



Tecumseh Chapter of the Indiana Society of Professional Land Surveyors  
309 Columbia Street, Suite 101 Lafayette, Indiana 47901

2003-2005 OFFICERS:

President: Patrick N. Cunningham, R.L.S.

Vice President: Roger A. Fine, R.L.S.

Secretary-Treasurer: Timothy A. Beyer, P.E., R.L.S.

**FROM THE NOVEMBER 9, 2005 CHAPTER MEETING:**

- John Nagy, Mark Hennessey, Kyle Betz, and Justin Frazier served on a panel discussing some of the "lesser-known" or commonly misunderstood sections of the Indiana Code and Indiana Administrative Code pertaining to land surveying. The panel discussion was moderated by Tim Beyer. A brief synopsis of the questions and panel discussion is attached.



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Questions for panel discussion at November 9, 2005 chapter meeting

- (1) Based on Indiana Code or Indiana Administrative Code, can a licensed land surveyor prepare and sign plans for the following items?

- a. Sewage lift stations *No (IC 25-21.5-1-7; IC 25-21.5-9-4)*
- b. Sewage forcemains *No (IC 25-21.5-1-7; IC 25-21.5-9-4)*
- c. Watermains *No (IC 25-21.5-1-7; IC 25-21.5-9-4)*
- d. Gravity sanitary sewers  
*Yes if for and within subdivisions (IC 25-21.5-1-7). If sanitary sewer is outside limits of subdivision or not for a subdivision, law seems to prohibit surveyor from preparing and signing plans even though the surveyor should be qualified to do so.*
- e. Plans prepared by a licensed engineer or architect  
*Not unless the plans are within the practice of land surveying as defined and the surveyor takes responsibility for the design.*

- (2) Based on Indiana Code or Indiana Administrative Code, who is permitted to perform construction staking for infrastructure within or related to easements and rights-of-way?

- a. Licensed Land Surveyor *Yes*
- b. Licensed Engineer *No per 865 IAC 1-12-5, but IC 25-21.5-9-5 "muddies" it*
- c. Layout personnel on construction crew  
*No per 865 IAC 1-12-5, but offset stakes by the Contractor set directly from surveyor's stakes are a practical necessity.*

***See also attached sample specifications that a surveyor may choose to include on construction plans addressing these issues and the use of GPS-guided equipment previously discussed by the chapter at their meeting on February 25, 2004 .***

- (3) In the event that you disagree with the boundary solution on one of your fellow surveyor's boundary surveys, what is your responsibility? What should you do if you agree with another surveyor's solution, but when you go to set your monuments, you discover that your location for the boundary corner is 0.14 feet away from an existing monument set by the other surveyor?

*Per 865 IAC 1-12-4 "Discuss the land surveyor's survey work confidentially with other registered land surveyors in the event of conflicts or discrepancies revealed by the survey". From a practical standpoint, if you call another surveyor to meet this requirement and he does not call you back, you should probably send him a copy of your survey with a brief transmittal letter asking him to call you if he would like to discuss the survey.*

*In most cases, you should know where the other surveyor's monuments are before you go out to set your monuments. However, if you run into such a scenario for some reason (perhaps it's an updated survey, for example, and you are replacing missing monuments), you probably should not set another monument right next to another surveyor's monument because such a discrepancy is within our measurement capabilities (depending on the size of survey, terrain, etc.).*

- (4) Can a licensed land surveyor legally operate two offices in two different locations?

*The law does not prohibit this; however, the requirements for surveyor responsibility are spelled out in 865 IAC 1-12-3 and IC 25-21.5-9-6 (among others). From a practical standpoint, it would be difficult (but possible if two offices are geographically near each other) to adequately meet*

*these requirements with a single licensed land surveyor and more than one office. It is likely, however, that there are surveyors who do not meet these "supervision and responsibility" requirements with just one office.*

- (5) If you discover or suspect that an individual is practicing land surveying without a license, what recourse do you or a citizen have? Should the rule allow other measures to be taken and, if so, what should they be?

*The current rules IC 25-21.5-11 are very labor intensive for the person(s) pursuing the individual practicing without a license. An injunction can be ordered, but if the person continues, then he has to be found in contempt of that injunction by a court, so the process can be difficult and lengthy.*

*Fines, possible imprisonment and other "measures with teeth" would probably be more effective at discouraging unlicensed individuals from practicing land surveying without a license.*

- (6) Does the Indiana Code or the Indiana Administrative Code prohibit a surveyor from preparing a legal description for an individual to divide and create a new tract of ground without publishing a boundary survey for that newly created property?

*No. This point is often confused by some surveyors with the following language from 865 IAC 1-12-12.... "When conducting a retracement survey or an original survey, a registered land surveyor shall do the following:..... Record the plat of survey and the associated surveyor's report in the county recorder's office in the county where the property is located when:*

*(A) a new tax parcel will be created based on the survey;*

*(B) a survey of an unsubdivided tract or a portion of a subdivided lot has not been previously recorded;*

*(C) if, in the registered land surveyor's opinion, a survey of a whole subdivided lot or lots is substantially at variance with the subdivision plat, previously recorded surveys, monuments, or evidence of possession;*

*(D) if, in the registered land surveyor's opinion, the monuments, monument witnesses, evidence of possession, or description is not consistent with the last recorded survey of the parcel;*

*(E) it is required by law; or*

*(F) the plat of survey contains a new subdivision plat that will subsequently be recorded and must be cross-referenced to the previously recorded survey plat."*

*That statement simply tells us when a survey must be recorded (which is most of the time). It does not prohibit a surveyor from writing a legal description for the purpose of creating a new tract of ground. Sometimes a surveyor may feel more comfortable if he prepares and records a survey and sometimes an existing piece of ground may have such an ambiguous description that a survey would be highly recommended, but in most cases a survey is not required to simply write a legal description. **However, if you are setting monuments as a part of the legal description then you are performing a survey and then are required to meet the minimum standards required by law.***

- (7) Can an unlicensed person do staking for their own house, perform a topographic survey, write a legal description, or perform a boundary survey on their own 10-acre property?

*Probably yes for the legal description (but IC 25-21.5-1-7 seems to indicate licensed land surveyor or attorney are only permitted). Probably not for the rest since it would involve public health and safety. See also IC 25-21.5-4.*

## **SAMPLE SPECIFICATIONS RELATED TO QUESTION (2):**

Construction staking shall be furnished by the Owner and shall be performed by a land surveying firm with a land surveyor registered in the State of Indiana. (Optional: Spell out the amount and type of staking included). Any expense for additional or duplicate staking/restaking shall be the responsibility of the Contractor at the Owner's discretion. The Contractor shall generally give the Surveyor a minimum of three (3) working days notice, wherever possible, for construction staking needed on the project.

In the event that the Contractor uses machine control technology, (such as with GPS-guided equipment, laser guided equipment using a robotic total station, or a combination of the two) such equipment shall only be used for grading of the site. All other infrastructure shall require construction staking as outlined above. The Owner shall furnish a horizontal and vertical control network on the site and it shall be performed by a land surveying firm with a land surveyor registered in the State of Indiana. The control network shall consist of at least one horizontal and vertical control point for every 10 acres of on-site area, but shall in no case be less than five control points. Such control points shall be evenly spaced throughout the site. Control points shall generally be placed around the perimeter of the site such that all or most of the site is contained completely within the control network. One or more interior control points shall be provided such that control is evenly spaced throughout the interior of the site as well. The number and spacing of such control points shall serve a dual purpose for both calibration and quality control checks of the machine-guided equipment. Additional control points shall be provided for oddly shaped sites in order to meet these specifications. At least one as-built check of the grading shall be performed prior to fine grading and final as-builts in order to provide a quality control check. A report of this as-built check shall be furnished to the Owner and Contractor prior to fine grading. The Contractor shall be responsible for coordinating this check with the Surveyor. These specifications shall be considered a minimum requirement. Manufacturer's recommendations may require further control or functionality.

Data preparation (3D modeling) for the machine controlled equipment to be used on the site shall also be performed by a registered land surveyor or professional engineer licensed in the State of Indiana, who is experienced with such data preparation.

In the event that a professional engineer wishes to place his own stakes on the site or perform his own construction staking, he shall do the following in order to remain in compliance with Indiana law relating to the practice of land surveying: (1) He shall hire a land surveyor licensed in Indiana to provide the following: (a) The limits of the property and the limits of any existing or proposed easements or rights-of-way on the property where infrastructure is intended to be placed; (b) Appropriately spaced survey control related to the basis of the proposed improvements.

In order to remain in compliance with Indiana law relating to the practice of land surveying or engineering, no construction staking shall be performed by the Contractor unless he has an Indiana licensed land surveyor or professional engineer on staff supervising and in responsible charge of the staking in accordance with these specifications and plans, except that the Contractor may place his own offset stakes that are directly related to stakes placed under the supervision of an Indiana licensed land surveyor or professional engineer in accordance with these specifications and plans.

Question (1) Code References:

**IC 25-21.5-1-7**

**Practice of land surveying**

Sec. 7. (a) "Practice of land surveying" means any of the following:

(1) The measurement of directions and distances needed to establish or reestablish the corners and boundaries required to locate lots, parcels, tracts, or divisions of land.

(2) The determination of elevations and preparation of topographic drawings for tracts of land.

(3) The preparation of subdivision plats.

(4) The preparation of legal descriptions of tracts of land to be used in the preparation of deeds of conveyance or other instruments, except when prepared by an attorney who is licensed to practice law in Indiana.

(5) The determination of the amount of acreage contained in a tract of land, except when determined by an attorney who is licensed to practice law in Indiana.

(b) The term includes the following:

(1) For and within subdivisions being laid out or having been laid out by the land surveyor, the preparation and furnishing of plats, plans, and profiles for roads, storm drainage, sanitary sewer extensions, and the location of residences or dwellings where the work involves the use and application of standards prescribed by local, state, or federal authorities.

(2) The necessary staking and layout work to construct roads, storm drainage, sanitary sewer extensions or location of residences or dwellings, if the plans and profiles were prepared by or under the direction of a land surveyor.

(3) Preliminary surveys for preparation of plans for engineering and building construction projects and the staking out of the projects from plans prepared by a registered professional engineer or by a registered architect.

(4) All work incidental to cleaning out, reconstruction, or maintaining existing open and tile drains.

*As added by P.L.23-1991, SEC.12. Amended by P.L.218-1993, SEC.1.*

**IC 25-21.5-9-4**

**Limitations on practice**

Sec. 4. The practice of land surveying does not permit a land surveyor to design and construct sewage disposal stations, lift stations, or bridges or to prepare engineering plans for the construction of engineering projects other than those prescribed in IC 25-21.5-1-7.

*As added by P.L.23-1991, SEC.12. Amended by P.L.178-1997, SEC.21.*

Question (2) Code References:

**865 IAC 1-12-5 Property surveys affected**

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 5. Retracement surveys and original surveys and all updates of previously completed surveys must fully comply with this rule except the following:

- (1) Surveyor location reports as provided for in sections 27 through 29 of this rule are only subject to sections 1 through 4, 6, and 27 through 29 of this rule.
- (2) Construction surveys made for the purpose of marking the limits of existing easements or rights-of-way for the construction of improvements within the easement or rights-of-way must be executed by a registered land surveyor but are only subject to the provisions of sections 1 through 4 and 6 of this rule.
- (3) Delineation or demarcation and placement of stakes or markers for the purpose of constructing fences, buildings, walls, or other improvements on or in close proximity to a land boundary, except for property corner monumentation, are only subject to sections 1 through 4 and 6 of this rule provided the land surveyor has found acceptable evidence of the boundary location in accordance with this rule.

*(State Board of Registration for Land Surveyors; 865 IAC 1-12-5; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2242; filed Oct 13, 1992, 5:00 p.m.: 16 IR 887; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1884) NOTE: 864 IAC 1.1-13-5.1 was renumbered by Legislative Services Agency as 865 IAC 1-12-5.*

**IC 25-21.5-9-5**

**Professional engineers; limitations on practice**

Sec. 5. The practice of land surveying does not prohibit a professional engineer from doing work that does not involve the location, description, establishment, or reestablishment of property corners or property lines.

*As added by P.L.23-1991, SEC.12. Amended by P.L.178-1997, SEC.22.*

Question 3 Code References:

**865 IAC 1-12-4 Land surveyor duty to accumulate, preserve, and share data**

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 4. A registered land surveyor shall do the following:

- (1) Accumulate, through experience and research, information on the historical development of surveys in the geographical area in which the land surveyor practices.
- (2) Accumulate survey records, field notes, plats, and other data pertinent to the area of practice.
- (3) Properly file and index for future reference those field notes, computations, maps, plats, photographs, and other data accumulated during the survey.
- (4) Provide for the long term preservation (maintenance) of the survey data. Filing of public records will partially meet this obligation. If possible, a registered land surveyor should make arrangements for the transfer of the land surveyor's records upon retirement or death.
- (5) Discuss the land surveyor's survey work confidentially with other registered land surveyors in the event of conflicts or discrepancies revealed by the survey. These discussions must not violate the registered land surveyor-client confidence, but must be sufficient to discharge the registered land surveyor's obligations to the public and the profession.

*(State Board of Registration for Land Surveyors; 865 IAC 1-12-4; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3910; filed Jul 17, 1991, 4:30p.m.: 14 IR 2241; filed Oct 13, 1992, 5:00 p.m.: 16 IR 887; filed Mar 6, 1995, 4:00 p.m.: 18 IR 1834; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-13-4 was renumbered by Legislative Services Agency as 865 IAC 1-12-4*

Question 4 Code References:

**865 IAC 1-12-3 Surveyor responsibility**

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5-4-2; IC 25-21.5-7-3

Sec. 3. (a) A registered land surveyor shall be personally responsible for planning and supervising the training, procedures, and daily activities of the nonregistered employees or subordinates involved in the surveys who are acting as exempt persons under IC 25-21.5-4-2. These activities will include, but not necessarily be limited to, the following:

(1) Client contact.

(2) Research.

(3) Collection of field data.

(4) Note reduction.

(5) Computation.

(6) Office analysis.

(7) Drafting.

(8) Preparation of certificates and reports.

(b) The daily activities by nonregistered employees or subordinates referred to in subsection (a) may not continue during any extended absences of the responsible registered land surveyor unless another registered land surveyor is in responsible charge during the land surveyor's absence.

(c) The procedures followed and the decisions made by persons under the registered land surveyor's supervision shall be regularly and systematically reviewed and approved by the registered land surveyor prior to signing the survey plat.

(d) "Supervision", as used in this section, shall be deemed to require:

(1) such control by the registered land surveyor, that the registered land surveyor can certify that he or she is knowledgeable of, and has reviewed and approved, all actions pertaining to the surveys by persons not licensed who have participated in the survey; and

(2) that all persons participating in the survey shall be regular employees of the registered land surveyor, the registered land surveyor's employer, or another registered land surveyor.

(e) In addition to the requirements in IC 25-21.5-7-3, each office of a firm, partnership, or corporation offering to perform land surveys must have a registered land surveyor in charge of the operations, and that registered land surveyor, who must be a fulltime employee or principal of the partnership or firm or an officer of the corporation, must have full responsible control of the survey operations. This registered land surveyor must maintain regular hours at that office adequate for client contact and employee supervision as defined in subsection (d).

(f) For purposes of this rule, an individual practices as a principal by being:

(1) a registered land surveyor; and

(2) the individual in charge of the organization's land surveying practice, either alone or with other registered land surveyors.

(g) A registered land surveyor shall not affix his or her seal on any surveying work unless:

(1) the registered land surveyor personally did the surveying work;

(2) the surveying work was performed by a nonregistered employee or subordinate following the requirements of subsection

(a) or by the employees of another registered land surveyor as allowed by subsection (d); or

(3) the registered land surveyor is certifying additional survey work based on a survey executed according to this rule and certified by a registered land surveyor working on the same project.

*(State Board of Registration for Land Surveyors; 865 IAC 1-12-3; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3909; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2240; filed Oct 13, 1992, 5:00 p.m.: 16 IR 886;*

*readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1883) NOTE: 864 IAC 1.1-13-3 was renumbered by Legislative Services Agency as 865 IAC 1-12-3.*

## **IC 25-21.5-9-6**

### **Employees**

Sec. 6. (a) A land surveyor:

(1) is personally responsible for designing and directing the training, procedures, and daily activities of an employee participating in any part of the land survey; and

(2) shall maintain records that are reasonably necessary to establish that the responsibility of the land surveyor for the employee that is required by this section has been fulfilled.

(b) Before a land surveyor completes, seals, or signs a survey, plan, specification, plat, drawing, or report, all procedures followed and the decisions made by the employee who participated in the survey, plan, specification, plat, drawing, or report must be reviewed and approved by the land surveyor.

*As added by P.L.178-1997, SEC.23.*

Question 5 Code Reference:

**IC 25-21.5-11**

Chapter 11. Injunctions

**IC 25-21.5-11-1**

**Actions for unauthorized practice**

Sec. 1. The attorney general, the prosecuting attorney of a county, the board, or a citizen of a county where a person who is not exempted or a registered land surveyor engages in the practice of land surveying may file an action in the name of the state of Indiana to prohibit the person from engaging in the practice of land surveying until a certificate of registration is secured or renewed under this article.

*As added by P.L.23-1991, SEC.12. Amended by P.L.178-1997, SEC.24.*

**IC 25-21.5-11-2**

**Violation of orders**

Sec. 2. A person who violates an order under section 1 of this chapter shall be punished for contempt of court. An order does not relieve a person engaged in the practice of land surveying who is not a land surveyor from the requirement of registering under this article or exempt the person from criminal prosecution.

*As added by P.L.23-1991, SEC.12. Amended by P.L.178-1997, SEC.25.*

**IC 25-21.5-11-3**

**Complaints; violations**

Sec. 3. A complaint for a violation of a provision of this chapter is sufficient if the complaint alleges that a person on a specific day:

- (1) engaged in the practice of land surveying in Indiana;
- (2) did not have a valid certificate of registration; and
- (3) was not exempt from registration.

*As added by P.L.23-1991, SEC.12.*

**IC 25-21.5-11-4**

**Investigative fund; administration by attorney general and licensing agency; appropriation**

Sec. 4. (a) The registered land surveyor and registered land surveyor in training investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the licensing agency.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provision of this article.

*As added by P.L.194-2005, SEC.66.*

Question 6 Code Reference:

**865 IAC 1-12-12 Publication of retracement survey results**

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 12. (a) When conducting a retracement survey or an original survey, a registered land surveyor shall do the following:

(1) Furnish the client with a written surveyor's report that, in addition to other pertinent data, explains the theory of location applied in establishing or retracing the lines and corners of the surveyed parcel and gives the registered land surveyor's professional opinion of the cause and the amount of uncertainty in those lines and corners because of the following:

(A) Availability and condition of reference monuments.

(B) Occupation or possession lines.

(C) Clarity or ambiguity of the record description used [*sic., or*] adjoiner's descriptions, or both.

(D) The theoretical uncertainty of the measurements.

(2) Record the plat of survey and the associated surveyor's report in the county recorder's office in the county where the property is located when:

(A) a new tax parcel will be created based on the survey;

(B) a survey of an unsubdivided tract or a portion of a subdivided lot has not been previously recorded;

(C) if, in the registered land surveyor's opinion, a survey of a whole subdivided lot or lots is substantially at variance with the subdivision plat, previously recorded surveys, monuments, or evidence of possession;

(D) if, in the registered land surveyor's opinion, the monuments, monument witnesses, evidence of possession, or description is not consistent with the last recorded survey of the parcel;

(E) it is required by law; or

(F) the plat of survey contains a new subdivision plat that will subsequently be recorded and must be cross-referenced to the previously recorded survey plat.

(b) The recorded plat of survey shall show the name of the owner of the property on the recorded plat of survey according to the county tax records at the time the survey is recorded and shall be cross-referenced to the latest record plat of survey of the property, if any is found.

(c) The plat of survey and the associated surveyor's report shall be recorded:

(1) in the case of an original or retracement survey (not previously recorded) that contains a proposed new subdivision plat, prior to recording the new subdivision plat; or

(2) in the case of retracement or original surveys not described in subdivision (1):

(B) within three (3) years and three (3) months of the survey certification date in those instances where the client signs an objection, which must contain the following statement:

"I, the undersigned, hereby request that the following identified survey, certified to me":

(Indicate one (1) or both of the following:) (i) Shall not be recorded for a period of three (3) years and three (3) months from the date of certification.

(ii) Shall not contain the name of the undersigned client on the survey recorded.

Signed: \_\_\_\_\_

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

Certifying Surveyor:

Certificate Date:

Job Number:

Brief Description:

A copy of the signed statement shall be kept with the land surveyor's file.

(d) Nothing contained in this rule shall require the registered land surveyor to furnish any survey documents to the client or

record them unless the client has satisfied the terms of the surveying engagement.

(e) Nothing contained in this rule shall prevent the registered land surveyor from furnishing a pro forma copy of the survey

to the client for use until the certified survey is requested provided the survey is clearly marked "PRO FORMA SURVEY". (*State Board of Registration for Land Surveyors; 865 IAC 1-12-12; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3912; filed Jul 17, 1991, 4:30p.m.: 14 IR 2245; filed Oct 13, 1992, 5:00 p.m.: 16 IR 889; errata, 16 IR 1188; readopted filed May 22, 2001, 9:55 a.m.: 24 IR3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1886*) NOTE: 864 IAC

1.1-13-12 was renumbered by Legislative Services Agency as 865 IAC 1-12-12.

See also Code references under Question 1 above.

Question 7 Code References:

**IC 25-21.5-4**

Chapter 4. Registration; Exceptions

**IC 25-21.5-4-1**

**Persons required to register**

Sec. 1. For the purpose of safeguarding life, health, and property, a person must be registered or exempted as a land surveyor to do the following:

(1) Practice or offer to practice land surveying in Indiana.

(2) Advertise or use a title or description tending to convey the impression that the person is a land surveyor.

*As added by P.L.23-1991, SEC.12.*

**IC 25-21.5-4-2**

**Exemptions**

Sec. 2. The following persons are exempt from this article:

(1) An employee or a subordinate of a person who holds a certificate of registration under this article if the practice of the employee or subordinate does not include responsible charge of design or supervision.

(2) An officer or employee of the United States government while engaged in Indiana in the practice of land surveying for the United States government.

*As added by P.L.23-1991, SEC.12.*

**IC 25-21.5-4-3**

**Surveying on privately owned or leased property; registration**

Sec. 3. This article does not require registration for the purpose of practicing land surveying by a person, firm, or corporation on property owned or leased by the person, firm, or corporation unless the practice involves the following:

(1) Public health or safety.

(2) The health or safety of the employees of the person, firm, or corporation.

(3) The performance of land surveying that relates solely to the design or fabrication of manufactured products.

*As added by P.L.23-1991, SEC.12.*