

OPINION NO. 66-052**Syllabus:**

1. The provisions of Section 319.28, Revised Code, are mandatory.
2. Section 319.28, Revised Code, applies to the county as a unit and to the component taxing districts.
3. The county auditor and county treasurer cannot by agreement adopt any method of compiling the general tax list of real and public utility property other than the one stated in Section 319.28, Revised Code.
4. Section 319.28, Revised Code, directs uniformity for the listing of real and public utility property for the entire county; hence, an alphabetical list cannot be used for townships unless it is used exclusively by the auditor for the entire county.

To: Neil M. Laughlin, Licking County Pros. Atty., Newark, Ohio
By: William B. Saxbe, Attorney General, March 2, 1966

Your request for my opinion is as follows:

"The County Treasurer of Licking County has requested of this office interpretation of Section 319.28 of the Revised Code of the State of Ohio.

"1. Is Section 319.28 mandatory?

"2. Does Section 319.28 apply to the entire county as a unit or does this apply to the various taxing districts? As you will note I have attached a copy of the present existing units and different rates in Licking County.

"3. Can the Auditor and Treasurer agree to any other method other than is set forth in Section 319.28?

"4. Could the Auditor and Treasurer agree to establish an alphabetical list based upon the townships only?

"Your analysis of this section of the Revised Code would be appreciated."

Section 319.28, Revised Code, was amended by the 106th General Assembly in Amended Substitute House Bill No. 644. The Bill was passed July 14, 1965, approved July 30, 1965, and became effective October 30, 1965. The preamble to the Bill states its purpose to be, "To amend section 319.28 of the Revised Code to permit the county auditor's general tax list and the treasurer's general duplicate of real and public utility property to be set up under a permanent parcel numbering system." The amended Code Section, with additions underlined and omissions noted by asterisks, is as follows:

"On or before the first Monday of August, annually, the county auditor shall compile and make up a general tax list of real and public utility property in the county, either in tabular form and alphabetical order, or with the consent of the county treasurer, by listing all parcels in a permanent parcel number sequence to which a separate alphabetical index is keyed, separate lists of the names of the several persons, companies, firms, partnerships, associations, and corporations in whose names real property has been listed in each township, municipal corporation, special district, or separate school district, or part of either in his county, placing separately, in appropriate columns opposite each name, the description of each tract, lot, or parcel of real estate, the value of each tract, lot, or parcel, the value of the improvements thereon, and of the names of the several public utilities whose property, subject to taxation on the general tax list and duplicate, has been apportioned by the department of taxation to the county, and the amount so apportioned to each township, municipal corporation, special district, or separate school district or part of either in his county, as shown by the certificates of apportionment of public utility property. If the name of the owner of any tract, lot, or parcel of real estate is unknown to the auditor, 'unknown' shall be entered in the column of names opposite

said tract, lot, or parcel. Such lists shall be prepared in duplicate. On or before the first Monday of September in each year, the auditor shall correct such lists in accordance with the additions and deductions ordered by the department of taxation, and by the county board of revision, and shall certify and on the first day of October deliver one copy thereof to the county treasurer. The copies prepared by the auditor shall constitute the auditor's general tax list and treasurer's general duplicate of real and public utility property for the current year. * * *

"Once a permanent parcel numbering system has been established in any county as provided by the preceding paragraph, such system shall remain in effect until otherwise agreed upon by the county auditor and county treasurer."

Before amendment the Code Section was as follows:

"On or before the first Monday of August, annually, the county auditor shall compile and make up, in tabular form and alphabetical order, separate lists of the names of the several persons, companies, firms, partnerships, associations, and corporations in whose names real property has been listed in each township, municipal corporation, special district, or separate school district, or part of either in his county, placing separately, in appropriate columns opposite each name, the description of each tract, lot, or parcel of real estate, the value of each tract, lot, or parcel, the value of the improvements thereon, and of the names of the several public utilities whose property, subject to taxation on the general tax list and duplicate, has been apportioned by the department of taxation to the county, and the amount so apportioned to each township, municipal corporation, special district, or separate school district or part of either in his county, as shown by the certificates of apportionment of public utility property. If the name of the owner of any tract, lot, or parcel of real estate is unknown to the auditor, 'unknown' shall be entered in the column of names opposite said tract, lot, or parcel. Such lists shall be prepared in duplicate. On or before the first Monday of September in each year, the auditor shall correct such lists in accordance with the additions and deductions ordered by the department of taxation and by the county board of revision, and shall certify and on the first day of October deliver one copy thereof to the county treasurer. The copies prepared by the auditor shall constitute the auditor's general tax list and treasurer's general duplicate of real and public utility property for the current year. In making up such tax lists the auditor may place each town lot in its numerical order, and each separate parcel of land in each township according to the numerical order of the section."

Section 319.28, Revised Code, before its 1965 amendment, was the subject of Opinion No. 65-23, Opinions of the Attorney General for 1965, page 2-60, issued February 10, 1965. The essence of the request for that Opinion was whether the county auditor was required to prepare the tax list and duplicate in alphabetical form or whether it could be arranged in a numerical order. That Opinion ruled the mandatory language of the Code required the listing to be in tabular form and alphabetical order.

Although Opinion No. 65-23, supra, has been rendered moot by the 1965 amendments to Section 319.28, supra, the reasoning and logic employed in that Opinion survive to dispose of the present inquiry.

The language of Section 319.28, Revised Code, is mandatory. The county auditor must make up the general tax list of real and public utility property. However, he now has the alternative of making the list in tabular form and alphabetical order, or he may, with the consent of the county treasurer, list all parcels in a permanent parcel number sequence to which a separate alphabetical index is keyed. Should the county auditor proceed pursuant to his second alternative, adopting the permanent parcel numbering system for the county, he cannot abandon this system without the consent of the county treasurer.

Before amendment in 1965, Section 319.28, Revised Code, permitted the county auditor to list town lots and each separate parcel of land in each township in numerical order. That permissive language was stricken from the Section by the 1965 amendment.

Specifically answering your itemized questions, you are advised:

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2. Section 319.28, Revised Code, applies to the county as a unit and to the component taxing districts.
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4. Section 319.28, Revised Code, directs uniformity for the listing of real and public utility property for the entire county; hence, an alphabetical list cannot be used for townships unless it is used exclusively by the auditor for the entire county.