

Butler County, Ohio

Real Estate Conveyance Standards:

## Introduction

Pursuant to Ohio Revised Code (ORC) 319.203, adopted February 16, 1996, the Butler County Auditor and the Butler County Engineer adopted written standards for the conveyance of real property. Copies of all standards are available free of cost from the Auditor's Office on the third floor of the Butler County Administration Center at 130 High Street, Hamilton, Ohio 45011, or the Butler County Engineer's Office Tax Map Department on the third floor of the Butler County Administration Center at 130 High Street, Hamilton, Ohio 45011, or by mail. Please call the Auditor's Office at 513-887-3154 or the Tax Map Department at 513-887-3500. The purpose of transferring deeds through the Auditor is: 1) to maintain an accurate record of property ownership and parcel identity, and 2) to collect an accurate conveyance fee required by Ohio Revised Code (ORC) Sections 319.20 and 322.02. Tax maps are maintained by the Butler County Engineer on behalf of the Butler County Commissioners for the benefit of the Board of Revision and the Auditor. The maps are kept in the Auditor's Office (ORC 5713.09). The County Recorder can not record deeds unless they are first endorsed as transferred by the Auditor (ORC 317.22).

## Documents Required

In order to transfer ownership of lands on the County's tax list, the following documents or information are required:

- A. Conveyance Fee Statement (DTE form 100)(ORC 319.202). [DTE 100 EX if exempt under ORC 319.54(F)(3)] Evidence of Title [usually a deed or court order] bearing (a) the last known address of the grantee and (b) reference to the recorded instrument through which the grantor claims title. (ORC 319.20) Based upon the content of the documents listed above, the following documents or information may also be required: DTE form 101 is required if the property conveyed is entitled to receive the senior citizens homestead exemption. DTE form 102 is required if the property conveyed is qualified for current agricultural use valuation (CAUV). A Boundary Survey will be required under the following circumstances (ORC 315.251):
  1. When only part of a parcel is conveyed, or; When the legal description of the property to be conveyed is different from the legal description in the most recent conveyance.
  2. When an existing legal description of the property to be conveyed is not mathematically close or appears to be missing information, the County Engineer is to mark the description "survey required before next transfer."
- B. Affidavits requiring specific information are required when:
  1. The grantor is a trustee (ORC 317.22(B)(2)); Property is being transferred from an ancestor to heirs (ORC 317.22(B)(1));
  2. A trustee ceases to be a trustee for whatever reason (ORC 5302.171).

## Deed Contents and Standards

Some of the following documents can convey real property, but all require processing by the Auditor's office:

1. Deeds of Conveyance, Declarations and By-Laws, Affidavits, Easements, Bankruptcy, Annexations, Change of Name, Court Entries, Lot Combinations, Mergers, Deed Restrictions, Ordinances Agreements.
2. Notices

In order to provide meaningful information for transfers, these documents must contain the following information:

1. Name of Grantor Name of Grantee Signature of Grantor
2. Legal Description of Property

In order to be recorded, such documents must have the items listed above, plus contain the following information:

1. Auditor's transfer endorsement Two witnesses for grantor signature if prepared in Ohio Complete notary information Name of person who prepared document Original signatures, preferably in black ink Name of current owner on affidavits
2. Certified copy of death certificate with affidavit for Transfer to Survivor

All documents must be legible and of an acceptable quality for microfilming. Cut-and-paste documents with staples, tape, and glue are not acceptable. Standard paper size, such as 8½" x 11" and 8½" x 14", is preferred.

### **Auditor's Procedures**

Based upon ORC 319.203, the Auditor can not transfer any conveyance that does not comply with the standards adopted by the Auditor and the Engineer.

These standards apply to any document presented to the Auditor under ORC 319.20 that conveys title to real property. Such documents are commonly referred to as "deeds," but may be identified by different names. Deeds are presented first to the Auditor so that the name of the owner can be transferred on the County's tax list. This process often involves the Tax Map Department of the Engineer's Office to confirm legal descriptions. Once transferred, deeds are usually recorded with the County Recorder but the legal consequences of recording deeds are beyond the scope of these standards. The Auditor transfers property by indorsing transfer documents by hand or with pre-printed stamps that confirm the property data complies with existing conveyance standards. These endorsements are made on the face of the document and their purpose is stated. Based upon ORC 319.203, the Auditor can not transfer any conveyance that does not comply with the standards adopted by the Auditor and the Engineer.

## Engineer's Procedures

Tax maps are maintained by the Butler County Engineer. The intent of these requirements is to provide a standard method of checking legal descriptions.

Anyone who prepares an instrument of conveyance is welcome and encouraged to have descriptions checked by the County Engineer's Office prior to the actual time of conveyance. This can avoid delays and allow time for any corrections, if needed. Once presented to the Auditor, the Tax Map staff will verify descriptions to ensure they are consistent with the County's tax list. Discrepancies will be identified to the Auditor with instructions to correct tax records, obtain a survey, or approve the conveyance subject to a survey on the next transfer, as described below.

## Conveyance Standards

Conveyance standards involve two primary areas of documentation: A) property records maintained by the Auditor, and B) legal descriptions interpreted by both the Auditor and the Engineer.

### (A) Property Records Maintained by the Auditor

- 1. A Conveyance Fee Statement must be signed by grantee, or agent must be identified legibly under the signature. Auditor's office must be provided with a list of all tax parcels described in the deed. These parcels can be printed on the deed or listed on a separate document, but must be consistent with the Auditor's ownership records. All inconsistencies should be resolved through the plat maps or prior deeds. All deeds where a general or fictitious partnership is the grantor or grantee must bear partnership stamp from the Recorder's Office. All property subject to Miami University leases (known as "college lands") must have evidence of being transferred by the University. These deeds must bear a stamp from the University administration. All items in the Grantee section (shaded area) of the Real Property Conveyance Fee Statement of Value and Receipt (DTE 100) should be filled out. The following items MUST be completed legibly:
    1. Item 1, Grantor's Name Item 2, Grantee's Name Item 2a, Grantee's Address Item 3, Address of Property Item 4, Tax Billing Address Item 7 (f), Consideration (Price Paid) for Real Property Item 8, Senior Citizens Homestead
    2. Item 9, CAUV status DTE form 101 must be attached to the Conveyance Fee Statement if Item 8 shows property is

- entitled to receive senior citizen homestead exemption (box "a").
2. DTE form 102 must be attached to the Conveyance Fee Statement if Item 9 shows property is qualified for Current Agricultural Use Valuation (box "a").
  3. Any deed that has a trustee as the grantor must have either (1) a statement on its face that title is held pursuant to ORC 5301.03 et seq as a "naked trust," or (2) an appropriate affidavit according to ORC 317.22 (2), which must contain the location of the trust instrument, a description of the powers of the trustee to transfer of real property, and the name of the person who transferred the real property to the trust. The Auditor must endorse such deeds as being transferred by affidavit. The affidavit shall be filed with the Recorder. No affidavit is required for deeds referenced to ORC 5301.03, and master affidavits may be filed and referenced by book and page in the deed's granting clause. Any deed that transfers real estate from the name of an ancestor to the heir or next of kin, must have an appropriate affidavit according to ORC 317.22 (1). The Auditor must endorse such deeds as being transferred by affidavit. The affidavit shall be filed with the Recorder.
  4. When a trustee ceases to be a trustee of land owned by a trust for whatever reason, the successor trustee must present to the Auditor an appropriate affidavit according to ORC 5302.171. The Auditor will endorse this affidavit as "TRANSFER NOT NECESSARY" so it can be filed with the County Recorder according to the same statute.

In most cases, deeds can not be transferred without the completion of a Conveyance Fee Statement ("Real Property Conveyance Fee Statement of Value and Receipt"). Almost all transfers require a fee as explained below.

### **Conveyance Fee Statement**

### **Affidavits**

### **Conveyance Fees**

Conveyance Fees shall be charged in compliance with rates established by O.R.C. 319.54 as last revised at the time of conveyance.

Transfer fees Must Be Correct--

(1) The current Conveyance Fee is \$.30 per \$100 of sale price, or part thereof, and;

(2) The current Processing Fee is \$0.50 per parcel. (A "parcel" means tax parcel.)

(B) Legal Descriptions

- 1. REQUIREMENTS FOR ALL RECORDED LOTS OF RECORD
    1. All instruments conveying a recorded lot in a recorded subdivided area must designate the lot number(s), the official recorded subdivision name, the envelope and page reference of plat record, and the prior recorded deed reference, if any. Any out?lot or portion of a recorded lot must have an accurate description to establish a tax structure for the portion being conveyed so the Auditor can determine the residue or balance left, based on the current Tax Maps and Parcel Numbers.
    2. Any area being conveyed in what is commonly known as an "Unrecorded Plat" must have a metes and bounds description. ("Unrecorded Plat" is defined as old survey records or other similar plats that were not recorded, but exists on the tax map.)

REQUIREMENTS FOR EXISTING METES AND BOUNDS DESCRIPTIONS OF RECORDS

3. Deeds that contain sub?standard or vague legal descriptions that are not acceptable metes and bounds descriptions shall be stamped by the Engineer's Office, "Survey Required Next Transfer" on the deed or transfer document. This means a complete survey must be performed the next time the parcel transfers and a new legal description prepared accordingly. [See exception under Paragraph 3 below.] All existing metes and bounds descriptions of record which do not create or alter the current tax structure of a parcel(s) will be checked by the Butler County Engineer's Office to verify and identify to the Butler County Auditor the tax parcel(s) to be conveyed. In the event that a tract of ground is subject to a foreclosure sale and the original deed has been stamped "Survey Required Next Transfer," the new Sheriff's deed may use the original description but shall have the "Survey Required Next Transfer" stamp affixed. 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. All

instruments of conveyance attempting to convey the remainder or balance of an existing tax parcel(s) from which out?lots or exceptions to title exist must incorporate the following requirements:

1. Each out?lot or exception to title of the original tract(s) must be described verbatim (legal description with acreage) as witnessed by the previous conveyance of record. No transfer will be approved where the description of the land set forth contains more than three (3) exceptions. Each document exception must recite the title, acreage, and its recorded source by which it can be readily verified. It will not be necessary to recite all easements and restrictions unless they are on the previous instrument or readily available.
2. All instruments of conveyance using exceptions to title to convey the balance of remainder of a tax parcel(s) should incorporate a statement identifying the tax parcel(s) and district to be conveyed, and the current taxable area as witnessed by the Butler County Auditor's tax duplicate for the subject conveyance. The purpose of this statement is to convey all of Tax Parcel(s) number and district, containing acreage or footage, as shown by the Butler County Auditor. The County Engineer's Office will assist in furnishing the parcel(s) number when requested.
4. All metes and bounds descriptions must be in agreement with the plat of survey when checked by the Butler County Engineer's Office for verification or approval.

**REQUIREMENTS FOR NEW METES AND BOUNDS DESCRIPTIONS FOR CONVEYANCE** All new metes and bounds descriptions must incorporate the following:

5. **Situate**
  - A. Must denote state, county, township, municipality (if appropriate). It must also denote township, range, section, half section.
  - B. Must denote recorded title and deed reference as to the tract(s) of origination.

**Starting Point**

- c. All descriptions must be referenced to a monumented point of beginning such a monumented recorded plat

corner, monumented section and/or monumented half section corner of lines, etc.

- D. Any survey that establishes section lines must show monuments found and/or set at each end of section line or quarter section line, along with witness ties in descriptions.

### Courses

- E. 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 point of beginning to point of termination for the subject description. Each course of a new metes and bounds description shall contain a bearing expressed in degrees, minutes and seconds and a distance recited in feet and decimal parts thereof, from point of origination to a point of termination of each course. The basis of the bearings shall be given in a statement similar to the following: "This bearing is based on the centerline bearing of the 'Road Number' or 'Road Name' and all other bearings are from angles and distances measured in the field," or "Bearings shown hereon are based on an assumed meridian and are used to denote angles only." Each course must recite all monumentation, (See 4733-03 of Minimum Standards) either placed or found, along each course, or at the point of origination and/or termination of each course. This recitation shall include the type, size and material of each monument. Monuments are also to be set at all right-of-way corners and intersection of right-of-way and property lines. Every boundary monument and/or reference monument set by the surveyor shall, when practicable, be in accordance with 4733-37-03 of the Minimum Standards for Boundary Surveys in the State of Ohio.
- F. Each course must show all other common lines such as centerlines of roads, rivers, streams, etc. quarter or half section lines, or any other pertinent common line of record or interest as witnessed by the survey for the conveyance.

### Curves

Any course of a new metes and bounds description which is a curve must contain the direction of the curve (right or left),

the radius (in feet and decimal parts thereof), arc length and the long chord bearing and distance (in feet and decimal parts thereof) of same. References All references to roads, rivers, streams, railroads, etc., must use current or existing numbers or names of record. Old or original names may also be mentioned if they would add clarity. They must also refer to the road record book and page. Acreage

- G. All new metes and bounds descriptions must give the acreage contained within its perimeter and calculated to the third decimal place. The total acreage contained within the road right of way shall be recited to the third decimal place. Total calculated square footage may also be mentioned as a matter of option.
- H. Whenever a new metes and bounds descriptions encompasses two or more taxing districts, or two or more tax parcels, a breakdown of the total area must be recited to create an accurate tax structure.

#### Prior Deed References

The deed reference(s) from which the current record owner of the conveyance acquired title must be recited. Computer Verification of Metes and Bounds

All new metes and bounds descriptions will be subject to computer verification as to the accuracy of the traverse closure (1/10,000 minimum allowable traverse closure) of the areas as described. Whenever this process is necessary there will be a delay in approving the conveyance for transfer purposes. It is suggested that the surveys be presented for pre-transfer approval 24 hours in advance of making the survey available to the public. Endorsements

All instruments containing new metes and bounds descriptions, which meet all of the aforementioned requirements will be initiated by an employee of the Butler County Engineer and the proper notations will be made on the instrument of conveyance, verifying a correct tax structure to the County Auditor. Signed and Sealed Plats  
All new metes and bounds descriptions prepared by a registered surveyor must be accompanied by a signed and sealed plat of survey.

- 6. Approval of Splits  
All splits must be approved by the Butler County Planning Department or by the City Planning Department.

## II. REQUIREMENTS FOR PLATS OF SURVEY

1. The surveyor shall prepare a scale drawing of every new metes and bounds description he or she originated, and make available a reproducible copy of the drawing to be filed with the Butler County Engineering Department. All new metes and bounds descriptions prepared by a surveyor must incorporate the following statement:

"The above description is based on a field survey performed under the direct supervision of (name, address, telephone number and registration number) on month, day, year"

"Recorded in Plat Book Volume \_\_\_\_\_, Page \_\_\_\_\_" All plat drawings must incorporate the following details:

- . A title, such that the general location of the subject survey can be readily identifiable. (This requirement should include the same information as established by Section 1, Item A and B of the "REQUIREMENTS FOR NEW METES AND BOUNDS DESCRIPTIONS FOR CONVEYANCE"). A north arrow with a clear statement as to the basis of the reference ? Direction Used. The monumented control station(s) or monumented starting point reference as cited in the deed description. All monumentation either found or placed, as cited by the metes and bounds description, together with a legend of the symbols used to identify the subject monumentation showing the material and size for each. If all monuments are identified individually, no legend will be required. All existing title, and source of title of adjoining owners along each boundary line of the subject survey along with the acreage or lot number of the adjacent tracks. All boundary information for each course as established by "REQUIREMENTS FOR NEW METES AND BOUNDS DESCRIPTIONS FOR CONVEYANCE" Section 3, Items A thru F, and Section 4, Item A. All references used to compile survey must be listed on the plat of survey. The scale of the subject drawing.
- A. The surveyors printed and signed name, Ohio Registration Number and reproducible Stamp or Seal.

## DRAWING STANDARDS

<b>Plats of Survey</b>	
Plat Size	18" x 24"
Letter Size	Minimum 1/8"
Letter Spacing	Minimum 1/16" or half of the letter sized used
<b>Record Plats</b>	
Plat Size	18" x 24" or 24" x 36"
Letter Size	Minimum 3/16"
Letter Spacing	Minimum 3/32" or half of the letter size used
Line Spacing	Between line spacing for both size plats will be the minimum spacing of the letter size.
Borders	All plats will have a 1/2" border.

### **Letter Quality**

Smaller letters and numbers will be made with a fine tip pen (usually a pen numbered between zero and two). Letters and numbers will be well defined and will not run or bleed.

If the plat drawing is difficult to read due to the labeling and dimensioning of easements and property lines, then all property lines and associated labeling are to be shown on one drawing and all easements and associated labeling are to be shown on another separate drawing on the plat.

### **Material**

Black Ink (also known as Indian Ink) on Mylar or translucent bond paper.

## Plat Condition

2. Pencil guidelines and smudge marks will be removed with gum eraser. No numbers or letters will be drawn in shaded areas or on a line. All print will be on the front side of plat and meet all other size standards. Signatures will be in permanent black ink. Seals will be shaded or in permanent ink.
3. Folded, wrinkled, or torn plats are not acceptable.

All plats must be of an acceptable quality for microfilming. The acceptability of plats is at the discretion of the tax map department of the Engineers Office.

2. **MINIMUM STANDARDS FOR BOUNDARY SURVEYS IN THE STATE OF OHIO** In addition to the requirements set for above, all new metes and bounds descriptions, and all requirements for plats of survey must incorporate the principals, and minimum standards of good surveying, engineering and draftsmanship as defined by Sections 4733-37 thru 4733-37-07 of the administrative code of the State Board of Registration for Professional Engineers and Surveyors of the State of Ohio.

These requirements are based on the "Minimum Standard for Boundary Surveys in the State of Ohio." Said Minimum Standards have been accepted by the State Board of registration for Professional Engineers and Surveyors as an operating rule and became effective May 1, 1980 according to Section 4733-37 to 4733-37-07.

Attached is a copy of Section 4733-37 of the Ohio Administrative Code which explains the minimum standard for boundary surveys in the state of Ohio.

Section 315.251 of the Ohio Revised Code requires a "boundary survey" whenever land to be conveyed is only part of the grantor's land or when the legal description is different than that previously conveyed. Boundary surveys have specific requirements under Chapter 4733 of the Ohio Administrative Code and are subject to review and approval by the County Engineer. Approved surveys are then kept on file by the County Engineer.

## **Plats and Legal Descriptions**

### **General Provisions**

The Auditor can not transfer any conveyance that does not comply with these standards (ORC 319.203), and the Recorder can not record any deed unless it is transferred by the Auditor (ORC 317.22). Neither the Auditor nor the Engineer is responsible for the preparation or accuracy of deeds, affidavits, and similar instruments that transfer title to real property. Under these conditions both offices will make a good faith effort to help with the transfer of property by providing forms, explaining procedures, and executing endorsements and approvals within a reasonable time frame, but any document that fails to comply will be returned to its author for correction. The Auditor reserves the right, however, to make notations on documents that effect the Auditor's domain under ORC 319.203 and transfer a conveyance that might otherwise fail to comply because of an obvious or insignificant error.