

PROPERTY

CHAPTER 373

SENATE BILL NO. 2343
(Nething, Barth)

SURVEY AND CORNER RECORDATION ACT

AN ACT to create and enact chapter 47-20.1 of the North Dakota Century Code, relating to landmarks, land surveying and corner recording; to repeal chapter 47-20 of the North Dakota Century Code; and providing an effective date; and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 47-20.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

SECTION 47-20.1-01. PURPOSE.) It is the purpose of this chapter to protect and perpetuate public land survey corners and information concerning the location of such corners by requiring the systematic establishment of monuments and recording of information concerning the marking of the location of such public land survey corners and to allow the systematic location of other property corners, thereby providing for property security and a coherent system of property location and identification of ownerships, and thereby eliminating the repeated necessity for re-establishment and relocations of such corners where once they were established and located, and, to authorize any registered land surveyor to locate, erect, maintain, record and perpetuate landmarks, monuments, section corners, quarter corners, meander lines or boundary lines heretofore or hereafter established.

SECTION 47-20.1-02. DEFINITIONS.) Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:

1. "Property corner" shall mean a geographic point on the surface of the earth, and is on, a part of, and controls a property line.
2. "Property controlling corner" shall mean a public land survey corner, or any property corner, which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.
3. "Public land survey corner" shall mean any corner

actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for land to a private person from the United States government.

4. "Corner" unless otherwise qualified, shall mean a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.
5. "Accessory corner" shall mean any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal filled bottles, steel or wooden stakes or other objects.
6. "Monument" shall mean an accessory that is presumed to occupy the exact position of a corner.
7. "Reference monument" shall mean a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded, and which serves to witness the corner.
8. "Registered land surveyor" shall mean a surveyor who is registered to practice land surveying under chapter 43-19.1 regulating the registration and practice of professional engineering and land surveyors, or who is authorized under said chapter to practice land surveying as defined herein.
9. "Practice of land surveying" shall mean the assuming of responsibility for the surveying of land for the establishment of corners, lines, boundaries, and monuments, the laying out and subdivision of land, the defining and locating of corners, lines, boundaries and monuments after they have been established, the survey of land areas for the purpose of determining the topography thereof, the making of topographical deliniations, and the preparing of maps and accurate records thereof, when the proper performance of such services requires technical knowledge and skill.

SECTION 47-20.1-03. FILING OF CORNER RECORD REQUIRED.) A surveyor shall complete, sign, stamp with his seal and file with the register of deeds of the county where the corner is situated, a written record of corner establishment or restoration to be known as a "corner record" for every public land survey corner and accessory to such corner which is established, re-established, monumented, remonumented, restored, rehabilitated, perpetuated or used as control in any survey by such surveyor, and within ninety days thereafter, unless the corner and its accessories are substantially as described in an existing corner record filed in accord with the provisions of this chapter.

SECTION 47-20.1-04. FILING PERMITTED AS TO ANY PROPERTY CORNER.) A registered land surveyor may file such corner record as to any property corner, property controlling corner, reference monument or accessory to a corner.

SECTION 47-20.1-05. FORM TO BE PRESCRIBED BY BOARD.) The state board of professional engineers and land surveyors provided for in chapter 43-19.1 shall by regulation provide and prescribe the information which shall be necessary to be included in the corner record. The board shall prescribe the form in which such corner record shall be presented and filed.

SECTION 47-20.1-06. REGISTER OF DEEDS TO RECEIVE, FILE AND CROSS REFERENCE.)

1. The register of deeds of the county containing the corner shall receive the completed corner record and preserve it in a hardbound book. The books shall be numbered in numerical order as filled.
2. The register of deeds shall number the forms in numerical order as they are filed.
3. The book and page number in which the said corner record is filed shall be placed by the register of deeds near that same corner on a cross index plat which the register of deeds shall provide for such purpose.
4. The register of deeds shall make these records available for public inspection during all usual office hours.

SECTION 47-20.1-07. OFFICIAL CORNER RECORD.) When such a corner described herein has been established and filed, that corner record shall be the official record and shall be made available to all state and federal government agencies without cost, however, the register of deeds may charge a reasonable fee for furnishing certified copies of the official record to all other persons.

SECTION 47-20.1-08. REGISTER OF DEEDS MAY CHARGE FILING FEE.) The register of deeds of a county may charge a filing fee of not more than two dollars for the filing of each corner record as defined in section 47-20.1-02.

SECTION 47-20.1-09. SURVEYOR MUST REHABILITATE MONUMENTS.) In every case where a corner record of a public land survey corner is required to be filed under the provisions of this chapter, the surveyor must reconstruct or rehabilitate the monument of such corner and accessories to such corner, so that the same shall be left by him in such physical condition that it remains as permanent a monument as is reasonably possible and so that the same may be reasonably expected to be located with facility at all times in the future.

SECTION 47-20.1-10. MINIMUM CORNER REQUIREMENTS.) The registered land surveyor establishing or rehabilitating corner markers shall place as a minimum acceptable marker, an iron monument not less than eighteen inches in length and not less than one half inch in sectional dimension driven to a survey elevation depth to which is affixed a metal cap bearing the center point and the registered land surveyor's certificate number firmly impressed thereon.

SECTION 47-20.1-11. CORNER RECORDS TO BE CERTIFIED.) No corner record shall be filed unless the same is signed by a registered land surveyor and stamped with his seal.

SECTION 47-20.1-12. DISTURBANCE OF SURVEY CORNERS - MISDEMEANOR.) No United States government survey corner nor any corner established by any registered land surveyor, monumented as herein prescribed, shall be disturbed, removed, or in any manner changed by any person in the prosecution of any public or private work. Whoever shall violate any of the provisions of this section shall be guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for every offense.

SECTION 47-20.1-13. SHORT TITLE.) This chapter may be cited as the Survey and Corner Recordation Act of North Dakota.

SECTION 47-20.1-14. REPEAL.) Chapter 47-20 is hereby repealed.

SECTION 47-20.1-15. EFFECTIVE DATE.) The provisions of this Act shall become effective on January 1, 1974.

Approved March 28, 1973

CHAPTER 374

SENATE BILL NO. 2065
(Barth)

LEGAL FENCES

AN ACT to amend and reenact subsection 5 of section 47-26-01 of the North Dakota Century Code, relating to the definition and maintenance of legal fences.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 5 of section 47-26-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. A barbed wire fence consisting of at least three barbed wires with at least number 12 1/2 gauge wire, the wire to be fastened firmly to posts which shall be not more than twenty feet or not more than 40 feet and 3 stays apart. The top wire shall be not less than forty inches high, the bottom wire shall be not more than sixteen inches above the ground, and no two adjacent wires shall be separated by more than sixteen inches;

Approved March 27, 1973