

**TRANSFER AND CONVEYANCE STANDARDS
OF THE WARREN COUNTY AUDITOR
AND THE WARREN COUNTY ENGINEER
AS ADOPTED UNDER OHIO REVISED CODE SECTION 319.203
EFFECTIVE SEPTEMBER 1, 2004
EFFECTIVE DATE OF CURRENT REVISION: JANUARY 5, 2009**

Whereas, the Warren County Auditor (Auditor) and Warren County Engineer (Engineer) desire to adopt standards for transfer and conveyance of real estate as authorized under Ohio Revised Code Section 319.203, and whereas public hearings have been held on December 3, 2008 and December 16, 2008 (the original public hearings were held on June 21, 2004 and July 8, 2004) after notice given pursuant to statute regarding adoption of these standards, the following Transfer and Conveyance Standards of the Warren County Auditor and the Warren County Engineer are hereby adopted effective as of January 5, 2009. For purposes of these standards, the term "Sidwell Number" shall be defined as the Parcel Number assigned to the real property parcel in question. The term "Parcel Number" and "Sidwell Number" may be used interchangeably in these standards, however, the term "Parcel Number" is preferable. All transfers which call into question an interpretation of these standards for transfer and conveyance will be referred to the Warren County Prosecutor's Office for a legal ruling. Interested persons should submit potential transfers in due time to accomplish their transfer. In the event that one or more of the standards for transfer and conveyance of real estate contained herein is declared invalid or unenforceable, said declaration shall not invalidate or render unenforceable the remaining standards for transfer and conveyance of real estate herein. All references to the Ohio Revised Code made herein are to the versions in effect as of the date of adoption of these standards.

PURPOSE

The purpose of these requirements and standards for new surveys and existing deed examinations is to improve the transfer of property. It is not intended to create hardship, nor discriminate against any individual. It is understood that all situations cannot be covered by these requirements and when those situations arise they will be handled as special cases interpreted by the Warren County Auditor's, Engineer's, and/or Prosecutor's Offices. This results in benefits to Property Owners, Attorneys, Title Searchers, Recording, Taxing, and Mapping Officials in the County.

PROMULGATION OF RULE

The adoption of these Transfer and Conveyance Standards by the County shall have the effect of establishing a rule. Before a conveyance of real estate is transferred upon the tax duplicate of the County, the deed or instrument of conveyance must first be presented to the Engineer's Tax Map Department or other designee for identification. The Auditor or other designated authority may refuse the transfer because of the insufficiency of the real property description.

Section 1. Application of Transfer and Conveyance Rules.

These rules apply to any transfer, conveyance of, and interest in real property made by conveyance, partition, devise, descent, court order, certificate of transfer, affidavit, or any other document, that would 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 Auditor to change the name of the owner or any one of the owners must be presented to the 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 Auditor under O.R.C. 5713.02: and

(C) Transfer Of Any Interest That May Affect True Value.

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

Section 2. Special Transfers.

The following transfers are subject to special requirements:

(A) Transfer By Affidavit Of Next Of Kin.

A transfer under the law of descent and distribution shall be made pursuant to affidavit under O.R.C. 317.22. A properly certified copy of the death certificate or other official acknowledgment 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 a death certificate of the deceased joint tenant.

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

A change 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 or to effectuate a transfer on death provision, no transfer shall be made by affidavit pursuant to O.R.C. 5301.252 (B)(2) and (B)(3). In the case of a successor trustee for a Living or Testamentary Trust, a change in the name of the owner can be made by affidavit pursuant to O.R.C. 5301.252 if sufficient information is contained in the affidavit to comply with the requirements of said section; however, it is recommended that the affidavit of successor trustee comply with the requirements of O.R.C. Section 5302.171.

(D) Transfer on Death Deed.

A transfer on death deed or affidavit evidencing death pursuant to a transfer on death deed shall be executed with all of the formalities required under ORC Sections 5302.22 and 5302.23.

Section 3. 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 active tax mailing address of the grantee or any one of the grantees, as required by O.R.C. 319.20, which shall include at minimum an active street address or Post Office Box Number, City, State and Zip Code;

(C) Identification Of Interest Conveyed.

The grantor shall indicate on the instrument of conveyance being presented to the Auditor for transfer the extent of ownership interest of the grantor (i.e., an entire interest, half interest, etc.) and shall also indicate the portion of grantor's interest being transferred to the grantee.

(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) Conveyance Forms.

No instruments will be transferred unless accompanied by a properly completed DTE 100 or DTE 100EX conveyance form and forms DTE 101 and DTE 102, where applicable, and any other forms required by the Department of Taxation.

(F) Changes To Original Documents

Only the preparer (or it's agent) may make hand written changes to an original document. Each and every individual change must be initialed by the responsible party. The Auditor's, Engineer's, and Recorder's offices are not authorized to make document changes for the preparer.

Section 4. Quality Of Documents.

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

(A) Original Required.

The document of transfer must have the original or other statutorily authorized method of 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 court and be a certified copy from the clerk of courts.

(B) Illegible Document.

Pursuant to O.R.C. 317.11 and 317.112, no document of transfer will be accepted in which the document or attachment to it is illegible as determined by the Auditor, Engineer's Tax Map Department, or Recorder.

(C) Mylars.

All plats submitted for recording shall be drawn on Mylar sheets in a means that creates permanency of the drawing. No Xerographic – reproduced Mylars will be accepted unless a representative of the map department and representative of the recorder's department determine that

said Mylar(s) are created in a means that creates permanency of the drawing. Said determination shall be made on a case-by-case basis.

Section 5. Sufficiency Of Description.

(A) Identification.

The description of property shall be sufficient to allow the Auditor and Engineer's Tax Map Department to identify the property that is being transferred.

(B) Description of Property.

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

(1) Platted Lot.

- (a) As to the Plat document, in addition to the requirements of O.R.C. 711.101, each platted lot shall be described on that plat by its lot number or other designation, the acreage contained in said lot, and a breakdown on the table where needed, and the Plat document shall contain the entire name of the subdivision as platted. On new plats, the name must be unique and can not begin with phrases such as "Being a replat of ..."

For example, "Being a Replat of Lots 1 and 2 of John Smith Subdivision" would not be accepted and should be in the form "John Smith Subdivision Section 2, Being a Replat of Lots 1 and 2".

- (b) As to the Deed or other instrument transferring a platted lot, said platted lot shall be described by its lot number or other designation and the entire name of the subdivision as platted, and the Plat Book and initial Page Reference as required by O.R.C. 711.101 as a minimum.

(2) Condominium Unit.

It is sufficient to describe any unit of condominium property by setting forth the name of the condominium property, the number or other designation of the unit, and the numbers of the volumes and initial pages of the records of the declaration and drawings of the condominium property as required by O.R.C. 5311.10.

Each condominium plat shall have a designated place for the Auditor and Recorder to sign.

(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 with acreage included in accordance with these rules and approval of the Engineer's Tax Map Department. If the existing metes and bounds description does not contain an acreage, the acreage indicated on the tax map and/or the Auditor's latest record shall be added by the preparer of the document to indicate that the correct tract is being transferred and taxed. A statement in the form "Containing X acres per Warren County records" is acceptable.

In the event that a tract of land platted as a subdivision lot is transferred by a metes and bounds description rather than by subdivision lot number prior to the recordation of the plat and the owner has not participated in the signing of the plat for the subdivision, said tract shall continue to be transferred by metes and bounds description instead of by lot number description until such time as the owner of said tract records a document to consent to the change in description to said subdivision lot and to consent to all covenants, restrictions, easements, conditions, and highway, street, or road dedications as are contained in the recorded plat for said subdivision.

(4) In addition to the requirements in Section 5(B)(3) above, metes and bounds descriptions shall include the Section, Town and Range or Virginia Military Survey Number, the State and County, the Township and/or other political subdivision, and for newly created metes and bounds descriptions, the survey record volume and page.

(5) Easements.

All instruments creating easements shall contain either:

- (a) An easement plat indicating the specific easement area;
- (b) A specific metes and bounds description of the easement area;
- (c) A description depicting a uniform width by parallel lines off of a known described line;
- (d) A drawing showing the specific location of the easement along with the existing legal description of the parcel or the volume and page reference of the deed where the grantor of the easement acquired title to the property affected by the easement (plus all subsequent exceptions).

Any easement containing a general description of the property affected by the easement without any of the requirements described in (a)-(d) above being met shall not be approved.

(6) Redundant Descriptions

No document which contains two or more descriptions for the same tract of land will be accepted. For example:

- (a) A platted lot and a metes and bounds description.
- (b) An old and new metes and bounds description.
- (c) Descriptions containing phrases such as:
 - “Now known as ...”
 - “Also described as ...”
 - “Being better known as ...”

(C) Defective Descriptions:

(1) Bad Description

A bad description is defined as a description that is basically sufficient for transfer except that over a period of time, errors have occurred in the typing of said description. These errors could be spelling, omitted lines or general typographical errors. If a document is discovered to have a ‘bad description’, the Engineer’s Tax Map Department will require that corrections are made. Exceptions to the requirements of this section shall be made for any instrument of conveyance that is exempt from real property conveyance fees pursuant to ORC Sections 319.54(F)(3)(e),(f),(j),(n),(o),(p),(v) and (x), until such time as a transfer of said property is no longer exempt.

(2) New Survey Required

‘New Survey Required’ involves a legal description that is either so vague or incomplete in its structure that its correct location or otherwise identification is questionable to the Engineer’s Tax Map Department or is not satisfactory in structure for appraisal by the Auditor’s Office. Upon receiving an instrument of this nature, the Engineer’s Tax Map Department will stamp said instrument ‘New Survey Required’, and a survey will be required for any further transfer of said real estate. Exceptions to the requirements of this section shall be made for any instrument of conveyance that is exempt from real property conveyance fees pursuant to ORC Sections 319.54(F)(3) (e),(f),(j),(n),(o),(p),(v) and (x), until such time as a transfer of said property is no longer exempt.

(3) No More Than Four Exceptions in Description.

No Transfer will be approved where the description of the land set forth in a particular tract of land contained in an instrument of conveyance contains more than four previous exceptions to any metes and bounds or lot descriptions by a previous transfer. An exception describes property included in the general description but excluded from transfer. Although exceptions may be described by full metes and bounds legal description, the preferred method is to clearly list the deed reference, grantee's name, and acreage of the original off-conveyance. If the exception has been platted into a subdivision, list the acreage affected by the subdivision, name of the subdivision, and plat book and page reference. A statement in the form "Leaving a remainder of X acres per Warren County records" shall follow the exceptions. Transfers not meeting the four exception minimum will be stamped "New Survey Required." Exceptions to the requirements of this section shall be made for any instrument of conveyance that is exempt from real property conveyance fees pursuant to ORC Sections 319.54(F)(3)(c),(f),(j),(n),(o),(p),(v) and (x), until such time as a transfer of said property is no longer exempt. Further exception to the requirements of this section shall be made if an exception is created due to an appropriation/eminent domain proceeding by a public entity, in which case the exception so created shall not be counted in arriving at the total number of exceptions permitted before requiring a new survey.

When more than one parcel appears on a deed, each exception must state the specific parcel(s) from which it is excepted. The four exception minimum shall apply per tract and not per instrument, i.e. if an instrument contains various tracts each of which has a separate legal description, four exceptions are permitted per tract prior to requiring a new survey for said tract.

If an exception is taken from more than one parcel, the acreage from each shall be stated and the remainder of each parcel noted.

(4) Auditor's Statutory Remedies

In addition to the above requirements for descriptions, these Standards specifically recognize the rights of the Auditor to proceed under O.R.C 5713.02 and 5713.12 (to wit-requiring a survey in certain situations) through 5713.15 where utilization of such action is proper.

Section 6. 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 or the previous description is inadequate to identify what is being conveyed. A plat of the boundary survey which shall include an 18" by 24" drawing and any pertinent legal descriptions shall be submitted to the Engineer's Tax Map Department for approval at least two (2) business days prior to submission of the conveyance document, or further in advance if there are extenuating circumstances requiring additional time for review.
- (B) Must Meet Minimum Standards.

All boundary surveys required under 6 (A) must be made in accordance with the minimum boundary standards prescribed by Chapter 4733-37 of the Ohio Administrative Code, along with the current requirements of the Engineer's Tax Map Department. (See Section 11.)

Section 7. Breaks In The Chain Of Title.

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

- (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 Auditor that explains to the Auditor's satisfaction why there is a break in the chain of title. The 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 or (e.g. Charles, Charley), or due to change in name, including legal entities other than an individual, 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 8. 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 of less than five acres, or leaves a remaining parcel of less than five acres, must be approved by the appropriate planning commission or other approving authority before it will be transferred by the Auditor and/or accepted for recording by the Recorder.

(B) Auditor Will Not Determine Exemptions

The Auditor will not determine whether any split of less than five acres is exempt from planning commission approval, and will accept only a declaration on the document to be recorded from the appropriate planning commission or other approving authority that the split is exempt.

All splits outside of the jurisdiction of The Warren County Regional Planning Commission require a stamp, or other method of confirmation as dictated by the jurisdiction, on the document from the Planning Authority having jurisdiction regardless of the acreage.

(C) Review Of Subdivision Plats and Condominium Drawings and Declarations

All subdivision plats, condominium drawings, and declarations shall be submitted to the Engineer's Tax Map Department for review at least two (2) business days prior to recording, or further in advance if there are extenuating circumstances requiring additional time for review.

(D) Evidence Of Planning Authority Approval.

Where planning authority approval is required for the recording of a document, the approval of said planning authority shall be indicated on the document to be recorded.

Section 9. Transfers Of Property In The Name Of A Trust Or Trustee.

Before any real property that is in the name of a Trustee of a Disclosed Trust can be transferred or conveyed from the trustee, the trustee shall record an affidavit pursuant to O.R.C. 5301.252 or memorandum of trust pursuant to O.R.C. 5301.255. In the event that a successor trustee appears as grantor on a deed, the successor trustee must record an affidavit pursuant to either O.R.C. 5302.171 or O.R.C. 5301.252 to explain how the person or entity now holds title as a successor trustee (which affidavit shall include a legal description of the property

to be conveyed and the required conveyance form), unless there is a trust instrument or memorandum of trust already of record which recites the succession of trustees and specifically designates that the grantor is a Successor Trustee.

Section 10. Land That Is Split By Taxing District Or County Boundaries.

(A) Where a parcel of land is located in more than one taxing district, the Auditor shall assign an eleventh digit to the permanent parcel number so that a different parcel number shall correspond with each account created by the different taxing districts. The acreage in each taxing district shall be included when it is known.

(B) Apportionment Of Conveyance Fees.

Where a parcel of land located in more than one county is transferred, the apportionment of the conveyance fee shall be made pursuant to the implications of O.R.C. Section 322.02. This apportionment shall be made using the percentage of the sales price and/or assessed value of the acreage and improvements located in each county.

Section 11. Requirements Of Conveyance By The Engineer's Tax Map Department.

(A) All new metes and bounds description, and all new plats of survey must:

(1) incorporate the principals and minimum standards of good surveying, engineering and draftsmanship, 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 and all requirements in Section 12(D)(2) of these standards. The requirements of ORC Section 4733.37 and ORC Section 315.251 are hereby incorporated into these Standards.

(2) have Access Management Regulations approval from the Engineer's office as applicable.

(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 initial Page and Official Record reference, and the prior recorded deed reference.

- (2) Any parcel, out lot or portion of a recorded lot or other designation must contain all information required in Section 11(B)(1) and a description sufficient to enable the Auditor to identify the parcel, except as provided in Section 5(B)(5). Metes and bounds descriptions or 'Being 10 feet by parallel lines off the west side of Lot #110' would be acceptable. Descriptions to points not ascertainable, such as house corners, wells, fences, etc. would not be accepted and will be stamped "New Survey Required".
- (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 reviewed by the Engineer's Tax Map Department to identify to the Auditor the parcel(s) to be conveyed.
- (2) All instruments of conveyance attempting to convey the remainder or balance of an existing parcel(s) from which out lots or exceptions exist must incorporate the following requirements:
 - (a) Although each out lot or exception to the original tract(s) may be described verbatim as witnessed by the previous conveyance of record (except for correction of scrivener's errors), the preferred method is to clearly list the deed reference, grantee's name, and acreage of the original off-conveyance with a statement in the form "Leaving a remainder of X acres per Warren County records" after all of the exceptions.
 - (b) Each documented exception must refer to its recorded source by which it can be verified from a previous conveyance.
- (3) The Engineer's Tax Map Department will make the necessary marginal notations on the instrument of conveyance to identify the tax parcel(s) to be conveyed. This includes the creation of new parcel numbers, placing official stamps on documents, labeling easements, etc.

(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, all descriptions shall comply with the survey plat requirements of the Engineer's Tax Map Department as they now exist and as they may be amended in the future. A copy of said requirements is available for review on request.
- (3) All plats of survey must have Access Management Regulations approval from the Engineer's office as applicable.

(E) Rule Regarding Descriptions On Certificates Of Transfer.

For transfer of real property pursuant to a Certificate of Transfer from a decedent's estate, the legal description of each parcel of real property shall conform to the description of record as of the date of the decedent's death. A new survey description of less than an entire parcel of any of the decedent's real property shall not be accepted for transfer except in cases where the decedent's will has been admitted to probate and the will directs that less than an entire parcel of real property is specifically devised and the newly surveyed acreage corresponds to the specific part of the entire parcel to which the devisee is entitled under said will. If the Certificate recites a new survey description of an entire parcel of real property owned by the decedent at the decedent's death, the new description will be accepted for transfer as long as the former description is included and the new description is preceded by a statement that "the property is now described by new survey as follows." Nothing contained herein shall exempt devises of fractional interests in an entire parcel from the requirement that the legal description of each parcel of decedent's real property shall conform to the description of record as of the date of the decedent's death

The above rule shall not apply to fiduciary deeds, and it shall be permissible to use in a fiduciary deed a new survey description of part of the land owned by the decedent.

Section 12. Prospective Application of Transfer and Conveyance Standards.

These Transfer and Conveyance Standards shall have prospective application only.

Section 13. Incorporation of Access Management Standards.

Any Road Access Management Policy(ies) heretofore or hereafter adopted by any governmental authority having jurisdiction to adopt said Policy(ies) pursuant to Chapter 5552 of the Ohio Revised Code is hereby incorporated into these Transfer and Conveyance Standards, and compliance with all requirements imposed by such Policy(ies) is mandated herein.

The above standards were adopted this 5th day of August, 2004

The above standards were revised this 5th day of January, 2009

Neil Tunison
Warren County Engineer
105 Markey Road
Lebanon, Ohio 45036

Nick Nelson
Warren County Auditor
406 Justice Drive
Lebanon, Ohio 45036