

Resources

New ALTA/NSPS Land Title Survey Standards to Take Effect in February 2021

January 7, 2021

Effective February 23, 2021, the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys are being replaced with the new 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys (“2021 Standards”). The 2021 Standards include a variety of changes that seek to further limit a surveyor’s liability and provide better clarity. Some of the more notable changes are as follows:

- Various references to the word “shall” were replaced with “must” to reflect the United States Supreme Court’s decision in *Gutierrez de Martinez v Lamagno* 515 U.S. 417 (1995) in which the Court ruled that “shall” is a false imperative that really means “may,” and that “must” is the word that imposes an obligation or command.
- **Section 5.E. - Easements and Servitudes.** This section was rewritten to clarify the surveyor is only obligated to note observed evidence of easements, servitudes and other uses which are “on or across” the surveyed property as opposed to those that affect the surveyed property. In addition, utility location markings, if any, are now required to be shown including a note of the source of the markings or a note if unknown. Further, the depiction of utility poles located within 10 feet of the perimeter boundary was unintentionally omitted from the prior standards and this has been corrected in the 2021 Standards.
- **Section 6.C. - Easements, Servitudes, Rights of Way, Access, and Documents.** In an effort to limit the items shown in Schedule B of the title commitment on the face of their surveys, Section 6.C.ii now limits the survey summary to rights of way, easements and “other survey-related matters.” Section 6.C also added a new subsection viii to outline the surveyor’s responsibility when the surveyor becomes aware of a recorded easement not otherwise listed in the title evidence provided.
- **Table A.** Requirement 18, regarding field delineation of wetlands, has been removed, and the introductory paragraph to Table A has been amended to clarify that Table A items may be negotiated.

Note, there are other changes to the 2021 Standards that are not outlined above which may need to be considered when contracting for a new survey. For more information about the 2021 Standards, or if you have any questions, please contact Michael Rothstein (mrothstein@dykema.com) or Sam Kilberg (skilberg@dykema.com).

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