

201 KAR 18:200. Minimum standards of practice for mortgage inspections in Kentucky.

RELATES TO: KRS Chapter 322

STATUTORY AUTHORITY: KRS 322.290(2)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290 requires the Board of Licensure for Professional Engineers and Land Surveyors to adopt appropriate standards of practice. This proposed administrative regulation will establish minimum standards of practice for mortgage inspections in Kentucky.

Section 1. (1) A professional land surveyor shall meet the minimum standards established in this administrative regulation.

(2) He shall demonstrate a thorough knowledge of the property that is the subject of a mortgage inspection by:

(a) Conducting adequate research which at a minimum would be to obtain the subject deed and the adjoining deeds; and

(b) Obtaining and retaining sufficient recorded documentation.

Section 2. Work Order Required. (1) Prior to conducting a mortgage inspection, a professional land surveyor shall obtain a work order:

(a) Stating that the borrower or purchaser has been advised of the:

1. Types of services available; and
2. Scope of each type of service; and

(b) That has been signed by the borrower or purchaser.

(2) If the work order requires a flood plain certification, statements regarding the flood plain shall contain the source or basis of the statements by reference to:

(a) Flood plain maps, by map identification number and date; and

(b) Any levels run by the surveyor to verify the elevation of the property.

(3) A work order shall include the following, the:

(a) Name of the borrower;

(b) Date the work was ordered;

(c) Name of the person ordering the work;

(d) Address or location of the parcel;

(e) Record source of the parcel;

(f) Anticipated closing date;

(g) Required delivery date; and

(h) Statements in subsection (4) of this section.

(4) The work order shall include the following statements:

(a) Mortgage inspection. The sole purpose of this inspection is to obtain mortgage title insurance. This is the minimum service that your lender requires for closing your loan. It is a location of improvements and cursory check for violations or encroachments onto or from the subject property based on existing but not confirmed evidence. This does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose; no property corners will be set; and, it should not be used or relied upon for the establishment of any fence, structure or other improvement. Flood plain certification is restricted to a review of the Flood Insurance Rate Maps (FIRM) (latest revision), and shall not be construed as a confirmation or denial of flooding potential.

(b) Boundary survey and improvement location. A boundary survey of the subject property will be made and the property corners will be located and verified or reset. The improvements on the property will be located and a check for violations or encroachments onto or from the subject property will

be made. This survey may be used by the property owner for the construction of a fence or other improvement. Flood plain certification is restricted to a review of the Flood Insurance Rate Maps (FIRM) (latest revision), and shall not be construed as a confirmation or denial of flooding potential.

(c) ALTA/ACSM land title survey. This is the most comprehensive type of survey and improvement location. It covers all the aspects of the boundary survey and improvement location and identification for any additional evidence of possession or use which could be adverse to the interest of the purchaser. This survey may include definitive statements regarding the flooding potential in addition to a review of Flood Insurance Rate Maps (FIRM).

(5)(a) A board "work order" sample form may be used.

(b) "Work Order (8-93)" is incorporated by reference.

(c) It may be inspected, copied, or obtained at Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

Section 3. Recorded Documentation and Boundary Evidence. (1) A professional land surveyor shall obtain recorded documentation pertaining to the property boundary that is sufficient to demonstrate general knowledge of the given area which at a minimum would be to obtain the subject deed and the adjoining deeds.

(2) Field crews shall be provided with current information necessary to determine property dimensions in the field.

(3) Field crews shall conduct a diligent search for existing boundary evidence.

(4) The highest available order of monumentation shall be used.

(5) The boundary monumentation, or evidence used shall be shown on the drawing.

(6) Conflicting boundary information shall be:

(a) Clearly shown on the drawing; and

(b) Reported to the client and the buyer in writing.

Section 4. Field Procedures. (1) A field crew shall be provided with current information necessary to determine the property dimensions in the field.

(2) A diligent search for existing boundary evidence shall be made by a field crew.

(3) The highest order of monumentation and boundary evidence shall be used.

(4) Detailed notes shall be:

(a) Taken on all mortgage inspections; and

(b) Kept as part of the professional land surveyor's permanent record.

(5) If the field survey methods selected by the surveyor do not produce a level of certainty sufficient to determine whether encroachments exist, the surveyor shall recommend a boundary survey to the borrower or purchaser.

Section 5. Drafting of the Parcel. (1) A drawing of a parcel that is inspected shall be used in support of the certificate of mortgage inspection.

(2) The following items shall be identified on a drawing of a parcel that is inspected:

(a) Property lines shall be shown by:

1. Boundary dimensions and bearings from the deed; or

2. Boundary dimensions and bearings from a record plat; or

3. By actual field measurement.

(b) The method of determination or basis of property lines shall be clearly shown.

(c) Major improvement locations shall be shown:

1. With dimensions to the nearest property lines;

2. With a minimum of three (3) dimensions; and

3. In a manner sufficient to locate the major improvement.
 - (d) Location dimensions shall be shown:
 1. By offsets perpendicular to straight property lines; or
 2. By offsets radial to curved property lines.
 - (e) Major improvements shall include:
 1. Residences;
 2. Garages;
 3. Outbuildings;
 4. Barns;
 5. Driveways;
 6. Pools;
 7. Porches; and
 8. Patios.
 - (f) Apparent encroachments shall be:
 1. Noted and described; and
 2. Clearly shown.
 - (g) Means of access shall:
 1. Be shown clearly and graphically; and
 2. Include shared access and shared driveways.
 - (h) Platted and apparent easements shall be clearly identified.
 - (i) The source of record information for platted and apparent easements shall be identified by:
 1. Deed book and page of recording; or
 2. Title company commitment, including the name of title company and commitment number; and
 3. For apparent easements for items such as power lines, the name of the easement holder.
 - (j) Platted setback lines shall be shown graphically.
 - (k) Adjacent owner and record source shall be noted on the drawing.
 1. Lot numbers may be used for adjacent properties located in recorded subdivisions.
 2. Conflicting boundary information shall be:
 - a. Clearly shown on the drawing; and
 - b. Reported to the client and the buyer in writing.
 - (l) If the address of the inspected parcel is:
 1. Posted, it shall be shown; or
 2. Not posted, a statement to that effect shall be included.
 - (m) A north arrow with the basis for the meridian shall be shown on the drawing.
 - (n) A graphic scale shall be shown on the drawing.
 - (o) All apparent encroachments shall be:
 1. Noted and described on the drawing; and
 2. Clearly shown on the drawing.
 - (p) A flood plain certification required by the work order shall reference:
 1. Flood plain maps by map identification number and date; and
 2. Levels run by the surveyor to verify the elevation of the inspected property.
 - (q) The following caption shall appear prominently on the sketch:

MORTGAGE INSPECTION

This does not constitute a boundary survey
and is not a recordable document.

(r) If the certification and the drawing are on separate pieces of paper, this shall be stated in the report as: (Example: page 1 of 2, page 2 of 2).

(s) The sign and seal of the surveyor and the date of the mortgage inspection.

Section 6. Certification. (1) A mortgage inspection shall not contain the word "survey" in any part of the certification.

(2) The mortgage inspection certification shall contain:

(a) The name, address and telephone number of the professional land surveyor responsible for the mortgage inspection;

(b) The name of the party who ordered the work;

(c) A statement that the mortgage inspection was conducted either by the professional land surveyor or under the surveyor's direct supervision;

(d) The date the inspection was made;

(e) The record source of the property;

(f) A statement that:

1. The accompanying sketch or drawing is a true representation of the conditions found at the time of the inspection;

2. The mortgage inspection is prepared for mortgage title insurance purposes only;

3. The document does not constitute a boundary survey;

4. The mortgage inspection is subject to any inaccuracies that a subsequent boundary survey may disclose;

5. No property corners were set;

6. The information shown on the sketch should not be used to establish any fence, structure or other improvement;

7. The linear or angular values shown on the drawing are based on record information, and have not been verified unless so noted.

(3) A mortgage inspection by a professional land surveyor shall:

(a) Be signed by the surveyor;

(b) Bear his seal; and

(c) Note the date of the mortgage inspection. (20 Ky.R. 871; Am. 1579; eff. 12-6-93.)