WASHINGTON COUNTY ORDINANCE
ACQUISITIONS OF DEVELOPMENT RIGHTS ORDINANCE

SECTION 1. TITLE AND PURPOSE

1.1 Pursuant to Minnesota Statute 84C, Minnesota Statute 373.40 and Minnesota Statue 394.25. Washington County establishes its authority to acquire and improve land and interests in land for the purpose of preserving open space, including natural and scenic areas and agricultural land. The policies, rules and official controls governing the acquisitions are adopted in this ordinance, hereafter known as the Acquisition of Development Rights Ordinance. Practices for carrying out the authorities in this ordinance will be contained in the attendant policy and procedure documents and the Washington County Development Code.

1.2 Existing zoning restrictions, while effective at controlling housing densities, cannot keep lands in their present undeveloped state. Acquiring the development rights is one of several means for achieving public benefits through private land conservation actions.

1.3 Purpose

This ordinance is adopted for the following purposes.

(1) To protect and preserve the rural landscape and high-quality natural areas that make Washington County a special place to live.

(2) To implement the goals of the Washington County Comprehensive Plan.

(3) To serve additional public purposes through open space protection, including but not limited to improving water quality of rivers, lakes and streams; protecting drinking water sources; purchasing parklands including trail corridors, preserving wetlands and woodlands; and protecting land along water bodies from development.

SECTION 2. DEFINITIONS

2.1 For the purpose of this ordinance, certain words and phrases are defined as follows:

(1) Agricultural Land: Land whose use is devoted to the production of horticulture and nursery stock, fruit of all kinds, vegetables, forage, grains, bees and apiary products.

(2) Conservation Easement: A nonpossessory interest in real property whereby the holder may impose certain limitations or affirmative obligations the purpose of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water

quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property. *(Minnesota Statutes, Chapter 84C.)*

(3) Corridor: Protected areas of open space linked together throughout the community.

(4) County Board: The Washington County Board of Commissioners.

(5) County: Means Washington County.

(6) Development: An activity which materially alters or affects the existing conditions or use of any land.

(7) Development Code: The official controls adopted by Washington County regulating the physical development of land in the unincorporated areas of the county, including the Subdivision Regulations.

(8) Development Rights: The right to use and subdivide land for any and all residential, commercial and industrial purposes and activities not related to agriculture and open space.

(9) Eligible Land: Properties for which the acquisition of development rights is authorized pursuant to this ordinance.

(10) Land and Water Legacy Program: A program of Washington County for the purpose of preserving open space through the acquisition of land and interests in land from landowners outside the development process.

(11) Open Space: Land used for natural habitat, water quality purposes, agriculture, pedestrian corridors and/or recreation, that is undivided and permanently protected from future development.

(12) Open Space Development: A grouping of residential structures on smaller lots than allowed in the specific zoning district, leaving some land dedicated as open space.

(13) Resource Values: The physical values of the land supplied by nature including, but not limited to, animal life, plant life, soil, rock, minerals and water. Values may also include protecting natural habitat, productive agricultural land, scenic views and connections to or extensions of existing parks or protected open space.

SECTION 3. AUTHORIZATION

3.1 The county may acquire conservation easements over any eligible land within the county by purchase, gift, grant, bequest, devise, covenant or contract and may use any legally available revenue source for the acquisition.

3.2 The county may enter into cash purchase and/or investment purchase contracts consistent with applicable law for the purpose stated in this ordinance.

3.3 The county may participate jointly in acquiring interests in eligible lands with other qualified organizations empowered to hold interests in real property in accordance with Minnesota Statues, Sections 84C.01-05.

3.4 The county may contract with a recognized and legally established nonprofit conservancy, land trust, or other individual or organization qualified under Minnesota Statutes Section 84C.01 and 170(H) of the United States Internal Revenue Code, in order to share in the process of negotiating conservation easements and establishing the baseline studies management plans and the procedures for monitoring of any conservation easements acquired under this ordinance.

3.5 Acquisitions of interests in land in the form of a conservation easement made through the Land and Water Legacy Program shall be only upon consent of the owner and in a strictly voluntary manner.

SECTION 4. ESTABLISHMENT OF ADVISORY COMMITTEE

4.1 For the purpose of the Land and Water Legacy Program, the Washington County Parks and Open Space Commission shall advise the county on the acquisition of lands and interests in lands and other program activities.

4.2 The county may request technical assistance from other agencies involved in land and water protection activities to provide advice on activities and practices related to the acquisition of land and interests in land acquired under this ordinance.

SECTION 5. ELIGIBILITY AND PRIORITIES

5.1 For the purpose of the Land and Water Legacy Program, the county shall establish criteria to be used in prioritizing applications and determining which projects to consider.

SECTION 6. CONSERVATION EASEMENT VALUATION

6.1 Purchase of Development Rights

(1) Development Rights Calculation
Generally, the value of conservation easements shall be based on the number of development rights remaining on a parcel of land, as determined by the number of dwelling units that would be permitted given the maximum lot size and lot widths for conventional subdivisions and other requirements of applicable development codes.

(2) Valuation
The value of conservation easements shall be determined using appraisals or an equivalent method such as assessed valuation or appraisal sampling. The value of the conservation easement only establishes the price ceiling. The county is under no obligation to make an offer to the applicant for the full value of the conservation easement.

(3) Appraisals
An appraisal may not be required when the county contributes less than fifty (50) percent of the assessed market value of the parcel, as determined by the county tax records. All appraisals will be completed by qualified, independent appraisers.

6.2 Open Space Design Developments

(1) Development Rights Calculation
The number of development rights permitted in an Open Space Design Development shall be the same number permitted given the minimum lot size and lot widths for conventional subdivisions and other requirements of the Development Code. The developer may be permitted additional development rights pursuant to the standard established in the Development Code.

(2) Valuation
Conservation easements over the open land in Open Space Design Developments are acquired at not cost to the county as part of the development process.

SECTION 7. NATURE OF CONSERVATION EASEMENT RESTRICTIONS

7.1 Nature of Restrictions

(1) Conservation easements shall be permanent.

(2) The specific terms of the conservation easement shall be negotiated on a case-by-case basis.

(3) The terms of the conservation easement will be designed to protect the property's resource values, as defined through the application and approval process.

7.2 Holding of Conservation Easements
At the directions of the County Board, conservation easements shall be held by a qualified unit of government, conservation organization, land trust or similar organization authorized to hold interest in real property pursuant to Minnesota Statues, Section 84C.0405.

SECTION 8. CONSERVATION EASEMENT MONITORING AND ENFORCEMENT

8.1 Documentation
The values that a conservation easement is intended to protect are defined and recorded in the baseline documentation. At the time the conservation easement is recorded, documentation of the property shall be conducted, using aerial photographs, maps, photos and/or other media, as a baseline for future monitoring. Such documentation shall be updated periodically by the conservation easement holder(s). Such studies and monitoring shall be conducted according to commonly accepted best practices.

8.2 Frequency of Monitoring
Conservation easements shall be monitored on a regular basis to ensure compliance. Monitoring may include a site visit.

8.3 Enforcement
If the terms of the conservation easement are violated, the conservation easement holder(s) may pursue all legal remedies available, including, but not limited to, specific performance.

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Gary Kriesel, Chair
Board of County Commissioners

Attest _____

James R. Schug
County Administrator

Approved as to form:

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County Attorney

Date Adopted:
Prepared by: Office of Administration

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