

PREAMBLE

The intent of this revision of current rules is to perpetuate the desire for good conveyances and to modify, add, clarify or eliminate certain rules. The rules following have been restructured in a manner to promote a better understanding and to effect a more workable process for all persons involved without losing sight of the mutual goal to improve the quality of conveyances where needed.

Ashtabula County Auditor
Sandra O'Brien

Ashtabula County Engineer
John W. Smolen, P.E., P.S.

**ADOPTION OF REVISIONS TO STANDARDS GOVERNING CONVEYANCES
IN ASHTABULA COUNTY**

Pursuant to Section 319.203 of the Ohio Revised Code, Sandra O'Brien, the Ashtabula County Auditor, and John Smolen, the Ashtabula County Engineer, hereby agree to the revisions contained herein of the "Minimum Requirements for all Instruments of Conveyance in Ashtabula County, Ohio" (effective January 1, 1997) and hereby adopt the revisions to be the official standards governing all conveyances of real property in Ashtabula County.

This agreement is adopted in duplicate and each of the parties shall keep and maintain an original copy of this agreement.

Pursuant to Section 319.203, Ohio Revised Code, Section 315.251 shall be included as part of the requirements so adopted.

This agreement is signed pursuant to statutory requirements for two public hearings having been conducted on September 19, 1997, and September 29, 1997, and shall become effective on the date signed.

SANDRA O'BRIEN
Ashtabula County Auditor

JOHN W. SMOLEN, P.E., P.S.
Ashtabula County Engineer

DATE

DATE

319.203 COUNTY AUDITOR AND COUNTY ENGINEER TO ADOPT STANDARDS GOVERNING REAL PROPERTY CONVEYANCES

Subject to division (B) of section 315.251 of the Revised Code, the county auditor and the county engineer of each county, by written agreement, shall adopt standards governing conveyances of real property in the county. These standards may include the requirements specified in section 315.251 of the Revised Code. The county auditor and county engineer may modify those standards from time to time as they consider necessary or desirable. The standards shall be adopted or modified only after the county auditor and county engineer have held two public hearings, not less than ten days apart, concerning adoption or modification of the standards. The standards shall be available for public inspection during normal business hours at the offices of the county auditor and county engineer.

Before the county auditor transfers any conveyance of real property presented to the auditor under section 319.20 or 315.251 of the Revised Code, the county auditor shall review the conveyance to determine whether it complies with the standards adopted under this section. The county auditor shall not transfer any conveyance that does not comply with those standards.

315.251 BOUNDARY SURVEY PLAT AND DESCRIPTION

(A) If a deed conveying title to real property is presented to the county auditor for transfer, and the deed contains a legal description for land that is a cut-up or split of the grantor's one or more existing parcels of land as shown in the county auditor's records, or if the legal description of the land covered in the deed is different from the legal description shown in the prior deed to the grantor, a boundary survey plat in conformity with the new description shall be submitted with the deed. The survey plat and description shall satisfy the minimum standards for boundary surveys promulgated by the board of registration for professional engineers and surveyors pursuant to Chapter 4733 of the Revised Code. If, in the opinion of the county engineer, the survey plat and description satisfy those standards, the county auditor shall accept the deed for transfer and a copy of the survey plat shall be filed in the county engineer's survey file for public inspection.

TYPES OF TRANSACTIONS/CONVEYANCE

The Engineer's or Auditor's staff will inspect these conveyances/transactions. They include, but are not limited to:

1. Warranty deeds
2. Quit Claim deeds
3. Land Contracts
4. Transfers by order of a Court
 - A. Certificate of Transfer
 - B. Executor or Fiduciary
 - C. Divorce Decree
 - D. Sheriff's Deeds
5. Annexation of Territory

Types of Descriptions:

The property being described in a transaction/conveyance will be:

1. Existing descriptions
 - A. "Bounded by" i.e. not metes & bounds
 - B. "Metes & Bounds"
 - a. Prepared by a surveyor
 - b. Not prepared by a surveyor
2. New descriptions prepared by a surveyor

Stamps placed on transactions/conveyances by the person providing the inspection:

APPROVED FOR TRANSFER:

This stamp will be applied

1. On transfers resulting from Court action.
2. Where an owner brings another party into title by joint tenancy or as a joint survivor.
3. Transfers where one party transfers interest to other party already having interest.
4. Transfers resulting from name changes, e.g. corporate name changes.

DESCRIPTION ACCEPTABLE:

This stamp will be applied only to surveyors descriptions presented to the Engineer's Office that meet requirements set forth in OAC 4733, et.seq.

CONDITIONAL APPROVAL:

This stamp will be applied where:

1. An existing description is adequate & clear to the point that a surveyor's description would not change the intent but only give the land a precise, mathematical description.

2. Where a surveyor has prepared a description before Jan. 1, 1997, and does not meet 4733 OAC requirements. However, the survey does meet the requirements for precision and is correct in the mathematical aspects.

UPDATE REQUIRED:

This stamp will state what item(s) need updated or correcting, such as recorded plat volume & page, township or village, rods to feet, P.O.B. or other updates or corrections not required to be performed by a surveyor.

SURVEY UPDATE REQUIRED, REQUIREMENTS FOR NEXT TRANSFER:

This stamp will be placed on conveyances where requirements can only be met by a professional surveyor. The requirements may range from simply establishing an acceptable beginning point, correcting a describing course, or adjusting the closure, but could require a complete survey. This stamp will also be affixed to deed where:

1. An existing description is not clear as to intent, lines cannot be determined to be adequately described, or the description is ambiguous to the extent that the only thing that might be known is that the grantor is conveying all of interest.
2. Where an existing "metes & bounds" description lacks certain evidence such as an acceptable point of beginning, does not close mathematically, or may be deficient to the point where a complete resurvey should be performed.

GENERAL REQUIREMENTS & PROCEDURES

In the following, certain procedures are “suggested” with the intent to minimize delays. Other statements contain “shall” which is not permissive. The paragraphs following do not indicate order of importance.

1. Surveyors, where a split (cut-out) is less than five acres shall submit the plat and description to the County Planning for approval following the Engineer’s approval pursuant to ORC 315.251.
2. Surveyors are encouraged to submit their plat and description to the Engineer before providing that information to the persons preparing the deed.

Discussion: If the surveyors description has errors or omissions, it is better to correct them before the description is printed on a deed, thereby ensuring approval of the conveyance.

3. Metes & Bounds descriptions will be checked for the following:
 - A. If the description closes mathematically
 - a. Metes & bounds descriptions prepared before 1980 should close with a lineal accuracy of 1’ in 2500 feet measured or 4’ in 10,000 feet.
 - b. On descriptions after 1980 and before 1997, the accuracy should meet OAC 4733 rules. Metes and bounds descriptions not meeting 4733 in every sense will be stamped “Conditional Approval” unless an error or omission is found that seriously impacts the quality of the survey. The closure requirements set forth in 4733 should be met.
 - c. Metes and bounds descriptions prepared by surveyors after 1997 shall meet 4733 requirements and shall meet the closure requirements set forth in 4733.

Discussion: It will be the opinion of this office that descriptions having obvious errors in spelling, and/or other errors that are correctable can be corrected. Specifically, if the intent and actual describing calls have not changed, then the description has not changed. Where a correction of this nature is applied to a surveyor’s description, this office will examine the altered description. If the intent and describing courses are intact, a document will be approved for transfer. However, any person making such correction or changes is responsible for those alterations. If any changes of this type are made to a surveyors description, the responsibility remains and the surveyor should be notified so he/she can adjust their records.

4. Surveyors descriptions “lead in” or captions, e.g. “Situated in Township of _____, County of _____, State of Ohio, should contain the range and township of the Connecticut Western Reserve. However, the following townships shall include the Western Reserve Township and Range:

Monroe, Conneaut City, Ashtabula, Plymouth and Saybrook. The Engineer will approve an instrument where the surveyors caption has been placed in the caption area of the standard deed form or a document generated not on standard form.

Discussion: Again, responsibility lies with the persons preparing the deed. The reason this office and many surveyors believe property should be identified, additionally by Connecticut Western Reserve Township and Range, is because in Ashtabula County we have, for example, Monroe Township, Lot 1, located in two areas – the difference being Township 12 or Township 13. Historically, the conveyances did use the Township and Range as identifiers.

5. On all conveyance, a copy of the grantor's deed shall be presented with any document submitted for pre-approval or inspection for conveyance.
6. To expedite conveyances:
 - A. The survey plat and description should be approved prior to using the description to prepare a legal document.
 - B. The grantor's deed and draft of the new deed should be left or faxed to this office for pre-approval before the new deeds or conveyances are executed and presented.
7. Deeds conveying property shall not contain more than two exceptions.

Discussion: An existing description, not metes and bounds, with more than two exceptions could leave the parent parcel inadequate to meet regulations imposed by other agencies, such as proper road frontage required for building. Any variances to this rule will be made based upon facts, such as: the exceptions are surveyed, the parent property is of sufficient size that an additional exception would not place the parent property in a situation where development could not occur.

8. Lots of record in recorded plats will transfer with a "Conditional Approval" stamp.
 - A. When a subplot in a duly recorded subdivision is conveyed, the correct lot number and the name of the subdivision and its plat book and page shall appear in the deed. For any re-numbered subplot, the original lot number is also required.

Discussion: Some plats of record contain sublots or other features which have not been defined accurately. At a time where discrepancies are determined to affect a number of owners, the "Conditional Approval" may be withheld.

9. A new metes and bounds description that encompasses two or more taxing districts and/or two or more taxing parcels shall delineate that acreage in each taxing district.
10. A statement of general intent should follow all descriptions.

Discussion: A statement of intent has been a historical practice and may be simply “and being all of the land owned by the grantor” or “the intent of this instrument is to convey a 30’ strip of land for highway purposes.” Quite often, if the intent is clear, the descriptive language becomes more understandable.

SUMMARY:

Persons in various professions are part of and responsible for the quality conveyance of land. Realtors, Surveyors, Title Examiners and Attorneys are all very important and share the responsibility for preparing and presenting good conveyances. The duties of the County Auditor and County Engineer are statutory, which include examining conveyances and mapping them. The basic function of a deed is a “declaration of intent,” this intent being supported by descriptive language. The instrument being examined for transfer must, in order for the Auditor to perform mandated duties, properly identify the taxing parcel to be transferred. On any conveyance, the intent should remain clear. Surveyors must perform their work in a manner consistent with their rules and always retraceable.

The Engineer and Auditor will evaluate each conveyance with these principles in mind and the discretion to use the various stamps will be tempered by their best judgement.