

Environmental Services

County Board Agenda Staff Report for T 10/03/2017

Old Business:

- **2020 Census Local Update of Census Addresses (LUCA) Operation**

Enclosed Document:

- Map of MN LUCA participating counties to-date

Kevin was able to connect with some Census employees who provided answers to our questions. Kevin emailed the State Demographer last week, but has not received a reply as of W 9/27.

The Census contact we reached said that it is acceptable for a participating local governmental unit to do the best it can in reviewing/proofing/editing address data. We are not required to do 100% of the requested items if doing so proves cost or time prohibitive. Census staff did not have any information for use in estimating the average amount of time needed to complete a single edit or all edits anticipated for our county.

We did obtain some preliminary address data from the Census which we compared to our data. This initial comparison showed that the Census had record of 15303 addresses and our total address count was 15064. Kevin ran a 1,000 address point comparison sample of our data to the Census data. Eighty-one percent of the addresses matched perfectly, 12% were partial matches, and 7% were no match. This sample comparison lets us know roughly what percentage of the total address list will likely require our attention.

Census staff said that the current plan timeline is for the data to be sent to us in February 2018. We have 120 days from the day we receive the data to review and edit it. Assessor Dept. staff will assist us in the process by sorting out commercial addresses (the Census only wants residential address info.) and doing other data analysis and editing. February and March are very busy times in the assessing year so the Census' timeline is not ideal, but we may be able to do some of the needed prep work before we receive the data. These details ought to be able to be worked out before February.

This all said, since the Census is willing to accept whatever proofing and editing we are able to do, we are willing to work on the project and be of as much help as possible.

New Business:

- **Conditional Use Application 6-CU-17 by the Laestadian Lutheran Church: Part of Gov. Lots 2 3, 4, and 5, and part of the NW ¼ of the SW ¼, Section 1, Township 139, Range 34, Hubbard Township on Big Stony Lake, a recreational development lake. Parcel 14.01.10081. Applicant is requesting a conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance to operate a commercial planned unit development church camp use.**

Enclosed Documents:

- Conditional Use Permit Application 6-CU-17
- Staff dwelling unit density analysis performed for CUP application and accompanying aerial photo of property showing Tier boundaries
- Mn Dept. of Health – Food and Beverage Report and Lodging Report on planned remodeling and expansion

The request is for a conditional use permit (CUP) to operate a church camp use on the subject property. Such a use has been occurring for a number of decades – since roughly the late 1970s. The property file does not contain enough detail to piece together exactly when the use commenced and how the department viewed it at that time.

That said, permits for the camp have been issued since the late 1970s. Today, the applicant is willing to bring the camp use into a conforming status by applying for a CUP.

The camp is located on 78.84 acres on the north shore of Big Stony Lake in Hubbard Township. Currently, all structures are located in Tier 1. Six units exist. The ordinance allows 14 units. Expansion plans include a new bunkhouse in Tier 2 where the density analysis shows 25 units would be allowed and a bunkhouse and bathhouse in Tier 3 where 39 units would be allowed. The camp is thus very much within the allowed dwelling unit density. This expansion is planned to begin next spring. Remodeling of the interior of the main structure at the camp is slated to begin this fall and carry through the winter.

The use occurs year-round with most activity occurring in the spring through fall seasons. Maximum occupancy is currently 100 beds with the proposed expansion bringing that number to 160 beds. Average attendance at the camp is 50-100 people with that attendance range growing to 300-400 for special events. Lake use is limited to swimming and occasional fishing. No watercraft usage exists or is planned. There is one dock that has no watercraft slips on it and is used by the swimming area and for visitors traveling via water to access the camp.

The camp access is located on a township gravel road. The access is a bit over a ½ mile long and runs entirely on camp property.

Four septic systems are currently located on the property. Two are compliant. They service the east and west bunkhouses in Tier 1. Two systems are non-compliant. They service the staff house and kitchen/chapel. New designs to upgrade the two failing systems have been submitted to our department and are in the process of being reviewed. The camp is willing and hoping to be able to replace these two failing systems yet this fall.

The department does not have any significant concerns with the church camp use as it has peacefully coexisted with the surrounding residential uses on the lake, the adjacent agricultural use to the NW, and the adjoining forestry uses to the north and east. The camp falls well below the maximum dwelling unit density allowed on the property and it does not have plans to develop beyond what is shown in the CUP application.

Typically, when considering conditions to place on a CUP, it is advisable to memorialize as a condition any item that serves as a basis for the decision you make. The reason for this is that if there is not a condition specifying whether an activity or structure can occur and if so, under what terms, that activity or structure is not able to be regulated unless the Shoreland Ordinance contains language that addresses the item. Conditions are fitting if they help to ensure that the use operates as presented and remains compatible with surrounding uses and protective of public health, safety, and welfare. Condition 1 is a standard condition recommended by legal counsel to be placed on all CUPs. Condition 2 is per a requirement in Section 1013.4.H of the Shoreland Management Ordinance that 50% of the shore impact zone on a commercial planned unit development such as this one must be preserved in its natural state.

The Planning Commission unanimously recommends (motion Grob, second Petersen) that the application be approved with the following five conditions and below listed findings of fact.

Planning Commission Recommended Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one church camp commercial planned unit development use venture. As such, any land, that through subdivision or addition to the property to which the CUP is granted, is added or subtracted, is/are not granted or allowed the right to operate in accordance with the CUP without first applying for and obtaining the necessary CUP from the County.
2. Fifty percent of the shore impact zone on the property must be preserved in its natural state. This preserved area will consist of the west 700' of SIZ on the property measured from its west boundary line shared with parcel 14.01.01600 and the east 218' of SIZ on the property measured west from its east boundary line shared with parcel 14.01.00600.
3. Access to the property shall only be via the existing driveway that ties into 209th Avenue at the southwest corner of the NW ¼ of the SW ¼ in Section 1, Township 139, Range 34.
4. No motorized watercraft are allowed to be beached or moored on lifts or buoys on the shoreline.

5. The shoreline is limited to having two docks that meet the general permit (2008-0041) requirements of the Minnesota Department of Natural Resources. Watercraft may be tied up to these two docks.

Below are the staff-prepared findings of fact that the Planning Commission adopted and recommends:

1. Is the requested use consistent with public health, safety, and welfare?

YES (X) NO ()

Why or why not?

The proposed use falls under the commercial planned unit development conditional use category in the ordinance. This use has existed on this property in largely its present form since the late 1970s without the County having received any complaints about it. The use will not have any docks or watercraft slips in the lake. All primary structures on the camp meet or exceed the 100' ordinary high water mark setback. The area between the structures and lake is well vegetated and includes dense mature trees that effectively screen the structures from the lake. Access to the property is via ¼ of a mile of gravel township road that has three residences on it before the township road ties into paved County Highway 17. Roughly 1600' of shoreline west of the camp is undeveloped and there are only two residences in the adjoining quarter mile to the east.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?

YES (X) NO ()

Why or why not?

The proposed expansion will consist of one new unit in Tier 2 and two new units in Tier 3. These improvements will be a significant distance from the lake and any stormwater generated by them will be easily handled by the sandy, gently sloping soils between them and the lake. Existing camp structures meet the 100' ordinary high water mark structure setback and the area between the structures and the lake is heavily vegetated/wooded.

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?

YES (X) NO ()

Why or why not?

The proposed expansion will occur in Tiers 2 and 3 and be at least 500' from the lake. The new improvements will not alter the existing topography, but rather be placed in a way that works with it. Small areas will be cleared where the new structures will be placed, but the surrounding area will remain heavily wooded. Stormwater drainage due to the additional structures should not increase to a level that will exceed what the property can accommodate.

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries?

YES (X) NO ()

Why or why not?

There are no FEMA designated floodplains in Hubbard County. The existing Tier 1 structures sit roughly 10' above the lake level and the proposed Tier 2 and 3 structures will be at least 20' above the lake level. These elevations, along with the sandy soils on the property and surrounding area, suggest there will not be any flooding potential on the property.

5. Has the erosion potential of the site based upon the degree and direction of slope, soil type, and existing vegetative cover been adequately addressed for the requested use?

YES (X) NO ()

Why or why not?

The property gently slopes toward the lake from north to south. The proposed new structures will be located at least 500' from the shoreline and the existing forested vegetation between the building sites and lake will remain and serve as an effective buffer to guard against any erosion and mitigate any stormwater generated by the new structures and accompanying impervious surface improvements such as driveways and vehicle parking areas.

6. Is the site in harmony with existing and proposed access roads?

YES (X) NO ()

Why or why not?

The property is accessed by a driveway that enters onto 209th Avenue which is a north-south running gravel township road. There are three residences to the north of this approach before reaching County Highway 17 that serves as the main road used to reach 209th Avenue. There should not be any dust-related issues on 209th Avenue as one quarter mile has a farm field on the west and forest on the east and there is fairly dense forested vegetation between the sole residence on the east side of the road (leeward side) that should filter any dust. This approach has been in use by the camp since the late 1970s without any issues having arisen or complaints having been raised by surrounding landowners. There are trees on both sides of the driveway and the last ½ mile of the ¾ mile driveway lies entirely in the middle of the camp property and is buffered on both sides by considerable forested vegetation that will filter any vehicle noise and dust.

7. Is the requested use compatible with adjacent land uses?

YES (X) NO ()

Why or why not?

The area is a mixture of agricultural, residential, and forested uses. The forty acres to the west of the camp is 90% forested and 10% agricultural field. The forty to the northwest of the camp is part of a large agricultural field. The land to the north and NW of the camp is forested. There are two residences in the ¼ mile east of the camp and three undeveloped lots to the SW of the camp along the lake. The camp has existed in this location since the late 1970s without any identified issues having been raised concerning its compatibility or lack thereof with surrounding uses.

8. Does the requested use have a reasonable need to be in a shoreland location?

YES (X) NO ()

Why or why not?

A church camp is a typical use seen on riparian lots in the County's shoreland areas as campers frequent the lake for swimming and fishing purposes along with other recreational activities such as enjoying the view afforded by the lake.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?

YES (X) NO ()

Why or why not? Two of the septic systems are compliant. Two other systems are noncompliant and will be upgraded yet this year. Septic system designs are on file with and have been approved by the Env. Services Department for the additional system that will service the proposed new bathhouse in Tier 3. There is ample room and suitable soil types for the installation of replacement septic systems if/when the need for such ever arises.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?

YES (X) NO ()

Why or why not? The existing structures comply with the 100' OHW setback and the proposed new structures will be located at least 500' from the OHW. There is dense forested vegetation between the structures and lake so they are not hardly visible by parties on the lake and thus the Section's provisions are being met.

11. Is the site adequate for water supply and on-site sewage treatment systems?

YES (X) NO ()

Why or why not? The camp consists of nearly 80 acres. The water supply has been in place for several decades and is working satisfactorily. The existing septic systems are ½ compliant and ½ non-compliant with the latter planned to be upgraded yet this year. The new septic system proposed to service the new bunkhouses and bathhouse has been approved by the Env. Services Department. The soil on the site is sandy and conducive to in-ground systems.

12. Are the affected public waters suited to and able to safely accommodate the types, uses, and numbers of watercraft that the use will generate?

YES (X) NO ()

Why or why not? The camp's application states that it does not have any docks or watercraft slips. Rather, the camp only uses the lake for swimming and fishing.

- **Lot Split Bill Resolution**

- **Enclosed Documents:**

- Assoc. of Minnesota Counties letter and sample resolutions
- Clean copy of Minnesota Statute 272.162 as amended
- Marked up partial copy of MS 272.162 as amended
- Draft resolution to assume authority per MS 272.162

This past legislative session, after several years of trying, counties were given the same statutory authority that cities have had for many years to be able to deny the recording of documents that create subdivisions which have not received zoning approval. Statute 272.162 now allows a county to have this authority if its Board of Commissioners adopts a resolution stating it is assuming such. Up until this statute change, County Recorders were required to record a document that created an illegal subdivision if the document was in recordable format. This put the recording process at odds with the Subdivision Ordinance. It also made it very difficult for us to effectively resolve the subdivision violation(s) created by a document being recorded.

The Association of Minnesota Counties provided counties with a one-page letter describing the statute change and what it allows, and two sample resolutions that can be used to assume this authority. I prepared a draft resolution per AMC's "Sample 1" resolution for your consideration. Nicole Lueth, County Recorder, and I recommend that this resolution be adopted as it will allow us to prevent the recording of a document that will create a subdivision until proper subdivision approval has been given.

Other:

- **PT Admin. Assistant – temporary hrs/wk increase**

As a quick refresher – at the last Board meeting, you graciously authorized filling my FT administrative assistant (AA) position as its incumbent submitted her resignation notice effective November 1. To take advantage of this roughly month-long window of time before she leaves to continue training my PT AA in the FT AA's duties, provide counter coverage, keep critical department functions going, and allow my PT AA to then train in the new FT AA, I would like to increase my PT AA's hours from 20 hrs/wk to up to 40 hrs/wk during this transition period. There is sufficient money in my budget to cover this increase due to savings from the second GIS position not yet being filled and the upcoming transition period during which the FT AA position will be temporarily vacant. Coordinator Thompson and I were not sure if you would consider this situation to fall under your recently updated overtime policy or if you would prefer that it receive Board authorization via an approved motion. Thus, I wanted to present the proposal to you and ask how you would prefer that it be handled. If the latter option is preferred, I respectfully request authorization to temporarily increase my PT AA's hours for this time period.

Registered 2020 LUCA Participants

Details Legend

LUCA Participant Entities

ANRC Participant



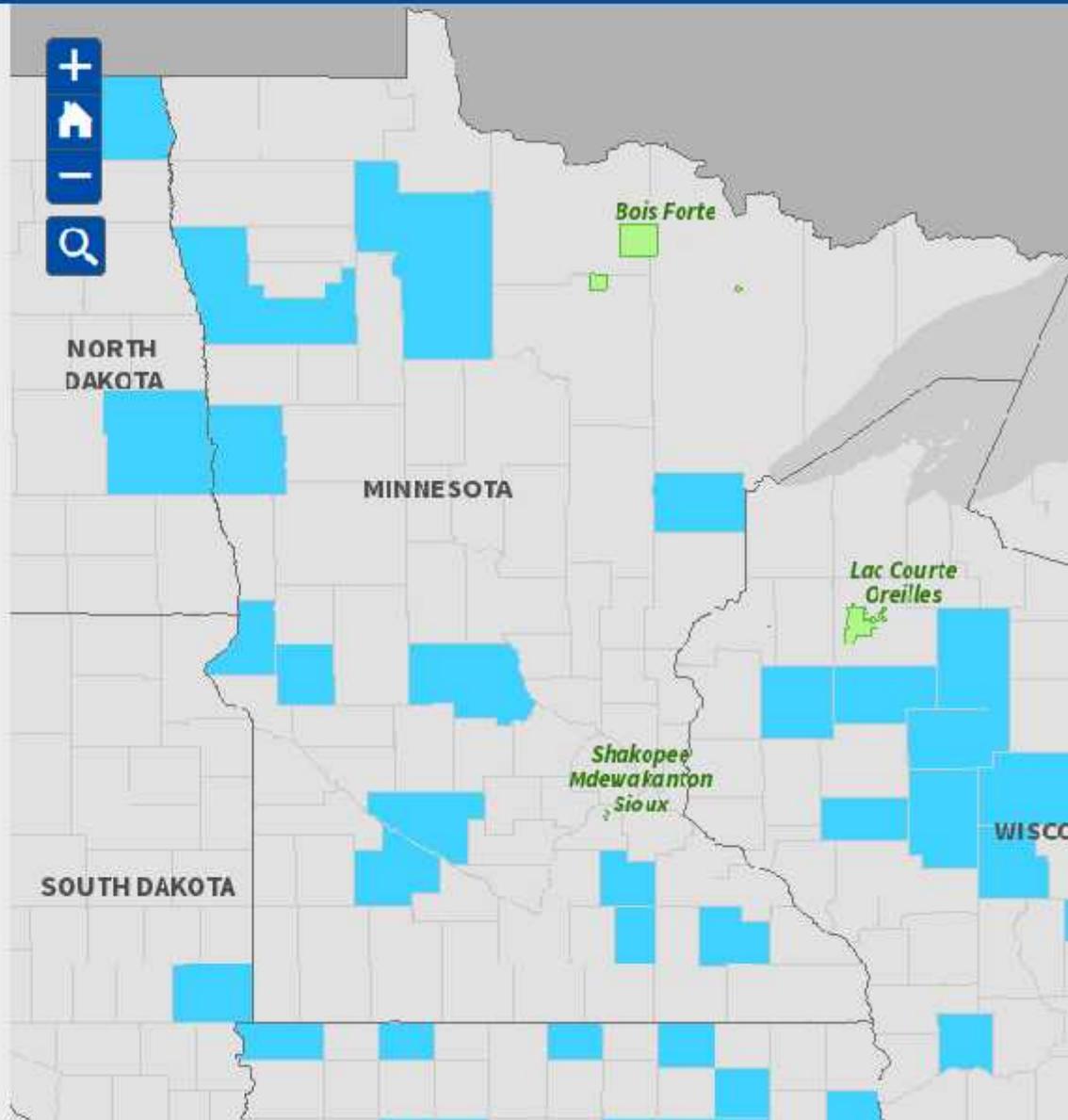
Tribal Participant



County Participant



State Participant





Association *of* Minnesota Counties

August 2017

Counties and other local governments are responsible for planning and zoning activities to promote the health, safety, and general welfare of their communities. Until recently, a county's ability to assume this responsibility was hamstrung by state statute. The state permitted other local governments to review land transfers and divisions, but did not give the same authority to counties.

This restriction on counties was removed in the 2017 legislative session with a law that amended [Minn. Stat. § 272.162](#). The new law specifically states counties have the same authority already afforded municipalities and townships to review land transfers and divisions before they are recorded.

With this authority, counties can protect land owners from land transfer and division missteps which block property owners from using their land as they intended. County oversight will prevent future boundary disputes and ensure that land owners are compliant with other land use rules and regulations.

A county must pass a resolution stating it assumes the authority to review land divisions and transfers. Two sample resolutions declaring this authority are provided in this packet. A county may use the sample resolutions as a guide for its policy. However, if a county uses language from these samples, its final resolution should be evaluated by its planning and zoning personnel and county attorney before adoption.

If you have questions about county planning and zoning oversight, please contact AMC's Environment & Natural Resources Policy Analyst, Jennifer Berquam at jberquam@mncounties.org or 651-789-4322

SAMPLE 1

A RESOLUTION

Requiring county review of a deed or other instrument conveying a parcel of land for transfer or division for conformity with the county's land use regulations before the county auditor transfers or divides the land or its net tax capacity in the official records.

WHEREAS, Minnesota Statute § 272.162 specifies the conditions when a local government may restrict parcel transfers or land divisions; and

WHEREAS, the 90th Legislature adopted Chapter 1 in the 2017 First Special Session, amending Minn. Stat. § 272.162; and

WHEREAS, the amended Minn. Stat. § 272.162 authorizes a county to review a deed or other instrument conveying a parcel of land for transfer or division before its recorded, ensuring conformity with the county's land use regulations; and

WHEREAS, a county's review of a proposed land transfer or division will protect land owners from problems arising from property splits not compliant with zoning regulations or inaccurate parcel descriptions; and

WHEREAS, a county must choose to assume the authority to review deeds or other instruments conveying parcels of land for transfer or division; now, therefore,

BE IT RESOLVED, [INSERT COUNTY NAME] County requires the review of a deed or other instrument conveying a parcel of land for transfer or division for conformity with the county's land use regulations before the county auditor transfers or divides the land or its net tax capacity in the official records.

SAMPLE 2

A RESOLUTION

Assuming the authority to enforce the parcel transfer and division restrictions of
Minn. Stat. § 272.162

WHEREAS, Minnesota Statute § 272.162 specifies the conditions when a local government may restrict parcel transfers or land divisions; and

WHEREAS, the 90th Legislature adopted Chapter 1 in the 2017 First Special Session, amending Minn. Stat. § 272.162; and

WHEREAS, the amended Minn. Stat. § 272.162 authorizes a county to review a deed or other instrument conveying a parcel of land for transfer or division before its recorded, ensuring conformity with the county's land use regulations; and

WHEREAS, a county's review of a proposed land transfer or division will protect land owners from problems arising from property splits not compliant with zoning regulations or inaccurate parcel descriptions; and

WHEREAS, a county must choose to assume the authority to review deeds or other instruments conveying parcels of land for transfer or division; now, therefore,

BE IT RESOLVED, the restrictions of Minn. Stat. § 272.162 shall apply to property within [INSERT COUNTY NAME] County's boundaries, specifically, the County Auditor shall not transfer or divide the land in the official records and shall not certify the deed or other instrument of conveyance as provided in Minn. Stat. § 272.12, if:

- a. The land conveyed is less than a whole parcel of land as charged in the tax lists;
- b. The part of land conveyed appears within the area of application of municipal or county subdivision regulations adopted and filed under Minn. Stat. § 394.35 or 462.36; and
- c. The part conveyed is part of or constitutes a subdivision as defined in Minn. Stat. § 462.352, Subdivision 12; and

BE IT FURTHER RESOLVED, the county auditor may transfer or divide the land if its deed or instrument contains a certification by the clerk of the municipality or designated county planning official:

- a. that the municipality's or county's subdivision regulations do not apply;
- b. that the subdivision has been approved by the governing body of the municipality or county; or
- c. that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality or county in the particular case because compliance would create an unnecessary hardship and failure to comply would not interfere with the purpose of the regulations.

day of final enactment.

Sec. 8.

Minnesota Statutes 2016, section 272.162, is amended to read:

272.162 RESTRICTIONS ON TRANSFERS OF SPECIFIC PARTS.

Subdivision 1.

Conditions restricting transfer.

When a deed or other instrument

conveying a parcel of land is presented to the county auditor for transfer or division under sections 272.12, 272.16, and 272.161, the auditor shall not transfer or divide the land or its net tax capacity in the official records and shall not certify the instrument as provided in section 272.12, if:

(a) The land conveyed is less than a whole parcel of land as charged in the tax lists;

(b) The part conveyed appears within the area of application of municipal or county subdivision regulations adopted and filed under section 394.35 or section 462.36, subdivision 1; and

(c) The part conveyed is part of or constitutes a subdivision as defined in section 462.352, subdivision 12.

Subd. 2.

Conditions allowing transfer.

(a) Notwithstanding the provisions of subdivision 1, the county auditor may transfer or divide the land and its net tax capacity and may certify the instrument if the instrument contains a certification by the clerk of the municipality or designated county planning official:

(a) (1) that the municipality's or county's subdivision regulations do not apply;

(b) (2) that the subdivision has been approved by the governing body of the municipality or county; or

(c) (3) that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality or county in the particular case because compliance would create an unnecessary hardship and failure to comply would not interfere with the purpose of the regulations.

(b) If any of the conditions for certification by the municipality or county as provided in this subdivision exist and the municipality or county does not certify that they exist within 24 hours after the instrument of conveyance has been presented to the clerk of the municipality or designated county planning official, the provisions of subdivision 1 do not apply.

(c) If an unexecuted instrument is presented to the municipality or county and any of the conditions for certification by the municipality or county as provided in this subdivision exist, the unexecuted instrument must be certified by the clerk of the municipality or the designated county planning official.

Subd. 3.

Applicability of restrictions.

(a) This section does not apply to the exceptions set forth in section 272.12.

(b) This section applies only to land within municipalities or counties which choose to be governed by its provisions. A municipality or county may choose to have this section apply to the property within its boundaries by filing a certified copy of a resolution of its governing body making that choice with the auditor and recorder of the county in which it is located.

Sec. 8.

Minnesota Statutes 2016, section 272.162, is amended to read:

272.162 RESTRICTIONS ON TRANSFERS OF SPECIFIC PARTS.

Subdivision 1.

Conditions restricting transfer.

When a deed or other instrument conveying a parcel of land is presented to the county auditor for transfer or division under sections 272.12, 272.16, and 272.161, the auditor shall not transfer or divide the land or its net tax capacity in the official records and shall not certify the instrument as provided in section 272.12, if:

(a) The land conveyed is less than a whole parcel of land as charged in the tax lists;

(b) The part conveyed appears within the area of application of municipal or county subdivision regulations adopted and filed under section 394.35 or section 462.36, subdivision 1; and

(c) The part conveyed is part of or constitutes a subdivision as defined in section 462.352, subdivision 12.

Subd. 2.

Conditions allowing transfer.

(a) Notwithstanding the provisions of subdivision 1, the county auditor may transfer or divide the land and its net tax capacity and may certify the instrument if the instrument contains a certification by the clerk of the municipality or designated county planning official:

(a) (1) that the municipality's or county's subdivision regulations do not apply;

(b) (2) that the subdivision has been approved by the governing body of the municipality or county; or

(c) (3) that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality or county in the particular case because compliance would create an unnecessary hardship and failure to comply would not interfere with the purpose of the regulations.

(b) If any of the conditions for certification by the municipality or county as provided in this subdivision exist and the municipality or county does not certify that they exist within 24 hours after the instrument of conveyance has been presented to the clerk of the municipality or designated county planning official, the provisions of subdivision 1 do not apply.

(c) If an unexecuted instrument is presented to the municipality or county and any of the conditions for certification by the municipality or county as provided in this subdivision

Needs a board resolution to be effective.

**CERTIFIED COPY OF RESOLUTION OF COUNTY BOARD
HUBBARD COUNTY, MINNESOTA**

Commissioner ____ moved the adoption of the following resolution:

RESOLUTION NO. 100317__

WHEREAS, Minnesota Statute § 272.162 specifies the conditions when a local government may restrict parcel transfers or land divisions; and

WHEREAS, the 90th Legislature adopted Chapter 1 in the 2017 First Special Session, amending Minn. Stat. § 272.162; and

WHEREAS, the amended Minn. Stat. § 272.162 authorizes a county to review a deed or other instrument conveying a parcel of land for transfer or division before it is recorded, ensuring conformity with the county's land use regulations; and

WHEREAS, a county's review of a proposed land transfer or division will protect landowners from problems arising from property splits not compliant with zoning regulations or inaccurate parcel descriptions; and

WHEREAS, a county must choose to assume the authority to review deeds or other instruments conveying parcels of land for transfer or division; now, therefore,

NOW, THEREFORE, BE IT RESOLVED, Hubbard County requires the review of a deed or other instrument conveying a parcel of land for transfer or division for conformity with the county's land use regulations before the county transfers or divides the land or its net tax capacity in the official records.

Commissioner ____ seconded the motion for the adoption of the Resolution and it was declared adopted upon the following vote:

Ayes: _____ Nays: _____

STATE OF MINNESOTA)
) ss.
County of Hubbard)

Office of the Coordinator

I, Debbie Thompson, duly appointed Coordinator of the County of Hubbard, do hereby certify that the above is a full, true, and correct copy of a Resolution duly adopted by the Board of County Commissioners of the County of Hubbard at its regular meeting held on October 3rd, 2017.

Debbie Thompson
Hubbard County Coordinator