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Adoption of Standards Governing Conveyances of Real Property in Athens County, Ohio

Pursuant to Section 319.203 of the Ohio Revised Code, Jill A. Thompson, the Athens County Auditor and Archie Stanley, the Athens County Engineer, hereby agree to the following standards governing the conveyances of real property in Athens County, Ohio, and hereby adopt and prescribe the same as the official standards governing all conveyances of real property in said County.

The official standards so agreed to, adopted, and prescribed are attached hereto and made a part hereof. This Agreement is adopted in duplicate and each of the parties hereto shall keep and maintain in their office an original copy of this Agreement.

In accordance with Section 319.203 of the Ohio Revised Code, public hearings were held on the adoption of such standards on [date], and on [date], and the public testimony and written comments were received at each such public hearing and were considered in connection with the adoption of the standards.

The official standards agreed to, adopted, and prescribed, and attached hereto, shall be effective for all conveyances presented to the Athens County Auditor and the Athens County Engineer on and after April 18, 2005.

AGREED TO:

______________________________ ______________________________
Jill A. Thompson Archie Stanley
Athens County Auditor Athens County Engineer
Transfer and Conveyance Standards of the
Athens County Auditor and the
Athens County Engineer
As Adopted under the Ohio Revised Code Section 319.203

The following requirements are a revision of the requirements dated August 28, 1996 and August 27, 1999 which are hereby rescinded.

The following requirements are now adopted and established in conjunction with the Athens County Engineer and the Athens County Auditor effective on this date: April 18, 2005

Section 1—General.

It is the intent of these requirements to provide a standard method of checking legal descriptions for deeds, easements, affidavits and all other instruments that require the use of land descriptions.

It is the desire of the County to provide a service for the public to ensure proper and accurate descriptions of property, to correct any errors that are evident and to ensure that property is accurately described for tax purposes.

Not all situations can be covered by these standards and requirements, and when such situations arise they will be handled as special cases to be interpreted by the Athens County Auditor with advice and assistance from the Athens County Engineer when necessary as to whether a legal description is sufficient to meet the adopted Land Conveyance Standards as provided for by Sections 315.251 and 319.203 of the Ohio Revised Code.

All authors of instruments of conveyance are encouraged to have legal descriptions checked by the Athens County Auditor’s Office prior to the actual time of conveyance. This will avoid delays and allow time for any corrections that are necessary.

Section 2—Application Of Transfer And Conveyance Rules.

These rules apply to any transfer of a conveyance of an interest in real property made by conveyance, partition, devise, descent, court order, certificate of transfer, affidavit, or any other document, that could cause any of the following:

A. Change In The Name Of Owner(s) Of Land.

   Any document that creates, transfers, or terminates any interest in land or minerals that would cause the County Auditor to change the name of the owner or any one of the owners must be presented to the County Auditor under O.R.C. 319.20;
B. Change In Description.

Any document that changes, corrects, or amends the description of any parcel of land must be presented to the County Auditor under O.R.C. 5713.02; or

C. Transfer Of Interest That May Affect True Value.

Any document that creates, transfers, or terminates any interest in land that affects the true value of a parcel for real property tax purposes must be presented to the County Auditor under O.R.C. 5713.03.

Section 3—Special Transfers.

The following transfers are subject to special requirements:

A. Transfers By Affidavit Or Next Of Kin.

A Transfer under the law of descent and distribution may be pursuant to affidavit under O.R.C. 317.22. A certified copy of the death certificate or other official acknowledgement of death must be attached to the affidavit.

B. Transfer Of Survivorship Interest.

A transfer of a survivorship interest shall be made pursuant to O.R.C. 5302.17, only upon certificate of transfer or upon affidavit and certified copy of death certificate of the deceased joint tenant.

C. Transfer By Affidavit Under O.R.C. 5301.252.

A transfer of the name of the owner or any one of the owners may be made by affidavit pursuant to O.R.C. 5301.252 (B)(1); the correction of a legal description may be made by affidavit pursuant to O.R.C. 5301.252 (B)(4) and (B)(5); however except in the case of the termination of a life estate or survivorship estate, no transfer shall be made by affidavit pursuant to O.R.C. 5301.252 (B)(2) and (B)(3).

Section 4—Specific Requirements For All Documents Of Transfer.

All documents transferring an interest in real property that are subject to O.R.C. 319.20, including all court orders and certificates of transfer, shall contain all of the following:
A. Reference To Prior Instrument Of Record.

A reference to the volume and page of the record of the next preceding recorded instrument by or through which the grantor claims title, as required by O.R.C. 319.20;

B. Tax Mailing Address Of Grantee.

A statement of the complete tax mailing address of the grantee or any one of the grantees, as required by O.R.C. 319.20;

C. Identification Of Interest Conveyed.

The grantor shall state on the instrument of transfer the interest being conveyed, if the interest being conveyed is less than the grantor’s entire interest in the land.

D. Instruments To Conform To Law.

All deeds and other instruments transferring an interest in Real Property shall conform to the laws of Ohio or to the law of the place where the instruments were executed.

E. Document Of Transfer Shall Include Parcel Number.

The document of transfer shall include the County Auditor’s parcel number(s) of the land. If the transfer requires a new parcel to be created, the parent parcel number (original tract being divided) is acceptable.

Section 5—Conveyance Form Requirements.

No instrument will be transferred unless accompanied by a properly completed DTE 100 or DTE 100EX conveyance form that complies with the requirements of this section. Conveyance Forms must be clearly printed or typed, completed accurately in its entirety and include a printed name of the Grantee or Representative in addition to the signature.

A. DTE-100

The Real Property Conveyance Fee Statement of Value and Receipt (DTE Form 100) is prescribed by the State of Ohio. The DTE Form 100 must be completely and accurately filled out and submitted with the instrument to be transferred.

The DTE 100 is required for all transfers that are not exempt by O.R.C. 319.54 (F)(3).
B. DTE-100 (EX)

The Statement Of Reason For Exemption From Real Property Conveyance (DTE 100 EX) is prescribed by the State of Ohio for all property qualifying for exemption of Conveyance Fees. The DTE Form 100 EX must be completely and accurately filled out and submitted with the instrument to be transferred.

The DTE 100 EX is required for all transfers that are exempt by O.R.C. 319.202 and 319.54 (F)(3).

1. If reason code (b) is selected which states, “Solely in order to provide or release security for a debt or obligation”, an affidavit of facts must be submitted with the transfer.

2. If reason code (g) is selected which states, “Pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation’s assets in exchange for the stockholder’s shares in the dissolved corporation”, an affidavit of facts must be submitted with the transfer.

3. If reason code (d) is selected which states, “To evidence a gift, in any form, between husband and wife, or parent and child or the spouse of either”, an affidavit of facts may be requested.

4. If reason code (m) is selected which states, “To or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the real estate and the transaction is not a gift”, an affidavit of facts must be submitted with the transfer.

Section 6—Quality Of Documents.

No transfer will be approved by the County Auditor unless the documents presented to the County Auditor meet all of the following requirements:

A. Original Required.

The document of transfer must have the original signature of the grantor or affiant. In most cases, a copy of a court order will be accepted, but the copy must bear the signature of a judge and show on its face that it has been filed with the Clerk of Courts or be a certified copy from the Clerk of Courts.
B. Poor Original Not Accepted.

No document of transfer will be accepted which has attached to it a previously recorded document that is identified with a stamp stating, “Poor quality document presented for recording.”

C. Illegible Writing.

No document of transfer will be accepted in which the document or attachment to it is illegible as determined by the County Auditor or County Engineer.

Section 7—Sufficiency Of Description.

A. Identification.

The description of land shall be sufficient to allow the County Auditor and County Engineer to identify the land that is being transferred. Clerical errors that do not affect the County Auditor’s or County Engineer’s ability to identify the property will be disregarded, but clerical errors that cannot be resolved will cause the County Auditor or County Engineer to disapprove the transfer.

B. Description Of Tax Parcels.

All documents that transfer an ownership interest in a tax parcel shall contain one of the following types of description:

1. Platted Lot.

A platted lot shall be described by its lot number or other designation and the name of the subdivision as platted, as required by O.R.C. 711.01.

2. Condominium Unit.

A condominium unit shall be described by its unit number or other designation and the name of the condominium project as set forth in the declaration, as required by O.R.C. 5311.10.

3. Metes And Bounds Description.

Each tract of land that is not a platted lot or condominium unit shall be described by a metes and bounds description in accordance with these rules and approval of the Athens County Auditor.
C. No More Than Three Exceptions In Description.

No transfer will be approved where the description of the land sets forth more than three (3) exceptions to any metes and bounds description. An exception describes land that is included in the general description, but that is not being transferred and is excepted out and identified by a separate description of its own.

D. Descriptions must meet the requirements of Section 13 of these standards.

Section 8—Boundary Survey.

A. A boundary survey is required when any tract, lot or parcel that is being conveyed is not described in the same manner as the tract, lot or parcel was described in the immediately preceding conveyance of record. A plat of the boundary survey must be submitted to the County Engineer for approval in accordance with Section 315.251 of the Ohio Revised Code and 4733.37 of the Ohio Administrative Code. The plat needs to be an original plat that contains the surveyor’s name and number and must be to scale.

B. Must Meet Minimum Standards.

All boundary surveys required under Section 8 (A) must be made in accordance with the “Minimum Standards for Boundary Surveys in the State of Ohio” as defined by Chapter 4733.37 of the Ohio Administrative Code, along with the current requirements of the County Engineer and the County Auditor. (See Section 13).

Section 9—Breaks In The Chain Of Title.

Because the County Auditor needs to determine the ownership of each tract, lot or parcel of real property and because the County Auditor maintains ownership history of each tax parcel, the following are requirements:

A. Grantor Is Not Prior Grantee.

No transfer will be approved where a grantor is not a prior grantee, unless the document itself or an affidavit that satisfies the requirements of O.R.C. 5301.252 is provided to the County Auditor that explains to the County Auditor’s satisfaction why there is a break in the chain of title. The County Auditor may also require additional evidence when necessary to establish the correct ownership of the property.
B. Minor Differences In Names.

Differences in the name of the grantor and a prior grantee based upon the inclusion or omission of middle names or initials, or different versions of first names (e.g. Charles, Charley), or due to change in name, and similar differences of a minor nature, must be explained in the document itself or an affidavit, as required by O.R.C. 5301.252 (B)(1).

Section 10—Planning Commission Approval Of Parcel Split.

A. Subdivision Of Existing Parcel.

Any transfer or conveyance that causes a tax parcel to be split into a new parcel that is required to be approved by the planning commission or leaves a remaining parcel that requires planning commission approval must be so approved before it will be accepted by the County Auditor for transfer.

B. Auditor Will Not Determine Exemptions.

The County Auditor will not determine whether any split is exempt from planning commission approval, and will accept only a communication from the appropriate planning commission that the split is exempt.

C. No Transfer By Plat.

The County Auditor will not transfer (change the name of any owner of) any property pursuant to a plat, except by dedication of property to a public purpose upon acceptance by a political subdivision that is set forth on the plat or in a separate document.

Section 11—Land That Is Split By Taxing District Boundaries.

A. Where a tract of land that is described by a single metes and bounds description is located in more than one county, the Athens County Auditor shall consult with the County Auditor(s) of the other county to determine the treatment of the land for real property tax purposes.

B. No single tax parcel shall be created by the County Auditor that is located in different taxing districts. Any land with a single metes and bounds description that is split by taxing district lines shall be made into separate tax parcels by the County Auditor. Any platted lot that is located in different tax districts shall be placed in the district in which the front of the parcel is located, determined by street address, or in which the greater part of the parcel is located.
Section 12—Land Contracts.

All land contracts must be presented to the office of the Athens County Auditor and approved for conformance to present regulations, which may be applicable upon final transfer.

Land contracts that are recorded without approval from the Auditor’s office shall be subject to all conveyance requirements at the time of transfer and may not be permitted to qualify for a one-time transfer should the description not be in compliance with the Conveyance Standards.

Section 13—Requirements Of Conveyance By The County Auditor and County Engineer.

A. All new metes and bounds descriptions, and all plats of survey must incorporate the principles and minimum standards of good surveying and drafting and must meet the “Minimum Standards for Boundary Surveys in the State of Ohio”, as defined by Section 4733.37 of the Ohio Administrative Code.

B. Requirements For All Recorded Lot(s) Of Record.

1. All instruments conveying a recorded lot or other designation in a municipality or recorded subdivided area must designate the lot number or other designation, the official recorded name, the Plat Book and Page or Official Record reference, and the prior recorded deed reference if any exists.

2. Any parcel, outlot or portion of a recorded lot or other designation must have an accurate description to enable the County Engineer and County Auditor to determine any residue or balance left, based on existing available records.

3. Any area being conveyed in what is commonly known as an “Unrecorded Plat” must have an accurate metes and bounds description.

C. Requirements For Existing Metes And Bounds Descriptions Of Record.

1. All existing metes and bounds descriptions of record will be checked by the Athens County Auditor to verify and identify the tax parcel(s) to be conveyed.
2. All Points of Beginning must be tied to a Point of Commencement which is a point identifiable by reference to a map of the area such as the following:
   
a. Section or Quarter Section corner, Fraction corner, Lease Lot corner, Farm Lot corner, River Lot corner or nearby recorded Subdivision corner.

b. All descriptions must have reference to town and range.

c. Adequate tie-in to any of the above points of reference must be given.

3. All existing metes and bounds descriptions of record must be described verbatim as witnessed by the instrument of previous record and transfer.

4. Any existing metes and bounds description which, since the previous conveyance, has been incorporated into a municipality or other political subdivision by means of annexation must be changed to reflect its new corporate location within the situate of the subject instrument of conveyance.

5. All instruments of conveyance attempting to convey the remainder of balance of an existing tax parcel(s) from which outlots or exceptions exist must incorporate the following requirements:
   
a. All exceptions to the original tract must be listed on the document following the original tract. Each outlot or exception to the original tract(s) must be described either verbatim as witnessed by the previous conveyance of record, or described with sufficient particularity to ascertain the amount of the excepted acreage, the date the exception was conveyed, the grantee of the excepted conveyance, and the volume and page where the conveyance is recorded. No more than three (3) exceptions will be permitted per each original tract.

b. Each documented exception must refer to its recorded source if any, by which it can be verified.

c. All instruments of conveyance using exceptions to convey the balance or remainder of a tax parcel(s) must incorporate a statement identifying the tax parcel(s) and district to be conveyed, and the current taxable area as set forth on the County Auditor’s tax list for the subject conveyance (i.e. it is the intent of this instrument to convey all of Tax Parcel(s) number and district,
containing acreage or footage, as shown by the County Auditor’s records.)

6. Legal descriptions are encouraged to be submitted to the Map department for pre-approval prior to the creation of the final instrument of transfer. Two (2) working days should be allowed for review of these documents.

7. Each tract being conveyed shall state the prior deed reference at the conclusion of each parent tract.

8. A survey shall be required for all splits and/or re-surveys as outlined in Paragraph D.

9. Descriptions such as quarter section (160 Ac.), ½ of quarter section (80.00 Ac.), ¼ of ⅔ of quarter section (40.00 Ac.) and ⅔ of the 1.2 of the 1.2 quarter section being 20.00 Ac. Are acceptable descriptions. (Example: West ½ of South ½ of East half of the Northeast quarter.)

D. Requirements For New Metes And Bounds Descriptions For Conveyance.

1. All new metes and bounds descriptions, not previously recorded, must be prepared by a registered Professional Surveyor and must be in compliance with the Ohio Administrative Code, Chapter 4733.37.

2. In addition, the following items shall be required:

   a. Each course of a new metes and bounds description should be a separate paragraph, and all courses must be stated in a clockwise direction from the point of beginning to the point of termination for the subject description.

   b. Each course must contain the names of current adjoining owners together with the recorded Deed Book and Page or Official Record for each. When a course being described adjoins a recorded platted subdivision a call for the Plat Book and page will suffice.

   c. Whenever a new metes and bounds description is part of or encompasses two or more taxing districts, or two or more tax parcels, a breakdown of the area must be recited for each tax district or parcel.

   d. All instruments including new metes and bounds descriptions, which meet all the aforementioned requirements will be stamped “Description Checked For Mathematical Accuracy” and the proper notations will be made on the instrument of conveyance.
e. Whenever the descriptive content of any legal instrument of conveyance is determined to be ambiguous, it will require a survey of the parcel(s) being described be made and a new description and plat be submitted to the County Engineer for approval to the transfer of said parcel(s).

f. An original copy of all new surveys shall be submitted to the Engineer’s Office at least two days prior to transfer. A survey map and description shall be submitted and remain a part of the Engineer’s department records and will become public information. The survey map submitted must be to scale and not reduced. Faxed copies are not acceptable.

g. Property adjoiner’s names and deed references shall be on the plat. The surveyors seal, signature, phone number and address shall be on the plat and description, and the acreage must be stated.

h. Survey Plats and descriptions submitted for approved will be stamped “SURVEY CHECKED FOR MATHEMATICAL ACCURACY,” signed and dated by personnel from the County Engineer’s Office.

i. When there is an exception to a tract or parcel, the exception must be fully described by metes and bounds description in the deed conveyed, and/or referenced by a prior recorded description that meets current requirements.

3. Landlocked Property.

No document shall be approved, that upon transfer, creates a landlocked parcel. A landlocked parcel is described as any tract of land that upon transfer creates a tract with no road frontage.

However, a landlocked tract will be accepted if the landlocked parcel is sold to, or retained by, an adjoining tract with road frontage. In this case the landlocked parcel must be sold with the frontage tract, or to another adjoining owner of the landlocked parcel with road frontage.

In addition, if there is a provision included on the document of transfer for a permanent easement of ingress and egress suitable for vehicular traffic, in such case the transfer will be approved.
4. Exceptions.

All exceptions to the original tract must be listed on the document following the original tract.

Each outlot or exception to the original tract(s) must be described either verbatim as witnessed by the previous conveyance of record, or described with sufficient particularity to ascertain the amount of the excepted acreage, the date the exception was conveyed, the grantee of the excepted conveyance, and the volume and page where the conveyance is recorded. An exception is described as any tract of land sold from the original tract.

No more than three (3) exceptions will be permitted per each original tract.

5. Unacceptable Legal Description.

All legal descriptions may be submitted to the Auditor’s Office for Pre-Approval.

Documents submitted for transfer that do not comply with any requirement of this section or that contain any of the characteristic listed below shall be stamped, “Legal Description Does Not Meet Athens County Conveyance Standards. Future Transfer Will Require Survey”.

   a. A Point of Commencement which cannot be determined and/or identified

   b. A blatant error in the legal description

   c. Any description that does not close mathematically.

   d. Vague terms or reference points of beginning such as, “in a northerly direction”, “with the meandering of a stream”, etc.

   e. Contains more than three (3) exceptions to an original tract.

   f. Is determined to be a poor description by the tax map department personnel.

E. Requirements For Plats Of Surveys.

1. All plats must be in compliance with the Ohio Administrative Code Chapter 4733.37.
2. Plats which are attached to the instrument of conveyance shall be prepared in a format that meets the requirements of the Athens County Recorder. For the recorded instrument the County Recorder has established an 8-1/2” X 14” size plats as preferred.

F. Exceptions To The Requirements For New Metes And Bounds Descriptions.

The following documents will be permitted to transfer with the prior legal description regardless of whether the prior document of transfer was stamped, “Legal Description Does Not Meet Athens County Conveyance Standards. Future Transfer Will Require Survey”:

1. Sheriff’s and Auditor’s Deeds

2. Certificates Of Transfer

3. Survivorship Affidavit Of Transfer

4. Life Estates

5. Judicial Orders

6. Transfers within an immediate family. (Immediate family includes: father, mother, son, daughter, grandparents, brother, sister, brother-in-law, sister-in-law, daughter-in-law, son-in-law, father-in-law, mother-in-law, spouse, and grandchild.) The remaining acreage of each tract to be conveyed shall be stated.

7. Transfer between co-owners of a property as so long as both parties were listed as grantees on the last deed.

In these cases, the document shall be stamped, “Legal Description Does Not Meet Athens County Conveyance Standards. Future Transfer Will Require Survey” and be subject to the above criteria for acceptance.