2]	25 year[2]	25 year[2]	25 year[2]		

5. **For township roads, the recurrence interval is 10 years**

[1]Discharges must be computed using the rational method or other recognized hydrologic methods.

[2]Discharges must be computed using United States geological survey report 92-4020 or other recognized hydrologic methods.

[3]If an overflow section is provided, the pipes and the overflow section, in combination, must pass the appropriate design event within the headwater limitations provided in this chapter.

[4]Off system roads include all township roads.

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History: Effective May 1, 2001; amended effective July 27, 2001; January 1, 2015.
General Authority: NDCC 24-02-01.1, 24-02-01.5, 28-32-02, 61-03-13
Law Implemented: NDCC 24-03-06, 24-03-08, 24-06-26.1

89-14-01-04. Floodplain consideration - Upstream development.

All stream crossings must comply with applicable floodplain regulations and regulatory floodway requirements. If a stream crossing is being replaced and buildings or structures are located upstream from the crossing, the stream crossing must not be reconstructed in a manner that increases the likelihood of impacts to those upstream buildings or structures, even if the capacity of the crossing being replaced was greater than the capacity otherwise required by this chapter. Any stream crossing constructed as part of a newly constructed roadway must be constructed to pass a one hundred-year event without the resulting increase in headwater impacting any existing buildings or structures. Structures, for the purposes of this section, include grain bins, silos, feedlots, and corrals. Structures do not include pasture fencing.

History: Effective May 1, 2001; amended effective January 1, 2015.
General Authority: NDCC 24-02-01.1, 24-02-01.5, 28-32-02, 61-03-13
Law Implemented: NDCC 24-03-06, 24-03-08, 24-06-26.1

89-14-01-05. Allowable headwater.

The allowable maximum headwater when passing the design discharge must be measured from the bottom of the channel. For arch pipes, the maximum allowable headwater must be based on the rise of the pipe, and the pipe size category must be the equivalent round pipe size. For multiple pipe installations, the pipe diameter used to calculate the allowable headwater must be the diameter of the largest pipe. Tailwater resulting from downstream conditions, either natural or manmade, must be accounted for in the determination of the crossing's capacity and the resulting headwater. Additional guidance is provided in the North Dakota department of transportation design manual. If a crossing results in less than one-half foot [15.24 centimeters] of headloss when passing the appropriate design
discharge, this section does not apply.

Streambed Slope (feet/mile)	Pipe Size	Allowable Headwater
<5	24" - 54"	pipe diameter + 2 feet
	≥ 60"	1.52 pipe diameters
5 to 10	24" - 36"	pipe diameter + 2 feet
	42" - 54"	1.5 pipe diameters
	≥ 60"	2 pipe diameters
>10	≥ 24"	2 pipe diameters

History: Effective May 1, 2001; amended effective January 1, 2015.
General Authority: NDCC 24-02-01.1, 24-02-01.5, 28-32-02, 61-03-13
Law Implemented: NDCC 24-03-06, 24-03-08, 24-06-26.1

89-14-01-06. Deviations.

The board of county commissioners, board of township supervisors, their contractors, subcontractors, or agents, or any individual, firm, corporation, or limited liability company may deviate from the standards contained in this chapter if the deviation is approved in writing by the state engineer and the department of transportation. A request to deviate from the standards must be made in writing and must set forth the reasons for the proposed deviation. The state engineer and department of transportation may grant a deviation for good and sufficient cause after considering public safety, upstream and downstream impacts, and other relevant matters.

The department of transportation may deviate from these standards if the department determines it is appropriate to do so and the crossings are designed under scientific highway construction and engineering standards. The basis for the department's decision must be documented in writing.

Roads constructed as part of a surface coal mining operation for use solely as part of the mining operation are not subject to the requirements of this chapter. Roads constructed because of a surface coal mining operation for use by the public are bound by the requirements of this chapter, but deviations may be requested under this section.

History: Effective May 1, 2001; amended effective January 1, 2015.
General Authority: NDCC 24-02-01.1, 24-02-01.5, 28-32-02, 61-03-13
Law Implemented: NDCC 24-03-06, 24-03-08, 24-06-26.1

APPENDIX A

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We will continue to work on Township Forms to make them more useable and relevant. They will be made available on the website NDTOA.COM when they are ready, please check there occasionally.

We intend to make most of the forms available as Fillable PDF on the website, again please check there.

Report to County Auditor on Township Elections

STATE OF NORTH DAKOTA

County of _____

To _____ **County Auditor of** _____ **County:**

At the regular election held in the Township of _____

On the _____ **day of March 20**_____**, the following persons were chosen.**

SUPERVISORS

Names	Mailing Address**	e-mail address
_____	_____	_____
_____	_____	_____
_____	_____	_____

CLERK

_____	_____	_____

TREASURER (If separate from clerk)

_____	_____	_____

ASSESSOR

_____	_____	_____

POUNDMASTER

_____	_____	_____

ROAD OVERSEER

_____	_____	_____

Chairman for the coming year _____

Holdover Supervisors _____

_____

Other Holdover Officers _____

_____

_____

_____

Respectfully Submitted,

_____

Township Clerk

Send to County Auditor after the Chairman of the Board of Supervisors has been elected.

****NOTICE: Office holders and voters in a township must meet residency requirements within said township and qualify as electors as set forth in NDCC 16.1-*01*.**

Oath of Office

STATE OF NORTH DAKOTA,

County of ..... } **ss**

I, ...of.....,

North Dakota, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of North Dakota, and faithfully discharge the duties of the office of

.....of.....of .....and

(office) (Township) (County)

State of North Dakota, to the best of my ability. So help me God.

_____

Signature of Office Holder

Subscribed and sworn to before me this.....

.....day of ....., 20.....

.... **Seal of Notary**

(Notary or Township Clerk printed)

.....

(Signature)

My commission expires.....20.....

Oath of the Clerk shall be signed before a notary; other officers shall sign in the presence of the clerk.

See NDCC 58-05-07

LEVY NO.	FUND OR PURPOSE	MAXIMUM RATE OR AMOUNT	LAW	(x) indicates levies in add. To Gen Fund Levy REMARKS
1501	General	18.00 Mills	N.D.C.C. § 57-15-20	General purposes
"	Increased General	Additional 18.00 Mills	"	Majority vote at annual meeting
	Interim Fund	75% of Current Appropriation	N.D.C.C. § 57-15-27	For carrying over to next fiscal year to meet cash requirements
1503.	Excess Levy	Repealed		See #1501 N.D.C.C. 57-15-20
1505.	Cemetery	Levy eliminated 2015	N.D.C.C. § 57-15-27.1	Allowable general fund expense
1506.	Recreation Center	Repealed		
1507.	Park	Repealed		
1508.	Mowing or Snow Removal	Levy eliminated 2015	N.D.C.C. § 57-15-19.6	Allowable general fund expense Requires approval at annual meeting.
1509.	Legal Contingency Fund	10.00 Mills Levy eliminated 2015	N.D.C.C. § 57-15-22.2	Grandfathered for 5 years if before Jan 1 2015, After which it is an Allowable general fund expense.
1510.	County Road System Within the Township	5.00 Mills	N.D.C.C. § 57-15-19.4 & 57-15-20.2(1)	(x) Approval of electors at annual meeting, good for 5 years maximum.
1511.	Police in Unincorporated Village	Repealed		
1512.	Water Conservation	Repealed		
1513.	Drainage Ditches	Repealed		
1514.	Judgments or settlement of a claim.	5.00 Mills (uninsured) 10.00 Mills (insured)	N.D.C.C. § 58-14-07; 32-12.1-11; 57-15-28.1	(x)
1515.	Special Assessments on Township Property	None	N.D.C.C. § 40-23-07; 57-15-41; 21-03-07(10)	(x)
1516.	Interest and Principal Payments on Bond Issues for Township Hall and Roads and Bridges	None	N.D.C.C. § 21-03-15	(x) N.D.C.C. § 57-15-20. Also see 21-03-06(5)
1517.	Municipal or Regional Airport Authority	See Code sections in next column	N.D.C.C. § § 2-06-07 and 2-06-14	(x)
1518.	Airport	4.00 Mills	N.D.C.C. § 57-15-20.2(2)	(x) Upon approval of electors at township annual meeting
1519.	Fire Protection (Also see Rural Fire Protection Districts on page 19)	1.0 Mill Levy eliminated 2015	N.D.C.C. § § 18-06-10	Grandfathered for 10 years max if before Jan 1 2015. After which it is: Allowable general fund expense
1520.	Old Age and Survivors Insurance and Federal Social Security	Repealed		
1521.	Payment of Debts of Dissolved Township	Repealed 2015		
1522.	Ambulance Service	Levy eliminated 2015	N.D.C.C. § 57-15-51.1	Approval of electors at annual meeting, Allowable general fund expense. (see N.D.C.C. 54-40)

LEVY LIMITATIONS FOR CIVIL TOWNSHIPS (continued)

LEVY NO.	FUND OR PURPOSE	MAXIMUM RATE OR AMOUNT	LAW	(x) indicates levies in add. To Gen Fund Levy REMARKS
1523.	Railroad Purposes	Repealed 2015		
1524.	Plant Pest Control	Repealed		
1525.	Insurance Reserve Fund	Repealed		
1526.	Judgment for Injury	Repealed		
1527.	Compromise of Judgment for Injury	Repealed		
1528.	Rural Farm Drains Cleaning and Repairing	Levy shall not exceed $2.00 per acre	N.D.C.C. § 61-21-46	(x)
1529.	Interest and Principal Payments on Bonds Issued to Pay Compromise of Judgment for Injury	Repealed		
1530.	Law Enforcement Services	Levy eliminated 2015	N.D.C.C. § 57-15-19.5	Approval of electors at annual meeting, Allowable general fund expense. (see N.D.C.C. 54-40)
1531.	Payment of Township debt to County	See code	N.D.C.C. § 57-15-30.1	On taxable property in Township if Township debt to County is more than one year past due, or upon Township dissolution.
1532.	Gopher Extermination	Repealed		
1534.	Repealed			
1535.	Repealed			
1536.	Repealed			
	Allowance for Delinquency in Tax Collections	5% of amount levied	N.D.C.C. § 57-15-31(2)	
	Special Road Fund (not considered in determining budget and levy)	$100,000	N.D.C.C. § 57-15-19.2 & 57-15-19.3	Funds placed in Special Road Fund can only be drawn to fund road building, graveling, surfacing or snow removal.

Several levies which had been little used in recent years were eliminated by Senate Bill 2144 of the 2015 Session (S.L. 2015 Ch. 439). SB2144 was the result of the Governor's Task Force on Property Tax Reform. Most of these levies eliminated became items to be considered locally when setting the budget priorities and general fund levy.

N.D.C.C. §	SUBJECT
58-02-21	Board of County Commissioners – hearing on petition to divide a township – publication or posting of notice
58-02-23	Meeting of Board of Arbitrators to divide assets and liabilities of original township when a civil township is separated therefrom
58-02-25	Board of County Commissioners – hearing to dissolve township with five or fewer qualified electors – publication of notice
58-02-26	Township electors – question of dissolution of township to be considered at annual township meeting – publication and posting of notice
58-03-13	Township Zoning Commission and Board of Township Supervisors – public hearings on recommended zoning district boundaries and regulations – publication of notice
58-04-01	Township electors – annual township meeting in March – publication of notice
58-04-02	Township electors – special meetings
58-04-03	Township electors – special meetings – publication of notice
58-04-04	Township electors – special meetings – notice to specify purpose
58-04-05	Township electors – annual or special meetings – notice of meeting and voting hours
58-04-17	Minutes of township meeting to be filed with township clerk within two days after meeting
58-04-19	Township electors – special township meeting to accomplish purpose of annual township meeting – publication of notice
58-05.1-03	Township electors – special meeting to consider and vote on proposed consolidation of officers
58-05.1-04	Boards of township officers – meeting to equalize property, funds, and debts of consolidated townships

N.D.C.C. §	SUBJECT
58-05.1-05	Meeting of township and county officers when boards of township officers are unable to equalize property, funds, and debts of consolidating townships
58-05.1-07	Multi-township meeting after consolidation election
58-06-03	Board of Township Supervisors – regular meetings
58-06-04	Board of Township Supervisors – adjourned and special meetings – notice
58-06-05	Board of Township Supervisors – meetings to be held at office of township clerk or other usual place
58-06-10	Persons having business to transact with Board of Township Supervisors – when to appear
58-11-02	Meetings of township Board of Auditors
58-14-03	Board of Township Supervisors – special meeting when township is sued
61-02-08	State Water Commission – meetings – notice to members
61-02-11	State Water Commission – may publish minutes and records of its acts
61-02-43	State Water Commission – hearings regarding rights of claimants to appropriate water – appropriate notice
61-04-05(4)	State Engineer – hearing on application for water permit – publication of notice
61-04-06	State Engineer – may have local hearing on application for water permit
61-04-24	State Engineer – hearing regarding cancellation of water permit – publication of notice
61-04-31	State Engineer – hearing on regulation to reserve waters – publication of notice

NORTH DAKOTA

ANNUAL STATEMENT OF TOWNSHIP TREASURER

Treasurer's Annual Statement

of the Township of _____

for the year ending _____ 20_____

STATE OF NORTH DAKOTA

County of _____

Township of _____

I hereby certify that the within statement is a true account of all moneys received by me into the Township Treasury of said Township from the County Treasurer, and from all other officers and persons; and also of all moneys paid out by me as Treasurer of said Township for the year ending _____20_____, and that the sum of_____ is remaining in my hands as Treasurer.

Given under my hand this _____ day of _____ 20 _____

_____ Treasurer of said Township of _____

_____

The within account examined, audited and approved this _____ day of _____ 20 _____

_____

_____ Board of Audit

_____

_____

Filed _____20 _____

_____

_____

Section 1 **NORTH DAKOTA TOWNSHIP RECEIPTS**

Annual statement of moneys received by the Treasurer into the Township Treasury from the County Treasurer, and from all other officers and persons.

A. Name of Treasurer

B. Name of township

C. Name of county

D. Year ending

Date			Received from - Specify name	AMOUNT			
Year	Month	Day	(b)	General property taxes (c)	Township road milage (d)	State aid distribution (e)	Coal development impact fund (f)
			TOTALS ---------->				

Section 1 **NORTH DAKOTA TOWNSHIP RECEIPTS-Continued**

Annual statement of moneys received by the Treasurer into the Township Treasury from the County Treasurer, and from all other officers and persons.

A. Name of Treasurer

B. Name of township

C. Name of county

D. Year ending

Date			Received from - Specify name	AMOUNT			
Year	Month	Day	(b)	Telecommunications (c)	Interest earned (d)	Dividends (e)	All other receipts (f)
			TOTALS ---------->				

Section II **NORTH DAKOTA TOWNSHIP EXPENDITURES**

Annual statement of moneys paid out by the Treasurer

A. Name of Treasurer

B. Name of township

C. Name of county

D. Year ending

Date			Paid to - Specify name	AMOUNT			
Year	Month	Day	(b)	Board salaries (c)	Township association dues-- meals (d)	Election board (e)	Legal notices (f)
			TOTALS ---------->				

Section II **NORTH DAKOTA TOWNSHIP EXPENDITURES**

Annual statement of moneys paid out by the Treasurer

A. Name of Treasurer

B. Name of township

C. Name of county

D. Year ending

Date			Paid to - Specify name	AMOUNT			
Year	Month	Day	(b)	Blading and graveling (c)	Road repair and culverts (d)	Snow removal (e)	Weed control (f)
			TOTALS ---------->				

Section II

NORTH DAKOTA
TOWNSHIP EXPENDITURES

Annual statement of moneys paid out by the Treasurer

A. Name of Treasurer

B. Name of township

C. Name of county

D. Year ending

Date			Paid to - Specify name	AMOUNT			
Year	Month	Day	(b)	Fire protection (c)	Insurance (d)	Road construction (e)	Road equipment purchased (f)
			TOTALS ------->				

Section II **NORTH DAKOTA TOWNSHIP EXPENDITURES**

Annual statement of moneys paid out by the Treasurer

A. Name of Treasurer

B. Name of township

C. Name of county

D. Year ending

Date			Paid to - Specify name	AMOUNT			
Year	Month	Day	(b)	Insurance deducted by county (c)	Paid to county for services (d)	Interest paid on debt (e)	All other esxpenditures (f)
			TOTALS ---------->				

STATE OF NORTH DAKOTA
SUMMARY DOCUMENT
ANNUAL TOWNSHIP FINANCIAL REPORT

A. Name of Township

B. Date

From | To

Mailing address of Township

Section I INCOME	AMOUNT (Omit cents)
Beginning balance--Checking and savings accounts	
Coal development impact fund	
General property tax collections received from the county	
Tow nship road mileage--Total four payments received this year	
State aid distribution	
Telecommunications	
Interest earned	
Dividends	
Total other receipts	
TOTAL INCOME---------->	

Section II DISBURSEMENTS	AMOUNT (Omit cents)
Board slaries	
Tow nship association--Dues and meals	
Election board	
Legal notices	
Blading and graveling	
Road repair and culverts	
Subtotal disbursements------->	
Please continue in next column----------/	

Section II DISBURSEMENTS-- Continued	AMOUNT (Omit cents)
Subtotal *Enter from first column*	
Snow removal	
Weed control	
Fire protection	
Insurance	
Road construction	
Road equipment purchased	
Insurance (deducted by county)	
Amounts paid to county for services performed	
All other expenditures	
TOTAL DISBURSEMENTS---------->	
Total funds on hand (checking and savings) end of year	

Section III DEBT	
Long-term debt outstanding at beginning of this fiscal year	
Long-term debt issued during this fiscal year	
Long-term debt retired during this fiscal year	
Long-term debt outstanding at the end of this fiscal year	
Interest paid on long-term debt this fiscal year	

Remarks

Section IV DATA SUPPLIED BY

Signature of official	Date	Title
Printed name of official	Telephone	Area code / Number

ANNUAL TOWNSHIP BUDGET

For the Year Ending December 31, 20___

_____ Township

_____ County, North Dakota

Schedule A

CERTIFICATE OF LEVY

TO: _____

County Auditor _____ County

You are hereby notified that on the _____ day of _____ 20____, the governing body of _____ Township, levied a tax of _____ upon all the taxable property in said township for township purposes for the calendar year, ending December 31, 20_____, which levy is itemized as follows:

FUND	Amount Levied	Maximum Authorized
General	_____	_____
Road.....	_____	_____
_____.....	_____	_____
Total Amount Levied	==========	==========

You will duly enter tax upon the County tax list for collection upon the taxable property of _____ Township, _____ County, NORTH DAKOTA, for the ensuing year. Dated this _____ day of _____ 20_____.

_____

Township Clerk

Schedule B

Annual Budget For The Year Ending December 31, 20_____

APPROPRIATION AND CASH RESERVE	General Fund	_____ Fund	_____ Fund
1. Final Appropriation, Sch. C – line 25			
2. Cash Reserve (Note 1)			
3. Total Appropriation and Cash Reserve			
RESOURCES AND AMOUNT LEVIED 4. Cash and Investments Available - (Est.) December 31, 20_____			
5. Estimated Revenues, Sch. C – line 9			
6. Total Resource – line 4 plus line 5			
7. Levy Required – line 3 less line 6			
8. Allowance for Delinquent Tax Collec. (Not to exceed 5% of line 7)			
9. Total Amount Levied – line 7 plus 8			

Note 1 – Not to exceed 75% of appropriations other than for debt retirement and appropriations financed from bond sources.

_____ Township Schedule C

Annual Budget For The Year Ending December 31, 20_____

_____General_____ Fund

	Actual Receipts _____	Actual Receipts _____	Estimated Receipts _____
RECEIPTS			
Property Taxes			XXXXXXXXX
Township Road Mileage			
Personal Property Replacement			
State Revenue Sharing			
Interest Earned			
_____			
_____			
Miscellaneous Receipts			
Total Receipts			

	Actual Disbursements _____	Actual Disbursements _____	Final Appropriations _____
DISBURSEMENTS			
Board Salaries			
Dues and Meals			
Election Board			
Legal Notices			
Blading and Graveling			
Road Repair and Culverts			
Snow Removal			
Weed Control			
Fire Protection			
Insurance			
Road Construction			
Road Equipment Purchased			
Insurance (deducted by county)			
Amounts Pd to County for Serv Perf			
All Other Disbursements			
Total Disbursements			
Receipts over (under) Disbursements			
Balance January 1			
Balance December 31			

708 ¾--CERTIFICATE OF SUMS VOTED AT ANNUAL TOWNSHIP MEETING (SEC. 57-15-19. N.D.C.C. 1960)

CERTIFICATE OF SUMS VOTED AT ANNUAL TOWNSHIP MEETING AND CERTIFICATE OF TAX LEVY OF _____TOWNSHIP FOR THE YEAR 20_____.

To the County Auditor of _____County, North Dakota:

You are hereby notified that the annual township meeting of above township meeting of above township held on the third Tuesday in March 20___, the electors of said township duly voted to raise for the current year, the amounts stated below for the purposes indicated:

For the General Fund ------ ---------- $_____

_____ $_____

_____ $_____

TOTAL ---------- $_____

(Show sums voted in dollars not mills)

You will, therefore, extend such amounts upon the tax list for the current year against all taxable property in said township. You will also enter and extend taxes previously levied, if any, by resolution of the township board of this township to pay interest on bonds outstanding and to pay the principal thereof at maturity.

Given under my hand this_____day of_____20_____

_____

Township Clerk.

Procedure to Increase Township Levy

To increase Township General Fund Mill Levy above 18 Mills.

A) Law 57-15-20 and 57-15-20.1 Increased Levy Authority.

1) Township Board Pass Resolution

2) Publish Notice of Special Election*

(May be "with or upon" the notice for the Township Annual Meeting)

3) Print Ballots*

4) Complete Ballot "Certificate of Election" and return to County Auditor

5) All voters must be registered (can use plain notebook)

6) Write on back of each ballot before giving it to voter:

Official Ballot
Special Election
_____ Township
_____ County, North Dakota
_____ _____ 20_____
(initials)

***The Notice of Special Election and the Ballot form must include the specific years for which the increased authorization is sought.**

Mill Levy Increase

RESOLUTION

Supervisor(s)_____

introduced the following resolution and moved its adoption:

That_____Township submit to the electors of _____Township that the legal levy be increased by 18 Mills for the years _____ thru _____ (maximum five years).

The motion was seconded by Supervisor_____.

Upon roll call the following voted "Aye": _____

_____

_____

_____

_____

Voting "Nay": _____

_____

Absent and not voting: _____

_____

Resolution declared carried,

_____

Township Clerk

****Note****

(Must pass Township Board by 2/3 vote)

Mill Levy Increase
NOTICE OF SPECIAL ELECTION

NOTICE IS HEREBY GIVEN that on _____at the polling place of _____in the Township of_____, County of _____, an election will be held in which the following question shall be submitted to the electors of _____Township.

Shall _____Township levy taxes for a five year period commencing in _____, which shall exceed the legal limit by $ _____, so that the taxes levied, instead of being $ _____, which is the limit authorized by law, shall be $ _____?

( ) Yes or ( ) No

BE IT KNOWN that the total income of _____ Township from the first day of _____ 20___, to the last day of _____ 20____, was $ _____ and that the total warrants issued for said period amounted to $_____resulting in a deficit for said period of $_____.

BE IT FURTHER KNOWN that the expected expenditures for each year of a five year period commencing in 20____ are roughly equivalent to $_____ spent in 20___ .

BE IT FURTHER KNOWN that the current tax levy of 18 mills which produced $_____ in income in 20_____ is the legal maximum but that a 100 percent excess levy is authorized for a five year period. If 60 percent of the qualified electors shall approve the above stated question, the levy shall be increased to be the amount of 18 mills upon each dollar of taxable valuation which increase would have produced $_____ in additional income at 20_____ valuations.

BE IT FURTHER KNOWN that said election will be opened at ____ o'clock __.m. and will continue open until _____ o'clock ____.m. of said _____.

SPECIAL ELECTION
_____ Township

_____

INSTRUCTION TO VOTER: Mark a cross (x) or other mark in the square opposite the word "yes" if you are in favor of this levy. Mark a cross (x) or other mark in the square opposite the word "no" if you are not in favor of this levy.

Shall_____Township levy taxes for a five year period commencing in 20___, which shall exceed the legal limit by $_____so that the taxes levied, instead of being $_____? ( ) Yes or ( ) No

By order of the Board of Supervisors of _____Township.

Dated at _____, North Dakota, this _____day of _____, 20_____.

_____
Clerk

Publishing dates: At least ten days before the election, (Annual Meeting).

Mill Levy Increase

OFFICIAL BALLOT

SPECIAL TOWNSHIP ELECTION

_____ _____, 20_____

_____ Township, _____ County, North Dakota

"Shall _____ Township, _____ County, North Dakota, levy taxes for the years _____, _____, _____, _____, _____, which shall exceed the legal limit by $ _____dollars, so that the taxes levied instead of being $_____dollars, which is the limit authorized by law, shall be $_____dollars?"

Yes ☐

No ☐

OFFICIAL BALLOT

SPECIAL TOWNSHIP ELECTION

_____ _____, 20_____

_____ Township, _____ County, North Dakota

_____

Judge of Election

Mill Levy Increase

CERTIFICATE OF ELECTION TO INCREASE

_____TOWNSHIP GENERAL MILL LEVY

County Auditor
County of _____
State of North Dakota

This is to certify that a Special Election was held in _____ Township, _____ County, North Dakota at _____ located in said township, on the matter of increasing the levy of said township by an additional 18 Mills above the legal limitations as provided for in Chapter 57-15-20 and of the North Dakota Century Code, and that this election was held on the _____ day of _____, 20___

THE QUESTION SUBMITTED AND THE RESULTS WERE AS FOLLOWS, TO-WIT:

"Shall _____ Township levy taxes for a five year period commencing in 20_____, which shall exceed the legal limit by $ _____, so that the taxes levied, instead of being $ _____ which is the limit authorized by law, shall be $ _____?

NUMBER OF VOTES CAST - - - - - - - - _____ ( )

YES - - - - - - - _____ ( ) NO - - - - - - - _____ ( )

Dated in _____ Township, _____ County, North Dakota this _____ day of _____ 20 _____.

ATTEST **_____**
Chairman

_____
Clerk

****Note** (Must file with County Auditor 10 days after election)**

PLANNING AND ZONING

The Comprehensive Plan is the basis for zoning; a zoning ordinance is likely not valid unless it is written to support a comprehensive plan. The following is provided to give the reader some understanding of what goes into writing your own Comprehensive Plan for your Township.

Our thanks to Natalie Pierce, Director of Planning & Zoning for Morton County, for providing this information.

Comprehensive Plan Topics (or "Elements)

A comprehensive plan will usually describe existing conditions and historical trends. The plan will use historical trends to predict future growth or future conditions. The plan also consists of goals, objectives and policies that describe what the community will do to navigate through those changes. Existing conditions and future projections are described through text, images, tables, charts and maps.

Introduction/History

Vision Statement

Summary of the Process Used to Create the Plan

Existing conditions/also plan topics or "elements"

- Physical Characteristics
  - Boundaries
  - Land use
  - Zoning
  - Topography/terrain
  - Riparian areas (rivers, streams, lakes, wetlands0
- Demographics
  - Population
  - Age groups
  - Gender
  - Ethnicity
  - Income
  - Net migration in and out of community
  - Commuting patterns in and out of community
- Housing
  - Number of households
  - Percentage of households that are rented versus owned
  - Average household size
  - Housing stock characteristics
    - Average age, value, size
  - Number of new households projected over the planning period
- Economy
  - Major employers
  - Job sectors and number of jobs in each sector
  - Energy resources overview/characteristics (coal, oil, mining, wind)
  - Agricultural production profile
    - Soil conditions
  - Economic development plan/strategies
- Public services, facilities, infrastructure
  - Transportation (road network, rail, airports, ports, etc.)
  - Water supply & distribution systems
  - Sanitary sewer & wastewater treatment
  - Storm water management systems and retention/detention facilities
  - Emergency services
    - Law enforcement
    - Ambulance

        - Fire department
    - Schools
    - Other community-specific services & facilities
    - Capital improvement plan
- Hazard mitigation
    - Flood hazard areas/planning
    - Wildfire hazard areas/planning
    - Hazardous material facilities
- Community Health
- Growth management strategy or Zero-growth strategy (as the case may be)
- Historic Preservation
- Document Community Assets
    - Parks (local, state, federal) & recreation areas
    - Trails
    - Historic sites
    - Others unique to the community
- Goals, Objectives and Policies
- Future Land Use Map

Data Sources (generally online)

- Demographics
    - U.S. Census (American Fact Finder/"Advanced Search" option)
        - Demographics, housing, travel patterns, many more
- Jobs/Economy
    - Bureau of Labor Statistics
    - ND Office of State Tax Commissioner
- Agriculture
    - USDA Census of Agriculture
    - USDA/Natural Resources Conservation Service/Web Soil Survey
- Energy
    - US Energy Information Administration
    - ND Industrial Commission
- ND Department of Health Community Health Profiles, also regional health district reports
- ND State Water Commission
- Map Data (GIS files)
  If you don't have GIS (look into partnering with neighboring city or county that does). Many map files are available through the state GIS portal: gis.nd.gov and/ or the State Water Commission Map Service on the "Information & Education" tab, then "Maps/GIS & Data" option.
    - Roadways (created locally)
    - Flood hazard areas (Federal Emergency Management Agency)
    - Topographic contours (ND State Water Commission map service)
    - Utility lines (from water, power, cable companies)
    - State/interstate pipelines
    - Rivers, streams, watersheds, aquifers (ND State Water Commission map service)
    - Satellite/aerial imagery (ND State Water Commission map service)
- Gather your own data
    - City, County, Township building permits (track housing starts over time)
    - Create a survey that township residents can fill out (online and paper versions)
    - Input from public meetings/workshops

More on Goals, Objectives, & Policies

- <u>Goal</u>
    - Big idea/statement of a future condition
    - Example: Main Street in Amber Grain Township is a thriving place that draws visitors from the surrounding community on a regular basis.

- Objective or implementation step
  - Action step that will lead to achievement of a goal
  - Example: Amber Grain Township will create a store-front improvement incentive program to be implemented by spring 2021.
- Policy
  - Rule you intend to abide by to help reach objectives and goals.
- Make goals and objectives SMART:
  - Specific
  - Measurable
  - Achievable
  - Realistic
  - Timely

Key Questions a Comprehensive Plan Should Address

1. What do we want our community to be like in x years?
   - What steps do we need to take to make it that way?
2. What issues is the community facing?
   - What are we going to do to address them?
3. What issues do we predict we will encounter in the future?
   - How will we address them?
4. How much are we going to spend?
   - On what? When? (i.e. create a capital improvement plan)
5. Where is the most appropriate place(s) for new development to locate?
   - OR How do we preserve the community we have (for zero-growth scenarios)?

Zero Growth – How do you plan for a community (township) that is not growing?

A very good reference can be found at:

http://www.ruralplanning.org/assets/zero-growth-paper-lq.pdf

_____TOWNSHIP - PERMIT APPLICATION

CONDITIONAL USE (__);ZONING CHANGE (__); VARIANCE (__)

Name of applicant: _____

Mailing Address: _____

_____

Phone Numbers: work_____; home_____; cell_____

If applicant is a business or organization; Title of authorized agent:_____

Subject Property is located in: _____(quarter) of Section_____

Subject Property address:_____

Purpose of requested change:_____

_____

Describe proposed construction:_____

_____

Present land use:_____

Proposed land use:_____

Signature of applicant or authorized agent:_____

Additional items required (please attach) Date of Application_____/_____/_____

- ☐ Map of area.
- ☐ Boundary line survey of site.
- ☐ Map showing proposed work/structures.
- ☐ Time line for work showing start and completion dates.
- ☐ Written approval of road authority for any new access roads.
- ☐ Permit application fee in the amount of $_____
  (Make checks payable to _____Township)

Date Received _____/_____/_____ By _____

A township's building permit application form must include a statement that If the building or structure for which the permit is requested meets all applicable zoning regulations and the board of township supervisors or other appropriate official fails to respond within sixty days of receiving the application, the application is deemed approved. Upon receipt of a building permit application, a township shall note on the application the date of receipt and shall provide a copy of the submitted application to the applicant with the date of receipt noted.

Notice of a zoning hearing must be published at least 15 days prior to hearing.

_____ TOWNSHIP BUILDING PERMIT APPLICATION

Application for permit to: use(___); construct(___); repair(___)

Name of applicant: _____

Mailing Address: _____

_____

Phone Numbers: work_____; home_____; cell_____

If applicant is a business or organization; Title of authorized agent:_____

Subject Property is located in: _____(quarter) of Section_____

Subject Property address:_____

Describe the proposed use of this property:_____

_____

Describe proposed construction:_____

_____

_____

Total cost of construction $_____

I certify that I am the owner or authorized agent of this property and that all construction and use will conform to _____Township and State building codes and ordinances.

I further allow that _____Township may enter subject property to gather information pertinent to this application and to ensure compliance with any conditions.

Signature of applicant or authorized agent:_____

Additional items required (please attach) Date of Application_____/_____/_____

- ☐ Map of area.
- ☐ Boundary line survey of site.
- ☐ Map showing proposed work/structures.
- ☐ Time line for work showing start and completion dates.
- ☐ Written approval of road authority for any new access roads.
- ☐ Permit application fee in the amount of $_____
  (Make checks payable to _____Township)

Date Received _____/_____/_____ By _____

A township's building permit application form must include a statement that If the building or structure for which the permit is requested meets all applicable zoning regulations and the board of township supervisors or other appropriate official fails to respond within sixty days of receiving the application, the application is deemed approved. Upon receipt of a building permit application, a township shall note on the application the date of receipt and shall provide a copy of the submitted application to the applicant with the date of receipt noted.

Notice of a zoning hearing must be published at least 15 days prior to hearing.

Permit No._____

_____TOWNSHIP

PERMIT

Building(___); Zoning Change(___); Conditional Use(___); Site Approval(___)

This permit is issued to:

Name of applicant: _____

Mailing Address: _____

_____

Phone Numbers: work_____; home_____; cell_____

If applicant is a business or organization; Title of authorized agent:_____

Subject Property is located in: _____(quarter) of Section_____

Subject Property address:_____

For the purpose of::_____:_____

_____

_____

Applicant has(____) or has not (____) met all the requirements of _____

Township Zoning Regulations.

Applicant is required to meet these conditions:_____

_____

_____

_____

And to insure that all construction and uses will conform to _____Township and State building codes and ordinances.

_____Township reserves the right to enter subject property to gather information pertinent to this permit and to ensure compliance with any conditions.

_____/_____/_____ _____

Date Chairperson of Township Supervisors

_____ **Township**

Addendum to Township Building Permit Applications

To Comply with NDCC 58-09-19 this notice must be part of all applications for building permits.

A township's building permit application form must include a statement that If the building or structure for which the permit is requested meets all applicable zoning regulations and the board of township supervisors or other appropriate official fails to respond within sixty days of receiving the application, the application is deemed approved. Upon receipt of a building permit application, a township shall note on the application the date of receipt and shall provide a copy of the submitted application to the applicant with the date of receipt noted.

Applicant: I have received a copy of this notice.

.

Signed: _____ Date ____/____/_____

Representative of _____ Township

An application for a building permit including this notice has been received.

Signed: _____ Date ____/____/_____

StreamStats & HY-8 Culvert Sizing Software (Free)

This is a procedure to properly size culverts for "Blue Line Streams" using free software. These are natural water courses that are indicated on some maps as blue lines. This method will not work for culverts in other locations. A hydrological survey by an engineer is required to properly size culverts for those.

We thank Joshua Loegering PE, LaMoure County Road Superintendent for this information.

Culvert Sizing Process

Stream Stats – Peak Flows

https://streamstats.usgs.gov/ss/

1. Open StreamStats and zoom into the general area of North Dakota to level 8. The zoom level is shown in the bottom left of the map

2. On the left of the screen, select North Dakota when it pops up

3. Zoom in to Level15 and scroll to the location of the culvert crossing. Change the basemap to imagery if necessary.

4. On the left of the screen, select the delineate button. Then click on the blue stream-line where the culvert crossing is located. Wait for basin to be delineated.

5. Select Continue

6. Select 11Peak-Flow Statistics". Scroll to bottom and select: Continue. If the Ruggedness Number is not calculated, manual input an appropriate number

7. Identify the **10***, 25 and 100 flows from the report. (The 10-year flow is used for townships)

Calculate Appropriate Pipe Size

https://www.fhwa.dot.gov/engineering/hydraulics/software/hy8/

- Download HY-8 Version 7.5 and install on PC
- Open HY-8 and Create a New Project by selecting: Continue
- Fill in the following parameters
  - Discharge Data
    - Min Flow = 0
    - Design Flow = **10**-year peak flow from StreamStats (see #7 above)
    - Max Flow = 100-year peak flow from StreamStats
  - Tailwater Data
    - Channel Type = Trapezoidal
    - Bottom Width = 10 feet
    - Side Slope = 4
    - Channel Slope = Ruggedness Number from StreamStats divided by 5280
    - Manning n = 0.03
    - Channel Invert Elevation = 1000 – Elevation from CL of roadway to ditch bottom in feet
  - Roadway Data
    - First Roadway Station = 0.00
    - Crest Length = 100
    - Crest Elevation = 1000
    - Roadway Surface = Paved or Gravel
    - Top Width = Width of Roadway in feet

- Culvert Data
  - Shape = Select Shape
  - Material = Concrete or Steele
  - Diameter = Start with existing culvert size in feet
  - Embedment Depth = 0
  - Culvert Type = Straight
  - Inlet Configuration = Thin Edge Projecting
  - Inlet Depression = No
- Site Data
  - Site Input Data Option = Culvert invert Data
  - Inlet Station = 0.00
  - Inlet Elevation = 1000 – Elevation from CL of roadway to culvert inlet invert
  - Outlet Station = Length of the culvert in feet
  - Outlet Elevation = Elevation from CL of roadway to culvert outlet invert
  - Number of Barrels = Number of culverts
- Select Analyze Crossing
- Select Close on next screen
- In the upper left of the screen, select Culvert 1
- The blue line on the left of the picture is the water line. If this line is above the horizontal brown line (top of roadway), the culvert is undersized. In the upper left of the screen, select Crossing 1.
- Modify the culvert size and number of barrels until the water does not go over the roadway in the diagram

If you need further explanation of this process you might contact Josh at:

josh.loegering@co.lamoure.nd.us

We will also endeavor to put the audio of Josh going through the process on the website NDTOA.com.

Compliance with the "Stream Crossing Standards" is required by law any time a crossing is modified or repaired. See Article 89-14 on page 205.

FEMA – NDDES Procedures for Townships (as of Jan 1, 2022)

Disaster Recovery (DR) –_- FEMA Public Assistance (PA)

Please note that this material is a supplementary document to the Applicant Briefing Packet and should only be used as a reference for Townships.

There is additional PA information and guidance on the NDDES Grants website located at

NDDES Grants Home Page	https://grants.des.nd.gov/site/PA.cfmhttps://grants.des.nd.gov/site/PA.cfm

Please see your county's point of contact or PDMG if you have questions at any time.

Type of Incident – (e.g. Flooding)

- All damages being claimed must be a direct result of flooding

Incident Period – Start Date:_____- End Date: _____

- All damages being claimed must have occurred during the incident period. Damages occurring outside of theincident period are not eligible

Public Assistance Funding is always based on pre-disaster size, capacity and function. Facilities can only be repaired totheir original pre-disaster condition/design unless townships participate in Hazard Mitigation (See Hazard Mitigation Section for additional details).

What is a Facility?	Eligible facilities – Must meet 6 criteria
• Roads • Culverts • Bridges • Lift Stations • Water control facilities • Buildings • Systems such as mechanical, electrical, plumbing or components of a facility in which they operate	1. Be a result of the declared incident (Flooding) 2. Be within Designated Area 3. Be the legal responsibility of the applicant requesting assistance 4. Be a publicly owned improved structure 5. Be a maintained structure 6. Be in use at the time of the event

Not Eligible facilities – Unimproved property (e.g., a hillside or slope, forest, natural channel bank) and land used foragricultural purposes. Private roads and trails are not eligible for PA funding.

Townships have 60 days from the Recovery Scoping Meeting to identify any damages from the incident. Please identifyyour damages to your county point of contact. Any damages not identified within the 60-day period may be consideredineligible for PA funding.

Once work on a project is 100% complete, the Applicant must submit documentation for the project within 90 days ofthe Recovery Scoping Meeting or within 90 days of the work completion date, whichever is later.

Categorizing your Damages

Your damages will be separated into categories of work:

1. Category A – Debris Removal (Temporary Work)
2. Category B – Emergency Work (Temporary Work)
3. Category C – Roads and Bridges (Permanent Work)
4. Category D – Water Control Facilities (Permanent Work)
5. Category E – Buildings/Equipment (Permanent Work)
6. Category F – Utilities (Permanent Work)
7. Category G – Parks, recreational and other facilities (Permanent Work)

Note that the category of work identified as "temporary" work must be removed. If you do not intend to remove workthat was completed, your category of work may need to be changed.

Maintenance Records

As described above all facilities (Sites) are required to be maintained. Maintenance records are required for all damaged roads that are being claimed.

If no maintenance records are available, a statement as to how your roads are maintained will be required.

Changing Culvert Sizes

- Upsizing or downsizing the diameter of a culvert is not considered eligible unless you have completed a Hydrologic and Hydraulic (H&H) Study.
- The H&H study must support the same size the culvert that was placed.
- Culverts that failed to due age and rust are not eligible

Your damages will also be separated by Work completed and Work to be completed

- Work Completed – Any work that has taken place prior to site inspection
- Work to be Completed – Any damages identified after the site inspection

Work Completed

Your work completed costs will be based on actual costs. Invoices are required for work that was completed prior to site inspection.

Invoices for work completed must include the following: (Also see examples on following pages)

- Quantity of material placed
- Identify location (Section Lines)
- Identify site #
- Invoice date
- Invoice #
- Name of Contractor
- Equipment used to include hours
    - Equipment hours are necessary when completing large sites (Culvert Repairs/Major Washouts)
    - Equipment hours are NOT necessary for simple gravel placement
- Date of work

Please review your invoices for accuracy prior to submittal

Additional documentation required for Work Completed

- Photos of your damages
- Disposal location for any debris (Debris cannot be disposed within the 100-year floodplain)
    - Damaged culverts
    - Vegetative debris
    - Trees and branches
- Cubic yards of debris must be calculated - Keep track of the yardage that is being removed
- Any permits obtained during the burning or burying of debris
- Map of your damaged sites – Number your sites according to site tracker guidance
- You will also need to supply the material source location and certifications in the form of SHPO certifications or NDDOT material source certifications

Work to be Completed

Your work to be completed sites must be inspected by NDDES. A site inspection will be scheduled for your township. During your site inspection you and the site inspector will review damages and identify specific lengths, widths, and depths of damages.

Once your damages have been identified, an estimate of damages and cost will be submitted by NDDES to FEMA for approval. Future invoices for these sites will need to be kept for the closeout process.

Documentation required for Work to be Completed:

- Material Cost Sheets – Additional blank forms can be obtained from your county point of contact

- Please provide estimates for all material identified during your site inspection
- Important to include estimates for culverts as well
- For larger WTBC sites ($10,000.00+)
  - Seek out local quotes from contactors
  - Engineer's estimates are generally acceptable by FEMA
  - Document how quotes were requested
  - Seek out 3 quotes if possible

- Map of your damaged sites – Number your sites according to site tracker guidance
- Photos of your damages at the time of the event (It can be difficult to see damages after blading has occurred atyour sites)

Hazard Mitigation

FEMA has authority to provide PA funding for cost-effective hazard mitigation measures for facilities damaged by theincident.

Mitigation efforts must be cost effective and reduce the potential of future similar disaster damages to the eligiblefacility, (a facility is a road, culvert, building, ballpark, bridge etc... all are classified as a facility under FEMA).

- The Mitigation proposal cost cannot exceed 100% of the eligible damage to your site

Hazard Mitigation Examples:

- Installing Rip Rap
- Upsizing culverts with an appropriate H&H study
- Geotextile Separation Fabric
- CMP end sections, headwalls and wingwalls

Mitigation proposal must protect a damaged element

- Installing rip rap to prevent surface gravel wash does **NOT** protect the damaged element
- Installing rip rap to protect a damaged culvert does protect the damaged element

Hazard Mitigation proposals are required to go through an additional FEMA review. You are also responsible for the additional local share of your hazard mitigation. It is always best to discuss your hazard mitigation proposals with yoursite inspector, PDMG or county point of contact before conducting the work.

Capturing Damage Information

After the event (disaster) is over and you can safely travel your roads, it is important to collect your damage information.

Items to capture:

- Description of the facility
- Exact dimensions of the damage, including the specific materials and the size/capacity/model of thedamaged components
- Cause of damage, confirm damages were caused by the event and damages occurred during the incidentperiod
- Photos and/or sketches of site to capture profile and cross-sectional perspectives.

Take the GPS at the start and end of damage, and at all culvert locations. If cannot get to the end point, if possible,take from the North end of a North-South road, the East end of an East-West road.

Take Accurate and Complete Photos

Take an initial photo of the whole area then photos of damage from multiple angles by site, ensuring lighting and perspective allows someone reviewing the photos to clearly see the damages.

When taking photos, if possible, add notes or captions of details to each photo, including perspective (e.g., east, west), so reviewers can reference the site to the photo to make a determination.

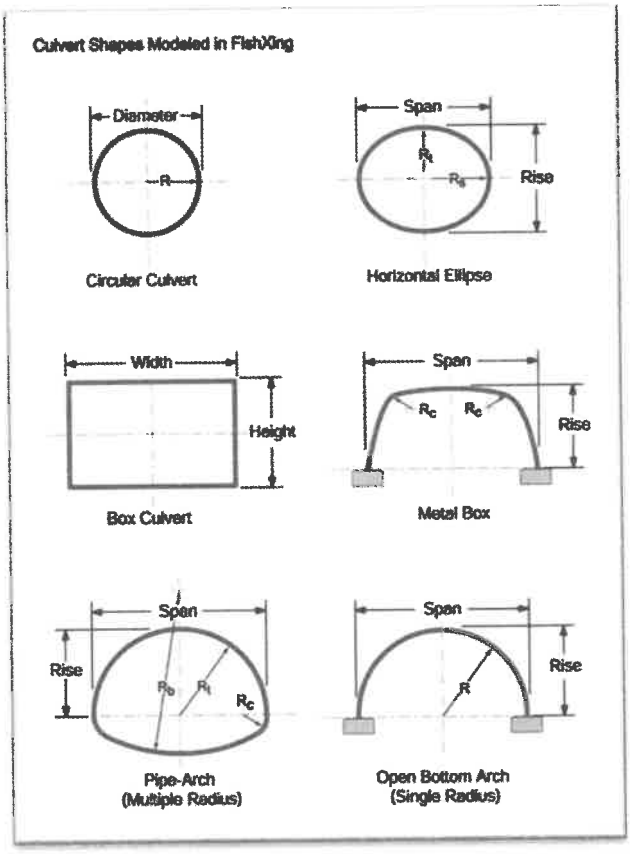
Intersections or Roads – You may want to break an intersection into multiple components.

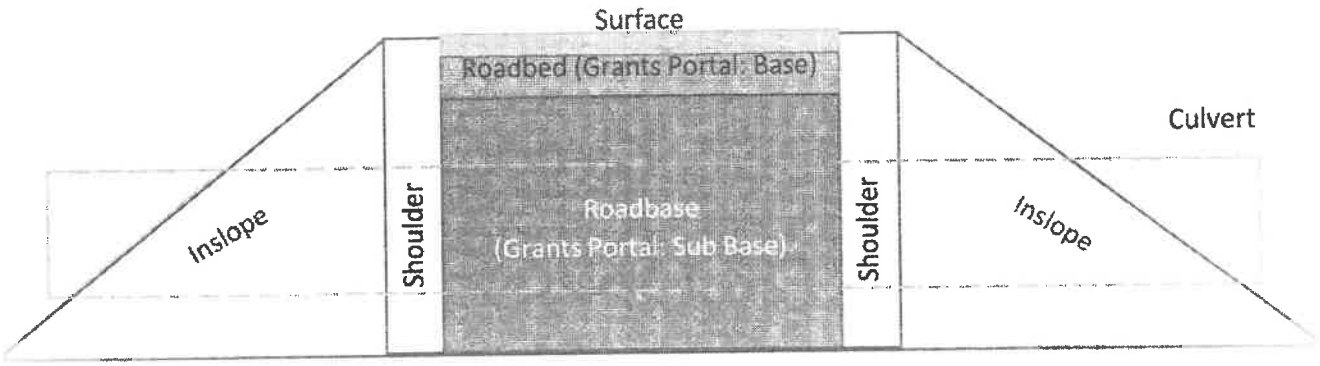
Measurements – Use a tape measure to record the length, width, depth and/or diameter of the damaged component. Measurethe road length with either a vehicle distance measuring device, distance wheel, GPS or any other accurate unit of measurement.

Length of Damage - The length of damages is normally continuous, from a seen point to the next seen point of continuous wash.

Components of a Road:

- **Surface:** Surface Gravel (CL5) crushed/screened, fines, etc. The topmost road layer.
  - L x W x D / 324 = CY (L, W in feet & D in inches). For area, L x W / 9 = SY (L, W in feet).
- **Road base:** Gravel (CL13), pit run, scoria, shale, etc. Base for surface. Mitigation opportunity using geotextile fabric underneath.
  - L x W x D / 324 = CY (L, W in feet & D in inches).
- **Roadbed:** Embankment, clay, etc. The bottom-most layer.
  - L x W x D / 27 = CY (L, W, D in feet).
- **Shoulder:** Embankment, clay, etc. Non-sloped portion adjacent to gravel road.
  - L x W x D / 27 = CY (L, W, D in feet).
- **Inslope:** Embankment, clay, etc. Sloped portion. Riprap and filter fabric, or wing wall Mitigation may be utilized when bridge or culvert system is present.
  - L x W x D / 54 = CY (L, W, D in feet).
- **Culvert:** Corrugated Metal Pipe (CMP), Reinforced Concrete Pipe (RCP), Polyethylene Pipe (PEP), box/precast culvert, etc. Shape may be circular, arched, box or bridge.
  - L x Diameter.





Road Calculations:

Volume:

When all dimensions are in feet: L x W x D / 27 = CY

When Length and Width are in feet, but Depth is in inches: L x W x D / 324 = CY

or L x W x D /12/27For calculating inslope: CY / 2 = Inslope CY

For one unknown dimension (X), but know two dimensions (Y, Z) and CY: CY x 27 / (Y x Z) = X (all dimensions in feet) orCY x 324 / (Y x Z) = X (Y, Z in feet & X in inches)

Area:

When all dimensions are in feet: L x W / 9 = SY

Developing your Damage Description (DDD) Examples

Category A: Debris Removal

- Woody debris gathered against bridge abutment over area 40' x 10' x 4' (60 CY).

Category B: Emergency Protective Measures

- The city constructed levees from earth, sandbags, and HESCO bags to protect against the threat to life and property ofthe citizens of Mandan. Force Account utility work crews were mobilized to help flood fighting efforts. They combinedwith other city employees to man pumps, check dikes and levees, acquire necessary materials at local businesses in order to keep flood waters under control.
- Electrical generators were rented to supply power to operate electric pumps and lights during the flood fighting effort. Tractors were rented (some donated) and placed at strategic points throughout the city and PTO pumps attached to tractors were used to move large amounts of flood water away from threatened areas.
- The utility crew, working with the wastewater crew, acquired ball plugs and placed them at wastewater lift stations tokeep flood water from community housing and businesses. Frames were built to guide hoses over dikes and levees from pumps pumping flood water from behind plug dikes and levees in the bay areas.

Category C: Roads and Bridges: (Length x Width x Depth)

- Surface gravel washed from road area 100' x 22' x 2"
- Pit run washed from Roadbase over area 75' x 22' x 4" (Grants Portal: BASE)Roadbed eroded over area 50' x 22' x 3'. Lost material consisted of(Embankment/Pit Run/etc.) (Grants Portal: SUBBASE)
- Inslope eroded over area 50' x 6' x 2' / 2 on the (West/East/North/South) side
- Rip Rap eroded over are 50' x 6' x 2' on the (West/East/North/South) side
- Roadbed saturated, soft and unstable causing rutting up to_" over area L' x W'. (note 1)
- ____LF of___in. (CMP / RCP / CPEP) eroded, washed out and displaced without damage. Culvert requires a S&R. (note 1)
- ____LF of___in. (CMP / RCP / CPEP) eroded, washed out and damaged beyond repair. Culvert requires a F&I. (note 1)
- ____LF of___in. (CMP / RCP / CPEP) eroded around and collapsed. Culvert requires a Furnish and Install. (note 1)
- ____LF of___in. culvert plugged with debris. (note 1)
- Area around culvert eroded on the (inlet/outlet) side__ft. x_____ft. x____ft.
- Filter Fabric loss over area L x W on the (West/East/North/South) side of inslope
- Road Inundated L x W (and depth if possible)
- The applicant agent from (XXX) County has with-drawn the site

Note 1: Rutted or Culvert issue may include some or all, (e.g. Surface Gravel, Roadbase, Roadbed, Shoulder, Inslope and Rip Rap), loss under the DDD.

Category D: Water Control Facilities

- Sediment on the Drain Channel Bottom for an area of 2,550' L x 16' W x 4' D; sediment on the East Drain Slope for anarea of 2,550' L x 15 W x 4' D; and the West Drain Slope for an area of 2,550' L x 15' W x 4' D.

Category E: Public Buildings and Equipment

- The cancer cottage is a 2,460-sf single story, wood frame duplex residential building occupied by patients undergoingtherapy. Floodwaters from the river inundated the structure to a depth of 5 feet and remained for a period of two weeks. As a result, exterior walls, interior walls, doors, cabinets, appliances, electrical, plumbing, and heating and cooling components were damaged beyond repair.

- 1. Molding: 945 lf base shoe and 38 window and door trim sets.
- 2. Door Frames: 105 lf exterior wood door frames and 170 lf interior wood door frames.
- 3. Siding: 2,856 sf vinyl siding, clapboard profile, wood grain texture, 0.048 thick, double 4".
- 4. Doors: 8 interior wood paneled doors, 1 exterior combination storm and screen door, 8 solid core entrance doors, and 11 bifold, raised panel pine closet doors.
- 5. Windows: 2 Great Room windows, 8 ft x 5 ft, standard; 2 Kitchen windows, wood, horizontal sliding, 4 ft x 2 ft t in; 6- b e d r o o m windows, wood, horizontal sliding, 4 ft x 3ft 6in; 2 Bath windows, wood, double hung, 3ft x 4ft.
- 6. Mirrors: 32 Mirrors, unframed, laminated, ¼ in thick.
- 7. Wallboard: 9,565 sf Gypsum wallboard, 5/8 in thick.
- 8. Flooring: 720 sf Laminate, industrial carpeting, tile.

Category F: Public Utilities

- Flood waters from the Red, Sheyenne, and Maple Rivers damaged 115 pad mounted transformers, and 6 junction boxes and switches. All of them are ground mounted in metal boxes.

Category G: Parks, Recreation and Other

- The gravel parking lots for the playground (approx. 500ft x 450ft) and the adjacent baseball fields (approx. 1000ft x 25ft) were scoured by the rushing water destroying 6in of gravel base and 3in of surface gravel. In total 250,000SF ofbase and surface gravel was washed away.
- Four sets of horseshoe pits constructed of 8in x 8in treated timbers in two 5ft by 4 ft squares with double 4 ft 8in x 8in treated timber backstops on each end were destroyed. In the playground 75ft x 75ft of rubber playground much (six indepth) was washed away.

Site Naming Convention:

Every site is required to have an identifying number. For County Applicants:

- County Sites: Please use the first 5 letter in your county name followed by the numerical numbering of your site. The Numerical numbering must contain 2 characters.

  For example: Benson County Site 1 would be Benso01.

- Township Sites: Please use the first and last letters of your county followed by the first three letters of your township, followed by the numerical numbering of your site. The numerical numbering must contain 2 characters. For example:Benson County, Rock Township Site 1 would be BnRoc01.

- For Applicants other than Counties: Use the first 5 letters in the name of your entity followed the numerical numbering of your site. The Numerical numbering must contain 2 characters. For example: Devils Lake site 1 would be Devil01. Forthose entities whose names do not contain 5 characters, use as many characters as your entities name can provide, followed by the two-character number.

Inundated Roads – Loss of Useful Service Life

- FEMA cannot provide PA funding for the projected loss or damages that are not visible during site inspection
- When inspecting inundated roads
  - Take GPS
  - Develop a length, width, and depth of inundation
  - Take photos of site
  - Forward the site into upload the site when finished
- Inundated Road – Eligible When
  - Eligible for assistance only when the following requirements are met
  - Resident is isolated at their primary residence

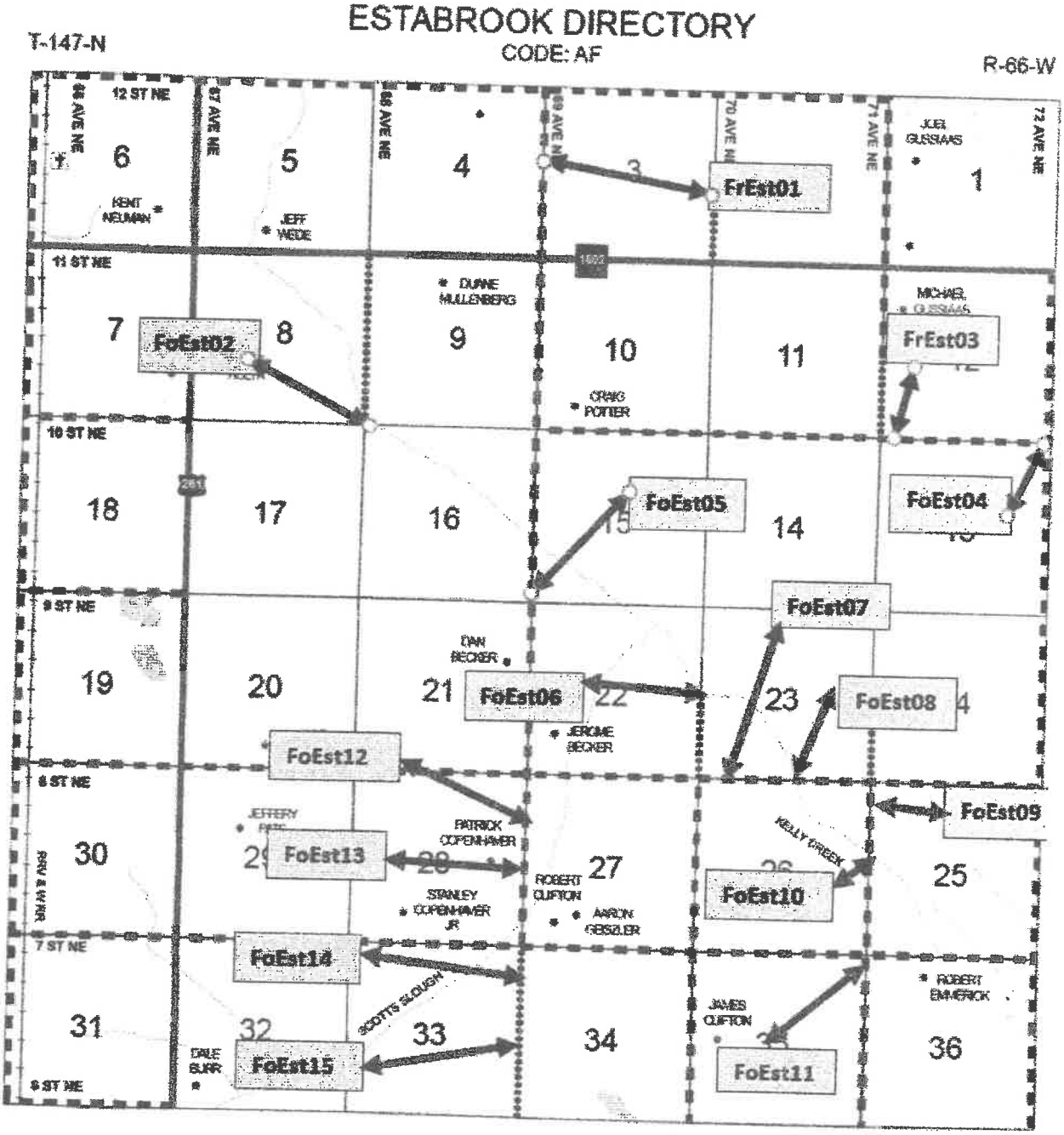
- Road is estimated to be underwater past fall freeze-up
- Inundation may need to be in excess of 12" at fall freeze-up

Non-maintained Road

- Road must be maintained, improved and in use at the time of the event to be eligible.
- There may be some exceptions

Map of Sites

- Townships are required to identify all site locations on their township's Directory Map and NOT THE PLAT MAP
  - This can be done in pen and ink but will be updated to resemble page 9 before submittal to FEMA.
- Map's must show Street and Avenue numbering, Section numbering, Road Type, Road Numbering (if applicable, FHWARoads and some County Roads are numbered).
- Your County EM can provide you with a copy of your Directory Map if you do not have access to one.



What do Townships need to Supply?

- Site Tracker - A comprehensive list of your damages
  - Must include the following
    - Site Name
    - Township Name
    - Category of work
    - GPS locations
    - Description of the damage that is quantifiable
    - Estimated Cost
    - Percentage of work completed

Site Tracker

Applicant Name	Site Name	Co/Cty/Twp	Category	Start Latitude	Start Longitude	Stop Latitude	Stop Longitude	Culvert GPS	Description of Damage or Work	Est. Cost	% of Work Completed
Ransom County	RmCob01	Coburn	C	46.57101	-97.63218	46.57295	-97.63218	NA	Surface Gravel washed from road area 191' x 15' x 2". Roadbed eroded over area 150' x 14' x 4".	$450.00	100%
Ransom County	Ranso01	County	C	46.58956	-97.25158	46.58489	-97.25158	46.58489 -97.25100	40LF x 36" CMP eroded, washed out and was damaged beyond repair. Area around culvert eroded over 10' x 30' x 6'.	2,000.00	0%
Ransom County	Ranso02	County	B	46.44204	-97.68445	46.44204	-97.68445	NA	Force Account labor monitored flooded roadways, placed road closed signs, detour signs, road underwater signs, and placed sandbags throughout Ransom County.	$14,251.25	100%
Ransom County	Ranso03	County	A	46.07154	-97.82892	46.07154	-97.82892	NA	Contractor and two Force Account employees worked from 5/8/2018-5/10/2018 to remove 80 CY of vegetative debris. Debris was taken to the Valley City landfill. GPS location of landfill - 46.54231, -98.02226.	$4,578.55	100%
Ransom County	RmCob02	Coburn	C	46.25502	-97.52548	46.25186	-97.52548	46.25186 -97.52401	40LF x 36" CMP eroded, washed out and was damaged beyond repair. Area around culvert eroded over 10' x 30' x 6'.	$3,500.00	100%
Ransom County	RmCob03	Coburn	C	47.59863	-97.02563	47.59845	-97.02563	NA	Surface Gravel washed from road area 250 x 20' x 2".	$350.00	0%

Record Retention — Small Projects

- Record Keeping - Work Completed and Work to be Completed Projects
- Copies of invoices must be kept to show that the SOW has been completed; and or
- Copies of Force Account records to show that the SOW has been completed
- Keep copies of proof of payments to your contractors
  - Cancelled Checks
  - Warrants
- Permitting records must be retained for environmental compliance
- Procurement records
- Records of any insurance proceeds

Important Dates

•Work Completion Dates

Once work on a project is 100% complete, the Applicant must submit documentation for the project within 90 days of the Recovery Scoping Meeting or within 90 days of the work completion date, whichever is later, regardless of whether the project has been obligated. FEMA makes its eligibility determination and processes the project based on the documentation received within the 90-day deadline.

Contacts

•North Dakota Department of Emergency Services (NDDES) Division of Homeland Security
• Debbie LaCombe – Interim Director of Homeland Security
• Justin P. Messner – Disaster Recover Chief jmessner@nd.gov
• Brent Kahl – Public Assistance Officer – 701-328-8186 bmkahl@nd.gov
• Allan Hartmann – Task Force Lead – 701-328-8269 AllanHartmann@nd.gov
• Gerald Miller – Task Force Lead – 701-328-8279 glmiller@nd.gov
•NDDES Mailing Address
PO Box 5511
Bismarck, ND 58506-5511
Phone: 701.328.8100
Fax: 701.328.8181
Email:nddes@nd.gov

Changes in the NDTOA 2022 Township Officers Handbook

3. Member price of a complete handbook (with imprinted green binder) reduced to $10.00

28. Article III of the Constitution amended to allow electronic attendance and voting at NDTOA annual conventions.

32. Article IV of NDTOA Policy amended to provide appointment of NATaT Directors, (added #9).

32. Article IV of NDTOA Policy amended concerning Director conduct, (added #10).

34. Article XX of NDTOA Policy created for the NATaT Directors

45. 11-16-01 Duties of States Attorney - Affected by 3 bills (p.); Subsection 2 changed "shall not" to "may not"

49. 11-33-01 SB2070 changes 23.1-04-04 to 23.1-10-16 (now under Department of Environmental Quality).

55. 16.1-01-04.1 HB1447 add 3., b., (6) student photo ID acceptable ID for voting

75. 24-03-06 HB1353 change "state engineer" to Dept of Water Resources

75. 24-03-08 HB1353 change "state engineer" to Dept of Water Resources

79. 24-06-26.1 HB1353 change "state engineer" to Dept of Water Resources

90. 26-22-10 HB1086 changed format to list, some changes to exclusion language in 1.

91. 32-12.1-03 (2) HB1057 new liability limits for government subdivisions, liability limits ramp up annually

93. 32-12.1-03 (7) SB2067 new - Litigants shall comply with applicable rules of civil procedure to obtain documents.

104. 40-47-01 SB2070 city zoning (wording standards); and changes 23.1-04-04 to 23.1-10-16 (now under NDDEQ)

110. 44-04-17.1(9) HB1349 grammar, add 9., b. (5) (open meetings/records laws)

114. 44-04-19 add for electronic attendance, (open meetings/records laws)

115. 44-04-19.1(12) add (12) litigation records, (open meetings/records laws)

116. 44-04-20 notice requirements, (open meetings/records laws)

119. 44-08-21(1) HB1170 recall laws, add the exception for township officer replacement

141. 57-02-08(9) HB1471 property tax exemption for buildings used for church purposes and up to 20 acres of land

143. 57-02-08(15)(b)(3.) SB2041 sale or trade value, of a farmer's machinery not included for farm home exemption calculation.

145. 57-02-08(36) SB2202 property tax exemption for early childhood or adult daycare

150. 57-02-08.6 HB1353 change state engineer to Dept of Water Resources

151. 57-02-08.8 SB2213 $8,100 property tax credit for disabled vets.

158. 57-09-01 HB1445 equalization date, now any township may hold equalization on any date in April.

159. 57-09-06 HB1445 assessor turns in assessment by the second Monday of May.

169. 57-15-19.7 HB1157 township emergency levy approval by majority at township meeting, issue must be in the notice.

169. 57-15-20.2 HB1157 exception to levy limit for emergency levy

171. 57-15-30.2 HB1186 change "must file" to "shall file"

179. 58-03-11 SB2070 wording standards; and changes 23.1-04-04 to 23.1-10-16 (now under NDDEQ)

180. 58-03-11.1(1)(d.) SB2216 changes setback from land "purposes" to "zoning districts"

183. 58-04-02 HB1170 Township officer removal added to the reasons for special meetings of the township.

183. 58-04-02.2 HB1170 Procedure for replacing a township officer in a special meeting.

197. 61-01-01(4) HB1353 changes state engineer to dept of water resources

197. 61-01-06 HB1353 wording standards, and change to dept of water resources

200. 61-16.1-09.1(1) HB1353 wording standards, and change to dept of water resources

241. FEMA – NDDES Procedures for Townships

249. List of Changes in the 2022 Revision

Township Meeting Dates

Date	Meeting time and place
Second Tuesday in March*	- Regular Board Meeting - Board of Auditors to meet - Office of Clerk (or usual meeting place) - Time determined by the Board
Third Tuesday in March (This date is set by law) NDCC 58-04-01	- **Annual township meeting** - At time and place determined by the Board and so advertised (at least 10 days before)
Fourth Tuesday in March*	- Regular Board Meeting - Office of Clerk (or usual meeting place) - Time determined by the Board
Any date in April. NDCC 57-09-01(1) Any Township may hold Equalization on any date in April.	- **Township Board of Equalization** - Office of Clerk (or usual meeting place) - Time determined by the Board - Time and place must be advertised (at least 10 days before)
Second Monday in June	- Regular Board Meeting - Board of Auditors to meet - Office of Clerk (or usual meeting place) - Time determined by the Board
Last Tuesday in October	- Regular Board Meeting - Office of Clerk (or usual meeting place) - Time determined by the Board
As needed	- Special Board meeting - Office of Clerk (or usual meeting place) - In emergency or at the call of the clerk (under NDCC 58-04-02) Minutes must be filed: with the Clerk within two days. (NDCC 58-04-17), and County Auditor.
Regular Monthly Board Meeting	-Set place and time of month on file with County Auditor

* At the discretion of the township supervisors the meetings to be held on the second and fourth Tuesdays in March may be held on the same day as the annual meeting. (Third Tuesday in March.)
58-04-08. Who are voters at township meetings? A person may not vote at any township meeting unless that person is qualified to vote at general elections therein.
For elector qualifications see NDCC 16.1-01 (Residency and other rules apply)

Website: **NDTOA.COM**