

County Clerk and Recorder, Duty to Record Plats Attached to Deeds. Plats, Of Property Described in Deed to Be Recorded With Deed Itself. County Clerk and Recorder, to Cause Plats Attached to Deeds to Be Entered in Same Manner as Other Maps and Plats. County Clerk and Recorder, Authority to Reduce Scale of Plats Attached to Instruments Recorded. Plats, Forming Part of Instrument Recorded May Be Reduced by Recorder.

In recording deeds to which there is attached a plat, it is the duty of the county clerk to cause such plat to be recorded with said deed.

The county clerk and recorder should cause the plat attached to the instrument filed for record to be recorded in the deed record books, and for that purpose may reduce the scale of such plat to such proportions as will permit of its recording in such record books.

The county clerk and recorder has no authority to detach plats from deeds and file same in his office separately from instrument itself.

December 16, 1910.

Hon. S. P. Wilson,
County Attorney,
Deer Lodge, Montana.

Dear Sir:

I am in receipt of your letter of the 15th inst., in which you state that there has been deposited with your county clerk and recorder certain deeds for record, to each of which said deeds there is attached a blue print, and you ask the following questions:

1. In making a record of such deeds should the county clerk and recorder copy such blue prints into his deed record books?

Section 3039 of the Revised Codes, provides, in substance, that when any instrument is deposited in the office of the county clerk for record, the county clerk must record the same without delay, together with the plats, surveys, schedule and other papers thereto annexed.

In view of the provisions of said Sec. 3039, it is undoubtedly the duty of the county clerk to record all such plats attached to the deed, as well as the substance of the deed itself.

2. Has the county clerk and recorder authority to engage the services of a draftsman to reduce the scale of such blue prints to such proportions as will permit the prints being correctly represented upon the pages of the deed record books?

Section 3037 of the Revised Codes deals with the duty of the county clerk to record certain maps; also Section 3168, with reference to the fees of county clerks, being item 11 thereof, provides for the fees to be collected for platting certain maps, and it is apparently the intention of the law that the county clerk should procure a copy of such blue print or plat attached to any deed filed for record, to be made in the same manner as he would have made the plats or maps mentioned in said Sections 3037 and 3168. There can be no objection to the reduction of the scale of said plat in order to conform to the size of the record book, so long as the recorded plat conforms strictly in proportion to the instrument filed for record.

3. Would filing such blue prints, or copies thereof, in his office, without making copies of the prints upon the deed record books, be a sufficient recording of such deeds, on the part of the county clerk and recorder, within the contemplation of the law?

It is my opinion that the blue prints attached to the deeds should not be detached therefrom, and especially in view of said Section 3039 of the Revised Codes. It is the duty of the county clerk to record the plat, as well as the written portion of the deed itself, and after such recording to return the same to the party leaving the same for record.

Yours very truly,

ALBERT J. GALEN,

Attorney General.