

# 2016 Proposed Minimum Standards

Kansas

## Minimum Standards For Boundary Surveys and Minimum Standards For Mortgage Title Inspections

### Standards of Practice

#### **PREFACE**

These Standards provide surveyors and the public a realistic and prudent expectation of adequate land surveying performance.

The Kansas Society of Land Surveyors first adopted these standards in 1978. They were amended February 1988, October 23, 1998, October, 2005; October, 2006; and December, 2009. The Rules and Regulations that reference the current Minimum Standards were adopted by the Kansas State Board of Technical Professions on May 24, 2010.

#### **SCOPE**

These standards apply to every boundary survey and mortgagee title inspection performed in the State of Kansas. Additional requirements or higher standards may be prescribed by contractual agreement, statute, administrative rule or ordinance.

#### **I. DEFINITIONS—For the purposes of these standards:**

1. "Surveyor" means a Professional Surveyor as defined in KSA 74-7003 et seq.
2. "Boundary survey" means any land survey performed for the purpose of describing, monumenting, locating the boundaries of, or subdividing a tract or parcel of land. Monumenting the boundaries of easements and other interests in real property is a Boundary Survey.
3. "Survey plat" means a drawing prepared by a Surveyor that graphically depicts the details of a survey and the location of the monuments (KSA 58-2001). A survey plat is sometimes titled Plat, Certificate of Survey, Survey, or Report of Survey.
4. "Subdivision plat" means a type of survey plat that creates lots, tracts, units or other parcels of land, that is acknowledged by the landowner and which requires acceptance by a city or county governing body (KSA 58-2001).
5. "Responsible Charge" is defined in KSA 74-7003, et seq.
6. "Significant Difference" with another Surveyor occurs when one Surveyor does not accept and use a monument set or accepted by another Surveyor.
7. "Theory of location" means the rationale the Surveyor uses to evaluate the evidence and establish the boundary. The rationale includes legal principles such as honoring the footsteps of the original Surveyor, reputation of monuments, priority of calls, junior-senior rights, applicable state law and field measurements.
8. "United States public land survey corner" means a corner monumented by the original government Surveyors as indicated in the GLO field notes, which includes section corners, quarter corners, witness corners, meander corners, and protracted corners. Section centers and quarter corners closing on a standard parallel are also United States public land survey corners.

## **II. BOUNDARY DESCRIPTIONS (AKA: LEGAL DESCRIPTIONS)**

Any Boundary Descriptions written by the Surveyor shall be complete, providing definite and unambiguous identification of lines and boundaries thereof.

1. Unless the parcel is described as an aliquot part of a lot in a recorded subdivision or a section in the U.S. public land survey the description shall contain dimensions and pertinent bounds sufficient to enable the description to be plotted and retraced.
2. A metes and bounds description must originate from a monumented corner.
3. In a recorded subdivision or addition if the parcel is described by metes and bounds it shall be referenced to a monumented lot or block corners in said recorded subdivision or addition.
4. In unplatted areas the point of commencing or the point of beginning shall be a corner of an aliquot part of section or government lot; or if the parcel adjoins a recorded subdivision the point of commencing and the point of beginning may be a monumented corner along the exterior of said subdivision.
5. Any newly written Boundary Description shall include the name and license number of the preparer, along with the date of preparation within the caption or body of the description.

## **III. RESEARCH & INVESTIGATION**

1. The Surveyor shall, insofar as practical, search the public record and acquire the necessary data to identify gaps, gores and overlaps of current descriptions of adjoining properties, prior surveys and controlling monuments.
2. Required research will vary depending on the circumstances and may include but are not limited to deeds, maps, section corner ties, subdivision plats, road records, state highway records, County Surveyor's records of section lines, and other boundary line locations in the vicinity.

## **IV. CONDUCT OF SURVEY**

The Surveyor shall, or under his or her responsible charge, conduct the survey in accordance with the following:

1. Search thoroughly for necessary controlling monuments and other physical evidence.
2. If necessary, investigate parol evidence supporting positions of obliterated control monuments and take necessary oaths.
3. Cooperate with appropriate public officials.
4. Take necessary measurements to analyze and evaluate evidence.
5. Make sufficient check measurements and computations to satisfactorily verify the fieldwork.
6. Where relevant, locate possession lines.
7. Evaluate the evidence, and apply the proper theory of location in accordance with applicable statutes, or precedents in determining the position of all corners to be established or re-established.
8. If a Significant Difference with the work of another Surveyor exists, a prudent attempt shall be made to contact said Surveyor and discuss the difference.
9. All set monuments required herein shall comply with statutes and administrative regulations.
10. All pertinent information, measurements, and observations made in the field during the course of the survey shall be recorded and kept in a manner that is intelligible to another Surveyor.

## **V. Survey Plat**

The client shall be furnished a survey plat or subdivision plat depicting the following information:

1. The name, address, and phone number of the Surveyor, company, or corporation performing the survey.

2. The boundary description of the parcel surveyed.
3. North arrow, scale, graphic scale, legend, date field work was completed, and angles, bearings or azimuths. When bearings or azimuths are shown, their basis shall be indicated.
4. All pertinent measured dimensions. On other dimensions, sufficient notations as indicated in the legend shall be used to identify their source; such as, but not limited to the following examples:
  - a. (P) plat dimension
  - b. (D) call from deed
5. All pertinent monuments found or set with a notation indicating which were found and which were set
  - a. Found monuments shall be, identified as to observed size and type. Found monuments shall be accompanied by a reference to their presumed origin, or noted "Origin Uncertain" or "Origin Unknown". The relationship of unaccepted monuments to the surveyed lines and corners shall be indicated.
  - b. Set monuments shall be described by dimensions (including length), material, and cap type and imprint, if applicable.
6. All found or set monuments and evidence of possession beyond the surveyed premises on which establishment of the corners of the surveyed premises are dependent.
7. Where possession affects the survey, the character or type of observed evidence of possession and the location of such evidence in relation to the surveyed boundary lines shall be depicted and noted.
8. Delineation must be such that gaps, gores and overlaps with adjoining descriptions are clearly shown and dimensioned. When a gap, gore or overlap is determined and shown by dimension or note, adjoining parcels identified by the title description or record reference, shall be shown.
9. Easement delineation:
  - a. On platted lots the platted easements lines shall be shown.
  - b. If agreed to in writing, all recorded easements provided by the client, evidenced by a record document which has been provided to the Surveyor, shall be shown. Indicate the source document and/or recording data of record documents.
  - c. Observed evidence of encroachments and/or servitudes on or across the surveyed property, and adjoining properties if they appear to affect the surveyed property, shall be shown.
10. Sufficient data to clearly indicate the theory of location applied in finalizing the corner locations, any data which varies from this theory of location, and sufficient data to allow the facile retracement of all pertinent lines and points depicted on the plat.
11. Any data or items which are excluded from the survey by agreement with the client, such as monuments not set at boundary corners, easements, or other encumbrances shall be noted as "excluded by agreement with client."
12. The survey plat shall be sealed, signed and dated by the Surveyor in accordance with current regulations.
13. Where Kansas State Plane Coordinates (As Defined by KSA 58-20a06 ) are shown on a survey they will be shown in meters or US Survey Feet, with the conversion factor of 39.37 inches per meter plainly shown on the plat.

## **VI. MONUMENTATION**

1. Unless specifically excluded by agreement with the client and noted on the survey plat, the Surveyor shall establish, or confirm the existence of permanent monuments at each and every corner on the boundaries of the parcel or tract of land being surveyed.

- a. Set monuments shall be a metallic bar or pipe constructed of material capable of being detected by commonly used magnetic locators. Where practical, said monuments shall be firm and substantially free from movement. These monuments shall have affixed thereto a cap or other device bearing the registration number of the Surveyor in responsible charge or the corporate registration number of the corporation registered to practice land surveying in the State of Kansas (i.e. CLS 000) or the name of the governmental agency legibly stamped or imprinted thereon. Drilled holes and chiseled marks are acceptable on solid concrete, rock or metal surfaces.
  - b. Unless extenuating circumstances dictate, the minimum size of a set monument shall be a pipe not less than ½" inside diameter or a solid rod not less than ½" in diameter, and with a minimum length of 24 inches.
  - c. In such cases where the placement of a required monument at its proper location is impractical, it shall be permissible to set a reference monument close by the point, and if such reference monument is set, its location shall be properly shown on the survey plat. When conditions warrant setting a reference monument on an offset, the location shall be selected so the reference monument lies on a line of the survey or on the prolongation of such line. Reference monuments shall not be offset in fractional feet or less than two feet from the true corner unless a physical obstruction affects their location.
  - d. The use of existing man-made monuments, such as fence corner posts, is acceptable on new tracts if clearly described on the survey plat, included as calls in the prepared legal description, and noted on the plat as an exception to required monumentation by agreement with client. Man made monuments shall be clearly described by material and size, and if set in concrete.
2. All existing United States public land survey corners accepted by the Surveyor which do not meet the above minimum monumentation standards shall, when existing conditions permit, be remonumented to standards.
    - a. As an option for surveyor safety United States public land survey corners in pavement in high traffic areas or within the right-of-way of state and federal highways may be referenced by-an offset bar that meets these minimum standards, set within 200 feet on a section line or quarter section line. All information shall be shown on the corner reference report, and if applicable, the survey plat.
    - b. United States public land survey corner stones shall have a bar placed over or in close proximity to the stone to facilitate the relocation. The corner reference report shall show the direction and distance from the bar to the center of the stone.

## **VII. PERPETUATION**

1. Reference reports to United States public land survey corners and section centers must be filed for record as provided by KSA 58-2003 and 58-2011.
2. After a boundary survey which results in the re-establishment of lost United States public land survey corner monuments or replacement of obliterated monuments, sufficient documentation of the theory applied in finalizing the locations of corners, any data at variance with this theory, and sufficient data to allow the facile retracement of all pertinent lines and points shall be provided to the appropriate county agency charged with the preservation of this information. This requirement may be satisfied by one of the following methods: 1. Providing above noted details on the survey plat that is filed for record as required by KSA 19-1434. 2. Providing above noted details on a survey plat that is filed with the county office specified for corner reference reports in KSA 58-2011. 3.

Providing the above noted details on the corner reference reports sent to the Kansas State Historical Society and the county office as specified in KSA 58-2011.

3. Certain surveys shall be filed for record if required by KSA 19-1434.
4. Every Surveyor should endeavor to preserve his or her records, field notes, and plats not filed for public record.

## **VIII. MEASUREMENTS**

The relative precision of the Surveyor's reported measurements shall meet or exceed the following: The true horizontal distance between any two points whose positions are stated relative to each other, whether directly or indirectly by calculation, shall not differ from the reported distance by more than 1 part in 10,000 plus 0.10 feet. This relative position is not a standard for acceptance of existing monumentation.

## **MINIMUM STANDARDS FOR MORTGAGEE TITLE INSPECTIONS (MTIs)**

A Surveyor in the State of Kansas shall not provide to any party a mortgagee title inspection unless in possession of a work order signed by the borrower indicating that they have been advised of the different types of services available and the scope of each of these services. (See the attached recommended work order.) This work order may be changed to fit the Surveyor's or the client's particular needs, except that the three services shown may only be expanded to include more services and the signature statement must remain unchanged.

### **FIELD PROCEDURES**

Professional notes shall be taken on all MTIs and kept as part of the Surveyor's permanent record. A diligent search for existing control and/or boundary evidence shall be made by field crews. The highest order of existing control and/or boundary evidence available shall be used to perform the MTI. The Surveyor must obtain sufficient evidence relating to the property boundary to demonstrate general knowledge of the given area.

### **DRAFTING**

A sketch or diagram of the parcel shall be used in support of the certificate, and the following minimum standards will be used:

- a) Property lines with the boundary dimensions from the deed description or plat shall be shown.
- b) Major improvements (permanent structures) shall be shown with dimensions and descriptions (e.g., residences, garages, outbuildings with foundations, in-ground pools).
- c) Major improvement locations shall be shown with dimensions to the nearest property lines with a minimum of three dimensions shown for normal lots, and shall be sufficient to locate the structure (offsets shall be shown perpendicular to straight property lines and radially to curved property lines). The level of certainty of these dimensions, based on the evidence found in the field and not as a standard note shall be shown in parenthesis after each dimension or by means of a general note. Example: 12.5' ( 0.5'), or Front offsets: 0.3', Side offsets: 0.4').
- d) Means of access and platted setback lines shall be shown graphically and labeled.
- e) Platted and apparent easements shall be shown and labeled. State the source of record easement information, if other than platted (e.g., miscellaneous book and page of recording. If

the information was obtained from a title company, state which title company and the commitment number).

f) The posted address shall be shown, if not posted, so state.

g) A north arrow shall be shown.

h) Encroachments shall be noted and shown in an obvious manner. When the level of certainty of dimensions to possible encroachments are not precise enough for a positive determination, a boundary survey shall be recommended.

i) The following caption shall appear prominently on the sketch:

MORTGAGEE TITLE INSPECTION (this does not constitute a boundary survey)

j) If the certification and the sketch are on more than one sheet of paper it shall be so indicated (e.g., Page 1 of 2, Page 2 of 2).

#### CERTIFICATION

A mortgagee title inspection shall only refer to performing an inspection of the property and shall not indicate the performance of a survey in any part of the certification. The certification shall contain the name, address, and the telephone number of the Surveyor responsible for the inspection, in addition to the following:

1) A statement that the inspection was either conducted by the Surveyor or that the inspection was made under his or her responsible charge. The date the inspection was made and the legal description of the property inspected.

2) A statement that the accompanying sketch is a true representation of the conditions that were found at the time of the inspection and that the inspection was prepared for mortgagee title insurance only, and that the document does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose. It shall state the fact that no property corners were set, and that the information shown on the sketch should not be used to establish any fence, structure or other improvements. It shall be stated that the linear or angular values shown on the sketch, if any, are based on record or deed information and have not been verified unless noted. Include notification that the Surveyor is not extending a warranty to the present or future owners or occupants.

3) a) All copies of the MTI delivered to the client shall be signed and dated by the Surveyor in blue ink. The signature and date shall be placed across the Surveyor's seal. b) The Surveyor shall make a reasonable effort to discourage the unauthorized copying and reuse of all MTI's.

#### RECORDS

The Surveyor shall perform adequate research, maintain sufficient recorded documentation, and provide the field crews with information necessary to determine the property dimensions in the field.

WORK ORDER

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

Lender: \_\_\_\_\_ Ordered by: \_\_\_\_\_

Common address: \_\_\_\_\_

Legal description: \_\_\_\_\_

Title Commitment being prepared by: \_\_\_\_\_

Is Flood Zone Verification required? Yes \_\_\_\_\_ No \_\_\_\_\_

Does the property have: Locked Gates: \_\_\_\_\_ Security System: \_\_\_\_\_ Animals to be lockedup: \_\_\_\_\_

Deliver \_\_\_\_\_ copies to:

Anticipated closing date: \_\_\_\_\_ Need-by date: \_\_\_\_\_

Is estimate of fee required prior to service? Yes \_\_\_\_\_ No \_\_\_\_\_

A Mortgagee Title Inspection can only be provided if this work order is signed by the purchaser or mortgagor of the property to be inspected, pursuant to Article 66-12-1 of the Rules and Regulations of the Kansas State Board of Technical Professions.

Please read carefully and indicate the type of service you wish to order.

\_\_\_\_\_ Mortgagee Title Inspection: The sole purpose of this inspection is to obtain mortgagee title insurance. This is the minimum service that your lender requires for closing your loan. It is a location of improvements and cursory check for violations or encroachments onto or from the subject property based on existing but not confirmed evidence. This does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose. No property corners will be set and it should not be used or relied upon for the establishment of any fence, structure or other improvement. No warranty of any kind is extended therein to the present or future owner or occupant.

\_\_\_\_\_ Boundary Survey and Improvement Location: A boundary survey of the subject property will be made and the property corners will be located and verified or reset. The improvements on the property will be located and a check for violations or encroachments onto or from the subject property will be made. This survey can be used by the property owner for the construction of a fence, structure or other improvement.

\_\_\_\_\_ ALTA (American Land Title Association) Survey: This is the most comprehensive type of survey and improvement location. It covers all the aspects of the boundary survey and improvement location and identification of any additional evidence of possession or use which could be adverse to the interests of the purchaser. This type of survey is normally only performed on commercial property because of the expense involved.

I (We), the undersigned borrower(s), have read, understand and have indicated the type of service to be performed.

Signature \_\_\_\_\_ Signature \_\_\_\_\_

Date \_\_\_\_\_ Date \_\_\_\_\_

Notice: The survey company reserves the right to terminate work on a Mortgagee Title Inspection, if it determines that meaningful results can not be expected from this type of service. The suitability of any particular property as the subject for a Mortgagee Title Inspection may not be determinable until after work is in progress. The survey company assumes no liability for delays resulting from weather or other factors beyond their reasonable control.