

Chapter

III

SD ASSOCIATION OF COUNTY HIGHWAY SUPERINTENDENTS

Certification Manual



SDDOT Local Roads Plan,
Applicable Codified Laws, &
Roadway Design Elements

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Purposes and limitations of the Manual

This manual was updated in the summer of 2024 at the direction of the South Dakota Association of County Highway Superintendents as a resource for county highway superintendents. This Manual is not all encompassing but is instead presented as a general outline of state statutes governing the operation of county highway departments. This manual does not include every statute and court opinion related to county highways and does not constitute legal advice. Further, laws, and the courts' interpretation of such laws, often change. If you are confronted with a particular issue, contact your state's attorney to research how the latest law applies to such issue.

SDDOT Local Roads Plan

The Local Roads Plan is a document prepared by the South Dakota Department of Transportation (SDDOT), through its office of Local Government Assistance (LGA) and approved for applicable content by the South Dakota Transportation Advisory Council and the Federal Highway Administration (FHWA), for use by local governments throughout South Dakota. The Local Roads Plan is intended to be a resource for any local government project independent of funding source or administrator, containing guidance on planning, geometric design, and best management practices specifically for constructing roads and bridges on local government highway systems in South Dakota.

This document is not a standalone document and should be used along with the AASHTO "A Policy on Geometric Design of Highways and Streets," the AASHTO "Guidelines for Geometric Design of Low-Volume Roads, 2019" (ADT \leq 2000), the USDOT FHWA "Gravel Roads Construction & Maintenance Guide", the FHWA Manual on Uniform Traffic Control Devices, the SDDOT Road Design Manual (which includes Design Standards for Restoration, Rehabilitation, Resurfacing, and Reconstruction in Chapter 2), the SDDOT Bridge Design Manual, and other applicable policies and publications.

The guidance found in the Local Roads Plan has a great deal of flexibility based on local needs, long-term maintenance considerations, future planning, traffic, and accident history. The ultimate goal is to provide a product that will fit local needs while taking into consideration safety, maintenance, and cost. Due to the flexibility found within these guidelines, the use of design exceptions will only be necessary for federally funded projects where a specific deviation beyond the flexibility of the guidelines is necessary. This process will be facilitated and documented between the Office of Local Government Assistance, the local government, and FHWA for federally funded projects.

The Office of Local Government Assistance will assist in any transportation endeavor at the local level. If there are questions concerning current or future project needs, please contact the Local Government Assistance Engineering Supervisor.

The SDDOT internet site is the primary location for the most current information. The following links are provided for this reason.

SDDOT Home –
<https://dot.sd.gov/>

Local Roads Plan – Under Local Governments / Forms & Documents / Publications
https://dot.sd.gov/doing-business/local-governments/forms-documents#listItemLink_1365

- Chapters 1, 2, and 9 contain bookmarks

USDOT FHWA Gravel Roads Construction & Maintenance Guide
<https://www.fhwa.dot.gov/construction/pubs/ots15002.pdf>

Standard Bid Items, Standard Plates, Standard Notes and Plan Sheets for roads and structures (under “Downloadable files”), and the Road Design and Drainage Manuals (under “Manuals”) – Under Doing Business
<https://dot.sd.gov/>

ENGINEERING/DESIGN SERVICES

Consultant Services

Downloadable Files

Manuals

News & Updates

Right of Way / Relocation Assistance

Standard Bid Items

Standard Plates

Surveyors

Utility Coordination

S.D. CODIFIED LAWS ON STANDARDS

31-2-20. Adoption of standard plans and specifications. The department of transportation shall advise and adopt standard plans and specifications for road, bridge, and culvert construction and maintenance suited to the needs of the different counties of the state and furnish the same to the several county superintendents of highways.

Source: *SL 1919, ch 333, § 7; SDC 1939, § 28.0207.*

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following is a citation to the decision available at the time this manual was created:

- *Lipp v. Corson County*, 1956, 76 S.D. 343, 78 N.W.2d 172.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

Cross References:

Appeal of county disagreement with superintendent to transportation commission, see § 31-11-5.

Preparation of plans and specifications for building and repairing bridges, § 31-14-4.

Specifications for state purchases, assistance rendered in preparation, § 5-23-7.

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

Source: *SL 1919, ch 333, § 22; SDC 1939, § 28.0208; SL 1953, ch 138; SL 1993, ch 217.*

31-2-20.1. Performance standards to measure overall condition of highways and bridges--Goals for maintenance. The Department of Transportation shall establish performance standards designed to measure the overall condition of the highways and bridges on the state highway system, along with establishing ten-year goals for maintenance of these conditions. When establishing appropriate performance standards, the department may include nationally established standards and measurements required to be reported to the United States Department of Transportation. The department shall, before the fourth Tuesday in January of each year, report to the Senate and House standing committees on transportation on the current and projected condition of the highways and bridges on the state trunk highway system. This report shall include progress on meeting the ten-year goals for condition of the state highway system. If the projections show the ten-year goals will not be met, the department shall report the estimated amount of additional funding needed to achieve the goals.

Source: *SL 2015, ch 165, § 24, eff. Apr. 1, 2015.*

31-12-18. Width of culverts. Each culvert constructed on the county highway system shall have a width of not less than twenty-four feet.

Source: *SL 1919, ch 333, § 20; SDC 1939, § 28.0306; SL 2018, ch 168, § 19.*

- 31-14-1. Bridge and culvert defined.** Terms used in this chapter mean:
- (1) "Bridge," a structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, the structure having a length measured along the center of the roadway of more than twenty feet between undercopings of abutments or extreme ends of openings for multiple boxes and pipes where the clear distance between openings is less than half of the smaller contiguous opening;
 - (2) "Culvert," any structure not classified as a bridge that provides an opening under any roadway;
 - (3) "Department," the Department of Transportation.

Source: SDC 1939, § 28.1441 as enacted by SL 1953, ch 153; SL 2010, ch 145, § 94.

Cross-References:

Municipal power as to bridges, see §§ 9-45-3, 9-45-4.

Collateral References:

Automobile travel, duty as regards barriers for protection of, 27 A.L.R. 937; 86 A.L.R. 1389; 173 A.L.R. 626.

Cooperation or compacts between states as to construction and maintenance of bridges, 134 A.L.R. 1414.

Duty and liability as to lighting bridge, 47 A.L.R. 355.

Duty and liability of municipality as regards barriers for protection of adult pedestrians who may unintentionally deviate from street or highway into marginal or external hazards, 44 A.L.R.2d 633.

Invalid contract by political subdivision for construction or repair of bridge, right of contractor or persons claiming under, to remove bridge or part thereof, 93 A.L.R. 445.

Liability for damage to highway or bridge caused by size or weight of motor vehicle or load, 53 A.L.R.3d 1035.

Negligence of contractor for construction of bridge as ground of liability upon his part for injury or damage to third person occurring after completion and acceptance of the work, 13 A.L.R.2d 214; 58 A.L.R.2d 878.

Prohibition to control action of administrative officers in matters relating to bridges, 115 A.L.R. 23; 159 A.L.R. 634.

31-25-2. Cattle ways authorized – Application to highway authority – Designation of construction particulars – Maintenance by landowner. Upon application to the department of transportation, board of county commissioners or board of township supervisors, by any person for permission to construct a cattle way across or under any public road, such highway authority maintaining the highway described in the application may in its discretion grant the application upon condition that such way shall be constructed in all particulars as directed by such department or board and shall not interfere with public travel. The grade of the road over the cattle way shall not at any point exceed one foot in ten feet. Applicant must construct and agree to keep the same in repair at his own expense.

Source: SL 1911, ch 221, § 27; RC 1919, § 8569; SDC 1939, § 28.0910.

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

Source: SL 1953, ch 154, § 2; 1959, ch 140, § 2; SDC Supp 1960, § 28.0910-2.

31-26-19. Minimum height of utility lines – Liability for damage to lines below minimum height. It shall be a Class 2 misdemeanor for any person, firm, association, or

corporation owning or operating any telephone, telegraph, or electric line, or any part of such line in this state, to extend any telephone, telegraph, or electric wire, any part of which shall be less than eighteen feet from the ground, over or across any public highway. No such person, firm, association, or corporation shall be entitled to collect damages from any person who shall cut, break, remove, or otherwise destroy any such telephone, telegraph, or electric wire over or across a public highway if any part of the same is at any time less than eighteen feet from the ground.

Source: *SL 1921, ch 251; SDC 1939, § 28.1004; SL 1965, ch 134.*

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following is a citation to the decision available at the time this manual was created:

- *Hale v. Montana-Dakota Utilities Co., 1951, 192 F.2d 274.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

Commission Note:

The code commission classified the offense described in the section in accordance with the directions contained in § 43-6, ch 158, SL 1976.

Cross-References:

Minimum height of wires, §§ 49-32-5, 49-32-6.

Penalties for classified misdemeanors, § 22-6-2.

31-27-18. Minimum overhead clearance – Width of roadway – Approaches. The clearance or overhead room of any subway or undercrossing may not be less than fifteen feet from top of finished grade to bottom of sills of overhead track or trusses. The width or clear roadway of the subway or undercrossing may not be less than twenty-four feet, clear roadway. The approaches to the undercrossing or overhead crossing shall be straight and under no circumstances may these crossings contain curves.

Source: *SL 1919, ch 333, § 63; SDC 1939, § 28.1105; SL 2010, ch 145, § 132.*

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following is a citation to the decision available at the time this manual was created:

- *Homan v. Chicago and Northwestern Transp. Co., 1982, 314 N.W.2d 861.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

S.D. CODIFIED LAWS ON CLASSES OF HIGHWAYS

31-1-1. Highway defined. Every way or place of whatever nature open to the public, as a matter of right, for purposes of vehicular travel, is a highway. The term, highway, does not include a roadway or driveway upon grounds owned by private persons, colleges, universities, or other institutions, but the term includes a roadway or driveway upon grounds owned by any state agency, college, university, or institution if the governing agency, board, or commission by resolution so determines and the Department of Transportation concurs.

Source: SL 1929, ch 251, § 1 (n); SDC 1939, § 28.0101; SL 1968, ch 120; SL 2010, ch 145, § 10.

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following are citations to decisions available at the time this manual was created (in no particular order):

- *Hurley v. Rapid City*, 1963, 80 S.D. 180, 121 N.W.2d 21.
- *Matters v. Custer County*, 1995, 538 N.W.2d 533.
- *Selway Homeowners Ass'n v. Cummings*, 657 N.W.2d 307, 2003 SD 11.
- *J.K. Dean, Inc. v. KSD, Inc.* 709 N.W.2d 22, 2005 S.D. 127.
- *City of Belle Fourche v. Dittman*, 1982, 325 N.W.2d 309.
- *Hohm v. City of Rapid City*, 753 N.W.2d 895, 2008 S.D. 65, rehearing denied.
- *Barney v. Burlington Northern R. Co., Inc.*, 1992, 490 N.W.2d 726, certiorari denied 113 S.Ct. 1265, 507 U.S. 914, 122 L.Ed.2d 661.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-1-2. Bridges and culverts part of highway. Bridges and culverts erected or maintained by the public constitute a part of the public highway. The terms, road or highway, whenever used in this title include any bridge upon or which form a part of the road or highway constructed, maintained, or to be improved; also any subway or underpass and any overhead crossing.

Source: PoIC 1877, ch 29, § 48; CL 1887, § 1238; RPoIC 1903, § 1643; RC 1919, § 8669; SL 1919, ch 333, § 8; SDC 1939, §§ 28.0101, 28.1401; SL 1968, ch 120; SL 2010, ch 145, § 11.

Cross References:

County and township bridges and culverts, see § 31-14-1 et seq.

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following is a citation to the decision available at the time this manual was created:

- *Pederson v. Canton Tp.*, 1948, 72 S.D. 332, 34 N.W.2d 172.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

Notes of Decisions:

Private Culverts

The landowner solely for his own convenience had built a plank culvert, which was never in general use by public, over ditch at intersection of township highways did not show that right

of way beyond ditch had been taken over and placed under township maintenance or that culvert had been adopted by township so as to render township liable for failure to erect a barrier to prevent the public from driving into ditch after removal of culvert. SDC 28.0101, 28.0102, 28.0913. Pederson v. Canton Tp., 1948, 72 S.D. 332, 34 N.W.2d 172.

31-1-3. Existing highways--Continuation as established. All public highways lawfully established shall continue as established until changed or vacated as provided by law.

Source: RC 1919, § 8612; SDC 1939, § 28.0103; SL 2018, ch 168, § 1.

Cross References:

Vacation or change of highways, see § 31-3-6 et seq.

31-1-4. Classification of highways of state. The highways of this state consist of streets and alleys within the limits of municipal corporations, the state trunk highway system, the county highway systems of several counties, and all other highways denominated secondary highways.

Source: SDC 1939, § 28.0107.

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following are citations to decisions available at the time this manual was created (in no particular order):

- *Hohm v. City of Rapid City, 753 N.W.2d 895, 2008 S.D. 65, rehearing denied.*
- *State ex rel. Jackley v. City of Colman, 790 N.W.2d 491, 2010 S.D. 81.*

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.

31-1-5. Administrative systems of highways – Classification. For the purpose of clarifying the duties and powers of the various governmental state agencies charged with the administration of the highways in South Dakota, the following definitions of highway systems shall be applicable:

- (1) "State trunk system," the highways designated by statute to be controlled and supervised by the Department of Transportation;
- (2) "County highway system," the highways designated by the board of county commissioners in organized counties under the supervision of these bodies that have been approved by the Department of Transportation;
- (3) "Township highways," the secondary highways in organized townships that are administered by a board of township supervisors;
- (4) "County secondary highways," the rural local highways in organized counties, excluding the approved county highway system, that are under the supervision of a board of county commissioners.

Source: SL 1955, ch 106, § 1; SDC Supp 1960, § 28.0238.

Cross-References:

County highway systems, see § 31-12-1 et seq.

County secondary highways, see § 31-12-26 et seq.

State trunk highway system, see § 31-4-1 et seq.

Township roads, see § 31-13-1 et seq.

** Please note this statute has been reviewed and interpreted by South Dakota courts. The following are citations to decisions available at the time this manual was created (in no particular order):

- *Van Gerpen v. Gemmill*, 1948, 72 S.D. 265, 33 N.W.2d 278.
- *Keogan v. Bergh*, 1984, 348 N.W.2d 462.
- *Willoughby v. Grim*, 581 N.W.2d 165, 1998 S.D. 68.
- *Cain v. Meade County*, 1929, 54 S.D. 540, 223 N.W. 734.
- *Hanigan v. Minnehaha County*, 1924, 47 S.D. 606, 201 N.W. 522.
- *Bryant v. Butte County*, 1990, 457 N.W.2d 467.
- *State ex rel. Jackley v. City of Colman*, 790 N.W.2d 491, 2010 S.D. 81.

In reviewing the cited authorities, it is encouraged that you discuss the matter with your state's attorney and also determine whether any other guidance has been issued.