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**PUBLIC NOTICES**  
**LAW AND PUBLIC SAFETY**  
**DIVISION OF CONSUMER AFFAIRS**  
**NEW JERSEY STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

**N.J.A.C. 13:40-5.1, 7.2, 7.3, and 7.4**

**Notice of Receipt of Petition for Rulemaking**

**Preparation of Land Surveys**

Petitioner: New Jersey Society of Professional Land Surveyors

**Take notice** that on May 21, 2015, the New Jersey State Board of Professional Engineers and Land Surveyors (Board) received a petition for rulemaking from Robert A. Wayne, Esq., of LeClairRyan, counsel for petitioner, the New Jersey Society of Professional Land Surveyors (NJSPLS), a professional organization whose approximately 850 current members constitute over 50 percent of the licensed professional land surveyors in the State of New Jersey.

The petitioner requests that the Board amend its current regulations at N.J.A.C. 13:40-5.1, 7.2, 7.3, and 7.4 in order to codify what the petitioner describes as the Board's long-standing interpretation of N.J.S.A. 45:8-28 and the Board's rules at N.J.A.C. 13:40-5 and 7, regarding the division of responsibilities between licensed professional engineers and land surveyors in connection with the preparation of land surveys, topography, existing conditions surveys, site plans, subdivision plats, and maps. The petitioner notes that the Board had previously addressed this issue in a "Notice Regarding Preparation of Topographical Surveys and Existing Conditions Depicted on Site Plans" published in the New Jersey Register on November 1, 2004, at Volume 36, Number 21.

The petitioner states that the amendments would codify and confirm the Board's prior interpretation of the scope of the "practice of land surveying" as well as long-standing practice that the following documents may be prepared by a licensed professional land surveyor only: topography, hydrographic, and bathymetric surveys; surveys showing wetland delineation locations; existing condition surveys; record plats or plans and/or maps showing exact locations of physical features including metes and bounds; flood hazard certificates that require certification as to the exact building elevation information; flood maps and other documents setting forth "as built" height of structures to a datum; FEMA Elevation Certificates that require certification of building elevation; and individual subsurface sewage disposal system design plans involving topography, measurement, and determination of elevations and/or tie ins to boundaries or other existing conditions.

The amendments requested by the petitioner would also require that only licensed professional land surveyors be permitted to combine survey information from varied sources, and that such survey information must be signed and sealed by a licensed professional land surveyor.

The petitioner believes that the proposed amendments would further the intent of N.J.S.A. 45:8-28 to protect consumers in connection with the preparation of documents and depictions within the scope of the definition of the "practice of land surveying" set forth in N.J.S.A. 45:8-28(e) that are submitted in connection with site plans and subdivisions and/or subdivisions by requiring the specified types of documents, records, and depictions set forth in the amendments to be prepared solely by licensed professional land surveyors. The petitioner also believes that the amendments would protect the public in connection with the preparation of survey plans and maps, FEMA Elevation certificates, and individual subsurface sewage disposal system plan design plans that require the special expertise and knowledge of licensed professional surveyors.

The petition notes that the statutory definition of the "practice of land surveying" in N.J.S.A. 45:8-28(e) specifically highlights the division of responsibility between land surveyors and engineers by indicating that engineers may perform measurements necessary for the design construction stake out, construction, and post construction records of an engineering project, but are precluded from making any "measurements related to the property lines, easement lines or right of way lines, the establishment of which are required to be made by a land surveyor."

The full text of the petitioner's suggested amendments follow (additions indicated in boldface; deletions indicated in brackets):

N.J.A.C. 13: 40-5.1 shall be amended as follows:

13:40-5.1 Professional land surveyors; preparation of land surveys

(a)-(m) (No change.)

(n) [Maps prepared to show] **Only a licensed professional land surveyor may prepare topography or existing conditions surveys. Further, only a licensed professional land surveyor may prepare maps or plans that depict existing features of structures, existing contour lines, topographic or planimetric data, rights-of-way lines, lot lines, easement lines, restriction lines, or any other representation of limits of rights or title thereon and all such maps or plans shall** [which delineate property lines or street right-of-way lines thereon shall be prepared by a licensed professional land surveyor and shall] identify the vertical datum and include reference to **two (2)** [a] benchmarks on the site. **Only a licensed professional land surveyor may combine survey** [page=1678] **information from varied sources and [S] such survey information may be [transferred] transposed** to construction plans or other such drawings **from a signed and sealed survey, only** if duly noted as to the date of the **survey(s)**, by whom, and for whom it was prepared **and the date of the last revision, if applicable.**

**(o) Flood elevation certificates that require certification as to the exact building elevation information may only be prepared by a licensed professional land surveyor.**

**(p) Record plats or plans and/or as built conditions mapping shall only be prepared by a licensed professional land surveyor.**

N.J.A.C. 13:40-7.2 shall be amended as follows:

13:40-7.2 Depiction of existing conditions on a site plan

(a) Survey: Showing existing conditions and exact locations of physical features including metes and bounds, **topography**, drainage, **wetlands delineation locations**, waterways, specific utility locations, and easements: by a **licensed professional land surveyor only**.

1. Survey information may be transferred to the site plan if duly noted as to the date of the survey, by whom, and for whom **it was prepared and the date of last revision, if applicable**. [A signed] **Signed** and sealed [copy of the] **copies of a new and/or current** survey shall be submitted to the reviewing governmental body with the site plan submission. **A current survey is defined as "depicting existing site conditions and prepared in accordance with the statutes and regulations in effect on the date of submission."**

(b) Vegetation, general flood plain determination, or general location of utilities, building or structures, **provide that same are clearly indicated on the plan that the general locations thereof are not intended to indicate exact locations since the showing of exact locations may only be undertaken by a licensed professional land surveyor as set forth in subsection (a) above**: By an architect, planner, engineer, licensed professional land surveyor, licensed landscape architect or other person acceptable to the reviewing governmental body.

**(c) Elevations and mapping in connection with flood hazard and floodway mapping as required under N.J.A.C. 7:13 and/or the preparation and execution of a FEMA Elevation Certificate or other documents(s) that includes certification as to building elevation information for flood plain management, flood insurance or other purposes when required by the reviewing governmental body: By a licensed professional land surveyor only.**

**(d) As built height of structures in relation to a datum as required by the reviewing municipal body pursuant to municipal ordinances or regulations: by a licensed professional land surveyor only.**

**(e) Hydrographic and/or bathymetric surveys: By a licensed professional land surveyor only.**

N.J.A.C. 13:40-7.3 shall be amended as follows:

13:40-7.3 Preparation of site plan

(a) The location of proposed buildings and their relationship to the site and the immediate environs: By an architect, **licensed professional land surveyor**, engineer, or licensed landscape architect.

(b) The location of drives; parking layout; pedestrian circulation; and means of ingress and egress: By an architect, planner, engineer, **licensed professional land surveyor, or licensed landscape architect**.

(c)-(i) (No change.)

(j) The general layout of a conceptual site plan for a multiple building project, showing the development elements, including their relationship to the site and immediate environs: By an architect, planner, engineer; **licensed professional land surveyor**, or licensed landscape architect.

(k) (No change.)

**(l) Individual subsurface sewage disposal system design plans shall comply with the provisions of this subchapter and N.J.A.C. 7:9A and any portions of such design plans that include topography or elevations and/or tie-ins to the boundaries or other existing site conditions shall be prepared by a licensed professional land surveyor only.**

**(m) Heights of structures in relation to a datum: By a licensed professional land surveyor only.**

N.J.A.C. 13:40-7.4 shall be amended as follows:

13:40-7.4 Preparation of a major subdivision plan

(a) The general location of facilities, site improvements and lot layouts: by an architect, engineer, **licensed professional** land surveyor, planner or licensed landscape architect.

(b) (No change.)

(c) **Preliminary subdivision maps with metes and bounds and [F] final subdivision maps with metes and bounds:** by a **licensed professional** land surveyor only.

N.J.A.C. 13:40-7.2, 7.3, and 7.4 comprise what is commonly and collectively known as the "Site Plan Rule." The Site Plan Rule is also part of the Board of Architects' rules at N.J.A.C. 13:27-7.2, 7.3, and 7.4, and the Board of Professional Planners' rules at N.J.A.C. 13:41-4.2, 4.3, and 4.4. Although the petitioner has not addressed the Board of Architects and the Board of Professional Planners in its petition, a change to the Board of Professional Engineers and Land Surveyors' Site Plan Rule would necessitate a change to the other boards' Site Plan Rules as well.

In accordance with N.J.A.C. 1:30-4.2, the Board shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.