

6 DE Reg. 271 (9/1/02)  
11 DE Reg. 1664 (06/01/08)

**11.0 Investigations and Designation of Board Member for Contact with Division of Professional Regulation**

Upon notice to the Board that a disciplinary investigation of a licensee is underway by the Division of Professional Regulation, the Board shall designate a Board member to assist the investigator. Whenever feasible, the Board member designated for this purpose should not reside in the county where the licensee under investigation resides or maintains his or her dominant area of practice. Section 2706(a)(10).

**12.0 Minimum Technical Standards for Licences**

12.1 The Board is required under Sections 2701 and 2112(a)(9) to establish minimum technical standards for licensees. The purpose of these standards is to establish minimum technical criteria to govern the performance of surveys when more stringent specifications are not required by other agencies or by contract. Further, the purpose is to protect the inhabitants of this state and generally to promote the public welfare. The Board also established minimum standards for Mortgage Survey Plans (MSPs), and other types of work, frequently performed by licensees in portions of the state.

12.2 Procedure and Standards. Whenever a surveyor conducts a boundary survey, or an ALTA/ACSM Land Title Survey, or Subdivision Survey, a plat showing the results shall be prepared. An ALTA/ACSM Land Title Survey shall be titled in accordance to the current published ALTA/ACSM standard. A Subdivision Survey shall be titled as required by the governing regulatory agency. The plat of a boundary survey shall be titled "Boundary Survey Plan"; no other plat title is acceptable. A copy of the survey shall be furnished to the client unless deemed unnecessary by the client. The plat shall conform to the following requirements and shall include the following information:

12.2.1 The plat shall be drawn on any reasonably stable and durable drawing paper, vellum or film of reproducible quality. No plat or map shall have dimensions of less than 8 ½ x 11 inches.

12.2.2 The plat shall indicate the Source of Title, (Deed Record and/or Will Record Number), Hundred, County, State, Tax Parcel Number and, when applicable, the Postal Address of the subject property. The plat shall show the written scale, area and classifications of the survey. These classifications (suburban, urban, rural, and marshland) are based upon both the purposes for which the property is being used at the time the survey is performed and any proposed developments, which are disclosed by the client, in writing. This classification must be based on the criteria in Section 12.4 and the survey must meet the minimum specifications set forth in Attachment A. The scale shall be sufficient to show detail for the appropriate classification.

12.2.3 The horizontal direction of all boundary lines shall be shown in relationship to grid north, magnetic, or in lieu thereof, to true north or to such other established line or lines to which the survey is referenced. The horizontal direction of the boundary lines shall be by direct angles or bearings. A prominent north arrow shall be drawn on every sheet. The description of the bearing reference system shall be stated on the plat. Bearings shall be written in a clockwise direction unless impractical.

12.2.4 All monuments, natural and artificial (man-made), found or set, used in the survey, shall be shown and described on the survey plat. The monuments shall be noted as found or set. All monuments set shall be ferrous metal, or contain ferrous metal, not less than ½ inch in diameter and not less than 18 inches in length, except however, a corner which falls upon solid rock, concrete, or other like materials shall be marked in a permanent manner and clearly identified on the plat. Monuments shall be set at all corners of all surveys as required by these standards, with the exception of meanders such as meanders of streams, tidelands, wetlands, lakes, swamps and prescriptive road rights-of-way. Witness monuments shall be set or referenced whenever a corner monument cannot be set or is likely to be disturbed. Such witness monument shall be set as close as practical to the true corner. If only one (1) witness monument is set, it must be set on the actual boundary line or prolongation thereof. Otherwise, at least two (2) witness monuments shall be set and so noted on the plat of the survey. Monuments shall be identified, where possible, with a durable marker bearing the firm name or the surveyor's registration number and/or name.

12.2.5 The plat of a metes and boundary survey must clearly describe the commencing point and label the point of beginning for the survey.

12.2.6 Notable discrepancies between the survey and the recorded description shall be noted. The source of title used in making the survey shall be indicated. When an inconsistency is found, including a gap or overlap,

excess or deficiency, erroneously located boundary lines or monuments, the nature of the inconsistency shall be indicated on the drawing.

- 12.2.7 In the judgment of the surveyor, the description and location of any physical evidence found along a boundary line, including but not limited to fences, walls, buildings or monuments, shall be shown on the drawing.
- 12.2.8 The horizontal length (distance) and direction (bearing) of each line as determined in an actual survey process shall be shown on the drawing and indicated in a clockwise direction unless impractical.
- 12.2.9 The radius, arc length, chord bearing and chord distance of all circular curves, shall be shown.
- 12.2.10 Information used by the surveyor in the property description shall be clearly shown on the plat, including but not limited to, the point of beginning, course bearing, distance, monuments, etc.
- 12.2.11 The lot and block or tract number or other recorded subdivision designation, of the subject property and adjoining properties shall be shown. If the adjoining properties are not within a recorded subdivision, then the name and deed record of all adjoining owners shall be shown.
- 12.2.12 Recorded public and private rights-of-way or easements which are discovered during the title search performed by others and supplied to the surveyor or graphically shown on the recorded plat, which includes the property, or which are known or observed adjoining or crossing the land surveyed, shall be shown. When no recorded rights-of-way or easements are provided, it shall be so noted on the plan.
- 12.2.13 Location of all permanent improvements pertinent to the survey, referenced radially and perpendicular to the nearest boundary, shall be shown.
- 12.2.14 Visible or suspected encroachments onto or from adjoining property or abutting streets, with the extent of such encroachments, shall be shown.
- 12.2.15 A plat or survey shall clearly bear the Firm Name and licensee's name, license number, title, "Professional Land Surveyor", contact address, and date of survey and original signature and board-approved seal of the licensed surveyor in responsible charge. This signature and seal is certification that the survey meets minimum requirements of the Standards for Land Surveyors as adopted by the Delaware Board.
- 12.2.16 A written property description shall accompany the preparation of a boundary survey, ALTA/ACSM Land Title Survey, and Subdivision Survey. A written property description is not required when there are no changes to the property description used as a basis for said surveys. When preparing a property description in conjunction with a Mortgage Survey Plan, said description shall be based upon and refer to the record plat and not the Mortgage Survey Plan. The following information shown on the plat must be included in a written description.
  - 12.2.16.1 The commencing point and point of beginning.
  - 12.2.16.2 Sufficient caption to connect the plat and description.
  - 12.2.16.3 Length and direction of all lines in a clockwise direction unless impractical.
  - 12.2.16.4 Curve information as described in paragraph 12.2.9.
  - 12.2.16.5 Type of monuments noted as found or set.
  - 12.2.16.6 The area of the parcel.
  - 12.2.16.7 Adjoining owners, subdivision name, etc.
- 12.2.17 For a Major Subdivision Survey, the boundary corners of the "Parent" property that is the subject of the subdivision shall be set and/or identified in accordance to Section 12.2.4. For a Minor Subdivision Survey, a minimum of two boundary corners of the property that is the subject of the subdivision shall be set and/or identified and their interconnection duly noted. Additionally, for a Minor Subdivision Survey, the connection between said boundary corners and the boundary of the "carved-out" property shall be noted; and, the boundary corners of said "carved-out" property shall be set and/or identified in accordance with Section 12.2.4. For an ALTA/ACSM Land Title Survey, all boundary corners of the subject property shall be set and/or identified in accordance to Section 12.2.4.

### 12.3 Standards for Horizontal Control.

- 12.3.1 Definitions for specific types of horizontal control surveys, along with standards and procedures, may be found in National Geodetic Survey (NGS) or successor publications. All geodetic surveys, including determination and publication of horizontal and vertical values utilizing Global Positioning Systems, Ground Control Systems or any other system which relates to the practice and profession of Land Surveying, shall be performed under the direct control and personal supervision of a licensed Professional Land Surveyor licensed in the State of Delaware.

**TITLE 24 REGULATED PROFESSIONS AND OCCUPATIONS**  
**DELAWARE ADMINISTRATIVE CODE**

- 12.3.2 Control Surveys that are used to determine boundary lines, including developing coordinates for existing boundary corners, shall meet the Standards contained herein.
- 12.3.3 Land Information Systems/Geographic Information Systems (LIS/GIS) maps should be built on a foundation of coordinates obtained by an accurate survey. Creation of LIS/GIS maps and services should include a Professional Land Surveyor licensed in the State of Delaware for coordination and input of their knowledge in these fields.
- 12.4 Classification of Surveys. (See Attachment A)
- 12.4.1 Urban Surveys - Surveys of land lying within or adjoining a city or town. This would also include the surveys of commercial and industrial properties, condominiums, townhouses, apartments and other high-density developments regardless of geographic location.
- 12.4.2 Suburban Surveys - Surveys of land lying outside urban areas. This land is used almost exclusively for single family residential use or residential subdivisions.
- 12.4.3 Rural Surveys - Surveys of land such as farms and other undeveloped land outside the suburban areas which may have a potential for future development.
- 12.4.4 Marshland Surveys - Surveys of land which normally lie in remote areas with difficult terrain and usually have limited potential for development and cannot be classified as urban, suburban or rural surveys. This includes, but is not limited to, surveys of farmlands and rural areas.
- 12.5 ALTA/ACSM Land Title Survey. The current published standard as amended from time to time.
- 12.6 Mortgage Survey Plan (MSP)
- 12.6.1 Purpose. The purpose of an MSP is to locate, describe and represent the position of buildings and other pertinent visible improvements affecting the property being surveyed in connection with a conveyance or a mortgage.
- 12.6.2 Product. The results of the MSP shall be stated on a plat showing the property surveyed and the location of the buildings and other pertinent visible improvements affecting the surveyed property. The plat shall be titled "Mortgage Survey Plan"; no other plan title is acceptable.
- 12.7 The Waiver by the Ultimate User and Disclosures.
- 12.7.1 The surveyor shall not prepare a MSP pursuant to this regulation until the surveyor receives a signed waiver more particularly described below.
- 12.7.2 For purposes of this section, "ultimate user" means the contract purchaser of the property. If no purchaser exists, the ultimate user is the owner of the property. The waiver shall be sufficient if signed by one ultimate user, whether or not there are multiple ultimate users. The waiver shall at a minimum contain:
- 12.7.2.1 An approval by the ultimate user to perform a MSP and to waive the right to have corner markers set; and
- 12.7.2.2 An explanation of the impact of signing the waiver advising the ultimate user of the possible need for a future survey as a result of physical improvements of the property and the potential inability of the ultimate user to identify the boundary of the surveyed property.
- 12.7.2.3 The waiver shall be in the following form for the purpose of complying with this regulation:  
 "Waiver Not to Set Corner Markers and Approval to Perform a MSP Survey"  
 To: \_\_\_\_\_  
 (Name, address, and telephone number of Land Surveyor)  
 From: \_\_\_\_\_  
 (Name, address, and telephone number of Ultimate User)  
 Re: \_\_\_\_\_  
 Property (Appropriate Identifier; i.e. address, tax parcel number)

In connection with the purchase or survey of the property located at \_\_\_\_\_, I have waived having [all] the corner markers set and have requested the preparation of a Mortgage Survey Plan (MSP).

I have been made aware that a Mortgage Survey Plan (MSP) is not a boundary survey and does not identify property boundary lines. I am also aware that there may be a cost difference between the MSO and boundary survey.] Additionally, I have been advised of the impact of signing the waiver regarding the possible need for a future survey as a result of physical improvements of the property and my inability to identify the boundary of the surveyed property. Furthermore, I am aware

**TITLE 24 REGULATED PROFESSIONS AND OCCUPATIONS**  
**DELAWARE ADMINISTRATIVE CODE**

that the inability to identify the boundary of the property may result in a boundary dispute with an adjoining property owner and/or property improvements not accurately situated on my property.

\_\_\_\_\_ (Signature of Ultimate User)

\_\_\_\_\_ (Signature of Witness)

I hereby certify that by virtue of the signature of the ultimate user on this waiver that the ultimate user is aware of the potential impact of not having corner markers set, and that I have prepared a Mortgage Survey Plan (MSP) in compliance with Section 12.0 Minimum Technical Standards for Licensees as set forth by the Delaware Board of Professional Land Surveyors

\_\_\_\_\_  
Delaware Professional Land Surveyor

License Number: \_\_\_\_\_

Date: \_\_\_\_\_

- 12.7.2.4 The following notation shall be noted on a MSP when a written waiver is obtained: "In accordance to the Delaware Board of Professional Land Surveyors' Regulation 12.7, a waiver not to set corner markers has been obtained".
  - 12.7.2.5 The licensee shall maintain the signed corner marker waiver or a retrievable scanned copy of said waiver for a minimum of six years from date of ultimate user's signature.
  - 12.7.2.6 The licensee shall submit to the Board documentation of a waiver of a specified property upon the Board's request in connection with a complaint involving said property.
  - 12.7.2.7 Failure to comply with the provision of this section shall be deemed professional misconduct subject to an appropriate penalty.
- 12.8 Minimum Procedures for Performing a MSP. If the ultimate user waives setting corner markers and agrees to the preparation of an MSP, the surveyor shall perform at least the following procedures:
- 12.8.1 Examine appropriate documents of record for the subject parcel and review the most current tax assessment map for inconsistencies with said documents. The surveyor is required to check for mathematical closure of said documents. If said documents do not close mathematically, the surveyor will determine, based upon his professional judgement, if a boundary survey is warranted.
  - 12.8.2 Take sufficient on-site measurements to enable the surveyor to perform the tasks called for by this regulation with regard to the:
    - 12.8.2.1 Location relative to the property lines being surveyed of buildings and ~~those~~ other pertinent improvements;
    - 12.8.2.2 Locations of possible encroachments relative to the property lines being surveyed reasonably determined by visual inspection;
    - 12.8.2.3 Easements; and
    - 12.8.2.4 Rights-of-way.
  - 12.8.3 If the ultimate user has approved an MSP, then the following elements shall be shown:
    - 12.8.3.1 Significant buildings, structures and other pertinent improvements, and their relationship to the property lines referenced radially and/or perpendicular to the nearest boundary, based on the field measurements taken by the surveyor, and any other boundary evidence considered by the surveyor;
    - 12.8.3.2 Statement with regard to the Classification of Survey; (REFER TO ATTACHMENT A)
    - 12.8.3.3 Possible encroachments on the subject property and from the subject property onto adjoining property located relative to the property lines being surveyed to the extent reasonably determined by a visual inspection of the properties; and
    - 12.8.3.4 Minimum setback lines, as shown on plats,
    - 12.8.3.5 A minimum of two described boundary corners of the subject property, either found or set, and their relationship denoted by appropriate courses and distances to each other. and the subject property. Two described boundary corners of the subject property are not required when the subject property is part of a townhouse (row house) community constructed prior to 1980, or a community designated as "55 or over", or a condominium community. A subject property within said communities will require a minimum of two described boundary control points, either found or

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**TITLE 24 REGULATED PROFESSIONS AND OCCUPATIONS**  
**DELAWARE ADMINISTRATIVE CODE**

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set, and their relationship denoted by appropriate courses and distances to each other and the subject property.

12.8.3.6 Easements or rights-of-way as shown on the aforementioned documents of record for subject property.

12.8.4 If, in connection with the preparation of an MSP, a surveyor finds evidence to warrant, in the surveyor's professional opinion, the performance of a boundary survey, the surveyor shall so notify, in writing, the ultimate user or the ultimate user's representative.

12.8.5 If the ultimate user has approved the preparation of an MSP, then:

12.8.5.1 The MSP prepared by the surveyor shall prominently display, at a minimum, advice to the effect that:

12.8.5.1.1 The MSP is of benefit to a ultimate user only insofar as it is required by a lender, a title insurance company or its agent in connection with the contemplated transfer, financing, or refinancing of subject property; and

12.8.5.1.2 The MSP is not to be relied upon for future improvements.

12.9 Plats.

12.9.1 The original plat of an MSP shall be a reproducible drawing at a scale which clearly shows the results of the field work, computations, research and record information as compiled and checked and shall bear the title "Mortgage Survey Plan".

12.9.2 The plat shall be prepared in accordance with the following procedures:

12.9.2.1 A reasonably stable and durable drawing paper, linen or film is considered a suitable material;

12.9.2.2 Plats may not be smaller than 8 ½ x 11 inches;

12.9.2.3 The plat shall show the following:

12.9.2.3.1 Caption or title and address (if applicable) and subdivision lot number of the property (if applicable),

12.9.2.3.2 Scale,

12.9.2.3.3 Date,

12.9.2.3.4 Name and address of the firm or surveyor; and

12.9.2.3.5 Original signature and board-approved seal of the licensed surveyor in responsible charge,

12.9.2.3.6 Ultimate User's name,

12.9.2.3.7 Statement with regard to the Classification of Survey; (REFER TO ATTACHMENT A)

12.10 Maintenance of Records.

12.10.1 The surveyor shall make a reasonable effort to maintain records, including names or initials of all personnel, date of performance, reference to field data, such as book number, loose leaf pages and other relevant data.

12.11 Local Standards.

12.11.1 All work shall be performed according to the minimum standards for the community in which the service is provided, as long as said standards meet or exceed the standards herein. (4) Current local standards shall take precedence over the MSP as to the manner in which mortgage or deed-related surveys or plans are prepared and as to the manner of field work and staking related to these surveys or plans, if those standards require more detailed or more accurate work to meet those local standards.

12.12 Based on current information, the MSP shall be accepted as a minimum standard only in New Castle County when requested by the ultimate user as an option to a boundary survey. In Kent and Sussex counties, MSP's shall not be considered to meet the minimum local standards for the work required for mortgage or deed-related surveys or plans. For mortgage and deed-related surveys or plans in Kent County and Sussex County, the minimum requirement is a Boundary Survey Plan prepared in compliance with Regulation 12.0 which includes proper monument placement.

12.12.1 Electronically Transmitted Documents. Documents including drawings, specifications and reports, that are transmitted electronically to a client or a governmental agency shall have the computer-generated seal removed from the original file, unless signed with a digital signature as defined in 12.12.2. After removal of the seal the electronic media shall have the following inserted in lieu of the signature and date: This document originally issued and sealed by (Name of sealer), containing the original seal, signature and date of the licensee may be duplicated by photocopy or electronic scanning processes and distributed either in hardcopy or electronic medium. The scanned digital files of properly certified documents are not

subject to the requirements of this paragraph. The electronic submission of CAD, vector or other files subject to easy editing are subject to the requirements of this paragraph. Easy editing is based on the file consisting of separate elements that can be individually modified or deleted.

12.12.2 Documents to be electronically transmitted that are signed using a digital signature, shall contain the authentication procedure in a secure mode and a list of the hardware, software and parameters used to prepare the document(s). Secure mode means that the authentication procedure has protective measures to prevent alteration or overriding of the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached to or logically associated with an electronic document. The digital signature shall be:

12.12.2.1 Unique to the licensee using it;

12.12.2.2 Capable of verification;

12.12.2.3 Under the sole control of the licensee; and

12.12.2.4 Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

12.12.3 Electronic formats must be approved by the board and must meet all criteria set forth in 12.2.1 and 12.2.2.

**7 DE Reg. 918 (01/01/04)**

**11 DE Reg. 1664 (06/01/08)**

**14 DE Reg. 675 (01/01/11)**

### **13.0 Professional Conduct - Code of Ethics**

13.1 Foreword. Honesty, justice and courtesy form a moral philosophy which, associated with mutual interest among men and women, constitutes the foundation of ethics. The surveyor should recognize such a standard, not in a passive observance, but as a set of dynamic principles guiding his/her conduct and way of life. It is his/her duty to practice his/her profession according to this Code of Ethics.

As the keystone of professional conduct is integrity, the surveyor will discharge his/her duties with fidelity to the public, his/her employers and clients, and with fairness and impartiality to all. It is his/her duty to interest his/herself in the public welfare, and to be ready to apply his/her special knowledge for the benefit of mankind. He/she should uphold the honor and dignity of his/her profession and avoid association with any enterprise of questionable character. In his/her dealings with fellow surveyors he/she should be fair and tolerant.

13.2 Professional Life.

13.2.1 The surveyor will cooperate in extending the effectiveness of the surveying profession by interchanging information and experience with other surveyors and students and by contributing to the work of surveying societies and associations, schools and the scientific and surveying press.

13.2.2 It shall be considered unprofessional and inconsistent with honorable and dignified bearing for any surveyor to advertise his/her work in a false or deceptive manner that may mislead the public.

13.2.3 The surveyor will avoid all conduct or practice likely to discredit or do injury to the dignity and honor of his/her profession.

13.2.4 Because superior and distinct knowledge of surveying is essential to the profession, it is imperative for the surveyor to continue his/her education.

13.2.5 The surveyor shall not permit the use of his/her professional seal on any work over which he/she was not in responsible charge and/or direct supervision.

13.3 Relations With The Public.

13.3.1 The surveyor will endeavor to extend public knowledge of surveying and will discourage the spreading of untrue, unfair and exaggerated statements regarding surveying.

13.3.2 He/she will have due regard for the safety of life and health of public and employees who may be affected by the work for which he/she is responsible.

13.3.3 He/she will express an opinion only when it is founded on adequate knowledge and honest conviction while he/she is serving as a witness before a court, commission or other tribunal.

13.4 Relations With Clients and Employers.

13.4.1 The surveyor will act in fairness and in a professional manner toward each client or employer and produce a quality survey regardless of price.

13.4.2 He/she will engage, or advise his/her client or employer to engage, and he/she will cooperate with, other experts and specialists whenever the client's or employer's interests are best served by such service.