

# Washington County Development Code

## CHAPTER FIVE LOWER ST. CROIX RIVER BLUFFLAND AND SHORELAND MANAGEMENT REGULATIONS

ORDINANCE 207  
EFFECTIVE UPON PASSAGE  
BY THE COUNTY BOARD  
ON JUNE 5, 2018 AND  
PUBLISHED ON  
JULY 27, 2018



# REVISED WASHINGTON COUNTY DEVELOPMENT CODE

## CHAPTER FIVE

### LOWER ST. CROIX RIVER BLUFFLAND & SHORELAND MANAGEMENT REGULATIONS

**ORDINANCE NO. 207**

**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 FIVE

LOWER ST. CROIX RIVER BLUFFLAND &  
SHORELAND MANAGEMENT REGULATIONS

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

**REVISED WASHINGTON COUNTY DEVELOPMENT CODE**  
**CHAPTER FIVE**  
**LOWER ST. CROIX RIVER BLUFFLAND &**  
**SHORELAND MANAGEMENT REGULATIONS**

This Chapter of the Washington County Development Code shall be known as the Washington County Lower St. Croix River Bluffland & Shoreland Management Regulations and may be referred to within this chapter as, "this Ordinance". This bluffland and shoreland management regulation is adopted by Washington County Ordinance No. 207 pursuant to the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

This Ordinance applies within the unincorporated areas of the County that are within the St. Croix River Management Overlay District. This district allows: a) primary uses; b) accessory uses; and c) uses allowed with a Conditional Use Permit.

Any use not specifically defined as a primary use, an accessory use or allowed with a Conditional Use Permit is prohibited.

This Ordinance does not apply within the Shoreland Management Overlay District. For those unincorporated areas of the County within the Shoreland Management Overlay District, see Chapter Six of the Development Code, Shoreland Management Regulations.

**SECTION 1. INTENT AND PURPOSE**

*The purpose of this Ordinance is to regulate land use, guide development, and protect natural resources along the Lower St. Croix River.*

- 1.1** This Ordinance is adopted for the following purposes:
- (1) Designating suitable land use districts along the bluffland and shoreland of the Lower St Croix River.
  - (2) Regulating the area of a lot, and the length of bluffland and water frontage suitable for building sites.
  - (3) Regulating the setback of structures and sanitary waste treatment facilities from blufflines to protect the existing and/or natural scenic values, vegetation, soils, water, and bedrock from disruption by man-made structures or facilities.
  - (4) Regulating the setback of structures and sanitary waste treatment facilities from shorelines to protect the natural scenic value, floodplain, and water quality.
  - (5) Regulating alterations of the natural vegetation and topography.

- (6) Conserving and protecting the natural scenic values and resources of the river valley and maintaining a high standard of environmental quality to comply with Minnesota Department of Natural Resources Standards and Criteria for the Lower St Croix National Scenic Riverway (NR 2200-2202).

**SECTION 2. CONSTRUCTION**

*In the event of conflicting language, most restrictive shall apply.*

2.1 In the event of conflicting provisions in the text of this Ordinance, and/or other Ordinances, the more restrictive provision shall apply. The Washington County Zoning Administrator shall determine which is more "restrictive" and appeals from such determination may be made in the manner provided herein.

*Meaning of words.*

2.2 Words used in the present tense include the past and, future tense; the singular number includes the plural and the plural includes the singular; the word "shall" is mandatory, the word "may" is permissive.

*Distances measured horizontally.*

2.3 Unless otherwise specified, all distances shall be measured horizontally.

**SECTION 3. DEFINITIONS**

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

3.1 For the purpose of this Ordinance, certain phrases and words are hereby defined as follows:

- (1) **Accessory Use:** A use subordinate to and serving the principal use on the same lot and customarily incidental thereto, such as vegetative cutting and grading and filling.
- (2) **Appurtenance:** A structure subordinate to and serving the principal structure on the same lot and customarily incidental thereto such as garages, decks, essential services, signs, docks, and stairways and lifts, except that appurtenance does not include private water supply and sewage and waste disposal systems below the ground.
- (3) **Bluffline:** A line along the top of a slope connecting the points at which the slope, proceeding away from the river or adjoining watershed channel, becomes less than twelve (12) percent and it only includes slopes greater than twelve (12) percent visible from the river or any water course tributary to the river. The location of the bluffline for any particular property shall be certified by a licensed land surveyor or identified by the zoning administrator. More than one bluffline may be encountered proceeding away from the river or adjoining watershed channel. All setbacks required herein are applicable to each bluffline.
- (4) **Building Line:** A line measured across the width of the lot at the point where the principal structure is placed in accordance with setback provisions.
- (5) **Channel:** A natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water either

continuously or periodically.

- (6) **Dwelling Unit:** A residential accommodation which is arranged, designed, used, or intended for use exclusively as living quarters for one family.
- (7) **Harbor:** A portion of a body of water along or landward of the natural shoreline deep enough for recreational watercraft navigation, and so situated with respect to shoreline features as to provide protection from winds, waves, ice, and currents. Natural harbors consist of bays and estuaries, while artificial harbors are constructed by dredging.
- (8) **Marina:** An area of concentrated small craft mooring, where ancillary facilities may be provided for some or all of such services as fueling, sewage pump-out, boat launching, boat repair, and boat storage; except that marina does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.
- (9) **Non-Conforming Use:** Any use of land established before the effective date of this Ordinance which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use.
- (10) **Ordinary High Water Mark:** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial (also known as the Ordinary High Water Level).
- (11) **Riverway Boundary:** A legally described line delineating the landward extent of the St. Croix Riverway (Lower St. Croix National Scenic Riverway boundary).
- (12) **Scenic Easement:** An interest in land, less than fee title, that limits the use of the land for the purpose of protecting the scenic, recreational, and natural characteristics of areas in the St Croix Riverway. Unless otherwise expressly and specifically provided by mutual agreement of the parties, the easement shall be: perpetually held for the benefit of the people of Minnesota; specifically enforceable by its holder or any beneficiary; and binding on the holder of the servient estate, his heirs, successors, or assigns. Unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.
- (13) **Screening:** The presence of vegetation or topography which makes any structure on any property visually inconspicuous in summer months as viewed from the river.
- (14) **Setback:** The minimum horizontal distance between any part of a structure and the ordinary high water mark or a bluffline.
- (15) **Slope:** All lands between the ordinary high water mark and the Riverway

boundary having an angle of ascent or descent of more than twelve (12) percent from the horizontal.

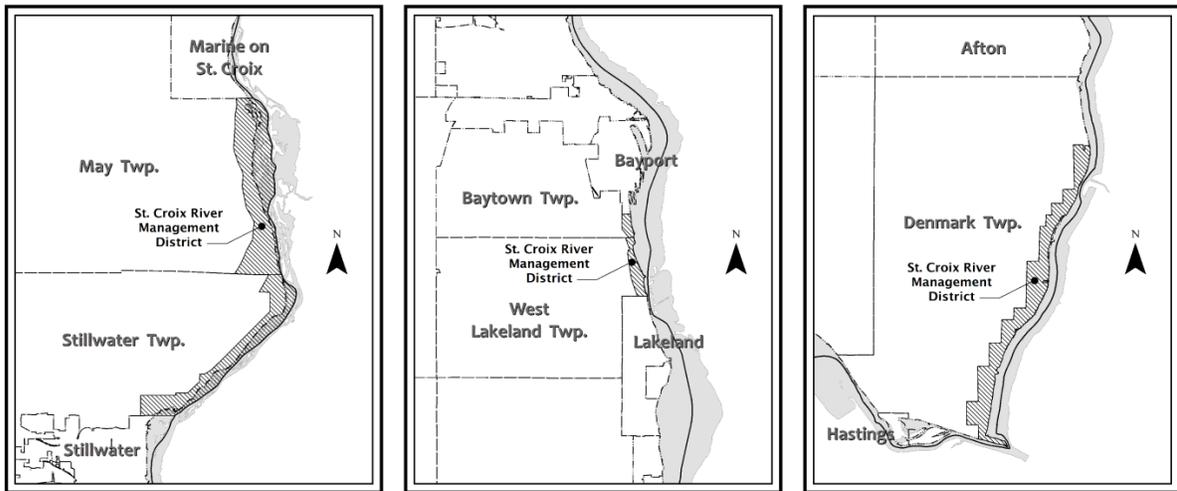
- (16) **St Croix Riverway:** All lands and public waters within the Riverway boundary subject to the Standards and Criteria for the Lower St Croix National Scenic Riverway in Minnesota.
- (17) **Structure:** Any building or appurtenance thereto, except transmission services.
- (18) **Substandard Sanitary Facility:** Any sanitary facility established before the effective date of this Ordinance which is permitted within a particular zoning district but does not meet the setbacks or other dimensional standards of this Ordinance.
- (19) **Substandard Structure:** Any structure established before the effective date of this Ordinance which is permitted within a particular zoning district but does not meet the setbacks or other dimensional standards of this Ordinance.

And

Any structure which does not meet the setbacks or other dimensional standards of this Ordinance and which has been built, altered or modified subject to a variance for the structure or the land on which it is situated.

- (20) **Variance:** Any modification or variation of the dimensional standards of this Ordinance where it is determined that, because of practical difficulties, strict enforcement of this Ordinance is impractical.
- (21) **Visually Inconspicuous:** Difficult to see or not readily noticeable in summer months as viewed from the river.
- (22) **Watercourse:** A channel in which a flow of water occurs either continuously or intermittently. The term applies to either natural or artificial channels.
- (23) **Wetlands:** Land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, marsh, or slough.
- (24) **Zoning Overlay District Map:** The map delineating the boundaries of the St. Croix River Management Overlay District.

Figure 5.1: Local Community St. Croix River Management Overlay District Zoning Map



**SECTION 4. DISTRICT PROVISIONS**

**4.1 Designation of Districts.**

- (1) The St. Croix River Management Overlay District has been established within the Lower St. Croix National Scenic Riverway for the purpose of protecting the natural resources and natural scenic values within the Lower St. Croix National Scenic Riverway.
- (2) The St. Croix River Management Overlay District includes all of the land within the unincorporated areas of the County that is within the boundaries of the Lower St. Croix National Scenic Riverway as shown on the Zoning Overlay District map of Washington County.
- (3) The Zoning Overlay District Map of Washington County delineating the boundaries of the St. Croix River Management Overlay District is adopted and published herewith, is made a part of this Ordinance, and is on file with the Washington County Zoning Administrator.

All notations, references and other information shown thereon has the same force and effect as if fully set forth herein and are made a part of this Ordinance by reference and incorporated herein fully as if set forth herein at length. Any amendment to the Lower St. Croix National Scenic Riverway boundary will result in a matching amendment of the St. Croix River Management Overlay District boundary.

**4.2 Minimum District Dimensional Requirements.**

- (1) As illustrated in Figures 5.2 through 5.5 below, the following chart sets forth the minimum area, setbacks, and other requirements of each district:
  - (A) Setbacks are measured from the bank where the ordinary high water mark is not evident on main channels, adjoining side channels, backwaters and sloughs that have permanent flow or open water.

*Boundaries of the St. Croix River Management Overlay District are as shown on the official zoning map of Washington County.*

*Minimum district dimensions.*

	Rural District	Urban District	Urban District with Public Sewer and Water
(1) Minimum lot size above ordinary high water mark	2.5 acres	1 acre	20,000 sq. ft.
(2) Lot width at building setback line	200 feet	150 feet	100 feet
(3) Lot width at water line	200 feet	150 feet	100 feet
(4) Building setback from ordinary high water mark	200 feet	100 feet	100 feet
(5) Building setback from bluffline	100 feet	40 feet	40 feet
(6) The soil absorption portion of the on-site sewage treatment system setback from ordinary high water mark	150 feet	100 feet	N/A
(6a) Sewage Tank	30 feet	30 feet	N/A
(7) On-site sewage treatment system setback from bluffline	40 feet	40 feet	N/A
(8) Maximum structure height	35 feet	35 feet	35 feet
(9) Maximum total lot area covered by impervious surface	20%	20%	20%
10) On slopes less than 12%, the controlled vegetative cutting areas setback are from:			
Ordinary high water mark	200 feet	100 feet	100 feet
Blufflines	40 feet	40 feet	40 feet

St. Croix River Setback Standards

- a ordinary high water mark
- b shoreland building and vegetative cutting setback
- c bluffline
- d bluffline building and vegetative cutting setback
- e bottom of unbuildable slope

Figure 5.2: Urban with Public Water and Sewer Available

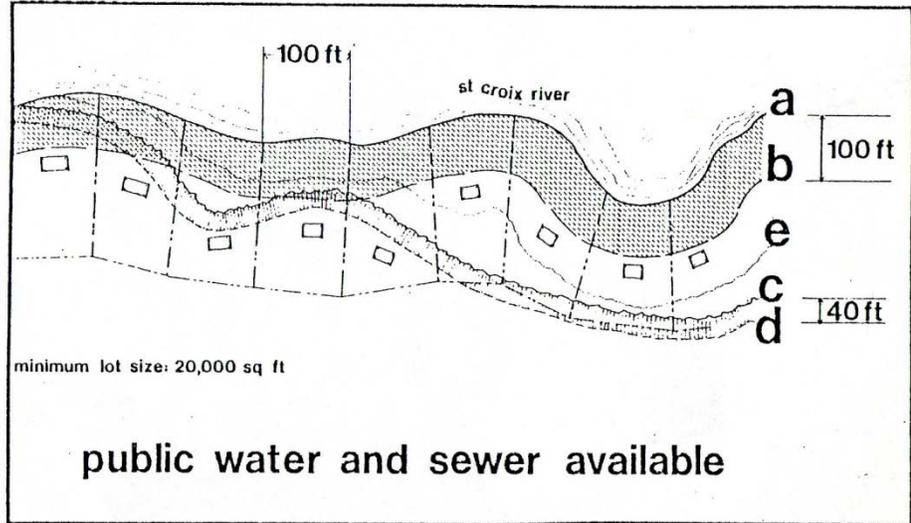


Figure 5.3: Urban -- Public Water and Sewer Not Available

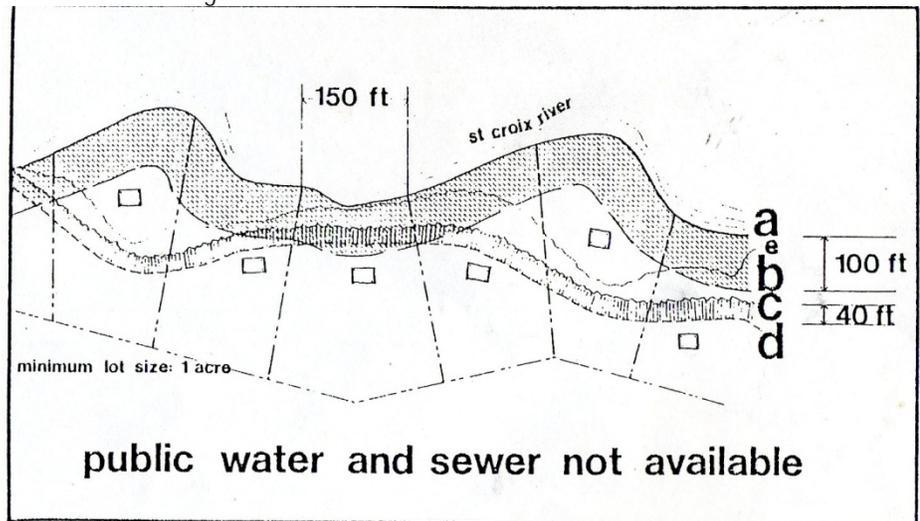


Figure 5.4: Rural

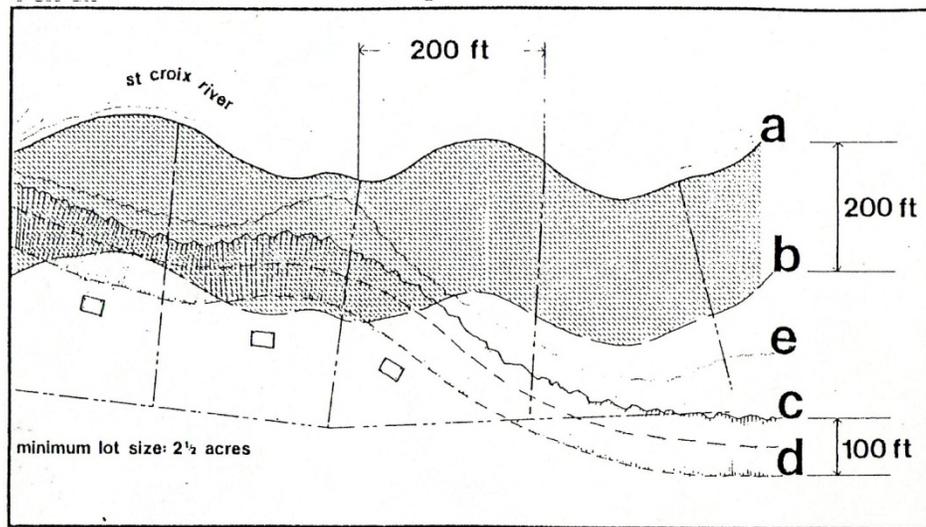
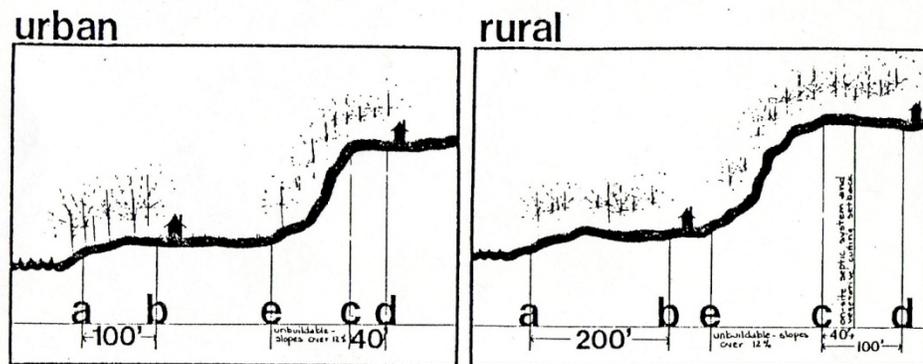


Figure 5.5: Bluffline Profile View



No structures or grading on slopes exceeding 12%.

No structures in floodway.

Structures within floodplain shall be consistent with ordinances.

Exceptions to the minimum dimensional requirements.

- (2) Structures shall not be placed and grading shall not be performed on slopes greater than twelve (12) percent.
- (3) Structures shall not be placed in a floodway. Structures proposed within a floodplain shall be consistent with community and state floodplain ordinances.
- (4) Exceptions to the minimum dimensional requirements include the following:
  - (A) In Rural Districts, structure setback from the bluffline may be varied to within the forty feet to one hundred feet (40' -100') range from the bluffline only by the variance procedure of this Ordinance. If such a variance is requested, the following items shall be considered conditions of the variance.
    - (1) The existing drainage patterns shall not be disturbed.
    - (2) All construction and grading excavation or disruption of the natural ground cover resulting from the on-site construction shall be re-sodded or seeded

within one hundred eighty (180) days of the date of issuance of the building permit.

- (3) To the greatest extent possible, vegetation over six (6) inches in diameter shall not be removed.
- (4) The structure shall be visually inconspicuous as viewed from the river during summer months.
- (5) The site shall be capable of supporting a standard septic treatment system as required in the Subsurface Sewage Treatment Regulations, Chapter Four of the Washington County Development Code.

- (B) Developments which provide service to the public and which by their nature require a location on or adjacent to the public waters and which also require approval of the Commissioner of the Department of Natural Resources.
- (C) Temporary or seasonal docks which extend into the water a minimum distance necessary for the launching or mooring of watercraft.
- (D) Signs which are necessary for public health and safety or which designate areas available or not available for public use.
- (E) Visually inconspicuous stairways and lifts enabling access to the river from steep slopes.
- (F) On a vacant bluffland or shoreland lot which has two adjacent lots, with principal dwelling structures on both such adjacent lots within two hundred (200) feet of the common lot line, any new structure shall be set back, the average setback of said adjacent structures plus forty (40) feet or the minimum standard setback, whichever is less.

**SECTION 5. USES WITHIN THE ST. CROIX RIVERWAY**

*Purpose is to protect natural resources, maintain proper relationships among land uses, and prohibit uses inconsistent with applicable Acts.*

*Structures and accessory uses associated with conservancy, agriculture and single family residential are permitted within St. Croix Riverway.*

**5.1 Purpose.**

- (1) The purpose of establishing standards and criteria for uses in the St Croix Riverway is to protect and preserve existing natural, scenic, and recreational values, to maintain proper relationships between various land use types, and to prohibit new residential, commercial, or industrial uses that are inconsistent with the National Wild and Scenic Rivers Act, and the Federal and State Lower St Croix River Acts.
- (2) Any use not specifically defined as a primary use, an accessory use, or allowed with a Conditional Use Permit is prohibited.

**5.2 Permitted Primary Uses.**

- (1) All structures associated with the following primary uses are permitted in the St Croix Riverway, subject to the dimensional requirements of this Ordinance.
  - (A) Conservancy
  - (B) Agriculture

*Site preservation requirements.*

*Vegetative cutting restrictions.*

*Grading and filling restrictions.*

(C) Single Family Residential

(2) Accessory Uses. Accessory uses which are incidental to the permitted primary uses of the property are permitted.

**5.3 Site Preservation.**

The following standards and criteria are provided to preserve vegetative and topographical screening, and to reduce surface run-off, soil erosion, and nutrient loss.

(1) Vegetative Cutting. On land within two hundred (200) feet of the ordinary high water mark in rural districts, within one hundred (100) feet of the ordinary high water mark in urban districts, and within forty (40) feet landward of blufflines and on slopes greater than twelve (12) percent in all districts, cutting of live trees or shrubs is prohibited without a vegetative cutting permit from the Zoning Administrator. A permit may be issued only if:

- (A) The cutting, including topping, involves trees less than six (6) inches in diameter at a height of four and one-half (4 1/2) feet above ground; and
- (B) The cutting, including topping, involves vegetation which is not screening any structure from view from the river; and
- (C) The essential character, quality, and density of existing growths is preserved and continuous canopy cover is maintained; or
- (D) Diseased trees are to be removed, and their removal is in the public interest; or
- (E) The cutting is necessary for the maintenance of transportation or utility rights-of-way.

(2) A vegetative cutting permit is not required for the following provided the existing quality, character, density, and canopy is maintained as viewed from the river:

- (A) Clearing for a validly permitted structure, septic system, roadway, and parking areas.
- (B) Maintenance trimming or pruning on a particular parcel or in transportation or utility rights-of-way.

(3) Grading and Filling. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark is prohibited without a grading permit from the Community Zoning Administrator. A grading permit may be issued only if:

- (A) Slopes greater than twelve (12) percent (12 feet vertical rise in 100 horizontal feet) are preserved to the greatest extent practical.
- (B) Earthmoving, erosion, vegetative cutting, draining or filling of wetlands, and the destruction of natural amenities is minimized;

*Separate grading and filling permit not required for work pursuant to a building permit.*

- (C) A minimum amount of ground is exposed for the shortest duration practical;
- (D) During construction, temporary ground cover such as mulch is used and permanent ground cover such as sod is planted upon completion;
- (E) Methods to prevent erosion and trap sediment are utilized; and
- (F) Fill is stabilized to accepted engineering standards.

- (4) A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a structure, sewage disposal system, and private road and parking area performed pursuant to a validly issued building permit.

**5.4 Conditional Uses.**

*Land uses that may be permitted by the governing body.*

- (1) Conditional uses are uses which normally are not permitted in the urban or rural districts of the St Croix Riverway unless it is determined by the governing body, after a public hearing, that the proposed use shall:
  - (A) Preserve the scenic and recreational resources of the St Croix Riverway, especially in regard to the view from and use of the river.
  - (B) Maintain safe and healthful conditions.
  - (C) Limit erosion potential of the site based on degree and direction of slope, soil type, and vegetative cover.
- (2) Urban District Conditional Uses. In urban districts, uses permitted on May 1, 1974 by a governing body may again be permitted, provided the use has been listed in the governing body's ordinance and has been approved in writing by the Commissioner of the Department of Natural Resources.
- (3) Rural District Conditional Uses. In rural districts, the following uses may be permitted as conditional uses:
  - (A) Government resource management and interpretive activities;
  - (B) Marinas between the Boomsite Highway Wayside and the northern boundary of the City of Stillwater.
  - (C) Governmental highway waysides, rest areas, information areas, and scenic overlooks.

**5.5 Prohibited Uses.**

*Prohibited uses in the St. Croix Riverway.*

- (1) In all districts within the St Croix Riverway, the following new uses or expansion of existing uses are prohibited:
  - (A) Sand and gravel mining operations.
  - (B) Junk yards.
  - (C) Mobile home parks.

*Exceptions for prohibited uses that are "grandfathered in."*

- (D) Downhill ski areas.
- (E) Marinas upstream from the Boomsite Highway Wayside and downstream from Stillwater southern city limits in rural districts.
- (F) All uses not authorized in the local zoning ordinances.

**5.6 Non-Conforming Uses.**

- (1) Uses which are prohibited by this Ordinance but which were in existence prior to the effective date of this Ordinance are non-conforming uses and may continue as lawful, non-conforming uses. Such uses shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use, activity, or reclamation plan as stipulated in the most current permit issued prior to the adoption of this Ordinance.

**SECTION 6. GENERAL PROVISIONS**

*Structures in existence prior to this Ordinance which do not meet dimensional standards and structures subject to a variance are considered substandard.*

**6.1 Substandard Structures.**

- (1) All structures in existence prior to the adoption date of this Ordinance which do not meet the setbacks or other dimensional standards of this Ordinance and any structure which has been built, altered or modified subject to a variance for the structure or the land on which it is situated are considered substandard structures.
- (2) Any extension, enlargement, or alteration of an existing substandard structure or sanitary facility shall meet the setback standards of this Ordinance.
- (3) The following exceptions to the setback standards contained in this Ordinance for existing substandard structures and sanitary facilities are allowed, provided in no instance shall the extent to which any structure or sanitary facility violating a setback standard be increased.

*Exceptions to setback standards for substandard structures.*

- (A) An extension, enlargement, or alteration of an existing substandard structure or sanitary facility may be permitted on the side of the structure or facility facing away from the river and/or bluffline.

*Requirements when extending, enlarging or altering a substandard structure.*

- (B) A lateral improvement to an existing substandard structure or sanitary facility is allowed provided that all of the following conditions are met, subject to the general conditions of 6.1 (3). For the purpose of this section, the term structure does not include decks, porches, garages, or other non-year-around living spaces.

- (1) A minimum undisturbed setback of thirty (30) feet from all blufflines and fifty (50) feet from the ordinary high water mark of the river shall be maintained.

- (2) The maximum width of the improvement shall not exceed fifty (50) percent of the lateral width of the river facing profile of the existing structure. For the purpose of this section, the lateral profile width excludes decks, porches, garages or other non-year-around living

spaces, and is based on the date the structure became a substandard structure.

- (3) The improvement to the structure must be visually inconspicuous when viewed from the river during summer months.
- (4) An inspection by the Zoning Administrator and Washington Conservation District must include a finding that tree survival/growth and integrity and inherent stability of the existing landscape will be maintained if the improvement is built.
- (5) The improvement meets all other standards contained in this Ordinance, including those contained in Sections 4.2 and 6.2.
- (6) The height of the improvement does not exceed the height of the roof line of the existing structure.

- (C) Exterior decks attached to the structure which do not extend any roof or foundation, may be permitted to extend laterally (parallel to the river or bluffline) at the same setback as the substandard structure if said deck is visually inconspicuous in summer months when viewed from the river, and provided the deck has no roof or building foundation.
- (D) Substandard structures which do not meet the bluffland and/or shoreland setbacks shall not be raised in elevation or roofline, except in floodplain areas and then only to protect the structure.

*Replacement of substandard structures shall be in compliance with this Ordinance.*

- (4) If a substandard structure needs replacing due to destruction, deterioration, or obsolescence, such replacement shall comply with the dimensional standards of this Ordinance.

**6.2 Substandard Lots.**

*Requirements for substandard lots/parcels to be considered buildable lots.*

- (1) A lot or parcel of land for which a deed has been recorded in the office of the Washington County Recorder on or prior to May 1, 1974, is deemed a buildable lot provided it has frontage on a maintained public right-of-way, maintained by the Washington County or other unit of government, or frontage on a private road established and of record in the Office of the Washington County Recorder prior to May 1, 1974, and it can be demonstrated that a proper and adequate sewage disposal system can be installed; and a proposed structure can meet the sideyard setbacks of the local zoning ordinance, and the pre-existing lot area dimensions meet or exceed sixty (60) percent of the requirements for a new lot in the same district.

*A non-conforming lot that is part of a group of contiguous lots is inseparable.*

- (2) If any individual lot within a group of contiguous platted lots under common ownership does not meet the minimum requirements of this Ordinance, such individual lot shall not be considered a separate parcel for purposes of sale or development and must be combined with adjacent lots under common ownership, resulting in one (1) or more parcels, each meeting the minimum requirements of this Ordinance.

*Any premises intended for human occupancy must have a sewer.*

### **6.3 Sewage Disposal.**

- (1) Any premises intended for human occupancy must be provided with an adequate method of sewage disposal. Public or municipal collection and treatment facilities must be used where available and where feasible. Where public or municipal facilities are not available, all on-site individual sewer disposal systems shall conform to the minimum standards as set forth in Chapter Four, Subsurface Sewage Treatment System Regulations of the Washington County Development Code and Section 4 of this Ordinance. A septic tank/drainfield system is the only acceptable system for installation unless it can be demonstrated that this system is not feasible on the particular lot in question and it can be demonstrated that the system being proposed as an alternate will not cause a pollution problem.
- (2) The installation, alteration, repair, or extension of any individual sewage disposal system without a permit issued by the Washington County Department of Public Health and Environment for the specific installation, alteration, repair, or extension is prohibited.

*Permit required to install, alter, repair, or extend sewage disposal systems.*

### **6.4 Color of Structures.**

- (1) The exterior color of new or renovated structures, including roofs, shall be of brown, green or tan earth tones which blend with surrounding vegetation, unless completely screened from the river. Colors are subject to approval by the Washington County Zoning Administrator.

*Earth tone colors shall be used for structure exteriors*

### **6.5 Marinas.**

- (1) New and/or expanded marinas may only be allowed:
  - (A) Between the Boomsite Highway Wayside and the northern boundary of the City of Stillwater.
  - (B) Downstream from the northern City limits of Stillwater in urban districts.
- (2) New marinas shall meet the design standards of Department of Natural Resources Regulations including NR 2201 (f (2)).
- (3) Permit Requirements. Any construction or development associated with a marina prior to obtaining all required permits and authorizations is prohibited.
  - (A) Marinas are a conditional use in this Ordinance.
  - (B) For uses and structures above the ordinary high water mark associated with a marina, a public hearing shall be held by the governing body to consider a marina as a conditional use in accordance with Department of Natural Resources Regulations including NR 2202 (d (2)). The governing body may approve or deny the marina on said standards of the Department of Natural Resources. If the governing body approves the marina, final issuance of the local permit shall be conditioned upon granting of all State and Federal permits required in Department of Natural Resources Regulations including NR 2201 (f).

*Requirements for marinas.*

*Marina permit requirements.*

*Public waters cannot be altered without a permit.*

**6.6 Alterations in Public Waters.**

- (1) Changing the course, current, or cross section of public waters requires State and Federal permits as specified in Department of Natural Resources NR 2201 (g) before any local permits may be issued.

*Permit required for construction of transmission services.*

**6.7 Transmission Services.**

- (1) A permit from the Commissioner of the Department of Natural Resources is required pursuant to Minnesota Statutes, Sections 84.415 before transmission services may cross state-owned lands or public waters and shall be in accordance with Department of Natural Resources Regulations including NR 2201 (h).

*Permit required for road and railroad crossing construction and abandonment.*

**6.8 Public Roads**

- (1) A permit from the Commissioner of the Department of Natural Resources is required before construction, reconstruction, removal, or abandonment of any road or railroad crossing of public waters within the Riverway. Said permit shall be in accordance with Department of Natural Resources Regulations including NR 2201 (i).

**SECTION 7. SUBDIVISIONS**

*All subdivisions and lot line adjustments must be submitted to the County Zoning Administrator.*

**7.1 Land Suitability.**

- (1) All subdivisions and lot line adjustments within the Lower St. Croix River Bluffland & Shoreland District shall be submitted to the County Zoning Administrator for review and comment prior to recording. Submittal should occur during the preliminary or concept stage. Land which is unsuitable for development due to flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewer disposal capabilities or any other feature likely to be harmful to the health, safety, or welfare of future residents of a proposed subdivision or Washington County shall not be subdivided. In applying the provisions of this section, the governing body shall cite in writing the basis for its conclusion that the land is not suitable for the proposed use and provide the subdivider an opportunity to present evidence regarding such suitability at a public hearing. Thereafter the governing body may affirm, modify, or withdraw its determination of unsuitability.

*Unsuitable land shall not be subdivided.*

**7.2 Preliminary Plans.**

- (1) Preliminary plans for all plats, including open space developments shall be approved in writing by the Commissioner of the Department of Natural Resources or the Commissioner's agent prior to preliminary approval by the governing body.
- (2) All subdivisions shall comply with this Ordinance and the applicable provisions of Chapter Three, Washington County Subdivision Ordinance.

*Preliminary plans shall be approved by the DNR and shall comply with County ordinances.*

**7.3 Open Space Developments.**

- (1) A pattern of subdivision development which places dwelling units into compact groupings may be allowed when clustering of dwelling units preserves agricultural land,

*Open Space Developments and altered dimensional*

*standards within  
Open Space  
Development may  
be allowed.*

open space, woods, scenic views, wetlands, and other features of the natural environment better than a traditional subdivision development. Except for setbacks and height limits, variances to the dimensional standards of this Ordinance may be allowed for open space developments, provided:

- (A) In rural districts the number of dwelling units allowed shall not exceed the total number of dwelling units allowed if the development was based on the minimum lot size requirements for a single family residential subdivision.
- (B) In urban districts and only where public sewer and water will be installed in the proposed open space development, the number of dwelling units shall not exceed fifty (50) percent more than the total number of dwelling units allowed if the development was based on the minimum lot size requirements for single family residential subdivision.
- (C) Open space shall be preserved. At least fifty (50) percent of the length of shoreland or bluffland frontage as viewed from the river shall be kept in its natural state.
- (D) Temporary docks, if allowed, shall be centralized and of a size which does not exceed the needs of the residents of the development.

## SECTION 8. ADMINISTRATION

### 8.1 Administrative Procedure.

*Administrative  
procedures that  
shall be followed for  
all zoning district  
amendments,  
Conditional Use  
Permits,  
subdivisions, and  
variances.*

- (1) In addition to the applicable administrative procedures set forth in the zoning ordinance of the local community, the following procedures shall be implemented with respect to land that is subject to this Ordinance.
  - (A) A public hearing shall be held by the local authority for all zoning district amendments, Conditional Use Permits, subdivisions, and variances.
  - (B) No less than twenty (20) days prior to the public hearing, the local Zoning Administrator shall send notice and copies of the applicants information as specified in 8.6 (1) to the following agencies for review and comment:
    - (1) Department of Natural Resources,
    - (2) Washington County and Community Planning Commissions,
- (2) No less than ten (10) days prior to the date of any such public hearing, the Zoning Administrator shall send via U.S. Mail, notice of the purpose, time, and location of the public hearing to all property owners within five hundred (500) feet of the subject property in incorporated areas, or within one-half (1/2) mile of the subject property in unincorporated areas and also to the board of supervisors of any township and the municipal council of any municipality within two (2) miles of the subject property.
- (3) Notice of the purpose, time, and location of any such public hearing shall be published in the official newspaper of the affected communities no less than ten (10) days prior to the date of the hearing.

*Commissioner of the DNR must certify compliance with applicable regulations.*

**8.2 Certification by the Commissioner of the Department of Natural Resources.**

- (1) Before any zoning district amendment or ordinance amendment becomes final, the County 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 Department of Natural Resources Regulations including NR 2202 (e).

*Board of Adjustment and Appeals shall forward decision within 10 days.*

**8.3 Forwarding of Board of Adjustment and Appeals Decisions.**

- (1) The Board of Adjustment and Appeals shall forward decisions within ten (10) days of final action on all Conditional Use Permits and subdivisions to the Commissioner of the Department of Natural Resources.

*Permit process.*

**8.4 Permit Process.**

Permits per this Ordinance	Urban District	Rural District
Building Permits	LP	LP
Septic Permits	LP	LP
Grading Permits	LP	LP
Tree-Cutting Permits	LP	LP
Conditional Use Permits	PH – FD	PH – FD
Amendments to Ordinance	PH – CC	PH – CC
Amendments to District Boundary	PH – CC	PH – CC
Plats and Cluster Developments	PH – WA – FD	PH – WA – FD
Variances	PH	PH

- LP - Permit issued by the local authority in accordance with this Ordinance and all other local permits.
- CC - Certification by the Commissioner of the Department of Natural Resources prior to final local approval.
- PH - Public hearing necessary by the County giving twenty (20) days' notice of meeting to the Commissioner of the Department of Natural Resources and other agencies listed in 8.1 (1) (B).
- FD - Local authority forwards any decisions to the Commissioner of the Department of Natural Resources within ten (10) days after taking final action.
- WA - The Commissioner of the Department of Natural Resources shall submit, after notice of public hearing and before the local authority gives preliminary approval, a written review and approval of the project.

*Rules for granting variances.*

**8.5 Variances.**

- (1) Variances may only be granted when practical difficulties make the strict enforcement of this Ordinance impractical. Practical difficulties means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this Ordinance; the plight of the landowner is due to

circumstances unique to his property, not created by the landowner after May 1, 1974; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute a practical difficulty for the reasonable use of the property and associated structures under the conditions allowed by this Ordinance. In addition, a variance that would permit any use that is prohibited by this Ordinance will not be granted. Conditions may be imposed in conjunction with the granting of a variance to insure compliance and to protect adjacent properties and the public interest, including but not limited to the view from the river.

- (2) The formal public hearing for a variance shall be held by the Board of Adjustment and Appeals as set forth in the Development Code.

*Information to be submitted by the applicant.*

#### **8.6 Requirements of the Applicant for a Public Hearing.**

- (1) The applicant shall submit copies of the following information and additional information as requested to the local authority thirty (30) days prior to the public hearing on the application for a conditional use, variance, or subdivision:
- (A) Plat of survey showing the property location, boundaries, dimensions, elevations, blufflines, utility and roadway corridors, the ordinary high water mark, floodway, and floodplain.
  - (B) An overlay map showing the most recent aerial photo of the property and the parcel/property lines.
  - (C) Location of existing and proposed structures including height and setback dimensions.
  - (D) Location of existing and proposed alterations of vegetation and topography.
  - (E) Adjoining water-oriented uses.
  - (F) Suitability of the area for on-site waste disposal. Type, size, and location of the system shall be indicated. If a public or municipal wastewater collection and treatment system is to be utilized, the applicant must submit a written agreement from the municipality or sanitary authority indicating that the system has the capacity to adequately serve the development.
  - (G) Water supply system.
  - (H) An estimate of permanent and transient residents.

*Factors to be addressed by the County when considering development proposals and zoning amendments.*

#### **8.7 Factors to be Considered.**

- (1) When considering a development proposal or zoning amendment within the St Croix River Management Overlay District, the governing body shall address the following items in making its decisions:
- (A) Preserving the scenic and recreational resources of the St. Croix Riverway, including but not limited to the view from and use of the river

- (B) The maintenance of safe and healthful conditions.
- (C) The prevention and control of water pollution, including sedimentation.
- (D) The location of the site with respect to floodways, floodplains, slopes, and blufflines.
- (E) The erosion potential of the site based on degree and direction of slope, soil type, and vegetative cover.
- (F) Potential impact on game and fish habitat.
- (G) Location of the site with respect to existing or future access roads.
- (H) The amount of wastes to be generated and the adequacy of the proposed disposal systems.
- (I) The anticipated demand for police, fire, medical, and school services and facilities.
- (J) The compatibility of the proposed development with uses on adjacent land

**SECTION 9. EFFECTUATION**

*Violation of this Ordinance is a misdemeanor.*

**9.1 Enforcement.**

- (1) It is unlawful for any person to violate any of the terms and provisions of this Ordinance. Violation thereof is a misdemeanor. Each day that a violation exists constitutes a separate offense.
- (2) In the event of a violation or a threatened violation of this Ordinance, in addition to other remedies, the governing body or the Commissioner of the Department of Natural Resources, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it is the duty of the Attorney representing the appropriate authority to institute such action.

*Actions resulting from violations.*

*Provisions of this Ordinance are separable. Any finding by a court that a provision is invalid does not affect the other provisions.*

**9.2 Separability.**

- (1) The several provisions of this Ordinance are separable in accordance with the following:
- (2) If any court of competent jurisdiction adjudges any provision of this Ordinance to be invalid, such judgment does not affect any other provisions of this Ordinance not specifically included in said judgment.
- (3) If any court of competent jurisdiction adjudges invalid the application of any portion of this Ordinance to a particular property, building, or other structure, such judgment does not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.
- (4) Nothing contained in this Ordinance repeals or amends any Ordinance requiring a permit or license to engage in any business or occupation.

**SECTION 10. 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 Kiesel, 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:

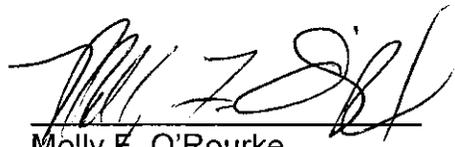
Washington County  
Public Works Department  
11660 Myeron Road North  
Stillwater, MN 55082

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	___