

This chapter will discuss recordation and monumentation laws and rules of the State Board of Technical Registration that affect the land surveyor.

****NOTICE:** At the time this book was written, the State Board of Technical Registration had adopted "Minimum Standards for Arizona Land Boundary Surveys". These standards would essentially require that a record of a land survey be recorded for every land survey accomplished. These standards are not "officially" adopted as of November, 1989. All land surveyors and users of land surveys should inquire as to the status of any "minimum standards" if they become final at some time in the future.

RECORDATION

A.R.S. 33-105, shown next, discusses the instances where a land surveyor must prepare and record a record of a land survey, and defines the items required to be on such maps:

§ 33-105. Recording of certain land surveys; contents

A. A land surveyor shall file a record of a land survey not later than ninety days after its completion with the county recorder of the county where the land is located if such survey establishes points or lines relating to land boundaries or property lines disclosing:

1. A material discrepancy based on the accuracy requirements of the current survey which, in whole or in part, does not appear on any map or record previously recorded or filed with the county recorder, county engineer, highway division of the department of transportation or the United States bureau of land management.

2. Evidence that, by reasonable analysis, might result in alternate positions of lines or points.

B. The record of survey shall be a reproducible map, legibly drawn, printed or reproduced by a process assuring a permanent record as required by § 11-481.

C. The record of survey map shall show:

1. All monuments found, set, removed, reset or replaced, the kind, size and location of such monuments and all other data relating to such monuments.

2. Bearing and basis of bearings and length of lines to the nearest one one-hundredth of a foot and ties to witness monuments. Other record data may be shown in chains, varas or other units of measurement as implemented by older surveys.

3. Dates of survey, scale of map and north arrow or other means of orientation.

4. Name or designation of tract or grant in which the survey is located, ties to adjoining tracts or grants and section or sections, township, range and political subdivision of this state.

5. Any other data necessary for the intelligent interpretation of the various items and locations of the points, lines and areas shown.

D. The record of survey shall be securely fastened by the county recorder into a separate book provided for that purpose. The county recorder shall keep proper indices of such record of survey by the name of grant, tract, subdivision or cadastral subdivisions by United States bureau of land management or general land office.

Amended by Laws 1976, Ch. 59, § 7, eff. May 27, 1976; Laws 1985, Ch. 197, § 5.

"Material discrepancy" as it is related to "accuracy requirements" is most often debated. What this directly relates to is the reporting of a dimension which differs from a previously reported dimension between the same two points. Currently there are no formal accuracy standards which control when a measurement is deemed to be outside "accuracy requirements of the current survey". Hence, it is difficult to decide when a discrepancy actually exists. It is a professional judgement call. At some time should our legislature or the State Board of Technical Registration adopt minimum accuracy standards, then there will be some criteria to judge whether a current measurement should be considered a "material discrepancy".

The statement "evidence that, by reasonable analysis, might result in alternate positions of lines or points", could apply to many different situations. It applies to record, physical, parol, or other extrinsic evidence. More simply stated this paragraph means whenever a surveyor finds "conflicting" evidence.

To summarize when a land surveyor must file a record of survey:

1. When he encounters a "material discrepancy" with respect to the measurements on a particular survey according to the current "accuracy requirements" that is not reported on any existing map or record previously recorded or filed with the county recorder, county engineer, highway division of the department of transportation or the United States bureau of land management.
2. Whenever conflicting evidence is encountered.
3. Within 90 days from the completion of the land survey that discovered anything as discussed in items 1 and 2 above.

It should be noted that the surveyor does not need to file a record of survey for a material discrepancy if previously reported, but no exception is found for the filing of a record of survey when "evidence that, by reasonable...alternate positions of points or lines." That is to say even though an existing record of survey exists showing conflicting evidence, if a land surveyor works along those same lines with the same conflicting evidence, he is not exempted from filing a record of survey.

If you think about it that is not a bad idea. Since we deal so often with legal interpretations and application of legal aspects of boundary law and construction of evidence, to show what each survey has found, accepted and interpreted is certainly in the best interests of the public and the profession.

The record of survey must also conform to the requirements of A.R.S. 11-481, shown next:

§ 11-481. Title and size prerequisites for recording maps and plats; recording fee; exception

A. All maps or plats presented for recording shall have a title that at least indicates the name of the subdivision or area and describes the location of the area by section, township and range.

B. Any map or plat offered for recording that exceeds a size of eight and one-half by fourteen inches shall be the original map legibly drawn on polyester or linen or a copy reproduced on polyester by a photographic silver imaging process or other method that assures archival quality and is subject to the following restrictions:

1. A map or plat of a subdivision shall be on a sheet or sheets measuring twenty-four by thirty-six inches, with a left margin of two inches and be drawn to an accurate scale not to exceed two hundred feet to the inch.

2. All other maps or plats shall be on a sheet or sheets measuring eighteen by twenty-four inches, including a left margin of two inches and drawn to a scale not to exceed four hundred feet to the inch.

C. The fee for recording any map or plat sheet exceeding eight and one-half by fourteen inches shall be twenty dollars and shall be exclusive of the fees for recording any documents to which the map or plat is attached or by which it is accompanied.

D. The fee for recording any map or plat sheet exceeding eight and one-half by fourteen inches when recorded at the request of the United States, this state or a political subdivision of this state is ten dollars and is exclusive of the fees for recording any documents to which the map or plat is attached or by which it is accompanied.

E. The requirements of this section do not apply to any map required to be recorded by the director of water resources under title 45, chapter 2.¹

Amended by Laws 1980, 4th S.S., Ch. 1, § 2, eff. June 12, 1980; Laws 1982, Ch. 132, § 2; Laws 1983, Ch. 96, § 1; Laws 1984, Ch. 141, § 1.

A.R.S. 33-106, shown next, discusses the filing of a corner record:

§ 33-106. Corner record survey; filing; contents

A. A land surveyor shall complete, sign and file or cause to be filed with the county recorder of the county in which the corner is situated, a written record of the establishment or restoration of public land corners as established by cadastral surveys of the United States general land office or United States bureau of land management, including those monuments designating boundaries of land grants, military reservations, government and Indian reservations, land patents and mining patents, including also those monuments established as mineral monuments by an authorized United States mineral surveyor. The survey information shall be filed within thirty days after the survey is completed, unless the corner and its accessories are substantially as described in an existing corner record previously filed.

B. The corner record shall include the following:

1. A report, by sketch or narration, or both, concerning ties to existing monuments presumed authentic.

2. Acceptable monuments found in a perishable or deteriorated condition, a description of what was found and actions taken for the rehabilitation or perpetuation of the monument by the surveyor making such report.

3. New monuments set in a position occupied by an old monument, a description of the new monument as to material, shape, marking, projection above the surface of the ground, distance buried below the ground surface, disposition of the old monument and related items.

4. The procedure followed, by sketch and narration, in reestablishing the corner reported if no acceptable evidence of the original monument or its location can be found.

5. A description of the monument set to perpetuate the corner as reestablished and reported, indicating any bearing trees or objects noted in the general vicinity of the new monument.

6. The location and nature of all reference monuments or objects which would be useful in the identification, recovery or reestablishment of any monument referred to in such report.

7. Acceptable monuments found with reference monuments, accessories and general surroundings materially differing from the information contained in previous corner records. The conditions observed in the survey which materially differ from the original recordation shall be clearly reported by sketch and narration.

C. The county recorder shall keep proper indices of such corner records by the name of grant, tract, subdivision or cadastral subdivisions by United States bureau of land management or general land office.

Added Laws 1972, Ch. 44, § 1. As amended Laws 1974, Ch. 68, § 15.

Essentially this statute states that if a surveyor uses as control one of the corners listed, and the corner is not "substantially as described in an existing corner record previously filed", then the surveyor must file a record of the corner. What exactly determines when a corner is not "substantially as described"? Here are some examples:

1. When the corner monument itself differs physically from one previously reported. That is, say, it is an iron pipe now and used to be a rebar.

2. When the majority of the swing ties (accessories) previously reported are not there, and new ones are set or used.

3. When a surveyor resets, reestablishes, establishes or rehabilitates the corner.

4. If there is no corner record on file with the clerk and recorder.

The land surveyor has 30 days in which to complete and file a corner record from the date of completion of the survey.

MONUMENTATION

The following rules of the State Board of Technical Registration address monumentation of land surveys:

R4-30-306. Securing Identifying Markers

Registered land surveyors, and registered engineers engaged in land surveying, shall secure at their expense metal rods, pipes, tags, caps or embossed nails which shall show the registrant's Arizona Registration Number as issued by the Board, and each registration number shall be prefixed by the letters L.S. or P.E., as the case may be.

R4-30-307. Use of Identifying Markers.

Registered land surveyors, and registered engineers engaged in land surveying, shall securely attach an identifying marker to every permanent survey point set when surveying tracts of land for the determination of their correct locations.

Rule R4-30-307 is not absolutely clear. Some discussion revolves around the word "permanent". It is best to interpret that the purpose of the rule is to assure marking of all survey points set to mark land boundaries, easement and right-of-way centerlines or control lines, and corners of easements or rights-of-ways. It is the professional duty and obligation to consider every point that relates to or controls land boundaries, a permanent point.

Some discussion always revolves around the word "permanent". As a land surveyor it is our professional duty to consider every point set "permanent".

One last statute affecting monumentation requirements for section corners and one-quarter section corners is A.R.S. 33-103 and is shown on the next page:

§ 33-103. Monuments at section and quarter section corners; reestablishment of corners; monument requirements; destruction of monuments; classification

A. Landmarks or monuments established under the provisions of this article shall be set at the section corners and quarter section corners established by the United States survey. If there is a clerical error or omission in the government field notes or bearings, trees, mounds, fences or other locating evidences specified therein, or if they are destroyed or lost and there is no evidence by which the corners established by the United States survey can be identified, the land surveyor shall reestablish the corners under rules adopted by the United States for the survey of public lands.

B. Landmarks or monuments established pursuant to this section shall be presumptively at the section and quarter section corners as originally established by the United States survey.

C. The monument shall:

1. Be not less than two and one-half feet in length and constructed of durable material, preferably of metal rod or pipe.
2. Identify on the top of the monument the point of survey by punch mark or scribed cross.
3. Identify on the top of a monument set at section corners the proper numbering of the sections for which the monument forms a landmark.
4. Identify the quarter section for those monuments set at quarter section corners.
5. Bear the Arizona registration number of the land surveyor.
6. Be magnetically detectable.
7. Be placed firmly in the ground, leaving the top flush with the surface or recessed in a hand hole when placed on a public highway, or when not on a public highway set to the best judgment of the land surveyor to perpetuate the corner.

D. A person who knowingly or by gross negligence destroys, disfigures, removes or disturbs monuments described in subsection C or other permanent monuments set by the land surveyor which have the land surveyor's or public agency's cap or tag affixed to the monument is guilty of a class 2 misdemeanor.

E. A person acting independently or a person in responsible charge of another person who destroys, disfigures or disturbs monuments described in subsection C or other permanent monuments set by the land surveyor which have the land surveyor's or public agency's cap or tag affixed to the monument shall be civilly liable to the state, political subdivision or any other person for all costs associated with restoration or replacement of any monument destroyed, disfigured, removed or disturbed. The remedies under this subsection are in addition to any penalty which can be imposed under subsection D.

Proper interpretation of this statute clearly states "landmarks or monuments established under the provisions of this article" (underline added for emphasis)..... The article under discussion is Article 1, which includes A.R.S. 33-105 and A.R.S. 33-106. Therefore any section or one-quarter section corner set while performing a land survey which requires a record of survey or a corner record to be filed must meet the physical requirements outlined in A.R.S. 33-103. And of course if a section or one-quarter section corner is set or reestablished, etc. then as previously discussed there must be a corner record prepared and filed.