

CHAPTER 85-04-09
LAND SALES UNDER NORTH DAKOTA CENTURY CODE CHAPTER 15-09

Section

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85-04-09-01. Sale of lands for public or quasi-public purpose.

The department shall consider the following criteria when reviewing an application for sale under North Dakota Century Code chapter 15-09:

1. The tract is required for the purposes stated in the application and issuance of the patent or deed must not have a significant negative impact on the remainder of the trust lands;
2. Environmental impacts are minimal or are required to be mitigated in an acceptable manner;
3. Impacts on the value of the remainder of the trust lands are minimal or are required to be mitigated in an acceptable manner;
4. Impacts to significant archaeological and historical sites are minimal, or are required to be mitigated in an acceptable manner;
5. The sale must produce a positive financial return to the trusts;
6. There is no known formal challenge regarding the project;
7. The surface lessee has been notified of the project; and
8. If the application is for a sale of land for use as a landfill by a public entity, the following requirements must be met:
 - a. Applicants shall work with the department of environmental quality to ensure the operation of the proposed landfill is in accordance with state and federal laws, rules, and regulations.
 - b. Before final approval of a sale is given, the applicant shall submit evidence that the site meets appropriate geological, hydrological, and other requirements established by the department of environmental quality and the United States environmental protection agency. A permit for feasibility testing may be issued prior to final approval of a sale.
 - c. When determining the purchase price, the board shall consider the following additional factors:
 - (1) The unique geological and hydrological characteristics which make the site suitable for use as a landfill;
 - (2) The effect on the value of adjacent state properties caused by using the site as a landfill; and
 - (3) The price paid by other purchasers for similar landfill sites.

History: Effective January 1, 2021.

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-02. Sale procedure.

1. An application for purchase of land may be accepted and the land sold in conformance with North Dakota Century Code chapter 15-09. An application must be submitted using a paper application provided by the department upon request and be completed and signed by authorized personnel and must include a nonrefundable application fee in an amount set by the board unless waived by the commissioner. The application must meet the requirements of North Dakota Century Code section 15-09-01 and may require, depending on the land to be purchased, the following:
 - a. A siting and environmental review completed by the department; and
 - b. A "metes and bounds" survey of the land to be purchased, including both a plat and written narrative of the survey completed by the applicant. The narrative must include the distances and angles between points of intersection and points of entry and exit tied into the section corners, quarter section corners, or lot corners, and a breakdown of the acreage in the parcel for each separate quarter section or lot included in the purchase.
2. If the land is leased, the commissioner shall notify the lessee of the intent to sell the property during the months of October through January.
3. Upon receipt of an application for sale of lands for public or quasi-public purpose and a determination that the application covers a tract the commissioner is willing to consider for sale, the department shall post on the department's website a notice of the application for sale of lands for public or quasi-public purpose, any supporting documentation, and instructions for submitting public comments. All comments must be in writing and contain the following:
 - a. Name and address of the interested person;
 - b. Applicant's name and address;
 - c. The legal description of the proposed tract as shown on the published notice; and
 - d. A detailed statement as to whether the interested person supports or opposes the sale.
4. The department shall secure a real property appraisal in accordance with North Dakota Century Code sections 15-06-22 and 15-06-23 and may secure additional appraisals from certified appraisers. Appraisals must consider the matter of severance of adjacent trust lands caused by the sale and the effect on the value of adjacent trust lands, which may reflect a higher appraisal.
5. The department shall provide the board a report of all appraisals, public comments, and any other relevant information to allow the board to determine whether to proceed with the sale. If the board decides to proceed with the sale, the board shall establish a minimum acceptable sale price. The board reserves the right to increase the sale price if it deems the appraised value is inadequate.
6. The board shall obtain fair market value for all land sold under North Dakota Century Code chapter 15-09 and must consider its "highest and best use" as defined in North Dakota Century Code section 15-02-05.1.
7. The department shall notify the applicant, if any, of the price set by the board, which must be the approved sale price.

8. The notice of the application and the board approved sale price must be published and a hearing must be held in conformance with North Dakota Century Code section 15-09-03. If publication of any notice is omitted inadvertently by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled hearing if it appears the omission or error is not prejudicial to the department's interest.
9. Any comments made at the hearing must be brought to the board, along with the department's recommendations regarding those comments.
10. If the applicant desires to purchase the property at the price set by the board and pays full purchase price, the commissioner may complete the sale on the board's behalf. If an agreement as to price cannot be reached, the applicant may proceed under North Dakota Century Code section 15-09-05.

History: Effective January 1, 2021.

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-03. Payment of costs.

The purchaser is responsible for payment of all costs, including appraisals, title examinations, and other costs as may be necessary to complete the sale.

History: Effective January 1, 2021.

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-04. Fencing.

A no-fencing clause may be added to the conveyance to keep trust lands from being severed.

History: Effective January 1, 2021.

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-05. Reversion clause.

Any conveyance must contain a reversion clause stipulating that if the property is at any time not used for its stated purpose at the time of purchase, the board may terminate the estate created by the conveyance and repossess the property. The power of termination and re-entry may be exercised by the board without reimbursement to the purchaser of any part of the purchase price, and without payment of any other consideration.

History: Effective January 1, 2021.

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-06. Board review.

Within thirty days of a decision under these rules, an aggrieved party may request the commissioner review the decision. The aggrieved party seeking review shall submit any information required by the commissioner as part of this request. Within thirty days of the commissioner's review, the aggrieved party may request board review and the commissioner shall recommend if board review is warranted.

History: Effective January 1, 2021.

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09