

**STANDARDS GOVERNING CONVEYANCES OF REAL PROPERTY IN
DARKE COUNTY, OHIO**

As directed by Section 319.203 of the Ohio Revised Code which states *“The County Auditor and the County Engineer shall adopt standards governing the conveyance of real property in the County.”* and *“Before the County Auditor transfers any conveyance of real property presented to the auditor under Section 319.20 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.”*

In order to comply with this recently enacted legislation and to provide a consistent method of review and applicable parameters, the following standards are hereby adopted to govern survey plats and descriptions of real estate to be transferred.

All survey plats and legal descriptions prepared from new surveys shall satisfy the **Minimum Standards For Boundary Surveys** promulgated by the Ohio Board of Registration for Professional Engineers and Surveyors, and these standards. Appeal of review decisions of the survey plat and description by the County Engineer or County Auditor may be submitted to the Board of Registration for Professional Engineers and Surveyors.

All authors of instruments of conveyance in which the legal description of the most recent conveyance does not carry a prior County Engineer’s approval stamp are strongly encouraged to submit their descriptions to be reviewed by the County Engineer’s office several days prior to the anticipated date of conveyance. This procedure will help avoid delays and allow time for necessary corrections, if any, to be made. Documents will be reviewed on a “first in, first out” basis and will not be subject to any deadlines or closing dates.

James P. Surber, P.E.,P.S.
Darke County Engineer

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Adopted this 12th day of August, 1997

Effective date: 2nd day of September, 1997

PROCEDURES FOR SUBMISSIONS OF LEGAL DESCRIPTIONS AND CONVEYANCES OF REAL PROPERTY FOR REVIEW BY DARKE COUNTY ENGINEER AND DARKE COUNTY AUDITOR

SECTION I

I. SUBMITTAL OF INSTRUMENTS OF CONVEYANCE INVOLVING NEITHER THE CREATION OF A NEW PARCEL NOR A LEGAL DESCRIPTION DIFFERENT FROM THE LEGAL DESCRIPTION OF THE MOST RECENT CONVEYANCE:

A. Instruments of conveyance involving neither the creation of a new parcel(s) nor a legal description different from the legal description of the most recent conveyance, may be submitted, along with a copy of the most recent transferred instrument, to the County Engineer's Office for review. All existing descriptions of record must be described verbatim as witnessed by the most recent instrument of conveyance. Any description which carries the stamp "NO FURTHER TRANSFERS WITHOUT SURVEY" on the last instrument of conveyance must be surveyed before it will be transferred except as provided in B. 2. below. Pursuant to ORC section 5713.15, the County Engineer's Office shall perform a review of the legal description (**not previously approved by the Engineer**), shall stamp the description "Reviewed by _____, on _____, 199_" which may be then forwarded to the Auditor for transfer unless the description is 1) incorrect, 2) is not that of the parcel being conveyed, or 3) is unplattable on the tax map as described.

B. If the description is determined to be either 1) incorrect, 2) not of the parcel being conveyed or 3) unplattable on the tax map as described the County Engineer's reviewing personnel shall do one of the following:

1. Recommend to the person that submitted the instrument that minor corrections be made to the description due to obvious errors including, but not limited to, typographical errors, errors of omission, transposed letters or numbers or rotation of bearings (example: Northeast should have been Southwest). The corrected legal description shall then be returned to the County Engineer's office, along with the instrument of conveyance, which shall be reviewed and forwarded to the County Auditor for transfer. Note: minor corrections shall not be construed to include rewriting of descriptions or exceptions, calculations of areas or missing calls and/or distances, or any change not resultant of an obvious error.

NOTE: It is the opinion of the Ohio State Board of Registration for Professional Engineers and Surveyors that "...registered professional surveyors are the only persons qualified and authorized by law, except as set out in R.C. 4733.18 (B) (4), to prepare descriptions for land in this state. When a person, other than a registered professional surveyor, prepares, changes, alters, modifies or amends a land description, that person is practicing surveying in violation of R.C. 4733.22"1

2. If the legal description is deemed incorrect or unplattable on a Deed for Sheriff's foreclosure or an in-family transfer, the instrument of conveyance may be stamped "No Further Transfers Without Survey" and forwarded to the County Auditor for transfer. Only deeds for Sheriff's foreclosure sales and transfers to Grantor(s) immediate family member(s) may carry the stamp "No Further Transfers Without Survey" without requiring a new survey. (**Immediate family is defined for the purpose of these standards as parents, children, spouse, siblings and grandchildren**)

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1 Mark T. Jones, P.S., Executive Secretary, **Ohio State Board of Registration for Professional Engineers and Surveyors**; in 1994 letter to Mr. Richard E. Hankison; published in *Ohio Surveying News*, Sept.--Oct., 1994

3. The legal description is deemed unplattable for one of the following reasons and **a new survey of the parcel is recommended to the County Auditor,** following the requirements of Section II of these standards.

Unplattable if:

- a) Beginning point of a metes and bounds description is not referenced to a known point such as a section corner, quarter-section corner, the intersection of a section line with a road or railroad or subdivision lot corner.
- b) Existing legal description is determined to overlap adjoining property description or a gap is determined to exist between the existing legal description and the adjoining property description.
- c) Existing legal description does not call out an identifiable location of the parcel as to section, quarter-section, township and range numbers, or political subdivision name (city, village, township name).
- d) Existing legal description contains more than four (4) excepted descriptions (save and except) from the original parcel described.
- e) Exception(s) to submitted legal description are unplattable

4. SPECIFIC REQUIREMENTS:

Any description of property which, since the previous conveyance, has been incorporated into a municipality or other political subdivision by means of annexation, must be changed to reflect the current jurisdiction.

All “corrective deeds” must state the nature and purpose of the correction(s).

All descriptions of existing parcels shall carry the Engineer’s permanent parcel number (followed by the parcel acreage in parentheses, if applicable), before they will be stamped for transfer.

C. After receiving the instrument of conveyance from the County Engineer’s office, the County Auditor’s reviewing personnel shall review the instrument of conveyance for standard items required for all real estate descriptions, such as Grantor, Grantee their mailing address, prior deed reference and professional surveyor’s name and registration number. When satisfied that these items are included, the County Auditor shall proceed with the transfer.

SECTION II

II: SUBMITTAL OF INSTRUMENTS OF CONVEYANCE INVOLVING THE CREATION OF A NEW PARCEL(S) OR A LEGAL DESCRIPTION DIFFERENT FROM THE LEGAL DESCRIPTION OF THE MOST RECENT CONVEYANCE:

A. Instruments of conveyance involving the creation of a new parcel(s) or a legal description different from the legal description of the most recent conveyance, shall require a boundary survey performed by a Professional Surveyor (registered in the State of Ohio) before the instrument of conveyance is submitted to the County Engineer's Office for review. (ORC 315.251) The survey plat and legal description of the boundary survey for the instrument of conveyance shall be submitted to the County Engineer's office at least three (3) working days before submittal to the County Auditor for transfer. The County Engineer's office shall perform a review of the survey plat and legal description of the boundary survey, based upon these standards. (ORC Sec. 319.203) **Review shall commence upon submission of original plat(s) and description(s), neither shall be reviewed independently. All plats of new tracts of less than the minimum zoned area in zoned Townships shall be signed by the Township Zoning Authority before acceptance for review by the County Engineer's Office.**
NO NEW LEGAL DESCRIPTION SHALL BE APPROVED UNTIL THE PLAT IS RECORDED.

B. The survey plat and legal description of the boundary survey shall satisfy the adopted **Minimum Standards For Boundary Surveys** promulgated by the Board of Registration for Professional Engineers and Surveyors (Ref. ORC 315.251 and 4733-37) and shall also meet the following standards:

1. LEGAL DESCRIPTION: Legal descriptions shall be based upon a boundary survey and shall contain the following:

- a) the parcel number (for lot splits, use "being a part of" and list the original parcel number(s))
- b) the quarter-section, section number, township and range numbers and political subdivision in which the parcel is located. (not required on a description of a platted lot or portion of a platted lot)
- c) a beginning point referenced to: a known monumented section or quarter-section corner in unincorporated or unplatted areas, or a subdivision corner or lot corner of a recorded subdivision in platted areas
- d) a metes and bounds description of the parcel (unless a subdivision lot) which shall have an error of closure ratio of 1:10,000 or smaller
- e) bearings listed in degrees, minutes and seconds; and distances listed to the nearest hundredth foot
- f) calls to and descriptions of all monuments found or set
- g) the total acreage of the parcel described to the nearest thousandth of an acre; the acreage in each section if the parcel lies in more than one section; the acreage of each prior tract, if the new parcel contains all or parts of more than one existing tract, and the acreage of each portion of the remaining lands of the tract of which the description is a part if the new parcel splits the residue into non-contiguous portions.
- h) a statement that the description is subject to all legal highways, easements and restrictions of record at the time of recording of the instrument
- i) the deed volume and page number of prior deed reference and **the recording reference (volume and page) of the plat on which the description is based.**
- j) the reference of the basis of the bearings used
- k) the name and registration number of the professional surveyor that prepared the description
- l) a lot or portion of a lot in a recorded subdivision shall have listed the lot number, subdivision name, plat book and page number in the description
- m) "save and except" clauses are not acceptable for new descriptions
- n) all new descriptions shall describe the intent of the description, be it all of the property, a part of the property or the remainder of the property
- o) unrecorded surveys performed prior to May, 1980 but never incorporated into a recorded description will not be accepted

2. **SURVEY PLAT:** Survey plat shall be clearly and legibly drawn with ink on either 12"X18" or 17-1/2" X 23" mylar with a 1/2" bold border on all sides and shall include the following:

- a) locational description by section, town, range, political township, county, state with scale, date and North arrow in correct perspective to the land being surveyed or platted.
- b) All names of adjoining property owners, adjacent subdivisions, with acreages shall be shown along with deed references as recorded in the Darke County Recorder's Office
- c) survey shall be referenced to two (2) of the nine (9) basic section corners which shall be accurately described on the plat. (no less than two) or two subdivision or lot corners in platted areas.
- d) references of corner stones recovered or record of stone reference shall be shown on survey plat. References shall be 4 iron pins within the pavement, referenced to the stone and/or one iron pin or railroad spike set over section corner stone.
- e) bearings shall be shown to degrees, minutes and seconds; and distances to one hundredth foot accuracy.

All curved lines shall show curve data including arc length, radius/degree of curvature, tangent length, chord bearing and distance, and local tangent at points of compound curvature. Plats for road right-of-way or fee acquisition shall show complete curve data including P.I. station, external distance and spiral curve data if applicable

- f) all names of streets and roads and their widths shall be shown within and adjoining the surveyed land
- g) a detailed explanation shall be shown for any parcel appearing to be landlocked
- h) municipal corporation, township, range, county, and state lines where applicable shall be accurately located and referenced by bearings and distances to the land being surveyed.
- i) partial acreage shall be shown on all surveyed lands being divided by municipal, corporation, section, tract and/or taxing district lines.
- j) surveys shall show the total calculated area to be conveyed, a breakdown as per item I preceding, the area subject to existing right-of-way and the net area in acres to an accuracy of one thousandth acre. Total area minus right-of-way area equals net area
- k) a beginning point referenced to a known monumented section or quarter-section corner in unplatted areas, or a subdivision corner or lot corner in platted areas
- l) names and references of all roads, rivers, streams, railroads or easements that cross or occupy the surveyed parcel
- m) must meet minimum standards and have signature lines for approvals as required by Township Zoning and County Planning Authority if applicable**
- n) each property corner shall be physically monumented or referenced within ten (10) feet, when placing the actual corner is impossible or it is impractical to set a boundary monument on the corner, similar in character to the boundary monument and preferably along one of the property lines which intersect at that corner.

When such reference monument is used, it shall be clearly identified as a reference monument on the plat of the property and in any new description which may be written for the property.

- o) all monuments shall be accurately described
- p) the professional surveyor's name, address, phone number and registration number shall be shown together with a surveyor's clause stating that the survey was performed by him or her and the date it was performed
- q) references to other pertinent documents used to prepare the survey shall be shown along with the name and registration number of the professional surveyor or any referenced survey
- r) the allowable mathematical error of closure or accuracy required shall be one part in 10,000 for all new surveys
- s) listing of state plane coordinates and metric units is optional but their incorporation shall not serve to confuse readability of the English units
- t) lines of subdivided lots in rural (unincorporated) areas shall be platted to the centerline (property line) of existing public roads for minor subdivisions and to the right-of-way line for

major subdivisions and proposed roads. Dedication and acceptance covenants shall be executed on the plat for existing rights-of way. Dedication covenants shall be executed for proposed rights-of-way.

C. After the County Engineer's office has performed the review of the survey plat and legal description of the boundary survey, the surveyor or submitter shall be notified of deficiencies, if any. The surveyor may then submit a corrected survey plat and legal description. When the survey plat and legal description are in compliance with these standards, the County Engineer's office shall stamp the plat "Reviewed by -----, on -----, 199-", and the reviewer shall sign and date this clause. A copy of the plat shall be filed with the County Auditor and the original plat submitted to the County Recorder. **After recording, which is mandated by these standards, the Engineer's Office shall stamp the legal description which may be then forwarded to the Auditor for transfer. The original stamped copy of the survey plat and a copy of the legal description shall be filed in the County Engineer's survey files and shall become public records under Section 149.43 of the ORC.**

D. After receiving the reviewed survey plat and legal description from the County Engineer's office, the County Auditor's reviewing personnel shall review the instrument of conveyance when submitted for the newly created parcel(s) or parcel(s) with a new description, for standard items required for all real estate descriptions, such as Grantor, Grantee(s), their mailing address, prior deed reference and professional surveyor's name and registration number. When satisfied that these items are included, the County Auditor shall proceed with the transfer.

SECTION III

III. JURISDICTION OF STANDARDS:

A: Instruments of conveyance and other documents of record that shall be governed by either Section I or Section II of these standards, pursuant to ORC Sections 5713.15, 319.203 and 315.251 are as follows:

1. Deeds
2. Corrective Deeds (explanation of corrective action shall be clearly stated)
3. Lot splits
4. Subdivision Plats
5. Condominium Plats
6. Vacation Plats of Streets or Alleys
7. Dedication Plats
8. Annexation Plats
9. Descriptions for Land Contracts

B. Instruments of conveyance and other documents that are not governed by either Section I or Section II of these standards are as follows:

1. Certificates for Transfer of Real Estate of existing descriptions
2. Affidavit of Transfer of Real Estate
3. Easements
4. Mortgage Location surveys

CONCLUSION

The purpose of adopting the foregoing is to comply with the requirements of Section 319.203 and 315.251 ORC as well as to minimize the perpetuation or errors in former transfers and to obtain definite and accurate descriptions for future transfers. The foregoing standards supercede Resolution R-26-82 of July 12, 1982 recorded in Commissioners Journal Volume 23 at Page 213 and any other County directives with respect to legal descriptions, survey plats, etc.