

## **CHAPTER 11-20 COUNTY SURVEYOR**

### **11-20-01. Duties of county surveyor - Surveys presumptively correct.**

The county surveyor shall make all surveys of land within the county which the county surveyor may be called upon to make by the owner of the land or the owner's representative, or which the county surveyor is directed to make by the district court, by the board of county commissioners, or by the board of township supervisors of any township within the county. The county surveyor also shall make a survey of the public roads and of all lands, tracts, or lots owned by the county when directed to do so by the board of county commissioners. The surveys of the county surveyor or of the county surveyor's deputies are presumptively correct.

### **11-20-02. Deputies - Appointment - Removal.**

The county surveyor may appoint one or more deputies and may revoke any such appointment at pleasure. An appointment or revocation shall be in writing, signed by the surveyor, and filed with the recorder, unless the board of county commissioners designates a different official. Each deputy shall take the constitutional oath of office and may perform any duties imposed by law upon the county surveyor. The surveyor and the surveyor's sureties shall be responsible for the faithful performance of the duties of the surveyor's office by any deputy.

### **11-20-03. Assistants - Appointment - Qualifications.**

The county surveyor may appoint all chainmen, markers, and assistants required to make a survey. When the survey is of lines and monuments in dispute between parties or is made by order of the district court, the chainmen must be disinterested persons.

### **11-20-04. Oath of assistants to county surveyor.**

Every chainman and marker employed by the county surveyor in making surveys shall take an oath that the person will discharge the person's duties faithfully. The county surveyor or the surveyor's deputy making the survey may administer such oaths.

### **11-20-05. Certificate presumptive evidence.**

The certificate of the surveyor, or of the surveyor's deputy, of any survey of any lands in the county made by the person shall be presumptive evidence of the facts therein contained unless the surveyor shall be interested in the lands described in the certificate.

### **11-20-06. When surveyor of adjoining county may act.**

Whenever a survey is required of land in which the county surveyor or either of the surveyor's deputies may be interested, or when from any cause the surveyor or deputy surveyor of the county cannot be found or is unable to act, the survey may be made by the surveyor of an adjoining county or any of that surveyor's deputies. Such survey shall have the same effect as a survey made by the surveyor of the county in which the land is situated.

### **11-20-07. Form of surveys.**

All surveys made by the county surveyor must be made in accordance with the rules and regulations laid down by the commissioner of the United States general land office and in accordance with the following principles, when applicable:

1. All corners and boundaries which can be identified by the original field notes or other unquestionable testimony shall be regarded as the original corners and must not be changed while they can be so identified. The surveyor shall not give undue weight to partial and doubtful evidence or to appearances of monuments the recognition of which requires the presumption of marked errors in the original survey, and shall note an exact description of such apparent monuments.
2. Extinct intersection corners must be reestablished at proportional distances as recorded in the original field notes from the nearest known points in the original section line, east and west and north and south from such extinct section corners.

3. Any extinct quarter section corner, except on fractional section lines, must be reestablished equidistant and in a right line between the section corners, and in all other cases, at proportional distances between the nearest known points in the original lines.
4. Central quarter corners of whole sections, and of fractional sections adjoining the north and west boundaries of townships, must be reestablished at the intersection of two right lines connecting their opposite quarter section corners, respectively. County surveyors shall perpetuate the original corners from which they may work by noting new bearing trees when timber is near. They also shall perpetuate the principal corners which they make in like manner.
5. In the subdivision of fractional sections bounded on any side by a meandered lake or river or the boundary of a reservation or irregular survey, the subdivision lines running toward and closing upon the same shall be run at courses in all points intermediate and equidistant, as near as may be, between the like section lines established by the original survey.

**11-20-08. Record of original field notes required.**

Each county surveyor shall keep the original field notes of all surveys made by the surveyor or the surveyor's deputies for permanent purposes in well-bound books of convenient size furnished by the county surveyor at the expense of the county. Each book shall contain an index referring to the surveys of which it contains the field notes.

**11-20-09. Contents of record of original field notes.**

The original field notes shall be taken and set down in the manner in which field notes of the United States surveys are kept and shall contain all of the details of each survey in the order in which the survey was made. The notes shall include in full all calculations made by the surveyor to determine areas or to measure inaccessible distances, such as lake and river crossings, or for any other purpose required by the survey. Diagrams may be used for purposes of illustration but shall not be used instead of the written notes required to be kept. The field notebook shall contain the certificate of the surveyor who made the surveys stating that the field notes therein contained are the complete original field notes of the surveys therein referred to and described.

**11-20-10. Original field notes part of record - Where books kept.**

The original field notes shall be a part of the record required to be kept by the county surveyor and the books containing the notes shall be kept with the surveyor's other records of the county. Whenever one of the field books is filled or whenever a deputy county surveyor shall have ceased taking notes in the book the deputy has been using, the book shall be deposited in the office of the county surveyor or county auditor. Whenever the term of office of a deputy county surveyor expires, the deputy shall turn over to the county surveyor the field books which the deputy has partly filled.

**11-20-11. What surveys shall be recorded.**

The county surveyor shall record in a suitable book which the surveyor shall provide at the expense of the county all surveys for permanent purposes made by the surveyor and the surveyor's deputies, except surveys for township highways.

**11-20-12. Contents of record of survey.**

The record of each survey shall contain:

1. The evidence by which the surveyor determined or identified the corners or other starting points of the survey.
2. A full description of the starting points and the means which were taken to perpetuate the starting points upon the ground or to assist in determining and preserving their locations.
3. The object of the survey.

4. The methods used by the surveyor in making the survey and, when necessary or convenient, diagrams or plats may be used to illustrate such methods. If diagrams are used, they shall be considered a part of the record and there shall be shown thereon the courses and distances of the boundary lines located by the survey and such other facts as may have been determined by it.
5. The amount and direction of the allowance made by the surveyor for the difference between the magnetic meridian and the true meridian when the courses of the lines shown on the survey are given by the magnetic needle.
6. The date of the survey.
7. A full description of the land covered by the survey.
8. A list of property owners who were notified of the survey and a list of such owners present when the survey was made.
9. The name of the person or the names of the persons for whom the survey was made.
10. The names of the persons employed as chainmen on the survey and a statement that they were sworn by the surveyor when so required by law.
11. The certificate of the surveyor that the surveyor has carefully compared the record with the original field notes which the surveyor took at the time of the survey and that it is a true statement of the facts of the survey as shown by the original field notes.

**11-20-13. Records of county surveyor as evidence.**

The records of the county surveyor may be kept in the office of the county auditor and shall be competent evidence in all courts of the facts therein set forth.

**11-20-14. Surveys for private landowners - How expenses paid.**

Whenever two or more resident owners of real estate desire to have the corners and lines of their lands established, relocated, or perpetuated, they shall give at least ten days' notice of the time of the proposed survey to all other persons owning lands in the same section, and to all other persons residing in the township owning lands abutting on such section if their lands will be affected by the survey. The county surveyor shall make the required surveys at the time specified in the notice and the expense thereof shall be borne by all the persons benefited to the amount of work done for each as determined by the surveyor. If a person benefited by the survey, whether a resident or not, refuses or neglects to pay that person's share of the expense within sixty days thereafter, the surveyor shall certify to the county auditor the amount due, the name of the person who is delinquent, a description of that person's land, and the name of the person to whom the amount is due. The county auditor shall assess such amount against the land of such person and it shall be collected and paid to the county treasurer in the same manner as state and county taxes are collected and paid out by the county treasurer, on the order of the county surveyor.

**11-20-14.1. Disputed property lines - Petition to district court - Effect of survey - Payment of expenses.**

1. One or more owners of property may file with the clerk of district court a petition requesting the district court to direct the county surveyor to survey the property. The court shall set a time and place for a hearing on the petition. The hearing may not occur until three weeks after the petitioner has published notice of the petition, containing the substance of the petition, a description of the lands affected, and the names of the owners of the affected lands as they appear in the latest tax roll, and after the petitioner has mailed written notice to each occupant of land affected by the survey.
2. At the hearing on the petition, all interested parties may appear and be heard. If the district court finds that there is a dispute as to the location of a property line, the court may grant the petition. If a county surveyor is not available to conduct the survey, the court may appoint a registered land surveyor to conduct the survey. The surveyor shall provide reasonable advance written notice to occupants of affected lands specifying the date when the survey will begin.

3. After the survey has been completed, the surveyor shall file a record of survey under sections 11-20-12 and 11-20-13. The certificate of the surveyor is presumptive evidence of the facts contained in the survey and certificate.
4. After the survey has been completed, the surveyor shall make a certified report to the district court showing in detail the entire expense of the survey with recommendations as to apportionment of the expense. The court shall apportion equitably the expense of the survey to the several tracts affected and provide written notice of the proposed assessment to each owner affected. The notice must inform the affected owners of their right to appear in district court no sooner than fourteen days after the notices are mailed to object to the assessments. Following consideration of any objections, the court shall make any corrections or adjustments necessary, enter an order confirming the assessment, and order the parties to pay the surveyor within thirty days.
5. Upon certification by the surveyor that an affected owner has not paid the fees ordered by the district court within thirty days, the county auditor shall assess the amount against the land of each person affected. The county treasurer shall collect the assessments in the same manner as general property taxes are collected. On the order of the county auditor, the county treasurer shall pay any fees and expenses to a registered land surveyor who has conducted the survey.

**11-20-15. Section corners - How made - Removal of markers - Penalty.**

The surveyor, when employed by private landowners as provided in section 11-20-14, shall sink into the earth at all section and quarter post corners a column of concrete or a cement block at least two feet [.61 meter] high, twelve inches [304.80 millimeters] square at the base, and six inches [152.40 millimeters] square at the top. The surveyor shall carefully describe the same in the records of the surveyor's survey. The surveyor also shall dig pits and shall mark and record new witness trees wherever possible to do so. Any person who willfully shall cut down, destroy, deface, or injure any living witness tree, or who shall remove a corner post in any shape as above established, is guilty of an infraction.

**11-20-16. Fees of county surveyor.**

Repealed by S.L. 1953, ch. 115, § 2.

**11-20-17. Assistants - How paid.**

All necessary chainmen and other assistants of the county surveyor shall be paid for their services by the person requiring the work to be done, unless it is otherwise specially agreed.

**11-20-18. Papers to be delivered upon termination of employment - Penalty.**

When a county surveyor resigns or is removed from office, the surveyor shall deliver all books and papers relating to the office to the surveyor's successor or to the board of county commissioners if no successor has been appointed. A county surveyor who shall neglect to so deliver such books and papers within one month after the termination of employment, or any executor or administrator, within thirty days after appointment and qualification, of a deceased county surveyor who shall neglect to so deliver any such books and papers coming into the person's custody within one month after the death of the county surveyor, shall forfeit and pay to the county a sum of not less than ten dollars nor more than fifty dollars. Such amount shall be fixed by the board of county commissioners at its meeting after such failure. A similar sum shall be paid for each month thereafter until such books and papers are delivered as is required by this section.