

**MINIMUM STANDARD DETAIL REQUIREMENTS FOR
ALTA/ACSM LAND TITLE SURVEYS**
(Effective February 23, 2011)

Frequently Asked Questions

Since the adoption of the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys by the leadership of ALTA and NSPS/ACSM, industry professionals have shared questions about various sections of the new standard. This document provides additional information on some of the most frequently asked questions and common concerns.

If you have additional questions or concerns, please feel free to contact the staff liaison for ALTA's Liaison Committee with the ACSM, Kelly Romeo, at kromeo@alta.org.

QUESTION #1: Where can I find and download the 2011 Standard and these FAQs?

Visit the ALTA website at www.alta.org/forms and look in the "Most Requested" section. You can also find the standard on the ACSM website at www.acsm.net in the "Standards" section.

QUESTION #2: May I reprint the standard with my company logo, signature block, and minor modifications?

Yes. The Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys are copyrighted by ALTA along with the ACSM and NSPS. In general, ALTA permits "derivative" versions of all of its copyrighted forms for company branding and use of the ALTA forms for education/training purposes.

Please note that substantive changes to anything other than Table A, Item 22, in the Minimum Standards would result in a document that is not an official ALTA/ACSM Land Title Survey.

QUESTION #3: If a Surveyor began work on a Survey before the effective date of 2/23/2011 or is asked to update information requiring an updated Certification, may the 2005 Standard still be used?

If the work was contracted and began before February 23, 2011, it may be completed under the 2005 standards, but otherwise any survey which is certified or re-certified on or after 2/23/2011 should use the 2011 Standard. Use of the Standard is voluntary, of course, and the Client and Surveyor may agree to different terms which could include use of the 2005 Standard, but in such cases the final plat or map could not be labeled an ALTA/ACSM Land Title Survey.

QUESTION #4: What happens if the Surveyor is requested to change the Certification? Does that mean it's not a "real" ALTA/ACSM Land Title Survey?

There is some concern in the Client community regarding the use of the words "only" and "unaltered" in Section 7 covering Certification.

Under the 2011 Standard, the only certification allowed on the face of an ALTA/ACSM Land Title Survey is the Certification in Section 7, except as required by law or regulation. Some state surveying boards, for example, require specific wording for Certification.

The Certification in Section 7 is almost always sufficient and this standard "short-form" Certification covers every issue that the Surveyor can actually and honestly certify to by stating that the Survey was conducted in accordance with the Standards. The change effected by the wording in Section 7 of the 2011 Standard is essentially a statement from the title industry and the surveying profession that title insurance coverage can be provided without additional or alternate Certification.

For those Clients who require an additional or alternate Certification, it is permissible to negotiate with the Surveyor to provide another additional Certification on a separate sheet of paper and cross-reference it to the Survey.

In lieu of an additional or alternate Certification, the drafters believe that Lenders may simply use these standards (including Table A, and Table A, Item 22, if necessary) as the basis for their requirements.

QUESTION #5: Are Title Companies required to provide deeds to the Surveyor as indicated in Section 4 – Records Research?

The American Land Title Association's position has always been that title research should be provided to the Surveyor if needed. Notwithstanding that, here are a few things that will help clarify this requirement.

- The standards are actually a contract between the Surveyor and Client. Although the Standard anticipates that title research would and should be provided by the Title Company, these Standards cannot actually force that, unless the Title Company is the Client.
- The drafters do not expect a significant change in what Surveyors will ask from Title Companies; in fact, many states require Surveyors to do their own research, although some Surveyors will likely try to obtain assistance from the Title Company.
- There is nothing in the Standard indicating that the research must be provided by the Title Company at no cost.
- The Title Company does not need to provide any deeds unless they are specifically requested. This is because there are many states whose administrative laws dictate that Surveyors must do their own deed research. Even in those states, however, the surveyor might wish to enlist the Title Company's help, but again there is nothing that says "for free."

- It may seem that the requirement to provide adjoiner deeds will require a title search. There is nothing in the Standards about a title search for adjoiners. It simply says “*current record descriptions of adjoiners.*” This was intended to be very clear and very limited.
 - Under Section 6.C.vi. it is very clear that when the adjoiner is a lot in a platted, recorded subdivision, the individual deeds are not required at all unless elected by the client pursuant to Table A item 13.
 - While the new 2011 standards now *specifically* mention adjoiner deeds, the last 4 or 5 prior versions of these standards very clearly implied that adjoiner descriptions would need to be part of the documents provided.

In some states, the title company should consider whether state law relating to the unauthorized practice of law or the licensing of abstractors may prohibit it from providing adjoiner deeds or other record information.

QUESTION #6: Are Title Companies required to provide zoning information as seems to be indicated in Table A Item 6(b)?

In most cases, this Item is related to the Client requesting an ALTA Endorsement 3.1 (Zoning-Completed Structure) from the Title Company. This endorsement is very important and requires careful research. Title Companies generally do not rely on Surveyor research to support issuance of this Endorsement.

In any event, this item does not *require* that Title Companies provide this information. If the title company is not otherwise doing zoning research, or if they simply don't want the liability associated with providing such information to the surveyor, they can simply decline to provide the information. The requirement says “*as provided by the insurer*” and if the insurer provides no information, the Surveyor has nothing to report. At that point, the Client and the Surveyor can decide what to do. Perhaps there will be an additional service negotiated whereby the Surveyor will do the research independently, or a third party can be hired.

The primary reason that this change was made is that Lenders often ask Surveyors to certify that there are no violations of the setbacks or parking requirements, but such “violations” are not matters of Survey, rather they are legal or jurisdictional determinations.

The surveyor and title company should consider whether state law relating to the unauthorized practice of law may prohibit it from providing zoning information.

QUESTION #7: What kind of liability insurance do Surveyors need to satisfy Table A, Item 21?

Surveyors will need Professional Liability Insurance (a.k.a. “Errors and Omissions” Insurance). This is a different insurance product than general liability insurance.

QUESTION #8: What is meant by ‘to be in effect throughout the contract term’ in Table A Item 21?

If Item 21 is selected by the client, the surveyor will need to have or obtain a professional liability insurance policy. The “*term of the contract*” will be the time frame agreed upon between the surveyor and client. Most states have a statute of repose in addition to their statute of limitations limiting the length of time that the surveyors are liable for their professional services. Such laws will define the period of time unless the parties contract to a different time frame. Surveyors should review the terms of their policy to be sure they are not contractually agreeing to something outside the scope of their policy.

QUESTION #9: How much Professional Liability Insurance is required per Table A, Item 21?

The amount of insurance referred to in Table A, Item 21, is a matter that must be negotiated between the Surveyor and the Client. The Client must consider the answer to these questions: If the surveyor I have hired were to make a mistake in the survey of this property, what kind of mistake might it be? What would be the potential monetary damages resulting from this mistake? The answers to these questions will depend, at least in part, on the value and location of the land and the type of improvements, if any, constructed on the land. For example, it seems reasonable to conclude that the potential damages resulting from an error made while surveying a twenty-acre tract of vacant land in the middle of a rural countryside will not be as great as the potential damages stemming from an error made while surveying a twenty-story office building in downtown Chicago

Do You Have A Question? Let us know by contacting the staff liaison to ALTA’s Liaison Committee with the ACSM. Send your question to Kelly Romeo at kromeo@alta.org