

**BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY, MINNESOTA**

Resolution No. 2004-140

DATE December 14, 2004
MOTION BY COMMISSIONER Kriesel

DEPARTMENT Transportation & Physical Dev.
SECONDED BY COMMISSIONER Peterson

**RESOLUTION APPROVING TEXT AMENDMENT TO THE
WASHINGTON COUNTY DEVELOPMENT CODE
CHAPTER TWO, PART 3 – ZONING REGULATIONS
OPEN SPACE DEVELOPMENT PERFORMANCE STANDARDS
SECTION 4.6 OWNERSHIP AND MANAGEMENT OF OPEN SPACE
ORDINANCE NO. 170**

WHEREAS, Washington County is authorized to carry on county planning and zoning activities in the unincorporated areas of the County pursuant to MINN. STAT. CHAPT. 394; and

WHEREAS, the Washington County 2015 Comprehensive Plan was adopted by the Washington County Board of Commissioners on April 22, 1997 and became effective October 1, 1997 as Washington County Ordinance No. 124; and

WHEREAS, MINN. STAT. §473.865 requires counties to adopt the official controls described in their Comprehensive Plan so as to implement the Comprehensive Plan; and

WHEREAS, the Washington County Development Code was adopted by the Washington County Board of Commissioners and became effective on October 20, 1997 as Washington County Ordinance No. 127; and

WHEREAS, on August 17, 2004, the County Board in a workshop setting considered a staff proposal to amend Part 3, Section 4.6 of the Washington County Development Code which deals with the ownership and management of the open space in open space design subdivisions; and

WHEREAS, the proposed amendment would eliminate Section 4.6(1)(D) which provided that one of the owners and managers of open space could be “An individual who will use the land for open space purposes as provided by the permanent conservation restrictions” and would add Section 4.6(2) which provides “An alternative ownership and management plan may be proposed by the owner to the County. The County shall determine whether that alternative plan is acceptable and meets the intent of the Development Code, considering such factors as the size, dimension, allowable use, management, and natural features of the open space. The County shall have the discretion to reject any proposed alternative plan;” and

WHEREAS, the Washington County Planning Advisory Commission held a public hearing on October 26, 2004, to consider the proposed amendment and recommended approval by the County Board; and

WHEREAS, on December 14, 2004, the Washington County Board of Commissioners conducted a public hearing to consider the amendment to Chapter Two, Part 3, Section 4.6; and

WHEREAS, the records of the public hearing consist of the minutes of the public hearing before the Planning Advisory Commission, the staff report, written comments from the town boards of New Scandia, Denmark and Stillwater Township, presentation by staff of the Washington County Department of Transportation and Physical Development – Land Management and members of the public; and

WHEREAS, over the past several years, numerous open space design subdivisions in unincorporated areas of the County have been approved and, in many cases, the ownership of the open space has been divided between the homeowners association and the original developer; and

WHEREAS, residents who have purchased individual lots in certain developments have expressed concern over both short term and long term continued use of a portion of the open space by the original developer; and

WHEREAS, there is a potential for land use conflicts under the Development Code as currently written and the Code should be amended to require that all open space be owned by the homeowners association when deemed appropriate by the Washington County Planning Advisory Commission.

NOW, THEREFORE, BE IT RESOLVED, based upon the hearing record, the Washington County Board of Commissioners hereby amends Chapter Two, Part 3, Section 4.6 as follows:

Section 4.6(1)(D) is repealed and stricken in its entirety

Section 4.6(2) is added and reads as follows:

An alternative ownership and management plan may be proposed by the owner to the County. Upon consultation with the affected township, the County shall determine whether that alternative plan is acceptable and meets the intent of the Development Code, considering such factors as the size, dimension, allowable use, management, and natural features of the open space. The County shall have the discretion to reject any proposed alternative plan.

BE IT FURTHER RESOLVED, that the Washington County Zoning Administrator is directed to make the changes set forth in the Washington County

Development Code and cause the same to be published and codified according to law and from and after the effective date of Ordinance No. 170, the previous section of Ordinance No. 127, effective October 27, 1998 in Chapter Two, Part 3, Section 4.6(1)(b) thereto is repealed.

ATTEST:

James R. Schug
COUNTY ADMINISTRATOR

R. H. Stafford
CHAIRMAN, COUNTY BOARD

HEGBERG
PULKRABEK
PETERSON
KRIESEL
STAFFORD

YES	NO
X	
X	
X	
X	
X	