

Topic:	Purchase of Development Rights
Resource Type:	Regulations
State:	Minnesota
Jurisdiction Type:	Municipal
Municipality:	County of Washington
Year (adopted, written, etc.):	2000
Community Type - applicable to:	Urban; Suburban; Rural
Title:	County of Washington Purchase of Development Rights Ordinance
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Abstract

Areas of the county which are important for their high quality natural areas, agricultural or scenic value have been identified and mapped. Lands within these areas are then eligible for the purchase of development rights (conservation easement) using county revenue or in conjunction with other sources of money. The permanent easement is then held and enforced by a qualified agency or group.

Resource

SECTION 1. TITLE AND PURPOSE

1.1 Pursuant to Minnesota Statute, 84C and Minnesota Statute 373.40, Washington County establishes a Purchase of Development Rights (PDR) Program for the purpose of preserving Open Space, including natural and scenic areas and productive Agricultural Land, while the fee title to these lands remains in private ownership. The program's policies, rules and official controls are adopted in this ordinance, hereafter known as the Washington County Purchase of Development Rights Ordinance.

1.2 Purchase of Development Rights will occur within the "Green Corridor Opportunity Areas." The map with this title is hereby identified and made a part of this Ordinance as Attachment 1. These lands, chosen through an extensive analytical and public process, encompass contiguous blocks and Corridors of high-quality natural areas, productive Agricultural Land and scenic views within the County. They surround and connect the County park system and many other public and private Open Space areas. Existing zoning restrictions, while effective at controlling densities, cannot keep these lands in their present undeveloped state. Purchase of Development Rights is one of several voluntary, incentive-based means for achieving public benefits through private land conservation. This program directly confers a public benefit through voluntary private action.

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 regarding protection of rural areas, specifically the following:

- Preserve the rural character and landscapes of Washington County.
- Preserve agriculture as a permanent land use and a viable economic activity in the County.
- Maintain a distinction between urban and rural areas.
- Use zoning, parks, public Open Space, trails and roads to create a distinctive north-south "green" Corridor through the County.

(3) To serve additional public purposes through Open Space protection, including storm water management, habitat protection, trail Corridor extension, and linking of public parks and other amenities.

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 crops, livestock, and vegetables, as well as to dairy, poultry and horticultural products, equestrian activities and alternative products of the land.

(2) Conservation Easement: A nonpossessory interest in real property whereby the holder may impose certain limitations or affirmative obligations the purposes 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) Development: An activity which materially alters or affects the existing conditions or use of any land.

(6) Development Rights: The right to use and subdivide land for any and all residential, commercial and industrial purposes and activities which are not incident to agriculture and Open Space.

(7) Eligible Land: Properties for which the purchase of Development Rights is authorized pursuant to this Ordinance.

(8) Open Space: Land used for agriculture, natural habitat, pedestrian and/or scenic views, that is undivided and permanently protected from future Development.

(9) Resource Values: The values that a Conservation Easement is intended to protect, as defined and recorded in the baseline documentation. Values may include but are not limited to natural habitat, productive Agricultural Land, scenic views and connections to or extensions of existing parks or protected Open Space.

(10) Selection Round: A cycle of the Purchase of Development Rights Program, from initial advertisement of the program through completion of offers to purchase Development Rights Conservation Easements.

SECTION 3. AUTHORIZATION

3.1 The County Board may use any legally available revenue source to acquire Conservation Easements over any Eligible Land within the County, as authorized in Section 5, including but not limited to purchase, gift, grant, bequest, devise, covenant or contract. The collected tax revenues shall be used to acquire such property interests only upon application of the Owner and in a strictly voluntary manner.

3.2 The value of Conservation Easements shall be determined as provided in Section 7 of this Ordinance and attendant Program Policy and Procedure Document.

3.3 The County Board is authorized to enter into cash purchase and/or investment purchase contracts consistent with applicable law for the purposes of this Program

3.4 The County Board may participate jointly in the acquisition of interests in Eligible Lands with other qualified organizations empowered to hold interest in real property in accordance with Minnesota Statutes, Section 84C.01-05.

3.5 The County Board 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 both the baseline studies and the procedures for monitoring of any Conservation Easements acquired under this Ordinance.

SECTION 4. ESTABLISHMENT OF ADVISORY COMMITTEE

4.1 The County Board shall appoint a volunteer Advisory Committee which shall advise the Board on the selection of Eligible Lands on which Development Rights are offered for acquisition by their owners and other program activities.

SECTION 5. ELIGIBILITY AND PRIORITIES

5.1 Prior to each Selection Round, the County Board shall establish criteria to be used in prioritizing applications and determining which offers to consider. This criteria will be contained in a Program Policy and Procedure Document.

SECTION 6. SELECTION PROCESS

6.1 The PDR program shall have a periodic application and selection process, termed a "Selection Round." The timing and process to be used will be described in a Program Policy and Procedure Document.

SECTION 7. CONSERVATION EASEMENT VALUATION

7.1 Development Rights Calculation

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 minimum lot size and lot widths for conventional subdivisions and other requirements of applicable development codes.

7.2 Valuation Methods.

The value of Conservation Easements shall be determined using a method established by the County Board prior to each Selection Round. Appraisals may be used, or an equivalent method of valuing Conservation Easements may be determined using assessed valuation, appraisal sampling, or other methods. The method to be used will be specified at the beginning of each Selection Round and will be described in the Program Policy and Procedures Document.

SECTION 8. NATURE OF CONSERVATION EASEMENT RESTRICTIONS

8.1 Nature of Restrictions.

Conservation Easements shall be permanent. The specific terms of the Conservation Easement shall be negotiated on a case-by-case basis within the guidelines specified in the Program Policy Procedures Document. The terms will be designed to protect the property's Resource Values, as defined through the initial application and the ranking and selection process.

8.2 Holding of Conservation Easements.

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 Statutes, Section 84C.01-05, at the direction of the County Board.

SECTION 9. CONSERVATION EASEMENT MONITORING AND ENFORCEMENT

9.1 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.

9.2 Frequency of monitoring.

Conservation Easements shall be monitored on an annual basis to ensure compliance. Monitoring may include a site visit, with prior notice to the landowner.

9.3 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.

Adopted February 8, 2000

Source: www.co.washington.mn.us/pdrordin.htm