

# Washington County Development Code

## CHAPTER ONE ADMINISTRATION

ORDINANCE 203  
EFFECTIVE UPON PASSAGE  
BY THE COUNTY BOARD  
ON JUNE 5, 2018 AND  
PUBLISHED ON  
JULY 27, 2018



# REVISED WASHINGTON COUNTY DEVELOPMENT CODE

## CHAPTER ONE

### ADMINISTRATION

## REVISED WASHINGTON COUNTY DEVELOPMENT CODE

Pursuant to MSA Ch 394, Washington County has adopted official controls for areas and activities enumerated below. These official controls are compiled into and hereafter known as the Revised Washington County Development Code which consists of the following chapters each adopted through Ordinance.

- |      |               |  |
|------|---------------|--|
| (1)  | Chapter One   | Administration   |
| (2)  | Chapter Two   | Zoning Regulations   |
| (3)  | Chapter Three | Subdivision Regulations  |
| (4)  | Chapter Four  | Subsurface Sewage Treatment System Regulations                       |
| (5)  | Chapter Five  | Lower St. Croix River Bluffland and Shoreland Management Regulations |
| (6)  | Chapter Six   | Shoreland Management Regulations                                     |
| (7)  | Chapter Seven | Mining Regulations   |
| (8)  | Chapter Eight | Buffer Regulations   |
| (9)  | Chapter Nine  | Floodplain Management Regulations                                    |
| (10) | Chapter Ten   | Official Map Regulation and Designation                              |

REVISED WASHINGTON COUNTY DEVELOPMENT CODE

CHAPTER ONE

ADMINISTRATION

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*Summaries in this column are for commentary and/or interpretive purposes only.*

## REVISED WASHINGTON COUNTY DEVELOPMENT CODE

### CHAPTER ONE ADMINISTRATION

This Chapter of the Washington County Development Code shall be known as Chapter One, Administration and may be referred to within this chapter as, "this Ordinance" or "this chapter". This administration regulation is adopted by Washington County Ordinance No. 203 pursuant to the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

#### SECTION 1. INTENT AND PURPOSE

1.1 With the exception of Subsurface Sewage Treatment System Regulations and Buffer Regulations which are applicable in all portions of the County, the County's Land Use authority is limited to the following areas within the unincorporated areas of the County:

- (1) Subdivision of land in areas that are subject to Chapter Three.
- (2) Subsurface Sewage Treatment Systems.
- (3) St. Croix River Management Overlay District.
- (4) Shoreland Management Overlay District.
- (5) Mining operations.
- (6) Riparian Vegetative Buffers.
- (7) Floodplains.
- (8) Official Map areas.

1.2 The Revised Development Code (hereinafter referred to as Development Code) is adopted for the following purposes:

- (1) To implement the policies established in the Washington County Comprehensive Plan.
- (2) To stage development and redevelopment to coincide with the availability of necessary public services.
- (3) To provide for the compatibility of different land uses and the most appropriate use of land within the bounds of the County's zoning authority.
- (4) To regulate uses and development in Shoreland areas, Saint Croix River Bluffland and Shoreland areas and Floodplain areas by creating overlay districts with regulations applicable to land and structures located within those districts.

*The Development Code is intended to preserve and protect natural resources and the environment, and to guide development in those portions of the unincorporated areas of the County where the County has Land Use authority.*

- (5) To regulate the placement of sanitary and waste treatment facilities.
- (6) To conserve and protect natural resources and maintain a high standard of environmental quality.
- (7) To provide for riparian vegetative buffers and water quality practices.
- (8) To regulate the placement of structures in flood prone areas.
- (9) To regulate alterations of natural vegetation and topography.
- (10) To preserve and protect the rural character, natural landscape, and natural and scenic beauty of the County.
- (11) To limit congestion on public roads and to foster public safety and convenience in travel and transportation.
- (12) To provide protection against fire, explosions, noxious fumes, and other hazards in the interest of public health, safety and comfort.
- (13) To prevent environmental pollution and to protect surface water and groundwater from contamination.
- (14) To preserve the value of land and value of structures throughout the County.
- (15) To provide for the wise use and conservation of energy resources.
- (16) To provide for the gradual and equitable elimination of those uses of land and structures, which do not conform to the standards for the area in which they are located.
- (17) To provide for the orderly, economic and safe removal and processing of sand, gravel, rock, soil and other material.
- (18) To provide for the orderly development of land through subdivision regulation.
- (19) To protect areas needed for future public use from further development through Official Maps.
- (20) To provide for the enforcement of the Development Code and to define and limit the powers and duties of the administrative officers and bodies responsible therefor.

## SECTION 2. DEFINITIONS

2.1 For the purpose of the Development Code, certain words and phrases are defined as follows

- (1) **Accessory Apartment:** A secondary dwelling unit within an

*Unless specifically defined here, interpretation of words and phrases shall be consistent with common usage.*

- existing owner-occupied single family dwelling unit for use as a complete independent living facility. A density unit is not attributed to this dwelling unit when calculating density.
- (2) **Accessory Building:** A detached single-story building greater than 120 square feet in size used or intended to be used for the storage of personal property or for agricultural purposes.
  - (3) **Accessory Use:** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental to such principal use.
  - (4) **Administrator:** The County Zoning Administrator i.e. Washington County Public Works Department.
  - (5) **Agricultural Building:** A structure on agricultural land designed, constructed, and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sub lessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.
  - (6) **Agricultural Business, Seasonal:** A seasonal business not exceeding six months in any calendar year operated on a rural farm as defined offering for sale to the general public, produce or any derivative thereof, grown or raised on the property.
  - (7) **Agricultural Use:** Use of land that consists of the production of horticulture and nursery stock, fruit, vegetables, forage, grains, bees, apiary products and raising domestic farm animals. This use does not need to be the principal source of income to be considered agricultural use.
  - (8) **Alteration:** To change or make different; to remodel or modify.
  - (9) **Animal Unit:** A unit of measure used to compare differences in the production of animal wastes.
  - (10) **Animals, Domestic Farm:** Cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food producing purposes.
  - (11) **Animals, Domestic Pets:** Dogs, cats, birds and similar animals commonly kept in a residence. Animals considered wild, exotic or non-domestic, such as bears, lions, wolves, ocelots and similar animals are not considered domestic pets.
  - (12) **Apartment:** A room or suite of rooms with cooking facilities designed to be occupied as a residency by a single family.
  - (13) **Appraised Valuation:** The market value of a structure as determined by the current records of the County Assessor.

- (14) **Basement:** Any floor level below the first story in a building, except that a floor level in a building having only one floor level is classified as a basement unless such floor level qualifies as a first story as defined in the Building Code.
- (15) **Bed and Breakfast Inn:** An owner-occupied private home where accommodations are offered for one or more nights to transients; in addition, a breakfast meal is served on the premises to no more than ten (10) persons.
- (16) **Board of Adjustment and Appeals:** A judicial type body appointed by the County Board to hear requests for building permits within Official Map Areas and administrative appeals and requests for variances in all unincorporated areas where the County has land use/zoning authority.
- (17) **Boarding House:** A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodging are provided for three (3) or more persons unrelated to the owner, but not to exceed eight (8) persons.
- (18) **Buffer:** A strip of land intended to create physical separation between potentially incompatible uses of land. Also see the buffer definition per Minn. Stat. Section 103F.48, subd. 1(c) as it pertains to the Washington County Buffer Ordinance.
- (19) **Buildable Land:** Land with a slope of less than twenty five (25) percent, above any floodway, drainageway, or drainage easement and outside of any required setbacks, except on natural environment lakes where a two hundred (200) foot structure setback is required, the buildable area calculation is measured from a one hundred fifty (150) foot setback rather than the required two hundred (200) foot setback.
- (20) **Building:** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or property. Any portion thereof completely separated from every other part thereof is deemed a separate building.
- (21) **Building Code:** The Minnesota State Building Code.
- (22) **Building Height:** The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of the building:
- (A) The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.

- (B) An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in Item (A) above is more than ten (10) feet above the lowest grade.
- (23) **Building Official:** The designated authority charged with the administration and enforcement of the State Building Code.
- (24) **Building Permit:** A permit required from the responsible governmental agency before any site work, construction or alteration of structures can be started.
- (25) **Building Setback Line:** A line that is parallel to a right-of-way line, a lot line, a bluffline or a high water line, and which delineates the minimum horizontal distance buildings or structures may be placed from those lines.
- (26) **Building Setback:** The minimum horizontal distance between a building or structure and a lot line, right of way line, bluffline, or high water line.
- (27) **Business:** Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
- (28) **Car Wash:** A building or area that provides hand or machine operated facilities for washing and cleaning motor vehicles.
- (29) **Cellar:** Any floor level below the first story in a building, except that a floor level in a building having only one floor level is classified as a basement unless such floor level qualifies as a first story as defined in the Building Code.
- (30) **Cemetery:** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes and including, but not limited to, columbariums, mausoleums and chapels when operated in conjunction with and within the boundaries of such cemetery.
- (31) **Certificate of Compliance:** See the Development Code, Chapter One, Section 10.
- (32) **Certificate of Occupancy:** A certificate issued by the building official authorizing the use or occupancy of a building or structure.
- (33) **Columbarium:** A structure, room, or other space in a building or structure containing niches for inurnment of cremated remains in a place used, or intended to be used, and dedicated for cemetery purposes.
- (34) **Commercial Food Producing Farm Operations:** See "Farm" definition.
- (35) **Common Open Space:** Land held in common ownership used for agriculture, natural habitat, pedestrian corridors and/or recreational

- purposes which is protected from future development.
- (36) **Community Garden:** Land which is cultivated by the residents of the development for the production of trees, vegetables, fruits, flowers, herbs and grasses for the residents' use or to be sold directly to consumers through membership in the garden.
- (37) **Comprehensive Plan:** The policies, statements, goals and interrelated plans for private and public land and water use, transportation and community facilities, including recommendations for planned execution, documented in texts, ordinance and maps which constitute the guide for the future development of the unincorporated area of the County.
- (38) **Conditional Use:** See the Development Code, Chapter One, Section 9.
- (39) **Condominium:** An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building.
- (40) **Conservation Easement:** An interest in real property created in a manner that imposes limitations or affirmative obligations in regard to the use of property including the retention, protection and maintenance of natural resources, open space and agriculture.
- (41) **Contiguous:** Parcels of land which share a common lot line or boundary. Parcels which are separated by a road right-of-way, easement, or railroad right-of-way are considered contiguous for the purposes of the Development Code.
- (42) **Conveyance:** A deed or other instrument conveying land or an interest in land.
- (43) **Cost of Renovation, Repair or Replacement:** The fair market value of the materials and services necessary to accomplish such renovation, repair or replacement.
- (44) **County Road:** Any highway, road or street under the jurisdiction of the County including but not limited to County Roads and County State Aid Highways (CSAH).
- (45) **Crematorium or Crematory:** A place where bodies are consumed by incineration and the ashes of the deceased are collected for permanent burial or storage in urns.
- (46) **Cultural Resource:** The historic and archeological characteristics of the land, including buildings and landscapes, which provide information regarding the history of Washington County and its people.
- (47) **Cutoff Angle:** The angle formed by a line drawn from the direction

- of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted.
- (48) **Cutoff:** The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.
- (49) **Cutoff Type Luminaire:** A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.
- (50) **Decibel:** The unit of sound measured on the "A" weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the "Standards on Sound Level Meters of the USA Standards Institute".
- (51) **Density:** The number of dwelling units permitted per acre of land.
- (52) **Density Units:** The number of individual dwelling units that can be located on a parcel of land as established through the use of a yield plan. For the purpose of the Development Code, a multi - family residential dwelling is considered as having as many density units as there are individual dwelling units, regardless of whether those units are attached or detached.
- (53) **Depth of Lot:** The horizontal distance between the road/street frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.
- (54) **Depth of Rear Yard:** The horizontal distance between the rear building line and the rear lot line.
- (55) **Development Agreement:** An agreement with the owner of a parcel which specifies the number of density units allocated amongst the parcels being created, the zoning district the parcels are located in, and that the use and development and further conveyance of the parcels is subject to the regulations contained in the Development Code.
- (56) **Development Code:** The official controls adopted by Washington County regulating the physical development of land in those portions of the unincorporated areas where the County has zoning/land use authority.
- (57) **Dredging:** The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.
- (58) **Driveway Access Permit:** A permit issued by the responsible governmental agency which allows driveway access to a public road and which must be acquired prior to the issuance of a building

permit.

- (59) **Dwelling:** A building or one (1) or more portions thereof occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, or boarding houses. (Also see Dwelling Unit.)
- (60) **Dwelling, Duplex or Two Family:** A residential building containing two (2) complete dwelling units.
- (61) **Dwelling, Multiple Family:** A residential building, or portion of a building, containing two (2) or more dwelling units.
- (62) **Dwelling Unit:** A residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, boarding or rooming houses or tourist homes. There are three (3) principal types:
- (A) Single-family detached: A free-standing residence structure designed for or occupied by one (1) family only.
- (B) Single-family attached: A residential building containing two (2) or more dwelling units with one (1) common wall.
1. Duplex: A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
  2. Townhouse: A residential building containing two (2) or more dwelling units with at least one (1) common wall, each unit oriented so as to have all exits open to the outside.
  3. Quadplex: A residential building containing four (4) dwelling units with at least one (1) common wall, each unit oriented so as to have all exits open to the outside.
- (C) Multiple-family: A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
1. Apartment: A room or suite of rooms, available for rent which is occupied as a residence by a single family, or a group of individuals living together as a single family unit.
  2. Condominium: A form of individual ownership within a multi-family building with joint responsibility for maintenance and repairs of the land or other common property.
  3. Operative: A multi-unit development operated and

owned by its occupants. Individual occupants own shares in the enterprise rather than owning a specific housing unit as in a condominium.

- (63) **Environmental Impact Worksheet or Statement:** A document which may be required per Minnesota Statute Chapter 116C and D. See Development Code, Chapter One, Section 12.
- (64) **Essential Services - Utility Substation:** A utility use that functions to reduce the strength, amount, volume, or configuration of utility flow from a bulk wholesale quantity in large size through long distance transmission lines to small retail quantities in neighborhood distribution systems. These uses include electric substations, telephone switching and relay facilities, water and sewage pumps and lift stations. Business offices associated with these uses are not included as part of this definition.
- (65) **Exterior Storage:** The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.
- (66) **Family:** An individual, or two (2) or more persons each related by blood, marriage, adoption, or foster care arrangement, living together as a single housekeeping unit, or a group of not more than six (6) persons not related, maintaining a common household, exclusive of servants.
- (67) **Farm:** Land use consisting of agricultural uses or the raising and/or breeding of livestock.
- (68) **Farmstead:** A group of buildings and adjacent service areas which support the functions of a farm. Structures may include, but are not limited to, homes, barns, machinery sheds, granaries, pump houses, chicken coops and garages.
- (69) **Feedlot:** A lot or building or combination thereof intended for the confined breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate or where a concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for feeding and rearing of poultry are considered feedlots. Pastures are not considered feedlots.
- (70) **Fence:** A partition, structure, wall or gate erected as a dividing device, visual or physical barrier, or enclosure.
- (71) **Fill:** Soil, earth, sand, gravel, rock or any similar material that is deposited, placed, pushed or transported. Fill does not include crushed concrete.
- (72) **Final Plat:** A map of an approved subdivision, meeting all requirements of the Development Code, Chapter Three, Subdivision

- Regulations and in such form as required for purposes of recording.
- (73) **Flashing Light:** A light source which is not constant in intensity or color at all times while in use.
- (74) **Floodplain:** The beds and the areas adjoining a wetland, lake or watercourse which have been or may be inundated by a regional flood.
- (75) **Floor Area:** The gross area measured in square feet, of the main floor of a residential building not including attached garages, breezeways or similar attachments.
- (76) **Frontage:** That boundary of a lot which abuts a public or private street or road.
- (77) **Golf Course:** An area of land laid out for golf with a minimum of nine (9) holes with each hole including a tee, fairway, and green and often one or more natural or artificial hazards.
- (78) **Governing Body:** The County Board of Commissioners.
- (79) **Hazardous Buildings or Hazardous Property:** Any building or property which due to inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health.
- (80) **Hazardous Material:** A chemical or substance, or mixture thereof which:
- (A) Is regulated by the Federal Occupational Safety and Health Administration under Code of Federal Regulations, title 29, part 1910, subpart Z; or
  - (B) Is either toxic or highly toxic, an irritant, corrosive, a strong oxidizer, a strong sensitizer, combustible, either flammable or extremely flammable, dangerously reactive, pyrophoric, pressure-generating, a compressed gas, a carcinogen, a teratogen, a mutagen, a reproductive toxic agent, or that otherwise, according to generally accepted documented medical or scientific evidence, may cause substantial acute or chronic personal injury or illness during or as a direct result of any customary or reasonably foreseeable accidental or intentional exposure to the chemical or substance.
- (81) **Historic Building and Structure:** A structure which has been identified by the Washington County Historical Society inventory or the State Historic Preservation Office as having public value due to notable architectural features relating to the cultural heritage of the County.
- (82) **Home Occupation:** Use for gainful employment, of a property

zoned residential or agricultural which a) is clearly incidental and subordinate to the use of the property as residential; b) is carried on solely within the main dwelling or an accessory building; c) does not alter or change the exterior character or appearance of the property; and d) is created and operated by the occupant of the dwelling.

Examples of potentially allowable home occupations include: office, professional service, hairdressing by occupant only, minor repair services excluding automobile or truck repair, photo/art studio, dressmaking or alterations, and teaching/tutoring limited individual lessons. Home occupations are not limited to this list and occupations on this list do not automatically qualify.

Examples of uses not allowed under this definition include: auto repair and painting, barber shops and/or beauty salons, kennels for the keeping of any domestic or non-domestic animals, medical offices, private schools with organized classes, tourist homes, restaurants, and retail sales. Prohibited uses are not limited to this list.

- (83) **Homeowners Association:** A formally constituted non-profit association or corporation consisting of the property owners and/or residents of the development for the purpose of owning, operating and maintaining the common open space and facilities.
- (84) **Hotel:** A building having provision for nine (9) or more guests in which lodging is provided with or without meals, for compensation, and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.
- (85) **Individual Parcel:** A parcel as a whole according to the tax roll, or two or more contiguous parcels under common ownership on the effective date of the Development Code.
- (86) **Kennel, Private:** Any place where four (4) or more of any type of domestic pets, over six (6) months of age, are owned by any member of the household. Private kennels are accessory to the principal use of the property.
- (87) **Land Alteration:** The changing of land by depositing or moving material so as to alter the grade or topography.
- (88) **Land Clearing:** The removal of a contiguous group of trees and other woody plants in an area of 20,000 square feet or more within any twelve (12) month period.
- (89) **Landscaping:** Planting trees, shrubs and turf cover such as grasses and shrubs.
- (90) **Light Fixture, Outdoor:** Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar

- devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including but not limited to the hardware casing. Such devices include but are not limited to search, spot and flood lights for a) buildings and structures, b) recreational areas, c) parking lot lighting, d) landscape lighting, e) billboards and other signs, f) street lighting, g) product display area lighting, and h) building overhangs and open canopies.
- (91) **Light Source:** A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.
- (92) **Lighting, Outdoor:** Any light source or collection of light sources, located outside of a building including but not limited to light sources attached to any part of a structure, located on the surface of the ground or located on free standing poles.
- (93) **Livestock:** Domestic farm animals including but not limited to cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food production purposes.
- (94) **Livestock Operations:** A lot or structure or combination of lots and structures intended for the breeding, raising or holding of eleven (11) or more animal units.
- (95) **Loading Space:** A space, accessible from a street, alley or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.
- (96) **Lot:** A parcel of land designated by metes and bounds, registered land survey, plat or other means, and which description is either recorded in the Office of the Washington County Recorder or Registrar of Titles or used by the County Treasurer or County Assessor to separate such parcel from other lands for tax purposes.
- (97) **Lot Area:** The area of a horizontal plane encompassed within the lot lines.
- (98) **Lot Area, Minimum per Dwelling Unit:** The minimum number of square feet or acres of lot area required per dwelling unit.
- (99) **Lot, Buildable:** A lot which meets or exceeds all requirements of the Washington County Development Code without the necessity of variances.
- (100) **Lot, Corner:** A lot situated at the junction of and abutting two (2) or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.
- (101) **Lot Coverage:** That portion of a lot containing an artificial or natural surface through which water, air or roots cannot penetrate.

- This definition includes, but is not limited to, driveways, structures, patios and decks.
- (102) **Lot Depth:** The mean horizontal distance between the front and rear lines of a lot.
- (103) **Lot, Interior:** A lot other than a corner lot, including through lots.
- (104) **Lot Line:** The property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or proposed public right-of-way, the right-of-way line is considered the lot line for purposes of the Development Code.
- (105) **Lot Line, Front:** That boundary of a lot which abuts a public street or a private road. In the case of a corner lot, it is the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a non-residential area, the lot is deemed to have frontage on both streets.
- (106) **Lot Line, Rear:** That boundary of a lot which is opposite of the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
- (107) **Lot Line, Side:** Any boundary of a lot which is not a front lot line or a rear lot line.
- (108) **Lot, Through:** Any lot other than a corner lot which abuts more than one (1) street. On a through lot, all property lines abutting the road right-of-way are considered the front lines.
- (109) **Lot Width:** The horizontal distance between the side lot lines of a lot measured at the setback line.
- (110) **Luminaire:** A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.
- (111) **Major Highway:** Those highways and/or roadways which are classified as principal and minor arterials and collectors in Figure T-1, Existing Functional Classification System of the Comprehensive Plan.
- (112) **Manufactured Home:** A structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer

- voluntarily files a certification required by the secretary and complies with the standards established under Minnesota Statutes Chapter 327.31, Subd. 3. No manufactured dwelling shall be moved into the unincorporated areas of Washington County that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes Chapter 327.31, Subd. 3.
- (113) **Manure:** Any solid or liquid containing animal excreta.
- (114) **Mausoleum:** A structure for the entombment of the dead in crypts or vaults in a place used, or intended to be used, for cemetery purposes.
- (115) **Mining:** The excavation, removal, storage or processing of sand, gravel, rock, soil, clay, or other deposits. For the purposes of the Development Code, mining does not include the excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material for the following purposes:
- (A) Excavation for the foundation, cellar, or basement of a pending structure for which a permit has been issued and which is to be erected immediately following the excavation, removal or storage.
  - (B) On-site construction of approved roads, sewer lines, storm sewers, water mains, surface water drainage approved by the local unit of government, agriculture or conservation purposes, sod removal, or other public utilities.
  - (C) Landscaping purposes on a lot used or to be used as a building site.
  - (D) Grading/excavation of less than one acre of land in conjunction with improvement of a site for lot development, providing activities will be completed within one year.
  - (E) The removal of excess materials in accordance with approved plats or highway construction.
- (116) **Municipality:** A city or township, however organized.
- (117) **Natural Drainageway:** A depression in the earth's surface, such as ravines, draws and hollows, that has definable beds and banks capable of conducting surface water runoff from adjacent lands.
- (118) **Natural Resources:** The physical values of the land supplied by nature including but not limited to animal life, plant life, soil, rock, minerals and water.
- (119) **Neighborhood:** An area containing a contiguous group of residential lots distinguishable by some identifiable feature or point of reference where people live in close proximity to one another.

(120) **Nonconforming Lot:** A separate parcel or lot of record on the effective date of the Development Code, or any amendments thereto, that does not conform to the regulations, including dimensional standards, contained in the Development Code or amendments thereto.

(121) **Nonconforming Structure:** Any structure lawfully and legally existing on the effective date of the Development Code or any amendment thereto, which does not conform to the regulations, including the dimensional standards, for the district in which it is located after the effective date of the Development Code or amendments thereto.

And

Any structure that was built, altered or modified subject to a variance granted due to the structure not conforming to the regulations and/or dimensional standards of the Development Code.

(122) **Nonconforming Use:** Any legal and lawful use of land or any legal and lawful use of a structure existing on the effective date of the Development Code, or any amendments thereto, which does not conform to the regulations for the district in which it is located after the effective date of the Development Code or such amendment.

(123) **Noxious Matter:** Material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.

(124) **Nursing Home:** A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder.

(125) **Office:** Those commercial activities that take place in office buildings, where goods are not produced, sold or repaired. Such activities include but are not limited to banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting and similar uses.

(126) **Official Control:** Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes and official maps and have been adopted by Washington County as the Development Code.

(127) **Official Map:** A map adopted in accordance with the provisions of Minnesota State Statutes, 394.361.

- (128) **Open Space:** Land used for agriculture, natural habitat pedestrian corridors and/or recreational purposes that is undivided and permanently protected from future development.
- (129) **Open Space Development:** A pattern of subdivision development which places residential dwelling units into compact groupings while providing a network of dedicated open space.
- (130) **Open Storage:** Storage of any material outside of a building.
- (131) **Ordinance:** The Washington County Development Code.
- (132) **Overlay District:** A zoning district shown as an overlay on the zoning map.
- (133) **Owner:** All persons possessing interest in a property such as fee simple owner, life estate holder and encumbrancer.
- (134) **Parking Space:** A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) standard automobile.
- (135) **Pasture:** Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season.
- (136) **Pedestrian Way:** A public or private right-of-way across or within a block or tract, to be used by pedestrians and/or non-motorized vehicles.
- (137) **Performance Standards:** The minimum development standards as adopted by the governing body and on file in the office of the Zoning Administrator.
- (138) **Perimeter Road:** A road lying outside of and abutting the development parcel.
- (139) **Person:** Any person, corporation or association, including governmental agencies and political entities.
- (140) **Planning Advisory Commission:** The duly appointed planning and zoning advisory commission of the County.
- (141) **Plant Community:** A grouping of plants with common environmental requirements living within the landscape, i.e., wetlands, grasslands, boreal forests.
- (142) **Plat Commission:** An appointed advisory body which makes recommendations to the County Board on the platting and subdivision of land in those portions of the unincorporated areas of the County where the county has subdivision authority. See Chapter One, Section 7.

- (143) **Prime Farmland:** Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops. It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods.
- (144) **Principal Structure or Use:** One which determines the predominant use as contrasted to accessory use or structure.
- (145) **Protective or Restrictive Covenant:** A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.
- (146) **Public Land:** Land owned and/or operated by a governmental unit, including school districts.
- (147) **Public Waters:** All lakes, ponds, swamps, streams, drainageways, floodplains, floodways, natural water courses, underground water resources, and similar features involving, directly or indirectly, the use of water within the community.
- (148) **Quarter-Quarter Section:** A tract of land legally described as a full quarter-quarter section or a nominal forty (40) acre parcel not reduced by more than ten (10) percent due to road right-of-way dedication.
- (149) **Recreation Equipment:** Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty-five (25) feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures, but not including tree houses, swimming pools, play houses exceeding twenty-five (25) square feet in floor area, or sheds utilized for storage of equipment.
- (150) **Refuse:** Putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street sweepings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.
- (151) **Regional Flood:** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on the average frequency in the magnitude of 100 year recurrence interval. Regional flood is synonymous with the term "Base Flood" used in the Flood Insurance Study.
- (152) **Resource Inventory:** A survey of the land's features including its natural resources, cultural resources, scenic views and viewsheds, and physical characteristics.
- (153) **Restaurant:** A commercial establishment with a principal business

consisting of preparing and selling of unpackaged food to the customer in a ready-to-consume state.

- (154) **Road, Approved Private:** A private road which has been approved by Town Board resolution identifying the road, indicating that it is capable of supporting emergency vehicles and specifying that provisions exist for the ongoing maintenance of the road.
- (155) **Road, Public:** A road owned and maintained by a government jurisdiction.
- (156) **School:** A facility that provides a curriculum of pre-school, elementary, secondary, post-secondary and other instruction including, but not limited to, child day care centers, kindergartens, elementary, junior high, high schools and technical or college instruction.
- (157) **Screening:** Earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or exclusively, so as to block direct visual access to an object throughout the year.
- (158) **Septic Permit:** A permit issued by the responsible governmental agency for the installation of any new or replacement on-site sewage disposal system.
- (159) **Setback:** The minimum horizontal distance between a structure and street right-of-way, lot line or other reference point as provided by Ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.
- (160) **Shielding:** A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture.
- (161) **Sign:** A display, illustration, structure or device which directs attention to an object, product, place, activity, person, institution, organization or business.
- (162) **Sign, Advertising:** A sign that directs attention to a business or profession or to a commodity, service or entertainment not sold or offered upon the premises where such sign is located or to which it is attached.
- (163) **Sign Area:** The entire area within a continuous perimeter enclosing the extreme limits of such sign. Such perimeter does not include any structural elements lying outside of such sign and not forming an integral part or border of the sign.
- (164) **Sign, Development Identification:** A sign that identifies the name of a residential, commercial or industrial development at a street

entrance to the development

- (165) **Sign, Flashing:** An illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use or a sign containing an electric reading board.
- (166) **Sign, Real Estate:** A sign offering property (land and/or buildings) for sale, lease or rent.
- (167) **Sign, Roof:** A sign erected upon or above a roof or parapet of a structure.
- (168) **Spillage:** Any reflection, glare or other artificial light emission onto any adjoining property or right-of-way above a defined maximum illumination.
- (169) **Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story is that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a useable or unused under-floor space is more than six (6) feet above the grade as defined in the Building Code for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined in the Building Code at any point, such usable or unused under-floor space is considered a story.
- (170) **Street:** A public right-of-way which affords a primary means of access to abutting property.
- (171) **Street, Collector:** A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.
- (172) **Street, Intermediate or Minor Arterial:** A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.
- (173) **Street, Local:** A street intended to serve primarily as an access to abutting properties.
- (174) **Street Pavement:** The wearing or exposed surface of the roadway used by vehicular traffic.
- (175) **Street Width:** The width of the right-of-way measured perpendicular or radially to the centerline of the street.
- (176) **Structural Alteration:** Any change, other than incidental repairs, which affect the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.
- (177) **Structure:** Anything built or constructed; used interchangeably with "building" for purposes of the Development Code.

(178) **Structure, Nonconforming:** Any structure lawfully and legally existing on the effective date of the Development Code or any amendment thereto, which does not conform to the regulations, including the dimensional standards, for the district in which it is located after the effective date of the Development Code or amendments thereto.

And

Any structure that was built, altered or modified subject to a variance granted due to the structure not conforming to the regulations and/or dimensional standards of the Development Code.

(179) **Subdivision:** The process of dividing land into 2 or more parcels for the purpose of transfer of ownership, building development or tax assessment purposes by platting, replatting, registered land survey, conveyance sale, contract for sale or other means by which a beneficial interest in land is transferred.

(180) **Subdivision, Major:** All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of an existing street.

(181) **Subdivision, Minor:** Any subdivision containing three (3) or fewer lots fronting on an existing street, not requiring a new street or road, the extension of municipal facilities, or the creation of any public improvements, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Regulations or this Ordinance.

(182) **Tavern or Bar:** A building with facilities for the serving of beer, liquor, wine, set-ups and short order foods.

(183) **Temporary Dwelling Unit, Care Facility:** A manufactured home which temporarily serves as a residence for an infirm relative of the occupants residing in the primary single family residence on the property where such relative requires care by the family.

(184) **Temporary Dwelling, During Construction:** A mobile home which temporarily serves as a residence for the present or potential occupant for whom the primary single family residence is being constructed, reconstructed or altered.

(185) **Temporary Dwelling, Farm:** A mobile home which is an accessory dwelling unit occupied by members of the family engaged in farming on the premises located in an agricultural district and meeting other criteria specified in the Development Code.

(186) **Use:** The function for which property is used.

(187) **Use, Accessory:** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental to such

principal use.

- (188) **Use, Open Space:** The use of land without a structure or including a structure incidental to the open space use.
- (189) **Use, Primary:** That use which is the normal use for property within a district. Primary uses do not require a Certificate of Compliance or a Conditional Use Permit.
- (190) **Variance:** See Development Code, Chapter One, Section 6.4.
- (191) **Vegetation, Natural:** Plant life which is native to the location and which would grow naturally if the ground was left undisturbed.
- (192) **Wetland:** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of the Development Code, wetlands must a) have a predominance of hydric soils; b) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and c) under normal circumstances, support a prevalence of hydrophytic vegetation. Wetlands generally include swamps, marshes, bogs and similar areas.
- (193) **Yard:** The open space on an occupied lot which is not covered by any structure.
- (194) **Yard, Rear:** A yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.
- (195) **Yard, Side:** A yard between the side line of the lot and the nearest building line.
- (196) **Yield Plan:** A subdivision plan drawn to scale, containing sufficient information showing the maximum number of lots that could be permitted using the performance standards for lots in a conventional subdivision in accordance with the Washington County Development Code.
- (197) **Zoning District:** An area or areas within the county in which the regulations and requirements of zoning regulations are applied.

**SECTION 3. RULES OF INTERPRETATION**

*Much of the Land Use and Zoning authority has been transferred to the individual Townships. The County has retained authority in certain areas and regarding specific functions. The Washington County Development Code only applies to those areas and functions where the County has*

**3.1** Interpretation and application of the Development Code is required as it applies to the following functions within the unincorporated areas of the County, with the exception of Subsurface Sewage Treatment System Regulations and Buffer Regulations which are applicable in all areas of the County:

*retained Land Use authority.*

*Zoning Regulations can be complex to understand and administer. These are the rules that the Zoning Administrator will use to interpret and enforce the Development Code.*

*Of particular importance to note is that rules in several chapters may apply to your situation. For example, if you are building in a shoreland area and you will have a septic system, rules in Chapters One, Two, Four and Six need to be considered.*

- (1) Subdivision Regulations – Chapter Three
- (2) Subsurface Sewage Treatment System Regulations – Chapter Four
- (3) Lower St. Croix River Bluffland and Shoreland Management Regulations - Chapter Five, within the St. Croix River Management Overlay District
- (4) Shoreland Management Regulations – Chapter Six, within the Shoreland Management Overlay District
- (5) Mining Regulations – Chapter Seven
- (6) Buffer Regulations – Chapter Eight
- (7) Floodplain Regulations – Chapter Nine
- (8) Official Map Regulation and Designation – Chapter Ten

**3.2** In the event of conflicting provisions within the Chapters of the Washington County Development Code, statute, resolution or regulation of any kind, the more restrictive provision shall apply.

**3.3** In the application of the Development Code, the provisions shall be interpreted to be the minimum requirements necessary to accomplish the general and specific purposes of the Development Code.

**3.4** Properties located in an overlay district are subject to regulations for that overlay district as well as the regulations in the other Chapters of the Development Code.

**3.5** The words and phrases used in the Development Code shall be construed in their plain, ordinary and usual sense except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical definition.

**3.6** Unless the context clearly requires otherwise, the use of either past, present or future tense includes the other tenses.

**3.7** Whenever the Development Code requires an act to be performed and when such act may legally be performed by an agent or employee as well as by the principal, such requirement is satisfied by the performance of such act by an authorized agent or employee.

**3.8** The rules of statutory construction established for the State of Minnesota by statute or case law apply in the construction of the Development Code.

**3.9** Nothing contained in the Development Code shall be deemed to be a consent, license, or permit to use any property or to locate, construct, or maintain any structure, or to carry on any trade, industry, occupation or activity.

**3.10** Except as provided herein, the provisions of the Development Code are

cumulative and in addition to the provisions of other laws and ordinances, heretofore passed or which may be passed hereafter, governing the same subject matter as the Development Code.

3.11 The explanations contained in the left-hand column of the Development Code are for interpretive purposes only and are not part of the Development Code for the purpose of enforcement and administration.

**SECTION 4. COMPLIANCE**

*Structures and uses in those portions of the unincorporated areas of the County that are subject to the Development Code must be in compliance with the Development Code.*

4.1 **Except as this chapter specifically provides:**

- (1) Structures shall not be erected, moved, or altered except in conformity with the regulations specified in the Development Code.
- (2) Structures and/or land shall not be used or occupied for any purpose or in any manner which is not in conformity with all regulations contained in the Development Code.

**SECTION 5. ZONING ADMINISTRATOR**

*The Public Works Department is the Administrator for Chapters One, Two, Three, Five, Six, Seven, Nine and Ten of the Development Code.*

5.1 The Public Works Department is designated as the Zoning Administrator, with the exception of Chapters Four and Eight of the Development Code, for which the Department of Public Health and Environment is the Zoning Administrator.

*For questions related to these rules or to apply for zoning permits, please contact the department at 651-430-4300.*

5.2 The Zoning Administrator shall enforce the Development Code and is responsible for the following functions:

*Fees are charged for various zoning applications. These fees are set annually by the County Board of Commissioners.*

- (1) Issuing permits required by the Development Code.
- (2) Reviewing all matters pertaining to applications and enforcement of the Development Code.
- (3) Reviewing all building permits issued for structures in those portions of the unincorporated areas of the County subject to the Development Code to ensure compliance with the regulations contained in the Development Code.
- (4) Conducting inspections of structures and use of land to determine compliance with the terms of the Development Code.
- (5) Reviewing and approving all proposed subdivisions in the Shoreland Management Overlay District, the St. Croix River Management Overlay District and any other unincorporated areas of the County subject to Chapter Three of the Development Code.
- (6) Maintaining permanent and current records as required by this Chapter, including but not limited to all maps, amendments, and conditional uses, variances, appeals, and applications therefor.

- (7) Receiving, filing and forwarding all applications for appeals, variances, conditional uses or other matters to the designated official bodies.
- (8) Notifying in writing persons responsible for violations, indicating the nature of the violation and the action necessary to correct it.
- (9) Instituting, with the advice and approval of the County Attorney, in the name of the County, any appropriate legal actions or proceedings against a violator as provided for in the Development Code.
- (10) Recommending appropriate fees for applications, permits or other matters processed under the Development Code.
- (11) Collecting fees, as set by County Board resolution, for all applications, permits or other matters covered under the provisions of the Development Code.
- (12) Issuing stop work orders for violations of the Development Code.

**SECTION 6. APPEALS AND VARIANCES**

*The Board of Adjustment and Appeals is a quasi-judicial body which hears administrative appeals, requests for variances, and requests for building permits in Official Map Areas.*

**6.1 Board of Adjustment and Appeals.**

The Washington County Board of Adjustment and Appeals has the following powers with respect to the Washington County Development Code.

- (1) Administrative Appeals. The Board of Adjustment and Appeals has the exclusive authority to hear and decide appeals from and review any order, requirement decision or determination made by the Zoning Administrator with respect to the administration of the Washington County Development Code.
- (2) Variances. The Board of Adjustment and Appeals has the exclusive power to order the issuance of variances from the terms of any official control, including restrictions placed upon nonconformities.
- (3) Official Map. Where an Official Map has been adopted by the County, the Board of Adjustment and Appeals shall hear and decide an appeal by the owner of land who has been denied a permit to build within the limits of land delineated on an Official Map.

*The Board of Adjustment and Appeals has five members. Four members are appointed by the County Board; one member is the Chair (or designee) of the Planning Advisory Commission.*

**6.2 Board Membership and Meetings.**

- (1) The Board of Adjustment and Appeals consists of five (5) members, the majority of whom shall reside in the unincorporated area of the County. Four (4) of the members shall be appointed by the County Board on an at-large basis and one (1) of the members of the Board of Adjustment and Appeals shall be a member of the Washington County Planning Advisory Commission (or designee). No elected official of the County or any employee of the County shall serve as a member of the Board of Adjustment and Appeals.

*Members are appointed for three year terms and can serve a maximum of nine consecutive years.*

*The Board has a chair, vice-chair, and a recording secretary. Records of the Board's proceedings are maintained by the Zoning Administrator.*

*A quorum of three members is required to conduct business of the Board; a majority vote of the quorum can decide questions and take action.*

*Matters before the Board of Adjustment and Appeals require a formal hearing.*

*The hearing date is set once the Zoning Administrator has received a complete application. The Board has sixty (60) days to make a decision once the Zoning Administrator receives a complete application. This time frame can be extended an additional sixty (60) days if necessary to gather additional information.*

(2) Member Terms.

Each member shall serve for a period of three (3) years and the terms of the members shall be staggered so that no more than two (2) terms expire in any one (1) year. The term of each member shall begin on January 1 and continue through December 31 of the last year of the term, provided however that any member shall continue to serve after the expiration of their term until a successor is appointed. Any member who misses three (3) consecutive meetings without a reasonable excuse may be replaced by the County Board.

(3) Election of Officers and Rules for Proceedings.

The Board of Adjustment and Appeals shall elect a chair and vice-chair from its members and shall appoint a recording secretary who need not be a member of the Board. Subject to such limitations as may be imposed by the Governing Body, the Board may adopt rules for the conduct of proceedings before it. Such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The Board shall provide for a record of its proceedings which shall include minutes of its meetings, its findings and the action taken on each matter heard by it, including the final order.

(4) Meetings and Quorum.

The meetings of the Board of Adjustment and Appeals shall be held as required by the Zoning Administrator. A majority of the Board shall constitute a quorum and a majority vote of that quorum is sufficient to conduct business and take action. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular Board Member from voting thereon shall be decided by a majority vote of all members, except the member being challenged. In the event that the disqualification of a member due to conflict of interest results in less than a quorum (three (3) members) of the Board for a meeting, no further action can be taken on that matter before the Board.

(5) Notice and Hearing.

(A) Upon receipt of an application that contains all required information, the Zoning Administrator shall refer the matter to the Board of Adjustment and Appeals and schedule a public hearing on the application. The Board of Adjustment and Appeals has sixty (60) days from the date the Zoning Administrator received the application containing all required information, to take action on the request or the request is deemed approved, provided however that the Zoning Administrator may extend this deadline by providing written notice of the extension to the applicant prior to the end of the initial sixty (60) day period. This notification must state the reasons for the extension and its anticipated length, which

may not exceed sixty (60) days. The deadline may also be extended as indicated in Minnesota Statute 15.99 Subdivision 3.

- (B) Notice of time, location, and purpose of the public hearing shall be published in a newspaper of general circulation in any town, municipality or other applicable area and in the official newspaper of the County at least ten (10) days before the date of the hearing.
  - (C) Written notice of all public hearings shall be sent to all property owners of record within five hundred (500) feet of the subject property.
  - (D) In the case of Official Map Appeals written notice must be given to property owners of record within one-half (1/2) mile of the subject property,
  - (E) In all cases, written notice shall also be given to the Board of Supervisors of any township and the Municipal Council of any municipality within two (2) miles of the subject property.
  - (F) Any defect in the notice shall not invalidate any proceedings provided a bona fide attempt to comply with this Section has been made.
  - (G) Where applicable, the Zoning Administrator shall send notice and copies of the applicants information to the following agencies for review and comment at least twenty (20) days prior to the public hearing:
    - 1. Minnesota Department of Natural Resources
    - 2. Minnesota/Wisconsin Boundary Area Commission
- (6) Board Findings.

*The Board makes formal, written findings of fact. These records are on file with the Zoning Administrator. Decisions on variances are also filed with the County Recorder.*

- (A) The Board of Adjustment and Appeals shall make written findings in any case of an appeal or application for a variance and shall state therein the reasons for its decision; the order issued by the Board of Adjustment and Appeals shall include the legal description of the land involved. Any such order shall be filed with the Zoning Administrator who shall immediately mail a copy thereof, bearing the notation of the filing date, to the appellant or applicant.
- (B) A certified copy of any order issued by the Board of Adjustment and Appeals acting upon any appeal from an order, requirement, decision or determination of an administrative officer, or upon any application for a variance, shall be filed with the County Recorder or Registrar of Titles for record. Said filing shall be made by the Zoning Administrator as soon as is reasonably possible after the

*Variance decisions under Chapter Five (Lower St. Croix River Bluffland and Shoreland Management Regulations) are forwarded to the Minnesota Department of Natural Resources for certification. These variances are not final until certified by the Department of Natural Resources.*

*Decisions by the Zoning Administrator can be appealed to the Board of Adjustment and Appeals.*

*Variance is defined as an exception to, or variation of the requirements contained in the Development Code. Variances can be approved under some limited conditions. Requests for a variance are decided by the Board of Adjustment and Appeals.*

filing of the order with the Zoning Administrator.

- (C) Before any variance decision under Chapter Five of the Development Code becomes final, the Board of Adjustment and Appeals shall forward the decision to the Commissioner of the Minnesota Department of Natural Resources. The Commissioner shall certify in writing that the proposed action complies with the intent of the Wild and Scenic Rivers Acts and the Master Plan for the Lower St. Croix River in the manner specified in the Minnesota Department of Natural Resources Regulations.

**6.3 Administrative Appeals.**

- (1) An appeal of any decision by the Zoning Administrator may be made by any aggrieved party within thirty (30) days of the date of such decision by filing a written notice of appeal with the Zoning Administrator. The notice of appeal shall state:
  - (A) The particular order, requirement, decision or determination that is being appealed;
  - (B) The name and address of the appellant;
  - (C) The grounds for appeal; and
  - (D) The relief requested by the appellant.
- (2) The Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or may modify the appealed order, requirement, decision or determination and has all the powers of the officer whose action was appealed and may direct the issuance of a permit.

**6.4 Variances.**

A variance is the modification or variation of the requirements of the Development Code where it is determined that, by reason of exceptional circumstances, the strict enforcement of the regulations would cause practical difficulties, except as noted below.

For subdivision related variances, per MN Statutes 462.358, subd. 6, the criteria is "unusual hardship" rather than "practical difficulties".

For floodplain related variances the FEMA criteria is "exceptional hardship" rather than "practical difficulties". See Chapter Nine, Floodplain Regulations, Section 12.

- (1) Variances that would allow any use that is prohibited in the zoning district in which the subject property is located will not be granted.
- (2) An application for a variance shall be filed with the Zoning Administrator; the application shall be accompanied by development plans showing such information as the Zoning Administrator may

require for purposes of the Development Code. If the application does not contain all required information, the Zoning Administrator shall send notice within ten (10) business days of receipt of the request, informing the applicant what information is missing.

- (3) Variances are only granted when they are in harmony with the general purpose and intent of the Official Controls and when carrying out the strict letter of any official control would result in practical difficulties and when the terms of the variance are consistent with the Comprehensive Plan.
- (4) "Practical difficulties" as used in connection with the granting of a variance means:
  - (A) The property owner proposes to use the property in a reasonable manner not permitted by an Official Control.
  - (B) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
  - (C) The variance, if granted, will not alter the essential character of the locality.
  - (D) Economic conditions alone do not constitute practical difficulties if reasonable use for the property exists under the terms of the Development Code.
  - (E) The Board may consider "practical difficulties" to include inadequate access to direct sunlight for solar energy systems.
- (5) "Unusual hardship" as used in connection with the granting of a subdivision related variance means:
  - (A) The property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls.
  - (B) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
  - (C) The variance, if granted, will not alter the essential character of the locality.
  - (D) Economic conditions alone do not constitute unusual hardship if reasonable use for the property exists under the terms of the Development Code.
  - (E) The Board may consider "unusual hardship" to include inadequate access to direct sunlight for solar energy systems.
- (6) "Exceptional hardship" as used in connection with the granting of a floodplain related variance is as defined in 44 Code of Federal

Regulations and/or FEMA Publication P-993, page 13.

- (7) Variances may be granted for earth sheltered construction as defined in Minnesota Statute 216C.06, Subd. 14 when in harmony with the Official Controls.
- (8) Where, in the opinion of the Board of Adjustment and Appeals, a variance may result in a significant adverse effect on the environment, the applicant may be requested by the Board to demonstrate the nature and extent of that effect.
- (9) The Board of Adjustment and Appeals may impose conditions in conjunction with the granting of variances. A condition must be directly related to and must bear an approximate proportionality to the impact created by the variance. The zoning authority may establish conditions, when appropriate, that require the property owner to improve storm water runoff management, to reduce impervious surfaces, to implement remedial tree replacement, to restore wetlands, to establish vegetative buffers or to take other conservation actions.
- (10) In exercising its authority under the Development Code, the Board of Adjustment and Appeals shall take into consideration the affected town board's recommendations when the Board of Adjustment and Appeals' decision directly affects land within the township.
- (11) An application for the same variance previously denied by the Board of Adjustment and Appeals shall not be resubmitted for a period of twelve (12) months from the date of denial of the previous application unless there has been a substantial change in circumstances as it relates to the request.
- (12) A variance granted by the Board of Adjustment and Appeals is specific and limited to the structure(s) proposed to be constructed, altered or modified pursuant to the variance application. Any existing variance of record which when granted was not limited to or associated with a specific structure(s) is deemed to be limited to and applicable only to the structure(s) built, altered or modified subsequent to the granting of the variance. If additional construction, alteration or modification which does not comply with the Development Code is proposed for the existing structure(s), a new variance is required.
- (13) Any variance granted for the construction, alteration or modification of a structure(s) that does not include a specific deadline or timeframe for construction is null and void if construction, alteration or modification of the structure(s) has not commenced within one year of the date of the variance.

**6.5 Official Map.**

- (1) Whenever a building permit is denied pursuant to an official mapping regulation enacted by the Washington County Board, the Board of

*A building permit cannot be granted in an area which is in an area designated on an Official Map unless the Board of Adjustment*

*and Appeals authorizes the issuance of the permit. (See Chapter 10)*

Adjustment and Appeals shall, upon appeal filed by the owner of the land hold a public hearing upon the appeal. After receiving the advice and recommendations of the Zoning Administrator, the Board of Adjustment and Appeals may grant a permit for building in an area designated on an Official Map in any case in which the Board finds, upon the evidence and arguments presented to it:

- (A) That the entire property of the applicant, of the area designated for public purposes forms a part, cannot yield a reasonable return to the owner unless such a permit is granted, and
- (B) That balancing the interest of the County in preserving the integrity of the Official Map and of the Comprehensive Plan and the interest of the property owner in the use of the property and in the benefits of the ownership, the granting of such permit is required by considerations of justice and equity.

- (2) If the Board of Adjustment and Appeals authorizes issuance of a permit, it shall specify the exact location, ground area, height and other details as to the extent and character of the building for which the permit is granted. If the Board of Adjustment and Appeals authorizes issuance of a permit, the Washington County Board of Commissioners shall have six (6) months from the date of the decision of the Board of Adjustment and Appeals to institute proceedings to acquire such land or interest therein and if no such proceedings are started within that time, the Zoning Administrator shall issue the permit if the applicant otherwise conforms to the Development Code.

**6.6 Judicial Appeals.**

All decisions by the Board of Adjustment and Appeals are final, except that anyone aggrieved by a decision has the right to appeal to the Washington County District Court on questions of law and fact.

- (1) Any such appeal must be filed with the District Court within thirty (30) days after receipt of notice of the decision.
- (2) In order to preserve the right to appeal, a non-party must notify the Zoning Administrator within seven (7) days of the date of the hearing at which the decision was made of their desire to obtain a copy of the decision or their right to appeal is deemed waived.

**SECTION 7. PLAT COMMISSION**

**7.1 Washington County Plat Commission.**

The duties of the Washington County Plat Commission consist of the following:

*Appeals of decisions of the Board of Adjustment and Appeals are made to Washington County District Court.*

*The Plat Commission makes recommendations on the platting and subdivision of land in any unincorporated areas of the County that are subject to Chapter Three of the Development Code.*

- (1) The Plat Commission is an advisory commission that provides recommendations and advice to developers, affected townships and the Washington County Board of Commissioners in connection with the platting and subdivision of land located within any unincorporated areas of the County that are subject to Chapter Three of the Development Code. Each member of the Plat Commission shall review the plat or subdivision and make recommendations to the Plat Commission to ensure that the subdivision is consistent with the Washington County Comprehensive Plan and the provisions of the Washington County Development Code. Following the required public hearing, plats shall be reviewed by the Plat Commission and recommendations shall be presented to the Washington County Board of Commissioners prior to any formal action by the Board.
- (2) Conduct the public hearings required by Minnesota Statute §394.26 as it relates to the platting of subdivisions in any unincorporated areas of the County that are subject to Chapter Three of the Development Code prior to the proposed subdivision or plat being presented to the County Board of Commissioners for approval.
- (3) In the event an Environmental Assessment Worksheet is mandatory as a result of a residential subdivision exceeding the threshold contained in Minnesota Rules Part 4410, the Washington County Plat Commission shall prepare the Environmental Assessment Worksheet and make recommendations to the Washington County Board of Commissioners on the need for an Environmental Impact Statement.
- (4) In the event an Environmental Assessment Worksheet is either discretionary or petitioned for in connection with a residential subdivision, the Washington County Plat Commission is responsible for making recommendations to the Washington County Board of Commissioners as to the need for an Environmental Assessment Worksheet.

**7.2 Commission Membership and Meetings.**

- (1) The membership of the Washington County Plat Commission shall consist of:
  - (A) A commissioner appointed by the Washington County Board of Commissioners.
  - (B) The Washington County Attorney or designee.
  - (C) The Washington County Engineer or designee.
  - (D) The Washington County Surveyor or designee.
  - (E) The Washington County Recorder or designee.
  - (F) The Director of the Washington County Public Works Department or designee.

*There are seven members of the Plat Commission.*

*Approval of plats requires notice to the public and a public hearing.*

- (G) A representative from the Washington Conservation District.
- (2) The Director of the Public Works Department or designee serves as the Zoning Administrator and shall conduct the meetings of the Plat Commission and act as secretary.

**7.3 Notice and Hearing Procedure.**

- (1) Upon receipt by the Zoning Administrator of an application that contains all required information, the Zoning Administrator shall refer the matter to the Plat Commission and schedule a public hearing on the application as set forth in the Development Code.
- (2) Notice of the public hearing shall be published in the official newspaper of the County and in a newspaper of general circulation in the town, municipality or other applicable area at least ten (10) days before the hearing. All notices shall state the location, time and reason for the public hearing.
- (3) Written notice of all public hearings shall be sent to all property owners of record within one-half (1/2) mile of the subject property.
  - (A) Notice shall also be sent to the clerk of the township where the subject parcel is located, not less than ten (10) days prior to the date of the public hearing.
  - (B) When required, the Zoning Administrator shall send notice and copies of the application information to the Minnesota Department of Natural Resources for review and comment at least twenty (20) days prior to the public hearing.
  - (C) Written notice shall also be given to the Board of Supervisors of any township and the Municipal Council of any municipality within two (2) miles of the subject property.

**SECTION 8. PLANNING ADVISORY COMMISSION**

*The Planning Advisory Commission has responsibility to recommend amendments to the Comprehensive Plan and the Zoning Regulations, and authority to issue Conditional Use Permits. Other responsibilities may be delegated by the County Board.*

**8.1 Washington County Planning Advisory Commission.**

The duties and responsibilities of the Washington County Planning Advisory Commission consist of the following:

- (1) To study, report and make recommendations on amendments to the Development Code and the Comprehensive Plan prior to adoption of the amendment by the County Board.
- (2) To order the issuance of and amendments to Planned Unit Development Permits and Conditional Use Permits for one (1) or more categories of conditional uses authorized by the Washington County Development Code.
- (3) To conduct hearings and make recommendations to the County

Board of Commissioners on alleged violations of conditions contained in Conditional Use Permits.

- (4) To issue Conditional Use Permits and impose conditions on nonconforming uses and to conduct public hearings thereon.
- (5) Such other duties as the Washington County Board of Commissioners may prescribe.

**8.2 Commission Membership and Meetings.**

*The Commission has ten members with the majority residing in townships, with at least one member from each Commissioner District and no more than two members from any one municipality. One member is a County Commissioner who is an ex-officio, non-voting member.*

- (1) The Commission shall be composed of ten (10) members, a majority of whom shall be residents of that portion of the County outside the corporate limits of cities. There shall be at least one (1) member from each Commissioner District. There shall be no more than two (2) members from any one municipality, (as defined in Chapter One, Section 2 of the Washington County Development Code) and one (1) member shall be a County Commissioner who shall be a non-voting, ex-officio member. No voting member of the Commission shall have received, during the two (2) years prior to appointment, any substantial portion of income from business operations involving the development of land within the County for urban related purposes.

*Members serve three year terms with no limit on the number of terms or consecutive years of service.*

- (2) Member Terms.

Each citizen member serves for a period of three (3) years, with the terms being staggered such that no more than four (4) members' terms expire in any one (1) year. The County Commissioner serving on the Planning Advisory Commission shall serve for a period of one (1) year, but may succeed him or herself on the Commission. Any member who misses three (3) consecutive meetings without a reasonable excuse may be replaced by the County Board of Commissioners. Vacancies on the Planning Advisory Commission shall be filled as soon as practical after the vacancy occurs, provided that the member's term shall continue until a successor has been appointed.

*The Planning Advisory Commission elects a chair and vice-chair annually.*

- (3) Election of Officers and Meeting Proceedings.

The Planning Advisory Commission shall elect a chair and a vice-chair from among its voting members at the second regular meeting in the calendar year. Minutes of each meeting of the Planning Advisory Commission shall be maintained in the Office of the Zoning Administrator.

- (4) Meetings and Quorum.

A majority of the members constitutes a quorum and a majority of the quorum is sufficient to conduct business and take action. The chairperson has full voting privileges at all times, may vote on any issue.

**SECTION 9. CONDITIONAL USES**

*Some uses require a Conditional Use Permit.*

Certain uses, while generally not suitable in a particular zoning district, may under some circumstances be suitable if conditions are attached. When such circumstances exist, a Conditional Use Permit may be granted. Conditions may be applied to issuance of the Conditional Use Permit and a periodic review of the permit may be required. The Conditional Use Permit shall be granted for a particular use and not for a particular person or firm.

*Submit application for a Conditional Use Permit to the Zoning Administrator.*

**9.1 Application.**

- (1) Whenever the Development Code requires a Conditional Use Permit, a written application shall be filed with the Zoning Administrator.
- (2) The application shall be accompanied by development plans of the proposed use showing such information as may be deemed necessary by the Zoning Administrator or by the Planning Advisory Commission.
  - (A) The scale of maps submitted shall be at least 1" to 200' (1 inch equals 200 feet) Maps for sites less than fifty (50) acres shall be at least 1" to 100' (1 inch equals 100 feet). The number of maps and reports to be submitted shall be specified by the Planning Advisory Commission, but shall not exceed twenty-five (25). All maps shall be reduced and included in the applicable reports.
  - (B) Certificate of Survey; a boundary survey meeting the requirements of the County Surveyor, prepared and certified by a land surveyor licensed in the State of Minnesota.
  - (C) Site plan drawn to scale showing the following information:
    - 1. Existing Conditions. Property lines and dimensions, building location and setbacks, dimensions of building, curb cuts, driveways, access roads, parking, off-street loading areas, septic system, and well.
    - 2. Proposed Conditions. Property lines and dimensions, building location and setbacks, building dimensions, curb cuts, driveways, access roads, parking, off-street loading areas and any other proposed improvements.
  - (D) Landscape Plan with the following information:
    - 1. Existing vegetation, proposed plantings, planting schedule including information about the plant size, quantity, type and root condition and ground cover.
  - (E) Grading and Drainage Plan

- (F) Soil Conditions
- (G) Building Floor Plan
- (H) Building Elevations
- (I) General Location Map
- (J) Principal land uses within 200 feet of the property.
- (K) Proof of ownership in the form of Abstract of Title, Certificate of Title, Attorney's Title Opinion, unrecorded documents where petitioner will acquire legal or equitable ownership.
- (L) Type of business or activity and proposed number of employees.
- (M) Sanitary sewer and water plan (areas without public sewer or water).

*Applications heard by the Planning Advisory Commission require a formal public hearing.*

*The hearing date is set once the Zoning Administrator has received a complete application. The PAC has sixty (60) days to make a decision once the Zoning Administrator receives a complete application. This time frame can be extended an additional sixty (60) days if necessary to gather additional information. There are criteria which the Planning Advisory Commission must consider before granting a Conditional Use Permit.*

**9.2 Notice and Hearing Procedure.**

- (1) Upon receipt of an application that contains all required information, the Zoning Administrator shall refer the matter to the Planning Advisory Commission and schedule a public hearing on the application. The Planning Advisory Commission has sixty (60) days from the date the Zoning Administrator received the application containing all required information, to take action on the request or the request is deemed approved, provided however that the Zoning Administrator may extend this deadline by providing written notice of the extension to the applicant prior to the end of the initial sixty (60) day period. This notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days. The deadline may also be extended as indicated in Minnesota Statute 15.99 Subdivision 3.
- (2) Notice of all public hearings shall be published in a newspaper of general circulation in the town, municipality or other applicable area and in the official newspaper of the county at least ten (10) days before the hearing. Notice shall also be sent to the clerk of the township wherein the subject property is located, not less than ten (10) days prior to the date of the public hearing. All notices shall state the location, time and reason for the public hearing.
- (3) Written notice shall also be given to the Board of Supervisors of any township and the Municipal Council of any municipality within two (2) miles of the subject property.
- (4) At least ten (10) days prior to the public hearing, written notice shall be sent via U.S. Mail to all property owners of record located within one-quarter (1/4) mile of the subject property or to the owners of record of the ten (10) properties nearest to the subject property,

whichever would provide notice to the greatest number of property owners.

- (5) When required, the Zoning Administrator shall send notice and copies of the applicants' information to the Minnesota Department of Natural Resources for review and comment at least twenty (20) days prior to the public hearing.
- (6) Any defect in the notice shall not invalidate the proceedings provided a bona fide attempt to comply with the provisions of this Section has been made. A copy of the notice and a list of property owners and addresses to which the notice was sent shall be made a part of the record.

*Criteria considered by the Planning Advisory Commission when evaluating a request for a Conditional Use Permit.*

### 9.3 Criteria for Granting Conditional Use Permit.

- (1) The Planning Advisory Commission may grant a Conditional Use Permit, provided the proposed use is listed as a conditional use for the district and upon a showing that the standards and criteria stated in the Development Code will be satisfied and that the use is in harmony with the general purposes and intent of the Development Code and the Comprehensive Plan. In determining whether the proposed use is in harmony with the general purpose and intent of the Development Code and the Comprehensive Plan, the Planning Advisory Commission shall consider:
  - (A) The impact of the proposed use on the health, safety and general welfare of the occupants of the surrounding lands.
  - (B) Existing and anticipated traffic conditions, including parking facilities on adjacent streets and lands.
  - (C) The effect of the proposed use on utility and school capacities.
  - (D) The effect of the proposed use on property values and scenic views in the surrounding area.
  - (E) The effect of the proposed use on the Comprehensive Plan.
  - (F) The ability of the proposed use to meet the standards of the Development Code.
  - (G) The results of a market feasibility study, if requested by the Zoning Administrator, when the purpose for which the conditional use is being requested relies on a business market for its success.
  - (H) The effects of the proposed use on groundwater, surface water and air quality.
  - (I) That the proposed use is allowed with a Conditional Use Permit in the designated zoning district in which it is

*The Planning Advisory Commission may impose conditions when a Conditional Use Permit is granted.*

*Costs of monitoring compliance with the permit may be imposed by the Planning Advisory Commission.*

*Violations of conditions imposed by the Planning Advisory Commission may result in the Conditional Use Permit being revoked.*

proposed.

- (2) When Conditional Use Permits are issued for nonconforming situations the Planning Advisory Commission may require nonconformities to conform to the Development Code and may impose additional restrictions or conditions as deemed necessary to protect the public interest. When appropriate, restrictive covenants may be established.
- (3) The Planning Advisory Commission may impose and the applicant shall pay costs incurred by the Zoning Administrator for monitoring compliance with the conditions of the Conditional Use Permit.

**9.4 Compliance**

The use shall conform to the applicable sections of the Development Code.

**9.5 Length of Conditional Use.**

Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity to the terms of such permit and to any conditions designated in connection therewith. Conditional Use Permits remain in effect provided conditions of the permit are complied with and provided that nothing in this section shall prevent the County Board of Commissioners or the Planning Advisory Commission from acting or amending Official Controls to change the status of conditional uses.

**9.6 Expiration of Conditional Use Permit.**

A Conditional Use Permit expires and is null and void one (1) year after issuance if construction has not commenced or if the permitted use has not been established.

**9.7 Revocation.**

- (1) A violation of any condition set forth in a Conditional Use Permit is a violation of the Development Code, and failure to correct said violation within thirty (30) days of written notice from the Zoning Administrator shall terminate the permit.
- (2) Revocation shall not occur earlier than ten (10) County working days from the time written notice of revocation is served upon the permittee or if a hearing is requested, until written notice of the Planning Advisory Commission action has been served on the permittee.
- (3) Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts which support the conclusions that a violation or violations have occurred and a statement that if the permittee desires to appeal, a request for a hearing must be filed

within ten (10) working days, exclusive of the day of service.

- (4) The hearing request shall be in writing, stating the grounds for appeal and served personally or by registered or certified mail on the Washington County Public Works Department by midnight of the tenth County working day following service.
- (5) Following the receipt of a request for hearing, the Washington County Public Works Department shall schedule the hearing, which shall be conducted in accordance with the procedures set forth in the Washington County Development Code, Chapter One.

*Records of Conditional Use Permits are maintained by the Zoning Administrator and filed with the County Recorder.*

**9.8 Records of Conditional Use Permits.**

- (1) A certified copy of any Conditional Use Permit shall be filed with the County Recorder or Registrar of Titles.
- (2) The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, conditions imposed by the Planning Advisory Commission, time limits, review dates and such other information as may be appropriate.
- (3) A copy of the filed permit, bearing a notation of the filing date shall be mailed to the applicant.

**9.9 Amended Conditional Use Permits.**

Amended Conditional Use Permits are requests for changes in conditions of an existing permit. An amended Conditional Use Permit application is administered following the same procedures as a new Conditional Use Permit.

**9.10 Reapplication.**

An application for a Conditional Use Permit for a particular use on a particular parcel of land shall not be resubmitted for a period of twelve (12) months from the date of the denial of the previous application.

**9.11 Planning Advisory Commission Decision and Appeal.**

*Appeals of decisions made by the Planning Advisory Commission are heard by the Washington County Board of Commissioners.*

A decision of the Planning Advisory Commission as it relates to a Conditional Use Permit does not take effect until fifteen (15) days after the date the decision was made. During this fifteen (15) day period an appeal of the decision may be made to the Washington County Board of Commissioners; if a decision is not appealed within this time period, the decision will take effect and is considered final.

**9.12 Phased Developments.**

For large projects which are intended to be developed in phases over several years, a preliminary plan may be approved following a public hearing. The developer shall then seek approval of the final plan in stages as development

progresses. Additional public hearings are not required unless the developer proposes a substantial change to the preliminary plan or conditions that were approved per the original Conditional Use Permit. Enlargement, intensification of use or similar changes not specifically permitted by the Conditional Use Permit issued, are considered substantial changes.

**9.13 Existing Uses.**

All uses existing at the time of adoption of the Development Code that currently require a Conditional Use Permit may continue in the same manner of operation as prior to the effective date of the Development Code. The Zoning Administrator may require a Conditional Use Permit for the use. Any enlargement, structural alteration or intensification of use requires a Conditional Use Permit as provided for above. The Planning Advisory Commission may impose additional, reasonable conditions for the continuation of such use in accordance with the hearing provisions as set forth in Section 9.2.

**SECTION 10. CERTIFICATES OF COMPLIANCE**

The Zoning Administrator shall issue a Certificate of Compliance for a proposed use if the proposed use will not be contrary to the provisions of the Washington County Development Code. The Certificate of Compliance shall be granted for a particular use and not for a particular person or firm.

*Some uses require a Certificate of Compliance.*

**10.1 Application.**

Whenever the Development Code requires a Certificate of Compliance, a written application shall be filed with the Zoning Administrator. The application shall be accompanied by development plans of the proposed use showing such information as may be reasonably required by the Zoning Administrator. These plans shall contain adequate information upon which the Zoning Administrator can determine the proposed development will meet all development standards if the project proceeds in accordance with such plans.

*Apply for a Certificate of Compliance with the Zoning Administrator.*

**10.2 Compliance.**

The use shall conform to the regulations specified in the Washington County Development Code.

**10.3 Issuance and Conditions.**

The Zoning Administrator shall issue a Certificate of Compliance if it is determined that the use is in compliance with the conditions contained in the Washington County Development Code. Conditions required by the Development Code shall be applied to the issuance of the Certificate of Compliance and a periodic review of the certificate and proposed use may be required.

*Zoning Administrator issues a Certificate of Compliance if the use meets the conditions of the Development Code. A public hearing is not required for a Certificate of Compliance.*

*An appeal of a decision by the Zoning Administrator regarding a Certificate of Compliance is heard by the Board of Adjustment and Appeals.*

*Violations of conditions imposed by the Zoning Administrator may result in revocation of the Certificate of Compliance.*

*A valid building permit and Certificate of Compliance is required before performing any site work or construction/alteration of structures.*

**10.4 Record of Certificates of Compliance.**

- (1) A certified copy of any Certificate of Compliance shall be filed with the County Recorder or Registrar of Titles.
- (2) The Zoning Administrator shall maintain a record of all Certificates of Compliance issued including information on the use, location and conditions imposed as part of the permit such as time limits, review dates and such other information as may be appropriate.

**10.5 Appeals of Denial of Certificates of Compliance.**

If a request for a Certificate of Compliance is denied, if conditions are imposed, or if a Certificate of Compliance is revoked, the applicant may appeal the decision to the Board of Adjustment and Appeals. The appeal procedure is the same as the procedure for an appeal of any administrative decision of the Zoning Administrator.

**10.6 Expiration of Certificates of Compliance.**

A Certificate of Compliance expires and is null and void one (1) year after issuance if the use has not been established.

**10.7 Revocation.**

A violation of any condition set forth in a Certificate of Compliance is a violation of the Development Code and failure to correct said violation within thirty (30) days of written notice from the Zoning Administrator shall terminate the Certificate of Compliance. The hearing procedure for said revocation is the same procedure as that set forth under Section 9.7 of this Chapter.

**10.8 Existing Uses.**

All uses existing at the time of adoption of the Development Code that currently require a Certificate of Compliance may continue in the same manner of operation as prior to the effective date of the Development Code. The Zoning Administrator may require a Certificate of Compliance for the use. Any enlargement, structural alteration or intensification of use requires a Certificate of Compliance as provided for above. The Zoning Administrator may impose additional reasonable conditions for the continuation of such use in accordance with the regulations as set forth in the Development Code.

**SECTION 11. OTHER PERMITS**

**11.1 Building Permits.**

- (1) Structures shall not be erected, moved onto property or structurally altered until a Certificate of Compliance has been issued by the County Zoning Administrator indicating that the existing or proposed structure and the use of the land are in compliance with the Development Code.

*Areas not served by public sewer require a permit for an on-site waste system. On-Site Waste Disposal permits must be issued before a building permit is issued.*

*Driveway access onto a County Road requires a permit from the Public Works Department. For information, call 651-430-4300.*

*A driveway permit may be required by the local governing body for access onto a public road under Township jurisdiction.*

*Township approval is required prior to application.*

- (2) The local building official shall notify the County prior to the issuance of any building permit for a new structure or expansion in square footage of an existing structure. The County Zoning Administrator shall review the building permit application for compliance with standards contained in the Development Code. Construction details will not be reviewed by the Zoning Administrator. The Zoning Administrator shall provide a response to the local building official regarding the Development Code requirements for said project within three (3) business days of notification.
- (3) Site preparation work, including rough grading, driveway construction, footing excavation, tree removal or other physical changes to the site shall not occur prior to the issuance of a building permit and other use permits.

**11.2 On-Site Waste Disposal Permits.**

- (1) In areas without public sewer facilities, building permits for any use requiring on-site waste treatment and disposal shall not be issued until an on-site waste disposal permit has been issued by the Washington County Department of Public Health and Environment.
- (2) An on-site waste disposal permit shall be issued only after proof is furnished by the applicant that a suitable on-site waste treatment and disposal system can be installed on the site. Such system shall conform to all requirements of the Development Code, Chapter Four, Subsurface Sewage Treatment System Regulations, including percolation tests and borings.

**11.3 Driveway Access Permits.**

Access drives onto County roads require an access permit from the Washington County Public Works Department. This permit is required prior to the issuance of any building permits. The County Engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. At the County Engineer’s discretion, a request for an access permit onto a County road may be referred to the Planning Advisory Commission for its recommendations.

**11.4 Township Approval.**

Prior to accepting an application for rezoning/comprehensive plan amendment, a Conditional Use Permit or variance and in order for an application to be complete, approval must be secured from the township or evidence must be presented indicating approval from the local township is not needed.

**SECTION 12. ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENTS**

Some land uses will require an EAW or EIS.

**12.1 Zoning Administrator Review**

A use shall not be approved prior to review by the Zoning Administrator to determine compliance with Minnesota Statutes Chapter 116C and 116D and the regulations promulgated thereunder. The following are common projects which require an Environmental Assessment Worksheet (EAW). This list is intended as informational only and is not all inclusive:

- (1) Development of a facility for the extraction or mining of sand, gravel, stone or other non-metallic minerals which will excavate more than forty (40) acres of land to a mean depth of ten (10) feet or more during its excavation;
- (2) Residential development consisting of fifty (50) or more unattached units in an area not served by public sewer or one hundred (100) unattached units in an area served by public sewer ;
- (3) Construction of a new or expansion of an existing industrial, commercial or institutional facility of one hundred thousand (100,000) square feet in an unincorporated area.

**SECTION 13. NONCONFORMITIES**

*In some situations an existing lot, structure or use may not conform to the Development Code. This section details how those nonconforming uses, structures and lots will be treated under the Development Code.*

**13.1 Nonconforming Situations.**

In preexisting situations where a lot or structure or use of a lot or structure does not conform to one or more of the regulations contained in the Development Code, it is the intent of the Development Code to allow such nonconforming situations to continue but to ultimately phase them out by prohibiting their enlargement, expansion, alteration, re-establishment after discontinuance or abandonment, or restoration after damage or destruction.

*The term "Nonconforming Use" means any legal and lawful use of land or any legal and lawful use of a structure existing on the effective date of the Development Code, or any amendment thereto, which use does not conform to the regulations for the district in which it is located after the effective date of the Development Code or such amendment.*

**13.2 Nonconforming Use.**

- (1) Any use that existed prior to the effective date of the original Development Code on October 20, 1997 and which is not in conformity with the regulations contained in the Development Code is allowed to continue, subject to the following conditions:
  - (A) Nonconforming uses shall not be expanded, enlarged or altered, including any increase in the volume, intensity, frequency or use of property. A change from one nonconforming use to another nonconforming use is not permitted.
  - (B) A nonconforming use of a parcel of land may not be extended to cover more land than was occupied by that use when it became nonconforming. Except that a use involving the removal of natural materials such as sand or

gravel, which may be expanded within the boundaries of the parcel where the use existed at the time it became nonconforming, subject to the standards contained in the Washington County Mining Regulations, Development Code, Chapter Seven.

(C) A nonconforming use which has been discontinued for a period of twelve (12) consecutive months shall not be re-established and any further use shall be in conformity with the Development Code.

(D) If a structure associated with a nonconforming use is damaged to the extent that the cost of renovation, repair or replacement would exceed fifty (50) percent of the appraised valuation of the damaged structure, the damaged structure shall not be renovated, repaired or replaced, except in conformity with the Development Code.

The cost of renovation, repair or replacement is determined by the total fair market value of the materials and services necessary to complete such renovation, repair or replacement. The appraised valuation of the structure is the market value of the structure as determined by the current records of the County Assessor.

(2) All nonconforming projects on which a building permit has been issued may be completed in accordance with the terms of the permit provided the permit is valid.

(3) The Planning Advisory Commission or Zoning Administrator may require that a Conditional Use Permit be issued for a nonconforming use.

**13.3 Nonconforming Structure.**

(1) For the purposes of the Revised Development Code, the term "Nonconforming Structure" means any structure lawfully and legally existing on the effective date of the Development Code or any amendment thereto which does not conform to the regulations, including the dimensional standards for the district in which it is located after the effective date of the Development Code or amendments thereto.

And

Any structure that was built, altered or modified subject to a variance granted due to the structure not conforming to the regulations and/or dimensional standards of the Development Code.

Said nonconforming structures are allowed to remain, subject to the following conditions:

(A) Nonconforming structures shall not be expanded, enlarged

*Nonconforming Structures are allowed to remain subject to conditions.*

or altered, without first obtaining a variance, provided however, that a nonconforming structure may be enlarged, altered or expanded without the necessity of obtaining a variance provided each of the following conditions can be met:

1. The enlargement, alteration or expansion does not violate any provisions of the Development Code, other than the provision that originally caused the structure to be nonconforming.
  2. Long-term sewage disposal needs can be met.
- (B) A nonconforming structure which is destroyed or damaged by any means to the extent that the cost of repair or replacement would exceed fifty (50) percent of the appraised value of the original structure shall not be restored, repaired or replaced, except in conformity with the Development Code. If a structure cannot be placed on the lot meeting all current standards, the variance procedure must be followed. For the purposes of the Development Code the term "Appraised Value" means the market value of the property as determined by the current records of the County Assessor for the year in which the damage occurred.
- (C) Nothing in the Development Code shall prevent repair of a structure when said structure is declared unsafe by a certified Building Inspector, provided the cost of the repairs do not constitute more than fifty (50) percent of the appraised value of the original structure.
- (D) All construction projects for which a valid building permit was issued prior to the effective date of the Development Code may be completed regardless of whether the structure meets the standards of the Development Code.

**13.4 Nonconforming Lots.**

*Nonconforming lot means a separate parcel or lot of record on the effective date of the Development Code or any amendments thereto, that does not conform to the regulations, including dimensional standards contained in the Development Code or amendments thereto.*

- (1) Any separate lot or parcel created in accordance with the Washington County Subdivision Regulations, Development Code, Chapter Three and of record in the Washington County Recorder's Office on or before the effective date of the original Development Code on October 20, 1997 may be used for any legal use for which it is zoned:
  - (A) Provided it has a minimum of sixty (60) percent of the required frontage on an improved public road or on a private road approved by a township; to be considered an approved private road, the Township Board of Supervisors must, by resolution, identify the road, indicate that the road is capable of supporting emergency vehicles, and specify that provisions exist for on-going maintenance of the road; and

- (B) It contains at least one (1) acre of buildable land as defined in Chapter One, Section 2.1 (24) of the Development Code in areas not served by public sewer or has a minimum lot area of nine thousand (9,000) square feet in areas served by public sewer; and
  - (C) If not served by public sewer, an on-site waste disposal system can be installed in accordance with Chapter Four of the Development Code; and
  - (D) Any such lot or parcel of land which is in a "Residential Suburban" district may be used for single family detached dwelling purposes provided the area and width thereof are within sixty (60) percent of the minimum requirements of the Development Code, provided all setback requirements can be met; and provided it can be demonstrated that a safe and adequate sewage treatment system can be installed to serve such permanent dwelling; and
  - (E) All other requirements of the Development Code can be met.
- (2) If in the case of two (2) or more contiguous lots or parcels of land under a single ownership any individual lot or parcel does not meet the minimum requirements of the Development Code, such individual lot or parcel cannot be considered a separate parcel of land for purposes of sale or development and must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land meeting the full requirements of the Development Code.
- (3) A conforming lot shall not be reduced in size so that it would become nonconforming in any aspect of the Development Code. A nonconforming parcel shall not be reduced in size.
- (4) Where a nonconforming lot of record contains a conforming principal structure, said principal structure may be enlarged, altered or expanded without a variance provided:
- (A) The enlargement, alteration or expansion meets all other standards of the Development Code.
  - (B) Long term sewage disposal needs can be met.

**SECTION 14. AMENDMENTS TO THE WASHINGTON COUNTY DEVELOPMENT CODE AND COMPREHENSIVE PLAN**

**14.1 Planning Advisory Commission Review.**

An amendment to the Development Code or the Comprehensive Plan may be initiated by the County Board, or by the Planning Advisory Commission or by petition of the affected property owners. An amendment not initiated by the Planning Advisory Commission shall be referred to the Planning Advisory

*These rules may be amended by the Washington County Board of Commissioners after a formal public hearing.*

*Changes to the Comprehensive Plan or the Development Code require a public hearing.*

Commission for their study, report and recommendation and may not be acted upon by the County Board of Commissioners until it has received the recommendation of the Planning Advisory Commission or a report or recommendation has not been made by the Planning Advisory Commission and sixty (60) days have elapsed since the date of their first meeting to consider the amendment.

**14.2 Notice of Public Hearing.**

In connection with the adoption by ordinance of any Comprehensive Plan amendment or adoption or amendment of any official control, notice of the time, location and purpose of the public hearing shall be given in the manner provided by Minnesota Statutes 394.26 and 375.51, in addition to any notice required by the Development Code.

**14.3 Resubmittal of Denied Amendment.**

An application for an amendment to the County Comprehensive Plan or amendment of the official controls shall not be resubmitted for a period of twelve (12) months from the date of denial of a previous application, unless conditions have substantially changed.

**SECTION 15. ENFORCEMENT**

**15.1 Violations.**

With the exception of any issue pertaining to compliance with the Count Buffer Ordinance, a violation of any provision of the Development Code or violation of the conditions or provisions of any permit issued pursuant to the Development Code is a misdemeanor and upon conviction thereof the violator is subject to a fine, imprisonment or both plus the cost of prosecution.

Enforcement of any provision of the County Buffer Ordinance shall be pursuant to the enforcement procedures set forth by the County Buffer Ordinance.

**15.2 Penalties.**

Unless otherwise provided, each act of violation and each day such violation occurs or continues constitutes a separate offense.

**15.3 Application to County Personnel.**

Failure of any officer or employee of the County to perform any official duty imposed by the Development Code does not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

**15.4 Equitable Relief.**

In the event of a violation or the anticipated violation of any provision of the Development Code or any provision or condition of a permit issued pursuant

to the Development Code, in addition to other remedies, the County may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or anticipated violation.

**SECTION 16. SEPARABILITY**

16.1 The several provisions of this regulation are separable in accordance with the following:

- (1) If any court of competent jurisdiction adjudges any provision of this regulation to be invalid, such judgment does not affect any other provisions of this regulation not specifically included in said judgment.
- (2) If any court of competent jurisdiction adjudges invalid the application of any provision of this regulation to a particular property, building or structure, such judgment does not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

**SECTION 17. EFFECTIVE DATE**

The regulations contained in this Ordinance shall become effective immediately upon passage by the County Board and upon publication according to law.

Passed by the Board of County Commissioners of Washington County, Minnesota, this 5<sup>th</sup> day of June, 2018.

  
 \_\_\_\_\_  
 Gary Kriesel, Chair  
 Board of County Commissioners

Attest:

Approved as to form:

  
 \_\_\_\_\_  
 Molly O'Rourke  
 Washington County Administrator

  
 \_\_\_\_\_  
 George Kuprian  
 Assistant Washington County Attorney

Ordinance prepared by:

Washington County  
Public Works Department  
11660 Myeron Road North  
Stillwater, MN 55082

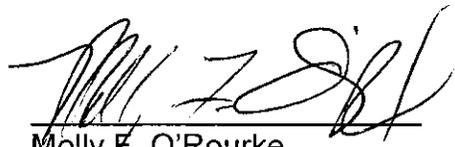


STATE OF MINNESOTA        )  
  )  
COUNTY OF WASHINGTON    )

I, Molly F. O'Rourke, qualified County Administrator for the County of Washington, State of Minnesota, do hereby certify that I have compared the foregoing copy of Resolution No. 2018-054 with the original minutes of the proceedings of the Board of Commissioners, Washington County, Minnesota, at its session on the 5th day of June, 2018, now on file in my office and have found the same to be a true and correct copy thereof.

Witness my hand and official seal at Stillwater, Minnesota, this 27th day of June, 2018.



  
\_\_\_\_\_  
Molly F. O'Rourke  
County Administrator

DATE June 5, 2018  
MOTION  
BY COMMISSIONER Miron

DEPARTMENT Public Works  
SECONDED BY  
COMMISSIONER Karwoski

**REPEAL OF CURRENT ZONING/LAND USE ORDINANCES AND ADOPTION OF NEW  
ZONING/LAND USE ORDINANCES.  
AND  
REPEAL OF EXISTING DEVELOPMENT CODE AND ADOPTION OF THE REVISED  
DEVELOPMENT CODE**

**ZONING/LAND USE ORDINANCE NUMBERS 203, 204, 205, 206, 207, 208, 209, 210, 211 & 212**

**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 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, amended on September 7, 2010 to the Washington County Comprehensive Plan 2030 as Washington County Ordinance No. 184, and amended on August 16, 2016 as Washington County Ordinance 198; and

**WHEREAS**, pursuant to Minn. Stat. 473.865 the Washington County Comprehensive Plan is the implement by which the County's regulation of land use is devolved through adoption of official controls under Chapter 394.

**WHEREAS**, the current official controls as reflected in the Washington County Development Code were adopted by the Washington County Board of Commissioners and became effective on October 20, 1997 as Washington County Ordinance No. 127; and

**WHEREAS**, all the townships in Washington County have assumed regulatory control of land use through adoption of the Comprehensive Land Use Plans under the 2030 Regional Development Framework pursuant to the authority contained in Minn. Stat. 473.861 and the County's relinquishment of such controls; and

**WHEREAS**, such transformation has been found by the Metropolitan Council to conform to the regional system plans for transportation, water, resources management and parks; and

**WHEREAS**, the Township's plans are consistent with the Washington County 2030 Comprehensive Plan and are compatible with the plans of adjacent and affected jurisdictions; and

**WHEREAS**, the recasting of the County's official controls necessitate revision of the Washington County Development Code; and

**WHEREAS**, the forty-three (43) current zoning/land use ordinances, attached as Exhibit A, are determined to be anachronistic and must be repealed; and

**WHEREAS**, ten (10) new zoning/land use ordinances, attached as Exhibit B, must be enacted; and

**WHEREAS**, the existing Washington County Development Code must be repealed and the ten (10) new zoning/land use ordinances must be codified as the Revised Washington County Development Code.

**WHEREAS**, on April 24, 2018 a public hearing was held before the Washington County Planning Advisory Commission (PAC) to consider an action to do the following: 1) repeal the existing forty-three (43) zoning/land use ordinances as set forth in Exhibit A; 2) the adoption of ten (10) new zoning/land use ordinances as set forth in Exhibit B; and 3) repeal the existing Washington County Development Code and adopt a revised Washington County Development Code attached as Exhibit C.

**WHEREAS**, on April 24, 2018 the PAC recommended the Washington County Board of Commissioners approve the following: 1) the repealing of the forty-three (43) existing zoning/land use ordinances as set forth in Exhibit A; 2) adoption of ten (10) new zoning/land use ordinances attached as Exhibit B; 3) repealing of the existing Washington County Development Code and adoption of the Revised Washington County Development Code as set forth in Exhibit C.

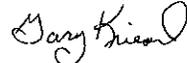
**WHEREAS**, the records of the public hearing consists of the minutes of both the Washington County Board of Commissioners and the Planning Advisory Commission meetings, staff reports, a presentation by the Washington County Public Works Department, and comments from members of the public.

**NOW, THEREFORE IT BE RESOLVED**, that the Washington County Board of Commissioners hereby adopts the findings and recommendations of the Washington County Planning Advisory Commission.

**BE IT FURTHER RESOLVED**, based upon the hearing record, the Washington County Board of Commissioners hereby repeals the existing forty-three (43) zoning/land use ordinances attached and incorporated herein as Exhibit A.

**BE IT FURTHER RESOLVED**, the Washington County Board of Commissioners hereby adopts the ten (10) new zoning/land use ordinances attached as Exhibit B, which is attached hereto and incorporated herein.

**BE IT FURTHER RESOLVED**, the Washington County Board of Commissioners hereby codifies the ten (10) new zoning/land use ordinances into the Revised Washington County Development Code as fully set forth in Exhibit C, which is attached hereto and incorporated herein.

ATTEST:   
COUNTY ADMINISTRATOR  
  
COUNTY BOARD CHAIR

	YES	NO
MIRON	X	___
KARWOSKI	X	___
KRIESEL	X	___
LAVOLD	X	___
WEIK	X	___