

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL
LAND SURVEYORS

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS,	:	ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS,	:	ARCHITECTS PROFESSIONAL
PROFESSIONAL ENGINEERS,	:	ENGINEERS, DESIGNERS, AND
DESIGNERS, AND PROFESSIONAL	:	PROFESSIONAL LAND
LAND SURVEYORS	:	SURVEYORS ADOPTING
	:	RULES
	:	(CLEARINGHOUSE RULE 15-039)

PROPOSED ORDER

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors propose an order to repeal A-E 7.01 (2) (d) and (e); to amend A-E 7.01 (intro.), (2) (a) and (2) (c), 7.06 (1), (2), (3), and (5), 7.07, and 7.08, (1) (intro.), (1) (c), (3) (e) and (g); to repeal and recreate A-E 7.02, 7.03, 7.04, and 7.05; and to create A-E 7.025 relating to practice, conduct, and continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 443.015 (2), Stats.

Statutory authority:

ss. 15.08 (5) (b), 227.11 (2) (a), and 443.015 (2), Stats.

Explanation of agency authority:

Pursuant to ss. 15.08 (5) (b), and 227.11 (2) (a), Stats, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors is generally empowered to promulgate rules that will provide guidance within the profession and interpret the statutes it enforces or administers. Section 443.015 (2), Stats., allows each section to draft rules that govern the professional conduct of licensees under its authority. These proposed rules address the conduct of professional land surveyors in the creation of minimum standards for property surveys. Therefore, the Examining Board of Architects, Landscape Architects, Professional Engineers,

Designers, and Professional Land Surveyors is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule:

Wisconsin Administrative Code Chapter A-E 7

Plain language analysis:

This proposed rule seeks to clarify various provisions of Wisconsin Administrative Code Chapter A-E 7, which sets forth the minimum standards of professional land surveyor's practice and to resolve inconsistencies between the rules in chapter A-E 7 and current practice within the profession. This rule will identify the information that should be included in maps and reports regarding the legal descriptions of property surveyed.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

The Minimum Standards of Practice for professional land surveyors identifies the types of surveys professional land surveyors may conduct such as a boundary survey, condominium survey, subdivision survey, mortgage inspection, and topographic survey. It also lists the required information that should be found on the plat (map). The minimum standards are binding on every professional land surveyor in the state except in the case of federal, state or local laws that may be more stringent. When special conditions exist, it must be noted on the plat (68 Ill Admin Code 1270.56).

Iowa:

The Minimum Standards for Property Surveys for land professional surveyors found in the Iowa Code are very similar to the current Wisconsin rules. It covers the same topics as the Wisconsin rules such as scope, definition, boundary location, descriptions, maps, measurements, and monuments and nearly mirrors the language. The scope of the rules encompasses each professional land surveyor and all of the property surveys performed in the state, except those done for acquisition plats (Iowa Admin. Code r. 193C-11.1).

Michigan:

Michigan does not set forth minimum standards for property surveys. Instead, Michigan Administrative Code requires professional land surveyors to draft complete and accurate plats, plans, drawings, and specifications. The information contained on a survey must include the following: "a drawing that includes the graphical and numerical scale used, a

north arrow, identification of all government corners and related witnesses, a description in compliance with state statute, [and a] statement of the manner of bearing determination.” (Mich. Admin. Code r. 339.17403).

Minnesota:

Minnesota does not set forth a minimum standard for property surveys in a manner similar to Illinois and Iowa. Instead, Minnesota identifies the requirements for plats (maps), and covers such topics as boundaries, mathematical data, easements and water boundaries. The statute further requires professional land surveyors to certify that they have surveyed a property or directly supervised a person who surveyed the property (Minn. Stat. s. 505.021).

Summary of factual data and analytical methodologies:

The Professional Land Surveyor Section reviewed and updated the minimum survey standards. Adjacent states’ statutes and administrative rules were also reviewed. The Section ensures the accuracy, integrity, objectivity and consistency of data was used in preparing the proposed rule and related analysis.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have a negative economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received on or before the public hearing to be held on July 30, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. A-E 7.01 (intro), (2) (a), and (2) (c) are amended to read:

A-E 7.01 The professional land surveyor and his or her client ~~or employer~~ may agree in a signed statement to exclude any land surveying work from the requirements of this chapter except the preparation of a U.S. public land survey monument record and a map of work performed unless there is an existing map and a survey report is filed in lieu of a map. The map prepared by the professional land surveyor for the client ~~or employer~~ shall include:

(2) (a) A note which states that an agreement to exclude work from the requirements of this chapter has been made and a list of those exclusions and the names of the parties making the agreement along with the signature of each party.

(2) (c) ~~The difference between the sum of the individual measured angles and the theoretical sum, and the difference between the sum of the total measured angles and the theoretical sum~~ The relative positional accuracy in decimal feet, if the minimum positional accuracy established by s. A-E 7.06 (3) has been waived.

SECTION 2. A-E 7.01 (2) (d) and (e) are repealed.

SECTION 3. A-E 7.02 is repealed and recreated to read:

A-E 7.02 Definitions. For the purposes of this chapter:

(1) “Practice of professional land surveying” has the meaning given in s. 443.01 (6s), Stats.

(2) “Relative positional accuracy” means the length of the semi-major axis, expressed in feet or meters, of the error ellipse representing the uncertainty due to random errors in measurements in the location of the monument, or witness, marking any corner of the surveyed property at the 95 percent confidence level, 2 standard deviations; and is estimated by the results of a correctly weighted least squares adjustment of the survey.

(3) "Survey report" means a report that may be prepared when there is an existing map recorded or filed within the last 6 years and no new monuments are established in the survey.

SECTION 4. A-E 7.025 is created to read:

A-E 7.025 Survey report, requirements. A survey report as defined in A-E 7.02 (3), shall include the purpose of the survey, information concerning the documents that were examined for the survey, the measurements that were made to verify the locations of the monuments found, and a copy of the map that was recorded or filed. The survey report shall be in compliance with all sections of this chapter except ss. A-E 7.05 (1), (2), (3) and (4).

SECTION 5. A-E 7.03, 7.04, and 7.06 are repealed and recreated to read:

7.03 Boundary location. Every property survey shall be made in accordance with the records of the register of deeds as nearly as practicable. The professional land surveyor shall acquire data necessary to retrace record title boundaries such as U.S. Public Land Survey Monument Records, deeds, surveys, maps, certificates of title, highway, and center line or right-of-way lines, and other boundary line locations. The professional land surveyor shall make field measurements necessary for the location of the parcel and shall analyze the data and make a careful determination of the position of the boundaries of the parcel being surveyed. The professional land surveyor shall set monuments marking the corners of the parcel unless monuments already exist at the corners.

7.04 Descriptions. Descriptions defining land boundaries created by a professional land surveyor for conveyance or to more accurately delineate land boundaries, or for other purposes shall be complete, providing unequivocal identification of lines or boundaries. The description shall contain necessary references to adjoining together with data and dimensions sufficient to enable the description to be mapped and retraced and shall describe the land surveyed by government lot, recorded private claim, quarter-quarter section, section, township, range and county. The forms of descriptions of property shall be one of the following:

(1) By metes and bounds commencing with a monument at a section corner or quarter section corner of the quarter section in which that land is located or a monument established by the U.S Public Land Survey that it is not the center of the section, or commencing with a monument at the end of a boundary line of a recorded private claim or federal reservation in which the land is located. Descriptions shall meet the requirements in s. A-E 7.06 (3).

(2) By land boundaries being surveyed as a platted lot or outlot in a recorded subdivision or recorded addition to a recorded subdivision, the lots or outlots in that plat shall be described by the name of the plat and the lot or outlot and the block in the plat for all purposes.

(3) By land boundaries being surveyed as an existing lot, outlot or parcel, on a recorded certified survey map, the survey shall be described by lot, outlot or parcel number and certified map number for all purposes.

(4) By the parcel described as an aliquot part of a section from the public land system.

7.05 Maps. A map shall be drawn for every property survey, unless a survey report is filed as provided in A-E 7.02 (3), showing information developed by the survey. The map shall:

(1) Be drawn on media with the minimum size of 8 ½ x 11 inches and to a commonly accepted scale which shall be clearly stated and graphically illustrated by a bar scale on each map sheet containing a graphical depiction of the survey unless otherwise required by law.

(2) Be referenced as provided in s. 59.73 (1), Stats., along with a north arrow and reference to a monumented line.

(3) Show the length and bearing of the boundaries of the parcels surveyed. Bearings, angles, and distances on any property survey map shall be in accordance with s. A-E 7.06 (5). Where the boundary lines show bearings, lengths or locations which vary from those recorded in deeds, abutting plats, or other instruments, there shall be the following note placed along such line, “recorded as (show recorded bearing, length or location)”. Curve data shall be shown by any 3 of the following: central angle, radius, long chord bearing and length, and arc length.

(4) Describe all monuments used for determining the location of the parcel boundary and show by bearing and distance their relationship to the surveyed parcel. All monuments shall be indicated by whether such monuments were found or set including a description of the monument with a legend for all symbols and abbreviations used on the map.

(5) Show observed evidence of possession or use by others in the parcel or across any perimeter line of the property.

(6) Show surveyed parcel bounded by water or inaccessible areas, the part shall be enclosed by a meander line showing complete data along all lines extending beyond the enclosure. The true boundary shall be clearly indicated on the map.

(7) Identify the professional land surveyor’s name and address, the person or entity for whom the survey was made, completion date of the field work, and description of the parcel as provided in s. A-E 7.04.

(8) Bear the stamp or seal, name and address and signature of the professional land surveyor under whose direction and control the survey was made with a statement certifying that the survey complies with this chapter and is correct to the best of the professional land surveyor's knowledge and belief.

(9) Be filed as required by s. 59.45 (1), Stat., on media, or electronically if acceptable by the county.

(10) Identify boundary lines on the survey. Boundary lines shall be clearly differentiated from other lines on the map.

(11) Coordinate values when shown on the face of the map they shall comply with and be subject to the provisions of s. 236.18, Stats., and include coordinate system, datum and adjustment.

SECTION 6. A-E 7.06 (1), (2), (3), and (5), and 7.07 are amended to read:

A-E 7.06 (1) Measurements shall be made with instruments and methods capable of attaining the required accuracy for the particular ~~problem~~ circumstances involved.

(2) The minimum accuracy of linear measurements between points shall be the larger of 2/100ths of a foot or better than 1 part in 3,000 on all property lines of boundary or interior the survey.

(3) ~~In a closed traverse the sum of the measured angles shall agree with the theoretical sum by a difference not greater than 30 seconds per angle, or the sum of the total angles may not differ from the theoretical sum by more than 120 seconds, whichever is smaller.~~ The maximum allowable deviation in relative positional accuracy for a survey is plus or minus 0.07 foot plus 50 parts per million, based on the direct distance between the two corners being tested. In certain circumstances, the size or configuration of the surveyed property, or the relief, vegetation or improvements on the surveyed property will result in survey measurements for which the maximum allowable relative positional precision may be exceeded at the discretion of the licensee performing the survey. The licensee shall provide justification for exceeding the maximum allowable relative positional accuracy.

(5) Bearings or angles on any property survey map shall be shown to at least the nearest 30 seconds. Distances shall be shown to the nearest 1/100th foot.

A-E 7.07 Monuments. The type and position of monuments to be set on any survey shall be according to s. 236.15 (1), Stats., unless determined by the nature of the survey, the permanency required, the nature of the terrain, the cadastral features involved, and the availability of material. Coordinate values are not acceptable in lieu of monuments.

SECTION 7. A-E 7.08, (1) (intro.), (1) (c), and (3) (e) and (g) are amended to read:

A-E 7.08 (1) WHEN MONUMENT RECORD REQUIRED. A U.S. public land survey monument record shall be prepared and filed with the county ~~surveyor's office~~ survey records as part of any land survey within 60 days of setting or accepting the corner which includes or requires the perpetuation, restoration, ~~reestablishment~~ or use of a U.S. public land survey corner; and when any of the following situations arise:

(1) (c) The witness ties or U.S. public land survey monument referenced in an existing U.S. public land survey monument record have been destroyed or disturbed, except where the witness ties and the U.S. public land survey monument referenced in an existing U.S. public land survey monument record have been found and verified and a note stating this has been placed on the property survey.

(3) (e) A description of any material discrepancy between the location of the corner monument as restored or ~~reestablished~~ and the monument location of that corner as previously ~~restored or reestablished~~ established.

(3) (g) Whether the corner was ~~reestablished~~ determined through lost-corner-proportionate methods.

SECTION 8. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson
Examining Board of Architects, Landscape
Architects, Professional Engineers,
Designers, and Professional Land Surveyors