

Chapter 520 Transfer of Development Rights Regulations

520.01 Statutory Authorization

The State of Minnesota in Minnesota Statutes §394.25, specifically authorizes counties to adopt zoning ordinances that establish land use districts allowing the transfer of development rights from areas where preservation is desirable to areas more desirable for development.

520.02 Purpose

The purpose of the Transfer of Development Rights Regulations is to provide a voluntary, incentive-based process for protecting agricultural resources while promoting development in areas more appropriate for development such as less productive areas, and areas served with road and utility infrastructure. The Transfer of Development Rights Regulations specifically implement the following goals from the Rice County Comprehensive Land Use Plan:

- A. **Goal 10. Objective 1.** Lessen the impact of service delivery costs by encouraging development to locate where public utilities and services are available.
- B. **Goal 17.** Protect and promote agriculture by preserving large tracts of land by encouraging clustering or rural residential development.
- C. **Goal 50.** Encourage clustering of any rural residential development in close proximity to roads in an effort to protect agricultural land, environmentally sensitive areas and to facilitate emergency service.
- D. **Goal 53.** Discourage scattered site residential development and promote clustering.
- E. **Goal 54.** Allow for the exchange of Transferable Development Rights (TDRs) within a section of land.
- F. **Goal 55.** Minimize conflicts between agricultural and non-agricultural areas.
 1. **Objective 1.** Adopt land use regulations that control density and development in agricultural and open spaces to protect and preserve agricultural land and environmentally sensitive areas.

520.03 TDR Sending Areas

Development rights may be transferred from the following districts, under the requirements of this Chapter:

- A. A Agricultural District
- B. UR Urban Reserve District
- C. GDS, RDS or NES Shoreland Districts

520.04 TDR Receiving Areas

Development rights may be transferred to the following districts, provided that these are located within the same township as the sending area, with the sole exception outlined in §520.04 C.

- A. **Agricultural and Urban Reserve Districts.** Development rights from the A Agricultural or UR Urban Reserve Districts may be transferred only to:
 1. Locations within the A Agricultural District that will be developed as minor cluster developments (see Chapter 521).
 2. Locations within the A Agricultural District that will be developed as golf course cluster developments (see Chapter 521).
 3. Locations within the A Agricultural District or VMU Village Mixed Use District that are being developed as village extension areas, under the Planned Unit Development provisions of this Ordinance. (These areas would be rezoned from the A District to the VMU District following approval of a PUD plan.) (See Chapter 513.)
- B. **Shoreland Districts.** Development rights from the Shoreland Districts may be transferred only

to lots or parcels within the same shoreland district around the same lake, or to a golf course cluster development or village extension area within the A Agricultural District.

- C. **Transfers across township boundaries.** Development rights may be transferred across township boundaries only when sending and receiving parcels are contiguous and in common ownership, and when authorized by both Township Boards of Supervisors.

520.05 Calculation of transferable development rights within the A Agriculture District. The number of rights that may be transferred from a parcel shall be equal to the unused development rights of the parcel under §509.03 however

- A. Undeveloped parcels of record shall receive one development right.
- B. Undeveloped lots or parcels existing on the date of adoption of this Ordinance of at least ten (10) acres in size qualify for one-half (0.5) development right, which may be sold or combined for transfer, provided that there remains some eligibility for development within the quarter-quarter section where the parcel is located.
- C. When two undeveloped parcels, over 1.0 acre in size, exist in a quarter- quarter section which qualifies for two development rights each parcel shall receive one right.
- D. A parcel with a dwelling shall not be given a development right if in the quarter-quarter section there is a parcel which can qualify for the remaining right.

520.06 Calculation of transferable development rights within the UR Urban Reserve District. The number of rights that may be transferred shall be equal to the unused base density of the parcel, based on the minimum lot area of 35 acres for one residential unit (see Chapter 510). A minimum of 35 acres is required to obtain one development right, and TDRs shall not be divided.

520.07 Calculation of transferable development rights within the Shoreland Districts.

- A. **Limitation on sending sites.** Development rights may be transferred from a parcel in a GDS, RDS or NES District only if it has at least one of the following characteristics:
 - 1. Steep slopes and/or wetlands covering more than fifty percent (50%) of the gross land area
 - 2. The property is inaccessible from existing public roads
- B. **Number of rights.** The number of rights that may be transferred shall be equal to the unused base density of the parcel, based on the standard minimum lot area for a riparian or non-riparian lot in the GDS, RDS or NES District.

520.08 Use of development rights in receiving areas. A development right may be applied to any dwelling type permitted in the zoning district or type of planned unit development to which it will be transferred (the receiving area).

520.09 Limitations on Future Development of Sending Areas. After the transfer of development rights, further development of the sending parcel is restricted based on the number of rights transferred. If all development rights have been transferred, the parcel is restricted to agricultural and open space uses. Should the zoning of the sending parcel be changed in the future to allow additional density, the number of development rights already used shall be subtracted from the total number of units permitted. This restriction shall be removed if the property is annexed into a city.

520.10 Development Agreements and Recording of Restrictions: The following information shall be recorded as part of the transfer of development rights.

- A. **Common ownership.** Development rights transferred between parcels that are under common ownership shall occur only if the transfer is recorded on the deeds of all sending parcels. The property owners shall be responsible for recording all required documents with the Rice County

Recorder.

- B. **Separate ownership.** Development rights transferred between parcels under separate ownership shall be the subject of a development agreement restricting future development between the property owners that shall be executed and recorded on the deeds of all affected parcels. The transfer shall also be recorded on the deeds of all sending parcels. The property owners shall be responsible for recording all required documents with the Rice County Recorder.
- C. **Zoning map.** All density transfers shall be recorded on the Official Zoning Map by the Zoning Administrator.
- D. **Terms of restriction.** The development agreement required under §520.10 B., shall, at a minimum, contain the following terms:
 - 1. A legal description of the sending and receiving parcels.
 - 2. The number of development rights transferred.
 - 3. The restriction on future development or subdivision of the sending parcel.
 - 4. The restriction of the sending parcel to agricultural and open space uses.
 - 5. Any provisions for reacquiring development rights to be used in the future on the sending parcel.
 - 6. Rice County shall have the right to enforce the terms of the agreement.
 - 7. The agreement shall be signed and executed by the landowners of both the sending and receiving parcels.