

Nebraska Revised Statutes related to Land Surveying  
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| Mileage          | 33-116      |          |             |             |             |
| Misconduct       | 81-8,110.01 | 81-8,123 |             |             |             |
| Modem            | 84-712.01   |          |             |             |             |
| Mortgages        | 23-107      | 23-1506  | 23-1511     | 25-202      | 76-238      |
|                  | 76-241      |          |             |             |             |

## N

|            |          |         |          |         |           |
|------------|----------|---------|----------|---------|-----------|
| Necessity  | 17-1002  | 23-311  | 39-1639  |         |           |
| Negligence | 81-8,123 |         |          |         |           |
| New Road   | 39-1639  | 39-1704 | 39-1710  |         |           |
| Notice     | 14-115   | 17-424  | 23-340   | 23-1909 | 25-211.08 |
|            | 27-803   | 31-110  | 31-111   | 31-137  | 34-107    |
|            | 34-301   | 39-1708 | 76-2,110 | 76-238  | 76-275.05 |

|  |        |        |             |          |  |
|--|--------|--------|-------------|----------|--|
|  | 76-298 | 76-301 | 81-8,110.05 | 81-8,124 |  |
|--|--------|--------|-------------|----------|--|

**O**

|                     |             |             |         |            |             |
|---------------------|-------------|-------------|---------|------------|-------------|
| Obliterated Corners | 23-302      | 23-1908     | 39-1410 | 84-410     |             |
| Office Supplies     | 23-121      |             |         |            |             |
| Official Duties     | 11-119      | 23-1906     | 39-1506 | 77-1306.01 | 81-8,110.11 |
|                     | 81-8,110.12 | 81-8,110.15 | 84-411  |            |             |
| Official Record     | 23-1506     | 23-1903     | 23-1905 | 23-1911    | 27-803      |
|                     | 76-242      |             |         |            |             |
| Omission            | 17-415      | 77-1843     |         |            |             |
| Opinion Testimony   | 27-701      | 27-702      | 27-703  | 27-704     | 27-803      |
| Original Corners    | 23-301      | 23-1907     | 23-1908 |            |             |

**P**

|                          |             |             |           |           |           |
|--------------------------|-------------|-------------|-----------|-----------|-----------|
| Parks                    | 15-106      | 19-916      | 39-1702   |           |           |
| Partition                | 25-21,100   | 25-21,103   | 25-21,104 | 25-21,105 | 25-21,107 |
|                          | 25-21,108   |             |           |           |           |
| Partition in Part        | 25-21,103   |             |           |           |           |
| Patents                  | 76-278      |             |           |           |           |
| Perpetuation             | 23-1907     | 34-201      | 34-202,   | 39-1708   |           |
| Petition                 | 14-115      | 17-405      | 19-917    | 23-120    | 23-301    |
|                          | 23-311      | 23-1909     | 25-21,108 | 31-105    | 31-106    |
|                          | 31-107      | 31-110      | 31-136    | 31-137    | 31-204    |
|                          | 31-206      | 34-301      | 39-1324   |           |           |
| Petition for Survey      | 23-1909     |             |           |           |           |
| Plat                     | 10-105      | 14-115      | 14-116    | 15-106    | 15-901    |
|                          | 17-405      | 17-415      | 17-421    | 17-422    | 17-423    |
|                          | 17-424      | 17-425      | 17-1002   | 19-916    | 19-917    |
|                          | 19-918      | 19-919      | 23-174.03 | 23-302    | 23-1506   |
|                          | 23-1908     | 25-1278     | 31-107    | 31-108    | 31-206    |
|                          | 39-1707     | 39-1710     | 39-1711   | 72-259.02 | 72-259.05 |
|                          | 76-278      | 76-848      | 76-887    | 81-8,109  | 81-8,127  |
|                          | 84-407.01   |             |           |           |           |
| Platting                 | 14-116      | 15-901      | 17-405    | 17-1002   | 17-1003   |
|                          | 19-916      | 19-920      | 23-174.03 | 81-8,109  |           |
| Possession               | 23-304      | 23-1506     | 23-1901   | 25-202    | 39-1507   |
|                          | 76-109      | 76-298      |           |           |           |
| Prescription             | 14-389      | 39-1327     | 39-1702   |           |           |
| Probation                | 81-8,123    | 81-8,125    |           |           |           |
| Professional Development | 81-8,119.01 | 81-8,119.02 |           |           |           |
| Professional Engineer    | 23-1901     | 23-1901.02  | 81-1704   | 81-1716   | 81-1717   |
|                          | 81-1718     | 81-1719     |           |           |           |
| Professional Services    | 81-1704     | 81-1716     | 81-1717   | 81-1718   | 81-1719   |



|                     |         |             |        |           |         |
|---------------------|---------|-------------|--------|-----------|---------|
| Public Highway      | 34-101  |             |        |           |         |
| Public Improvements | 14-116  | 14-389      | 15-701 | 15-901    | 17-1002 |
|                     | 19-916  | 19-919      | 19-929 | 23-174.03 | 23-340  |
|                     | 23-1901 | 31-105      | 31-106 | 31-107    | 31-108  |
|                     | 31-109  | 31-110      | 31-111 | 31-119    | 31-131  |
|                     | 31-211  | 76-301      | 76-802 | 76-839    | 76-887  |
| Public Records      | 23-1608 | 23-1911     | 27-803 | 76-275.05 | 76-301  |
|                     | 84-401  | 84-405      | 84-712 | 84-712.01 |         |
| Public Road         | 25-202  | 34-101      | 34-301 | 39-1507   | 39-1522 |
| Publication         | 23-340  | 25-21,106   | 31-110 | 31-137    | 34-107  |
|                     | 34-301  | 81-8,110.08 |        |           |         |

## Q

|                 |             |        |             |             |             |
|-----------------|-------------|--------|-------------|-------------|-------------|
| Qualifications  | 23-1901     | 32-525 | 34-106      | 81-8,110.01 | 81-8,110.02 |
|                 | 81-8,119.01 |        |             |             |             |
| Quarter Corners | 23-1908     | 33-116 | 81-8,122.01 |             |             |
| Quiet Title     | 25-21,107   |        |             |             |             |

## R

|                          |             |             |             |             |             |
|--------------------------|-------------|-------------|-------------|-------------|-------------|
| Railroad                 | 10-105      | 31-108      | 31-109      | 34-201      | 76-278      |
| Real Estate Subdivision  | 76-2110     |             |             |             |             |
| Real Estate Taxes        | 77-1843     |             |             |             |             |
| Recitals                 | 76-275.05   |             |             |             |             |
| Record Repository        | 81-8,122    | 81-8,122.01 | 84-412      | 84-413      | 84-414      |
|                          | 84-415      |             |             |             |             |
| Recording                | 17-405      | 17-422      | 17-424      | 19-919      | 23-1506     |
|                          | 23-1510     | 23-1511     | 27-803      | 76-235      | 76-238      |
|                          | 76-242      | 76-271      | 76-275.05   | 76-278      | 76-298      |
|                          | 76-802      | 76-838      | 76-841      | 76-2110     | 84-408      |
| Records                  | 22-196      | 23-340      | 23-1506     | 23-1608     | 23-1910     |
|                          | 23-1911     | 23-1913     | 37-803      | 39-1710     | 76-275.05   |
|                          | 76-278      | 76-301      | 81-8,110.14 | 81-8,113    | 84-401      |
|                          | 84-404      | 84-405      | 84-406      | 84-407      | 84-408      |
|                          | 84-413      | 84-415      | 84-712      | 84-712.01   |             |
| Recovery of Title        | 25-202      |             |             |             |             |
| Register of Deeds        | 11-119      | 14-115      | 14-116      | 15-106      | 15-901      |
|                          | 17-405      | 19-916      | 19-917      | 23-174.03   | 23-1506     |
|                          | 23-1507     | 23-1508     | 23-1510     | 23-1901.02  | 25-202      |
|                          | 72-259.05   | 76-237      | 76-238      | 76-278      | 76-2110     |
| Registered Land Surveyor | 15-106      | 23-1901     | 23-1901.02  | 23-1908     | 23-1911     |
|                          | 76-846      | 81-8,108    | 81-8,110    | 81-8,110.01 | 81-8,110.02 |
|                          | 81-8,119.01 | 81-8,120    | 81-8,121    | 81-8,122    | 81-8,122.02 |
|                          | 81-8,124    | 81-8,126    | 81-8,127    | 81-1704     | 81-1717     |

|                           |             |             |             |             |           |
|---------------------------|-------------|-------------|-------------|-------------|-----------|
|                           | 81-1718     |             |             |             |           |
| Registration              | 81-8,110.04 | 81-8,110.12 | 81-8,110.13 | 81-8,110.14 | 81-8,114  |
|                           | 81-8,115    | 81-8,117    | 81-8,118    | 81-8,119.01 | 81-8,121  |
|                           | 81-8,123    | 81-8,124    | 81-8,125    |             |           |
| Repair                    | 23-120      | 23-121      | 23-1901     | 31-204      | 33-116    |
|                           | 34-108      | 34-111      | 34-112      | 34-113      | 39-1522   |
|                           | 76-802      |             |             |             |           |
| Replat                    | 14-115      | 19-917      |             |             |           |
| Report                    | 19-929      | 23-311      | 23-340      | 23-1901     | 25-2186   |
|                           | 25-21,104   | 25-21,105   | 27-803      | 31-105      | 31-107    |
|                           | 31-108      | 31-110      | 31-111      | 31-131      | 31-137    |
|                           | 31-206      | 31-211      | 39-1709     | 77-1306.01  | 84-407    |
|                           | 84-408      |             |             |             |           |
| Reservation of Property   | 76-106      |             |             |             |           |
| Resolution                | 14-115      | 22-196      | 23-107      | 39-1639     | 72-259.05 |
|                           | 76-2110     |             |             |             |           |
| Resurvey                  | 23-301      | 23-302      | 23-303      | 23-1911     | 39-1709   |
|                           | 39-1712     | 72-262      | 72-263      | 84-407      |           |
| Revocation                | 23-1901.02  | 27-803      | 76-101      | 76-103      | 76-105    |
|                           | 81-8,123    | 81-8,124    | 81-8,125    | 84-801      |           |
| Right-of-way              | 14-389      | 31-211      | 39-1522     | 39-1702     | 76-278    |
| Rivers                    | 77-1306.01  |             |             |             |           |
| Road Improvement District | 39-1639     |             |             |             |           |
| Roads                     | 14-389      | 31-109      | 39-1327     | 39-1410     | 39-1507   |
|                           | 39-1522     | 39-1639     | 39-1702     | 39-1704     | 39-1705   |
|                           | 39-1708     | 39-1710     | 39-1711     |             |           |
| <b>S</b>                  |             |             |             |             |           |
| School Lands              | 72-259.02   | 72-259.05   | 72-262      | 72-263      |           |
| Seal                      | 17-405      | 72-259.05   | 76-242      | 81-8,110.12 | 81-8,121  |
|                           | 84-402      |             |             |             |           |
| Section Corners           | 23-1908     |             |             |             |           |
| Section Lines             | 31-107      | 39-1410     |             |             |           |
| Sectional Lines           | 23-301      |             |             |             |           |
| Sidewalk                  | 15-701      | 39-1702     |             |             |           |
| State Surveyor            | 23-302      | 23-1907     | 23-1908     | 23-1911     | 72-259.02 |
|                           | 72-259.05   | 81-8,110.03 | 84-407      | 84-408      | 84-409    |
|                           | 84-410      | 84-411      | 84-412      | 84-414      |           |
| Statute of Frauds         | 36-103      | 36-104      | 36-105      |             |           |
| Statute of Limitations    | 76-298      |             |             |             |           |
| Streams                   | 77-1306.01  |             |             |             |           |
| Street Improvement        | 23-340      |             |             |             |           |
| Streets                   | 14-115      | 14-116      | 14-389      | 15-106      | 15-701    |
|                           | 16-611      | 17-405      | 17-415      | 17-423      | 17-1002   |

|                          |             |             |             |             |             |
|--------------------------|-------------|-------------|-------------|-------------|-------------|
|                          | 19-920      | 22-209      | 23-340      | 25-202      | 34-101      |
|                          | 39-1324     | 39-1327     | 39-1522     | 39-1702     | 72-259.02   |
| Subdivide                | 14-115      | 14-116      | 15-901      | 17-405      | 17-415      |
|                          | 17-1002     | 19-918      | 23-174.03   | 23-304      | 23-1909     |
|                          | 76-2,110    |             |             |             |             |
| Subdivision Jurisdiction | 17-1002     | 23-174.03   |             |             |             |
| Subdivision Plats        | 15-901      | 23-170.03   |             |             |             |
| Suburban Development     | 17-1002     | 17-1003     | 17-1004     |             |             |
| Survey                   | 10-105      | 19-916      | 19-929      | 22-195      | 22-196      |
|                          | 23-301      | 23-302      | 23-303      | 23-304      | 23-305      |
|                          | 23-306      | 23-311      | 23-1901     | 23-1904     | 23-1905     |
|                          | 23-1907     | 23-1908     | 23-1909     | 23-1910     | 23-1911     |
|                          | 23-1913     | 31-105      | 31-107      | 31-108      | 31-136      |
|                          | 31-206      | 33-116      | 34-201      | 39-1410     | 39-1704     |
|                          | 39-1705     | 39-1706     | 39-1707     | 39-1708     | 39-1709     |
|                          | 39-1712     | 72-262      | 72-263      | 76-848      | 77-1306.01  |
|                          | 81-8,122    | 81-8,122.02 | 84-404      | 84-407      | 84-407.01   |
|                          | 84-408      | 84-409      | 84-409.01   | 84-410      | 84-412      |
|                          | 84-413      | 84-414      | 84-415      |             |             |
| Survey Record Repository | 81-8,122    | 84-412      | 84-413      | 84-414      | 84-415      |
| Surveyor                 | 15-106      | 17-405      | 19-916      | 23-301      | 23-302      |
|                          | 23-311      | 23-340      | 23-1901     | 23-1901.01  | 23-1901.02  |
|                          | 23-1903     | 23-1904     | 23-1905     | 23-1906     | 23-1907     |
|                          | 23-1908     | 23-1909     | 23-1910     | 23-1911     | 23-1913     |
|                          | 25-21,100   | 31-105      | 31-108      | 31-109      | 31-110      |
|                          | 31-111      | 31-119      | 31-131      | 31-136      | 31-137      |
|                          | 31-204      | 31-206      | 31-211      | 32-525      | 33-116      |
|                          | 34-201      | 39-1410     | 39-1506     | 39-1639     | 39-1707     |
|                          | 39-1708     | 77-1306.01  | 81-1704     | 81-8,109    | 81-8,110.02 |
|                          | 81-8,110.03 | 81-8,110.04 | 81-8,110.05 | 81-8,110.06 | 81-8,110.07 |
|                          | 81-8,110.08 | 81-8,110.11 | 81-8,110.12 | 81-8,110.13 | 81-8,110.14 |
|                          | 81-8,110.15 | 81-8,113    | 81-8,114    | 81-8,115    | 81-8,117    |
|                          | 81-8,118    | 81-8,119.01 | 81-8,119.02 | 81-8,121    | 81-8,122    |
|                          | 81-8,122.02 | 81-8,123    | 81-8,124    | 81-8,125    | 81-8,126    |
|                          | 81-8,127    | 84-404      | 84-405      | 84-406      | 84-407      |
|                          | 84-407.01   | 84-408      | 84-409      | 84-410      | 84-411      |
|                          | 84-412      | 84-413      |             |             |             |
| Surveyor General         | 23-1908     | 84-404      | 84-405      | 84-406      |             |
| Surveyor-in-training     | 81-8,109    |             |             |             |             |
| <b>T</b>                 |             |             |             |             |             |
| Testimony                | 23-1903     | 27-701      | 27-702      | 27-703      | 27-704      |
|                          | 27-803      | 34-109      | 81-8,125    | 84-410      |             |
| Title                    | 14-115      | 15-701      | 16-611      | 23-107      | 25-202      |

|                                 |           |            |          |           |           |
|---------------------------------|-----------|------------|----------|-----------|-----------|
|                                 | 25-21,107 | 25-21,112  | 76-271   | 76-272    | 76-275.05 |
|                                 | 76-298    | 76-301     | 77-1873  | 81-8,127  | 84-404    |
| Township                        | 11-119    | 22-195     | 23-301   | 23-303    | 39-1522   |
|                                 | 39-1704   | 39-1711    | 72-263   |           |           |
| Township Board                  | 39-1704   |            |          |           |           |
| Township Organization           | 39-1522   |            |          |           |           |
| Township Roads                  | 39-1522   | 39-1704    |          |           |           |
| Tract                           | 14-116    | 15-901     | 17-415   | 17-424    | 17-425    |
|                                 | 23-174.03 | 23-303     | 23-304   | 23-305    | 23-306    |
|                                 | 23-307    | 25-1278    | 31-108   | 31-109    | 31-211    |
|                                 | 34-301    | 72-259.02  | 72-263   | 76-278    | 81-8,109  |
| Transfer                        | 14-116    | 23-174.03  | 23-1913  | 76-104    | 76-105    |
|                                 | 81-8,126  |            |          |           |           |
| Trespass                        | 23-1906   | 39-1324    | 84-411   |           |           |
| <b>U</b>                        |           |            |          |           |           |
| Uniform Property Act            | 76-101    | 76-102     | 76-103   | 76-104    | 76-105    |
|                                 | 76-106    | 76-107     | 76-108   | 76-109    |           |
| Unimproved                      | 81-8,109  |            |          |           |           |
| United States Dept. of Interior | 23-302    |            |          |           |           |
| United States Patents           | 76-278    |            |          |           |           |
| United States Surveys           | 23-303    | 84-408     |          |           |           |
| Unsubdivided                    | 17-405    |            |          |           |           |
| <b>V</b>                        |           |            |          |           |           |
| Vacating                        | 14-115    | 15-701     | 19-917   |           |           |
| Vacation                        | 14-115    | 16-611     | 17-421   | 17-422    | 17-423    |
|                                 | 19-917    |            |          |           |           |
| Voters                          | 22-196    | 23-120     | 23-301   | 23-303    |           |
| <b>W</b>                        |           |            |          |           |           |
| Warranty                        | 17-415    | 76-209     | 76-887   |           |           |
| Water                           | 76-802    | 77-1306.01 | 81-8,109 |           |           |
| Width                           | 14-115    | 15-106     | 34-115   | 34-117    | 39-1702   |
| Witnesses                       | 19-929    | 23-1903    | 27-701   | 27-706    | 33-116    |
|                                 | 34-109    | 39-1410    | 81-8,125 | 84-410    |           |
| <b>Z</b>                        |           |            |          |           |           |
| Zoning                          | 15-901    | 19-916     | 19-929   | 23-174.03 | 76-2110   |

**10-105. Donations to railroad corporations; conditions; noncompliance; effect.** No proposition shall be submitted to the electors of any county for donations of bonds or any other valuables to any railroad corporation, unless said railroad corporation, through its authorized and responsible agent, files for record in the county clerk's office, where such donations of bonds or any other valuables are to be voted upon, a plat of the survey showing the exact line of route through said county, within at least two weeks previous to such election; and no such bonds, or other evidences of indebtedness, or donations, shall be valid if they are voted, unless said railroad corporation builds its line of road within forty rods of the survey as filed in the county clerk's office.

**Source:** Laws 1879, § 1, p. 151; R.S. 1913, § 370; C.S. 1922, § 287; C.S. 1929, § 11-106.

**11-119. Bonds; officers; penal sums.** The following named officers shall execute a bond with penalties of the following amounts:

- (1) The Governor, one hundred thousand dollars;
- (2) The Lieutenant Governor, one hundred thousand dollars;
- (3) The Auditor of Public Accounts, one hundred thousand dollars;
- (4) The Secretary of State, one hundred thousand dollars;
- (5) The Attorney General, one hundred thousand dollars;
- (6) The State Treasurer, no less than one million dollars and not more than double the amount of money that may come into his or her hands, to be fixed by the Governor;
- (7) Each county attorney, a sum not less than one thousand dollars to be fixed by the county board;
- (8) Each clerk of the district court, not less than five thousand dollars or more than one hundred thousand dollars to be determined by the county board;
- (9) Each county clerk, not less than one thousand dollars or more than one hundred thousand dollars to be determined by the county board, except that when a county clerk also has the duties of other county offices the minimum bond shall be two thousand dollars;
- (10) Each county treasurer, not less than ten thousand dollars and not more than the amount of money that may come into his or her hands, to be determined by the county board;
- (11) Each sheriff, in counties of not more than twenty thousand inhabitants, five thousand dollars, and in counties over twenty thousand inhabitants, ten thousand dollars;
- (12) Each district superintendent of public instruction, one thousand dollars;
- (13) Each county surveyor, five hundred dollars;
- (14) Each county commissioner or supervisor, in counties of not more than twenty thousand inhabitants, one thousand dollars, in counties over twenty thousand and not more than thirty thousand inhabitants, two thousand dollars, in counties over thirty thousand and not more than fifty thousand inhabitants, three thousand dollars, and in counties over fifty thousand inhabitants, five thousand dollars;
- (15) Each register of deeds in counties having a population of more than sixteen thousand five hundred inhabitants, not less than two thousand dollars or more than one hundred dollars to be determined by the county board;
- (16) Each township clerk, two hundred fifty dollars;

- (17) Each township treasurer, two thousand dollars;
- (18) Each county assessor, not more than five thousand dollars and not less than two thousand dollars;
- (19) Each school district treasurer, not less than five hundred dollars or more than double the amount of money that may come into his or her hands, the amount to be fixed by the president and secretary of the district;
- (20) Each road overseer, two hundred fifty dollars;
- (21) Each member of a county weed district board and the manager thereof, such amount as may be determined by the county board of commissioners or supervisors of each county with the same amount to apply to each member of any particular board; and
- (22) In any county, in lieu of the individual bonds required to be furnished by county officers, a schedule, position, or blanket bond or undertaking may be given by county officers, or a single corporate surety fidelity, schedule, position, or blanket bond or undertaking covering all the officers, including officers required by law to furnish an individual bond or undertaking, may be furnished. The county may pay the premium for the bond. The bond shall be, at a minimum, an aggregate of the amounts fixed by law or by the person or board authorized by law to fix the amounts, and with such terms and conditions as may be required by sections 11-101 to 11-130.
- All other state officers, department heads, and employees shall be bonded under the blanket surety bond required by section 11-201.

**Source:** Laws 1881, c. 13, § 19, p. 98; Laws 1901, c. 11, § 1, p. 63; Laws 1905, c. 12, § 1, p. 66; R.S. 1913, § 5725; Laws 1917, c. 110, § 1, p. 282; C.S. 1922, § 5055; Laws 1927, c. 156, § 1, p. 417; C.S. 1929, § 12-119; Laws 1933, c. 115, § 1, p. 460; Laws 1935, c. 22, § 1, p. 105; C.S. Supp., 1941, § 12-119; R.S. 1943, § 11-119; Laws 1947, c. 16, § 4, p. 97; Laws 1951, c. 14, § 1, p. 89; Laws 1963, c. 38, § 1, p. 206; Laws 1965, c. 538, § 31, p. 1716; Laws 1967, c. 36, § 1, p. 160; Laws 1969, c. 52, § 1, p. 350; Laws 1971, LB 298, § 1; Laws 1972, LB 1032, § 93; Laws 1973, LB 226, § 1; Laws 1974, LB 7, § 1; Laws 1975, LB 103, § 1; Laws 1978, LB 653, § 6; Laws 1983, LB 369, § 1; Laws 1988, LB 1030, § 1; Laws 1995, LB 179, § 1.

Effective date September 9, 1995.

**14-115. Real estate; subdividing; procedure; conditions; replatting; powers of city council; vacation of street or alley; effect.** No owner of real estate within the corporate limits of such city shall be permitted to subdivide said real estate into blocks and lot, or parcels, without having first obtained from the city engineer a plat or plan for the avenues, streets and alleys to be laid out within or across the same. A copy of such plat must be filed in the office of the city clerk for at least two weeks before such plat can be approved. Public notice must be given for two weeks for the filing of said plat, and such plat, if ordered by the council, shall be made so that such avenues, streets and alleys so far as practicable, shall correspond in width, name, direction and be continuous of the avenues, streets and alleys in the city contiguous to or near the real estate to be subdivided as aforesaid. The council shall have power to compel the owner of such real estate, in subdividing the same, to lay out and dedicate to the public the avenues, streets

and alleys, to be within or across such real estate in accordance with said plat. It shall further have the power to prohibit the selling or offering for sale, of any lots or parts of such real estate not subdivided and platted as herein required. It shall also have power to establish the grade of all such streets and alleys and to require the same to be graded to such established grade before selling or offering for sale any of said lots or parts of said real estate. Any and all additions to be made to the city shall be made so far as the same relates to the avenues, streets and alleys therein, under and in accordance with the foregoing provisions. Whenever the owners of the lots and lands, except streets and alleys, embraced and included in any existing plat or subdivision shall desire to vacate said plat or subdivision for the purpose of replatting the land embraced in said plat or subdivision, and shall present a petition praying for such vacation to the city council, and submit therewith for the approval of the city council a proposed replat of the same, which shall in all things be in conformity with the requirements of this section, the city council may, by concurrent resolution, declare the existing plat and the streets and alleys therein vacated and approve said proposed replat. Thereupon the existing plat or subdivision shall be vacated and the land comprised within the streets and alleys so vacated shall revert to and the title thereto vest in the owners of the abutting property and become a part of such property, each owner taking title to the centerline of the vacated street or alley adjacent to his property; *Provided* , that when a portion of a street or alley is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property; *and provided further* , it shall require a two-thirds vote of all the members of the city council to adopt such resolution. Upon the vacation of any plat as aforesaid, it shall be the duty of the owners petitioning for same to cause to be recorded in the office of the register of deeds and county assessor of the county a duly certified copy of the petition, the action of the council therein, and the resolution vacating said plat.

**Source:** Laws 1921, c. 116, art. I, § 14, p. 410; C.S. 1922, § 3502; C.S. 1929, § 14-115; R.S. 1943, § 14-115; Laws 1969, c. 58, § 1, p. 362; Laws 1974, LB 757, § 1.

**14-116. Real estate within three miles of city; subdividing; platting; conditions; powers of city council; requirements.** No owner of any real estate located in an area which is within three miles of the corporate limits of any city of the metropolitan class, when such real estate is located in any county in which a city of the metropolitan class is located, and is outside of any organized city or village, shall be permitted to subdivide, plat, or lay out said real estate in building lots and streets or other portions of the same intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto without first having obtained the approval thereof by the city council of such city and no plat of such real estate shall be recorded in the office of the register of deeds or have any force or effect unless the same shall have been first approved by the city council of such city. Such city shall have authority within the area above described to regulate the subdivision of land for the purpose, whether immediate or future, of transfer of ownership or building development; to prescribe standards for laying out subdivisions in harmony with a comprehensive plan; to require the installation of improvements by the owner or by the creation of public improvement districts; by requiring a good and sufficient bond guaranteeing installation of such improvement, or

by requiring the execution of a contract with the city insuring the installation of such improvements; and to require the dedication of land for adequate streets, drainage ways, and easements for sewers and utilities. All such requirements for improvements shall operate uniformly throughout the area of jurisdiction of said city. Subdivision shall mean the division of a lot, tract, or parcel of land into two or more lots, blocks, or other divisions of lands for the purpose, whether immediate or future, of ownership or building developments except that the division of land shall not be considered to be subdivision when the smallest parcel created is more than ten acres in size. The city council of any such city may withhold approval of a plat until the appropriate department of the city has certified that the improvements required by ordinance have been satisfactorily installed or until a sufficient bond guaranteeing installation of the improvements has been posted with the city or until public improvement districts have been created or until a contract has been executed insuring the installation of such improvements.

**Source:** Laws 1921, c. 116, art. I, § 15, p. 411; C.S. 1922, § 3503; C.S. 1929, § 14-116; R.S. 1943, § 14-116; Laws 1961, c. 29, § 1, p. 144; Laws 1980, LB 61, § 1.

**14-117. Corporate limits; how fixed; annexation of cities or villages; limitation; powers and duties of city council.** The corporate limits of any city of the metropolitan class shall be fixed and determined by ordinance by the council of such city. The city council of any city of the metropolitan class may at any time extend the corporate limits of such city over any contiguous or adjacent lands, lots, tracts, streets, or highways, such distance as may be deemed proper in any direction, and may include, annex, merge, or consolidate with such city of the metropolitan class, by such extension of its limits, any adjoining city of the first class having less than ten thousand population or any adjoining city of the second class or village. Any other laws and limitations defining the boundaries of cities or villages or the increase of area or extension of limits thereof shall not apply to lots, lands, cities, or villages annexed, consolidated, or merged under this section.

**Source:** Laws 1921, c. 116, art. I, § 16, p. 412; C.S. 1922, § 3504; C.S. 1929, § 14-117.

**14-389. Streets; controlled-access facilities; property; powers; terms and conditions; frontage roads; access.** The city shall have the power to designate and establish controlled-access facilities, and may design, construct, maintain, improve, alter, and vacate such facilities and may by ordinance regulate, restrict, or prohibit access to such facilities so as best to serve the traffic for which such facilities are intended. The city may provide for the elimination of intersections at grade with existing roads, streets, highways, or alleys if it finds the public interest shall be served thereby. An existing road, street, alley, or other traffic facility may be included within such facilities or such facilities may include new or additional roads, streets, highways, or the like. In order to carry out the purposes of this section, in addition to any other powers it may have, the city may acquire in public or private property such rights of access as are deemed necessary, including but not necessarily limited to air, light, view, ingress, and egress. Such acquisitions may be by gift, devise, purchase, agreement, adverse possession, prescription, condemnation, or otherwise as provided by law and may be in fee simple absolute or in any lesser estate or interest. The city may make provision to mitigate



damages caused by such acquisitions, terms and conditions regarding the abandonment or reverter of such acquisitions, and any other provisions or conditions that are desirable for the needs of the city and the general welfare of the public. The city is further authorized to designate, establish, design and construct, maintain, vacate, alter, improve, and regulate frontage roads within the boundaries of any present or hereafter acquired right-of-way and exercise the same powers over such frontage roads as is exercised over controlled-access facilities. Such frontage roads may be connected to or separated from the controlled-access facilities at such places as the city shall determine to be consistent with public safety. Upon the construction of any frontage road, any right of access between the controlled-access facility and property abutting or adjacent to such frontage roads shall terminate and ingress and egress shall be provided to the frontage road at such places as will afford reasonable and safe connections. If the construction or reconstruction of any controlled-access facility results in the abutment of property on such facility that did not theretofore have direct egress from or ingress to it, no rights of direct access shall accrue because of such abutment, but the city may prescribe and define the location of the privilege of access, if any, of properties that then, but not theretofore, abut on such facility.

**Source:** Laws 1959, c. 36, § 6, p. 197.

**15-106. Additions; how platted; approval; filed and recorded; effect; powers of mayor, city planning commission, and city planning director; appeal.** The proprietor of any land within the corporate limits of a city of the primary class or contiguous thereto may lay out such land into lots, blocks, public ways, and other grounds under the name of.....addition to the city of.....and shall cause an accurate plat thereof to be made, designating explicitly the land so laid out and particularly describing the lots, blocks, public ways, and grounds belonging to such addition. The lots shall be designated by number and by street. Public ways and other grounds shall be designated by the name and by number. Such plat shall be acknowledged before some officer authorized to take acknowledgment of deeds and shall have appended to it a certificate made by a registered land surveyor that he or she has accurately surveyed such addition and that the lots, blocks, public ways, and other grounds are staked and marked as required by such city. When such plat is made, acknowledged, and certified, complies with the requirements of section 15-901, and is approved by the city planning commission, such plat shall be filed and recorded in the office of the register of deeds and county assessor of the county. In lieu of approval by the city planning commission, the city council may designate specific types of plats which may be approved by the city planning director. No plat shall be recorded in the office of the register of deeds or have any force or effect unless such plat is approved by the city planning commission or the city planning director. The plat shall, after being filed with the register of deeds, be equivalent to a deed in fee simple absolute to the city, from the proprietor, of all streets, all public ways, squares, parks, and commons, and such portion of the land as is therein set apart for public use or dedicated to charitable, religious, or educational purposes. All additions thus laid out shall remain a part of the city, and all additions, except those additions as set forth in sections 15-106.01 and 15-106.02, laid out adjoining or contiguous to the corporate limits of a city of the primary class shall be included therein

and become a part of the city for all purposes. The inhabitants of such addition shall be entitled to all the rights and privileges and subject to all the laws, ordinances, rules, and regulations of the city. The mayor and city council shall have power by ordinance to compel owners of any such direction to lay out streets and public ways to correspond in width and direction and to be continuous with the streets and public ways in the city or additions contiguous to or near the proposed addition.

No addition shall have any validity, right, or privilege as an addition unless the terms and conditions of such ordinance and of this section are complied with, the plats thereof are submitted to and approved by the city planning commission or the city planning director is endorsed thereon. The city council may provide procedures in land subdivision regulations for appeal by any person aggrieved by any action of the city planning commission or city planning director on any plat.

**Source:** Laws 1901, c. 16, § 6, p. 72; R.S. 1913, § 4409; C.S. 1922, § 3785; C.S. 1929, § 15-106; R.S. 1943, § 15-106; Laws 1959, c. 40, § 1, p. 217; Laws 1974, LB 757, § 2; Laws 1975, LB 410, § 1; Laws 1982, LB 909, § 1; Laws 1987, LB 715, § 1; Laws 1993, LB 39, § 1.

**15-701. Streets, sidewalks, public ways; improvements; condemnation; vacating; sale, exchange, or lease of property.** The city council shall have power by ordinance to create, open, widen or otherwise improve, vacate, control, name, and rename any street, alley, public way or ways, including the sidewalk space within the limits of the city; *Provided*, all damages sustained by the owners of the property thereon by opening or widening shall be ascertained in the manner set forth in sections 76-704 to 76-724; *and provided further*, whenever any street, alley or public way shall be vacated, the same shall revert to the owners of the adjacent real estate, one-half on each side thereof, unless the city reserves title thereto in the ordinance vacating such street, alley or public way. in the event title is retained by the city, such property may be sold, conveyed, exchanged or leased upon such terms and conditions as shall be deemed in the best interests of the city, as authorized in its home rule charter.

**Source:** Laws 1901, c. 16, § 129, IV, p. 128; R.S. 1913, § 4522; C.S. 1922, § 3908; C.S. 1929, § 15-701; R.S. 1943, § 15-701; Laws 1951, c. 101, § 48, p. 468; Laws 1959, c. 44, § 1, p. 225; Laws 1969, c. 66, § 2, p. 379.

**15-901. Real estate; subdivisions; platting; standards; approval of city planning commission required; bond; appeal.** No owner of real estate located in any city of the primary class or within three miles of the corporate limits of any city of the primary class, when such real estate is located in the same county as the city and outside of any organized city or village, shall be permitted to subdivide, plat, or lay out the real estate in building lots and streets, or other portions of the same intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto, without first having obtained approval by the city planning commission. No plat or subdivision of such real estate shall be recorded in the office of the register of deeds or have any force or effect unless the same is approved by the city planning commission. A city of the primary class shall have authority within the area to regulate the subdivision of

land for the purpose, whether immediate or future, of transferring ownership or building development, except that the city shall have no power to regulate subdivision in those instances where the smallest parcel created is more than ten acres in area. A city of the primary class shall have authority within the area to prescribe standards for laying out subdivisions in harmony with the comprehensive plan; to require the installation of improvements by the owner, by the creation of public improvement districts, or by requiring a good and sufficient bond guaranteeing installation of such improvements; and to require the dedication of land for public purposes.

For purposes of this section, subdivision shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be subdivision when the smallest parcel created is more than ten acres in area.

Subdivision plats shall be approved by the city planning commission on recommendation by the city planning director and public works and utilities department. The city planning commission may withhold approval of a plat until the public works and utilities department has certified that the improvements required by the regulations have been satisfactorily installed, until a sufficient bond guaranteeing installation of the improvements has been posted, or until public improvement districts are created. The city council may provide procedures in land subdivision regulations for appeal by any person aggrieved by any action of the city planning commission or city planning director on any plat.

**Source:** Laws 1929, c. 49, § 1, p. 204; C.S. 1929, § 15-1001; R.S. 1943, § 15-901; Laws 1959, c. 40, § 2, p. 219; Laws 1963, c. 57, § 1, p. 238; Laws 1980, LB 61, § 2; Laws 1993, LB 39, § 3.

**16-611. Vacation of street; reversion to owners of adjacent property.** Upon the vacation of any street the same so vacated shall be and remain the property of the city, but may be sold and conveyed by the city for any price that shall be agreed upon by the mayor and three-fourths of the city council. When an alley is vacated the same shall revert to the owner of the adjacent real estate one-half on each side thereof except that when any alley is taken wholly from one or more lots, upon the vacation thereof, it shall revert to the owner of the abutting property and become a part of such property. When a portion of a street or alley is vacated only on one side of the center thereof, the title of such land shall vest in the owner of the abutting property and become a part of such property.

**Source:** Laws 1901, c. 18, § 48, IV, p. 245; Laws 1903, c. 19, § 7, p. 237; R.S. 1913, § 4910; C.S. 1922, § 4078; C.S. 1929, § 16-607; R.S. 1943, § 16-611; Laws 1969, c. 58, § 2, p. 363.

**17-405. Contiguous land; annexation; petition; plat; approval of council; recording; effect.** (1) Whenever the owner or owners and inhabitants, or a majority thereof in numbers or value, of any territory lying contiguous to the corporate limits of any city or village, whether the territory be already in fact subdivided into lots or parcels of ten acres

or less or remains unsubdivided, except as provided in section 13-1115, shall desire to annex such territory to any city or village, they shall first cause an accurate plat or map of the territory to be made, showing such territory subdivided into blocks and lots, conforming as nearly as may be to the blocks, lots, and streets of the adjacent city or village. It shall also show the descriptions and numberings, as provided in section 17-415, for platting additions, and conforming thereto as nearly as may be.

(2) Said plat or map shall be prepared under the supervision of the city engineer in cases of annexation to adjacent cities, and under the supervision of a competent surveyor in any case. A copy of said plat or map, certified by said engineer or surveyor, as the case may be, shall be filed in the office of the clerk of the city or village, together with a request in writing, signed by a majority of the property owners and inhabitants in number and value of the territory described in said plat for the annexation of said territory. The city council or board of trustees shall, at the next regular meeting thereof after the filing of such plat and request for annexation, vote upon the question of such annexation, and such vote shall be spread upon the journal of said council or board of trustees. If a majority of all the members of the council or board of trustees vote for such annexation, an ordinance shall be prepared and passed by the council or board declaring the annexation of such territory to the corporate limits of the city or village, and extending the limits thereof accordingly.

(3) An accurate map or plat of such territory certified by the engineer or surveyor, and acknowledged and proved as provided by law in such cases shall at once be filed and recorded in the office of the county clerk or register of deeds and county assessor of the proper county, together with a certified copy of the ordinance declaring such annexation, under the seal of the city or village. Thereupon such annexation of such adjacent territory shall be deemed complete, and the territory included and described in the plat on file in the office of the clerk or register of deeds shall be deemed and held to be a part of said original corporate city or village, and the inhabitants thereof shall thereafter enjoy the privileges and benefits of such annexation, and be subject to the ordinances and regulations of said city or village.

**Source:** Laws 1879, § 95, p. 229; Laws 1881, c. 23, § 10, p. 188; R.S. 1913, § 5086; C.S. 1922, § 4253; C.S. 1929, § 17-407; R.S. 1943, § 17-405; Laws 1957, c. 51, § 11, p. 243; Laws 1965, c. 64, § 1, p. 281; Laws 1974, LB 757, § 4.

**17-415. Additions; plat; contents; duty to file.** Every original owner or proprietor of any tract or parcel of land, who shall subdivide the same into two or more parts for the purpose of laying out any city or village or any addition thereto or any part thereof, or suburban lots, shall cause a plat of such subdivision, with references to known or permanent monuments, to be made, which shall accurately describe all subdivisions of such tract or parcel of land, numbering the same by progressive numbers, and giving the dimensions and length and breadth thereof, and the breadth and courses of all streets and alleys established therein. Descriptions of lots or parcels of land in such subdivisions, according to the number and designation thereof on such plat contained, in conveyances or for the purposes of taxation, shall be deemed good and valid for all purposes. The duty to file for record a plat as provided herein shall attach as a covenant of warranty in all conveyances hereafter made of any part or parcel of such subdivision by the original

owners or proprietors against any and all assessments, costs and damages paid, lost or incurred by any grantee or person claiming under him, in consequence of the omission on the part of the owner or proprietors to file such plat.

**Source:** Laws 1879, § 104, p. 233; R.S. 1913, § 5092; C.S. 1922, § 4265; C.S. 1929, § 17-414; R.S. 1943, § 17-415; Laws 1967, c. 75, § 3, p. 243.

**17-421. Additions; plat; vacation of part; rights of owners.** When any part of a plat shall be vacated as aforesaid, the proprietors of the lots so vacated may enclose the streets, alleys and public grounds adjoining said lots in equal proportions.

**Source:** Laws 1879, § 110, p. 235; R.S. 1913, § 5098; C.S. 1922, § 4271; C.S. 1929, § 17-420.

**17-422. Additions; plat; vacation; recording.** The county clerk in whose office the plats aforesaid are recorded shall write in plain, legible letters across that part of said plat so vacated, the word vacated, and also make a reference on the same to the volume and page in which the said instrument of vacation is recorded.

**Source:** Laws 1879, § 111, p. 235; R.S. 1913, § 5099; C.S. 1922, § 4272; C.S. 1929, § 17-421.

**17-423. Additions; plat; vacation; right of owner to plat.** The owner of any lots in a plat so vacated may cause the same and a proportionate part of adjacent streets and public grounds to be platted and numbered by the county surveyor. When such plat is acknowledged by such owner, and is recorded in the record office of the county, such lots may be conveyed and assessed by the numbers given them on such plat.

**Source:** Laws 1879, § 112, p. 235; R.S. 1913, § 5100; C.S. 1922, § 4273; C.S. 1929, § 17-422.

**17-424. Additions; plat; failure to execute and record; power of county clerk; costs; collection.** Whenever the original owners or proprietors of any subdivision of land as contemplated in sections 17-415 and 17-416, have sold or conveyed any part thereof or invested the public with any rights therein, and have failed and neglected to execute and file for record a plat as provided in said sections, the county clerk shall notify some or all such owners and proprietors by mail or otherwise, and demand an execution of said plat as provided. If such owners or proprietors, whether notified or not, fail and neglect to execute and file for record said plat, for thirty days after the issuance of such notice, the clerk shall cause the plat of such subdivision to be made, and also any surveying necessary therefor. Such plat shall be signed and acknowledged by the clerk, who shall certify that he executed it by reason of the failure of the owners or proprietors named to do so, and filed for record. When so filed for record, it shall have the same effect for all purposes as if executed, acknowledged and recorded by the owners or proprietors themselves. A correct statement of the costs and expenses of such plat, surveying and recording, verified by oath, shall be by the clerk laid before the first session of the county

board, who shall allow the same and order the same to be paid out of the county treasury, and shall at the same time assess the said amount, pro rata, upon all several subdivisions of said tract, lot or parcel so subdivided. Such assessment shall be collected with and in like manner as the general taxes, and shall go to the county general fund; or the board may direct suit to be brought in the name of the county, before any court having jurisdiction, to recover of the original owners or proprietors, or either of them, the cost and expense of procuring and recording such plat.

**Source:** Laws 1879, § 113, p. 235; R.S. 1913, § 5101; C.S. 1922, § 4274; C.S. 1929, § 17-423.

**17-425. Land less than forty acres; ownership in severalty; county clerk may plat.**

Whenever any congressional subdivision of land of forty acres or less or any lot or subdivision is owned by two or more persons in severalty, and the description of one or more of the different parts or parcels thereof cannot, in the judgment of the county clerk, be made sufficiently certain and accurate for the purpose of assessment and taxation without noting the metes and bounds of the same, the clerk shall require and cause to be made and recorded a plat of such tract or lot of land with its several subdivisions, in accordance with the provisions of section 17-415; and he shall proceed in such cases according to the provisions of section 17-424; and all the provisions of such section in relation to the plats of cities and villages, and so forth, shall govern as to the tracts and parcels of land in this section referred to.

**Source:** Laws 1879, § 114, p. 236; R.S. 1913, § 5102; C.S. 1922, § 4275; C.S. 1929, § 17-424.

**17-1002. Designation of jurisdiction; suburban development; subdivision; platting; consent required; review by county planning commission; when required.**

(1) Any city of the second class or village may designate by ordinance the portion of the territory located within one mile of the corporate limits of such city or village and outside of any other organized city or village within which the designating city or village will exercise the powers and duties granted by this section and section 17-1003.

(2) No owner of any real property located within the area designated by a city or village pursuant to subsection (1) of this section may subdivide, plat, or lay out such real property in building lots, streets, or other portions of the same intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto without first having obtained the approval of the city council or board of trustees of such municipality or its agent designated pursuant to section 19-916. The fact that such real property is located in a different county or counties than some or all portions of the municipality shall not be construed as affecting the necessity of obtaining the approval of the city council or board of trustees of such municipality or its designated agent.

(3) No plat of such real property shall be recorded or have any force or effect unless approved by the city council or board of trustees of such municipality or its designated agent.

(4) In counties that have adopted a comprehensive development plan which meets the

requirements of section 23-114.02 and are enforcing subdivision regulations, the county planning commission shall be provided with all available materials on any proposed subdivision plat, contemplating public streets or improvements, which is filed with a municipality in that county, when such proposed plat lies partially or totally within the extraterritorial subdivision jurisdiction being exercised by that municipality in such county. The commission shall be given four weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. The review period for the commission shall run concurrently with subdivision review activities of the municipality after the commission receives all available material for a proposed subdivision plat.

**Source:** Laws 1957, c. 37, § 2, p. 204; Laws 1967, c. 70, § 4, p. 233; Laws 1967, c. 75, § 5, p. 244; Laws 1978, LB 186, § 2; Laws 1983, LB 71, § 5; Laws 1993, LB 208, § 3.

**17-1003. Suburban development; powers of city council or board of trustees; dedication of avenues, streets, and alleys.** The city council or board of trustees of such municipality shall have power, by ordinance, to provide the manner, plan, or method by which the real property in any such area may be subdivided, platted, or laid out, including a plan or system for the avenues, streets, or alleys to be laid out within or across the same. The city council or board of trustees shall have the power to compel the owner of any such real property in any such area, in subdividing, platting, or laying out of same, to conform to the requirements of such ordinance and to lay out and dedicate the avenues, streets, and alleys in accordance therewith.

**Source:** Laws 1957, c. 37, § 3, p. 204.

**17-1004. Designation of jurisdiction; how described.** An ordinance of a city of the second class or village designating its jurisdiction over territory outside of the corporate limits of the city or village under section 17-1001 or 17-1002 shall describe such territory by metes and bounds or by reference to an official map.

**Source:** Laws 1993, LB 208, § 4.

**19-916. Additions; platting; procedure; rights and privileges of inhabitants; powers of legislative body; approval required; effect.** The proprietor or proprietors of any land within the corporate limits of any city of the first or second class or village, or contiguous to the same, may lay out said land into lots, blocks, streets, avenues, alleys, and other grounds under the name of ..... Addition to the City or Village of ....., and shall cause an accurate map or plat thereof to be made out, designating explicitly the land so laid out and particularly describing the lots, blocks, streets, avenues, alleys, and other grounds belonging to such addition. The lots must be designated by numbers, and streets, avenues, and other grounds, by names or numbers. Such plat shall be acknowledged before some officer authorized to take the acknowledgments of deeds, and shall contain a dedication of the streets, alleys, and public grounds therein to the use and benefit of the public, and have appended a survey made by some competent surveyor with a certificate

attached, certifying that he or she has accurately surveyed such addition and that the lots, blocks, streets, avenues, alleys, parks, commons, and other grounds are well and accurately staked off and marked. When such map or plat is so made out, acknowledged, and certified, and has been approved by the local legislative body, the same shall be filed and recorded in the office of the register of deeds and county assessor of the county. The legislative body may designate by ordinance an employee of such city or village to approve further subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks.

Upon approval by the legislative body or its designated agent, such plat shall be equivalent to a deed in fee simple absolute to the municipality from the proprietor of all streets, avenues, alleys, public squares, parks and commons, and of such portion of the land as is therein set apart for public and municipal use, or is dedicated to charitable, religious, or educational purposes.

All additions thus laid out shall remain a part of the municipality, and all additions laid out adjoining or contiguous to the corporate limits shall be included within the same and become a part of such municipality for all purposes whatsoever. The inhabitants of such addition shall be entitled to all the rights and privileges, and subject to all the laws, ordinances, rules, and regulations of the municipality to which said land is an addition. The local legislative body shall have power by ordinance to provide the manner, plan, or method by which land within the corporate limits of any such municipality, or contiguous to the same, may be subdivided, platted, or laid out, including a plan or system for the avenues, streets, or alleys to be laid out within or across the same, and to compel the owners of any such land in subdividing, platting, or laying out the same to conform to the requirements of the ordinance and to lay out and dedicate the avenues, streets, and alleys in accordance therewith. No addition shall have any validity, right, or privileges as an addition, and no plat of land or, in the absence of a plat, no instrument subdividing land within the corporate limits of any such municipality, or contiguous to the same, shall be recorded or have any force or effect, unless the same be approved by the governing body, or its designated agent, and its or his or her approval endorsed thereon.

**Source:** Laws 1901, c. 18, § 6, p. 228; R.S. 1913, § 4811; C.S. 1922, § 3979; C.S. 1929, § 16-108; R.S. 1943, § 16-112; Laws 1967, c. 66, § 1, p. 215; Laws 1974, LB 757, § 3; R.R.S. 1943, § 16-112; Laws 1975, LB 410, § 2; Laws 1983, LB 71, § 10.

**19-917. Additions; vacating; powers; procedure; costs.** Power is hereby given to such municipality through its governing body by proper ordinance therefor duly enacted to vacate any such existing plat and addition to the municipality or such part or parts thereof as such municipality may deem advantageous and best for its interests, and power hereby granted shall be exercised by such municipality upon the petition of the owner or all the owners of lots or lands in such plat or addition. Such ordinance vacating such plat or addition shall specify whether, and, if any, what public highways, streets, alleys, and public grounds thereof are to be retained by such municipality; otherwise such ways, streets, and public grounds shall upon such vacation revert to the owner or owners of lots



or lands abutting the same proportion to the respective ownerships of such lots or grounds. In case of total or partial vacation of such plat or addition, the ordinance providing therefor shall be, at the cost of owner or owners, certified to the office of the register of deeds and be there recorded by the owner or owners. Whereupon said officer shall note such total or partial vacation of such plat or addition by writing in plain and legible letters upon such plat or portion thereof so vacated the word vacated, and also make on the same reference to the volume and page in which said ordinance of vacation is recorded; and the owner or owners of the lots and lands in a plat so vacated shall cause the same and the proportionate part of the abutting highway, streets, alleys and public grounds so vacated to be replatted and numbered by the city or county surveyor. When such replat so executed is acknowledged by such owner or owners is recorded in the office of the register of deeds of such county such property so replatted may be conveyed and assessed by the numbers given in such replat.

**Source:** Laws 1901, c. 18, § 6, p. 228; R.S. 1913, § 4812; C.S. 1922, § 3980; C.S. 1929, § 16-109; R.S. 1943, § 16-113; Laws 1975, LB 410, § 3.

**19-918. Additions; subdivision; plat of streets; duty of owner to obtain approval.** No owner of real estate within the corporate limits of such municipality shall be permitted to subdivide, plat, or lay out said real estate into blocks, lots, streets, or other portions of the same intended to be dedicated for public use, or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto, without first having obtained the approval thereof of the governing body of such municipality or its agent designated pursuant to section 19-916. Any and all additions to be made to the municipality shall be made, so far as the same relate to the avenues, streets, and alleys therein, under and in accordance with the provisions of sections 19-916 to 19-918.

**Source:** Laws 1901, c. 18, § 51, p. 269; R.S. 1913, § 4813; C.S. 1922, § 3981; C.S. 1929, § 16-110; R.S. 1943, § 16-114; Laws 1967, c. 66, § 2, p. 217; R.R.S. 1943, § 16-114; Laws 1975, LB 410, § 4; Laws 1983, LB 71, § 11.

**19-919. Additions; subdivisions; plat; governing body; approve before recording; powers.** No plat or instruments effecting the subdivision of real property described in section 19-918 shall be recorded or have any force and effect unless the same be approved by the governing body of such municipality or its agent designated pursuant to section 19-916. The governing body of such municipality shall have power, by ordinance, to provide the manner, plan, or method by which real property in any such area may be subdivided, platted, or laid out, including a plan or system for the avenues, streets, or alleys to be laid out within or across the same; and to prohibit the sale or offering for sale of, and the construction of buildings and other improvements on, any lots or parts of real property not subdivided, platted, or laid out as required in sections 19-918 and 19-920.

**Source:** Laws 1967, c. 66, § 3, p. 217; R.R.S. 1943, § 16-114.01; Laws 1975, LB 410, § 5; Laws 1983, LB 71, § 12.

**19-920. Additions; subdivisions; conform to ordinances; streets and alleys; requirements.** The governing body shall have power to compel the owner of any real property described in section 19-918 in subdividing, platting, or laying out the same to conform to the requirements of the ordinance and to lay out and dedicate the avenues, streets, and alleys in accordance therewith.

**Source:** Laws 1967, c. 66, § 4, p. 217; R.R.S. 1943, § 16-114.02; Laws 1975, LB 410, § 6.

**19-929. Planning commission; municipal governing body; powers and duties.** (1) Except as provided in sections 19-930 to 19-933, the planning commission shall (a) make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which in the commission's judgment bear relation to the planning of such municipality and including a comprehensive development plan as defined by section 19-903, (b) prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments, and (c) consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implemental programs. The commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports. The municipal governing body shall not take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the planning commission if such commission in fact has been created and is existent. The governing body shall by ordinance set a reasonable time within which the recommendation from the planning commission is to be received. A recommendation from the planning commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the governing body has designated, by ordinance, an agent pursuant to section 19-916.

(2) The commission may, with the consent of the governing body, in its own name, make and enter into contracts with public or private bodies; receive contributions, bequests, gifts, or grant funds from public or private sources; expend the funds appropriated to it by the municipality; employ agents and employees; and acquire, hold and dispose of property. The commission may on its own authority make arrangements consistent with its program; conduct or sponsor special studies or planning work for any public body or appropriate agency; receive grants, remuneration, or reimbursement for such studies or work; and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

(3) The commission may grant conditional uses or special exceptions to property owners for the use of their property if the municipal governing body has, through a zoning ordinance or special ordinance, generally authorized the commission to exercise such

powers and has approved the standards and procedures the commission adopted for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the commission, except that the municipal governing body may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The municipal governing body may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and which will promote the public interest.

**Source:** Laws 1937, c. 39, § 6, p. 177; C.S. Supp., 1941, § 18-2106; R.S. 1943, § 18-1306; Laws 1967, c. 85, § 2, p. 269; Laws 1978, LB 186, § 4; Laws 1983, LB 71, § 6.

**22-195. County map; how made; where deposited.** A copy of the field notes of the original survey of each county by the United States shall be procured, and a map of the county shall be constructed in accordance therewith on a scale of not less than one inch to a mile, and laid off in townships and sections. Such map and field notes shall be deposited in the office of the county clerk, and be by him preserved. Whenever the boundaries of any county are changed, the necessary alteration in such map may be made, or a new map of the county may be made if the county board so directs.

**Source:** Laws 1879, § 42, p. 367; R.S. 1913, § 911; C.S. 1922, § 813; C.S. 1929, § 25-1,100.

**22-196. Counties; boundary changes; how effected.** Whenever the county boards of adjoining counties shall desire to submit a proposal for change of the boundaries between such counties, the boards may by resolution entered on their records provide a joint survey and maps of the existing and proposed boundaries. At the next general election thereafter each of said county boards shall submit the question of the proposed change in boundaries to the qualified voters at such election.

**Source:** Laws 1921, c. 231, § 12, p. 828; C.S. 1922, § 814; C.S. 1929, § 25-1,101.

**22-209. County seat; sit; surveying; platting.** Such lands shall be surveyed into lots, squares, streets and alleys, and platted and recorded in the county clerk's office; and lots necessary for public buildings shall be reserved by the board for that purpose.

**Source:** G.S. 1873, c. 12, § 86, p. 230; R.S. 1913, § 920; C.S. 1922, § 826; C.S. 1929, § 25-209.

**23-107. Public grounds and buildings; sale or lease; terms; illegal sale; when validated.** The county board shall have power to make all orders respecting the property of the county; to keep the county buildings insured; to sell the public grounds or buildings of the county, and purchase other properties in lieu thereof; *Provided*, that the county board may, if it deems it for the best interests of the county, sell county property upon such terms of credit as shall be determined upon by resolution of the board; but any deferred payment shall be for not more than two-thirds of the purchase price, which shall be secured by note or notes, and a first mortgage upon the property so sold, and shall draw not less than six percent interest per annum from date until paid, the interest to be paid annually. The county board shall also have the power to sell or negotiate, without recourse upon the county, the notes and mortgages so taken; but they shall not be sold for less than par value including accrued interest. If, for any reason, such sale of the public grounds by a county board was irregular, illegal, or void, and the purchaser of such public grounds or his grantees have been in open, notorious, undisputed, continuous and adverse possession thereof for more than ten years, and during which ten years the county board has not refunded or offered to refund the purchase price, then in all such cases the county board is authorized and empowered and, when requested by the proper person, is required to convey to the purchaser of such grounds or his grantees, by good and sufficient deed without cost, the fee simple title to the public grounds so irregularly or illegally sold.

**Source:** Laws 1879, § 24, p. 360; Laws 1887, c. 26, § 1, p. 350; Laws 1905, c. 44, § 1, p. 287; R.S. 1913, § 952; Laws 1915, c. 17, § 1, p. 73; C.S. 1922, § 852; Laws 1925, c. 93, § 1, p. 273; Laws 1929, c. 60, § 2, p. 231; C.S. 1929, § 26-105; Laws 1931, c. 40, § 1, p. 134; Laws 1933, c. 36, § 1, p. 236; Laws 1939, c. 28, § 5, p. 144; Laws 1941, c. 48, § 2, p. 235; C.S. Supp., 1941, § 26-105; Laws 1943, c. 57, § 1(3), p. 224; R.S. 1943, § 23-107; Laws 1961, c. 84, § 1, p. 294; Laws 1971, LB 698, § 1; Laws 1975, LB 125, § 1; Laws 1977, LB 363, § 1.

**23-120. Provide buildings; tax; levy authorized.** (1) The county board shall acquire, purchase, construct, renovate, remodel, furnish, equip, add to, improve, or provide a suitable courthouse, jail, and other county buildings and a site or sites therefor and for such purposes borrow money and issue the bonds of the county to pay for the same. Agreements entered into under section 25-412.03 shall be deemed to be in compliance with this section. The board shall keep such buildings in repair and provide suitable rooms and offices for the accommodation of the several courts of record, Nebraska Workers' Compensation Court or any judge thereof, Commissioner of Labor for the conduct and operation of the state free employment service, county board, county clerk, county treasurer, county sheriff, clerk of the district court, county surveyor, county agricultural agent, and county attorney if the county attorney holds his or her office at the county seat and shall provide suitable furniture and equipment therefor. All such courts which desire such accommodation shall be suitably housed in the courthouse.

(2) No levy exceeding (a) two million dollars in counties having in excess of two hundred fifty thousand inhabitants, (b) one million dollars in counties having in excess of one hundred thousand inhabitants and not in excess of two hundred fifty thousand inhabitants, (c) three hundred thousand dollars in counties having in excess of thirty thousand inhabitants and not in excess of one hundred thousand inhabitants, or (d) one hundred

fifty thousand dollars in all other counties shall be made within a one-year period for any of the purposes specified in subsection (1) of this section without first submitting the proposition to a vote of the people of the county at a general election or a special election ordered by the board for that purpose and obtaining the approval of a majority of the legal voters thereon.

(3)(a) The county board of any county in this state may, when requested so to do by petition signed by at least a majority of the legal voters in the county based on the average vote of the two preceding general elections, make an annual levy of not to exceed seventeen and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in the county for any of the purposes specified in subsection (1) of this section.

(b) If a county on the day it first initiates a project for any of the purposes specified in subsection (1) of this section had no bonded indebtedness payable from its general fund levy, the county board may make an annual levy of not to exceed five and two-tenths cents on each one hundred dollars upon the taxable value of all the taxable property of the county for a project or projects for any of the purposes specified in subsection (1) of this section without the filing of a petition described in subdivision (3)(a) of this section. The county board shall designate the particular project for which such levy shall be expended, the period of years, which shall not exceed ten, for which the tax will be levied for such project, the number of cents of the levy for each year thereof. The county board may designate more than one project and levy a tax pursuant to this section for each such project, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each levy will not exceed the limitations specified in this subsection. Each levy for a project which is authorized by this subdivision may be imposed for such duration specified by the county board notwithstanding the contemporaneous existence or subsequent imposition of any other levy or levies for another project or projects imposed pursuant to this subdivision and notwithstanding the subsequent issuance by the county of bonded indebtedness payable from its general fund levy.

(c) In no case shall the levy of taxes made by the county board for all purposes, including the taxes levied pursuant to this section, exceed in any one year the sum of fifty cents on every one hundred dollars of the taxable value of all the taxable property of the county.

**Source:** Laws 1879, § 25, p. 361; Laws 1887, c. 27, § 1, p. 352; Laws 1889, c. 10, § 1, p. 83; Laws 1909, c. 20, § 1, p. 210; R.S. 1913, § 954; Laws 1915, c. 18, § 1, p. 75; Laws 1919, c. 66, § 1, p. 175; Laws 1919, c. 67, § 1, p. 178; Laws 1921, c. 144, § 1, p. 615; C.S. 1922, § 854; C.S. 1929, §26-108; Laws 1935, c. 107, § 7, p. 345; Laws 1939, c. 28, § 8, p. 148; C.S. Supp., 1941, § 26-108; R.S. 1943, § 23-120; Laws 1951, c. 46, § 1, p. 162; Laws 1953, c. 287, § 38, p. 952; Laws 1967, c. 119, § 1, p. 380; Laws 1969, c. 147, § 1, p. 704; Laws 1971, LB 999, § 1; Laws 1975, LB 97, § 5; Laws 1979, LB 187, § 94; Laws 1984, LB 683, § 1; Laws 1986, LB 811, § 9; Laws 1988, LB 853, § 1; Laws 1992, LB 719A, § 94; Laws 1995, LB 286, § 1.

**23-121. Office supplies; safes; duty to provide.** The county board shall provide and keep in repair, when the finances of the county will permit, suitable fireproof safes for the

county clerk and county treasurer. It shall provide suitable books and stationery for the use of the county board, county clerk, county treasurer, county judge, sheriff, clerk of the district court, county superintendent, county surveyor, and county attorney.

**Source:** Laws 1879, § 25, p. 361; Laws 1887, c. 27, § 1, p. 353; Laws 1909, c. 30, § 1, p. 211; R.S. 1913, § 954; Laws 1915, c. 18, § 1, p. 76; Laws 1919, c. 66, § 1, p. 176; Laws 1919, c. 67, § 1, p. 179; Laws 1921, c. 144, § 1, p. 616; C.S. 1922, § 854; C.S. 1929, § 26-108; Laws 1935, c. 107, § 7, p. 346; Laws 1939, c. 28, § 8, p. 149; C.S. Supp., 1941, § 26-108.

**23-301. County resurvey; petition; contents; election.** Upon petition filed with the county clerk of any county, signed by twenty percent of the qualified voters of said county as shown by the last preceding election and praying the county board to submit the proposition of ordering a resurvey, in whole or in part, of said county for the purpose of reestablishing the original corners of the United States survey, it shall be the duty of the county board to submit to the voters of the county at the next general election, or a special election, the question of whether such resurvey shall be ordered; *Provided*, upon a like petition signed by twenty percent of the voters of any township or townships in said county, according to the government survey thereof, praying for the submission of a like proposition to the voters of said township or townships, it shall be the duty of the county board in like manner to submit the question at the next general election, or a special election, whether a resurvey shall be ordered in said township or townships. In every case the petition shall set forth in brief from the extent of the resurvey desired and whether it shall be of the township and county lines, or of the county, township and sectional lines, and an estimate as near as may be by the county surveyor of the probable expense of said resurvey. This statement and estimate shall be placed upon the official ballot with the following words thereafter: For resurvey proposition, and Against resurvey proposition.

**Source:** Laws 1909, c. 36, § 1, p. 219; Laws 1913, c. 153, § 1, p. 392; R.S. 1913, § 1108; C.S. 1922, § 1042; C.S. 1929, § 26-736.

**23-302. County resurvey; election; canvass of votes.** The vote on the proposition shall be canvassed in the same manner as the vote on county officers. If a majority of the votes upon said proposition shall be in favor of the same, the county board shall within thirty days notify the Board of Educational Lands and Funds who shall require such resurvey to be made under its instructions by such competent deputy state surveyor as it shall appoint, assisted by the county surveyor of the county wherein the work is to be done, and according to the laws governing surveys by the State Surveyor and deputy state surveyors. Such surveys shall be made in accordance with the laws of the United States and the rules and regulations of the United States Department of Interior, Bureau of Land Management, governing the restoration of lost and obliterated corners and the specifications and instructions of the Board of Educational Lands and Funds. The field notes and plats of said resurvey shall be made in the manner and form prescribed by the Bureau of Land Management for the return of field notes and maps of United States surveys, and shall be filed in the office of the county clerk of the county where the work is done and duplicate copies filed in the office of the Board of Educational Lands and

Funds at Lincoln, Nebraska, before being paid for; *Provided*, when any integral part of said resurvey is completed upon filing proof of its completion together with plats and field notes for the same approved as provided by law, the county board may allow payment for the part so completed.

**Source:** Laws 1909, c. 36, § 2, p. 220; R.S. 1913, § 1109; Laws 1921, c. 84, § 1, p. 301; C.S. 1922, § 1043; C.S. 1929, § 26-737; R.S. 1943, § 23-302; Laws 1982, LB 127, § 1.

**23-303. County resurvey; cost; tax; bonds; submission to voters.** In case the question of said resurvey has been submitted to the voters of the entire county, the cost of said resurvey may be paid out of the county general fund in case there is money there available for that purpose. If not, the cost may be provided for by an issue of bonds or special tax levy, in which case the proposition for bonds or special tax levy shall be submitted to the voters as a part of the resurvey proposition; *Provided*, when a proposition for resurvey has already been submitted to the voters of a county, and a majority have voted in favor of such proposition, it shall be legal for the county to proceed to make contract for such resurvey in accordance with the provisions of sections 23-301 to 23-303 providing for such contract; *provided further*, in case the question has been submitted to the voters of any one or more governmental townships of any county under the provisions of section 23-301, and a majority have voted in favor of such proposition, the cost of said resurvey may be paid out of the general fund and said fund may be reimbursed the amount of such expenditure by the assessment of a special tax by the county board of such county equally apportioning the cost of such resurvey upon the area of all real estate in such governmental township or townships according to the acreage in each tract as shown by the original United States survey thereof, and including in addition thereto any accreted lands to such original United States survey as may be shown by the resurvey herein provided.

**Source:** Laws 1909, c. 36, § 3, p. 221; Laws 1913, c. 153, § 1, p. 392; R.S. 1913, § 1110; C.S. 1922, § 1044; C.S. 1929, § 26-738.

**23-304. Irregular tracts of land; survey.** It shall be the duty of the county board of each organized county in the State of Nebraska to cause to be surveyed, by a competent surveyor, all irregular subdivided tracts or lots of land, other than regular government subdivisions, and cause the same to be platted on a scale of not less than ten inches to the mile; *Provided, however*, where any county has in its possession the correct field notes of any such tract or lot of land, a new survey shall not be necessary, but such tracts may be mapped from such field notes.

**Source:** Laws 1879, § 142, p. 390; R.S. 1913, § 1084; C.S. 1922, § 1009; C.S. 1929, § 26-701.

**23-305. Irregular tracts of land; survey; maps.** The board shall cause duplicate maps to be made, on which said tracts or lots of land shall be accurately described by lines and numbered from one up to the highest number of such tracts in each section, which

numbers together with the number of the section, town and range, shall be distinctly marked. One of said maps shall be conspicuously hung in the office of the county clerk and the other in the office of the county treasurer.

**Source:** Laws 1879, § 143, p. 390; R.S. 1913, § 1085; C.S. 1922, § 1010; C.S. 1929, § 26-702.

**23-306. Irregular tracts of land; survey; field notes; record.** The board shall also cause to be entered in duplicate, in suitable books to be provided for that purpose, the field notes of all such tracts of land within their respective counties, wherein shall be described each tract according to survey, and each tract shall be therein numbered to correspond with its number on the maps. One of such books of field notes shall be filed in the office of the county clerk, and the other in the office of the county treasurer.

**Source:** Laws 1879, § 144, p. 390; R.S. 1913, § 1086; C.S. 1922, § 1011; C.S. 1929, § 26-703.

**23-307. Irregular tracts of land; legal description.** When the maps and books of field notes shall be filed as hereinbefore provided, the description of any tract or lot of land described in said maps, by number, section, town and range, shall be a sufficient and legal description thereof for revenue and all other purposes.

**Source:** Laws 1879, § 145, p. 391; R.S. 1913, § 1087; C.S. 1922, § 1012; C.S. 1929, § 26-704.

**23-311. Levees; dikes; site; surveys and reports; duty of engineer.** It shall be the duty of such board to act promptly upon all such petitions. Upon the filing of the petition with the county clerk, as provided in section 23-310, the county clerk shall transmit a copy thereof of a competent engineer to be selected by the board, who, together with the board of county commissioners or supervisors, shall, as soon as practicable, inspect the proposed locations. If the opinion of such board and the engineer such levee, dike, bank protection or current control is necessary or advisable, the board shall cause a survey of the proposed project to be made by such engineer, as herein provided. Such survey shall be primarily for the purpose of aiding the board in determining the necessity or advisability of constructing such project, but shall be a complete survey such as will be required for assessment of its costs. Such survey may extend to other lands than those affected by the proposed project for the purpose of determining the best practical method of protecting an area greater than the originally proposed territory. For the purpose of inspection or surveys the county commissioners, board of supervisors, surveyors, engineers, or their employees may enter upon any lands within the proposed territory, or upon any lands which in their judgment are likely to be affected by the proposed project. The surveyor or engineer shall file his report with the county clerk as soon as possible after being so instructed by the board to make such survey. The report shall include an estimated cost of the work together with a preliminary apportionment of individual assessments.



**Source:** Laws 1921, c. 269, § 3, p. 894; C.S. 1922, § 1028; C.S. 1929, § 26-722.

**23-340. Streets outside corporate limits; improvement; notice to landowners; county aid.** Whenever the board shall contemplate the making of such improvements outside the corporate limits of any such city, it shall notify the county surveyor, whose duty it shall be to make an examination of the proposed improvement and report an estimate of the cost thereof to the board. If upon the consideration of such report, the county board determines to make the improvement, it shall cause personal notice to be served on the owners of property abutting on said road outside the corporate limits of such city of its intention to make such improvements, and if the owner is a nonresident, then by personal service upon the agent of such nonresident, if he has one residing in the county, and in case he has no such agent, by publishing such notice in a newspaper published in and of general circulation in such county. Upon the proof of service or publication of said notice, and after giving such owner an opportunity to be heard, the board shall decide upon the material to be used in such improvement and enter an order upon its records for the construction thereof; *Provided, however*, whenever the street, avenue, boulevard or road upon which improvements are contemplated, lies adjacent to and outside, or partly inside and partly outside, the corporate limits of any such city, the examination of the proposed improvement, report and estimate of the cost thereof, shall be made jointly by the county surveyor and the city engineer of such city, and after the county board shall determine to make such improvement and decide upon the material to be used therein, nothing further shall be done toward the completion of such improvement until such city by and through its proper officers shall agree in writing, a copy of which shall be filed with the board, to construct the one-half and said improvement lying next to or within the corporate limits of the city and pay the cost of said one-half. After such agreement shall have been filed with the county board, the board shall proceed to construct the other one-half of such improvement in the manner provided herein. The county shall pay two-thirds of the cost of the other one-half of such improvement, and the other one-third shall be paid by special assessment of all the real estate abutting on or adjacent to said one-half as provided in section 23-341; *and provided further*, wherever any such city shall have improved any portion, equal to one-half or more, of any such street, avenue, boulevard or road lying adjacent to and wholly outside, or partly outside and partly inside the corporate limits of any such city, and either paid or provided for the payment of the cost of the same, the county board may proceed to improve in like manner the remaining portion of said street, avenue, boulevard or road, and of the cost thereof the county shall pay two-thirds and the other one-third shall be paid by special assessment of all the real estate abutting on or adjacent to said portion as provided for in section 23-341.

**Source:** Laws 1911, c. 25, § 2, p. 172; R.S. 1913, § 1112; C.S. 1922, § 1046; C.S. 1929, § 26-740.

**23-1115. County officers; deputies; compensation.** When a county officer is compelled by the pressure of the business of the office to employ a deputy, the county commissioners may make a reasonable allowance to such a deputy.

**Source:** R.S. 1866, c. 15, § 6, p. 128; R.S. 1913, § 5742; C.S. 1922, § 5071; C.S. 1929, §

84-808; R.S. 1943, (1987), § 84-808; Laws 1990, LB 821, § 2.

**23-1506. Documents; deeds and conveyances; recording; errors; inventory statement; duty to file; exceptions.** The register of deeds shall have the custody of and safely keep and preserve all books, records, maps, and papers kept or deposited in his or her office. He or she shall also record or cause to be recorded all deeds, mortgages, instruments, and writings presented to him or her for recording and left with him or her for that purpose. Plats and subdivisions are not authorized to be recorded if such plat or subdivision has not been approved by the city council, the village board of trustees, the agent of a city of the first or second class or of a village designated pursuant to section 19-916, or the governing body of the county, whichever is appropriate. When such deeds, mortgages, instruments, and writings are so recorded, it shall be the duty of the register of deeds to proofread or cause to be proofread such records. If an error should occur in recording any of the writings mentioned in this section thereby necessitating the rerecording of same, the expense thus incurred shall be paid out of the general fund of the county in the same way as any other claim, and the amount so paid shall be collected from the official responsible for the error or from his or her official bond. The register of deeds shall prepare and file the required annual inventory statement of county personal property in his or her custody or possession as provided in sections 23-346 to 23-350.

**Source:** Laws 1885, c. 41, § 3, p. 221; Laws 1887, c. 30, § 5, p. 365; Laws 1893, c. 14, § 1, p. 147; R.S. 1913, § 5621; C.S. 1922, § 4948; C.S. 1929, § 26-1206; Laws 1939, c. 28, § 13, p. 153; C.S. Supp., 1941, § 26-1206; R.S. 1943, § 23-1506; Laws 1973, LB 241, § 1; Laws 1982, LB 418, § 1; Laws 1983, LB 71, § 13; Laws 1984, LB 679, § 4.

**23-1507. Violations; penalty.** Any register of deeds who shall neglect to perform any of the duties described in section 23-1506 shall be guilty of a Class IV misdemeanor.

**Source:** Laws 1893, c. 14, § 2, p. 147; R.S. 1913, § 5622; C.S. 1922, § 4949; C.S. 1929, § 26-1207; R.S. 1943, § 23-1507; Laws 1977, LB 40, § 96.

**23-1508. Grantor and grantee index.** The register of deeds shall keep a grantor and a grantee index of deeds in his or her office. If such index is in book form, the pages shall be divided into eight columns as follows:

GRANTOR INDEX

| Grantors | Grantees | Date of Filing | Date of Instrument | Character of Instrument | Book | Page | Description of Tract |
|----------|----------|----------------|--------------------|-------------------------|------|------|----------------------|
|----------|----------|----------------|--------------------|-------------------------|------|------|----------------------|

GRANTEE INDEX

| Grantees | Grantors | Date of Filing | Date of Instrument | Character of Instrument | Book | Page | Description of Tract |
|----------|----------|----------------|--------------------|-------------------------|------|------|----------------------|
|----------|----------|----------------|--------------------|-------------------------|------|------|----------------------|

**Source:** Laws 1885, c. 41, § 4, p. 221; Laws 1887, c. 30, § 6, p. 365; R.S. 1913, § 5623; C.S. 1922, § 4950; C.S. 1929, § 26-1208; R.S. 1943, § 23-1508; Laws 1984, LB 679, § 5.

**23-1509. Grantor and grantee index; entries; form.** The entries in such index shall be double, the one showing the names of the respective grantors arranged in alphabetical order, and the other those of the grantees in like order. When there are two or more grantors having different surnames there must be as many distinct entries among the grantors as there are names, being alphabetically arranged in regard to each of such names. The same rule shall be followed in case of several grantees.

**Source:** Laws 1879, § 80, p. 376; R.S. 1913, § 5624; C.S. 1922, § 4951; C.S. 1929, § 26-1209.

**23-1510. Instruments; endorsement, recording, and indexing.** The register of deeds shall endorse upon every instrument properly filed in his or her office for record the minute, hour, day, month, and year when it was so filed and shall forthwith enter the same in the proper indices herein provided for. After the same has been recorded, the book and page or computer system reference where it may be found shall be endorsed thereon.

**Source:** Laws 1885, c. 41, § 5, p. 222; Laws 1887, c. 30, § 7, p. 366; R.S. 1913, § 5625; C.S. 1922, § 4952; C.S. 1929, § 26-1210; R.S. 1943, § 23-1510; Laws 1984, LB 679, § 6.

**23-1511. Deed record; mortgage record; duty to keep.** In counties where the book form of recording instruments is used, different sets of books shall be provided for the recording of deeds and mortgages. In one of the sets all conveyances absolute in their

terms and not intended as mortgages or as securities in the nature of mortgages shall be recorded, and in the other set such mortgages and securities shall be recorded.

**Source:** Laws 1879, § 81, p. 376; R.S. 1913, § 5626; C.S. 1922, § 4953; C.S. 1929, § 26-1211; R.S. 1943, § 23-1511; Laws 1984, LB 679, § 7.

**23-1608. County officers; audit required; cost.** Each county board shall cause an examination and a complete and comprehensive annual audit to be made of the books, accounts, records, and affairs of all county officers in the county. The audits shall be conducted annually, except that the Auditor of Public Accounts may determine an audit of less frequency to be appropriate but not less than once in any three-year period. Each county board may contract with the Auditor of Public Accounts or select a licensed public accountant or certified public accountant or firm of such accountants to conduct the examination and audit and shall be responsible for the cost of the audit pursuant to the contract. The original copy of the audit shall be filed in the office of the Auditor of Public Accounts.

**Source:** Laws 1893, c. 15, § 1, p. 148; R.S. 1913, § 5645; Laws 1919, c. 73, § 1, p. 190; Laws 1919, c. 76, § 1, p. 196; C.S. 1922, § 4972; C.S. 1929, § 26-1309; Laws 1937, c. 57, § 1, p. 231; C.S. Supp., 1941, § 26-1309; R.S. 1943, § 23-1608; Laws 1945, c. 52, § 1, p. 236; Laws 1974, LB 280, § 1; Laws 1985, Second Spec. Sess., LB 29, § 2; Laws 1987, LB 183, § 4.

**23-174.03. Cities of the primary class; subdivision and platting into lots and streets; approval of county board; requirements; definition of terms.** No owner of any real estate located in an area in a county in which is located a city of the primary class, except within the area over which subdivision jurisdiction has been granted to any city or village, and such city or village is exercising such jurisdiction, shall be permitted to subdivide, plat, or lay out said real estate in building lots and streets, or other portions of the same intended to be dedicated for public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, without first having obtained the approval thereof by the county board of such county, and no plat or subdivision of such real estate shall be recorded in the office of the register of deeds or have any force or effect unless the same be approved by the county board of such county. Such a county shall have authority within the area above described (1) to regulate the subdivision of land for the purpose, whether immediate or future, of transfer of ownership or building development, except that the county shall have no power to regulate subdivision in those instances where the smallest parcel created is more than ten acres in area, (2) to prescribe standards for laying out subdivisions in harmony with the comprehensive plan, (3) to require the installation of improvements by the owner or by the creation of public improvement districts, or by requiring a good and sufficient bond guaranteeing installation of such improvements, and (4) to require the dedication of land for public purposes. Subdivision shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be subdivision when the smallest parcel created is more than ten acres in

area.

Subdivision plats shall be approved by the county planning commission on recommendation by the planning director and county engineer and shall be submitted to the county board for its consideration and action. The county board may withhold approval of a plat until the county engineer has certified that the improvements required by the regulations have been satisfactorily installed or until a sufficient bond guaranteeing installation of the improvements has been posted with the county or until public improvement districts are created.

**23-1901. County surveyor; county engineer; qualifications; powers and duties.** (1) It shall be the duty of the county surveyor to make or cause to be made all surveys within his or her county that the county surveyor may be called upon to make and record the same.

(2) In all counties having a population of at least fifty thousand inhabitants but less than one hundred fifty thousand inhabitants, the county surveyor shall be ex officio county engineer and shall be either a professional engineer as provided in the Engineers and Architects Regulation Act or a registered land surveyor as provided in sections 81-8,108 to 81-8,127 or both. In such counties, the office of surveyor shall be full time.

In counties having a population of one hundred fifty thousand inhabitants or more, a county engineer shall be a registered professional engineer as provided in sections 81-839 to 81-856 and shall be elected as provided in section 32-526.

(3) The county engineer or ex officio county engineer shall:

(a) Prepare all plans, specifications, and detail drawings for the use of the county in advertising and letting all contracts for the building and repair of bridges, culverts, and all public improvements upon the roads;

(b) Make estimates of the cost of all such contemplated public improvements, make estimates of all material required for such public improvements, inspect the material and have the same measured and ascertained, and report to the county board whether the same is in accordance with its requirements;

(c) Superintend the construction of all such public improvements and inspect and require that the same shall be done according to contract;

(d) Make estimates of the cost of all labor and material which shall be necessary for the construction of all bridges and improvements upon public highways, inspect all of the work and materials placed in any such public improvements, and make a report in writing to the county board with a statement in regard to whether the same comply with the plan, specifications, and detail drawings of the county board prepared for such work or improvements and under which the contract was let; and

(e) Have charge and general supervision of work or improvements authorized by the county board, inspect all materials, direct the work, and make a report of each piece of work to the county board.

The county engineer or surveyor shall also have such other and further powers as are necessarily incident to the general powers granted.

(4) The county surveyor shall prepare and file the required annual inventory statement of county personal property in his or her custody possession as provided in sections 23-346 to 23-350.

(5) In counties having a population of one hundred fifty thousand inhabitants or more, the county engineer shall appoint a full-time county surveyor. The county surveyor shall perform all the duties prescribed in sections 23-1901 to 23-1913 and any other duties assigned to him or her by the county engineer. The county surveyor shall be a registered land surveyor as provided in sections 81-8,108 to 81-8,127.

**Source:** Laws 1879, § 127, p. 386; Laws 1905, c.50, §1, p. 295; R.S. 1913, § 5685; Laws 1921, c. 141, §1, p. 606; C.S. 1922, § 5015; C.S. 1929, § 26-1601; Laws 1939, c. 28, § 16, p. 154; C.S. Supp., 1941, §26-1601; R.S. 1943, §23-1901; Laws 1969, c. 170, § 1, p. 747; Laws 1982, LB 127, § 2; Laws 1986, LB 512, § 1; Laws 1990, LB 821, § 14; Laws 1994, LB 76, § 543.

**23-1901.01. County surveyor; residency; employed from another county; when;**

**term.** (1) Except as provided in subsection (2) of this section, a county surveyor elected after November 1986 need not be a resident of the county when he or she files for election as county surveyor, but a county surveyor shall reside in the county in which he or she holds office.

(2) When there is no qualified surveyor within a county who will accept the office of county surveyor, the county board of such county may employ a competent surveyor either on a full-time or part-time basis from any other county of the State of Nebraska to such office. In making such employment, the county board shall negotiate a contract with the surveyor, such contract to specify the terms and conditions of the appointment or employment, including the compensation of the surveyor, which compensation shall not be subject to section 33-116. A surveyor employed under this subsection shall serve the same term as that of an elected surveyor and shall not be required to reside in the county of employment.

**Source:** Laws 1951, c. 45, § 1, p. 162; Laws 1979, LB 115, § 1; Laws 1982, LB 127, § 3; Laws 1986, LB 812, § 7.

**23-1901.02. County surveyor; deputy; appointment; oath; duties.**

The county surveyor may appoint a deputy for whose acts he or she will be responsible. The surveyor may not appoint the county treasurer, sheriff, register of deeds, or clerk as deputy.

In counties having a population of fifty thousand but less than one hundred fifty thousand, if the county surveyor is a professional engineer, he or she shall appoint as deputy a registered land surveyor or, if the county surveyor is a registered land surveyor, he or she shall appoint as deputy a professional engineer. This requirement shall not apply if the county surveyor is both a professional engineer and a registered land surveyor.

The appointment shall be in writing and revocable in writing by the surveyor. Both the appointment and revocation shall be filed and kept in the office of the county clerk.

The deputy shall take the same oath as the surveyor which shall be endorsed upon and

filed with the certificate of appointment. The surveyor may require a bond of the deputy. In the absence or disability of the surveyor, the deputy shall perform the duties of the surveyor pertaining to the office, but when the surveyor is required to act in conjunction with or in place of another officer, the deputy cannot act in the surveyor's place.

**Source:** Laws 1990, LB 821, § 15.

**23-1903. Witnesses; attendance and testimony; power to compel; fees.**

The county surveyor or his deputy, in the performance of his official duties, shall have the power to summon and compel the attendance of witnesses before him, to testify respecting the location and identification of any line or corner. When any such witness testifies to any material fact, his testimony must be reduced to writing and subscribed by him and made a matter of record. The county surveyor and his deputy are hereby authorized and empowered to administer oaths and affirmations to any person appearing as a witness before them. But the testimony as provided for herein shall never be used as evidence in any action involving corners or boundary lines, except for the purpose of impeachment. Each witness shall be entitled to the same fees allowed in county court.

**Source:** Laws 1913, c. 43, § 1, p. 142; R.S. 1913, § 5687; Laws 1921, c. 138, § 1, p. 604; C.S. 1922, § 5017; C.S. 1929, § 26-1603; R.S. 1943, § 23-1903; Laws 1972, LB 1032, § 117.

**23-1904. Surveyor's certificate; use as evidence; effect.** The certificate of the county surveyor of any survey made by him of any lands in the county shall be presumptive evidence of the facts stated therein, unless such surveyor shall be interested in the same.

**Source:** Laws 1913, c. 43, § 2, p. 142; R.S. 1913, § 5688; C.S. 1922, § 5018; C.S. 1929, § 26-1604.

**23-1905. Surveyor; interest; disqualification; who may act.** Whenever a survey of any lands or lots is required, in which the county surveyor is interested, such survey may be made by the surveyor of another county in like manner and to the same effect as though such survey had been made by the surveyor of the county where the land is situated. The

surveyor doing the work shall record the field notes of said survey in the official record of surveys of the county wherein the land is situated.

**Source:** Laws 1913, c. 43, § 3, p. 142; R.S. 1913, § 5689; C.S. 1922, § 5019; C.S. 1929, § 26-1605.

**23-1906. Trespass; exemption from liability.** The county surveyor in the performance of his official duties, shall not be liable to prosecution for trespass.

**Source:** Laws 1913, c. 43, § 4, p. 143; R.S. 1913, § 5690; C.S. 1922, § 5020; C.S. 1929, § 26-1606.

**23-1907. Original corners; perpetuation.** It shall be the duty of the county surveyor in surveys made by him or her to perpetuate all original corners not at the time well marked, and all corners or angles that he or she may establish or reestablish, in a permanent manner by setting monuments containing ferromagnetic material, according to the instructions of the State Surveyor.

**Source:** Laws 1913, c. 43, § 5, p. 143; R.S. 1913, § 5691; C.S. 1922, § 5021; C.S. 1929, § 26-1607; R.S. 1943, § 23-1907; Laws 1982, LB 127, § 4.

**23-1908. Corners; establishment and restoration; rules governing.** The boundaries of the public lands established by the duly appointed government surveyors, when approved by the Surveyor General and accepted by the government, are unchangeable, and the corners established thereon by them shall be held and considered as the true corners which they were intended to represent, and the restoration of lines and corners of said surveys and the division of sections into their legal subdivisions shall be in accordance with the laws of the United States, the circular of instructions of the United States Department of the Interior, Bureau of Land Management, on the restoration of lost and obliterated section corners and quarter corners, and the circular of instructions to the county surveyors by the State Surveyor under authority of the Board of Educational Lands and Funds. The county surveyor is hereby authorized to restore lost and obliterated corners of original surveys and to establish the subdivisional corners of sections in accordance with the provisions of this section and section 23-1907. Any registered land surveyor registered under the provisions of sections 81-8,108 to 81-8,127 is hereby authorized to establish any corner not monumented in the original government surveys in accordance with the provisions of this section 23-1907. Subdivision shall be executed according to the plan indicated by the original field notes and plats of surveys and

governed by the original and legally restored corners. The survey of the subdivisional lines of sections in violation of this section shall be absolutely void.

**Source:** Laws 1913, c. 43, § 6, p. 143; R.S. 1913, § 5692; Laws 1915, c. 102, § 1, p. 245; Laws 1917, c. 109, § 1, p. 280; Laws 1921, c. 161, § 1, p. 654; C.S. 1922, § 5022; C.S. 1929, § 26-1608; R.S. 1943, § 23-1908; Laws 1969, c. 171, § 1, p. 748; Laws 1982, LB 127, § 5.

**23-1909. Subdivisions; petition for survey; expense.** Whenever a majority of the owners of any section or quarter section of land, which has not been subdivided into its legal subdivisions, or owners of a major portion thereof, desire to have said land subdivided, they may petition the county surveyor to make such survey, who, after giving at least ten days notice to all such owners residing within the county, shall proceed to make the survey. The expense thereof shall be borne by all the owners in proportion to the work done for each, to be apportioned by the surveyor.

**Source:** Laws 1913, c. 43, § 7, p. 144; R.S. 1913, § 5693; C.S. 1922, § 5023; C.S. 1929, § 26-1609.



**23-1910. Field books; contents.** Each county surveyor shall procure, at the expense of the county, suitable memorandum field books for his or her use in the field. He or she shall enter in such field books, as the work progresses, all the details necessary to make up a complete record of each survey. The field books are to be properly indexed and kept on file as a part of the records of his or her office.

**Source:** Laws 1913, c. 43, § 8, p. 144; R.S. 1913, § 5694; C.S. 1922, § 5024; C.S. 1929, § 26-1910; R.S. 1943, § 23-1910; Laws 1982, LB 127, § 6.

**23-1911. Surveys; records; contents; available to public.** The county surveyor shall record all surveys, for permanent purposes, made by him or her, as required by sections 81-8,121 to 81-8,122.02. Such record shall set forth the names of the persons making the application for the survey, for whom the work was done, and a statement showing it to be an official county survey or resurvey. The official records, other plats, and field notes of the county surveyor's office shall be deemed and considered public records. Any agent or authority of the United States, the State Surveyor or any deputy state surveyor of Nebraska, or any surveyor registered pursuant to sections 81-8,108 to 81-8,127, shall at all times, within reasonable office or business hours, have free access to the surveys, field notes, maps, charts, records, and other papers as provided for in sections 23-1901 to 23-1913. In all counties, where no regular office is maintained in the county courthouse for the county surveyor of that county, the county clerk shall be custodian of the official record of surveys and all other permanent records pertaining to the office of county surveyor.

**Source:** Laws 1913, c. 43, § 9, p. 144; R.S. 1913, § 5695; C.S. 1922, § 5025; C.S. 1929, § 26-1611; Laws 1941, c. 44, § 1, p. 227; C.S. Supp., 1941, § 26-1611; R.S. 1943, § 23-1911; Laws 1982, LB 127, § 7.

**23-1913. Records; transfer to successor; violation; penalty.** When the term of any county surveyor shall expire or he shall resign or be removed, he shall deliver to his successor all books, maps, plats, diagrams, and papers pertaining to his office, and all correspondence with the Department of the Interior at Washington, D.C., and state officials pertaining to surveys in his county. Any county surveyor who, on the expiration of his term of office, or on his resignation or removal, shall neglect, for the period of thirty days after his successor shall be elected or appointed, and qualified, to deliver all such books, maps, plats, diagrams, papers, and correspondence aforesaid, or any executor or administrator of any deceased county surveyor, who shall neglect for the space of thirty days to deliver to such successor all such books, maps, plats, diagrams, papers, and correspondence aforesaid, which shall come into his hands, shall forfeit and pay into the county treasury a sum not less than ten and not more than fifty dollars, and a similar sum for each thirty days thereafter during which he shall so neglect to deliver the same as aforesaid. If no successor has been elected or appointed and qualified, then they shall be delivered to the county clerk.

**Source:** Laws 1913, c. 43, § 11, p. 146; R.S. 1913, § 5697; C.S. 1922, § 5027; C.S. 1929, § 26-1613.

**25-202. Actions for the recovery of title or possession of real estate or foreclosure of mortgages.** (1) An action for the recovery of the title or possession of lands, tenements, or hereditaments, or for the foreclosure of mortgages thereon, can only be brought within ten years after the cause of action accrues. No limitation shall apply to the time within which any county, city, town, village, other municipal corporation, public power and irrigation district, public power district, public irrigation district organized under Chapter 70, article 6, irrigation district organized under Chapter 46, article 1, or natural resources district may begin an action for the recovery of the title or possession of any public road, street, or alley, other public or political subdivision grounds or lands, or city or town lots. (2) For the purposes of this section as relates only to the rights and interests of subsequent purchasers and encumbrancers for value:

- (a) The cause of action for foreclosure of the mortgage accrues on the last date of maturity of the debt or other obligation secured by the mortgage as the date is stated in or is ascertainable from the filed record of the mortgage or the filed record of an extension of the mortgage;
- (b) If no date of maturity is stated or is ascertainable from the filed mortgage or the filed extension, the cause of action for foreclosure of the mortgage accrues no later than twenty years after the date of the mortgage; or
- (c) If the mortgage creditor files an affidavit to the effect that the mortgage is unpaid and is still a valid lien, the affidavit is filed before the cause of action is barred under this section, and the affidavit is filed for record in the office of the register of deeds; the cause of action is not barred until ten years after the date the affidavit is filed. The period of ten years shall not be extended by nonresidence, legal disability, partial payment, acknowledgment of debt, or promise to pay.

**Source:** R.S. 1867, Code § 6, p. 395; Laws 1869, § 1, p. 67; Laws 1899, c. 79, § 6, p. 335; R.S. 1913, § 7564; C.S. 1922, § 8507; Laws 1925, c. 64, § 1, p. 220; C.S. 1929, § 20-202; Laws 1941, c. 35, § 1, p. 145; C.S. Supp., 1941, § 20-202; R.S. 1943, § 25-202; Laws 1977, LB 208, § 1; Laws 1995, LB 297, § 1.

**25-1218. Works of history, science, or art; presumptive evidence.** Historical works, books or science or art, and published maps or charts, when made by persons indifferent between the parties, are presumptive evidence of facts of general notoriety or interest.

**Source:** R.S. 1867, Code § 342, p. 451; R.S. 1913, § 7910; C.S. 1922, § 8852; C.S. 1929, § 20-1218.

**25-1278. Field notes or plat of county surveyor; when admissible.** A copy of the field notes of any county surveyor, or a plat made by him and certified under oath as correct, may be received as evidence to show the shape or dimensions of a tract of land, or any other fact whose ascertainment requires only the exercise of scientific skill or calculation.

**Source:** R.S. 1867, Code § 407, p. 461; R.S. 1913, § 7971; C.S. 1922, § 8912; C.S. 1929, § 20-1278.

**25-1708. Plaintiff's costs; when allowed.** Where it is not otherwise provided by this and other statutes, costs shall be allowed of course to the plaintiff, upon a judgment in his favor, in actions for the recovery of money only, or for the recovery of specific real or personal property.

**Source:** R.S. 1867, Code § 620, p. 504; R.S. 1913, § 8167; C.S. 1922, § 9118; C.S. 1929, § 20-1708.

**25-2186. Sale of property; report of referee.** After completing said sale, the referee or referees must report their proceedings to the court, with a description of the different parcels of land sold to each purchaser, and the price bid therefor, which report shall be filed with the clerk.

**Source:** R.S. 1867, Code § 818, p. 539; R.S. 1913, § 8301; C.S. 1922, § 9254; C.S. 1929, § 20-2186.

**25-2196. Order of conveyance; when made; purchase money security.** If the sales aforesaid are approved and confirmed, an order shall be entered directing the referee or referees, or a majority thereof, to execute conveyances pursuant to such sales. But no conveyance can be made until all the money is paid, without receiving from the purchaser a mortgage of the land so sold, or other equivalent security.

**Source:** R.S. 1867, Code § 829, p. 540; R.S. 1913, § 8312; C.S. 1922, § 9264; C.S. 1929, § 20-2196.

**25-21,100. Partition in kind; how made.** When partition is deemed proper the referee or referees must make out the shares by visible monuments, and may employ a competent surveyor and the necessary assistants to aid them.

**Source:** R.S. 1867, Code § 833, p. 541; R.S. 1913, § 8316; C.S. 1922, § 9268; C.S. 1929, § 20-21,100.

**25-21,102. Shares drawn by lot, when.** Unless the shares are allotted to their respective owners by the referee or referees as hereinbefore contemplated, the clerk shall number the shares and then draw the names of the future owners by lot.

**Source:** R.S. 1867, Code § 835, p. 541; R.S. 1913, § 8318; C.S. 1922, § 9270; C.S. 1929, § 20-21,102.

**25-21,103. Partition in part; remaining portion; sale.** When partition can be conveniently made of part of the premises, but not of all, one portion may be partitioned and the other sold as hereinafter provided.

**Source:** R.S. 1867, Code § 836, p. 541; R.S. 1913, § 8319; C.S. 1922, § 9271; C.S. 1929, § 20-21,103.

**25-21,104. Partition; report of referees set aside, when; rereference.** On good cause shown, the report may be set aside and the matter again referred to the same or other referee or referees.

**Source:** R.S. 1867, Code § 837, p. 541; R.S. 1913, § 8320; C.S. 1922, § 9272; C.S. 1929, § 20-21,104.

**25-21,105. Confirmation of report of referees; judgment.** Upon report of the referee or referees being confirmed, judgment thereon shall be rendered that the partition be firm and effectual forever.

**Source:** R.S. 1867, Code § 838, p. 541; R.S. 1913, § 8321; C.S. 1922, § 9273; C.S. 1929, § 20-21,105.

**25-21,106. Service of process; parties bound by proceedings.** The defendants may be served in the same manner as in ordinary civil action by summons, or by publication as provided in this code, and when all the parties in interest have been duly served, any of the proceedings herein prescribed shall be binding and conclusive upon them all. If only a portion of such parties be served, they only shall be bound by such proceedings.

**Source:** R.S. 1867, Code § 839, p. 541; Laws 1899, c. 89, § 2, p. 345; R.S. 1913, § 8322; C.S. 1922, § 9274; C.S. 1929, § 20-21,106.

**25-21,107. Judgment of partition; effect.** The judgment of partition shall be presumptive evidence of title in all cases, and as between the parties themselves it is conclusive evidence thereof, subject, however, to be defeated by proof of a title paramount to, or independent of, that under which the parties held as joint tenants or tenants in common.

**Source:** R.S. 1867, Code § 840, p. 541; R.S. 1913, § 8323; C.S. 1922, § 9275; C.S. 1929, § 20-21,107.

**25-21,108. Partition; proceedings; fees and costs; awarded, when; division.** If, in the proceedings in partition, judgment shall be entered directing partition, as provided in section 25-2179, the court shall, after partition or after the confirmation of the sale and the conveyance by the referee, determine a reasonable amount of fees to be awarded to the attorneys of record in the proceedings, which amount shall be taxed as costs in the proceedings. If the shares confirmed by such judgment and the existence of all

encumbrances of which the plaintiff had actual or constructive notice were accurately pleaded in the original petition of the plaintiff, such fees for the attorney shall be awarded entirely to the attorney for the plaintiff; otherwise, the court shall order such fees for the attorneys to be divided among such of the attorneys of record in the proceedings as shall have filed pleadings upon which any of the findings in the judgment of partition are based. The court shall also determine and tax as costs a reasonable fee for the referee.

**Source:** R.S. 1867, Code § 841, p. 541; R.S. 1913, § 8324; C.S. 1922, § 9276; C.S. 1929, § 20-21,108; R.S. 1943, § 25-21,108; Laws 1955, c. 93, § 1, p. 271.

**25-21,112. Scope of relief.** An action may be brought and prosecuted to final decree, judgment or order, by any person or person, whether in actual possession or not, claiming title to, or an estate in real estate against any person or persons who claim, or apparently have an adverse estate or interest therein, for the purpose of determining such estate, or interest, canceling unenforceable liens, or claims against, or which appear to be against said real estate, and quieting the title to real estate.

**Source:** Laws 1921, c. 130, § 1, p. 540; C.S. 1922, § 5676; C.S. 1929, § 76-401.

**27-701. Rule 701. Opinion testimony by lay witnesses; when.** If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of his testimony or the determination of a fact in issue.

**Source:** Laws 1975, LB 279, § 49.

**27-702. Rule 702. Testimony by experts; when.** If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

**Source:** Laws 1975, LB 279, § 50.

**27-703. Rule 703. Bases of opinion testimony by experts; when revealed; admissibility.** The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

**Source:** Laws 1975, LB 279, § 51.

**27-704. Rule 704. Opinion on ultimate issue.** Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

**Source:** Laws 1975, LB 279, § 52.

**27-705. Rule 705. Disclosure of facts or data underlying expert opinion.** The expert may testify in terms of opinion or inference and give reasons therefor without prior disclosure of the underlying facts or data, unless the judge requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

**Source:** Laws 1975, LB 279, § 53; Laws 1982, LB 716, § 2.

**27-706. Rule 706. Judge appointed experts; procedure; compensation; disclosure of appointment; parties may call experts of own selection.** (1) The judge may on his own motion or on the motion of any party enter an order to show why expert witnesses should not be appointed, and may request the parties to submit nominations. The judge may appoint any expert witnesses agreed upon by the parties, and may appoint witnesses of his own selection. An expert witness shall not be appointed by the judge unless he consents to act. A witness so appointed shall be informed of his duties by the judge in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of his findings, if any; his deposition may be taken by any party; and he may be called to testify by the judge or any party. He shall be subject to cross-examination by each party, including a party calling him as a witness.

(2) Expert witnesses so appointed are entitled to reasonable compensation in whatever sum the judge may allow. The compensation thus fixed is payable from funds which may be provided by law in criminal cases and by the opposing parties in equal portions to the clerk of the court in civil cases at a time fixed by the court thereafter charged in like manner as other costs.

(3) In the exercise of his discretion, the judge may authorize disclosure to the jury of the fact that the court appointed the expert witness.

(4) Nothing in this rule limits the parties in calling expert witnesses of their own selection.

**Source:** Laws 1975, LB 279, § 54.

**27-802. Rule 802. Hearsay rule.** Hearsay is not admissible except as provided by these rules or by other rules adopted by the statutes of the State of Nebraska.

**Source:** Laws 1975, LB 279, § 56.

**27-803. Rule 803. Hearsay exceptions; enumerated; availability of declarant immaterial.** Subject to the provisions of section 27-403, the following are not excluded by the hearsay rule, even though the declarant is available as a witness:

- (1) A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition;
- (2) A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will;
- (3) Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment;
- (4) A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him or her to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his or her memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party;
- (5) A memorandum, report, record, or data compilation, in any form, of acts, events, or conditions, other than opinions or diagnoses, made at or near the time of such acts, events or conditions, in the course of a regularly conducted activity, if it was the regular course of such activity to make such memorandum, report, record, or data compilation at the time of such act, event, or condition, or within a reasonable time thereafter, as shown by the testimony of the custodian or other qualified witness unless the source of information or method or circumstances of preparation indicate lack of trustworthiness. The circumstances of the making of such memorandum, report, record, or data compilation, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight;
- (6) Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of subdivision (5) of this section to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate a lack of trustworthiness;
- (7) Upon reasonable notice to the opposing party prior to trial, records, reports, statements or data compilations made by a public official or agency of facts required to be observed and recorded pursuant to a duty imposed by law, unless the sources of information or the method or circumstances of the investigation are shown by the opposing party to indicate a lack of trustworthiness;
- (8) Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law;
- (9) To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with section 27-902, or testimony, that diligent search failed to disclose the record, report, statement, or data

compilation or entry;

(10) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization;

(11) Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a member of the clergy, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter;

(12) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage or other similar facts of personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones or the like;

(13) The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorized the recording of documents of that kind in that office;

(14) A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document;

(15) Statements in a document in existence thirty years or more whose authenticity is established;

(16) Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations;

(17) Statements contained in published, treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice, to the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination. If admitted, the statements may be read into evidence but may not be received as exhibits;

(18) Reputation among members of her or her family by blood, adoption, or marriage, or among his or her associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his or her personal or family history;

(19) Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located;

(20) Reputation of a person's character among his or her associates or in the community;

(21) Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the government in a criminal prosecution for purposes other than impeachment, judgments against a person other than the accused. The pendency of an appeal may be shown but does not affect admissibility;



(22) Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation; and (23) A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (a) the statement is offered as evidence of a material fact, (b) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, and (c) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. A statement may not be admitted under this exception unless the proponent of it makes known to the adverse party, sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant.

**Source:** Laws 1975, LB 279, § 57.

**31-105. Drainage improvements; survey; approval of county board.** The county clerk shall deliver a copy of the petition to the county board at its next meeting, which shall thereupon take to its assistance a competent surveyor or engineer, if in the opinion of the board his services are necessary, and at once proceed to view the line of the proposed improvement. The board shall determine by actual view of the premises along and in the vicinity thereof, whether the improvement is necessary, or will be conducive to the public health, convenience or welfare, and whether the line described is the best route. The board shall report its findings in writing, and order the clerk to enter the same on its journal.

**Source:** Laws 1881, c. 51, § 5, p. 237; Laws 1911, c. 140, § 5, p. 454; R.S. 1913, § 1722; C.S. 1922, § 1669; C.S. 1929, § 31-105.

**31-106. Drainage improvements; change of proposed route; power of county board.** If the county board, upon actual view, shall find that the route proposed is not such as to best effect the object sought, it shall change the same and establish the route and determine the dimensions of the proposed improvements; *Provided*, any change so made shall not in any case exceed one hundred and sixty rods from the route described in the petition.

**Source:** Laws 1881, c. 51, § 6, p. 237; Laws 1911, c. 140, § 6, p. 455; R.S. 1913, § 1723; C.S. 1922, § 1670; C.S. 1929, § 31-106.

**31-107. Drainage improvements; survey; plat; estimate of work required.** If the county board shall find for the improvement, it shall cause to be entered on its journal an order directing the county surveyor, or an engineer, to go upon the line described in the petition, or as changed by the board in accordance with section 31-106; to survey and level the same and set a stake at every hundred feet, numbering downstream; to note the intersection of section lines, road crossings, boundary lines, precinct and county lines; to make a report, profile and plat of the same; and to estimate the number of cubic yards for each working section as hereinafter provided.

**Source:** Laws 1881, c. 51, § 7, p. 238; Laws 1911, c. 140, § 7, p. 455; R.S. 1913, § 1724; C.S. 1922, § 1671; C.S. 1929, § 31-107.

**31-108. Drainage improvements; plat; profile; requisites; surveyor's report.** The plat provided for in section 31-107 shall be drawn upon a scale sufficiently large to represent all the meanderings of the proposed improvement, and shall show the boundary lines of each lot or tract of land, and of each road or railroad to be benefitted thereby, the name of the owner of each lot or tract of land as it then appears on the tax duplicate, the authority or company having in charge or controlling each public or corporate road or railroad, the distance in feet through each tract or parcel of land, and such other matter as the surveyor or engineer deems material. The profile shall show the surface, the grade line, and the gradient fixed. The surveyor or engineer shall file his report with the county clerk within thirty days after making the survey and level.

**Source:** Laws 1881, c. 51, § 9, p. 238; Laws 1911, c. 140, § 9, p. 456; R.S. 1913, § 1725; C.S. 1922, § 1672; C.S. 1929, § 31-108.

**31-109. Drainage improvements; schedule of land benefitted; apportionment; estimate of cost of construction; specifications.** The county board shall also by its order direct the surveyor or engineer to make and return a schedule of all lots, lands, public or corporate roads, or railroads that will be benefitted by the proposed improvement, whether the same are abutting upon the line of the proposed improvement or not, an apportionment of a number of lineal feet and cubic yards to each lot, tract of land, road or railroad, according to the benefits which will result to each from the improvement, an estimate of the cost of location and construction to each, and a specification of the manner in which the improvement shall be made and completed.

**Source:** Laws 1881, c. 51, § 8, p. 238; Laws 1911, c. 140, § 8, p. 455; R.S. 1913, § 1726; C.S. 1922, § 1673; C.S. 1929, § 31-109.

**31-110. Drainage improvements; hearing; notice.** Upon the filing of the report of the surveyor or engineer, the county clerk shall, without delay, fix a day for the hearing of the same, which shall not be more than forty days from the time of the filing of the report, and shall prepare a notice in writing, directed to the resident lot or land owners, and to the authorities or municipal or private corporations affected by the improvement, setting forth the pendency, substance and prayer of the petition, together with a tabular statement of the apportionment as made by the surveyor or engineer in his report, and shall deliver the same to the sheriff, who shall serve a copy of the same upon each resident lot or land owner, each member of such public board or authority, and upon an officer or agent of such private corporation at least ten days before the time fixed for the hearing; *Provided*, the copies need contain only so much of the original notice as affects the interests of the persons so served. The county clerk shall in like manner notify each nonresident lot or land owner, or by publication in a newspaper printed and of general circulation in the county, for at least three consecutive weeks before the day set for the hearing, which notice shall be verified in the manner provided by law for the verification of notices by publication.

**Source:** Laws 1881, c. 51, § 10, p. 239; Laws 1911, c. 140, § 10, p. 456; R.S. 1913, § 1727; C.S. 1922, § 1674; C.S. 1929, § 31-110.

**31-111. Drainage improvements; hearing; procedure; order.** The county board shall meet at the office of the county clerk on the day fixed for the hearing, and shall first determine whether the requisite notice has been given. If it finds that due notice has not been given, it shall continue the hearing to a day to be fixed by the board, and order the notices to be served as provided in section 31-110. When the board finds that due notice has been give, it shall examine the report of the surveyor or engineer, including the apportionment made by him, and if it is in all respects fair and just, according to benefits, the board shall approve and confirm the same; but if it finds the apportionment to be unfair or unjust, it shall so order, and so amend the apportionment as to make it fair and just according to benefits.

**Source:** Laws 1881, c. 51, § 11, p. 240; Laws 1911, c. 140, § 11, p. 457; R.S. 1913, § 1728; C.S. 1922, § 1675; C.S. 1929, § 31-111.

**31-119. Drainage improvements; supervision of work; payment; progress certificates; exceptions.** The work shall be done under the supervision of the surveyor or engineer appointed by the county board, and when a part, not less than one-fourth of the portion included in any contract, is completed according to the specifications, he shall give the contractor a certificate thereof, showing the proportional amount which the contractor is entitled to be paid according to the terms of the contract. The county clerk shall, upon presentation of such certificate, draw his warrant upon the treasurer for seventy-five percent of said amount, and the treasurer will pay the same out of any funds in the treasury applicable to such purposes; *Provided*, no proportional amounts shall be certified or paid unless the whole of such contract exceeds two thousand lineal feet.

**Source:** Laws 1881, c. 51, § 19, p. 243; Laws 1911, c. 140, § 19, p. 459; R.S. 1913, § 1736; C.S. 1922, § 1683; C.S. 1929, § 31-119.

**31-131. Drainage improvements; ditches in two counties; procedure.** When a ditch is proposed which will require a location in more than one county, application shall be made to the county board of each county so affected, and the surveyor or engineer shall make a report for each county. Application for damages shall be made, and appeals from the findings of the boards in joint session, locating and establishing such ditch, and from the assessment of damages or compensation, shall be taken to the district court in the county in which the lots or lands which are immediately affected are located. A majority of the boards of each county, when in joint session, shall be competent to locate and establish such ditch.

**Source:** Laws 1881, c. 51, § 24, p. 245; Laws 1911, c. 140, § 24, p. 462; R.S. 1913, § 1748; C.S. 1922, § 1695; C.S. 1929, § 31-131.

**31-136. Drainage ditches; petition; survey; cost estimate.** Upon the filing of the petition provided for in section 31-135, it shall be the duty of the county board to cause a

survey and estimate of the cost of such improvement to be made by some competent surveyor within sixty days thereafter.

**Source:** Laws 1911, c. 141, § 2, p. 465; R.S. 1913, § 1753; C.S. 1922, § 1700; C.S. 1929, § 31-136.

**31-137. Drainage ditches; petition; hearing; notice.** Upon filing of the report and estimate of the surveyor in the office of the county clerk, it shall be the duty of the county board to set a day for hearing thereon, not more than forty days from the date of the said filing, and to give notice by publication thereof for three weeks in some newspaper of general circulation in the county.

**Source:** Laws 1911, c. 141, § 3, p. 465; R.S. 1913, § 1754; C.S. 1922, § 1701; C.S. 1929, § 31-137.

**31-204. Drains or ditches; petition for construction or maintenance; bond for costs and expenses.** Any person or persons desiring the construction of any drain or drains, ditch or ditches, or the repair and maintenance of the same, may file a petition with the county board, accompanied with a good and sufficient bond, to be approved by such board, conditioned to pay all costs and expenses of a surveyor or engineer in surveying the proposed ditch or drain and the land affected thereby as hereinafter provided, in case such ditch or drain shall not be deemed necessary for the public welfare, or for agricultural or sanitary purposes, by said board or drainage supervisors.

**Source:** Laws 1911, c. 142, § 4, p. 467; R.S. 1913, § 1774; C.S. 1922, § 1721; C.S. 1929, § 31-304.

**31-206. Drains or ditches; survey; estimates.** Whenever the petition and bond as provided for in sections 31-204 and 31-205 have been filed with the county board and bond approved by it, the board shall cause said ditch or ditches, drain or drains, and the lands or lots affected thereby to be surveyed, and may for this purpose, in its discretion, employ a civil engineer or surveyor, other than the county surveyor. Such surveyor or civil engineer shall proceed to make such survey and estimates as the board may direct, and shall make and return to the board a map or plat of his or their survey and a full report of all estimates so required of him or them by the board.

**Source:** Laws 1911, c. 142, § 6, p. 467; R.S. 1913, § 1776; C.S. 1922, § 1723; C.S. 1929, § 31-306.

**31-211. Drains or ditches; appraisal; costs; damages; assessments.** The appraisers shall ascertain as nearly as may be the actual cost of construction of the ditch or ditches, drain or drains, together with all costs relating thereto, including the costs of the surveyor and engineer and the costs of appraisal and advertising, and shall ascertain to the best of their judgment the amount of the benefits which will accrue to each tract of land to be benefitted thereby, and shall appraise and determine the amount of damage sustained by each landowner whose premises may be crossed by the proposed ditch or drain and award

the same, and shall assess to each tract of land benefitted by the construction of such improvements, its proportionate share of the costs of the right-of-way thereof, the costs of construction and other expenses above mentioned. They shall thereupon make and file with the county clerk a full and complete report of their acts and doings in the premises, together with the releases obtained from the property owners along the right-of-way of the proposed ditch or drain, and a statement of the amount or amounts to be paid for such release or releases. They shall also file an assessment roll therewith in which shall appear in proper columns the names of the owners, if known, and if unknown so stated, a description of the premises affected, the number of acres in each tract of land so affected and the value thereof, and if damages are allowed, the amount of the same, and if benefits are assessed the amount thereof.

**Source:** Laws 1911, c. 142, § 10, p. 470; R.S. 1913, § 1781; C.S. 1922, § 1728; C.S. 1929, § 31-311.

**32-525. County surveyor; election; when required; terms; qualifications; partisan ballot.** Except as provided in section 22-417, when there is a qualified surveyor within a county who will accept the office of county surveyor if elected, a county surveyor on either a full-time or part-time basis, as determined by the county board in accordance with section 23-1901, shall be elected in each county having a population of less than one hundred fifty thousand inhabitants at the statewide general election in 1990 and each four years thereafter. The term of the county surveyor shall be four years or until his or her successor is elected and qualified. The county surveyor shall meet the qualifications found in sections 23-1901 and 23-1901.01. The county surveyor shall be elected on the partisan ballot.

**Source:** Laws 1994, LB 76, § 121.

**33-116. County surveyor; compensation; fees; mileage; equipment furnished.** Each county surveyor shall be entitled to receive the following fees: (1) For all services rendered to the county or state, a daily rate as determined by the county board; and (2) for each mile actually and necessarily traveled in going to and from work, the rate allowed by the provisions of section 81-1176. All expense of necessary assistants in the performance of the above work, the fees of witnesses, and material used for perpetuation and reestablishing lost exterior section and quarter corners necessary for the survey shall be paid for by the county and the remainder of the cost of the survey shall be paid for by the parties for whom the work may be done. All necessary equipment, conveyance, and repairs to such equipment, required in the performance of the duties of the office, shall be furnished such surveyor at the expense of the county, except that in any county with a population of less than fifty thousand the county board may, in its discretion, allow the county surveyor a salary fixed pursuant to section 23-1114, payable monthly, by warrant drawn on the general fund of the county. All fees received by surveyors so receiving a salary may, with the authorization of the county board, be retained by the surveyor, but in the absence of such authorization all such fees shall be turned over to the county treasurer monthly for credit to the county general fund.

**Source:** R.S. 1866, c. 19, § 16, p. 168; Laws 1869, § 1, p. 157; Laws 1899, c. 32, § 1, p. 167; Laws 1913, c. 43, § 12, p. 146; R.S. 1913, § 2440; Laws 1919, c. 75, § 1, p. 194; C.S. 1922, § 2380; Laws 1927, c. 114, § 1, p. 321; C.S. 1929, § 33-119; Laws 1931, c. 65, § 7, p. 180; C.S. Supp., 1941, § 33-119; Laws 1943, c. 90, § 19, p. 305; R.S. 1943, § 33-116; Laws 1947, c. 122, § 1, p. 357; Laws 1953, c. 117, § 1, p. 372; Laws 1957, c. 70, § 4, p. 296; Laws 1961, c. 158, § 2, p. 482; Laws 1961, c. 160, § 1, p. 485; Laws 1969, c. 272, § 1, p. 1036; Laws 1981, LB 204, § 50; Laws 1982, LB 127, § 8.

**34-101. Hedge or live fences; planted on line of road or public highway; when allowed.** Whenever any owner or owners, occupier or occupiers of any lands bordering upon any public road or highway, except a street or alley in a town, may wish to plant and cultivate any hedge or live fence, along the margin of his, her, or their land, it shall be lawful for any such person or persons to set and plant any such hedge or live fence precisely on the line of the road or public highway, and also to place on the margin of such a road a protection fence, not to occupy more than six feet of the margin or edge of said road, and such protection fence, when placed opposite any live fence or hedge actually set and planted, shall be permitted by the county board and all other persons, to remain for the term of seven years; *Provided*, the county board may grant permission in writing to the owner or owners of any live fence or hedge to continue such protection fence any term of time which it may deem necessary.

**Source:** R.S. 1866, c. 1, § 12, p. 7; R.S. 1913, § 2475; C.S. 1922, § 2417; C.S. 1929, § 34-101.

**34-102. Division fence; adjoining occupants; apportionment of cost.** When two or more persons shall have lands adjoining, each of them shall make and maintain a just proportion of the division fence between them; *Provided, however*, this shall not be construed to compel the erection and maintenance of a division fence where neither of the adjoining landowners desires such division fence. Unless the owners of such lands adjoining shall have agreed otherwise, such fence shall be a lawful fence, as defined in section 34-115.

**Source:** R.S. 1866, c. 1, § 13, p. 8; R.S. 1913, § 476; Laws 1919, c. 94, § 2, p. 237; C.S. 1922, § 2418; C.S. 1929, § 34-102.

**34-103. Division fence; erection by landowner; collection of one-half cost from adjoining owner; hog and sheep tight fences.** Any landowner who shall erect a division fence may demand and collect by civil suit from such adjoining landowner one-half the reasonable value of such division fence. Any landowner putting in a hog and sheep tight fence, where the adjoining landowner does not desire to use or pay for such fence, may demand and receive from such adjoining landowner one-half the cost of a lawful wire fence as defined in section 34-115. If such adjoining landowner subsequently wishes to use his land abutting on said fence as a hog or sheep pasture he shall thereupon pay his half of the entire cost of the hog and sheep tight fence.

**Source:** R.S. 1866, c. 1, § 14, p. 8; R.S. 1913, § 2477; Laws 1915, c. 43, § 3, p. 120; Laws 1919, c. 94, § 3, p. 238; C.S. 1922, § 2419; C.S. 1929, § 34-103.

**34-104. Division fence; value and proportion; determination; fence viewers.** The value of such fence, and proportion thereof to be paid by each adjoining landowner and the proportion of the division fence to be made and maintained by each adjoining landowner shall be determined by fence viewers as hereinafter provided for.

**Source:** R.S. 1866, c. 1, § 15, p. 8; R.S. 1913, § 2478; Laws 1919, c. 94, § 4, p. 238; C.S. 1922, § 2420; C.S. 1929, § 34-104.

**34-105. Disputes; settlement by fence viewers.** If disputes arise between the owners of adjoining lands concerning the proportion of fence to be made or maintained by either of them, such disputes shall be settled by fence viewers. In such case it shall be the duty of the fence viewers to distinctly mark and define the proportion of the fence to be made or maintained by each.

**Source:** R.S. 1866, c. 1, § 16, p. 8; R.S. 1913, § 2479; Laws 1919, c. 94, § 5, p. 238; C.S. 1922, § 2421; C.S. 1929, § 34-105.

**34-106. Fence viewers; panel; qualifications.** Upon request of any landowner, the county clerk shall appoint and maintain a panel of at least six individuals to serve as fence viewers, but the clerk may not compel membership on the panel of fence viewers. Fence viewers shall be owners of agricultural land in the county where the dispute has originated, and at least three members of each panel shall be owners of livestock. Fence viewers shall not be considered employees of the county and shall receive compensation only as provided in section 34-110. Upon resignation of a member, the clerk shall appoint another individual to fill the vacancy.

**Source:** R.S. 1866, c. 1, § 17, p. 8; R.S. 1913, § 2480; Laws 1919, c. 94, § 6, p. 239; C.S. 1922, § 2422; C.S. 1929, § 34-106, R.S. 1943, § 34-106; Laws 1994, LB 882, § 1; Laws 1999, LB 776, §1,

**34-107. Controversy; determination by fence viewers; assignment; notice; procedure.** Upon receipt of a written request of any landowner, the county clerk shall assign three fence viewers from the panel of fence viewers appointed under section 34-106 to determine any controversy arising under sections 34-101 to 34-117. None of the fence viewers assigned shall be related by blood or marriage to the contending parties nor be financially interested in the outcome of the dispute. If the county clerk is unable to assign three fence viewers for any reason, the clerk shall notify the county sheriff who shall serve in place of the fence viewers or as one of the fence viewers, and all references to fence viewers in this section and sections 34-104 to 34-111 shall be construed to mean the county sheriff if the sheriff is serving in place of the fence viewers. Before assigning the fence viewers, the clerk shall first require the landowner to show proof that notice has been given to adjoining landowners. Such notice shall be served upon any nonresident landowner by publication in a newspaper published in the county

where the land is situated or by delivering a copy of the letter requesting the assignment of fence viewers to the occupant of such adjoining land or the landowner's agent in charge of such land. The fence viewers so assigned shall examine the premises and hear the allegations of the parties. The decision of any two of them shall be final upon the parties to such disputes and upon all parties holding under them.

**Source:** R.S. 1866, c. 1, § 18, p. 8; R.S. 1913, § 2481; Laws 1919, c. 94, § 7, p. 239; C.S. 1922, § 2423; C.S. 1929, § 34-107; R.S. 1943, § 34-107; Laws 1994, LB 882, § 2; Laws 1999, LB 776, §2 .

**34-108. Controversy; determination; order; where filed; appeal.** The fence viewers shall determine by written order the obligations, rights, and duties of the respective parties in the controversy, shall assign to each landowner the part of the fence which the landowner shall erect, maintain, repair, or pay for, shall fix the value, including the costs of material and labor, and shall prescribe the time within which the erection, maintenance, or repair shall be completed or paid for. The fence viewers shall file the order forthwith in the office of the county clerk. Any person affected by an order of the fence viewers may appeal to the district court within ten days after the date such order is filed.

**Source:** R.S. 1866, c. 1, § 19, p. 8; R.S. 1913, § 2482; C.S. 1922, § 2424; C.S. 1929, § 34-108; R.S. 1943, § 34-108; Laws 1994, LB 882, § 3.

**34-109. Disputes; fence viewers; power to compel testimony and administer oaths.** Fence viewers may examine witnesses on any and all questions submitted to them, and shall have power to issue subpoenas for, and administer oaths to such witnesses.

**Source:** R.S. 1866, c. 1, § 25, p. 10; R.S. 1913, § 2488; Laws 1919, c. 94, § 14, p. 239; C.S. 1922, § 2428; C.S. 1929, § 34-112.

**34-110. Fence viewers; fees; how paid.** Fence viewers shall be entitled to thirty dollars each for any one dispute plus expenses, to be paid in the first instance by the party requiring the service. All expenses of the view shall be borne equally between the parties except in case of view to appraise damages for neglect or refusal to make or maintain a just proportion of the division fence, in which case the cost of view shall be paid by the party in default and may be recovered as a part of the damage assessed.

**Source:** R.S. 1866, c. 1, § 27, p. 10; R.S. 1913, § 2490; Laws 1919, c. 94, § 16, p. 240; C.S. 1922, § 2429; C.S. 1929, § 34-113; R.S. 1943, § 34-110; Laws 1994, LB 882, § 4.

**34-111. Division fence; liability for erection, repair, or maintenance; reimbursement; procedure.** If any person who is liable to contribute to the erection, maintenance, or reparation of a division fence by order of the fence viewers fails to appeal the order and neglects or refuses to make and maintain his or her proportion of such fence within the time prescribed in the order filed with the county clerk as provided



in section 34-108, the party so neglecting or refusing shall be liable to the party injured for all damages which thereby accrue. The fence viewers shall provide for the erection or repair of the same at the expense of the party so defaulting. The fence viewers shall require the complaining landowner to deposit with the fence viewers a sum of money in the amount prescribed in the order sufficient to pay for the erection, repair, or maintenance of the fence together with the fees and costs of the fence viewers. The complaining landowner may be engaged by the fence viewers to perform the erecting, repair, or maintenance of the fence.

Unless the party in default reimburses the complaining landowner within thirty days following the completion of the erection, repair, or maintenance of the fence, the fence viewers shall certify the amount deposited by the complaining landowner to the county treasurer who shall collect the amount as a special assessment against the real estate owned by the party or parties in default. The county treasurer shall reimburse the injured party the amount certified upon collection of the assessment. If the party in default is an agency of the State of Nebraska, the injured party may seek reimbursement pursuant to section 81-1170.01.

**Source:** R.S. 1866, c. 1, § 20, p. 9; R.S. 1913, § 2483; Laws 1919, c. 94, § 8, p. 239; C.S. 1922, § 2425; C.S. 1929, § 34-109; R.S. 1943, § 34-111; Laws 1994, LB 882, § 5.

**34-112. Division fence; injury or destruction; repair.** Whenever a division fence shall be injured or destroyed by fire, floods, or other casualty, the person bound to make and repair such fence, or any party thereof, shall make or repair the same, or his just proportion thereof, within ten days after he shall be thereto requested by any person interested therein, such requisition to be in writing and signed by the party making the same.

**Source:** R.S. 1866, c. 1, § 23, p. 9; R.S. 1913, § 2486; C.S. 1922, § 2426; C.S. 1929, § 34-110.

**34-113. Division fence; injury or destruction; repair; cost.** If such person shall neglect or refuse to make or repair his proportion of such fence for a period of ten days after such request, the party injured may make or repair the same at the expense of the party so refusing or neglecting, to be recovered with cost of suit.

**Source:** R.S. 1866, c. 1, § 24, p. 9; R.S. 1913, § 2487; C.S. 1922, § 2427; C.S. 1929, § 34-111.

**34-114. Damages; how recovered.** Damages accruing to any person or persons under the provisions of sections 34-102 to 34-114 may be recovered in a civil action in any court of this state.

**Source:** R.S. 1866, c. 1, § 28, p. 10; R.S. 1913, § 2491; C.S. 1922, § 2430; C.S. 1929, § 34-114.

**34-115. Lawful fences, defined.** Lawful fences of different kinds used for fence to enclose lands shall be as hereinafter defined. (1) A rail fence shall consist of at least six rails, such rails to be secured by stakes at the end of each panel, well set in the ground, with a rider on the stakes. (2) A board fence shall consist of not less than three boards of at least five inches in width and one inch thick; such boards to be well secured to posts; the posts to be not more than eight feet apart. (3) A rail and post fence shall consist of at least three rails, well secured at each end to posts; the posts not to be more than ten feet apart. (4) A pole and post fence shall consist of not less than four poles, to be well secured to posts; the posts not to be more than seven feet apart. (5) A wire fence shall consist of at least four wires, of a size not less than number nine fencing wire, to be well secured to posts, the posts to be at no greater distance than one rod from each other; and there shall be placed between every two of the posts one stake or post to which the wire shall be attached. Any of such wires may be a barbed wire composed of two or more single wire strands twisted into a cable wire with metal barbs thereon averaging not more than five inches apart, each of such single wire strands to be of a size not less than number twelve and one-half gauge fencing wire. (6) A hog and sheep tight fence shall consist of one barb wire at the ground, next above, one section of woven wire twenty-six inches high, consisting of not less than seven strands, the upper and lower strands to be number nine wire, intermediate strands to be number eleven wire with stays not more than twelve inches apart, and at the top, three barb wires at intervals of six, nine and nine inches; and the whole shall be securely fastened to posts at no greater distance than one rod from each other, and there shall be placed between every two of the posts one stake or post to which the wire shall be attached. (7) All other fences made and constructed of boards, rails, poles, stones, hedge plants, or other material which upon evidence is declared to be as strong and well calculated to protect enclosures and is as effective for resisting breaching stock shall be considered a lawful fence.

**Source:** Laws 1867(Ter.), § 1, p. 17; R.S. 1913, § 2492; Laws 1915, c. 43, § 18, p. 120; C.S. 1922, § 2431; C.S. 1929, § 34-115; R.S. 1943, § 34-115; Laws 1947, c. 127, § 1, p. 366; Laws 1999, LB 776, §3.

**34-116. Lawful fences; height and spaces.** The fences described in section 34-115 shall be at least four and one-half feet in height; and in the construction of such fences the spaces between the boards, rails, poles, and wires shall not exceed one foot each, measuring from the top.

**Source:** Laws 1867(Ter.), § 2, p. 17; R.S. 1913, § 2493; C.S. 1922, § 2432; C.S. 1929, § 34-116.

**34-117. Lawful fences; Warner's Patent; requirements.** Fence known as Warner's Patent shall be at least four and one-half feet in height, and consist of not less than five boards; such boards to be of a width of not less than five inches, and one inch thick.

**Source:** Laws 1867 (Ter.), § 3, p. 18; R.S. 1913, § 2495; C.S. 1929, § 34-117.

**34-201. Preservation during construction and other work.** It shall be the duty of every individual or corporation engaged either directly or indirectly in the construction of any irrigation ditch, drainage ditch, railroad, side track or spur track, or any other construction, or in any other activity whatsoever, that endangers or may endanger or may cause the loss or destruction of any landmark or corner of land surveys or boundaries, to employ the county surveyor of the county wherein they are situated to properly perpetuate or witness said landmarks and corners according to law.

**Source:** Laws 1929, c. 129, § 1, p. 479; C.S. 1929, § 34-201.

**34-202. Failure to perpetuate; liability for damages.** Any individual or corporation who shall fail to protect such landmarks or corners shall be responsible for all damage that may accrue to the party injured by reason of such loss or destruction.

**Source:** Laws 1929, c. 129, § 2, p. 479; C.S. 1929, § 34-202.

**34-301. Disputed corners; court action to settle; procedure.** When or more owners of land, the corners and boundaries of which are lost, destroyed or in dispute, desire to have the same established, they may bring an action in the district court of the county where such lost, destroyed or disputed corners or boundaries, or part thereof, are situated, against the owners of the other tracts which will be affected by the determination or establishment thereof, to have such corners or boundaries ascertained and permanently established. If any public road is likely to be affected thereby, the proper county shall be made defendant. Notice of such action shall be given as in other cases, and if the defendants or any of them are nonresidents of the state, or unknown, they may be served by publication as is provided by law. the action shall be a special one, and the only necessary pleading therein shall be the petition of plaintiff describing the land involved, and, so far as may be, the interest of the respective parties and asking that certain corners and boundaries therein described, as accurately as may be, shall be established. Either the plaintiff or defendant may, by prior plea, put in issue the fact that certain alleged boundaries or corners are the true ones, or that such have been recognized and acquiesced in by the parties or their grantors for a period of ten consecutive years, which issue shall be tried before the district court under its equity jurisdiction without the intervention of a jury, and appeals from such proceedings shall be had and taken in conformity with the equity rules.

**Source:** Laws 1923, c. 103, § 1, p. 258; C.S. 1929, § 34-301.

**36-103. Interest in land; how created.** No estate or interest in land, other than leases for a term of one year from the making thereof, nor any trust or power over or concerning lands, or in any manner relating thereto, shall hereafter be created, granted, assigned, surrendered, or declared, unless by operation of law, or by deed of conveyance in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same.

**Source:** R.S. 1866, c. 43, § 62, p. 292; Laws 1903, c. 44, § 1, p. 311; R.S. 1913, § 2623; C.S. 1922, § 2451; C.S. 1929, § 36-103.

**36-104. Interest in land; how created; devises; trusts by operation of law.** Section 36-103 shall not be construed to affect in any manner the power of a testator in the disposition of his real estate by a last will and testament, nor to prevent any trust from arising or being extinguished by implication or operation of law.

**Source:** R.S. 1866, c. 43, § 63, p. 292; R.S. 1913, § 2624; C.S. 1922, § 2452; C.S. 1929, § 36-104.

**36-105. Contracts for lease or sale of lands; when void.** Every contract for the leasing for a longer period than one year, or for the sale of any lands, shall be void unless the contract or some note or memorandum thereof be in writing and signed by the party by whom the lease or sale is to be made.

**Source:** R.S. 1866, c. 43, § 64, p. 293; R.S. 1913, § 2625; C.S. 1922, § 2453; C.S. 1929, § 36-105.

**36-202. Agreements; writing required, when.** In the following cases every agreement shall be void, unless such agreement, or some not or memorandum thereof, be in writing, and subscribed by the party to be charged therewith: (1) Every agreement that, by its terms, is not to be performed within one year from the making thereof; (2) every special promise to answer for the debt, default, or misdoings of another person; (3) every agreement, promise or undertaking made upon consideration of marriage, except mutual promises to marry; (4) every special promise by an executor or administrator to answer damages out of his own estate; and (5) every agreement for the repurchase of corporate stocks, bonds, or other securities.

**Source:** R.S. 1866, c. 43, § 67, p. 293; R.S. 1913, § 2630; C.S. 1922, § 2458; C.S. 1929, § 36-202; Laws 1937, c. 88, § 1, p. 289; C.S. Supp., 1941, § 36-202.

**39-806. Destroying bridge or landmark; penalty.** If any person shall knowingly, willfully, and maliciously demolish, cut down or destroy any private, public or toll bridge, cut, fell, deface, alter, remove or destroy any landmark, corner or bearing tree, witness trench and pits or witness pits, properly established, the person so offending shall be guilty of a Class III misdemeanor.

**Source:** G.S. 1873, §§ 58, 99, p. 743; R.S. 1913, § 3003; Laws 1915, c. 59, § 1, p. 153; C.S. 1922, § 2755; C.S. 1929, § 39-841; R.S. 1943, § 39-806; Laws 1977, LB 40, § 208.

**39-1324. Surveys; authority to enter land; damages.** The department shall have authority to enter upon any property to make surveys, examinations, investigations, and tests, and to acquire other necessary and relevant data in contemplation of (1) establishing the location of a road, street, or highway, (2) acquiring land, property, and road building

materials, or (3) performing other operations incident to highway construction, reconstruction, or maintenance. Entry upon any property, pursuant to this section, shall not be considered to be a legal trespass and no damages shall be recoverable on that account alone. In case of any actual or demonstrable damages to the premises, the department shall pay the owner of the premises the amount of the damages. Upon the failure of the landowner and the department to agree upon the amount of damages, the landowner, in addition to any other available remedy, may file a petition as provided for in section 76-705.

**Source:** Laws 1955, c. 148, § 24, p. 428.

**39-1327. State highways; access rights; acquisition; damages.** The department, with the advice of the State Highway Commission and the consent of the Governor, shall designate and establish controlled-access facilities. Upon such consent, the department (1) is authorized to designate and establish controlled-access facilities, (2) may design, construct, maintain, improve, alter, and vacate such facilities, and (3) may regulate, restrict, or prohibit access to such facilities so as to best serve the traffic for which such facilities are intended. The department may provide for the elimination of intersections at grade with existing roads, streets, or highways, if the public interest shall be served thereby, and no road, street, or highway shall be opened into or connected with such facilities without the consent of the department. An existing road, street, or highway may be included within such facilities or such facilities may include new or additional roads, streets, or highways. In order to carry out the purposes of this section, the department may acquire, in public or private property, such rights of access as are deemed necessary, including but not necessarily limited to air, light, view, egress, and ingress. Such acquisitions may be by gift, devise, purchase, agreement, adverse possession, prescription, condemnation, or otherwise and may be in fee simple absolute or in any lesser estate or interest. The department may make provision to mitigate damages caused by such acquisitions, terms, and conditions regarding the abandonment or reverter of such acquisitions, and any other provisions or conditions that are desirable for the needs of the department and the general welfare of the public.

**Source:** Laws 1955, c. 148, § 27, p. 429.

**39-1410. Section lines declared roads; opening; damages, appraisal and allowance; government corners, how perpetuated.** The section lines are hereby declared to be public roads in each county in the state, and the county board may whenever the public good requires it open such roads without any preliminary survey and cause them to be worked in the same manner as other public roads; *Provided*, any damages claimed by reason of any such road shall be appraised and allowed in the manner provided by law. The county board shall cause existing government corners along such line to be perpetuated by causing to be planted monuments of some durable material, with suitable witnesses, and causing a record to be made of the same and, if government corners are lost or obliterated, the county board shall cause the corners to be located in the manner provide in the manual of instruction for government surveys. The county board shall

cause such work to be performed by the county surveyor or, if there is no county surveyor in the county, by some other competent land surveyor.

**Source:** Laws 1957, c. 155, art. I, § 10, p. 511.

**39-1506. County highway superintendent; qualifications.** Any person, whether or not a resident of the county, who is a duly licensed engineer in this state, any firm of consulting engineers duly licensed in this state, or any other person who is a competent, experienced, practical road builder shall be qualified to serve as county highway superintendent, except that no member of the county board shall be eligible for appointment. In counties having a population of fifty thousand but less than one hundred fifty thousand inhabitants according to the most recent official United States census, the county surveyor shall perform all the duties and possess all the powers and functions of the county highway superintendent. In counties having a population of one hundred fifty thousand or more inhabitants, the county engineer shall serve as county highway superintendent.

**Source:** Laws 1957, c. 155, art. II, § 6, p. 515; Laws 1982, LB 127, § 9; Laws 1986, LB 512, § 3.

**39-1507. Highway superintendent; powers; bond; annual inventory.** The county highway superintendent shall have control, government, and supervision of all the public roads and bridges in the county under the general supervision and control of the county board. Before entering upon the duties of his office he shall execute to the county a bond in the sum of five thousand dollars, to be approved by the county board, conditioned for the faithful performance of his duties, and to account for all funds and property that may come into his possession. The county highway superintendent shall prepare and file an annual inventory statement of county personal property in his custody or possession as provided in sections 23-346 to 23-350.

**Source:** Laws 1957, c. 155, art. II, § 7, p. 515.

**39-1522. Township roads; damages for right-of-way; expenses; payment from general road fund; division of tax levy; expenditure.** The payment of damages for the right-of-way of any public road and the payment for services of county highway superintendent, surveyor, chainmen, and other persons engaged in locating, establishing, or altering any public road, if the road be finally established or altered as provided by law, shall be paid by the county treasurer out of the general road fund of the county upon warrants drawn thereon in the manner provided by law for the other payments out of such fund. Where cities and villages are located within the boundaries of any township, one-half of all money collected from the levy, except that part of the levy raising funds for township library or cemetery purposes, provided in section 23-259 on property within the corporate limits of such cities and villages, shall be paid by the county treasurer to the treasurer of such city or village, and such money when paid to the treasurer thereof shall be expended by the proper officers thereof for maintenance and repair of the streets and alleys of such city or village.

**Source:** Laws 1957, c. 155, art. II, § 22, p. 522; Laws 1959, c. 181, § 12, p. 658; Laws 1965, c. 226, § 1, p. 650.

**39-1639. Resolution; contents.** Any county may establish and construct new roads, change or extend existing roads, and improve such roads by grading, surfacing, draining and incidental work by the board on its own initiative declaring the advisability or necessity therefor in a proposed resolution, which resolution shall state (1) the road or roads to be improved, (2) if a new road is contemplated, the general location of the new road or changes in location of an existing road, (3) the general description of the proposed improvement, and if the road is to be surfaced, the materials to be used therefor, (4) a rough estimate of the total cost of the improvement, which may be made by the county surveyor or any engineer or competent person and need not be based on detailed plans and specifications, (5) proposed method of financing, and (6) the outer boundaries of the district in which it is proposed to levy special assessments.

**Source:** Laws 1963, c. 213, § 2, p. 680; Laws 1981, LB 200, § 2.

**39-1702. County road purposes, defined; property acquisition; gift; purchase; exchange; eminent domain; authority of county board.** (1) The county board is hereby authorized to acquire, either temporarily or permanently, lands, real or personal property or any interest therein, or any easements deemed to be necessary or desirable for present or future county road purposes by gift, agreement, purchase, exchange, condemnation, or otherwise. Such lands or real property may be acquired in fee simple or in any lesser estate.

(2) County road purposes, as referred to in subsection (1) of this section, shall include provisions for, but shall not be limited to, the following: (a) The establishment, construction, reconstruction, relocation, improvement, or maintenance of any county road. The right-of-way for such roads shall be of such width as is deemed necessary by the county board; (b) adequate drainage in connection with any road, cut, fill, channel change, or in the maintenance thereof; (c) shops, offices, storage buildings and yards and road maintenance or construction sites; (d) road materials, sites for the manufacture of road materials, and access roads to such sites; (e) the preservation of objects of attraction or scenic value adjacent to, along or in close proximity to county roads and the culture of trees and flora which may increase the scenic beauty of county roads; (f) roadside areas or parks adjacent to or near any county roads; (g) the exchange of property for other property to be used for rights-of-way or other purposes set forth in subsection (1) or (2) of this section if the interest of the county will be served and acquisition costs thereby reduced; (h) the maintenance of an unobstructed view of any portion of a county road so as to promote the safety of the traveling public; (i) the construction and maintenance of stock trails and cattle passes; (j) the erection and maintenance of marking and warning signs and traffic signals; and (k) the construction and maintenance of sidewalks and road illumination.

(3) The county board may (a) designate and establish controlled-access facilities, (b) design, construct, maintain, improve, alter, and vacate such facilities, and (c) regulate, restrict, or prohibit access to such facilities so as to best serve the traffic for which such facilities are intended. No road, street, or highway shall be opened into or connected with

such facility without the consent of the county board. In order to carry out the purposes of this subsection, the county board may acquire, in public or private property, such rights of access as are deemed necessary. Such acquisitions may be by gift, devise, purchase, agreement, adverse possession, prescription, condemnation, or otherwise and may be in fee simple absolute or in any lesser estate or interest; *Provided*, that an adjoining landowner cannot be denied reasonable means of egress and ingress. When a county road adjoins the corporate limits of any city or village, the powers granted in this subsection may be exercised by the governing body of such city or village.

**Source:** Laws 1957, c. 155, art. IV, § 2, p. 541; Laws 1973, LB 493, § 2.

**39-1704. County and township roads; establishment or alteration; survey and marking; county and township boards; duties.** Before establishing a new county or township road or before altering the location of an existing county or township road, the county board or the township board, if a township road is being established or altered, shall cause the line of such road to be accurately surveyed and plainly marked; *Provided*, such county board or township board shall be bound to comply with the provisions of this section only to the extent necessary to accurately determine and mark the location of such road.

**Source:** Laws 1957, c. 155, art. IV, § 4, p. 542.

**39-1705. Survey; boundary lines; how marked.** The centerline of a road being altered or established shall be the centerline of survey. Each angle or change of direction must be accurately determined, and the length of each course carefully measured. The distance shall be ascertained to all watercourses and summits of hills along the line thereof where an expenditure of public money or labor will be required. The boundary line of each side of the road shall be marked by substantial stakes driven on the summits of hills, crossings of watercourses, and other convenient places, and in the prairie at reasonable intervals. All stakes driven to indicate said boundary lines shall be marked C.R., the initial letters of County Roads, on the sides facing the road and angles thereof.

**Source:** Laws 1957, c. 155, art. IV, § 5, p. 542.

**39-1706. Survey; monuments; bearing.** Monuments of some durable material shall be firmly established on the centerline of survey at each angle or change of direction, and the bearing taken to any permanent natural or artificial object within a reasonable distance. The distance thereof must be accurately measured and, when the bearing is to a tree, the measurement shall be to the middle of the same.

**Source:** Laws 1957, c. 155, art. IV, § 6, p. 543.

**39-1707. Survey; plat; field notes; filing.** A correct plat of the road, together with the field notes of the surveyor, shall be filed in the office of the county surveyor. Where no regular office is maintained in the county courthouse for the county surveyor such plat and field notes shall be filed with the county clerk.



**Source:** Laws 1957, c. 155, art. IV, § 7, p. 543.

**39-1708. Corner markers; perpetuation; duty of county board; notice of destruction.**

It shall be the duty of the county board of each county to cause to be perpetuated the existing corners of land surveys along the public roads and highways where such corners are liable to destruction, either by public travel or construction or maintenance. The board shall cause to be established witness corners in at least two directions and cause work to be recorded after the manner of other surveys. It shall be the duty of every person supervising the construction, improvement or maintenance of the public roads or highways, to notify the county surveyor of the destruction of any corners of land surveys. If there is no county surveyor in the county, then such notice shall be given to the county board.

**Source:** Laws 1957, c. 155, art. IV, § 8, p. 543.

**39-1709. Corner markers; loss or destruction; report to county board; liability for failure to report.** Any person having knowledge of the loss or destruction of a corner marker of a land survey, who shall fail or neglect to report the same in writing as provided in section 39-1708 shall be liable for the expense of the resurvey and restoration of such corner, and for any damage sustained by landowners by reason of such failure or neglect.

**Source:** Laws 1957, c. 155, art. IV, § 9, p. 544.

**39-1710. New or altered roads; plats; records; duties of county board.** After a new road has been established or an existing road altered, the county board shall cause the plat of such road to be recorded and platted in the road plat record of the county with a proper reference to the files in the office of the county clerk where the papers relating to the same may be found.

**Source:** Laws 1957, c. 155, art. IV, § 10, p. 544.

**39-1711. Road plat record; contents; entries, when made; duties of county board.**

The county board shall cause a road plat record to be kept in which every road that is legally laid out must be platted. Each township shall be platted separately, on a scale of not less than four inches to the mile. All changes in or additions to the roads shall be immediately recorded and entered on the proper page of the road plat record with appropriate reference to the files in the office of the county clerk in which the papers relating to the same may be found.

**Source:** Laws 1957, c. 155, art. IV, § 11, p. 544.

**39-1712. Resurvey; when ordered.** When by reason of the loss or destruction of the field notes of the original survey, or in cases of defective surveys or record, or in cases of such numerous alterations of any road since the original survey that its location cannot be

accurately defined by the papers on file in the proper office, the county board may, if it deems it necessary, cause such road to be resurveyed, platted and recorded as provided in sections 39-1705 to 39-1707.

**Source:** Laws 1957, c. 155, art. IV, § 12, p. 544.

**72-259.02. School lands; adjacent to city of the first or second class; plat; contents.**

Such plat shall accurately describe all subdivisions of such tract or parcel of land, numbering the same by progressive numbers and giving the dimensions in length and breadth thereof, and the breadth and courses of all streets and alleys established therein, and shall be certified to by the State Surveyor.

**Source:** Laws 1953, c. 259, § 2, p. 868.

**72-259.05. School lands; adjacent to city of the first or second class; annexation; filings required.** There shall be filed forthwith, in the office of the register of deeds of the proper county, (1) a plat of such territory certified by the State Surveyor, (2) a certified copy of the resolution of the Board of Educational Lands and Funds approving the same and requesting the annexation, and (3) a copy of the ordinance declaring such annexation, certified under the seal of the city. Thereupon, such annexation of such adjacent territory shall be deemed complete, and the territory included and described in the plat shall be deemed and held to be a part of the city.

**Source:** Laws 1953, c. 259, § 5, p. 869.

**72-262. Resurvey of school lands; Grant and Hooker Counties; acceptance.** The State of Nebraska hereby adopts the Dixon and Alt survey of the school lands included in the survey made in accordance with the special Act of Congress entitled, An act providing for the resurvey of Grant and Hooker Counties in the State of Nebraska, approved August 9, 1894, as the true and correct survey of the school lands belonging to the State of Nebraska included in that survey, and hereby adopts the lines, corners and monuments made under the above special Act of Congress for Grant and Hooker Counties, Nebraska, as the true, correct and legal boundary lines of the school lands included in that survey.

**Source:** Laws 1915, c. 230, § 1, p. 534; C.S. 1922, § 5210; C.S. 1929, § 72-230.

**72-263. Resurvey of school lands; Morrill County; acceptance.** The resurvey made by the United States Government of school sections sixteen and thirty-six, in townships twenty-one, twenty-two and twenty-three north, of range forty-seven, west of the sixth principal meridian, in Morrill County, Nebraska, and known as tracts numbers sixty-three and sixty-four in township twenty-one; tracts numbers sixty-five and sixty-six in township twenty-two, and tracts numbers seventy-eight and seventy-nine in township twenty-three, which surveys have been approved by the Commissioner of the General Land Office, are accepted and adopted as the true and correct lines, corners, monuments and boundaries of such school sections.

**Source:** Laws 1929, c. 184, § 1, p. 647; C.S. 1929, § 72-240.

**76-101. Terms defined.** As used in sections 76-101 to 76-123 and unless a different meaning appears from the context: (a) The term property means one or more interests either legal or equitable, possessory or nonpossessory, present or future, in land, or in things other than land, including choses in action, but excluding powers of appointment, powers of sale and powers of revocation, except when specifically mentioned; (b) the term future interest is applicable equally to property interests in land and in things other than land, and is limited to all varieties of remainders, reversions, executory interests, powers of termination (otherwise known as rights of entry for condition broken), and possibilities of reverter; (c) the term conveyance means an act by which it is intended to create one or more property interests, irrespective of whether the act is effective to create such interests, and irrespective of whether the act is intended to have inter vivos or testamentary operation; (d) the term otherwise effective conveyance means that the conveyance in question satisfies all the requirements of law other than the particular matter dealt with in the section of this act in which the term is used; and (e) an intent is effectively manifested when it is manifested by the evidence of intent admissible according to the applicable rules of law with respect to the admissibility of evidence.

**Source:** Laws 1941, c. 153, § 2, p. 595; C.S. Supp., 1941, § 76-1001.

**76-102. Sections; applicability to corporations.** The provisions of sections 76-101 to 76-123 apply to corporations unless the context indicates a more limited applicability.

**Source:** Laws 1941, c. 153, § 2, p. 595; C.S. Supp., 1941, § 76-1002.

**76-103. Sections; property to which applicable.** Any possessory or future interest, power of appointment or of revocation, which can be created in this state with regard to land, can also be created with regard to anything other than land, including choses in action.

**Source:** Laws 1941, c. 153, § 4, p. 595; C.S. Supp., 1941, § 76-1004.

**76-104. Interest transferred by effective conveyance; fee simple; special words unnecessary.** An otherwise effective conveyance of property transfers the entire interest which the conveyor has and has the power to convey, unless an intent to transfer a less interest is effectively manifested. No words or inheritance or other special words are necessary to transfer a fee simple.

**Source:** Laws 1941, c. 153, § 4, p. 595; C.S. Supp., 1941, § 76-1004.

**76-105. Powers of appointment, sale, and revocation; effect.** An otherwise effective exercise of power of appointment, a power of sale or a power of revocation, whether inter vivos or by a testamentary disposition, transfers or revokes the entire interest which the

holder thereof has the power to transfer or to revoke unless an intent to transfer or to revoke a less interest is effectively manifested.

**Source:** Laws 1941, c. 153, § 5, p. 595; C.S. Supp., 1941, § 76-1005.

**76-106. Reservation of property; effect.** An otherwise effective reservation of property by the conveyor reserves the interest the conveyor had prior to the conveyance unless an intent to reserve a different interest is effectively manifested.

**Source:** Laws 1941, c. 153, § 6, p. 595; C.S. Supp., 1941, § 76-1006.

**76-107. Future interest; conveyance authorized; exceptions; limitations.** (1) The conveyance of an existing future interest, whether legal or equitable, is not ineffective on the sole ground that the interest so conveyed is future or contingent, except that possibilities of reverter or rights of reentry for breach of condition subsequent shall not be alienable or devisable.

(2) Neither possibilities of reverter nor rights of reentry for breach of condition subsequent relating to any property, whether created on, before, or after July 9, 1988, when the condition has not been broken, shall be valid for a longer period than thirty years from the date of the creation of the condition or possibility of reverter or right of reentry. If such possibility of reverter or right of reentry is created to endure for a longer period than thirty years, it shall be valid for thirty years. This subsection shall not apply to personal property which has been conveyed to a library or museum for the purpose of public display.

(3) Any cause of action arising from any possibility of reverter or right of reentry for breach of condition subsequent which existed prior to July 9, 1988, shall be commenced within a period of one year following July 9, 1988.

**Source:** Laws 1941, c. 153, § 7, p. 596; C.S. Supp., 1941, § 76-1007; R.S. 1943, § 76-107; Laws 1961, c. 367, § 1, p. 1139; Laws 1988, LB 657, § 1.

**76-108. Future interest; subject to claims of creditors.** The subjection to the claims of creditors of a future interest, whether legal or equitable, is not prevented or avoided on the sole ground that such interest is future or contingent.

**Source:** Laws 1941, c. 153, § 8, p. 596; C.S. Supp., 1941, § 76-1008.

**76-109. Property not in possession of conveyor; conveyance effective.** Any act which would be effective as a conveyance inter vivos or as a mortgage or as a testamentary disposition of property when the land or thing other than land is in the possession of the conveyor, is effective as a conveyance of the conveyor's interest therein, when the land or thing other than land is out of the conveyor's possession whether adversely held or not.

**Source:** Laws 1941, c. 153, § 9, p. 596; C.S. Supp., 1941, § 76-1009.

**76-209. Deed; after-acquired interest; effect.** When a deed purports to convey a greater interest than the grantor was at the time possessed of, any after-acquired interest of such grantor to the extent of that which the deed purports to convey shall accrue to the benefit of the grantee; *Provided, however,* such after-acquired interest shall not inure to the benefit of the original grantee or his heirs or assigns, if the deed conveying said real estate was either a quitclaim or special warranty, and the original grantor in any case shall not be estopped from acquiring said premises at judicial or tax sale, upon execution against the grantee or his assigns, or for taxes becoming due after date of his conveyance.

**Source:** R.S. 1866, c. 43, § 56, p. 291; Laws 1875, § 1, p. 91; R.S. 1913, § 6193; C.S. 1922, § 5592; C.S. 1929, § 76-107.

**76-211. Deeds; execution; record.** Deeds of real estate, or any interest therein, in this state, except leases for one year or for a less time, if executed in this state, must be signed by the grantor or grantors, being of lawful age, and be acknowledged or proved and recorded as directed in sections 76-216 to 76-237.

**Source:** R.S. 1866, c. 43, § 1, p. 280; Laws 1887, c. 61, § 1, p. 561; R.S. 1913, § 6196; C.S. 1922, § 5595; C.S. 1929, § 76-201; Laws 1939, c. 96, § 1, p. 416; C.S. Supp., 1941, § 76-201.

**76-234. Acknowledgment; duty of officer.** No acknowledgment of any conveyance shall be taken by any officer, unless the officer taking it shall know or have satisfactory evidence that the person making such acknowledgment is the person described in who executed such conveyance.

**Source:** R.S. 1866, c. 43, § 43, p. 289; R.S. 1913, § 6209; C.S. 1922, § 5608; C.S. 1929, § 76-214.

**76-235. Deed; receipt in evidence; recording; proof.** Every deed acknowledged or proved, and certified by any of the officers named in section 76-217, 76-219, 76-220, 76-226 and 76-227, and authorized to take acknowledgments, including the certificate specified in section 76-242, whenever such certificate is required by law, may be read in evidence without further proof, and shall be entitled to be recorded. The record of a deed duly recorded, or a transcript thereof duly certified, may also be read in evidence with the like force and effect as the original deed, whenever by the party's oath or otherwise the original is known to be lost, or not belonging to the party wishing to use the same, nor within his control. Neither the certificate of the acknowledgment or the proof of any deed, nor the record or transcript of the record of such deed, shall be conclusive, but may be rebutted, and the force and effect thereof may be contested by any party affected thereby. If the party contesting the proof of a deed shall make it appear that such proof was taken upon the oath of an interested or incompetent witness, neither such deed nor the record thereof shall be received in evidence until established by other competent proof.

**Source:** R.S. 1866, c. 43, § 13, p. 282; R.S. 1913, § 6210; C.S. 1922, § 5609; C.S. 1929, § 76-215.

**76-236. Acknowledgment or certificate of genuineness; duty to record; failure; effect.** The certificate of the proof or acknowledgment of every deed, and the certificate of the genuineness of the signature of any officer, in the cases where such last-mentioned certificate is required, shall be recorded together with the deed so proved or acknowledged; and unless the certificates be so recorded, neither the record of such deed nor the transcript thereof shall be read or received in evidence.

**Source:** R.S. 1866, c. 43, § 14, p. 283; R.S. 1913, § 6211; C.S. 1922, § 5610; C.S. 1929, § 76-216.

**76-237. Deeds; how recorded; when considered recorded.** Every deed, entitled by law to be recorded, shall be recorded in the order and as of the time when the same shall be delivered to the register of deeds for that purpose, and shall be considered recorded from the time of such delivery.

**Source:** R.S. 1866, c. 43, § 15, p. 283; Laws 1887, c. 30, § 15, p. 368; R.S. 1913, § 6212; C.S. 1922, § 5611; C.S. 1929, § 76-217.

**76-238. Deeds and other instruments; recording; when effective as notice.** All deeds, mortgages and other instruments of writing which are required to be or which under the laws of this state may be recorded, shall take effect and be in force from and after the time of delivering the same to the register of deeds for recording, and not before, as to all creditors and subsequent purchasers in good faith without notice; and all such deeds, mortgages and other instruments shall be adjudged void as to all such creditors and subsequent purchasers without notice whose deeds, mortgages and other instruments shall be first recorded; *Provided*, that such deeds, mortgages and other instruments shall be valid between the parties.

**Source:** R.S. 1866, c. 43, § 16, p. 283; Laws 1887, c. 30, § 16, p. 369; R.S. 1913, § 6213; C.S. 1922, § 5612; C.S. 1929, § 76-218; Laws 1941, c. 154, § 1, p. 599; C.S. Supp., 1941, § 76-218.

**76-241. Deeds and other instruments; when not lawfully recorded.** All deeds, mortgages and other instruments of writing shall not be deemed lawfully recorded unless they have been previously acknowledged or proved in the manner prescribed by statute.

**Source:** R.S. 1866, c. 43, § 17, p. 283; R.S. 1913, § 6214; C.S. 1922, § 5613; C.S. 1929, § 76-219; R.S. 1943, § 76-241; Laws 1973, LB 227, § 2.

**76-242. Acknowledgment in another state; recording; what constitutes sufficient authentication.** In all cases provided for in section 76-219, if such acknowledgment or proof is taken before a notary public or other officer using an official seal, except a

commissioner appointed by the Governor of this state, the instrument thus acknowledged or proved shall be entitled to be recorded without further authentication. in all other cases the deed or other instrument shall have attached thereto a certificate of the clerk of a court of record, or other proper certifying officer of the county, district or state within which the acknowledgment or proof was taken, under the seal of his office, showing that the person, whose name is subscribed to the certificate of acknowledgment, was at the date thereof such officer as he is therein represented to be; that he is well acquainted with the handwriting of such officer; that he believes the signature of such officer to be genuine; and that the deed or other instrument is executed and acknowledged according to the laws of such state, district or territory.

**Source:** R.S. 1866, c. 43, § 5, p. 280; R.S. 1913, § 6201; C.S. 1922, § 5600; C.S. 1929, § 76-206.

**76-271. Affidavits to correct defects; recording; effect.** Affidavits explaining or correcting any apparent defect in the chain of title to any real estate, may be recorded as instruments affecting real estate, and such record shall be prima facie evidence of the facts therein recited.

**Source:** Laws 1913, c. 75, § 1, p. 218; R.S. 1913, § 6253; C.S. 1922, § 5652; C.S. 1929, § 76-258.

**76-272. Affidavits to correct defects; validity.** All such instruments now appearing of record in the chain of title to any real estate, are legalized; and they shall have the same force and effect as those herein provided for.

**Source:** Laws 1913, c. 75, § 2, p. 219; R.S. 1913, § 6254; C.S. 1922, § 5653; C.S. 1929, § 76-259.

**76-275.05. Recitals; validity; requirements.** When any reference or recital is made in any recorded instrument as to any restriction, agreement, easement, mortgage or other encumbrance of any kind affecting real property, customarily created by recorded instrument or instrument of which a notice or statement provided by statute is recorded, or as to any such encumbrance in general terms, and the reference or recital does not specify the public records and place therein where the instrument creating the encumbrance or such notice or statement of it is to be found, the reference or recital shall unless a contrary intent clearly appears to be construed to recital shall unless a contrary intent clearly appears be construed to refer only to encumbrances, if any, of the kind therein described created by instruments included, or of which such notice or statement is included, in the chain of record title to the real property affected within a period of twenty years prior to the recording of the reference or recital, and the fact that there are none within the period shall not be construed to indicate a contrary intent.

**Source:** Laws 1959, c. 348, § 2, p. 1234.

**76-278. United States patents and certificates; where recorded.** All certificates of the register and receiver of any United States Land Office of the entry or purchase of any tract of land, and all letters patent of land from the United States lying in this state, shall be recorded in the county in which the land lies, and where any patent as above, contains descriptions of land lying in more than one county, or otherwise, it shall be lawful to record in any county the whole of the description of land situated therein without recording all descriptions contained in the patent. All maps and profiles required by the government of the United States to be filed by any railroad company in any general or district land office of the United States, for the completion of the title of such company to any right-of-way granted by the United States, shall be entitled to record in the office of the register of deeds or county clerk, as the case may be, in the same manner as plats of cities and villages, and the same effect shall be given thereto as to such plats when thus filed; *Provided*, such record shall include all the granting or conveying part or language of such patent, and the records of such certificates and patents, and all copies thereof so recorded, duly certified by the register of deeds, shall be prima facie evidence of the existence of such certificates and patents, and conclusive evidence of the existence of such record.

**Source:** R.S. 1866, c. 43, § 45, p. 290; Laws 1883, c. 63, § 1, p. 264; Laws 1887, c. 30, § 25, p. 372; Laws 1911, c. 97, § 1, p. 362; R.S. 1913, § 6246; C.S. 1922, § 5645; C.S. 1929, § 76-251.

**76-298. Sections; applicability.** Sections 25-207, 25-213, 40-104, and 76-288 to 76-298 shall not be (1) the rights of any lessor or his successor as reversionary of his right to possession on the expiration of any lease by reason of failure to file the notice herein required; (b) the rights of any remainderman upon the expiration of any life estate or trust created before the recording of deed and conveyance as set out in section 76-288; (c) rights founded upon any mortgage, trust deed, or contract for sale of lands which is not barred by the statute of limitations; or (d) conditions subsequent contained in any deed; nor (2) deemed to affect the right, title or interest of the State of Nebraska, or the United States, in any real estate in Nebraska.

**Source:** Laws 1947, c. 243, § 10(2), p. 766.

**76-301. Occupant or claimant; eviction by holder of better title; reimbursement for improvements and taxes paid.** Any person claiming title to real estate, whether in actual possession or not, for which he can show a plain and connected title, in law or equity, derived from the records of some public office, from the United States, or from this state, or anyone who has derived title from any such person by devise, descent, deed, contract or bond, shall not be evicted or turned out of possession of such real estate. His claim or title shall not be set aside or canceled by any court in any proceedings brought or commenced by any person setting up and proving an adverse and better title or claim to such real estate, until he shall be fully paid the value of all lasting and valuable improvements made upon such real estate by him or by those under whom he claims, and also for all taxes and assessments paid upon the real estate by him and the person under whom he claims, with interest thereon at the same rate of interest as provided by law for



delinquent taxes, and for all sums of money paid by him, or those under whom he claims, to redeem such real estate from any sale or sales for nonpayment of taxes previous to receiving actual notice by the commencement of suit on such adverse title or claim by which such eviction or cancellation may be had, unless the occupant or claimant shall refuse to pay the person so setting up and proving an adverse and better title the value of such real estate without improvements made thereon as aforesaid, upon the demand of the successful claimant as hereinafter provided.

**Source:** Laws 1883, c. 59, § 1, p. 249; R.S. 1913, § 6255; C.S. 1922, § 5665; C.S. 1929, § 76-301.

**76-801. Act, how cited.** Sections 76-801 to 76-823 shall be known as the Condominium Property Act.

**Source:** Laws 1963, c. 429, § 1, p. 1435.

**76-802. Terms, defined.** For purposes of the Condominium Property Act, unless the context otherwise requires:

- (1) Condominium property regime shall mean a project whereby four or more apartments are separately offered or proposed to be offered for sale;
- (2) Apartment shall mean an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of whether it is designed for residence, for office, for the operation of any industry or business, or for any type of independent use, if it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare;
- (3) Co-owner shall mean a person, firm, corporation, partnership, limited liability company, association, trust, or other legal entity, or any combination thereof, which owns an apartment within the building;
- (4) Association of co-owners shall mean all the co-owners as defined in subdivision (3) of this section, but a majority as defined in subdivision (8) of this section shall, except as otherwise provided in the act, constitute a quorum for the adoption of decisions;
- (5) Board of administrators shall mean the governing board of the regime, consisting of not less than three members selected by and from the co-owners;
- (6) General common elements shall mean and include:
  - (a) The land or leasehold interest in land on which the building stands;
  - (b) The foundations, main walls, roofs, halls, lobbies, stairways, and entrances and exit or communication ways;
  - (c) The basements, roofs, yards, and gardens except as otherwise provided or stipulated;
  - (d) The premises for the lodging of janitors or persons in charge of the building except as otherwise provided or stipulated;
  - (e) The compartments or installations of central services such as power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks and pumps, and the like;
  - (f) The elevators, garbage incinerators, and, in general, all devices or installations existing for common use; and
  - (g) All other elements of the building rationally of common use or necessary to its existence, upkeep, and safety;

(7) Limited common elements shall mean and include those common elements which are agreed upon by all the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like;

(8) Majority of co-owners shall mean more than fifty percent of the basic value of the property as a whole, in accordance with the percentages computed in accordance with the provisions of section 76-806;

(9) Master deed shall mean the deed establishing the condominium property regime;

(10) Person shall mean an individual, firm, corporation, partnership, limited liability company, association, trust, or other legal entity or any combination thereof;

(11) Property shall mean and include the land, leasehold interests in land, any building, all improvements and structures thereon, and all easements, rights, and appurtenances belonging thereto or any of them alone;

(12) To record shall mean to record in accordance with sections 76-237 to 76-257 or other applicable recording statutes;

(13) Common expense shall mean and include:

(a) All sums lawfully assessed against the apartment owner;

(b) Expense of administration, maintenance, repair, or replacement of common elements; and

(c) Expenses agreed upon as common expenses by the association of co-owners; and

(14) All pronouns used in the Condominium Property Act shall include the male, female, and neuter genders and include the singular or plural numbers, as the case may be.

For condominiums created in this state before January 1, 1984, the definitions in section 76-827 shall apply to the extent necessary in construing the provisions of sections 76-827, 76-829 to 76-831, 76-840, 76-841, 76-869, 76-874, 76-876, 76-884, and 76-891.01, and subdivisions (a)(1) through (a)(6) and (a)(11) through (a)(16) of section 76-860 which apply to events and circumstances which occur after January 1, 1984.

**Source:** Laws 1963, c. 429, § 2, p. 1435; Laws 1974, LB 730, § 1; Laws 1983, LB 433, § 72; Laws 1993, LB 121, § 479, Laws 1993, LB 478, § 1.

**76-838. Creation of condominium; procedure; additional units.** (a) A condominium may be created pursuant to sections 76-825 to 76-894 only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the condominium is located. (b) An amendment to a declaration adding units to a condominium that would increase the voting rights of the declarant within the association shall not be effective for that purpose until the foundation of each building containing units has been substantially completed.

**Source:** Laws 1983, LB 433, § 14; Laws 1984, LB 1105, § 3.

**76-839. Common elements; unit boundaries.** Except as provided by the declaration:

(1) If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the

unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.

(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(3) Subject to the provisions of paragraph (2) of this section, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

**Source:** Laws 1983, LB 433, § 15.

**76-841. Legal description of unit; requirements.** A description of a unit which sets forth the name of the condominium, the recording data for the declaration, the county in which the condominium is located, and the identifying number of the unit, is a sufficient legal description of that unit and all rights, obligations, and interests appurtenant to that unit which were created by the declaration or bylaws.

**Source:** Laws 1983, LB 433, § 17.

**76-846. Plats and plans; requirements.** (a) Plats and plans are a part of the declaration. Separate plats and plans are not required by sections 76-825 to 76-894 if all the information required by this section is contained in either a plat or plan.

(b) Each plat must show:

- (1) the name and a survey or general schematic map of the entire condominium;
- (2) the extent of any existing encroachments by or upon any portion of the condominium;
- (3) to the extent feasible, a legally sufficient description or drawing of all easements serving or burdening any portion of the condominium;
- (4) the location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (d) of this section and that unit's identifying number;
- (5) the location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) of this section and that unit's identifying number;
- (6) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as leasehold real estate;
- (7) the distance between noncontiguous parcels of real estate comprising the condominium; and
- (8) the location and dimensions of limited common elements, including porches, balconies, and patios, other than parking spaces and the other limited common elements described in subdivisions (2) and (4) of section 76-839.

- (c) A plat may also show the intended location and dimensions of any contemplated improvement to be construed anywhere within the condominium. Any contemplated improvement shown must be labeled either Must Be Built or Need Not Be Built.
- (d) To the extent not shown or projected on the plats, plans of the units must show or project:
- (1) the location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;
  - (2) any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and
  - (3) any units in which the declarant has reserved the right to create additional units or common elements pursuant to subsection (c) of section 76-847, identified appropriately.
- (e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part, and need not be depicted on the plats and plans.
- (f) Upon exercising any development right, the declarant shall record either new plats and plans necessary to conform to the requirements of subsections (a), (b), and (d) of this section, or new certifications of plats and plans previously recorded if those plats and plans otherwise conform to the requirements of those subsections.
- (g) Any plat or plan required by sections 76-825 to 76-894 must be prepared by a registered surveyor, architect, or a professional engineer.

**Source:** Laws 1983, LB 433, § 22.

**76-887. Express warranties; creation.** Express warranties made by any seller to a purchaser of a unit, if relied upon by the purchaser, are created as follows:

- (a) any written affirmation of fact or written promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the condominium that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the condominium creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;
- (b) any written description of the physical characteristics of the condominium or model of amenities, including plans and specifications of or for improvements, creates an express warranty that the condominium will conform to the model or description;
- (c) any written description of the quantity or extent of the real estate comprising the condominium, included in the plats or surveys, creates an express warranty that the condominium will conform to the description, subject to customary tolerances; and
- (d) a provision that a buyer may put a unit only to a specified use is an express warranty that the specified use is lawful at the time of conveyance.

A statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.

**Source:** Laws 1983, LB 433, § 63; Laws 1984, LB 1105, § 19.

**76-894. Conveyance of unit; when authorized.** In the case of a sale of a unit where delivery of a public-offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, until the declaration is recorded and the unit is

substantially completed, as evidenced by a recorded certificate of substantial completion executed by an architect, a surveyor, or a professional engineer, or by issuance of a certificate of occupancy authorized by law.

**Source:** Laws 1983, LB 433, § 70.

**76-2,110. Instruments to subdivide real estate; defective; validation; procedure.** (1) After January 1, 1995, no action shall be maintained to set aside, cancel, annul, or declare void or invalid any conveyance, in any manner purporting to subdivide real estate, which has been recorded in the office of the register of deeds of the county in which the real estate is situated for more than five years prior to the commencement of the action on the ground that the conveyance or the recording of the conveyance has failed to comply with any requirement relating to subdivision approval. Unless the conveyance is modified or set aside by an action or proceeding commenced by January 1, 1995, or five years after the date of recording of the conveyance, whichever is later, it shall be conclusively presumed that the conveyance is fully valid notwithstanding any failure to comply with any requirement relating to subdivision approval.

(2) If any conveyance, in any manner purporting to subdivide real estate, has been or is hereafter recorded in the office of register of deeds of the county in which the real estate is situated and the conveyance or the recording of the conveyance has failed to comply with any requirement relating to subdivision approval and if the conveyance has not been otherwise validated under subsection (1) of this section, any party claiming an interest in such conveyance may file an affidavit with the register of deeds asserting that written notice of the defect in approval has been received by the governmental authority having subdivision approval jurisdiction over such real estate. Upon filing such affidavit, such governmental authority shall have one hundred twenty days from the receipt of such written notice to record an objection in the office of register of deeds in the county in which the real estate is situated, or such conveyance shall be fully valid. If an objection is filed, the conveyance shall not be validated. The objection shall be in the form of a resolution adopted after public hearing. The governmental authority may waive, prospectively waive, or retroactively waive such notice or such one-hundred-twenty-day period, as to a single subdivision or any category of subdivisions.

(3) Notwithstanding the validity of any such conveyance under this section, the subdivider shall not thus be relieved of any penalty lawfully imposed by such governmental authority for the failure to otherwise comply with any requirement relating to subdivision approval. Any conveyance of real estate for the public use shall be valid only upon express approval of such governmental authority. Other than for purposes of validating a conveyance, this section shall not excuse compliance with applicable zoning or subdivision ordinances of the governmental authority having subdivision approval jurisdiction over such real estate.

**Source:** Laws 1980, LB 235, § 1; Laws 1994, LB 188, § 1.

**77-1306.01. Lands adjacent to rivers and streams; survey; report.** In all counties where land ownership may from time to time be altered to add new lands to the tax rolls due to the activity of any river, stream, or other body of water along or bordering state

lines, whether by accretion or avulsion, it shall be the duty of the county surveyor prior to June 1, 1960, and at least once within each five-year period thereafter either to cause to be surveyed any lands believed to have been altered in such manner or to certify in writing that it is his or her opinion that no alteration of ownership of any land in the county from that shown by the then current tax rolls has occurred due to the action of any river, stream, or other body of water along or bordering state lines. A report of such survey or surveys, showing the extent of any probable alteration of ownership due to the action of a river, stream, or other body of water along or bordering state lines, or a certificate of no change as provided shall be filed with the county assessor within the periods hereinbefore stated. In any county where there is no regularly elected or appointed county surveyor the county board shall appoint a qualified surveyor to carry out the provisions of this section. In the event of a failure of county officials to act as directed by this section, within the periods stated, the Property Tax Administrator may appoint a qualified surveyor to act as provided by this section, and all costs incurred shall be paid by the county. In all counties where land ownership may from time to time be altered due to the activity of any river, stream, or other body of water not along or bordering state lines, whether by accretion or avulsion, it shall be the duty of the county surveyor to cause to be surveyed any lands believed to have been altered when directed by the county board of equalization or when requested by the Property Tax Administrator. If such a survey is ordered by the county board of equalization or requested by the Property Tax Administrator, the county surveyor shall perform the same duties as when a river, stream, or other body of water is along or borders state lines.

**Source:** Laws 1959, c. 370, § 5, p. 1305; Laws 1995, LB 490, § 120.

**77-1843. Real estate taxes; treasurer's tax deed; proof required to defeat tax title.** In all controversies and suits involving the title to real property claimed and held under and by virtue of a deed made substantially by the treasurer in the manner provided by sections 77-1831 to 77-1842, the person claiming the title adverse to the title conveyed by such deed shall be required to prove, in order to defeat the title, either (1) that the real property was not subject to taxation for the years or year named in the deed; (2) that the taxes had been paid before the sale; (3) that the property has been redeemed from the sale according to the provisions of this chapter, and that such redemption was had or made for the use and benefit of persons having the right of redemption under the laws of this state; or (4) that there had been an entire omission to list or assess the property, or to levy the taxes, or to sell the property.

**Source:** Laws 1903, c. 73, § 221, p. 471; R.S. 1913, § 6549; C.S. 1922, § 6077; C.S. 1929, § 77-2029.

**81-1704. Professional services, defined.** Professional services shall mean those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered land surveyor in connection with his professional employment practice.

**Source:** Laws 1978, LB 715, § 4.

**81-1706. Firm, defined.** Firm shall mean any individual, partnership, limited liability company, corporation, association, or other legal entity permitted by law to practice architecture, engineering, landscape architecture, or land surveying in the state.

**Source:** Laws 1978, LB 715, § 6; Laws 1993, LB 121, § 543.

**81-1716. Professional services; contract; contingent fees; prohibited; penalty.** (1) Each contract for professional services entered into by the agency shall contain a prohibition against contingent fees as follows: The architect, or registered land surveyor, professional engineer, or landscape architect, as applicable, warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for him, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or the making of this agreement.

(2) Upon violation of this section, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, or consideration.

**Source:** Laws 1978, LB 715, § 16.

**81-1717. Agency contract for professional services; prohibited acts; penalty.** Any firm, other than a bona fide employee working solely for an architect, professional engineer, registered land surveyor, or landscape architect, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other company or firm for or who is paid any fee, commission, percentage, gift, or any other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction, be guilty of a Class I misdemeanor.

**Source:** Laws 1978, LB 715, § 17.

**81-1718. Professional services; contract; improper action; penalty.** Any architect, professional engineer, registered land surveyor, or landscape architect, or any group, company, or firm who shall offer to pay, or pay, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction, be guilty of a Class 1 misdemeanor.

**Source:** Laws 1978, LB 715, § 18.

**81-1719. Professional services; contract; agency official; conflict of interest; penalty.** Any agency official who offers to solicit or secure, or solicits or secures, a contract for

professional services and to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration contingent upon the award or making of such a contract for professional services between the agency and any company or firm shall, upon conviction, be guilty of a Class 1 misdemeanor.

**Source:** Laws 1978, LB 715, § 19.

**81-8,108. Land surveying; declaration of policy; prohibited acts.** In order to safeguard life, health, and property, any person practicing or offering to practice land surveying in this state shall submit evidence that he or she is qualified to practice and shall be registered as provided in sections 81-8,108 to 81-8,127. It shall be unlawful for any person to practice or to offer to practice land surveying in this state unless such person has been duly registered under such sections.

**Source:** Laws 1957, c. 383, § 1, p. 1332; Laws 1994, LB 874, § 1.

**81-8,109. Land surveying; definitions.** For purposes of sections 81-8,108 to 81-8,127, unless the context otherwise requires:

- (1) Examining board shall mean the State Board of Examiners for Land Surveyors;
- (2) Land surveyor shall mean a person who engages in the practice of land surveying;
- (3) Surveyor-in-training shall mean a person (a) who is a graduate in an approved surveying or engineering curriculum of four years or more or who has had four or more years of experience in surveying work of a character satisfactory to the examining board and (b) who has successfully passed the examination in the fundamental surveying subjects and has received from the examining board a certificate stating that that portion of the examination has been successfully passed. The fee for such certificate and for the renewal of such certificate shall be set by the examining board; and
- (4) Land surveying shall mean the establishment or reestablishment of corners and boundaries and the location of lots, parcels, tracts, or divisions of land, which may include distance, direction, elevation, and acreage, and the correct determination and description of lots, parcels, tracts, or divisions of land for, but not limited to, any of the following purposes:
  - (a) To furnish a legal description of any tract of land to be used in the preparation of deeds of conveyance when the description is not the same as the one in the deed of conveyance to the current owner or when bearings, distances, or measurements are needed to properly describe the tract being conveyed;
  - (b) To furnish a legal description of any land surveyed to be used in the platting or subdividing of the land;
  - (c) To determine the amount of acreage contained in any land surveyed; or
  - (d) To furnish a topographic plat of a lot, parcel, tract, or division of land and locating natural and artificial features in the air, on the surface or subsurface of the earth, and on the beds or surface of bodies of water for the purpose of establishing the facts of size, area, shape, topography, and orientation of improved or unimproved real property and appurtenances to the real property.



**Source:** Laws 1957, c. 383, § 2, p. 1332; Laws 1971, LB 442, § 1; Laws 1989, LB 263, § 1; Laws 1994, LB 874, § 2.

**81-8,110. Land surveying; board of examiners; duties.** An examining board shall be established for the purpose of examining, testing and interviewing persons aspiring to become registered to practice land surveying. The examining board shall be independent of all other examining boards and is established for the purpose of determining the ability of persons coming before it to practice land surveying.

**Source:** Laws 1957, c. 383, § 3, p. 1333; Laws 1969, c. 514, § 6, p. 2106; Laws 1971, LB 442, § 2.

**81-8,110.01. Examining board; members; terms; qualifications; removal; vacancies.**

(1) The examining board shall consist of four members appointed by the Governor who are duly registered under sections 81-8,108 to 81-8,127 to practice land surveying and one lay member appointed by the Governor who is of the age of legal majority and has been a resident of Nebraska for at least one year immediately prior to appointment to the examining board. Such lay member shall be a representative of consumer viewpoints.

(2) The members of the examining board shall be appointed to five-year terms. Each member shall serve until the appointment and qualification of his or her successor. Each member appointed to the examining board shall receive a certificate of appointment from the Governor. Each member so appointed, prior to beginning his or her term, shall file with the Secretary of State the constitutional oath of office. The Governor may remove any member of the examining board for misconduct, incompetency, incapacity, or neglect of duty or upon conviction of a crime involving moral turpitude. Vacancies on the examining board, however created, shall be filled for the unexpired term of the member by appointment by the Governor.

**Source:** Laws 1971, LB 442, § 3; Laws 1984, LB 478, § 2; Laws 1994, LB 874, § 3.

**81-8,110.02. Examining board; members; residence; qualifications.** Each member of the examining board who is a registered land surveyor shall be a resident of the State of Nebraska for at least one year immediately preceding his or her appointment to the examining board, shall have been engaged in the active practice of the discipline for at least ten years, and shall have been in responsible charge of work for at least five years prior to his or her appointment to the examining board.

**Source:** Laws 1971, LB 442, § 4; Laws 1994, LB 874, § 4.  
Effective date July 16, 1994.

**81-8,110.03. State Surveyor; ex officio secretary of examining board.** The State Surveyor shall be ex officio secretary of the examining board and of all committees appointed by the examining board.

**Source:** Laws 1971, LB 442, § 5; Laws 1994, LB 874, § 5.  
Effective date July 16, 1994.

**81-8,110.04. Examining board; meetings.** The examining board shall hold as many meetings throughout each year as may be necessary to conduct the business of the examining board and to examine, within a reasonable time, the applicants seeking registration. An annual meeting of the examining board shall be held for the election of officers.

**Source:** Laws 1971, LB 442, § 6; Laws 1994, LB 874, § 6.  
Effective date July 16, 1994.

**81-8,110.05. Examining board; meetings; notice.** Notice of all meetings, including the annual meeting of the examining board, shall be in such manner as provided in the bylaws of the examining board.

**Source:** Laws 1971, LB 442, § 7; Laws 1994, LB 874, § 7.  
Effective date July 16, 1994.

**81-8,110.06. Examining board; officers; election; duties.** The examining board shall elect from its membership at its annual meeting, officers for the coming year. The officers shall be a chairperson and a vice-chairperson. The duties of the chairperson shall be to preside at all meetings of the examining board. The vice-chairperson shall preside in the absence of the chairperson and shall, with the other officers, fulfill such other duties and obligations as provided in section 81-8,110.07 and the bylaws.

**Source:** Laws 1971, LB 442, § 8; Laws 1994, LB 874, § 8.

**81-8,110.07. Examining board; secretary; duties; Land Surveyor Examiner's Fund; created; purpose; investment.** The secretary of the examining board shall receive and account for all money derived from the operation of sections 81-8,108 to 81-8,127 and shall remit it to the State Treasurer for credit to the Land Surveyor Examiner's Fund, which fund is hereby created. This fund shall be continued from year to year. When appropriated by the Legislature, this fund shall be expended only for the purposes of sections 81-8,108 to 81-8,127. When not reappropriated for the succeeding biennium, the money in this fund shall not revert to the General Fund. The fund shall be paid out only upon vouchers approved by the examining board and upon warrants issued by the Director of Administrative Services and counter-signed by the State Treasurer. The expenditures of the examining board shall be kept within the income collected and remitted to the State Treasurer by the examining board. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1971, LB 442, § 9; Laws 1986, LB 258, § 35; Laws 1994, LB 874, § 9;  
Laws 1995, LB 7, § 110.

**81-8,110.08. Examining board; rules and regulations; publication.** The examining board shall make and adopt all bylaws and rules, not inconsistent with law, which are needed in performing its duties. Such rules shall be published in the roster of registrants as provided for in section 81-8,113.

**Source:** Laws 1971, LB 442, § 10.

**81-8,110.11. Examining board; members; expenses.** Each member of the examining board shall receive, when authorized, all necessary travel, meals, and lodging expenses incidental to the performance of his or her official duties or while attending national meetings or seminars as the official representative of the examining board as provided in sections 81-1174 to 81-1177 for state employees.

**Source:** Laws 1971, LB 442, § 13; Laws 1981, LB 204, § 180.

**81-8,110.12. Examining board; seal; adopt.** The examining board shall adopt and have an official seal, which shall be affixed to all registration and in-training certificates that are granted by the examining board. The dimensions of the seal shall be as provided in the bylaws.

**Source:** Laws 1971, LB 442, § 14.

**81-8,110.13. Examining board; registration certificate; issuance; replacement certificate, when; fee.** The examining board may issue a registration certificate or an in-training certificate to a qualified person. A new certificate of registration of a duly registered person may be issued to replace a certificate lost, destroyed, stolen, or mutilated, subject to the rules and regulations adopted by the examining board. A fee not to exceed fifty dollars shall be charged the applicant for the issuance of a new certificate to replace a previously issued certificate.

**Source:** Laws 1971, LB 442, § 15; Laws 1994, LB 874, § 10.

**81-8,110.14. Examining board; record of proceedings and applications for registration; keep.** The examining board shall keep a record of its proceedings and a record of all applications for registration. The information and data retained by the examining board in its files for individual applicants shall be considered as confidential. The records shall not be available to any applicant or the public for any reason.

**Source:** Laws 1971, LB 442, § 16.

**81-8,110.15. Examining board; sue and be sued; liability of members.** The examining board may sue or be sued as the examining board, and its members need not be named as parties. Members of the examining board shall not be personally liable, jointly or severally, for any act or acts committed in the performance of their official duties as

examining board members, nor shall any examining board member be personally liable for any hearing costs or court costs which may accrue in any action by or against the examining board.

**Source:** Laws 1971, LB 442, § 17; Laws 1994, LB 874, § 11.

**81-8,113. Examining board; record of proceedings; roster of surveyors.** The examining board shall keep a complete record of all its proceedings which, together with all other records and files of the examining board, shall be filed in the office of the State Surveyor. A roster showing the names and places of business of all registered land surveyors shall be prepared by the secretary of the examining board each year. Copies of this roster shall be sent to all persons so registered and shall be furnished to the public on request.

**Source:** Laws 1957, c. 383, § 6, p. 1334; Laws 1994, LB 874, § 12.

**81-8,114. Land surveying; application for registration.** Applications for registration shall be on forms prescribed and furnished by the examining board which shall be filed with the secretary of the examining board at least ninety days prior to the examination. Such applications shall contain a statement, made under oath, showing the applicant's education and detailed summary of his or her technical work, the applicant's social security number, and such other information as the examining board shall require.

**Source:** Laws 1957, c. 383, § 7, p. 1334; Laws 1971, LB 442, § 18; Laws 1994, LB 874, § 13.

**81-8,115. Land surveying; examination of applicants.** The applicant for registration must pass a written examination administered by the examining board which covers generally the matters confronting land surveyors as provided in the rules and bylaws.

**Source:** Laws 1957, c. 383, § 8, p. 1334; Laws 1971, LB 442, § 19; Laws 1984, LB 478, § 3; Laws 1994, LB 874, § 14.

**81-8,117. Land surveying; eligibility for registration; requirements.** No person shall be eligible for registration unless:

- (1) He or she has successfully passed a written examination, designed to determine his or her proficiency and qualification to engage in the practice of land surveying. No applicant shall be entitled to take such examination until he or she shows the necessary practical experience in land surveying work; and
- (2) He or she has not less than six years of surveying experience of which five years must be as defined in subdivision (4) of section 81-8,109. Three of such five years must have been in a responsible position as a subordinate to a licensed land surveyor, and for the purpose of this section, responsible position shall mean a position that requires initiative, skill, and independent judgment; this term excludes chainman, rodman, instrument person, ordinary drafter, and others doing routine work, or has graduated, after a course of not less than four years in surveying, engineering, or other approved curriculum, with

proportionate credit for lesser time, from a school or college approved by the examining board as of satisfactory standing, and an additional two years of practice in a responsible position.

**Source:** Laws 1957, c. 383, § 10, p. 1334; Laws 1969, c. 764, § 3, p. 2894; Laws 1971, LB 442, § 21; Laws 1974, LB 811, § 19; Laws 1984, LB 478, § 4; Laws 1994, LB 874, § 15.

**81-8,118. Land surveying; examination fee; registration fee; failure to pay fees, effect.** To pay the expense of the operation and enforcement of sections 81-8,108 to 81-8,127, the examining board shall establish application and registration fees. Total application and registration fees shall not exceed two hundred dollars and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration. The board may direct applicants to pay the examination fee directly to a third party who has contracted to administer the examination. At the time the application for registration is submitted the board shall collect from the applicant a nonrefundable application fee. If the applicant successfully qualifies by examination, he or she shall be registered until April 1 of the immediately following odd-numbered year upon payment of a registration fee as set forth in the rules or regulations. After the issuance of a certificate of registration, a biennial fee of not less than five nor more than one hundred fifty dollars, as the examining board shall direct, shall be due and payable on or before January 1 of each odd-numbered year. Failure to remit biennial fees when due shall automatically cancel the registration effective the immediately following April 1, but otherwise the registration shall remain in full force and effect continuously from the date of issuance, unless suspended or revoked by the examining board for just cause. A registration which has been canceled for failure to pay the biennial fee when due may be reinstated within one year, but the biennial fee shall be increased ten percent for each month or fraction of a month that payment is delayed. Nothing in this section shall prevent the examining board from suspending or revoking any registration for just cause.

**Source:** Laws 1957, c. 383, § 11, p. 1335; Laws 1971, LB 442, § 22; Laws 1985, LB 564, § 1; Laws 1986, LB 621, § 1; Laws 1994, LB 874, § 16; Laws 2007, LB252, § 1..

**81-8,119.01. Certificate of registration; renewal; professional development requirements; inactive status.** (1) As a condition for renewal of a certificate of registration issued pursuant to section 81-8,108 to 81-8,127, a certificate holder who has previously renewed his or her registration shall be required to successfully complete thirty hours of professional development within the preceding two calendar years. Any certificate holder who completes in excess of thirty hours of professional development within the preceding two calendar years may have the excess, not to exceed fifteen hours, applied to the requirement for the next biennium.

(2) The examining board shall not renew the certificate of registration of any certificate holder who has failed to complete the professional development requirements pursuant to subsection (1) of this section, unless he or she can show good cause why he or she was

unable to comply with such requirements. If the examining board determines that good cause was shown, the examining board shall permit the registered surveyor to make up all outstanding required hours of professional development.

(3) A certificate holder may at any time prior to the termination of his or her registration request to be classified as inactive. Such inactive registrations may be maintained by payment of a biennial fee of not less than five nor more than fifty dollars as determined by the examining board. Holders of inactive certificates of registration shall not be required to complete professional development as required in subsection (1) of this section. Holders of inactive certificates shall not practice land surveying. If the examining board determines that an inactive registrant has actively practiced land surveying, the examining board may immediately revoke his or her certificate of registration.

(4) A holder of an inactive certificate of registration may return his or her certificate to an active registration to practice land surveying by the applicant electing to either:

(a) Complete one and one-half the biennial requirement for professional development.

Such requirement shall be satisfied as set forth in the rules or bylaws; or

(b) Take such examination as the examining board deems necessary to determine his or her qualifications. Such examination shall cover areas designed to demonstrate the applicant's proficiency in current methods of land surveying practice.

Additionally he or she shall pay the biennial fee as required in section 81-8,118.

**Source:** Laws 1984, LB 478, § 6; Laws 1985, LB 564, § 2; Laws 1986, LB 621, § 2; Laws 1994, LB 874, § 17.

**81-8,119.02. Professional development programs; rules and regulations.** The examining board shall adopt and promulgate such administrative procedures and rules and regulations as are necessary for the effective delivery and certification of all programs of professional development required in section 81-8,119.01.

**Source:** Laws 1984, LB 478, § 7; Laws 1994, LB 874, § 18.

**81-8,121. Land surveying; registered land surveyor; rights and privileges; seal.** The issuance of a certificate of registration by the examining board shall be evidence that the person named therein is entitled to all rights and privileges of a registered land surveyor and that the recipient thereof is admitted to the practice of land surveying in this state while the certificate remains unsuspending, unrevoked, or unexpired. The examining board shall provide for each person registered a seal bearing the registrant's name and the legend Registered Land Surveyor. Plats, reports, and field notes issued by a registered land surveyor may be stamped with his or her seal or a facsimile thereof which is approved by the examining board during the life of his or her certificate. It shall be unlawful for any one to stamp or seal any documents with a seal or facsimile thereof after the certificate of the registrant thereon has been suspended or revoked or has expired.

**Source:** Laws 1957, c. 383, § 14, p. 1336; Laws 1994, LB 874, § 20.

**81-8,122. Land survey; where filed.** When the county shall receive an official copy of a survey from a registered land surveyor or from the survey record repository established

pursuant to section 84-412, such copy shall be placed on file in the office of the county surveyor in the county where the land is located. If no regular office is maintained in the county courthouse for the county surveyor, it shall be placed on file in the office of the county clerk.

**Source:** Laws 1984, LB 478, § 7; Laws 1994, LB 874, § 18.

**81-8,122.01. Land survey; filing; contents.** Whenever a survey has been executed by a land surveyor, registered under the provisions of sections 81-8,108 to 81-8,127, a record of such survey bearing the signature and seal of the land surveyor shall be filed in the survey record repository established pursuant to section 84-412 if such survey meets applicable regulations. Surveys which are within the corporate limits of a city with a population in excess of fifteen thousand and do not reference, recover, retrace, or reestablish the original government corners or lines or do not create a new subdivision are not required to be filed in the survey record repository but shall be filed in the county surveyor's office in the county where the land is located if they meet applicable regulations. If no regular office is maintained in the county courthouse for the county surveyor, it shall be filed in the survey record repository. The record of survey shall be filed within ninety days after the completion of the survey, or within any extension of time granted by the office in which it is required to be filed for reasonable cause, and shall consist of the following minimum data: (1) Plat of the tract surveyed; (2) legal description of the tract surveyed; (3) description of all corners found; (4) description of all corners set; (5) ties to any section corners, quarter corners, or quarter-quarter corners found or set; (6) plat or record distances as well as field measurements; and (7) date of completion of survey. The record of survey so filed shall become an official record of survey, and shall be presumptive evidence of the facts stated therein, unless the land surveyor filing the survey shall be interested in the same. Plats or maps which are prepared only for the purpose of showing the location of improvements on existing lots, which are not represented as surveys or land surveys and no corners are established or reestablished, shall be specifically exempt from all requirements of this section.

**Source:** Laws 1969, c. 764, § 1, p. 2893; Laws 1982, LB 127, § 11.

**81-8,122.02. Survey; failure to file record; effect.** Any registered land surveyor who fails to file a record of survey as provided in section 81-8,122.01 shall be reported to the examining board which shall take whatever action, as provided in section 81-8,123, that it deems appropriate.

**Source:** Laws 1969, c. 764, § 2, p. 2893; Laws 1994, LB 874, § 21.

**81-8,123. Land surveyor; complaint; probation, suspension, or revocation of registration; grounds.** The examining board may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any land surveyor. It shall have the power to place any land surveyor on probation or to revoke or suspend any registration under the provisions of sections 81-8,108 to 81-8,127 when the land surveyor has been found guilty of any of the following practices: (1) Fraud or deceit

in obtaining a registration; (2) negligence or incompetency in the performance of his or her duties; or (3) misconduct in the performance of his or her duties.

**Source:** Laws 1957, c. 383, § 16, p. 1337; Laws 1984, LB 478, § 5; Laws 1994, LB 874, § 22.

**81-8,124. Land surveyor; suspension or revocation of registration; hearing; notice.**

Before the examining board revokes or suspends the registration of any land surveyor, it shall give the registrant a hearing on the matter and shall, at least twenty days prior to the date set for the hearing, notify such registrant in writing. Such notice shall contain an exact statement of the charges against the land surveyor and the date and place of hearing. Such registrant shall be heard in person or by counsel before an examiner appointed by the examining board in reference to such charges. Such notice may be served by delivering it personally to the registrant or by sending it by either registered or certified mail addressed to his or her last-known business address as shown by his or her registration.

**Source:** Laws 1957, c. 383, § 17, p. 1337; Laws 1994, LB 874, § 23.

**81-8,125. Land surveyor; suspension or revocation of registration; attendance of witnesses; record; findings; order; restriction.** The examiner shall have power to compel the attendance of witnesses and to administer oaths and shall take testimony and proof concerning the charges stated in the complaint. A complete record shall be made of all testimony taken and evidence received at such hearing, which record shall be filed with the secretary of the examining board. The examiner conducting such hearing shall make in writing complete findings and recommendations to the examining board. Thereafter, the examining board shall, in writing officially signed by all members concurring therein, make its findings, determination, and order in the matter. If the examining board finds that the registrant has been guilty of any of the practices set forth in section 81-8,123, the land surveyor shall be placed on probation or his or her registration shall be revoked or suspended. As a condition of probation the examining board may restrict the land surveyor's scope of practice or require supervision of the land surveyor's practice.

**Source:** Laws 1957, c. 383, § 18, p. 1337; Laws 1994, LB 874, § 24.

**81-8,126. Land surveying; applicability of law.** Sections 81-8,108 to 81-8,127 shall not apply to (1) any land surveyor working for the United States Government while performing his or her duties as an employee of the government, (2) any person employed as an assistant to a land surveyor registered under such sections, or (3) any professional engineer or person working under the direct supervision of a professional engineer licensed under the Engineers and Architects Regulation Act doing work which does not involve the location, description, establishment, or reestablishment of property corners or property lines or work which does not create descriptions, definitions, or areas for transfer of an estate in real property.



**Source:** Laws 1957, c. 383, § 19, p. 1338; Laws 1989, LB 263, § 2.

**81-8,127. Land surveying; unlawful practice or use of title; penalty.** Any person, firm, partnership, limited liability company, corporation, or joint-stock association who or which practices or offers to practice land surveying or uses the title of land surveyor in this state without being registered or any person not registered under sections 81-8,108 to 81-8,127 who fails to file a copy of the plat and field notes as provided in section 81-8,122 shall be deemed guilty of a Class III misdemeanor.

**Source:** Laws 1957, c. 383, § 20, p. 1338; Laws 1977, LB 39, § 297; Laws 1993, LB 690, § 2; Laws 1994, LB 884, § 93.

**84-401. Board of Educational Lands and Funds; records of state lands; duty to keep.** The records appertaining to all public lands of the state shall be kept in the office of the Board of Educational Lands and Funds at the seat of government.

**Source:** Laws 1877, § 4, p. 173; R.S. 1913, § 5559; C.S. 1922, § 4863; C.S. 1929, § 84-402.

**84-402. Board of Educational Lands and Funds; seal.** The Board of Educational Lands and Funds shall procure a seal with proper devices and the words Nebraska State Land Office included thereon, which seal shall be used by it officially in all matters pertaining to its office wherein a seal is required.

**Source:** Laws 1877, § 3, p. 173; R.S. 1913, § 5567; C.S. 1922, § 4871; C.S. 1929, § 84-410; R.S. 1943, § 84-402; Laws 1971, LB 653, § 11.

**84-404. Board of Educational Lands and Funds; field notes of Surveyor General of the United States; receipt.** The Board of Educational Lands and Funds shall, as custodian thereof, receive from the Surveyor General of the United States for the State of Nebraska, or from any other authorized officer or agent of the United States having the care, custody and safekeeping of the same, all the field notes, maps, charts, records, and all other papers appertaining or in any manner connected to or with the land titles within the State of Nebraska, including all surveys of lands within the state made under or by authority of the United States.

**Source:** Laws 1889, c. 84, § 1, p. 567; R.S. 1913, § 5560; C.S. 1922, § 4864; C.S. 1929, § 84-403.

**84-405. Board of Educational Lands and Funds; field notes of Surveyor General of the United States; custody.** The Board of Educational Lands and Funds, as such custodian, shall provide for and safely keep in its office all the surveys, field notes, maps, charts, records, and all other papers mentioned in section 84-404, the same as other public records are kept in its office.

**Source:** Laws 1889, c. 84, § 3, p. 568; R.S. 1913, § 5561; C.S. 1922, § 4865; C.S. 1929, § 84-404.

**84-406. Board of Educational Lands and Funds; field notes of Surveyor General of the United States; inspection.** The Commissioner of the General Land Office or any Surveyor General or deputy surveyor general or any agent or authority of the United States, or any county surveyor of Nebraska, shall at all times have free access to the surveys, field notes, maps, charts, records, and other papers as provided for in sections 84-404 and 84-405, the reception and safekeeping of which is herein provided for, and which shall be received from the United States under the authority of any Act of Congress.

**Source:** Laws 1889, c. 84, § 4, p. 568; R.S. 1913, § 5562; C.S. 1922, § 4866; C.S. 1929, § 84-405.

**84-407. State Surveyor; deputy surveyors; duties; compensation.** (1) The Board of Educational Lands and Funds shall appoint a competent and experienced land surveyor to be known and designated as the State Surveyor. He or she shall take charge under the supervision of the board of the field notes, maps, charts, and records of the United States surveys and perform such other duties as may be prescribed by the board. He or she shall also provide technical assistance, support, and advice to the various counties, cities, and other governmental bodies in Nebraska in their endeavors to produce and maintain cadastral or other geo-referenced maps.

(2) The board may, when in its judgment there is need of expediting the execution of surveys applied or petitioned for and of expediting the settlement of the disputes referred to in section 84-410, appoint one or more competent experienced deputy land surveyors.

(3) Each of the deputy surveyors shall make such surveys as may be assigned him or her and report his or her work together with all necessary notes and maps to the board. Upon approval of his or her report and accompanying documents by the board, the same shall be used in all respects as though made by the chief State Surveyor. Each deputy appointed under the provisions of this section, except as otherwise provided in section 84-407.01, shall be entitled to compensation as determined by the board and necessary expenses for the time actually engaged in service, to be paid to the State Treasurer by the parties applying for or petitioning for a survey or resurvey, and parties interested in any dispute over surveys or boundaries.

**Source:** Laws 1903, c. 105, § 1, p. 576; Laws 1909, c. 137, § 1, p. 485; R.S. 1913, § 5563; Laws 1919, c. 54, § 1, p. 157; C.S. 1922, § 4867; C.S. 1929, § 84-406; Laws 1941, c. 188, § 1, p. 757; C.S. Supp., 1941, § 84-406; R.S. 1943, § 84-407; Laws 1947, c. 348, § 1, p. 1094; Laws 1951, c. 340, § 1, p. 1124; Laws 1953, c. 357, § 1, p. 1134; Laws 1957, c. 395, § 1, p. 1359; Laws 1959, c. 452, § 1, p. 1505; Laws 1965, c. 569, § 1, p. 1857; Laws 1982, LB 127, § 12.

**84-407.01. Deputy surveyor; private employment; no additional fees; cost of plat and field notes.** Whenever a survey, as provided by section 84-407, is made by a deputy land surveyor who is in the employ of the party requesting the survey, and who is

receiving regular compensation from such party while making such survey, such party shall not be required to pay the fees as specified by section 84-407, but shall pay to the State Treasurer the cost of a certified copy of the plat and field notes which shall be based on a fee schedule to be adopted by the Board of Educational Lands and Funds.

**Source:** Laws 1957, c. 395, § 2, p. 1360.

**84-408. State Surveyor; duties; surveys; prima facie evidence of correctness.** The Board of Educational Lands and Funds shall refer to the State Surveyor all questions or inquiries relating to surveys, grievances or disputes growing out of conflicting surveys of lands or lots. The surveyor shall issue and prepare the advice, instruction and opinion, and issue the same under the approval of the board. In case a survey is petitioned for, he shall perform that duty and report the same with necessary notes and maps to the board. When such notes and maps are so approved, filed and recorded in the office of the county surveyor of the county in which the survey was had, such survey shall be prima facie evidence of the correctness thereof. It shall be the duty of the county surveyor to record and file such notes and maps in the county surveyor's records of the county in which the survey is made; Provided, any person or persons having an interest in the lands affected by such survey may appeal therefrom in the manner provided by law. The surveyor shall also prepare and issue, under the authority and direction of the board, a circular of instructions to the county surveyors of the state for their direction and guidance in the restoration and establishment of lines and preservation of corners in conformity with the laws, rules and regulations governing the surveys of the United States and established rules of surveying; and for the concise and comprehensive preparation and recording of field notes and maps of surveys. He shall also perform such other duties as the board may require.

**Source:** Laws 1903, c. 105, § 2, p. 576; R.S. 1913, § 5564; C.S. 1922, § 4868; C.S. 1929, § 84-407; R.S. 1943, § 84-408; Laws 1951, c. 340, § 2, p. 1125.

**84-409. State Surveyor; surveys; fees; amount; disposition; Surveyors' Cash Fund.** There shall be paid to the State Treasurer, for each day the State Surveyor is engaged in making any survey or in settling and disposing of disputes and disagreements, as provided in section 84-410, a per diem rate of compensation as determined by the Board of Educational Lands and Funds for his or her services and the necessary expenses incurred in making the same. All fees received for the services and expenses of the State Surveyor or deputy surveyors shall be paid into the state treasury and by the State Treasurer placed in a fund to be known as Surveyors' Cash Fund, which fund shall be used in paying the salaries and expenses of deputy surveyors, except as provided in section 84-407.01, in making surveys and for making refunds on deposits. All fees and expenses placed in the Surveyors' Cash Fund for the services and expenses of the State Surveyor, after the payments from the cash fund are made as hereinbefore provided, shall be transferred to the General Fund.

**Source:** Laws 1903, c. 195, § 3, p. 577; R.S. 1913, § 5565; Laws 1919, c. 54, § 1, p. 158; C.S. 1922, § 4869; C.S. 1929, § 84-408; R.S. 1943, § 84-409; Laws 1947, c.

348, § 2, p. 1095; Laws 1951, c. 340, § 3, p. 1126; Laws 1953, c. 357, § 2, p. 1135; Laws 1957, c. 395, § 3, p. 1360; Laws 1959, c. 452, § 2, p. 1506; Laws 1965, c. 569, § 2, p. 1858; Laws 1982, LB 127, § 13.

**84-409.01. Applications for surveys; costs advanced; disposition.** There shall accompany all applications for surveys, except those from political subdivisions, a sum sufficient to defray the cost of making such surveys as provided by sections 84-407, 84-407.01, and 84-409, and such advance deposits shall be held in the cash fund until the surveys are made.

**Source:** Laws 1957, c. 395, § 4, p. 1360.

**84-410. State Surveyor; disputed surveys; how settled; prima facie evidence of correctness; compel testimony; oaths.** In case of any dispute among owners of and arising for or by reason of any survey of boundaries of lands within this state, or in case of dispute or disagreement between surveyors as to said surveys or boundaries, the same shall be referred to the State Surveyor for settlement. He is hereby appointed as arbitrator to settle and determine such disputes or disagreements as to said surveys and boundaries and his decision shall be prima facie evidence of the correctness thereof. In making such surveys, the State Surveyor and deputies shall each have power in any county of the State of Nebraska to summon and compel the attendance of witnesses before them to testify as to material facts relating to their knowledge of lost or obliterated corners. The State Surveyor and deputies are authorized and empowered to administer oaths and affirmations to their assistants and to witnesses.

**Source:** Laws 1903, c. 195, § 4, p. 577; Laws 1913, c. 44, § 1, p. 148; R.S. 1913, § 5566; Laws 1919, c. 54, § 1, p. 158; C.S. 1922, § 4870; C.S. 1929, § 84-409; R.S. 1943, § 84-410; Laws 1947, c. 348, § 3, p. 1095; Laws 1951, c. 340, § 4, p. 1126.

**84-411. State Surveyor; entry upon property authorized.** The State Surveyor and deputy surveyors in the official performance of their duties shall have authority to enter upon any property to make surveys. Entry upon any property, pursuant to this section, shall not be considered to be legal trespass and no damages shall be recoverable on that account alone. In case of any actual or demonstrable damages to the premises, the owner of the premises shall be paid an amount equal to the damages.

**Source:** Laws 1982, LB 127, § 14.

**84-412. Survey record repository; established.** The State Surveyor shall establish a survey record repository in the city of Lincoln. The State Surveyor shall employ all individuals necessary to staff such repository and may, with the approval of the Board of Educational Lands and Funds, set the salaries of such employees.

**Source:** Laws 1982, LB 127, § 15.

**84-413. Survey record repository; duties.** The survey record repository shall:

- (1) Microfilm, index, and file the surveying records of all surveys completed after July 17, 1982, which are filed pursuant to sections 81-8,121 to 81-8,122.01;
- (2) Provide a copy of survey records to the county in which the survey was conducted. Such copy shall be transmitted to the county within thirty days of its receipt by the repository and at no cost to the county;
- (3) As funds become available from the fees collected pursuant to this section, and at no cost to the counties, request records of all surveys completed prior to July 17, 1982, from the counties and incorporate such records into the repository's files;
- (4) Collect a fee not to exceed five dollars for each survey of a subdivision or a survey which makes reference to an original government corner and collect a fee not to exceed two dollars and fifty cents for all other surveys filed with the repository by a surveyor, except that no fee shall be charged for filing surveys pursuant to section 23-1911 when the work is requested by the county and when no fees for the survey are received by the surveyor or the county from any other persons;
- (5) Collect a fee not to exceed ten dollars for each search of the repository's files required by any person;
- (6) Charge a fee for the reproduction of material equal to the cost of such reproduction; and
- (7) Provide information to any person upon request and payment of the appropriate fee.

**Source:** Laws 1982, LB 127, § 16.

**84-414. Survey Record Repository Fund; created; use; investment.** The State Surveyor, under the direction of the Board of Educational Lands and Funds, shall receive and account for all money derived from the operation of the survey record repository pursuant to sections 84-412 and 84-413, and shall pay such money to the State Treasurer, who shall credit it to the Survey Record Repository Fund which is hereby created. When appropriated by the Legislature, this fund shall be expended only for the purposes of sections 84-412 and 84-413. All money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1982, LB 127, § 17; Laws 1995, LB 7, § 146.

**84-415. Survey record repository; funding; fees.** No expense for developing or maintaining the survey record repository shall be paid for by funds from the General Fund. The fees for records, searches, and other services related to the repository's files shall be set so that all costs of the survey record repository are paid by the persons requesting such records, searches, or other services.

**Source:** Laws 1982, LB 127, § 18.

**84-712. Public records; free examination; memorandum and abstracts.** Except as otherwise expressly provided by statute, all citizens of this state, and all other persons

interested in the examination of the public records, as defined in section 84-712.01, are hereby fully empowered and authorized to examine the same, and to make memoranda and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business.

**Source:** R.S. 1866, c. 44, § 1, p. 297; R.S. 1913, § 5595; C.S. 1922, § 4902; Laws 1925, c. 146, § 1, p. 381; Laws 1927, c. 193, § 1, p. 551; C.S. 1929, § 84-712; R.S. 1943, § 84-712; Laws 1961, c. 454, § 3, p. 1383; Laws 1979, LB 86, § 1.

**84-712.01. Public records; right of citizens; full access; access by modem; fee authorized.** (1) Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

(2) When a custodian of a public record of a county which has a population of one hundred thousand inhabitants or more as determined by the most recent federal decennial census provides to a member of the public, upon request, a copy of the public record by transmitting it from a modem to an outside modem, a reasonable fee may be charged for such specialized service. Such fee may include a reasonable amount representing a portion of the amortization of the cost of computer equipment, including software, necessarily added in order to provide such specialized service. This subsection shall not be construed to require a governmental entity to acquire computer capability to generate public records in a new or different form when that new form would require additional computer equipment or software not already possessed by the governmental entity.

(3) Sections 84-712 to 84-712.03 shall be liberally construed whenever any state, county, or political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition, payroll, check, receipt, or other record of receipt, cash, or expenditure involving public funds is involved in order that the citizens of this state shall have the full right to know of and have full access to information on the public finances of the government and the public bodies and entities created to serve them.

**Source:** Laws 1961, c. 454, § 2, p. 1383; Laws 1979, LB 86, § 2; Laws 1994, LB 1275, § 12.

**84-801. State officers; deputies; appointment; bond.** The Auditor of Public Accounts, State Treasurer, and State Librarian respectively, may appoint a deputy for whose acts he or she shall be responsible. The appointment shall be in writing and shall be revocable in writing by the principal. The deputy shall be bonded under the blanket surety bond required by section 11-201. Both the appointment and revocation shall be filed and kept by the principal.

**Source:** R.S. 1866, c. 15, § 1, p. 127; R.S. 1913, § 5735; C.S. 1922, § 5064; C.S. 1929, § 84-801; R.S. 1943, § 84-801; Laws 1978, LB 653, § 39; Laws 1990, LB 821, §

**84-802. Deputies; duties.** In the absence or disability of the principal, the deputy shall perform the duties of the principal pertaining to the office, but when the officer is required to act in conjunction with or in place of another officer, the deputy cannot act in the officer's place.

**Source:** R.S. 1866, c. 16, § 2, p. 127; R.S. 1913, § 5736; C.S. 1922, § 5065; C.S. 1929, § 84-802; R.S. 1943, § 84-802; Laws 1990, LB 821, § 53.

**84-803. State officers; appointment as deputy prohibited.** The Auditor of Public Accounts, State Treasurer, and State Librarian cannot appoint any of the others his or her deputy.

**Source:** R.S. 1866, c. 15, § 3, p. 127; R.S. 1913, § 5737; C.S. 1922, § 5066; C.S. 1929, § 84-803; R.S. 1943, § 84-803; Laws 1990, LB 821, § 54.

**84-807. Deputies; oath.** Each deputy shall take the same oath as the principal which shall be endorsed upon and filed with the certificate of appointment.

**Source:** R.S. 1866, c. 15, § 5, p. 127; R.S. 1913, § 5741; C.S. 1922, § 5070; C.S. 1929, § 84-807; R.S. 1943, § 84-807; Laws 1990, LB 821, § 55.