

## **CHAPTER 11-18 RECORDER**

### **11-18-01. Recorder's duties - Recording and filing instruments - Abstracts**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.

#### **11-18-01.1. Recorder to be substituted for register of deeds.**

Whenever the term "register of deeds" appears in the North Dakota Century Code, the term "recorder" or "county recorder", whichever is appropriate, must be substituted therefor. The recorder must be substituted for, take any actions previously taken by, and perform all duties previously performed by the register of deeds.

#### **11-18-02. Recorder not to record certain instruments unless they bear auditor's certificate of transfer.**

Except as otherwise provided in section 11-18-03, the recorder shall refuse to receive or record any deed, contract for deed, plat, replat, patent, auditor's lot, or any other instrument that changes the current property description unless there is entered thereon a certificate of the county auditor showing that a transfer of the lands described therein has been entered and that the delinquent and current taxes and delinquent and current special assessments against the land described in such instrument have been paid, or if the land has been sold for taxes, that the delinquent taxes and special assessments have been paid by sale of the land, or that the instrument is entitled to record without regard to taxes. The recorder may not record any deed for property on which the county auditor has determined that there is an unsatisfied lien created under section 57-02-08.3.

#### **11-18-02.1. Duty of recorder to notify county auditor of certain transactions - Correction of tax rolls by county auditor.**

The recorder shall notify the county auditor of the filing of deeds, patents, plats, and vacations of plats, streets, or roads at the time such documents are filed in the recorder's office. The county auditor shall correct the tax rolls and any other records in the auditor's office in order that the auditor's records will be current for the purpose of the preparation of real property assessment books.

#### **11-18-02.2. Statements of full consideration to be filed with recorder - Procedure - Penalty.**

1. Any grantee or grantee's authorized agent who presents a deed in the office of the county recorder shall certify on the face of the deed one of the following:
  - a. A statement of the full consideration paid for the property conveyed.
  - b. A statement designating one of the exemptions in subsection 6 which the grantee believes applies to the transaction.
2. Any party who presents an affidavit of affixation to real property of a manufactured home in the office of the county recorder in accordance with section 47-10-27 and who acquired the manufactured home before the affixation of the manufactured home to the real property shall either contain in or present in addition to the affidavit of

- affixation a statement of the full consideration paid by the party for the manufactured home before the affixation.
3. The recorder may not record any deed unless the deed complies with subsection 1 or record any affidavit of affixation unless the affidavit complies with subsection 2.
  4. The state board of equalization shall prescribe the necessary forms for the statements and reports to be used in carrying out this section, and the forms must contain a space for the explanation of special circumstances that may have contributed to the amount of the consideration.
  5. For purposes of subsection 1, the word "deed" means an instrument or writing whereby any real property or interest therein is granted, conveyed, or otherwise transferred to the grantee, purchaser, or other person, except any instrument or writing that transfers any ownership in minerals or interests in minerals underlying land if that ownership has been severed from the ownership of the overlying land surface or any instrument or writing for the easement, lease, or rental of real property or any interest therein.
  6. This section does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
    - a. Property owned or used by public utilities.
    - b. Property classified as personal property.
    - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
    - d. A sale that resulted as a settlement of an estate.
    - e. All forced sales, mortgage foreclosures, and tax sales.
    - f. All sales to or from religious, charitable, or nonprofit organizations.
    - g. All sales when there is an indicated change of use by the new owners.
    - h. All transfer of ownership of property for which is given a quitclaim deed.
    - i. Sales of property not assessable by law.
    - j. Agricultural lands of less than eighty acres [32.37 hectares].
    - k. A transfer that is pursuant to a judgment.
    - l. A transfer on death deed or revocation instrument authorized under chapter 30.1-32.1.
  7. Any person that, in the statements provided for in subsection 1 or subsection 2, willfully falsifies the consideration paid for the transferred real property or the manufactured home, as applicable, or interest therein is guilty of a class B misdemeanor.

**11-18-03. Instruments entitled to record without regard to taxes.**

The following instruments may be recorded by the recorder without the auditor's certificate referred to in section 11-18-02:

1. A sheriff's or referee's certificate of sale on execution or on foreclosure of a mortgage.
2. A mineral deed conveying oil, gas, and other minerals in or under the surface of lands.
3. A personal representative's deed or any document terminating joint tenancy or a life estate or any judgment or decree affecting title to real estate, which must be presented to the auditor's office prior to being placed of record in order to allow the auditor to make such changes in the tax rolls of the auditor's office as may be necessary.
4. Any deed conveying to the state, or to any political subdivision or municipal corporation thereof, any right of way for use as a public street, alley, or highway.
5. Any plat, replat, or auditor's lot accompanied by a resolution requesting the recording of the plat, replat, or auditor's lot by the governing body of a political subdivision.
6. A statement of succession in interest to minerals deemed to be abandoned under chapter 38-18.1.
7. A transfer on death deed or revocation instrument authorized under chapter 30.1-32.1.

**11-18-04. Seal of recorder.**

The recorder shall maintain a seal and make an impression of the same upon each instrument to which the recorder attaches the recorder's official signature. The seal shall bear the following inscription: Recorder of \_\_\_\_\_ County.

**11-18-05. Fees of recorder.**

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, twenty dollars for documents containing one to six pages and sixty-five dollars for documents containing more than six pages plus three dollars for each additional page after the first twenty-five pages. In addition, for all documents recorded under this section that list more than ten sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for each instrument recorded under this subdivision must be placed in the document preservation fund.
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording and, unless the form was issued by a government agency, must have a font size equal to or larger than ten point calibri.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least three inches [7.62 centimeters] must be provided across the top of the first page of each instrument for the recorder's recording information. If a space of at least three inches [7.62 centimeters] is not provided across the top of the first page, the recorder shall add a page, and an additional page charge must be levied in accordance with the fee structure.
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than ten instruments previously recorded in the county in which recording is requested, a fee of twenty dollars for documents containing one to six pages, sixty-five dollars for documents containing more than six pages plus three dollars for each additional page after the first twenty-five pages, and three dollars for each additional document number or book and page after the first ten referenced instruments. In addition, for all documents recorded under this section which list more than ten separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for each instrument recorded under this subdivision must be placed in the document preservation fund.
  - c. Plats, twenty dollars for twenty lots or fewer and fifty dollars for more than twenty lots.
  - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any instrument, ten dollars.
3. For making certified copies of any recorded instrument or filed instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.

4. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
5. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

**11-18-05.1. Additional recording fees - Severed mineral interests.**

Repealed by S.L. 1977, ch. 101, § 10.

**11-18-06. Recorder to keep an accounting record of fees - Monthly reports.**

The recorder shall maintain an accounting record of fees for services rendered. Within three days after the close of each calendar month and also at the end of the recorder's term of office, the recorder shall file with the county auditor a statement under oath showing the fees that the recorder has received as the recorder since the date of the recorder's last report.

**11-18-07. Tract indexes to be kept for transfers and for liens - Form of indexes.**

The recorder shall keep a tract index of the deeds, contracts, and other instruments that are not merely liens and a tract index of the mortgages and other liens affecting or relating to the title to real property. The indexes must be in substantially the following forms:

FORM OF TRACT INDEX TO CITY PROPERTY

BLOCK NO. 1, IN \_\_\_\_\_

No. of Lot	Vol.	Page or Document No.	Vol.	Page or Document No.	Vol.	Page or Document No.	Vol.	Page or Document No.	Vol.	Page or Document No.
1	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
2	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
3	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
4	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
5	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
6	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
7	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
8	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
9	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
11	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
12	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
13	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
14	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
15	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
16	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
17	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
18	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

FORM OF SECTIONAL SYSTEM OF TRACT INDEX TO REAL ESTATE TOWNSHIP

NO. \_\_\_\_\_ RANGE NO. \_\_\_\_\_ SECTION NO. \_\_\_\_\_

No. of Section	Quarter Section	Part Quarter Section	Vol.	Page or Document No.	Vol.	Page or Document No.	Vol.	Page or Document No.
1	N.E.	N.E. quarter	_____	_____	_____	_____	_____	_____
		N.W. quarter	_____	_____	_____	_____	_____	_____
		S.W. quarter	_____	_____	_____	_____	_____	_____

	S.E. quarter	_____	_____	_____	_____	_____	_____
N.W.	N.E. quarter	_____	_____	_____	_____	_____	_____
	N.W. quarter	_____	_____	_____	_____	_____	_____
	S.W. quarter	_____	_____	_____	_____	_____	_____
S.W.	S.E. quarter	_____	_____	_____	_____	_____	_____
	N.E. quarter	_____	_____	_____	_____	_____	_____
	N.W. quarter	_____	_____	_____	_____	_____	_____
S.E.	S.W. quarter	_____	_____	_____	_____	_____	_____
	S.E. quarter	_____	_____	_____	_____	_____	_____
	N.E. quarter	_____	_____	_____	_____	_____	_____
	N.W. quarter	_____	_____	_____	_____	_____	_____
	S.W. quarter	_____	_____	_____	_____	_____	_____
	S.E. quarter	_____	_____	_____	_____	_____	_____

**11-18-08. Separate grantor and grantee indexes to be kept for transfers and liens - Contents.**

The recorder shall keep separate grantor and grantee indexes of the deeds, contracts, and other instruments not merely liens, and separate grantor and grantee indexes of the mortgages and other instruments which are liens affecting or relating to the title to real property. Such indexes shall show:

1. The names of the grantors and of the grantees.
2. The dates of the several instruments filed for record.
3. The dates upon which the several instruments are filed.
4. An abbreviated description of the real property affected by such instruments.
5. The number of the book and page where the instrument is recorded or the document number of the instrument.

**11-18-09. Document to be numbered - Priority of filing.**

The recorder, when any deed, patent, mortgage, receiver's receipt, contract, notice of lis pendens, copy of decree, or other instrument affecting the title to, or creating a lien upon, any real estate within the county is filed in the recorder's office, shall write or stamp thereon immediately a document number. Document numbers shall commence with the number one in each county and shall follow consecutively in the order of filing of the various documents. Priority of the document number on an instrument shall be prima facie evidence of the priority of the filing thereof. When the recorder receives by mail or other like enclosure more than one instrument at a time, the recorder shall affix document numbers thereon in the order in which such instruments actually come to the recorder's hand on opening such enclosure, save that when more than one instrument is recorded from the same source at the same time, the recorder may follow such directions, if any, as the sender may give in such numbering.

**11-18-10. Recorder to keep reception record - Contents.**

The recorder shall keep a record known as "The Reception Record". The record must be ruled in parallel columns showing:

1. The document number.
2. The date of recording.
3. The name of the grantor.
4. The name of the grantee.
5. The character of the instrument.
6. The book and page or document number upon which the instrument is recorded.
7. The name of the person to whom the instrument was returned.
8. A brief description of the property, if any, described in the instrument.

Immediately after any document or paper of a kind mentioned in section 11-18-09 is numbered, it must be entered in the reception record. The reception record must be a part of the public records of the office and open to public inspection during office hours.

**11-18-11. Recorder to record instruments.**

When an instrument affecting the title to or creating a lien upon real estate within the county is numbered and entered in the reception record and indexed, it must be recorded or filed as provided by law. The recorder shall provide recording information on the instrument as required by paragraph 4 of subdivision a of subsection 1 of section 11-18-05 and shall authenticate the information with an official signature and the official seal of the office as required by section 11-18-04.

**11-18-12. Record, when complete - Penalty for alteration.**

Repealed by S.L. 1975, ch. 106, § 673.

**11-18-13. Indexing and filing security agreements.**

The provisions of sections 11-18-09, 11-18-10, and 11-18-11 shall not extend to, nor cover the indexing and filing of, a financing statement. Such instrument shall be indexed and filed as provided in chapter 41-09.

**11-18-14. Recorder to remove and destroy certain documents - Records to be made.**

The recorder in each county in this state, unless otherwise earlier permitted by law, shall remove from the files in the recorder's office, and destroy, all chattel mortgages, agricultural processor's liens, agricultural supplier's liens, agister's liens, mechanic's liens, repairman's liens, unpaid earned insurance premium liens, and sales contracts together with any releases for the instrument upon which a claim for relief has accrued and which claim for relief is more than ten years old. At the time of destroying the files the recorder shall note on the margin of the index opposite the record of each instrument so removed and destroyed the date when the instrument was destroyed.

**11-18-15. Notary seal on documents filed with recorder - Stamp or imprint allowed.**

The notary seal on any document filed with a recorder may be in either a stamped or an imprinted form.

**11-18-16. Buried transmission facilities - Filing notice thereof.**

Repealed by S.L. 1995, ch. 455, § 8.

**11-18-17. Establishment of a county card file system.**

Repealed by S.L. 1995, ch. 455, § 8.

**11-18-18. Request of exact location from owner of facilities - Owner to provide location information.**

Repealed by S.L. 1995, ch. 455, § 8.

**11-18-19. Injury or damage to the facility - Civil cause of action.**

Repealed by S.L. 1995, ch. 455, § 8.

**11-18-20. Card to be used in submitting information to county recorders.**

Repealed by S.L. 1995, ch. 455, § 8.

**11-18-21. Alteration of existing boundary lines by court or arbitrator - Filing of plat required.**

Within thirty days of the issuance of any judgment or final decision in a court action or arbitration proceeding which establishes a boundary for real property that deviates from the existing boundaries established by the United States public land surveys, surveys using the North Dakota coordinate system, or any other official survey depicting the boundaries of real property, a plat must be filed in the office of the recorder in the county where the property is located, containing a diagrammatic depiction of the boundary as it existed prior to the judgment or final decision, and as established by the judgment or final decision. The plat must be

prepared by a land surveyor registered pursuant to chapter 43-19.1. The plat must be filed in the same manner as provided in section 47-20.1-06 and must clearly indicate that it depicts changes in existing boundaries ordered by the judgment of a court or the final decision of an arbitrator. Specific reference to the property affected must appear prominently in the title of the plat. Liability for the costs and responsibility for filing of the plat must be set by the court or arbitrator issuing the judgment or final decision. The requirements of this section are in addition to any other filing or recordation otherwise required in this state.

**11-18-22. Document preservation fund.**

The county treasurer shall establish a document preservation fund to receive the portion of the recording fees authorized by section 11-18-05. The revenue in this fund may be used only for contracting for and purchasing equipment and software for a document preservation, storage, and retrieval system; training employees to operate the system; maintaining and updating the system; and contracting for the offsite storage of microfilm or electronic duplicates of documents for the county recorder's office.

**11-18-22.1. Document preservation fund - Recorder reporting requirement to legislative council.**

Expired under S.L. 2005, ch. 104, § 4.

**11-18-23. Filing or recording documents with recorder - Social security numbers.**

1. A document that includes a social security number may not be filed or recorded with the recorder unless a law requires the social security number to be in the document in order to be filed or recorded. A document that is required to contain a social security number may be recorded in the real estate records with the social security number redacted.
2. Notwithstanding any other provision of law, when a copy of a document that includes a social security number is requested, the recorder is not required to redact the social security number unless the document was filed or recorded with the recorder after December 1, 2003.
3. A document that must include a social security number under chapters 14-03 and 23-02.1 may be processed and recorded under those chapters; however, the social security number is confidential and must be redacted before a copy or certified copy may be provided to the public.