

Model Law Section 110.20 - Showing current with proposed changes

B. Professional Surveyor (Professional Land Surveyor, Professional Surveyor and Mapper, Geomatics Professional, or equivalent term)

1. **Professional Surveyor**—The term “Professional Surveyor,” as used in this Act, shall mean an individual who has been duly licensed as a professional surveyor by the board established under this Act and who is a professional specialist in the technique of measuring land, educated in the basic principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence and all requisite to surveying of real property, and engaged in the practice of surveying as herein defined.
2. **Professional Surveyor, Retired**—The term “Professional Surveyor, Retired,” as used in this Act, shall mean an individual who has been duly licensed as a professional surveyor by the board and who chooses to relinquish or not to renew a license and who applies to and is approved by the board to be granted the use of the title “Professional Surveyor, Retired.”
3. **Surveyor Intern**—The term “Surveyor Intern,” as used in this Act, shall mean an individual who has been duly certified as a surveyor intern by the board.
4. **Practice of Surveying**—

a. The term “Practice of Surveying,” as used in this Act, shall mean providing, or offering to provide, professional services using such sciences as, but not limited to, mathematics, geodesy, and photogrammetry, and relevant aspects of the law, involving BOTH:

1. the making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvements on the earth, the space above, on, or below the earth AND
2. providing, utilizing, or developing the same into surveying products such as ~~graphics, data, maps, plans, reports, descriptions, or projects.~~
deliverables, the purpose of which is to establish a legal basis for the reported locations, shapes, positions, and sizes.

Professional services include acts of consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting gathered measurements and information related to any one or more of the following:

- i. Determining by measurement the configuration or contour of the earth’s surface or the position of fixed objects thereon
- ii. Determining by performing geodetic surveys the size and shape of the earth or the position of any point on the earth
- iii. Performing an original or retracement survey ~~Locating, relocating, establishing, reestablishing, or retracing property lines or boundaries~~ of any tract of land, road, right of way, or easement
- iv. Making any survey for the division, subdivision, or consolidation of any tract(s) of land
- v. Locating or laying out alignments, positions, or elevations for the design and construction of fixed works with sufficient accuracy and precision to be relied upon for the provision of architectural and engineering services related to fixed works.
- vi. Determining, by the use of principles of surveying, the position for any survey monument (boundary or nonboundary) or reference point; establishing or replacing any such monument or reference point.

vii. Creating, preparing, or modifying electronic, computerized, or other data, relative to the performance of the activities in items ~~a-f-i-vi~~ above

viii. Applying surveying measurement and mapping techniques for the elucidation of questions before courts of law and equity (forensic surveys) relating to items i-vii above.

- b. An individual shall be construed to practice surveying, within the meaning and intent of this Act, if he or she does any of the following:
1. Engages in or holds himself or herself out as able and entitled to practice surveying
 2. Represents himself or herself to be a professional surveyor by verbal claim, sign, advertisement, letterhead, or card or in any other way
 3. Through the use of some other title, implies that he or she is a professional surveyor or licensed under this act

c. Unlicensed persons who hold certification from the GIS Certification Institute, the American Society of Photogrammetry and Remote Sensing or substantially similar certification as approved by the Board may provide the services and products described above in 4.a.i., 4.a.ii., and 4.a.vii., as it applies to 4.a.i. and 4.a.ii., provided such services and products include:

1. Disclaimers of use clearly indicating that they:

i. Are NOT intended to be used as a surveying deliverable.

ii. Are NOT suitable for legal and cadastral purposes.

iii. Cannot be presumed to have sufficient accuracy and precision to be relied upon for the provision of architectural and engineering services related to fixed works.

2. Metadata must be included in a digital format that is easily accessible and readable by users of the digital geographic data, and clearly affixed to the printed copies of such data. Metadata should include the method of compilation, geographic reference frame (i.e., coordinate or linear reference system), data source(s), and creation date(s), accuracy, precision, creator, owner, and point of contact, for the services or products-

5. Inactive Status—Licensees who are not engaged in surveying practice that requires licensure in this jurisdiction may be granted inactive status. No licensee granted inactive status may practice or offer to practice surveying in this jurisdiction unless otherwise exempted in this Act.

C. Board—The term “Board,” as used in this Act, shall mean the jurisdiction board of licensure for professional engineers and professional surveyors, hereinafter provided by this Act.

D. Jurisdiction—The term “Jurisdiction,” as used in this Act, shall mean a state, the District of Columbia, or any territory, commonwealth, or possession of the United States that issues licenses to practice and regulates the practice of engineering and/or surveying within its legal boundaries.

E. Responsible Charge—The term “Responsible Charge,” as used in this Act, shall mean direct control and personal supervision of engineering or surveying work, as the case may be.

F. Rules of Professional Conduct—The term “Rules of Professional Conduct,” as used in this Act, shall mean those rules of professional conduct, if any, promulgated by the board as authorized by this Act.

G. Firm—The term “Firm,” as used in this Act, shall mean any form of business or entity other than an individual operating as a sole proprietorship under his or her own name.

- H. Managing Agent**—The term “Managing Agent,” as used in this Act, shall mean an individual who is licensed under this Act and who has been designated pursuant to Section 160.20 of this Act by the firm.
- I. Rules**—The term “Rules,” as used in this Act, shall mean those rules and regulations adopted pursuant to Section 120.60 A, Board Powers, of this Act.
- J. Signature**—The term “Signature,” as used in this Act, shall be in accordance with the Rules.
- K. Seal**—The term “Seal,” as used in this Act, shall mean a symbol, image, or list of information.
- L. Licensee**—The term “Licensee,” as used in this Act, shall mean a professional engineer or a professional surveyor.
- M. Person**—The term “Person,” as used in this Act, shall mean an individual or firm.
- N. Authoritative**—The term “Authoritative,” as used in this Act ~~or Rules promulgated under this Act,~~ shall mean being presented as legally reliant, trustworthy, and competent when used to describe ~~products, processes, applications, or data resulting from the practice of surveying~~ surveying deliverables.
- O. Disciplinary Action**—The term “Disciplinary Action,” as used in this Act, shall mean any final written decision or settlement taken against an individual or firm by a licensing board based upon a violation of the board’s laws and rules.
- P. Positional accuracy**—The extent to which horizontal and vertical information on a map or in a digital database matches true or accepted values that are relative to the earth’s surface or other reference datum
- Q. Georeferenced**—Being referenced, measured, or described in spatial terms relative to the earth’s surface or other reference datum
- R. Surveying deliverables**—Any authoritative maps, graphics, database, plans, reports, descriptions, applications, projects or other similar electronic or printed ~~deliverable that shows the authoritative location of features or coordinate systems. Surveying deliverables provide spatial information to a level of positional accuracy, whether that accuracy is stated, regulated, or implied~~ products, resulting from the practice of surveying as defined in Section B.4 of this Act, and fit for the intended use of the surveying service(s) provided.
- S. Original Survey** - The term "Original Survey" as used in this Act, shall mean performing a boundary survey for purposes of locating, on the ground and describing the location of, an interest in real property that has not been previously described in a document or documents conveying an interest in that real property. The term includes the subdivision of a section or portions of a section of land under common ownership in the United States Public Land Survey System, where no such subdivision has been previously conducted on the ground.
- T. Retracement Survey** - The term “Retracement Survey” as used in this Act, shall mean performing a boundary survey of real property that has been previously described in a document or documents conveying an interest in that real property by applying the appropriate boundary law principles governed by the facts and evidence found in the course of performing the survey. The term includes retracing the lines and corners of a previous original survey of real property.

[Model Rule Section 210.25 - THIS MODEL RULE SECTION IS TO BE INCLUDED AS A PART OF THE MODEL LAW AS ORIGINALLY PROPOSED BY THE SURVEYING/GIS WORK GROUP WHEN THEY WERE ORIGINALLY WRITTEN.]

~~Inclusions and Exclusions to the Practice of Surveying~~

UA. Activities Included within the Practice of Surveying

Activities that must be accomplished by or under the responsible charge of a professional surveyor (unless specifically exempted in subsection **VB** of this section or as otherwise provided for in Section B.4.c. of this Act) include, but are not limited to, the following:

1. The creation of maps or georeferenced databases representing authoritative locations for boundaries, the location of fixed works, or topography. This includes maps and georeferenced databases prepared by any person or government agency where that data is provided to the public as a surveying deliverable.
2. Original data acquisition, or the resolution of conflicts between multiple data sources, when used for the authoritative location of features within the following data themes: geodetic control, orthoimagery, elevation and hydrographic, fixed works, private and public boundaries, and cadastral information
3. Certification of positional accuracy of maps or measured survey data
4. Adjustment or authoritative interpretation of raw survey data
5. Geographic Information System (GIS)-based parcel or cadastral mapping used for authoritative boundary definition purposes wherein land title or development rights for individual parcels are, or may be, affected
6. Authoritative interpretation of maps, deeds, and other land title documents to resolve conflicting data elements
7. Acquisition of field data required to authoritatively position fixed works or cadastral data relative to geodetic control
8. Analysis, adjustment or transformation of cadastral data of the parcel layers with respect to the geodetic control layer within a GIS resulting in the affirmation of positional accuracy

VB. Activities Excluded from the Practice of Surveying

A distinction must be made in the use of electronic systems between making or documenting original measurements in the creation of surveying deliverables, versus the copying, interpretation, or representation of those measurements in such systems. Further, a distinction must be made according to the intent, use, or purpose of measurements derived from electronic systems to determine an authoritative location versus the use of those measurements as a reference for planning, infrastructure management, and general information. The following items are not to be included as activities within the definition of the practice of surveying:

1. The creation of general maps
 - a. Prepared by private firms or government agencies for use as guides to motorists, boaters, aviators, or pedestrians
 - b. Prepared for publication in a gazetteer or atlas as an educational tool or reference publication
 - c. Prepared for or by education institutions for use in the curriculum of any course of study

- d. Produced by any electronic or print media firm as an illustrative guide to the geographic location of any event
 - e. Prepared by laypersons for conversational or illustrative purposes. This includes advertising material and users guides.
2. The ~~transcription~~ incorporation of previously produced survey data and/or georeferenced data into a GIS or LIS by manual or electronic means, and the maintenance thereof, provided the incorporated data are clearly not intended to indicate the authoritative location of property boundaries, the shape or contour of the earth, or fixed works. Incorporated data must include appropriate metadata describing, at a minimum, that it cannot be used as a survey deliverable.
 3. The ~~transcription~~ incorporation of public record data, without modification except for graphical purposes, into a GIS- or LIS-based cadastre (tax maps and associated records) by manual or electronic means, and the maintenance of that cadastre, provided the data are clearly not intended to authoritatively represent property boundaries as they were surveyed. This includes tax maps and zoning maps.
 4. The preparation of any document by any federal government agency that does not define real property boundaries. This includes civilian and military versions of quadrangle topographic maps, military maps, satellite imagery, and other such documents.
 5. The incorporation or use of documents or databases prepared by any federal agency into a GIS/LIS, including but not limited to federal census and demographic data, quadrangle topographic maps, and military maps
 6. Inventory maps or databases created by any organization, in either hard-copy or electronic form, of physical features, facilities, or infrastructure that are wholly contained within properties to which they have rights or for which they have management responsibility. The distribution of these maps or databases outside the organization must contain appropriate metadata describing, at a minimum, the accuracy, method of compilation, data sources and dates, and disclaimers of use clearly indicating that the data are not intended to be used as a surveying deliverable.
 7. Maps and databases depicting the distribution of natural resources or phenomena prepared by foresters, geologists, soil scientists, geophysicists, biologists, archeologists, historians, or other persons qualified to document such data
 8. Maps and georeferenced databases depicting physical features and events prepared by any government agency where the access to that data is restricted by statute. This includes georeferenced data generated by law enforcement agencies involving crime statistics and criminal activities.