

## **Applicant**

Blue Earth County  
P.O. Box 3566  
Mankato, MN 56002-3566

## **Request**

Ordinance Amendment to Chapter 24 - Zoning, Article III - District Regulations, to modify the permitting process of transferring residential development rights from a conditional use requiring approval by the County Board to an administrative approval by the Planning Agency.

## **Background and Statement of General Need**

Transferring of residential development rights has been listed as a Conditional Use since 1976 in the Agricultural District and since 1996 in the Conservation District. Transferring of development rights is also allowed in the Urban Fringe Overlay District (UFD). The cities of Mankato, Eagle Lake and Madison Lake have UFD areas. The current process involves review of the proposal by the County Planning Commission and approval or denial action by the County Board. A total of 172 residential development rights have been transferred. The County Board has expressed an interest in making a transfer request an administrative process handled by the Planning Agency staff.

## **Current Ordinance**

Sections 24-114 and 24-139 list the density regulations for dwellings in the Agricultural and Conservation Districts respectively. Both sections currently state:

Development rights may be transferred from a quarter of a quarter section (40 acres) to a contiguous (sharing one common boundary) quarter of a quarter section (40 acres) for the purpose of constructing a dwelling, upon obtaining a conditional use permit. The sending quarter of a quarter of a section (40 acres) shall consist of a suitable buildable area capable of accommodating all requirements of the Blue Earth County Code of Ordinances for the construction of a single-family dwelling. The transfer shall not allow the establishment of more than four dwellings in a quarter of a quarter section.

## **Proposed Amendments**

The proposed amendment is to modify the permitting process from a conditional use permit review to an administrative review and approval by the Blue Earth County Planning Agency. The proposal includes the addition of performance standards as shown in Sec. 24-336. See Attachment 1.

## **Land Use Plan**

The Land Use Plan has an agricultural implementation action that states: *“The Transfer of Residential Development Rights (TDR’s) within the Agricultural and Conservation Districts will continue to be allowed. However, the sender must own the entire quarter-quarter out of which the dwelling unit allowance will be transferred or all property owners in the sending quarter-quarter must agree. The receiving quarter-quarter must share a common boundary or corner with the sending quarter-quarter. In addition, both the sending and receiving quarter-quarter must have an area which meets the current standards for being buildable as established by Ordinances. The maximum dwelling unit allowance per quarter-quarter in the agricultural district is four (4). Monitor this regulation and its effectiveness as development trends change.”*

### **Required Notices**

The required public hearing notice was mailed to all cities and townships in the County on June 25, 2021. It was also published in the Free Press on June 26, 2021.

### **Findings**

Staff has developed the following findings regarding the proposed amendments to Chapter 24 of the Blue Earth County Code of Ordinances to change the process of transferring residential development rights from a conditional use requiring approval by the County Board to an administrative approval by the Planning Agency as shown in Attachment 1:

1. Minnesota Statute, Chapter 394.21 grants counties the authority to regulate land development by adopting and amending official controls.
2. The proposed amendment reflects goals and objectives of the County Land Use Plan.
3. That transfer of residential development rights from one quarter of a quarter section to another is a method to allow development that conforms to the density regulations of the district while preserving agricultural land and conservation areas.

### **Recommendation**

Staff recommends approval of the proposed amendments to Chapter 24 of the Blue Earth County Code of Ordinances to change the process of transferring residential development rights from a conditional use requiring approval by the County Board to an administrative approval by the Planning Agency as shown in Attachment 1.

### **Attachments**

Attachment 1 – Proposed Ordinance Amendment

Attachment 2 – Current TDR History Map

Attachment 3 – Application Process Flow Chart

Attachment 1  
Transfer of Residential Development Ordinance Amendment

**ARTICLE III. – DISTRICT REGULATIONS**  
**DIVISION 2. A AGRICULTURE DISTRICT**

**Sec. 24-112. Uses.**

(b) Conditional uses. The following uses may be allowed in the A district as a conditional use as regulated in article II of this chapter.

~~(13) Transfer of development rights.~~

**Sec. 24-114. Density regulations for dwellings.**

~~(d) Transfer of development rights. Development rights may be transferred from a quarter of a quarter section (40 acres) to a contiguous (sharing one common boundary) quarter of a quarter section (40 acres) for the purpose of constructing a dwelling, upon obtaining a conditional use permit. The sending quarter of a quarter of a section (40 acres) shall consist of a suitable buildable area capable of accommodating all requirements of the Blue Earth County Code of Ordinances for the construction of a single family dwelling. The transfer shall not allow the establishment of more than four dwellings in a quarter of a quarter section (40 acres).~~

(d) Transfer of development rights. Development rights may be transferred from a quarter of a quarter section to a contiguous (sharing one common boundary or corner point) quarter of a quarter section for the purpose of constructing a dwelling, upon obtaining approval from the Blue Earth County Planning Agency as regulated in Section 24-336.

**DIVISION 3. C CONSERVATION DISTRICT**

**Sec. 24-137. Uses.**

solar energy systems. Small solar energy systems are not allowed in floodplains.

(b) Conditional uses. The following uses may be allowed in the C district as a conditional use and subject to the provisions of article II of this chapter:

~~(5) Transfer of development rights.~~

**Sec. 24-139. Density regulations for dwellings.**

~~(e) Transfer of development rights. Development rights may be transferred from a quarter of a quarter section (40 acres) to a contiguous (sharing one common boundary) quarter of a quarter section (40 acres) for the purpose of constructing a dwelling, upon obtaining a conditional use permit. The sending quarter of a quarter of a section (40 acres) shall consist of a suitable buildable area capable of accommodating all requirements of the Blue Earth County Code of Ordinances for the construction of a single family dwelling. The transfer shall not allow the establishment of more than four dwellings in a quarter of a quarter section.~~

(c) Transfer of development rights. Development rights may be transferred from a quarter of a quarter section to a contiguous (sharing one common boundary or corner) quarter of a quarter

section for the purpose of constructing a dwelling, upon obtaining approval from the Blue Earth County planning agency as regulated in Section 24-336.

## **ARTICLE IV. – REQUIREMENTS AND STANDARDS**

### **DIVISION 2. – PERFORMANCE STANDARDS**

#### **Sec. 24-336. – Transfer of residential development rights (TDR)**

The purpose of this section is to ensure the purpose of the Agriculture District, Conservation District, and the goals of the Land Use Plan are met when transferring residential development rights from an undeveloped quarter of a quarter section by creating performance standards and an administrative approval process.

(a) *Transfer of Development Rights Application Requirements.* Any person proposing to Transfer a Development Right shall make a written land use development application to the County. Application for such approval shall not be complete unless it contains the following:

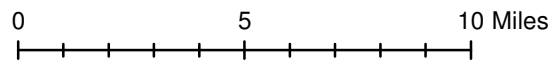
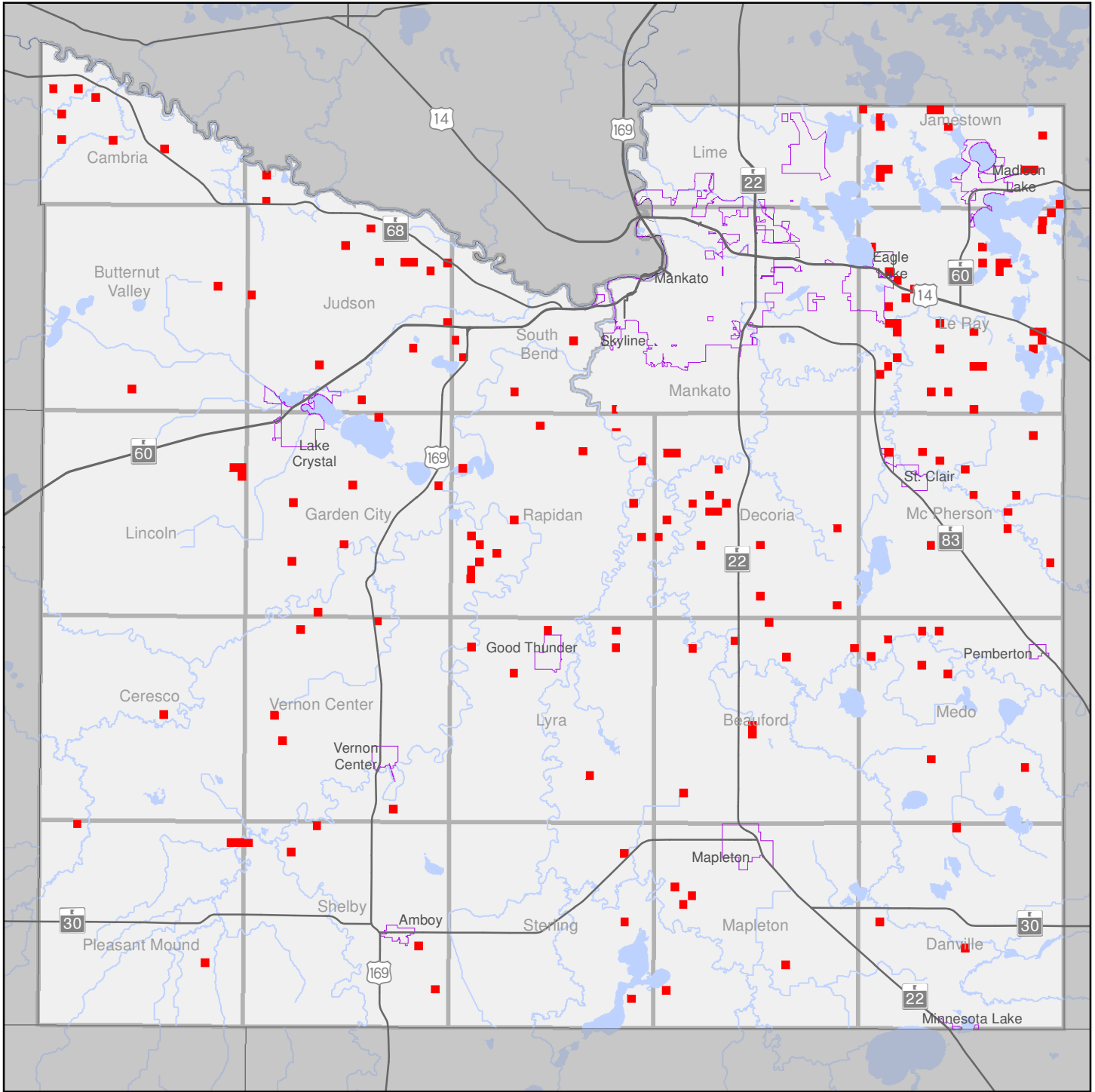
1. Signed County application form.
2. A notarized form(s) from all owners from a quarter of a quarter section authorizing the development right to be transferred.
3. Proposed site plan for the dwelling that will result from said transfer of development right.
4. Required application fees.
5. Other site-specific information may be required or requested by the County.

(b) *Performance Standards*

1. Any person proposing the transfer of a development right shall have a pre-application meeting with the Blue Earth County Planning Agency. The applicant shall provide a map showing the sending quarter of a quarter section and receiving quarter of a quarter section and the location of the intended development. If the proposal meets the requirements of the ordinance, notarized transfer agreements from the owners of property within the sending quarter of a quarter section shall be obtained by the applicant. The applicant shall submit the application fee and other applicable information requested by the Planning Agency.
2. The sending quarter of a quarter section and receiving quarter of a quarter section of the residential development right shall share a common boundary or corner point. Transferring a development right from a quarter of a quarter section to one that does not share a common border or corner through direct transfer or by conveyance through one that does share a common border or corner shall be prohibited.
3. The sending quarter of a quarter section and receiving quarter of a quarter section shall consist of a suitable buildable area capable of accommodating all requirements of the Blue Earth County Code of Ordinances for the construction of a single-family dwelling.

4. Except as allowed in sections 24-114 and 24-139 which address lots of record, the transfer shall not allow the establishment of more than four dwellings in a quarter of a quarter section.
  5. All owners of parcels located within the sending quarter of a quarter section shall acknowledge relinquishment of the residential development right of the sending quarter of a quarter section using a form furnished by the county.
  6. A development right can be transferred to a quarter of a quarter section from which a development right has previously been legally transferred provided the transfer meets the requirements of this section.
  7. Outstanding violations on any properties within the sending quarter of a quarter section or on the parcel receiving the intended development right shall be brought into full compliance with the ordinance prior to receiving approval of the transfer by the County Planning Agency.
  8. The Blue Earth County Planning Agency shall record with the County Recorder development rights transfer agreement forms from all parcels within the sending and receiving quarter of a quarter sections. The recordation shall include the decision notice of the approved transfer.
- (c) *Issuance.* The zoning administrator shall issue a decision notice approving the transfer of development right only after determining that the land use development application is complete, the lot is buildable and that the plan complies with all provisions of this chapter.

# Attachment 2 - Residential Development Rights that have been Transferred



- Development Right that has been Transferred
- City
- Township



Prepared By: Blue Earth County  
Property and Environmental  
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Source: Property and Environmental  
Resources

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**Attachment A-3  
Transfer of Development Right Proposed Process  
June 2021**

