

## **IC 36-2-12**

### **Chapter 12. County Surveyor**

#### **IC 36-2-12-1**

##### **Application of chapter**

Sec. 1. This chapter applies to all counties.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-12-2**

##### **Residence; term of office**

Sec. 2. (a) The county surveyor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The surveyor forfeits office if the surveyor ceases to be a resident of the county.

(b) The term of office of the county surveyor under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.

*As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.547.*

#### **IC 36-2-12-2.5**

##### **Training**

Sec. 2.5. (a) As used in this section, "training course" refers to:

- (1) a training course related to the office of county surveyor that is compiled or developed by the Association of Indiana Counties and approved by the state board of accounts; or
- (2) an educational course regarding land surveying that is taken by an individual who is:
  - (A) serving in the office of county surveyor; and
  - (B) an actively registered professional surveyor.

(b) An individual elected to the office of county surveyor after June 30, 2009, but before July 1, 2013, shall, within two (2) years after beginning the county surveyor's term, complete at least twenty-four (24) hours of training courses.

(c) An individual elected to the office of county surveyor after June 30, 2013, shall complete at least:

- (1) fifteen (15) hours of training courses within one (1) year; and
- (2) forty (40) hours of training courses within three (3) years; after the individual is elected to the office of county surveyor.

(d) A training course that an individual completes:

- (1) after being elected to the office of county surveyor; and
- (2) before that individual begins serving in the office of county surveyor;

shall be counted toward the requirements under subsection (c).

(e) An individual shall fulfill the training requirement established by subsection (c) for each term the individual serves.

(f) This subsection applies only to an individual appointed to fill a vacancy in the office of county surveyor. An individual described in this subsection may, but is not required to, take any training

courses required by subsection (c). If an individual described in this subsection takes a training course required by subsection (c) for an elected county surveyor, the county shall pay for the training course as if the individual had been an elected county surveyor.

*As added by P.L.171-2009, SEC.2. Amended by P.L.57-2013, SEC.90; P.L.279-2013, SEC.7.*

### **IC 36-2-12-3**

#### **Location of office; business hours; supplies and equipment**

Sec. 3. (a) The surveyor shall keep his office in a building provided at the county seat by the county executive. He shall keep his office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, he may close his office on days specified by the county executive according to the custom and practice of the county.

(b) The county executive shall provide the surveyor with all necessary supplies and equipment, including:

- (1) ordinary office supplies, equipment, and accessories of the type furnished to other county offices; and
- (2) surveying instruments and materials necessary for the discharge of his duties.

Supplies and equipment furnished under this subsection are property of the county.

*As added by Acts 1980, P.L.212, SEC.1.*

### **IC 36-2-12-4**

#### **Legal action on days office is closed**

Sec. 4. A legal action required to be taken in the surveyor's office on a day when his office is closed under section 3 of this chapter may be taken on the next day his office is open.

*As added by Acts 1980, P.L.212, SEC.1.*

### **IC 36-2-12-5**

#### **Official seal**

Sec. 5. The surveyor may procure and use an official seal.

*As added by Acts 1980, P.L.212, SEC.1.*

### **IC 36-2-12-6**

#### **Administration of oaths; appointment to offices of commissioner for partition or viewer; acknowledgments of mortgages and deeds**

Sec. 6. (a) The surveyor may:

- (1) administer oaths necessary in the discharge of the surveyor's duties; and
- (2) administer and certify any oath required to be taken by:
  - (A) a commissioner for the partition of real property; or
  - (B) a commissioner to view, mark, locate, or relocate a public highway.

(b) If the surveyor is appointed to one (1) of the offices covered by subsection (a)(2), the surveyor is not required to take an oath under that provision. The surveyor's duties as a commissioner

comprise part of the surveyor's official duties, and the surveyor's signature on any proceedings required of a commissioner is sufficient.

(c) The surveyor may take, and certify with the surveyor's seal and signature, acknowledgments of mortgages and deeds for the conveyance of real property.

*As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1989, SEC.227.*

#### **IC 36-2-12-7**

##### **Expiration of surveyor's term**

Sec. 7. (a) At the expiration of his term of office, the surveyor shall turn over to his successor all engineering and survey work in which he is engaged.

(b) At the expiration of the surveyor's term of office, his duties as surveyor, including his duties as county engineer or as the engineer on public improvement work of any kind, cease, and those duties shall be performed by his successor, unless by mutual agreement the surveyor whose term is expiring is permitted to continue performing his duties on public improvements.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-12-8**

##### **Supervision of surveying and civil engineering work; appointment of civil engineer**

Sec. 8. (a) If he is a competent civil engineer, the surveyor shall plan and supervise all surveying and civil engineering work of the county under the direction of the county executive.

(b) If the surveyor is not a competent civil engineer, the county executive shall appoint a competent civil engineer for each surveying or civil engineering project that the executive orders or receives a petition for. If the executive refuses to appoint such an engineer for a project, the surveyor is entitled to a hearing in the circuit or superior court of the county to determine his competence to perform the project. The order of the court under this section is final and conclusive.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-12-9**

##### **Survey to constitute prima facie evidence**

Sec. 9. A survey by the surveyor constitutes prima facie evidence in favor of the corners and lines it establishes.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-12-10**

##### **Maintenance of legal survey record book; procedure for establishing location of line; effect of location and establishment of lines; appeal**

Sec. 10. (a) The county surveyor shall maintain a legal survey record book, which must contain a record of all the legal surveys

made in the county showing outline maps of each section, grant, tract, subdivision, or group of sections, grants, tracts, and subdivisions in sufficient detail so that the approximate location of each legal survey can be shown. Legal surveys shall be indexed by location.

(b) A landowner desiring to establish the location of the line between the landowner's land and that of an adjoining landowner by means of a legal survey may do so as follows:

(1) The landowner shall procure a professional surveyor registered under IC 25-21.5 to locate the line in question and shall compensate the professional surveyor.

(2) The professional surveyor shall notify the owners of adjoining lands that the professional surveyor is going to make the survey. The notice must be given by registered or certified mail at least twenty (20) days before the survey is started.

(3) If all the owners of the adjoining lands consent in writing, the notice is not necessary.

(4) The lines and corners shall be properly marked, monumented by durable material with letters and figures establishing such lines and corners, referenced, and tied to corners shown in the corner record book in the office of the county surveyor or to corners shown on a plat recorded in the plat books in the office of the county recorder.

(5) The professional surveyor shall present to the county surveyor for entry in the legal survey record book a plat of the legal survey and proof of notice to or waiver of notice by the adjoining landowners. The professional surveyor shall give notice to adjoining landowners by registered or certified mail within ten (10) days after filing of the survey.

(c) The lines located and established under subsection (b) are binding on all landowners affected and their heirs and assigns, unless an appeal is taken under section 14 of this chapter. The right to appeal commences when the plat of the legal survey is recorded by the county surveyor in the legal survey record book.

*As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.23-1991, SEC.34; P.L.57-2013, SEC.91.*

### **IC 36-2-12-11**

#### **Administration of section; maintenance of corner record book; contents of record; procedure for establishment and perpetuation of corners**

Sec. 11. (a) The county surveyor shall administer this section if the county surveyor is registered as a professional surveyor under IC 25-21.5. If the county surveyor is not registered, the county surveyor shall, with the approval of the county executive, appoint a person who is registered as a professional surveyor and is a resident voter of the county to administer this section. If a resident, professional surveyor is not available, a professional surveyor who resides in another county may be employed.

(b) The county surveyor shall keep and maintain a corner record book, that must contain:

- (1) a record and an index by location of all the original government survey corners;
- (2) outline maps of each section, grant, tract, and subdivision or group of sections, grants, tracts, and subdivisions in the county showing the location of each corner on record and stating at the location of each corner on the map where the reference for that corner may be found; and
- (3) a reference index for each corner.

A separate card index system may be used in lieu of the index required by subdivision (3).

(c) The record of each corner referenced in the record book must contain:

- (1) the location of the corner;
- (2) an accurate description of the monument used to mark the corner such as "stone" or "iron pin";
- (3) the distance and bearings from the corner to three (3) or more permanent objects or structures;
- (4) the date the corner was last checked and the condition of the monument and references;
- (5) the name of the county surveyor making the check; and
- (6) the method of establishing or relocating the corner.

(d) The records of the county corners shall be established and perpetuated in the following manner:

- (1) Each year the county surveyor shall check and reference at least five percent (5%) of all corners shown in the corner record book.
- (2) The county surveyor may enter in the county surveyor's corner record book the findings submitted by a private, professional surveyor who checks and references corners and is registered under IC 25-21.5.

(e) Any money in the county surveyor's corner perpetuation fund collected under IC 36-2-7-10 or IC 36-2-19 may be appropriated in the manner provided by law for the purposes of this section.

*As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.342-1983, SEC.2; P.L.76-1989, SEC.2; P.L.23-1991, SEC.35; P.L.57-2013, SEC.92.*

### **IC 36-2-12-12**

#### **Surveyors not trespassers; actual damages**

Sec. 12. While doing work under section 10 or 11 of this chapter, a professional surveyor registered under IC 25-21.5, or the employees of the professional surveyor, an unregistered county surveyor, or the employees of a county surveyor are not considered trespassers and are liable only for the actual damages they cause to property.

*As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.342-1983, SEC.3; P.L.23-1991, SEC.36; P.L.57-2013, SEC.93.*

### **IC 36-2-12-13**

#### **Corner and Harn monuments; temporary removal; change of location; reimbursement for repair or replacement**

Sec. 13. (a) A person may, for excavation, mineral extraction, or other purposes related to the person's business, temporarily remove a monument marking a corner. The person must notify in writing the county surveyor at least thirty (30) days before removing the monument. The person must replace the monument within a reasonable time at the person's expense under the supervision of the county surveyor or, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, the registered person who is selected under section 11 of this chapter. The surveyor shall file a copy of the notice in the corner record book.

(b) Only a county surveyor or a designee may change the location of any monument. A person who wishes to have the location of a monument changed must make a request to the surveyor in writing and furnish written approval of all landowners whose property is affected by the proposed change. The surveyor may approve, reject, or modify the request and shall file a copy of the notice and the landowners' consents in the corner record book.

(c) When, in the construction or maintenance of a state, county, or municipal road or street, it is necessary to remove or bury a monument marking a corner, the owner of the public right-of-way shall notify the county surveyor in writing at least fifteen (15) days before commencing the work.

(d) A county legislative body may adopt an ordinance:

- (1) prohibiting a person from moving, changing, or otherwise altering a monument marking a corner without complying with this section; and
- (2) prescribing a monetary penalty for a violation of the ordinance.

Any money collected shall be deposited in the county surveyor's corner perpetuation fund.

(e) A person who damages or removes a monument marking a corner or high accuracy reference network (HARN) point shall reimburse the county for the cost of repairing or replacing the monument.

(f) If a person who damages or removes a monument marking a corner violates an ordinance under subsection (d), the person is liable for:

- (1) the amount of reimbursement under subsection (e); and
- (2) any monetary penalty prescribed by the county legislative body for violation of the ordinance under subsection (d).

*As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.343-1983, SEC.1; P.L.76-1989, SEC.3; P.L.2-1997, SEC.80; P.L.276-2001, SEC.6; P.L.90-2003, SEC.1.*

### **IC 36-2-12-14**

#### **Appeal of survey; procedure**

Sec. 14. (a) The owner of property surveyed under this chapter may appeal that survey to the circuit court for the county:

- (1) within ninety (90) days if he is a resident of the county and was served with notice of the survey; or

(2) within one (1) year if he is not a resident of the county and notice was by publication.

(b) When an appeal is taken under this section, the surveyor shall immediately transmit copies of the relevant field notes and other papers to the court, without requiring an appeal bond.

(c) The court may receive evidence of any other surveys of the same premises. If the court decides against the original survey, it may order a new survey to be made by a competent person other than the person who did the original survey, and it shall:

(1) determine the true boundary lines and corners of the lands included in the survey; and

(2) order the county surveyor to:

(A) locate and perpetuate the boundary lines and corners according to the court's findings by depositing durable markers in the proper places, below the freezing point;

(B) mark the boundary lines and corners; and

(C) enter the boundary lines and corners in his field notes.

(d) A new survey made under this section may be appealed under this section.

*As added by Acts 1980, P.L.212, SEC.1.*

### **IC 36-2-12-15**

#### **Compensation**

Sec. 15. (a) If the surveyor serves as highway supervisor or county highway engineer and is compensated for that service in an amount greater than the compensation fixed under this title, then that compensation is in lieu of the compensation fixed under this title.

(b) When fixing the compensation of county officers under this title, the county fiscal body shall fix:

(1) compensation for the surveyor as if he is registered under IC 25-21.5 or IC 25-31; and

(2) compensation for the surveyor as if he is not registered under IC 25-21.5 or IC 25-31.

The compensation fixed under subdivision (1) must be one and one-half (1 1/2) times that fixed under subdivision (2). The county fiscal body shall then determine whether or not the surveyor is registered under IC 25-21.5 or IC 25-31 and shall fix his compensation in the proper amount.

(c) In addition to the compensation fixed under subsection (b), if the surveyor describes and certifies the number of miles of active regulated drains in the county to the county executive, he is entitled, with the approval of the county executive, to:

(1) two dollars (\$2) per mile for each mile described and certified, if he is not registered under IC 25-21.5 or IC 25-31; or

(2) four dollars (\$4) per mile for each mile described and certified, if he is registered under IC 25-21.5 or IC 25-31.

(d) In addition to the compensation fixed under subsections (b) and (c), the surveyor is entitled to:

(1) two dollars (\$2) for each corner reference required under section 11 of this chapter, if he is not registered under

IC 25-21.5 or IC 25-31; or

(2) four dollars (\$4) for each corner reference required under section 11, if he is registered under IC 25-21.5 or IC 25-31.

*As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.309, SEC.103; P.L.342-1983, SEC.4; P.L.2-1997, SEC.81.*

**IC 36-2-12-16**

**Replacement of worn maps and plats**

Sec. 16. The surveyor shall replace worn maps and plats as required by IC 36-2-17-5(c).

*As added by P.L.276-2001, SEC.7.*