

ORDINANCE NO. 2016-1

AN ORDINANCE AMENDING THE CLAY COUNTY DEVELOPMENT CODE:
CHAPTER 7, SUBDIVISION REGULATIONS

RECITALS

WHEREAS, Clay County has adopted a Development Code, identified as Ordinance 2012-1;

WHEREAS, the Clay County Board of Commissioners, upon recommendation of the Clay County Planning Commission, desires to modify the Clay County Development Code as indicated herein, additionally repealing the Development Code's existing language in the following section, and substituting there for the following language:

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLAY, STATE OF MINNESOTA HEREBY ORDAINS AS FOLLOWS:

Currently the Code's language reads as follows:

Chapter 7, Section 8-7-8: Transfer and Division of Land Described by Metes and Bounds

8-7-8: TRANSFER AND DIVISION OF LAND DESCRIBED BY METES AND BOUNDS:

- A. **Survey Required for Transfer of Land Described by Metes and Bounds:** When the ownership of a parcel or tract of land is transferred by a metes and bounds description, the County Auditor shall require such parcel or tract to be surveyed and its description to be accompanied by a surveyor's certificate showing the dimensions and location of such parcel.
- B. **Division by Metes and Bounds Not Allowed:** No division of land in which the divided tract is described by metes and bounds shall be permitted.
- C. **Government Lot Descriptions May be Used for Transfer of Land for Agricultural Use:** A transfer of ownership of a parcel or tract of land described by United States Government Land Survey Description may be transferred without the requirement of a survey or surveyor's certificate; however, no parcel described as an area less than ten (10) acres or an area including a reference to a measurement by feet may be transferred under this provision. In addition, the transferred parcel shall be used for agricultural purposes only. Transfers for development purposes shall comply with the subdivision provisions of this chapter.
- D. **Division of Land Using Government Lot Descriptions:** The division of a parcel or tract of land described by United States Government Land Survey description shall be allowed only if in compliance with the minor or major subdivision provisions of section 8-7-13 or 8-7-14 of this Chapter.
- E. **Survey Requirements Under This Section:** Surveys required under this Section 8-7-8 must be made by a registered land surveyor under the laws of the state. All such surveys shall be certified by the surveyor and shall bear his registration number. Required surveys shall be filed with the Planning and Zoning Department.
- F. **Recording of Deeds:** The county recorder of deeds shall not record nor file for record any deed for the transfer of ownership of any tract made in violation of this section.

Chapter 7, Section 8-7-14 B: Preliminary Plat Requirements and Review Procedure

Preliminary Plat Requirements and Review Procedure: An applicant for a land division by registration of a plat of subdivision shall meet the following requirements:

1. **Application and Preliminary Plat:** After the pre-application meeting as required in section 8-4A-1, an applicant shall submit three (3) copies of the following:
 - a. **Application:** An application on forms provided by the Planning Department;
 - b. **Preliminary Plat:** An electronic version and three (3) large size (22' x 34') paper copy of a preliminary plat meeting the data requirements of section 8-7-14 D, below; and
 - c. **Improvement plans:** Improvement plans meeting the requirements of section 8-7-14 E, below.

Chapter 7, Section 8-7-14 C 10: Electronic Version of Final Plat

10. **Electronic Version of Final Approved Plat:** Upon receiving final approval, the applicant shall submit a copy of the approved version of the plat in electronic format compatible with the software in use by the County at the time of submittal. The electronic plat shall be reference as County coordinates and provide a seamless edge match to the existing County database.

Chapter 7, Section 8-7-14 D 4i: Surveying Requirements

- i. **Surveying Requirements:** Surveying requirements of the final plat shall be under the regulation of the County Surveyor.

Chapter 7, Section 8-7-17: United States Public Land Survey Monument Record

8-7-17: UNITED STATES PUBLIC LAND SURVEY MONUMENT RECORD:

- A. **Preparation Required:** A United States public land survey monument record must be prepared as part of any land survey which includes or requires the perpetuation or restoration of a United States public land survey corner and one of the following conditions exists:
 1. There is no United States public land survey monument record for the corner on file in the office of the county surveyor or the county recorder for the county in which the corner is located; or
 2. The land surveyor who performs the survey accepts a position for the United States public land survey corner which differs from that shown on a United States public land survey monument record filed in the office of the county surveyor where the county maintains a full-time office, or

in the office of the county recorder for the county in which the corner is located; or

3. The witness ties referred to in an existing United States public land survey monument record have been destroyed.

B. Certificate Of Location Of Government Corner: A United States public land survey monument record must be prepared on a certificate of location of government corner, as specified in Minnesota statutes section 160.15, subdivision 5, as amended and laid out herein.

C. Position And Other Elements: A United States public land survey monument record must show the position of the corner and must include all the following elements:

1. The identity of the corner, as referenced to the United States public land survey system;
2. A description of any record evidence, monument evidence, occupational evidence, testimonial evidence, or any other material evidence considered by the surveyor, and whether the monument was found or placed;
3. If possible, reference ties to at least three (3) witness monuments made of concrete, natural stone, iron, or other equally durable material, including trees;
4. A plan view drawing depicting the relevant monuments and reference ties which is in sufficient detail to enable accurate restoration of the corner position if the corner monument has been disturbed;
5. A description of any significant discrepancy between the position of the corner as restored and the position of that corner as previously restored;
6. Whether the corner was restored through acceptance of an obliterated evidence position or a found perpetuated position;
7. Whether the corner was restored through lost corner proportionate methods;
8. The directions and distances to other public land survey corners which were used as evidence or used for proportioning in determining the corner positions; and
9. The signature of the land surveyor under whose direction and control the corner position was determined and a statement certifying that the United States public land survey monument record is correct and complete to the best of the surveyor's knowledge and belief.

The following shall replace the current language in Chapter 7:

Chapter 7, Section 8-7-8: Transfer and Division of Land Described by Metes and Bounds

8-7-8: TRANSFER AND DIVISION OF LAND DESCRIBED BY METES AND BOUNDS:

- A. Survey Required for Transfer of Land Described by Metes and Bounds:** When the ownership of a parcel or tract of land is transferred by a metes and bounds description, the County Auditor shall require such parcel or tract to be surveyed and its description to be accompanied by a surveyor's certificate showing the dimensions and location of such parcel in relation to the

nearest Section Corner. The legal description on the survey must match the legal description on the transferring document.

- B. ~~Division by Metes and Bounds Not Allowed:~~** No division of land in which the divided tract is described by metes and bounds shall be permitted.
- B. Government Lot Descriptions May be Used for Transfer of Land for Agricultural Use:** A transfer of ownership of a parcel or tract of land described by United States Government Land Survey Description may be transferred without the requirement of a survey or surveyor's certificate; however, no parcel described as an area less than ten (10) acres or an area including a reference to a measurement by feet may be transferred under this provision. In addition, the transferred parcel shall be used for agricultural purposes only. Transfers for development purposes shall comply with the subdivision provisions of this chapter.
- C. Division of Land Using Government Lot Descriptions:** The division of a parcel or tract of land described by United States Government Land Survey description shall be allowed only if in compliance with the minor or major subdivision provisions of section 8-7-13 or 8-7-14 of this Chapter.
- D. Survey Requirements Under This Section:** Surveys required under this Section ~~8-7-8~~ must be made by a registered land surveyor (RLS) under the laws of the ~~state~~ State of Minnesota. All such surveys shall be certified by the surveyor and shall bear his registration number. Required surveys shall be filed with the Planning and Zoning Department and the Office of the County Recorder.
- E. Recording of Deeds:** The county recorder ~~of deeds~~ shall not record nor file for record any deed for the transfer of ownership of any tract made in violation of this section.

Chapter 7, Section 8-7-14 B: Preliminary Plat Requirements and Review Procedure

Preliminary Plat Requirements and Review Procedure: An applicant for a land division by registration of a plat of subdivision shall meet the following requirements:

- 1. Application and Preliminary Plat:** After the pre-application meeting as required in section 8-4A-1, an applicant shall submit ~~three (3)~~ copies of the following:
 - a. Application:** An application on forms provided by the Planning Department;
 - b. Preliminary Plat:** An electronic version and ~~three (3)~~ one (1) large size (22' x 34') paper copy of a preliminary plat meeting the data requirements of section 8-7-14 D, below; and
 - c. Improvement plans:** Improvement plans meeting the requirements of section 8-7-14 E, below.

Chapter 7, Section 8-7-14 C 10: Electronic Version of Final Plat

- 10. Electronic Version of Final Approved Plat:** Upon receiving final approval, the applicant shall submit a copy of the approved version of the plat in electronic format compatible with the software in use by the County at the time of submittal. The electronic plat shall be reference as Clay County coordinates and provide a seamless edge match to the existing County database.

Chapter 7, Section 8-7-14 D 4i: Surveying Requirements

- i. **Surveying Requirements:** ~~Surveying requirements of the final plat shall be under the regulation of the County Surveyor~~ Point of beginning or point of commencement must be at a recorded government corner.

Chapter 7, Section 8-7-17: United States Public Land Survey Monument Record

8-7-17: UNITED STATES PUBLIC LAND SURVEY MONUMENT RECORD:

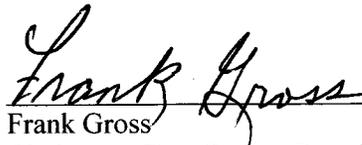
- A. **Preparation Required:** A United States public land survey monument record must be prepared as part of any land survey which includes or requires the perpetuation or restoration of a United States public land survey corner and one of the following conditions exists:
 1. There is no United States public land survey monument record for the corner on file in the office of the ~~county surveyor or the~~ county recorder for the county in which the corner is located; or
 2. The land surveyor who performs the survey accepts a position for the United States public land survey corner which differs from that shown on a United States public land survey monument record filed ~~in the office of the county surveyor where the county maintains a full time office, or~~ in the office of the county recorder for the county in which the corner is located; or
 3. The witness ties referred to in an existing United States public land survey monument record have been destroyed.
- B. **Certificate ~~Of Location~~ ~~Of Government Corner:~~** A United States public land survey monument record must be prepared on a certificate of location of government corner, as specified in Minnesota statutes section 160.15, subdivision 5, as amended and laid out herein.
- C. **Position ~~And~~ Other Elements:** A United States public land survey monument record must show the position of the corner and must include all the following elements:
 1. The identity of the corner, as referenced to the United States public land survey system;
 2. A description of any record evidence, monument evidence, occupational evidence, testimonial evidence, or any other material evidence considered by the surveyor, and whether the monument was found or placed;
 3. If possible, reference ties to at least three (3) witness monuments made of concrete, natural stone, iron, or other equally durable material, including trees;
 4. A plan view drawing depicting the relevant monuments and reference ties which is in sufficient detail to enable accurate restoration of the corner position if the corner monument has been

disturbed;

5. A description of any significant discrepancy between the position of the corner as restored and the position of that corner as previously restored;
6. Whether the corner was restored through acceptance of an obliterated evidence position or a found perpetuated position;
7. Whether the corner was restored through lost corner proportionate methods;
8. The directions and distances to other public land survey corners which were used as evidence or used for proportioning in determining the corner positions; ~~and~~
9. Clay County Coordinates – A Northing and an Easting in the Clay County Coordinate System NAD 83 (1996 Adj.) shall be included on each certificate; and
10. The signature of the land surveyor under whose direction and control the corner position was determined and a statement certifying that the United States public land survey monument record is correct and complete to the best of the surveyor's knowledge and belief.

IT IS HEREBY ORDAINED THAT the foregoing revisions be made to the Clay County Development Code and such revisions shall be effective upon enactment.

Adopted by the Clay County Board of Commissioners June 21st, 2016.



Frank Gross
Chairman, Clay County Board of Commissioners

ATTEST:


Brian Berg, Clay County Administrator