

Cass County Auditor's Lot Procedures

Introduction, Purpose, and Commentary

1 Introduction

The Cass County Auditor is required to transfer for tax purposes properly executed instruments that transfer and/or describe property to be recorded. Irregular tracts of land described by metes and bounds can result in complicated, lengthy and improperly defined property lines. To clear up confusion as to these inconvenient or insufficient property descriptions, the Cass County Auditor will exercise the authority according to N.D.C.C. 57-02-39 to require that owners with these irregular tracts described by metes and bounds have their parcels surveyed and platted, generally known as Auditor's Lots. The purpose for the Auditor's Lot is to obtain the precise location of an irregularly shaped parcel and to provide a brief legal description for property tax and assessment purposes.

Complex metes and bounds descriptions create time consuming research and ambiguous interpretation for employees in the County Auditor, County Recorder Offices and the Geographical Information Systems office of the county's Information Technology Office. In further detail, for taxation purposes through the authority granted by the laws of the State of North Dakota, the County Auditor may have land platted or re-platted if any tract or lot is divided into irregular shapes which can be described only by metes and bounds, or if any addition or subdivision which already has been platted into blocks and lots and subsequently sold into parts of blocks or lots which can be described only by metes and bounds, or if the courses, distances, and sizes of each lot or fractional lot are not given or marked upon the plat so that the precise location of each lot or fractional lot can be ascertained accurately, surveyed, or laid out.

2. Purpose

These Procedures are established for the following purposes:

- to reduce the burden to the County when transferring deeds with improperly described parcels of land;
- to ensure that land is not described in a manner that creates difficulty in ascertaining property lines

3. Authority

The North Dakota Century Code provides for the County Auditor to have authority to require land be platted or re-platted for the convenience of tax officials in describing property on tax rolls. These Procedures are adopted to reduce the burden to the County as a result of improperly described real property.

Pursuant to Section 57-02-39 of the North Dakota Century Code, the County Auditor is granted the authority to require an Auditor's Lot. Further, the authority includes provisions to require approval by the City Engineer or County Surveyor if there is no City Engineer in an affected City.

4. Jurisdiction

These Procedures shall apply to all property within the boundaries of Cass County, including those areas of incorporated city limits.

These Procedures shall in no way interfere with the provisions of Section 11-33.2 of the North Dakota Century Code granting the authority of the County to regulate the subdivision of land for sale or development in unincorporated land nor the provisions of Section 40-50.1 of the North Dakota Century Code granting incorporated cities the authority to regulate the subdivision of land for sale or development in their incorporated land and extraterritorial jurisdiction. An Auditor's Lot is not a substitution for a plat required for the development of subdivided land.

5. Enactment

These Procedures will be in effect starting with recordings on and after September 1, 2014. All previously created metes and bounds descriptions will be valid until at which point a transfer is made for at which point that transfer may be subject to the provisions of these Procedures.

6. Compliance

Under the provisions of Section 57-02-39 of the North Dakota Century Code, when the owner of such land fails to comply with these provisions, the cost of surveying, platting, and recording must be paid by the county, upon allowance by the Board of County Commissioners, and the amount thereof must be added to the taxes upon such tracts or lots the ensuing year. Such taxes, when collected, must be credited to the county general fund. The surveyor making such survey or plat is entitled to receive for services in making the same the compensation allowed by law for doing other county surveying or platting, and such fees become a legal charge upon such tracts of land.

7. Variance

Where the County Auditor finds that metes and bounds descriptions are straightforward and unambiguous such as:

A division of a quarter section anchored in a corner of the quarter section with four corners of 90 degrees each.

A division of a lot or lots in a platted subdivision where the description is a simple portion of a lot or lots such as Lot 1 and the East 50 feet of Lot 2

the County Auditor may waive the requirements for an Auditor's Lot.

8. Procedures for Requirements of Auditor's Lot

Upon evidence of an instrument which creates a split of property or which is a transfer of property previously split by metes and bounds, the County Auditor will review the situation and make a decision based upon the requirements of these Procedures for requirements of an Auditor's Lot.

8.1 County Auditor Initiated

8.1.1 Owner Notified

Upon the decision to require an Auditor's Lot, the County Auditor will notify the Owner of the parcel and request the owner have the legal description incorporated into an Auditor's Lot. At the time of the request the County Auditor will notify the owner that an Auditor's Lot is for the purpose of describing the lot for taxation purposes and does not take the place of platting the parcel under either county or city subdivision ordinances.

8.1.2 Timeline

If the owner of a parcel, where an Auditor's Lot is required, does not initiate action to comply with the request within thirty days, the County Auditor will contract with a competent surveyor at his/her discretion to prepare an Auditor's Lot.

8.1.3 Numbering of Lots

Lots will be numbered according to the order in which they are recorded within the township, range, section, and quarter section. Numbers will be assigned by the County Recorder's office at the time the Auditor's Lot is recorded.

8.1.4 County Surveyor

In the absence of a County Surveyor, the County Auditor shall choose a competent surveyor at his/her discretion. The County Auditor may choose to contract with a competent firm on an annual basis if it is deemed to be more efficient to do so.

8.1.5 Charging of Platting Services

Under the provisions of Section 57-02-39 of the North Dakota Century Code, the cost of surveying, platting, and recording must be paid by the county, upon allowance by the Board of County Commissioners, and the amount thereof must be added to the taxes upon such tracts or lots the ensuing year. Such taxes, when collected, must be credited to the county general fund. The surveyor making such survey or plat is entitled to receive for services in making the same the compensation allowed by law for doing other county surveying or platting, and such fees become a legal charge upon such tracts of land.

8.2 Property Owner Initiated

Alternatively if the owner or its agent of said property recognizes that a requirement for Auditor's Lot may exist, they may request a review by the County Auditor and cause a competent registered surveyor or engineer to perform an Auditor's Lot following the procedures identified in Section 8.1.2 and 8.1.3 of these Procedures at their own expense.

9. Form of Auditor's Lot

An Auditor's Lot was recorded by the County Auditor on June 11, 2014, as Document Number 1419098, in compliance with these procedures and can be viewed for reference at the Cass County Recorder's Office. An example of the Auditor's Lot form is also included as a part of these procedures. The minimum size of the Auditor's Lot form is 8 ½ inches x 14 inches and can reach a maximum size of 22 inches by 34 inches. Please see the example below:

SURVEY RECORD

PLAT OF

AUDITORS LOT NO. _____

_____ SECTION _____ Township _____ Range _____

Present owner _____

OWNERS'S CERTIFICATE

THE UNDERSIGNED, owners of the within described property, in accordance with the provision of Section 57-02-39 of the North Dakota Century Code as Revised 2001, and upon demand of the County Auditor of Cass County, North Dakota, have caused to be made the within and foregoing plat of said land with the lots as therein described, and have caused the same to be placed on record, as provided by law.

Witness our hands and seals this _____ day of _____, 20____.

In Presence of _____
(SEAL)

(SEAL)

(SEAL)

STATE OF NORTH DAKOTA
COUNTY OF CASS

I, _____, Notary Public within and for said County, do hereby certify that on this _____ day of _____, 20____ personally appeared before me _____ to me known to be the same person described in and who executed the within and foregoing instrument and acknowledge that (he) (she) (they) executed the same freely and voluntarily.

My Commission Expires _____, 20_____

SURVEYOR'S CERTIFICATE

I, _____, registered Land Surveyor, do hereby certify that at the request of _____ I made the within and foregoing plat and description of the land as herein described and that the lots, distances, area, and location as indicated on said plat and contained in said description are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20_____

My Commission Expires _____, 20_____

PLAT OF
AUDITORS LOT NO. _____

_____ SECTION _____ Township _____ Range _____

LOT NUMBER _____ OF _____ SECTION _____

TOWNSHIP _____ RANGE _____ DESCRIBED AS FOLLOWS: