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CHAPTER 1. ZONING & LAND REGULATIONS CODE

SECTION 1. GENERAL PROVISIONS

Subsection 1.1: Title

Except when referred to in this document as the “Ordinance”, this Ordinance shall be known, cited and referred to as the “Swift County Zoning and Land Regulation Code”.

Subsection 1.2: Statutory Authorization

The authority to develop this Ordinance complies with the following Minnesota Statutes:

- A. Minnesota Statute 394.21: Authority to carry on County planning and Zoning,
- B. Minnesota Statute 394.23: Comprehensive Plan,
- C. Minnesota Statute 103 A-I: Water Policy and Information, Water Planning and Project Implementation, Soil and Water Conservation Districts, Watershed Districts, Drainage, Protection of Water Resources, Waters of the State, Groundwater Protection, Wells, Borings, and Underground Uses,
- D. Minnesota Statute 166.G: Critical areas with significant historical, natural, scientific or cultural resources, which may provide regional or statewide importance.

Subsection 1.3: Purpose

This Ordinance regulates the development and use of lands in the unincorporated areas in Swift County for the following purposes:

- A. Protect the health, safety and general welfare of the public.
- B. Preserve and protect the economic base of the County.
- C. Prevent legal and personal problems that may result from incompatible uses on adjacent tracts of land.
- D. Encourage the most efficient use of existing public services and protect the public’s investment in providing these facilities both now and in the future.
- E. Improve and protect the physical environment of the County.

Subsection 1.4: Compliance & Interpretation

- A. Compliance.

No land, lot, or structure in Swift County that lies outside the incorporated limits of any municipality shall be erected or altered which does not comply with the regulations of this Ordinance, nor shall any structure or premises be used for any purpose other than a use permitted by this Ordinance. After the effective date of the Ordinance any existing use of land or structure not in conformity with this Ordinance shall be regarded as a non-conforming use.

B. Interpretation.

In interpreting the provisions of this Ordinance, they shall be considered as the minimum requirements for the promotion of the public's health, safety, and general welfare. Any statutes, regulations or permanent township zoning ordinances that are in effect or which shall be enacted, during the period covered by this Ordinance, which are more restrictive shall apply. Where the provisions of this Ordinance impose greater restrictions than those of any statutes, regulations or township zoning ordinances, the provisions of this Ordinance shall apply.

Subsection 1.5: Severability

If any section, clause, provision or portion of this Ordinance, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Subsection 1.6: Abrogation & Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance section imposes greater restriction, the provisions of this Ordinance shall prevail.

Subsection 1.7: Establishment of Districts

A. Interpretation of Boundaries

For the purpose of this Ordinance, each district's boundaries will be divided into 40-acre parcels of land. Every 40-acre parcel of land in the unincorporated areas of Swift County, except for those lands which are owned by the State and Federal government, shall be assigned to a district in accordance with the descriptions provided in Sections 3 - 7. Each 40-acre parcel of land shall conform to the respective district's provisions, permitted uses, conditional uses and standards as specified by this Ordinance. The following sections provide descriptions for classifying every 40-acre parcel of land in the unincorporated areas of Swift County for the five (5) districts identified by this Ordinance. Please note that this identification and location of prime, good, marginal and non-tillable farm land is identified in Chapter 2 of Swift County's Comprehensive Plan, along with the urban and natural resources features located within the County.

1. For the unincorporated areas of Swift County that lie within the jurisdiction of this Ordinance, they are hereby divided into five (5) districts. Agricultural Preservation District # 1
2. Agricultural Preservation District # 2
3. Urban Development District
4. Floodplain Management District
5. Shoreland Management District

Subsection 1.8: Application of Regulations

A. Purpose.

It is the intent of this Ordinance to regulate land use and development in the unincorporated areas of Swift County for the following purposes: protect and preserve the natural resource characteristics existing within the County that have local, regional, and statewide significance; and to promote urban/non-farm development which will protect the public's health, safety, and general welfare.

B. Interpretation.

Each 40-acre parcel of land in the unincorporated areas of Swift County lies in one and only one district, therefore, the regulations for land use and development for a particular 40-acre tract of land will only apply to the district it is assigned to by this Ordinance. Any changes or alterations to the regulations that apply to that 40-acre parcel of land must follow the amendment procedures outlined in this Ordinance.

Subsection 1.9: Zoning Map

The location and boundaries of the five (5) districts referred to by Subsection 17. B and Sections 3-7 (in detail) of this Ordinance are identified by the large-scale map kept on file in the County Zoning Administrator's office and online on the Environmental Services Department webpage. This map is hereby declared to be a part of this Ordinance and will represent the Official Zoning Map used to implement the standards and provisions of this Ordinance. Any amendment made to the official large-scale Zoning Map shall be made in accordance to the amendment procedure identified in Subsection 2.12 (Amendments) of this Ordinance.

The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if determined that, through other measures, lands are adequately protected for the intended use.

Subsection 1.10: Definitions

For purposes of this Ordinance, the below stated definitions, as well as those set forth in other portions of this Ordinance, shall apply whenever the words are used in connection with any matter pertaining to the implementation of this Ordinance. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The word "shall" is mandatory and not discretionary; and the word "may" is permissive. Words used in the past tense shall include the present and future; and words used in the singular shall include the plural and singular. The terms "used for" shall include the terms "arranged for," "designed for," "intended for," "maintained for," and "occupied for." All distances, unless otherwise specified, shall be measured horizontally.

Abandoned Icebox: Any unused icebox, refrigerator or other box with a door therein which will effectively exclude air when shut.

Accessory Structure: A structure or a portion of a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use structure on the same lot.

Adequate container: A container used for storage of solid waste that is constructed of material that is durable, rust resistant, nonabsorbent, watertight, rodent and insect proof, and which has sufficient cover and handles.

Adequate turf: A living ground cover of native perennial grasses or other suitable vegetation free of noxious weeds which provides sufficient ground cover to effectively prevent loss of final cover by winds or water erosion.

Adult Body Painting Studio: An establishment which provides the service of applying paint or other substance whether transparent or nontransparent to or on the body of a patron when such body is wholly or partially nude in terms of “specified anatomical areas”.

Adult Bookstore: An establishment, building or business or any portion thereof used for the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such establishment, building or business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” or if a consistent and substantial usable floor area of the establishment, building or business is characterized by the emphasis on matters depicting, describing or related to “specified sexual activities” or “specified anatomical areas”.

Adult Cabaret: An establishment, building or business, or any portion thereof, used for providing dancing or other live entertainment, if such establishment excludes minors by virtue of age, or if the entertainers appear in a state of nudity or semi-nude, or if such dancing or other live entertainments distinguished or characterized by an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas”.

Adult Companionship Establishment: An establishment or business which excludes minors because of age and provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Health Club/Adult Sports Club: A health/sports club which excludes minors by reason of age and is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Hotel or Motel: A motel, hotel, or other similar commercial establishment or business which specifically exclude minors from patronage, and which (a) offers public accommodations, for any form of consideration, and which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas” and (b) offers sleeping rooms for rent for a period of time less than ten (10) hours.

Adult Massage Parlor: A massage parlor restricts minors by reason of age or law, which provides services of massage if such services are distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Mini-Motion Picture Theatre: An establishment, business or building, or any portions thereof, with a capacity for less than fifty (50) persons used for presenting visual media material if such establishment, business or building as a prevailing practice excludes minors by virtue of age or law, or if said material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

Adult Modeling Studio/Nude Model Studio: An establishment of business whose major business is the provision, to customers, of figure models who appear semi-nude or in a state of nudity with the intent of providing sexual stimulation or sexual gratification to such customers, or said models engage in “specified sexual activities” or display “specified anatomical areas”, and said models are provided to be observed, sketched, drawn, painted, painted upon, sculptured, photographed, or similarly depicted by customers. These establishments shall not include a proprietary school licensed by the State of Minnesota or a college, junior college or university which maintains and operates education programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, computers, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Motion Picture Theatre: An establishment, business, or building, or any portion thereof, with a capacity of fifty (50) or more persons used for presenting visual media material if said establishment, business or building as a prevailing practice excludes minors by virtue of age or law, or if said material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patron therein.

Adult Novelty Business: A business that has a principal or regular activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to “specified sexual activities” or “specified anatomical areas”.

Adult Sauna/Steam Room/Bathhouse: An establishment, business, or building, or any portion thereof, that excludes minors due to age or law, and which provides a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Theatre: A theatre, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

Adult Use: Adult body painting studios, adult bookstores, adult cabarets, adult companionship establishments, adult health/sports clubs, adult hotels/motels, adult massage parlors, adult mini-motion picture theatres, adult/nude modeling studios, adult motion picture arcades, adult motion picture theatres, adult novelty businesses, adult saunas/steam rooms/bathhouses, adult theatres, escort agencies, sexual encounter centers or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description “specified sexual activities” or “specified anatomical areas” which are capable of being seen by members of the public. This definition does not apply to the practices of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by State licensed registered persons. Activities classified as obscene are defined by Minnesota Statutes Section 617.241 are not lawful and are not included in this definition.

Aggregated Project: Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

Agricultural: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture and animal and poultry husbandry and the necessary accessory uses for packaging, treating or storing the produce; provided, however, that the operation of any such accessory used shall be secondary to that of the normal agricultural activities.

Agricultural Building or Structure: Any structure or building existing or erected on agricultural land that is designed, constructed, and used principally for agricultural purposes, with the exception of dwellings.

Agricultural Land: Agricultural lands have characteristics which support the production of crops and/or livestock on a continuous basis when managed under appropriate soils and water conservation practices. Four categories of agricultural lands are within this definition: Prime, Good, Marginal, and Non-tillable.

- A. **Prime Agricultural Land:** Land with soil qualities of Soil Conservation Service Class I and II soils.
- B. **Good Agricultural Land:** Land with soil qualities of Soil Conservation Service Class III soils.
- C. **Marginal Agricultural Land:** Land with soil qualities of Soil Conservation Service Class IV soils.
- D. **Non-tillable Agricultural Land:** Land with soil qualities of Soil Conservation Service Class V, VI, VII, and VIII.

Agricultural Use: Means that use of land for the production of food or fiber, their storage on the farm, and/or the raising thereon of animals. This includes land enrolled in government conservation programs, wetlands, pasture, forestland, and wildlife land.

Animal Unit: For the purposes of this Ordinance any animal unit listed on the Animal Unit Equivalent chart of this Ordinance shall be defined as the average weight of the animal divided by 1,000 pounds in accordance with state standards.

Animal Unit Equivalent	
Animals	Equivalent
Calves (150-500 lbs.)	0.2 animal units
Feeder Heifer	0.7 animal units
Jersey Cows	1.0 animal units
Beef Cows	1.0 animal units
Young Dairy Stock (500-1000 lbs.)	1.0 animal units
Replacement Heifers	0.7 animal units
Dairy Cows	1.4 animal units
Nursery Pigs (up to 50 lbs.)	0.05 animal units
Finishing Hogs (55 – market weight)	0.3 animal units
Sows	0.4 animal units
Boars	0.4 animal units
Sheep	0.1 animal units
Turkeys < 5 pounds	0.005 animal units
Turkeys > 5 pounds	0.018 animal units
Layer Chicken < 5 pounds	0.003 animal units
Layer Chicken > 5 pounds	0.005 animal units
Broiler Chicken < 5 pounds	0.003 animal units
Broiler Chicken > 5 pounds	0.005 animal units
Horses	1.0 animal units
Ostriches	Divide by 1000

Source: Minnesota Pollution Control Agency

Backyard Compost Site: A site used to compost food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings from a single family or household, apartment, or single commercial office, a member of which is the owner, or lessee of the property.

Basement: Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Bluff: A topographic feature such as a hill, cliff, or embankment having all of the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

- A. Part or all of the feature is located in a shoreland area;
- B. The slope rises at least 25 feet above the ordinary high water level of the water body;
- C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
- D. The slope must drain toward the water body.

Bluff Impact Zone: A bluff and land located within 20 feet from the top of a bluff.

Boathouse: A structure designed and used solely for the storage of boats or boating equipment.

Board of Adjustment: A quasi-judicial body with power and duties as defined in Section 2 of this Ordinance.

Building: Any structure either temporary or permanent having a roof for the shelter, support or enclosure of persons, animals, chattel or property of any kind.

Building, Agricultural: All buildings, other than dwellings, which are incidental to a farming operation

Building Height: The highest point of the structure.

Building Line: The line measured across the width of the lot as the point where the main structure is placed in accordance with setback provisions.

Child Care Facility: A facility holding a license from Swift County or the State of Minnesota pursuant to Minnesota Statutes, Chapter 245A and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

Church: A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

Commercial Use: The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

Commercial Hauler: Any person who owns, operates, or leases vehicles for hire for the purpose of collection and/or transportation of any type of solid waste.

Commissioner: Minnesota Commissioner of Natural Resources.

Community Health Board: The Countryside Public Health Service Environmental Health Sanitarian and all staff duly authorized to enforce the provisions of this ordinance referred thereafter as Countryside Public Health Service.

Community Water and Sewer Systems: Utilities systems serving a group of buildings, lot, or an area of the county, with the design and construction of such utility systems as approved by the County and the State of Minnesota.

Compliance Checks: The system the county uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal,

State, or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

Compost Facility: A site used to compost or co-compost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate, and storage areas for the incoming waste, the final product, and residuals resulting from the composting process.

Compostables: Biodegradable materials including food waste, yard waste, wood and lumber less than 4 inches in diameter and less than 3 feet in length, paper materials that are not considered recyclable including glossy paper, catalogs, books, magazines, coffee filters, tissue paper, cereal boxes, and paper board.

Composting: The controlled microbial degradation of organic waste to yield humus like product.

Concept Plan/Sketch Plan: A generalized plan of a proposed subdivision indicating lot layouts, streets, park areas, and water and sewer systems presented to County.

Conditions: Guarantees upon the conditional use permit deemed necessary for the protection of the public interest.

Conditional Use: Means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon finding that: certain conditions as detailed in the Zoning Ordinance exist and the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

County: Swift County, Minnesota

County Board: Swift County Board of Commissioners.

County Facility: The Swift County Composting/Recycling facility located in Section 1 of Six-Mile Grove Township, Swift County, Minnesota.

Countryside Public Health: The community Public Health Agency serving Big Stone, Chippewa, Lac qui Parle, Swift, and Yellow Medicine counties through a multi-county joint powers agreement established in 1974.

Crop Land: The use of land for the production for commercial purposes and on the farm use of, but not limited to, adopted row or close sown crops, fruits and nuts.

Deck: A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

Demolition Debris: Solid waste resulting from the demolition of buildings, roads, and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. Demolition debris does not include asbestos wastes.

Demolition Debris Land Disposal Facility: A site used to dispose of demolition debris.

Dependent Site: Recreational camping area sites which do not have sewer connections and are dependent upon a central facility for this utility.

Disposal System: A system for disposing of sewage, industrial waste and other wastes includes sewer systems and treatment works.

District: A section of the County for which the regulations governing the height, area, use of buildings and premises are the same.

Distinguished or Characterized by an Emphasis Upon: Means the dominant or principal theme of the object described by such a phrase. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or description of Specified Sexual Activities or Specified Anatomical Areas,” the film so described are those whose dominant or principal character and theme are the exhibition or description of “specified anatomical areas” or “specified sexual activities.”

Drainage-Way: Any natural or artificial water course, including but not limited to; streams, rivers, creeks, ditches, channels, canals, conduits, culverts, streams, waterways, gullies, ravines, or washes in which, waters flow in a definite direction or course, either continually or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

Duplex, Triplex, and Quad: A dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling: A residence is any dwelling which is legally permitted and is currently occupied or has been occupied for a period of 90 non consecutive days within 24 months.

Dwelling Site: A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling Unit: Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Easement: A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways, and gas lines.

Employee: Any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Environmental Health Department: The Countryside Public Health (CPH) Community Health Board and its Environmental Health staff.

Environmental Health Director: The Countryside Public Health (CPH) Community Health Board's Environmental Director and any related staff acting under the Board's authority.

Escort: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Equal Degree of Encroachment: A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Erosion: The process by which the ground surface is worn away by action of wind or water.

Essential Services: Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communication supply or disposal systems and structures used by public utilities or governmental departments or commissions or as required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings. For the purpose of this Ordinance the word "building" does not include "structures" for essential services.

Extractive Use: The use of land for surface or subsurface removal of sand, gravel, rock, industrial materials, and other non-metallic minerals, and peat not regulated under Minnesota Statutes 93.44 - 93.51.

Facility: The land, structure, monitoring devices, and other improvements on the land used for monitoring, treating, processing, storing, or disposing of solid waste, leachate, or residuals from solid waste processing.

Fall Zone: The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

Farm: A tract of land, which is principally used for agriculture activities such as the production of crops, animals. A farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm and must meet the definition of “farm” under Minnesota’s Green Acres Law M.S.A., Chapter 273.111.

Farmstead: A development area designed and arranged to support farm activities. A variety of structures, storage area, and other facilities, including adjacent windbreaks and shelterbelts, typically comprise a farmstead. The area may contain one or more Farm Dwellings. A livestock Feedlot may be present within the defined area of a Farmstead, but for the purpose of the Ordinance, Livestock Feedlots shall not be considered to be part of a Farmstead. A Farmstead has boundaries which can be approximately defined and differentiated from surrounding fields and pastures and the Environmental Director shall determine such boundaries as necessary.

Feeder Line: Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

Feedlot, Animal/Livestock: A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this Ordinance. The Environmental Director shall define the area covered by a feedlot.

Floodplain: The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Feedlot, Existing: Operational at this time.

Feedlot, New: An animal feedlot constructed and operated on a site where no animal feedlot existed previously or where a preexisting animal feedlot has been abandoned or unused for a period of five years or more.

Flood: A temporary increase in the flow or stage of a stream or in the state of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency: The frequency of which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe: That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Swift County, Minnesota and Incorporated Areas.

Flood Proofing: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway: The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

Garbage: Discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.

Generator or Solid Waste Generator: Any person that generates waste.

Guest Cottage: A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot in the shoreland district.

Hardship: As used in connection with a variance under this Ordinance, means the property in question cannot be put to a reasonable use under the conditions allowed by this Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if any reasonable use for the property exists under the terms of this Ordinance.

Hazardous Substance: The meaning given it in Minnesota Statutes, section 115B.02, subdivision 8.

Health Officer: Director of Environmental Health, or the director's designee, or any inspector who is designated by Countryside Community Health Board.

Highway: Any public thoroughfare or vehicular right-of-way with a Federal or State numerical route designation; any public thoroughfare or vehicular right-of-way with a Swift County numerical route designation.

Home Occupations: The use of a property zoned residential or agricultural for any occupation, activity or profession carried out for financial gain which is clearly subordinate and incidental to the use of the property as residential, which is carried out solely within the main dwelling or an accessory building, and does not alter or change the exterior character of the appearance of the property and that which is normally associated with a residential dwelling unit, and that is created and operated by the occupant of the dwelling.

Household Hazardous Waste: Refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because its quantity, concentration, or chemical, physical or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or

disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Hunting Shack: A low investment shelter in a hunting area with an intended purpose of limited use for less than sixty (60) days annually.

Incorporated: When manure is surface mechanically applied and mechanically incorporated within 48 hours of application.

Individually Packaged: The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco.

Independent Site: Recreational camping area sites which are provided with individual sewer connections.

Industrial Use: The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Injected: When manure is mechanically injected or tilled into the soil during the manure application.

Intensive Vegetation Clearing: The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

Karst: A type of topography that is formed from the dissolution of limestone, dolomite, or gypsum and that is characterized by closed depressions or sinkholes, and underground drainage through conduits enlarged by dissolution.

Land Disposal Facility: Any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.

Land Use: All activities, occupations, practices, and utilization of land space, including water, subsurface and air space.

Loosies: The common term used to refer to a single or individually packaged cigarette.

Lot: A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.

Lot Area: The lot area is the land area within the lot lines.

Lot Corner: A lot bordered on at least two adjacent sides by intersecting streets.

Lot Depth: The mean horizontal distance between the mean front road right-of-way line and mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

Lot Width: The shortest distance between lot lines measured at the midpoint of the building line.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

MPCA: Minnesota Pollution Control Agency.

Manufactured Homes: 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 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 the Established Standards and Procedures Regulating Manufactured Home Parks and Recreational Camping Areas Chapter.

Manufactured Home Park: Any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park.

Metes and Bounds Description: A description of a tract of land by starting at a given point, running so many feet in a certain direction, so many feet another direction, etc., back to the point of beginning.

Meteorological Tower: For the purposes of this Wind Energy Conversation System Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

Minor: Any person under eighteen (18) years of age.

Motel: A business comprising of a series of attached or semi-detached or detached rental units for the overnight accommodation of transient guests.

Moveable Place of Business: Refers to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Municipality: Shall mean any city, town or township, or village in Big Stone, Chippewa, Lac qui Parle, Swift and Yellow Medicine counties, however organized.

NRCS: Natural Resources Conversation Service.

Non-conforming Use: Any legal use, structure or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

Non-Processibles: Waste which is not recyclable or compostable, including: Demolition debris, Styrofoam products, light bulbs, window glass, plastic and cellophane bags, aerosol cans, and toothpaste tubes.

Nudity: The showing of the human male or female genitals, public area, vulva, or anus with than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion of the nipple; or the depiction or showing of the covered male genitals in a discernibly turgid state.

Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Odor Technology: The accepted industry standard as of the date of application.

Open Burning: Burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct, or chimney.

Open Fences: Wire or other fences so constructed that they do not hold or restrict snow.

Open Space Recreation Uses: Land and/or water that has been purchased for preservation or developed for both active and passive leisure time activities including public and private parks and recreation areas, wildlife management and water production areas, multi-purpose trail systems, environmental education sites, historic sites and interpretive centers, primitive campsites, campgrounds, etc.

Operator: The person or persons responsible for the operation of a facility.

Ordinary High Water Level (OHWL): The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient

period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the OHWL is the elevation of the top of the bank of the channel. For reservoirs and flowage, the OHWL is the operating elevation of the normal summer pool.

Outlot: A lot remnant or any parcel of land included in a plat which is not buildable at the time of platting. An outlot may be a large tract that could be subdivided in the future; or a lot which may be too small to comply with the minimum size requirements of zoning and subdivision ordinances; or a lot otherwise unsuitable for development and, therefore, not usable as a building site.

Owner: Any individual, firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient property interest in a property to commence and maintain proceedings under this Ordinance, or the owner of record.

Pasture: Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

Person(s): Any individual, firm, partnership, corporation, company, association, joint stock association or body politic, includes any trustee, receiver, assignee, or other similar representative thereof.

Planning Commission: A quasi-judicial body with powers and duties as defined in Section 3 of this Ordinance.

Plot: A tract of land other than one unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as an individual site and improved or intended to be improved by the erection thereon of buildings and including as a minimum such open spaces as required under this Ordinance.

Preliminary Plat: The preliminary map, drawing, or chart indicating the proposed layout of the subdivision to be submitted to the planning commission and the county board for their consideration.

Premises: The property conveyed in a deed; hence, a piece of land or real estate; sometimes, a building.

Primary License: The initial license issued to the first person, firm, or corporation to establish and maintain, conduct or operate a manufactured home park or recreational camping area at any one location.

Principal Use or Structure: Means all uses or structures that are not accessory uses or structures.

Property Line (WECS): The boundary line of the area over which the entity applying for a permit has legal control. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

Public Conservation Lands: Land owned in fee title by State or Federal agencies and managed specifically for [grassland] conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

Public Health Nuisance: Any thing, act or failure to act which injures, or endangers the safety, health or welfare of the public.

Public Library: Any library that provides free access to all residents of a city or county without discrimination and is organized under Minnesota Statutes, Chapter 134.

Public Park: A park, reservation, playground, beach, or recreation or community center owned, leased, or used wholly or in part by a city, county, state, school district, or the federal government for recreational purposes.

Public Waters: Any waters as defined in Minnesota Statutes Chapter 103G.005, Subdivisions 14 and 15. The term “protected water” is synonymous with the term “public water” for the purposes of this Ordinance.

Reach: A hydraulic engineering term to term describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational Camping Area: Any area, whether privately or publicly owned, used on a daily, nightly, weekly or longer basis for the accommodation of five or more tents, or recreational camping vehicles free of charge or for compensation.

Recreational Camping Vehicle: Includes the following:

- A. Any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational vacation uses;
- B. Any structure designed to be mounted on a truck chassis, for use as a temporary dwelling for travel, recreation and vacation;
- C. Any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle;
- D. Any folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

Recyclables: Waste materials that have a market for reuse in their form or in manufacturing processes, including but not limited to the following: newsprint, glass containers, aluminum

containers and aluminum scrap, corrugated cardboard, tin and bimetal containers, office and ledger paper, and recyclable plastic containers including polyethylene terephthalate (PET), high density polyethylene (HDPE), and low density polyethylene (LDPE) beverage containers.

Recycling Facility: A site used to collect, process, and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.

Refuse: Includes the following: all solid waste products or those wastes having the character of solids rather than liquids in that they will not flow readily without additional liquid and which are composed wholly or partly of such materials as garbage, sweepings, swill, cleanings, trash, rubbish, industrial solid wastes, or domestic solid wastes, organic wastes or residue of animals sold as meat, fruit, or other vegetable or animal matter from kitchen, dining room, market, food establishment or any place dealing or handling meat, fowl, fruit, grain or vegetables, offal, animal excreta, or the carcass of animals; tree or shrub trimmings, or grass clippings, brick, plaster, wood, metal or other waste matter resulting from the demolition, alteration or construction of buildings or structures; accumulated waste materials, cans, containers, tires, or other such substances which may become a nuisance.

Refuse Collection Service: A public or private operation engaged in solid waste collection and solid waste transportation.

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 an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Renewal License: A license issued to the person, firm, or corporation operating a previously licensed manufactured home park or recreational camping area.

Residential Area: Ten or more occupied resident dwellings within a maximum distance of 500 feet between foundations.

Retail Establishment: Any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Right -of-Way: The publicly dedicated land along a road or highway corridor, a portion of which is covered by the road or highway pavement.

Road: A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as a street, highway, otherwise designed. Acceptance of a road for maintenance purposes by a unit of government is not necessary for designation as a road.

Road, Private: An unplatted access to one or more lot or parcel, including leased or rental properties where public access is limited.

Rotor Diameter: The diameter of the circle described by the moving rotor blades.

Sale : Any transfer of goods for money, trade, barter, or other consideration.

Salvage Yard: An area where used waste or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A salvage yard includes a vehicular wrecking, salvage or graveyard containing all or part of five or more unlicensed vehicles but does not include uses established entirely within enclosed buildings.

School: A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction, including Elementary, Junior High and High Schools, whether public, private or parochial; and any public or private colleges, universities or technical schools.

Seasonal Establishment: Any manufactured home park or recreational camping area which operates for a continuous period of six months, 193 days, or less during a calendar year.

Self-Service Merchandising: Open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Semi-Nude: The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

Semi-Public Use: The use of a land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Sensitive Resource Management: The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback: The minimum horizontal distance between building, structure, sewage treatment system, or other facility and an ordinary high water level, bluff line, road or highway, or property line.

Individual Sewage Treatment System: Any system for the collection, treatment and dispersion of sewage including but not limited to septic tanks, soil absorption systems and drain fields.

Sewer System: Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Sexual Encounter Center: A business or commercial enterprise that as one of its principle business purposes, offers for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex when one or more of the persons is nude or semi- nude.

Sexually Oriented Business: Adult body painting studios, adult bookstores, adult cabarets, adult companionship establishments, adult health/sports clubs, adult hotels/motels, adult massage parlors, adult mini-motion picture theatres, adult/nude modeling studios, adult motion picture arcades, adult motion picture theatres, adult novelty businesses, adult saunas/steam rooms/bathhouses, adult theatres, escort agencies, sexual encounter centers or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description “specified sexual activities” or “specified anatomical areas” which are capable of being seen by members of the public. This definition does not apply to the practices of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by State licensed registered persons. Activities classified as obscene are defined by Minnesota Statutes Section 617.241 are not lawful and are not included in this definition.

Shoreland: Land located within the following distances from public waters (1) 1,000 feet from the normal high water mark of a lake, pond or flowage; and (2) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

Shore Impact Zone: Land located between the ordinary high water level of public water and a line parallel to it at a setback of 50 percent of the structure setback.

Significant Historic Site: Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Subdivision 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Solid Waste: Garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid, liquid, or contained gaseous form, resulting industrial, commercial mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluent or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Solid waste Management Facility: A facility for the storage, collection, transportation, processing or reuse, conversion, or disposal of solid waste.

Solid Waste Officer: The person designated by the County Board as the Solid Waste Officer.

Specified Anatomical Areas: Anatomical Areas consisting of:

- A. Less than completely and opaquely covered human male or female genital, pubic region or pubic hair, buttocks, anus or female breasts below the point immediately above the top of the areola or any combination of the foregoing; and
- B. Human male genital in a discernibly turgid or aroused state, even if completely or opaquely covered.

Specified Sexual Activities: Activities consisting of the following:

- A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genital, public region, buttocks, or female breasts, flagellation or torture in a sexual relationship, or any other explicit sex act or conduct of an obscene nature;
- B. Human genitals in the state of sexual stimulation, arousal or tumescence; or
- C. Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or
- D. Fondling or touching of human genital, pubic regions or pubic hair, buttocks, female breasts; or
- E. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or
- F. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human; or
- G. Human excretion, urination, menstruation, vaginal or anal irritation; or
- H. Any combination of the above.

Steep Slope: Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped

and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

Structure: Anything constructed or erected on the ground or attached to the ground. Structures may include, but not limited to, buildings, transmission towers, signs, electrical substations, pumping stations, poles, wires, overhead or underground electrical, gas, steam, or water transmission or distribution systems and structures.

Subdivision: The division or redivision of a lot, tract or parcel of land regardless of how it is to be used into two or more lots either by plat or by metes and bounds description, or the division or redivision of land involving dedication of a new park, playground, street, or other public right-of-way facility; or the vacation, realignment or any other change in existing streets, alleys, easements, recreation areas, water or other public improvements of facilities.

Substantial Damage: Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before damaged occurred.

Substantial Improvement: Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- B. Any alteration of an “historic structure”, provided that the alteration will not preclude the structure’s continued designation as an “historic structure”. For the purpose of this Ordinance, “historic structure” shall be as defined in Code of Federal Regulations, Part 59.1.

Substations: Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines shall be located outside of the road right of way.

Surface Water-Oriented Commercial Use: The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Tattooing: Any method of marking the skin of p person, by insertion of permanent pigments through puncture of the skin.

Tobacco or Tobacco Products: Any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated; plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; Cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps; clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

Tobacco Related Devices: Any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Toe of the Bluff: The point on a bluff where there is, as visually observed, a clearly identifiable break in the slop form a gentler to a steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with the average slope exceeding 18 percent.

Top of the Bluff: The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Total Height: The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

Tower: Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

Tower Height: The total height of the WECS exclusive of the rotor blades.

Transmission Line: Those electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

Unacceptable Waste: Any hazardous waste, infectious waste, lead acid batteries, waste oil, auto hulks, and other solid waste that is normally collected in a separate waste stream.

Use: The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

Variance: Means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of

alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

Vending Machine: Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

Waste Tire: A tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

Water-Oriented Accessory Structure or Facility: A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Waterway: A natural or constructed channel that is shaped or graded and is established in sustainable vegetation for the stable conveyance of run-off.

Waiver: The intentional or voluntary written relinquishment of a landowner's right under this Ordinance, which waiver would negate the necessity of a variance hearing under the Ordinance. Such properly signed and notarized waiver would have the same effect as a decision of the Board of Adjustment.

Wetland(s): A surface water feature classified as a wetland(s) in the United States Fish and Wildlife circular No. 39 (1971 Edition).

Wind Turbine: A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

WECS - Wind Energy Conversion System: An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers, that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

- A. **Large WECS:** A WECS of equal to or greater than 100 kW in total name plate generating capacity.
- B. **Small Scale WECS:** A WECS of less than 100 kW in total name plate generating capacity.

Yard: The space on the same lot with a building or other structure open and unobstructed from ground to sky.

Yard, Front: A yard extending across the full width of the lot between the front line and the nearest line of the principal building.

Yard, Rear: A yard extending across the full width of the lot between the rear lot line and the nearest line of the principal building.

Yard, Side: A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the principal building.

Yard Waste: The garden wastes, leaves, lawn cuttings, weeds, and prunings generated at residential or commercial properties.

Year-Round Establishment: Any manufactured home park or recreational camping area which operates on a year-round basis in excess of 6 months, 183 days.

SECTION 2. ADMINISTRATION

Subsection 2.1: Swift County Board of Commissioners

- A. The Swift County Board of Commissioners has the power and authority to prepare and adopt (by Ordinance) a Comprehensive Plan for the unincorporated portions of the County. The Board may also enter into contract with the governing bodies of Municipalities to provide planning and zoning services within the Municipalities. Under State law, the adopted Comprehensive Plan must become the basis for any official controls adopted by the Board.

- B. Zoning is one of the official controls intended to further the purpose and objectives of the Comprehensive Plan. Once the Zoning Ordinance is adopted, the Board shall provide for its enforcement and may impose enforcement opportunities on any officer, department or employee of the County. The duties of the Swift County Board of Commissioners include:
 1. Appoint member to the Swift County Planning Commission.
 2. Officially adopt the Comprehensive Plan and Zoning Ordinances.
 3. Officially adopt any changes or amendments made to the Comprehensive Plan and Zoning Ordinances.
 4. Approve or deny the application for a conditional use permit upon recommendation by the Swift County Planning Commission,
 5. Periodically meet with the Swift County Planning Commission to review the Comprehensive Plan and Zoning Ordinances as it applies to Swift County.

Subsection 2.2: Swift County Planning Commission

- A. The Swift County Board of Commissioners shall appoint a Swift County Planning Commission composed of no fewer than five (5) and no more than eleven (11) members. One member shall be appointed from the County Board.
 1. No more than one voting member of the Planning Commission may be an officer or employee of the County; however, the Board may designate any County officer or employees as an ex-officio member of the Planning Commission.
 2. One member of the Planning Commission, at a minimum, shall also be a member of the Board of Adjustment.
 3. At least two members must be residents of that portion of Swift County lying outside the corporate limits of the Municipalities.
 4. Members shall be appointed to three year terms except when the Planning Commission is first established then terms shall be staggered. Appointments will occur during the regularly scheduled meeting of the Swift County Board of Commissioners each January.
 5. Whenever a Planning Commission member leaves in the middle of a term, for any reason, a replacement member shall be appointed to complete the remaining portion of said term. If any Planning Commission member has two (2) unexcused absences during a calendar year the Swift County Planning Commission can recommend to the Swift County Board of Commissioners a replacement for that person. Replacement of an individual with two (2) unexcused absences during a calendar year can occur at a regularly scheduled meeting of the Swift County

Board of Commissioners and his or her appointment will occur in the same manner prescribed by all newly appointed Planning Commission members.

6. No voting member of the Commission shall have received, during the two years prior to appointment, any substantial portion of income from business operations involving the development of land within the county for urban and urban related reasons.
- B. All decisions of the Planning Commission shall require the affirmative vote of a simple majority of the members present.
- C. The Planning Commission shall have the following powers and duties:
1. The Planning Commission shall make recommendations to the County Board on Conditional Use Permits, Code of Ordinances, and cooperate in preparation of plans, following a public hearing.
 2. The County Board may assign additional duties and responsibilities to the Planning Commission including but not restricted to:
 - a. The establishment of rules for the conduct of public hearings and conduct public hearings for the approval/denial of amendments made to the Comprehensive Plan, Code of Ordinances, and Conditional Use Permits;
 - b. The authority to elect a Chairperson and Secretary/Treasurer from among its members for a term of one year;
 - c. The authority to order the issuance of some or all categories of Conditional Use Permits in accordance with the rules it has adopted for the conduct business.
 3. Periodically request the Swift County Board of Commissioners to meet with the Swift County Planning Commission to discuss and make changes where necessary to the Comprehensive Plan and Code of Ordinances in accordance with the current land use issues.
 4. The Planning Commission shall decide other such issues as are specifically defined in the Code of Ordinances.

Subsection 2.3: Swift County Board of Adjustment

- A. The Swift County Board of Commissioners shall appoint members to the Swift County Board of Adjustment consisting of three (3) to seven (7) members.
1. At least one member from the unincorporated area of Swift County, whose term of office will be for two (2) years and appointments will be made in January of each calendar year.
 2. No elected official of the County Board or any employee of the County Board shall serve as a member of the Board of Adjustment.
 3. Members shall be appointed to three year terms except that when the Board of Adjustment is first established. Terms shall be staggered so that no more than two (2) terms end at the same time.
 4. Whenever a Board of Adjustment member leaves in the middle of a term, or any reason, a replacement member shall be appointed to complete the remaining portion of said term.

5. At least one (1) member of the Board of Adjustment shall also be a member of the Swift County Planning Commission.
 6. The term limit for a Swift County Board of Adjustment shall be no longer than nine (9) years.
- B. All decisions of the Board of Adjustment shall require the affirmative vote of a simple majority of the members present.
- C. The Board of Adjustment shall have the following powers and duties:
1. The Board of Adjustment shall hear and act on requests for variances from the provisions of this Ordinance.
 2. The Board of Adjustment shall hear and decided appeals form an order, requirement, decision or determination made by the Swift County Zoning Administrator or Environmental Director.
 3. Hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing any Ordinance adopted pursuant to the provisions of the County Planning Legislation.
 4. The County Board may assign additional duties and responsibilities to the Board of Adjustment including but not restricted to:
 - a. The establishment of rules for the conduct of public meetings,
 - b. The authority to elect a Chairperson (for a one year term each January) and Vice Chairperson from among its members.
 5. The Board of Adjustment shall keep accurate written record of all meetings.
 6. The Board of Adjustment shall decide such other issues as are specifically defined in this Ordinance.

Subsection 2.4: Swift County Environmental Director

A. Appointment.

The County Board shall appoint an Environmental Director who shall administer and enforce the provisions of this Ordinance. The County Board may authorize the Environmental Director to appoint such Assistant Administrator(s) as necessary and to designate their power and duties within the limits of this Ordinance. He or she has no discretion to modify the provisions of this Ordinance and must enforce the Ordinance to its literal interpretation.

B. Powers and Duties.

The Environmental Director shall have the following powers and duties and may delegate them to the Assistant Administrator(s).

1. Become familiar with and be able to clearly explain the underlying purpose of this Ordinance.
2. To receive and review applications for permits and issue permits only if such permit request is in full conformance with the provisions of this Ordinance.
3. To receive and review application requests for action by the Board of Adjustment and/or the County Planning Commission and provide such information, date and testimony as may be necessary for action to be taken. Advise County officials on administrative matters pertaining to the Ordinance and when necessary, provide

technical assistance on the interpretation, implementation, and amendments made to the Comprehensive Plan and Swift County Code of Ordinances.

4. Attend all public hearings and meetings conducted by the Swift County Planning Commission and Swift County Board of Adjustments.
5. To make inspections to discover violations and check for compliance with this Ordinance. If violations of this Ordinance are discovered by the Environmental Director, they shall notify the violator(s) and take such steps as are necessary to correct the violation.
6. To maintain records of all actions taken pursuant to provisions of this Ordinance.
7. To assist the public in complying with and understanding their responsibilities and rights under this Ordinance and provide any information about the Ordinance upon request.
8. To identify and locate jurisdiction and zoning district boundaries and public waters by on-site investigation, interpretation of official maps and other appropriate methods.

Subsection 2.5: Permits Required

- A. A permit is required for the construction of buildings or building additions, the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 7 (Shoreland Management) of this Ordinance. Application for a permit shall be made to the Swift County Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.
- B. In shoreland districts, any permit authorizing construction, whether it be new construction or an addition to an existing structure, shall stipulate that an identified nonconforming sewage treatment system shall be reconstructed or replaced in accordance with the provisions of this Ordinance.
- C. In all other districts, upon a change in ownership any parcel involving a dwelling structure or structure requiring an onsite sewage treatment system, or at any time construction is proposed for an addition to such structure, the onsite sewage treatment system shall be inspected for conformance with MPCA's Rule #7080. For the purpose of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the system's improper setback from the Ordinary High Water Level or property line.

Subsection 2.6: Certificate of Zoning Compliance

The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Subsection 2.5 (above) of this Ordinance. This certificate will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Subsection 1.5 (Compliance) of this Ordinance.

Subsection 2.7: Notification to the Department of Natural Resources

- A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- B. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.

Subsection 2.8: Variances

- A. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394, as applicable. A variance may not circumvent the general purposes and intent of this Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.
- B. The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Subsection 2.7 (above) shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance. The Department of Natural Resources then has a thirty (30) day appeal period on the matter.
- C. Variance Application. An application for a variance occurs where the applicant determines that the Ordinance by reason of exceptional circumstances through strict enforcement of official controls would cause unnecessary hardship to the applicant. In reference to the Floodplain Management District, no variance shall have the effect of allowing any uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation, or permit standards lower than those required by State law. The process an individual must use in obtaining a variance is outlined below:
 - 1. A person desiring a variance must contact the Swift County Zoning Administrator. The Swift County Zoning Administrator provides the applicant with an application form for a variance. An application form for a variance is included in the appendix.

2. A public notice which specifies the variance shall be placed in the official County newspaper at least ten (10) days prior to the public hearing. The public hearing will be conducted by the Swift County Board of Adjustments.
3. The applicant is notified of the time and place of the public hearing. Notice of the public hearing and variance is sent to all property owners located within five hundred (500) feet of the affected property or to the ten (10) properties nearest to the affected property, whichever provides notice to the greatest number of owners. Notice must also be sent to the affected Township supervisors and the Municipality located within two miles of the affected property. The Board shall forward all applications for variances within the Floodplain Management District to the Minnesota Department of Natural Resources at least ten (10) days prior to the public hearing.
4. The public hearing shall be open precisely at the time advertised in the notice. The Swift County Board of Adjustment must require that the following rules be observed:
 - a. The applicant will state his/her case and furnish the Swift County Board of Adjustment with pertinent information concerning the property;
 - b. Those in favor of the proposed variance will be heard first, followed by those who oppose the variance;
 - c. Each person making a statement regarding the variance, whether in favor or against the variance, will be asked to state his or her name and address;
 - d. Each person's statement or testimony should be limited to the facts only as it pertains to the variance;
 - e. The Swift County Board of Adjustments reserves the right to question any person giving testimony at the public hearing;
 - f. All statements and questions shall be directed to the Chairman of the Swift County Board of Adjustments.
5. The decision to approve or disapprove the variance will not be made during the public hearing since the Swift County Board of Adjustment will be given an opportunity to review statements made during the public hearing, but the Swift County Board of Adjustment must reach a decision no later than thirty (30) days from the date of the public hearing. If no decision can be made by the Swift County Board of Adjustment regarding the variance within thirty (30) days from the date of the public hearing, a notice must be sent to the applicant within ten (10) days from the date of the public hearing explaining that an additional thirty (30) days are needed to either approve or disapprove the variance due to extenuating circumstances. Such a notice must identify the extenuating circumstances affecting the Swift County Board of Adjustment's decision.
6. Five conditions which the Swift County Board of Adjustment must find present and which must be sustained with evidence presented by the application for a variance area:
 - a. The granting of the variance will not be in conflict with Swift County's Comprehensive Plan;
 - b. The property will not yield a reasonable return if used in compliance with this Ordinance;

- c. The conditions causing the hardship are unique and are not shared by neighboring property in the same zone;
 - d. The granting of the variance will not essentially alter the character of the neighborhood; and
 - e. The granting of the variance will not adversely affect the environmental quality of the area.
 7. A certified copy of the Board of Adjustment's decision must be filed with the Swift County Register of Deeds. The order must include the legal description of the property involved.
 8. The applicant may request the district court to review the denial of his/her application for a variance by the Swift County Board of Adjustment. This appeal to the district court must be made within thirty (30) days after the Swift County Board of Adjustment's decision. If neighboring property owners feel that the decision made by the Swift County Board of Adjustment to grant relief of a variance would cause serious depreciation of their property value, they and the Swift County Board of Commissioners may also appeal the decision of the Swift County Board of Adjustment to the district court.
 9. A copy of all decisions granting variances within the Floodplain Management District will be sent to the Department of Natural Resources within ten (10) days of such action.
- D. Expiration of Variance. A variance shall expire one (1) year from the date of issuance if the variance is not utilized.

Subsection 2.9: Conditional Use Permits

- A. Procedure. A conditional use permit shall only be granted for those conditional uses identified by this Ordinance.
- B. A person desiring a conditional use permit must contact the Swift County Zoning Administrator. The Swift County Zoning Administrator will provide each applicant with an application form for a conditional use permit. An application form for a conditional use permit is included in the appendix.
- C. The application form for the conditional use permit is to be filled out by the person requesting the permit and returned to the Swift County Zoning Administrator for review and comment.
- D. The Swift County Environmental Director will forward the application for a conditional use permit to the Swift County Planning Commission. The Swift County Zoning Administrator will then schedule a public hearing and notify the applicant and affected local units of government and concerned citizens of the time, place and purpose of the public hearing. Notice of the meeting will also be given in the official County newspaper and the newspapers of Municipalities located within two miles of the proposed project. The County Zoning Administrator shall forward all applications for conditional uses that are within the Floodplain Management District

to the Minnesota Department of Natural Resources (DNR) at least ten (10) days prior to the public hearing.

- E. Prior to approval for a conditional use permit, the Swift County Planning Commission must assure that the proposed development and/or use meets the following criteria:
 - 1. That the conditional use being applied for is identified by this Ordinance.
 - 2. That the conditional use conforms to the conditions specified in this Ordinance.
 - 3. That the conditional use does not disrupt the use and enjoyment of other uses already permitted in the area.
 - 4. That the conditional uses not impede the normal or orderly development and improvement of the surrounding property.
 - 5. That the conditional use will have adequate facilities, access roads, drainage and other necessary facilities to meet its physical development needs.
 - 6. That the conditional use will assure that adequate measures be taken to prevent offensive odor, fumes, dust, and noise in order that it does not constitute a nuisance to the area.

- F. Based on the testimonies made at the public hearing and the possible effect the proposed conditional use will have on Swift County's Comprehensive Plan and the development of the area, the Swift County Planning Commission will approve or disapprove the application for the conditional use permit no later than 30 days from the date of the public hearing. Both the applicant and the Swift County Board of Commissioners will be notified of the decision made by the Swift County Planning Commission in writing. If the Swift County Planning Commission cannot make a final decision to either approve or disapprove the conditional use permit due to extenuating circumstances within the 30 days from the date of the public hearing, an extension of 30 days may be granted to the Swift County Planning Commission to reach its final decision provided that the applicant is notified of the delay and what the extenuating circumstances are within ten (10) days after the public hearing.

- G. If granted, a certified copy of the conditional use permit will be filed with the Swift County Register of Deeds. The DNR shall be notified within ten (10) days after the public hearing on all conditional use permits granted in the Floodplain Management District.

- H. If the application for the conditional use permit is denied, the applicant may go to district court where the determination will be made whether or not the County acted in accordance with this Ordinance and the Minnesota Statutes. The DNR shall be notified within ten (10) days after the public hearing on all conditional use permits that are denied which existed in the Floodplain Management District.

- I. Conditional Use Permit Expiration.
 - 1. A conditional use permit shall remain in effect for so long as the conditions of the permit are observed, unless the County Board has set a time limit on the permit.

2. A conditional use permit shall expire one (1) year from the date of issuance if the permit is not utilized.
- J. Subsequent sections of this Ordinance have specific requirements for conditional use permits and must be followed accordingly.

Subsection 2.10: Nonconforming Uses

- A. Any use or structure that does not conform to the provisions of this Ordinance, but was constructed and permitted prior to the enactment of this Ordinance shall be allowed to remain in their existing state; except for the sanitary and sewage disposal systems which must conform with the standards set for in this Ordinance 90 days from the effective date. In regards to the Floodplain Management District, no such structure or use shall be expanded, changed, enlarged or altered in any way which increases its nonconformity.
- B. Nonconforming uses and structures may not be reconstructed except in conformance with the provision of this Ordinance, if destroyed by any means; including flood, to an extent of 50% or more of their market value or if such nonconformity or occupancy is discontinued for a period of more than one year. The Assessor shall notify the Zoning Administrator in writing of such instances of nonconforming uses which have discontinued for a period of 12 months.
- C. Lots that lie outside the incorporated areas of Municipalities in Swift County that have been platted prior to the adoption of this Ordinance should be allowed to be developed by the owner of that parcel after the adoption of this Ordinance even though the minimum lot area standard is set below the two and a half acre standard.

Subsection 2.11: Uses Not Provided for within Zoning Districts

Whenever, in any zoning district, a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the County Board of Commissioners or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable, and, if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The County Board of Commissioners, Planning Commission, or property owner shall, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the County.

Subsection 2.12: Amendments

Amendments, including changes in the district boundaries or the text of this Ordinance, may be made whenever the public necessity and general welfare require by following the procedures specified in this section. All amendments pertaining to the Floodplain Management District, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map pertaining to the Floodplain Management District must meet the Federal Emergency Management's Agency (FEMA) Technical Conditions and Criteria and must receive prior

REMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment within the Floodplain Management District, and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

- A. An amendment to the official controls may be initiated by the Swift County Board of Commissioners, Swift County Planning Commission, or by petition of affected property owners.
- B. Swift County Planning Commission Review. Any amendment initiated by the Swift County Planning Commission shall be referred to it for study and report, and shall not be acted upon by the Swift County Board of Commissioners until has received the recommendation from the Swift County Planning Commission or until sixty (60) days have elapsed from the time of referral. An amendment not initiated by the Swift County Planning Commission shall be referred to the Swift County Planning Commission for review, and may not be acted upon by the Swift County Board of Commissioners until has received a recommendation from the Swift County Planning Commission. Any amendments made to the Floodplain Management District must be approved by DNR prior to adoption by the Swift County Board of Commissioners.
- C. An application for amendment initiated by petition of the owner or owners of the actual property shall be filed with the Swift County Zoning Administrator. The application shall be accompanied by a map showing lands proposed to be changed and all lands within one mile of the property, together with the names and addresses of the owners of said land.
- D. Before it makes its recommendation to the Swift County Board of Commissioners, the Swift County Planning Commission shall hold at least one public hearing on the proposed amendment in a location to be prescribed by the Swift County Planning Commission at least ten (10) days in advance of such hearing.
- E. Action Following the Public Hearing
 1. Following the public hearing, the Swift County Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Swift County Zoning Administrator within sixty (60) days after the hearing.
 2. If no report or recommendation is transmitted by the Swift County Planning Commission within sixty (60) days after the hearing, the Swift County Board of Commissioners may take action without awaiting such recommendations.
 3. Upon the filing of such report or recommendation, the Swift County Board of Commissioners may hold public hearings upon the amendment as it deems advisable.
 4. The amendment shall be effective only if 4/5th's of all the members of the Swift County Board of Commissioners concur in its passage.
 5. Any and all amendments or changes to this Ordinance shall be filed within the Swift County Register of Deeds.

- F. Petition Previously Denied. A period of not less than one year is required between presentation of petitions for a change or amendment applying to a specific piece of property, where prior petition was denied.

Subsection 2.13: Legal Interpretation

It will be the responsibility of the Swift County Attorney to interpret the legality of this Ordinance and its provisions.

Subsection 2.14: Violations, Penalties, & Enforcement

A. Violations & Penalties.

1. Any person, firm or corporation who violates any of the provisions or who fails to comply with any of the provisions of this Ordinance, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense. In the event of a violation or threatened violation of this Ordinance, the Swift County Zoning Administrator or the Swift County Board of Commissioners, or any member thereof, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations and it shall be the duty of the Swift County Attorney to institute such action. Any taxpayer or taxpayers of the County may institute mandamus proceedings in the district court to compel specific performance by the proper official or officials of any duty required by this Ordinance. Fines for violations will be reviewed and set by the Swift County Board of Commissioners in January of each year.
2. Administrative Fines: Failure to secure a land use permit or failure to comply with the provision of the ordinance shall be subject to a \$50 fine. A second offense shall be subject to a \$100 fine. A third offense shall be subject to a \$500 fine. These fines are in addition to the appropriate permit fee.

- B. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to this Ordinance.

SECTION 3. AGRICULTURAL PRESERVATION DISTRICT #1

Subsection 3.1 District Description

This area consists of 40-acre parcels of land located in unincorporated areas of Swift County, which predominantly (over 50% of the parcel) consist of prime and good agricultural soil characteristics and may have urban or natural resource characteristics that exist within each 40-acre parcel of land.

Subsection 3.2 Permitted Uses

- A. Farm Dwelling and Accessory Buildings.
- B. Agricultural Buildings and Accessory Buildings.
- C. Soil and Water Conservation Practices (permit not required).
- D. Home Occupations (permit not required).
- E. Agricultural Uses (permit not required).
- F. Used Car Dealerships (permit not required).
 - 1. With no more than five (5) salvaged vehicles on the premises at any given time. Salvaged vehicles are used for parts and not intended for sale.

Subsection 3.3 Conditional Uses

- A. Gravel Pit Mining.
- B. Sanitary Landfill Sites.
- C. Commercial Feedlots.
- D. Poultry Operations.
- E. Municipal Sewage Treatment Systems.
- F. Cemeteries.
- G. Road Development.
- H. Road Easements.
- I. Salvage Yards.
- J. Any conditional uses identified in Agricultural Preservation District #2, if the soil and natural resource characteristics are marginal and non-tillable.
- K. Open Space and Outdoor Recreation.

- L. Wind Turbines.
- M. Adult-Use Business.
- N. Manufactured Home Park.
- O. Non-Farm Dwelling.

Subsection 3.4: Physical Development Standards

- A. Front-yard Setback.
 - 1. No structures, tree plantings, or temporary storage of farm or non-farm products or equipment shall be located within 100 feet from the center of the road(s) they abut. On lands that affect the visibility of vehicular traffic at intersections, the front-yard setback shall be located no less than 200 feet from the center of the intersection.
- B. Side-yard Setback.
 - 1. No structure shall be located less than 20 feet from any side property line they adjoin.
- C. Rear-yard Setback.
 - 1. No structure shall be located less than 20 feet from any rear property line they adjoin.
- D. Building Height.
 - 1. A maximum structure height shall not exceed 35 feet, excluding telecommunication towers, storage silos, barns and other agricultural structures.

SECTION 11. ADULT USE REGULATIONS

Subsection 11.1: Purpose

- A. The Swift County Board of Commissioners adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the County's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and protect and promote the health, safety and welfare of the residents of Swift County.
- B. It is the further purpose of this ordinance section to protect the well-being of the youth of the community from objectionable operational characteristics of these adult uses and sexually oriented businesses by regulating and restricting their close proximity to established facilities such as, but not limited to churches, parks, schools, and residential areas.
- C. The County further intends by this ordinance section to minimize the negative impact of traffic, glare and noise generated by the normal operation of sexually oriented businesses on adjacent properties, and to minimize any potential negative impact on the value and marketability of land adjacent to sexually oriented businesses.
- D. In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor effect of this ordinance section to inhibit the freedom of speech or the press. The provisions herein have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This ordinance section represents a balancing of the legitimate ends of the County by imposing an incidental, content-neutral place, time and manner of regulation of sexually oriented entertainment to sexually oriented businesses without limiting alternative avenues of communication, and at the same time, requiring businesses to carry its financial share of law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this ordinance section.

Subsection 11.2: Conditional Uses

- A. Adult uses and sexually oriented businesses shall not be permitted in any zoning district within Swift County unless a conditional use permit for such use has been obtained. Requirement for a conditional use permit shall be in addition to all other requirements of the Swift County Code of Ordinances, and shall be in addition to all other requirements of all other applicable ordinance sections.

- B. Any person desiring a conditional use permit for any use specified in this ordinance section shall apply in the manner provided by this ordinance section for a Conditional Use. In addition, persons applying for a permit under this section shall provide the following information
1. Applications. In addition to such applicable information as the County may require, an application required by this section shall include the following information:
 - a. The name, residence, phone number and birth date of the applicant, if an individual; and if a corporation, the names, residences, phone numbers and birthdates of the those owners holding more than five percent (5%) of the outstanding stock of the corporation;
 - b. The name, address, phone number and birth date of the manager of such operation, if different from the owners;
 - c. The premises wherein the adult use is to be located;
 - d. A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant or, in the case of a corporation, the owners of more than five percent (5%) of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities;
 - e. The activities and types of business to be conducted;
 - f. The hours of operation;
 - g. The provisions made to restrict access to minors;
 - h. A building plan of the premises detailing all internal operations and activities.
- C. Each permit shall be issued to the applicant only and shall not be transferable to another holder. Each permit shall be issued only for the premises described in the application. No permit shall be transferred to another place without the approval of the County Board.
- D. Persons Ineligible for Permit. No permit shall be granted to or held by any person:
1. Under twenty-one (21) years of age.
 2. Who has been convicted of a felony or of violating any law of this state or local ordinance section relating to sex offenses and/or adult uses.
 3. Who is not the proprietor of the establishment for which the permit is issued.
- E. Location.
1. No adult use or sexually oriented business may be located or operated within one-half (1/2) mile of:
 - a. Another adult use or sexually oriented business; or
 - b. A business which sells or serves alcoholic beverages, including, but not limited to, beer, wine, malt liquor or other intoxication spirits.
 2. No adult use or sexually oriented business may be located or operated within one-quarter (1/4) mile of:

- a. A church or other building which is used primarily for religious worship and related religious activities; or
- b. A public or private educational facility including, but not limited to, childcare facilities, nursery schools, preschools, kindergartens, elementary schools, high schools, intermediate schools, junior high schools, middle schools, private schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; schools include the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; or
- c. A public park or recreational area which as been designated for a park or recreational activities including, but not limited to, a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle paths, wilderness areas, or other similar public land with the County; or
- d. A public theater; or
- e. A shopping center; or
- f. An airport; or
- g. A private residence; or
- h. Any hotel or motel; or
- i. A Public Library.

F. Building Standards

1. No commercial building, structure, premises, or part thereof, or facilities therein used by a sexually oriented business shall be so constructed, used, designed or operated for the purpose of engaging in, or permitting persons to engage in sexual activities as defined in this ordinance section, except an adult hotel or motel.
2. No person shall own, operate, manage, rent, lease, or exercise control of any commercial building, structure, premises, or portion or part thereof, which contains:
 - a. Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition;
 - b. Booths, stalls, or partitioned portions of a room, or individual rooms, used for adult uses, having doors, curtains or portal partitions, unless such booths, stalls, partitioned portions or a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas shall be lighted in a manner that the persons in the area used for adult uses are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of motion pictures or other offered adult uses.
3. All viewing areas or booths in movie arcades shall be accessible from a continuous main aisle.
4. All viewing areas or booths shall be located together along a continuous main aisle to eliminate the possibility of secluded booths elsewhere on the premises.

5. No more than one person shall be permitted to enter or remain in a viewing area or booth at any time.
 6. The viewing areas or booths shall be maintained at all times in a clean and sanitary manner.
 7. All entrances to the business, with the exception of emergency fire exits not useable to enter the business, shall be visible from a public right-of-way.
 8. All performances shall be on a raised stage. The stage must be raised from the surrounding floor by at least two feet (2’).
 9. All persons viewing any performance shall be at least three feet (3’) from the stage.
- G. Sale/Consumption of Alcoholic Beverages. No adult use or sexually oriented business shall sell, give, provide, or permit the consumption of alcoholic beverages, intoxicating liquors or non-intoxicating liquors (as defined in Minnesota Statutes, Chapter 340A) on the premises of the adult use or sexually oriented business.
- H. Hours of Operation. No adult use or sexually oriented business, except for an adult hotel or motel, shall remain open at any time between the hours of 1:00 A.M. and 11:00 A.M.
- I. Multiple Uses. The operation, establishment, or maintenance of more than one adult use or sexually oriented business in the same building, structure, or portion thereof is prohibited.
- J. Sign and Lighting Restrictions. The following sign regulations shall apply to all adult uses and sexually oriented businesses in Swift County. These regulations are aside from any other provisions of the County’s regulations.
1. All signs for sexually oriented business shall be flat wall or freestanding signs. No signs shall be located on the roof, or contain any flashing lights, moving elements or electronically or mechanically changing messages.
 2. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights, spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner except to the extent specifically allowed herein.
 3. No merchandise, photos, or pictures of any products or entertainment characterized by an emphasis on visual display of “specified sexual activities” or “specified anatomical areas” on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right of way adjoining the building or structure in which the adult use or sexually oriented business is located.
 4. Signs otherwise permitted pursuant to this ordinance section shall contain only:
 - a. The name of the sexually oriented business; and/or
 - b. The specific type of sexually oriented business conducted on the business premises. Temporary signage shall not be permitted in connection with any sexually oriented business.

5. This subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

K. Conditions of Conditional Use Permit.

1. Every Conditional Use Permit shall be granted subject to all the conditions of this ordinance section, and of any other applicable county, state or federal law.
2. All Conditional Use Permitted premises shall have the permit posted in a conspicuous place at all times.
3. No minor shall be permitted on the permitted premises. Provision to restrict access by minors shall prohibit any entry or view into the portion of the premises in which the adult use or sexually oriented business is carried on.
4. Any duly designated agent or officer of the County shall have the unqualified right to enter and inspect all public areas of the premises of a permittee during regular business hours and during non-business hours to determine compliance with this ordinance section.
5. Every permittee shall be responsible for the conduct of the place of business and shall maintain conditions of order at all times.
6. No person to whom a Conditional Use Permit has been issued shall permit to be or remain in any adult use or sexually oriented business establishment any obviously intoxicated person.
7. No adult use or sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material or any entertainment depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located.

Subsection 11.3: Measurement from Other Uses

- A. For purposes of this ordinance section, measurement from the uses listed in Section 10.04 (E) shall be made in a straight line, without regard to the intervening structures or objects, from the nearest point of the building or structure used as a part of the premises where an adult use or sexually oriented business is conducted, to the nearest property line of the premises of a use listed in Section 10.04 (E). Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this ordinance section. Such distances shall be measured across property lines, regardless of ownership of the property.
- B. For purposes of this ordinance section, the distance between any two adult uses or sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

Subsection 11.4: Penalty

- A. It shall be a misdemeanor for a person to knowingly or intentionally, in a sexually oriented business, appear in a nude or semi-nude condition unless the person is an employee who, while nude or semi-nude, shall be on a stage which complies with the provisions of this ordinance section.

SECTION 4. AGRICULTURAL PRESERVATION DISTRICT # 2

Subsection 4.1: District Description

This area consists of 40-acre parcels of land located in unincorporated areas of Swift County, which predominantly (over 50% of the parcel) consist of marginal and non-tillable agricultural soil characteristics and may have urban or natural resource characteristics that exist within each 40-acre parcel of land.

Subsection 4.2: Permitted Uses

- A. Farm Dwelling and Accessory Buildings.
- B. Agricultural Buildings and Accessory Buildings.
- C. Soil and Water Conservation Practices (permit not required).
- D. Home Occupations (permit not required).
- E. Agricultural Uses (permit not required).
- F. Open Space and Outdoor Recreation Areas.
- G. Used Car Dealerships (permit not required).
 - 1. With no more than five (5) salvaged vehicles on the premises at any given time. Salvaged vehicles are used for parts and not intended for sale.

Subsection 4.3: Conditional Uses

- A. Gravel Pit Mining.
- B. Sanitary Landfill Sites.
- C. Commercial Feedlots.
- D. Poultry Operations.
- E. Municipal Sewage Treatment Systems.
- F. Cemeteries.
- G. Road Development.
- H. Road Easements.
- I. Junk Yards.
- J. Non-farm Residential Dwellings (on marginal and non-tillable soils).

K. Wind Turbines.

L. Adult-Use Business.

M. Manufactured Home Park.

Subsection 4.4: Physical Development Standards

A. Front-yard Setback.

1. No structures, tree plantings, or temporary storage of farm or non-farm products or equipment shall be located within 100 feet from the center of the road(s) they abut. On lands that affect the visibility of vehicular traffic at intersections, front-yard setbacks shall be located no less than 200 feet from the center of the intersection.

B. Side-yard Setback.

1. No structure shall be located less than 20 feet from any side property line they adjoin.

C. Rear-yard Setback.

1. No structure shall be located less than 20 feet from any rear property line they adjoin.

D. Building Height.

1. A maximum structure height shall not exceed 35 feet, excluding telecommunication towers, storage silos, barns and other agricultural structures.

E. Minimum Lot Area.

1. For each single non-farm dwelling, a minimum lot area of two and a half (2.5) acres is required prior to issuing a conditional use permit; unless the Township where the dwelling is proposed has adopted by resolution a minimum lot area greater than the standard set by this Ordinance.
2. Prior to adopting a resolution, the Township must conduct a public hearing on the preferred minimum lot area standard being proposed. A copy of the resolution must be filed with the County Register of Deeds and the County Zoning Administrator.

SECTION 12. ESTABLISHING STANDARDS & PROCEDURES REGULATING MANUFACTURED HOME PARKS & RECREATIONAL CAMPING AREA REGULATIONS

Subsection 12.1: General Provisions

- A. Purpose.
 - 1. To protect and provide for the public health, safety, and general welfare of the counties of Big Stone, Chippewa, Lac qui Parle, Swift, and Yellow Medicine.

- B. Legal Authority.
 - 1. This ordinance section is enacted pursuant to Minnesota Statute Chapter 327, Sections 327.10-327.28 which authorizes the Minnesota Department of Health to regulate Manufactured Home Parks and Recreational Camping Areas and Chapter 145, Section 145.918 Subdivision 2 which authorizes the Commissioner of Health to enter into an agreement with counties or cities organized under the provisions of Section 145.913 to perform all or part of the licensing, inspection, and enforcement duties.

- C. Jurisdiction.
 - 1. Any person, firm, or corporation owning or operating a manufactured home park or recreational camping area within the legal boundaries of Big Stone, Chippewa, Lac qui Parle, Swift, and Yellow Medicine Counties, and not exempted in Subsection 12.2, B of this ordinance section, shall be required to meet all of the provisions of this ordinance section.
 - 2. Where the conditions imposed by any provision of this ordinance section are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance section, or any other applicable law, ordinance, rule, or regulation, the provision which establishes the higher standards for the promotion of the public health, safety, and general welfare shall prevail.

Subsection 12.2: Licensing

- A. License for Manufactured Home Park and Recreational Camping Area.
 - 1. No person, firm or corporation shall establish, maintain, conduct, or operate a manufactured home park or recreational camping area within Big Stone, Chippewa, Lac qui Parle, Swift, and Yellow Medicine counties without first obtaining a license therefore from the Country Public Health Service. Any person, firm or corporation desiring to operate either a manufactured home park, or recreational camping area on the same site in connection with the other, need only obtain one license. The license shall state the number of manufactured home sites, independent recreational camping sites, and dependent recreational camping sites allowed according to Countryside Public Health Service's approval. No renewal license shall be issued if the number of sties specified in the application exceeds those on the original application unless the plans for expansion or

the construction for expansion are first approved by the Countryside Public Health Service. Any manufactured home park or recreational camping area located in more than one municipality shall be dealt with as two separate manufactured home parks or camping areas. The license is not transferrable as to place or person. Each primary license or renewal license for year-round establishments shall expire on the 31st day of December next following it's' issuance.

B. Other Parks.

1. State Parks: Nothing in this ordinance's section shall be construed to include any of the State-operated facilities within parks.
2. Manufactured Home Park: The term "manufactured home park" shall not be construed to include manufactured homes, buildings, tents or other structures temporarily maintained by an individual or company on premises associated with a work project and used exclusively to those labor or other personnel occupied in such work project.
3. Special Parks: Recreational camping does not include youth, children's camps, industrial camps, migrant labor camps, as defined in Minnesota Statutes and State Commission of Health Rules, United States Forest Service Camps, State Forest Service Camps, State Wildlife Management Areas, or State-owned public access areas which are restricted in use to picnicking and boat landing.
4. Application for License.
 - a. The application for license to operate and maintain a manufactured home park or recreational camping area shall be made to the Countryside Health Service at such office or in such manner as may be prescribed by that agency;
 - b. The applicant for a primary license or annual license shall make application in writing upon a form provided by the Countryside Public Health Service setting forth:
 - i. The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation;
 - ii. A legal description of the site, lot, field, or tract of land upon which the applicant proposes to operate and maintain a manufactured home park or recreational camping area;
 - iii. The proposed and existing facilities on the sites for sanitary community buildings, including toilets, urinals, sinks, wash basins, slop sinks, showers, drains, and laundry facilities;
 - iv. The source of water supplies, the disposal method for sewage, garbage, and refuse, the method of fire and storm protection, and the method of park site lighting;

- v. The calendar months of the year which the applicant will operate the manufactured home park or recreational camping area;
 - vi. Plans and drawings for new construction or alteration, including buildings, wells, plumbing, and sewage disposal systems.
- C. Fees. The Board, by resolution, may establish reasonable fees for the administration of this ordinance section. Such fees may be changed by resolution of the Board from time to time as they deem appropriate. The primary license application shall also be accompanied by an approved Local Zoning Permit or a statement from the Local Zoning Administrator that a permit is not required. The fees submitted for the primary license shall be retained by the Countryside Public Health Service, even though the proposed project is not approved and a license is denied.
- D. Sanitary Facilities. During the pendency of the application for such primary license, any change in the sanitary or safety facilities of the intended manufactured home park or recreational camping area shall be immediately reported in writing to the Countryside Public Health Service. To expedite such change in sanitary or safety facilities, within 60 days of the date such change is reported, it shall be deemed to have the approval of the Countryside Public Health Service.
- E. Permit.
 - 1. When the plans and specifications have been approved, the Countryside Public Health Service shall issue an approval report permitting the applicant to construct or make alteration pertaining to water and sewage treatment upon a manufactured home park or recreational camping area and the appurtenances thereto, according to the plans and specifications presented. Such approval does not relieve the applicant from securing building permits in municipalities having a building code; or from complying with any other municipal ordinance or ordinances, applicable thereto, not in conflict with this ordinance section.
 - 2. When construction has been completed in accordance with the approved plans and specifications, the Countryside Public Health Service shall promptly cause the manufactured home park or recreational camping area and appurtenances thereto to be inspected. If upon completion of the inspection it is found that the requirements of this ordinance section have been met by the applicant, the Countryside Public Health Service shall forthwith issue the primary license in the name of the counties.
- F. Denial of Construction. If the application to construct or make alterations upon a manufactured home park or recreational camping area and the appurtenances thereto or a primary license to operate and maintain the same is denied by the Countryside Public Health Service, it shall be stated in writing the reason or

reasons for denying the application. If the objections can be corrected, the applicant may amend his/her application and resubmit it for approval, and if denied, the applicant may appeal the decision to the Countryside Public Health Service Board of Health.

G. License Renewals.

1. License renewals shall be obtained on an annual basis. All license renewal applications shall be submitted to the Countryside Public Health Service on forms provided by the Agency no later than December 31st of the year preceding the year for which application is made.
2. Renewal licenses for manufactured home parks and recreational camping areas which operate for a continuous period of six (6) months (183 days) or less shall be issued effective the first day of the establishment's operation in the calendar year for which the license is issued. Such renewal license shall expire after the 183rd day from the effective date of the license or on December 31st of the year in which the license was issued, whichever occurs first.

Subsection 12.3: General Requirements

- A. Location. No manufactured home park or recreational camping area shall be so located such that drainage from the park or camping area will endanger any water supply. All such parks and camping areas shall be well drained and no portion of the park or camping area shall be located in an area subject to flooding, except that recreational camping areas may be located in the floodplain which has been approved for recreational use. No wastewater from manufactured homes or recreational camping vehicles shall be deposited on the surface of the ground.
- B. Spacing. No manufactured home shall be parked closer than three (3) feet to the side lot lines of a manufactured home park if the abutting property is improved property or closer than ten (10) feet to a public street or alley. Each individual manufactured home site shall abut or face on a driveway, roadway, or clear unoccupied space of not less than sixteen (16) feet in width, which space shall have unobstructed access at all times to a public road. Roads provided shall be maintained in good condition to be free of holes and depressions. There shall be an open space of at least ten (10) feet between the sides of adjacent manufactured homes including their attachments, and at least three (3) feet between manufactured homes when parked end to end. The space between manufactured homes may be used for parking of motor vehicles or other property provided such vehicle or other property parked at least ten (10) feet from the nearest adjacent manufactured home position. Any accessory structure such as attached awnings, car ports, or individual storage facilities shall, for the purpose of this separation requirement, be considered to be part of the recreational camping vehicle. All recreational camping vehicles shall be located at least twenty-five (25) feet from any camping area property boundary line abutting upon a public street or highway and at least ten (10) feet from other park property boundary lines.

- C. Lot Size. All new manufactured home parks constructed after January 1, 1991, and additions to existing manufactured home parks constructed after January 1, 1970, shall allot the following minimum site sizes for each manufactured home: 4,000 square feet if sewage from the park is discharged into a soil absorption system; 2,800 square feet if any other acceptable method of sewage disposal is used. A minimum site size of 2,000 square feet shall be provided for each recreational camping vehicle in camping areas constructed after January 1, 1991.
1. In cases where a manufactured home exceeds 4,000 square feet in size, then the following lot size requirements shall prevail:
 - a. Ten (10) feet clear space between adjacent manufactured home and a three-foot clear space between manufactured homes when parked end to end and sixteen (16) feet clear space to the front of the manufactured home.
- D. Water Supply.
1. Every manufactured home park and recreational camping area shall obtain a safe, adequate supply of water from a public community water supply system, a public non-community water supply system, or a source of supply and system which is locate, constructed, and operated in accordance with the provisions of the rules of the Commissioner of Health governing public water supplies (Minnesota Rules, Parts 47200.0100-4720.4600) and wells (Minnesota Rules, Parts 4725.0100-4725.1600). The source of the water supply shall first be approved by the Countryside Public Health Service.
 2. In manufactured home parks, the water supply shall be capable of supplying a minimum of 200 gallons per day per manufactured home, and in recreational camping area, the water supply shall be capable of water connections, and 100 gallons per site per day for all spaces provided with individual water connections. In recreational camping areas, water from the drinking water supply shall be available within at least 400 feet of every campsite.
 3. The water piping system shall not be connected with non-potable or questionable water supplies and shall be protected against the hazards of backflow and back siphonage. The system shall be so designed and maintained as to provide a pressure of not less than twenty (20) pounds per square inch under normal operating conditions at service buildings and other locations requiring a potable water supply. In manufactured homes and on recreational camping sites provided with individual water service connection, riser pipes shall be so located and constructed that they will not be damaged by the parking of manufactured homes or recreational camping vehicles. Water riser pipes shall extend at least four (4) inches above the ground elevation, and the minimum pipe size shall be $\frac{3}{4}$ inch. Adequate provisions shall be made to prevent freezing of service lines, valves, and riser pipes. If underground stop and waste valves are installed, they shall be at least ten (10) feet from the nearest buried portion of the sewage system. Water risers on unoccupied sites shall be valved off.

There shall be a horizontal distance of at least ten (10) feet between water and sewer pipes; provided that where the sewer pipe and the water pipe is constructed of an approved material, the distances between may be less than ten (10) feet.

- E. Toilet, Bathing, and Laundry Facilities: In dependent recreational camping area, on or more central buildings equipped with such facilities shall be provided. The number of fixtures shall be in accordance with the following schedule:

1. Required Facilities per Dependent Sites.

# of Dependent Sites	Toilets		Urinals	Lavatories		Showers	
	Men	Women	Men	Men	Women	Men	Women
1-15	1	1	1	1	1	1	1
16-30	1	2	1	2	2	1	1
31-45	2	2	1	3	3	1	1
46-60	2	3	2	3	3	2	2
61-80	3	4	2	4	4	2	2
81-100	3	4	2	4	4	2	2
101-130	4	5	3	5	5	3	3
131-160	5	6	3	6	6	4	4
161-190	6	7	3	7	7	4	4
191-220	7	8	4	8	8	5	5
221-250	8	9	4	9	9	5	5
251-280	9	10	4	10	10	6	6
281-310	10	11	5	11	11	6	6
311-340	11	12	5	12	12	7	7
341-370	12	13	5	13	13	7	7
371-400	13	14	6	14	14	8	8

2. Provided, that in primitive camping area, only the toilet facilities shall be required in the above ratio. These camps must be advertised as "primitive." Privies and other toilets not connected to water-carried systems may be used in a recreational camping area when approved by Countryside Public Health Service. In manufactured home parks and recreational camping areas where laundry and bathing facilities are provided, such facilities shall be in buildings which are well constructed, in good repair, and have adequate heating and ventilation, good lighting, and floors of impervious material sloped to drain. Walls shall be of washable material. There shall be no exposed studs or rafters. Toilet facilities shall not be more than 400 feet from the furthest recreational camping site to be served and shall be plainly marked according to sex.
3. In conjunction with bathing facilities, they shall be provided a dressing area or dressing compartment, the floors of which shall be impervious and well drained. Mats, grids, and walkways made of cloth or other absorbent material shall not be used, provided that single service mats may be used.

4. Where clothes drying lines are provided, they shall be located in areas out of regular pedestrian traffic patterns and where they will generally not be a hazard to the safety of the occupants of the camping area. No laundry trays, washing machines, dryers or extractors shall be located in any toilet, bath, or dressing area.
5. Recreational camping areas accommodating recreational camping vehicles having a self-contained liquid waste system with a waste reservoir, shall provide a sanitary station for the disposal of wastewater. Such sanitary stations shall be equipped with a four (4) inch sewer riser pipe, surrounded at the inlet by a concrete apron sloped towards the inlet drain, and provided with a suitable hinged cover. A water outlet, with the necessary means to prevent backflow of contamination into the camp water supply system, shall be provided to permit periodic washdown of the immediate adjacent areas. Each recreational camping area accommodating self-contained camping vehicles shall provide sanitary station in the ratio of one station per 100 recreational camping vehicle site or fraction thereof. Sanitary dumping station shall be screened from other activities by visual barriers such as fences, walls, or natural growth, and shall be separated from any recreational camping vehicle site by a distance of at least fifty (50) feet. Final disposal of sewage from such dumping stations shall be by method acceptable to the Minnesota Pollution Control Agency and the Countryside Public Health Service.

F. Plumbing. All systems of plumbing in manufactured home parks and recreational camping areas shall be installed in accordance with the provisions of the rule of the Commissioner of Health entitled the Minnesota Plumbing Code (Parts 4715.0100-4715.5600).

G. Sewage Treatment and Disposal.

1. All sewage and other water carried wastes shall be discharged into a public sewage system which is being operated under a valid National Pollution Discharge Elimination System (NPDES) permit. When such a system is not available, a sewage disposal system which is designed, constructed, and operated in accordance with the rules of the Minnesota Pollution Control Agency entitled Individual Sewage Treatment System Standards (Parts 7070.0010-7080.0240) shall be used. All sewer lines shall be located in trenches of sufficient depth to be free of breakage from traffic or other movements and shall be separated from the park water supply system by at least ten (10) feet, unless special acceptable construction of sewer and water lines is provided.
2. Individual site sewer connection shall be at least a four (4) inch diameter sewer riser pipe. The sewer connections shall consist of one pipeline only, without branch fittings. All joints shall be watertight. All materials used for sewer connections shall be corrosive resistant, nonabsorbent, and durable. The inner surface shall be smooth.

3. The sewer riser pipe shall be properly capped when a manufactured home or recreational camping vehicle does not occupy the site. Surface drainage shall be directed away from the riser; the rim of the riser pipe shall extend to at least four (4) inches above ground elevation. Systems of sewage disposal utilizing the discharge of effluent to bodies of surface water or surface land application must receive the approval and comply with the water quality and effluent standards and system design criteria established by the Minnesota Pollution Control Agency (9MPCA WPC-40).
- H. Insect and Rodent Harborage, Infestation Control. Manufactured home parks and recreational camping areas, including storage areas, shall be maintained free of accumulations of debris or other materials which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests. Any firewood piles shall be neatly stacked in a manner which does not provide for rodent harborage. Lumber, pipe, and other building materials shall be stored at least one foot above the ground. Areas shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health.
- I. Garbage and Refuse – Handling and Disposal. The storage, collection, and disposal of refuse and garbage in the manufactured home parks and recreational camping areas shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. All refuse and garbage shall be stored in fly-tight, water-tight, rodent-proof containers which shall be located convenient to any manufactured home site, provided that on days of collection, plastic garbage and refuse bags may be used for outside storage as long as no nuisance conditions are created. In recreational camping areas, garbage and refuse containers shall be provided on the ratio of at least one for every four sites or centrally located facilities may be provided. Refuse and garbage collection shall be made at least once a week or more often if necessary to prevent nuisance conditions. Final disposal of refuse and garbage shall be accomplished in accordance with the criteria and standards established by the Minnesota Pollution Control Agency.
- J. Night Lighting. The walkways, drives and other used portions of manufactured home parks shall be lighted during hours of darkness.
- K. Community Kitchen and Dining Rooms. When community kitchens and dining rooms are provided, such facilities and equipment shall be maintained in a clean and sanitary condition at all times.
- L. Barbecue Pits, Fireplaces, Stoves, and Incinerators. When provided, cooking shelters, barbecue pits, fireplaces, wood burning stoves, and incinerators shall be so located, constructed, maintained, and used as to minimize fire hazards and nuisance smoke, both on the property on which used and on neighboring property. Incinerators shall be of a type acceptable to the Minnesota Pollution Control

Agency. No open fire shall be left unattended. No fuel shall be used or no material burned which emits dense smoke or objectionable odors.

- M. No domestic animals or house pets shall be allowed to run at large or commit any nuisances within the limits of a manufactured home park or recreational camping area. Any kennels, pens, or other facilities provided for such pets shall be maintained in a sanitary condition at all times. Unless a different number is prescribed by local ordinance or park rule, the maximum number of dogs and cats allowed per manufactured home or recreational camping vehicle is two. In the case of new litters, the above number may be exceeded for ten (10) weeks.
- N. Prohibited Practices. No animal washing, car washing, or other excessive wastewater producing practices shall be carried on in any building, structure, or other place not designated for such purposes. No pets or domesticated animals shall be allowed to enter the buildings containing the sanitary or washing facilities for a manufactured home park or recreational camping area.
- O. Fire Protection and Fire Extinguishers. Fire protection shall be provided in accordance with the requirements of the State Fire Marshal. Each manufactured home owner shall provide each manufactured home with a fire marshal-approved type extinguisher, kept in usable condition. No manufactured home may be parked more than three (3) days without a usable fire extinguisher in the manufactured home.
- P. Bottled Gas. Where bottled gas is used, the container shall be firmly connected to the appliance by tubing of copper or other suitable metallic mineral. Cylinders containing bottled gas shall not be located within five (5) feet of any manufactured home or recreational camping vehicle door. The container shall not be installed or stored even temporarily inside any manufactured home or recreational camping vehicle. No container may be permitted to stand free, but must be firmly mounted in an upright position.
- Q. Fuel Oil Supply System. All piping from outside fuel storage tanks or cylinders to manufactured homes or recreational camping vehicles shall be permanently installed and securely fastened in place. All fuel oil storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath any manufactured home or recreational camping vehicle or less than five (5) feet from any manufactured home or recreational vehicle exit. All fuel oil containers shall be mounted upon a stand or rack constructed of a noncombustible material.
- R. Skirting. Manufactured homes shall be skirted between the bottom of the manufactured home and the ground with a fireproof material harmonious with the appearance of the manufactured home within three (3) months of the placement of the manufactured home. Plywood, hardboard, cardboard, or baled hay or straw shall be prohibited.

- S. Speed Limit. It shall be unlawful for any type vehicle to travel at a rate in excess of ten (10) miles per hour while within the limits of a manufactured home park or recreational camping area. The ten (10) miles per hour limit shall be clearly posted throughout the manufactured home park or recreational camping area, and may be enforced by the municipality in which the park or area is located. A municipality may, by ordinance, set and enforce in a manufactured home park a speed limit which is higher than ten (10) miles per hour, but which is not higher than thirty (30) miles per hour. The local speed limit shall be clearly posted throughout the manufactured home park.
- T. Park Shelter. In the case of a manufactured home park, a plan for the sheltering or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions, such as tornadoes, high winds, and floods, shall be developed with the assistance and approval of the municipality where the park is located, and shall be posted at conspicuous locations throughout the park. Nothing in this paragraph requires the Countryside Public Health Service to review or approve any shelter or evacuation plan developed by a park. Failure of the municipality to approve a plan submitted by the park shall not be grounds for action against the park by the Countryside Public Health Service if the park has made a good faith effort to develop the plan and obtain municipal approval.
- U. Caretaker. A responsible attendant or caretaker shall be in charge of every manufactured home park or recreational camping area at all times, and the duty of said attendant shall be to maintain the park, its facilities and equipment in a clean, orderly, and sanitary condition. The caretaker or attendant shall be to maintain the park, its facilities and equipment in a clean, orderly, and sanitary condition. The caretaker or attendant shall be the owner or operator of the park or camping area or his/her appointed representative. In any manufactured home park containing more than fifty (50) lots, the attendant and/or caretaker or other responsible park employee shall be readily available at all times in case of emergency.
- V. Plan Review of Future Construction. When an establishment in Big Stone, Chippewa, Lac qui Parle, Swift, and Yellow Medicine counties licensed or to be licensed under the provisions of this ordinance section is hereafter constructed or extensively remodeled, a plan showing all work done and materials to be used shall be submitted to and approved by the Countryside Public Health Service before such work is begun. The plans and specifications shall be drawn to scale, shall be legible, and completed in all details. The Countryside Public Health Service shall review such plans and report its findings within a reasonable amount of time of the date plans are received.

Subsection 12.4: Inspections

- A. It shall be the duty of the Countryside Public Health Service to inspect every manufactured home park and recreational camping area as frequently as may be necessary to insure compliance with this ordinance section. The person operating

a manufactured home park or recreational camping service shall, upon request of the Countryside Public Health Service and after proper identification, permit access to all parts of the establishment at any reasonable time for the purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain compliance with this ordinance section.

B. Notice of Suspension.

1. Whenever, upon inspection of any manufactured home park or recreational camping area, the Countryside Public Health Service finds that conditions or practices exist which are in violation of any provision of this ordinance section, the Countryside Public Health Service shall give notice in writing to the operator of such business, that unless such conditions or practices are corrected within a reasonable period to be determined by Countryside Public Health Service, the operator's license may be suspended. At the end of such period, the Countryside Public Health Service shall reinspect such manufactured home park or recreational camping area, and if it is found that such conditions or practices have not been corrected, written notice will be given to the operator that the latter's license has been suspended. Upon receipt of notice of suspension of the license, such operator shall immediately cease operation of the manufactured home park or recreational camping area, and no person shall occupy any unit therein except the owner's quarters.
2. Nothing in this section shall be construed to prevent Countryside Public Health from suspending a license only as to such portion of the premises that do not comply with the provisions of this ordinance section and permitting the continued operation of the remaining portion of the such premises which do comply.

C. Revocation of License. For serious or repeated violations of any the requirements of this ordinance section or Board of Health compliance standards, the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided by the Countryside Public Health Service. Prior to such action, the Countryside Public Health Service shall notify the license holder in writing, and advising that the license shall be permanently revoked at the end of a five (5) day period. A license may be suspended for cause pending its' revocation or a hearing relative thereto.

D. Emergency Orders: Whenever the Countryside Public Health Service finds that an emergency exists which requires immediate action to protect the public health, it may, without notice or hearings, issue an order reciting the existence of such an emergency and require that such action be taken or it deems necessary to meet the emergency. Notwithstanding the other provisions of this ordinance section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Countryside Public Health Service, shall be afforded a hearing before the Appeals Board.

Subsection 12.5: Appeals

- A. The provisions of this section shall be used to address any violations of this ordinance section or any requests to deviate from the requirements of this ordinance section.
- B. In any case where, upon application of responsible persons, the Board finds that by reason of exceptional circumstances, the strict enforcement of any provisions of this ordinance section would cause undue hardship and would be unreasonable, impractical, or not feasible, the Appeals Board in its discretion may permit an appeal therefrom. Such appeals may be reviewed periodically and rescinded or altered as necessary to protect the public health or eliminate nuisance conditions.
- C. Appeal from Suspension of License. Any person whose license to operate a manufactured home park or recreational camping area has been suspended, or who has received notice from the Countryside Public Health Service that his/her license is to be suspended or revoked unless existing conditions or practices are corrected, may request and shall be granted a hearing on the matter before the Appeals Board; provided that if no petition for such hearing is filed within ten (10) days following the day on which such license was suspended, such license shall be deemed to have been revoked.
- D. Appeals Board. The Appeals Board shall be appointed by the Countryside Public Health Service Board of Health and shall consist of one county commissioner from each county and chaired by the Countryside Public Health Service Board of Health Chairperson.
- E. Request for Hearing. Any person affected by a notice of suspension or emergency order which has been issued and served shall be granted a hearing on the matter before the Appeals Board upon filing with the Countryside Public Health Service a written petition requesting such hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) days after the notice was served.
- F. Date of Hearing. The hearing requested shall be held not more than ten (10) days after the date on which the petition was filed. The Chairman of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten-day period if, in his/her judgment, a good and sufficient reason exists for such postponement.
- G. Notice of Hearing. The Countryside Public Health Service shall cause five (5) days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner's last known address.
- H. Proceedings. At such hearing, the petitioner, his/her agent, or attorney shall be given an opportunity to be heard and to show cause why the notice of suspension or emergency order issued by the Countryside Public Health Service should be

modified or withdrawn. The Countryside Public Health Service Environmental Health Sanitarian shall present a detailed, written statement of his/her findings and decision to the Appeals Board at the time of the hearing.

- I. Decisions of the Appeals Board. After such hearing, the Appeals Board shall sustain, modify, or withdraw the notice of suspension or emergency order, depending upon its findings as to whether the licensed establishment is being operated in compliance with the provisions of this ordinance section. A copy of the decisions of the Appeals Board shall be served by mail to the petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the State.
- J. Record of Proceedings. The proceedings of each hearing held before the Appeals Board pursuant to petitions, including the findings and the decision of the Countryside Public Health Service, shall be recorded and reduced to writing and entered as a public record in the Office of the Countryside Public Health Service Environmental Health Sanitarian. Such record shall include a copy of every notice, order, or writing issued in connection with the matter.
- K. Notices Not Appealed. Any notice served pursuant to the provisions of this ordinance section shall automatically become final if written petition for a hearing is not filed with the Countryside Public Health Service within ten (10) days after notice is served.

Subsection 12.6: Penalties

Any person, firm or corporation who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof, or who shall make any false statement in any document required to be submitted under the provisions thereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed seven hundred dollars (\$700.00) or by imprisonment not to exceed ninety (90) days. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

Subsection 12.7: Local Licenses Prohibited

No municipality may impose any license: 1) Upon any licensed manufactured home park or recreational camping area complying with the provisions of this ordinance section; or 2) Upon any occupant of a licensed manufactured home park or recreational camping area.

Subsection 12.8: Local Law Enforcement

Any municipality which enacts or has enacted laws or ordinances relating to the safety and protection of persons and property is empowered to enforce the laws or ordinances within any manufactured home park or recreational camping area located in the municipality, notwithstanding the fact that the park or area may constitute private property.

Subsection 12.9: Minnesota Department of Health

The requirements contained in this ordinance section are intended to be comparable to the Minnesota Department of Health Standards and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends regulations or adopts new regulations setting higher sanitary standards than the ones established in this ordinance section, the standards set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this ordinance section.

SECTION 9. FEEDLOT REGULATIONS

Subsection 9.1: Statutory Authorization, Policy & General Provisions

A. Statutory Authorization.

The Swift County Feedlot Regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 115 and 116 and the Planning Zoning Enabling Legislation in Minnesota Statutes, Chapter 394.

B. Policy.

1. An efficient and profitable livestock industry is an economic benefit to Swift County and to the State of Minnesota. It provides a value added opportunity to our crop based agriculture and creates service industries which provide employment and further economic activity. An efficient industry also produces high quality food and fiber for consumers at reasonable prices. The wastes produced in livestock production have the potential, when improperly stored, transported or disposed, to contribute to air, surface water, and ground water pollution. When properly utilized such wastes contribute to soil fertility and enhance efficient crop production. The following ordinance section has been promulgated to reduce risk of pollution of natural resources from feedlots.
2. This ordinance section addresses production sites as well as storage and land application. These rules comply with the policy and purpose of the State of Minnesota statutes regarding control of pollution. The goal of this ordinance section is to address economic and environmental needs as they specifically related to necessary stipulations of livestock feedlots and established farmsteads and urban areas to optimize the general welfare of the citizens of Swift County. All existing and future feedlots in Swift County shall comply with the standards set forth within the Minnesota Pollution Control Agency (MPCA) Chapter 7020 rules and updates, and this ordinance section.

C. General Provisions.

1. Title. The County Board of Swift County ordains that the following ordinance section be known as the “Swift County Feedlot Regulations”: and shall be referred to herein as this or the ordinance section.
2. Jurisdiction. The jurisdiction of this ordinance section shall include all lands in Swift County, Minnesota, excepting those located within incorporated cities.
3. Enforcement. Enforcement of the provisions of this ordinance section shall be as prescribed in Subsection 9.6 of this ordinance section.
4. Interpretation. In their interpretation and application, the provision of this ordinance section shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
5. Compliance. Any feedlot shall be in full compliance with the terms of this ordinance section and other applicable regulations.

Subsection 9.2: Administration: Permits, Appeals, Variances, Conditional Use Permits

A. Permits.

No person shall operate an animal feedlot without being registered or obtaining a NPDES, SDS, construction short-form, or interim permit. Unless otherwise noted within this ordinance section, all MPCA Feedlot Rules and Regulations and other applicable State and Federal laws apply.

If land or conditional use permits are required, permits shall be issued by the County and shall be conditional upon complying with the terms and conditions of the permits issued by the County and/or by the MPCA for the operation of feedlots. No land use permit shall be issued without a Waste Utilizations Plan and an approved DNR Water Appropriation Permit, if required.

Feedlots where all other provisions of this ordinance section have been met and the animal units are less than 500 shall be a permitted use. All other feedlots shall require a Conditional Use Permit. Permittees shall be required to comply with all laws and regulations pertaining to dead animal disposal as a condition of the permit. Prior to the granting a permit, the Environmental Director shall determine that the applicant has obtained all necessary federal, state, and local permits.

1. Interim Permits. The Environmental Director may issue an Interim Permit for a feedlot of 300 or less animal units. The following criteria must be met.
 - a. A thorough evaluation of the existing or proposed site shall be conducted by the Environmental Director and shall include but is not limited to an on-site inspection;
 - b. The prevention of possible pollution of public waters, both during and after construction;
 - c. An adequate animal waste plan is present;
 - d. Does not impede the normal and orderly development and improvement of the surrounding property;
 - e. Reasonable measures will be taken to minimize offensive odor, fumes, dust and noise so that none of these will constitute a public nuisance.
2. Validity. A registration will remain valid if there are no changes in the operation and the operator is in compliance with this ordinance section and the current laws and regulations. The owner of a proposed or existing animal feedlot of 51 or more animal units (10 or more animal units within Shoreland Management Districts) shall make an application to the Environmental Director when any of the following conditions exist:
 - a. A new feedlot is proposed where a feedlot did not previously exist;
 - b. Expansion of an existing feedlot or animal facility (increase animal numbers);
 - c. Remodeling or modification of an existing feedlot or animal facility (no increase in animal numbers);
 - d. A change in ownership;
 - e. An existing feedlot is to be restocked after being abandoned for five (5) or more years;

- f. An inspection reveals that that feedlot is creating a potential pollution hazard;
- g. A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulations;
- h. Other actions as specified in this ordinance section.

B. Appeals.

Appeals of decisions of the Environmental Director shall be heard by the Board of Adjustment provided that the person making the appeal files an application for a hearing within thirty (30) days after the decision to be appealed was delivered to the applicant by the Environmental Director. The following procedure shall be followed:

- 1. Application. The person making the appeal shall apply for a hearing before the Board of Adjustment on forms provided by the Environmental Director.
- 2. Notice of Hearing. The Board of Adjustment shall, within thirty (30) days after receipt of the completed application, schedule a hearing on the appeal.
 - a. At least ten (10) days prior to the hearing a notice shall be published in the official county newspaper;
 - b. The Board of Adjustment shall make their decision within ten (10) days of the public hearing, and shall base their decision on the provisions of this ordinance section.

C. Variances.

An application for a variance may occur where the applicant determines that by reason of exceptional circumstances, strict enforcement of the provisions of this ordinance section would cause an unnecessary hardship.

- 1. Application and Hearing Process. The following application and hearing process shall be followed in applying for and deciding requests for a feedlot variance.
 - a. A person desiring a variance shall contact the Environmental Director and obtain, complete, and submit an application form for a variance;
 - b. A public notice that a specific variance will be considered at the next scheduled meeting of the Board of Adjustment shall be placed in the official county newspaper at least ten (10) days before the public hearing. In addition, the Environmental Director shall notify the following of the time, place and purpose of the public hearing(s):
 - i. The applicant;
 - ii. The Supervisors of the Township in which the property is located;
 - iii. The Clerk of any City within two miles;
 - iv. The owners of any lot(s) or parcel(s) of any land affected within the separation setbacks as defined by the provisions of this ordinance section;
 - v. Property owner(s) within one (1) mile of the affected feedlot and/or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners.
 - c. Prior to granting a variance, the Environmental Director shall determine that the applicant has obtained all necessary local, state and federal permits;

- d. The decision to approve or disapprove the granting of a variance shall be made no later than thirty (30) days from the date of the public hearing. An extension of time may be granted with the written concurrence of the applicant;
 - e. The Board of Adjustment must find the following four conditions present and they must be sustained with evidence presented by the applicant before a variance can be approved:
 - i. The property cannot be put to a reasonable use under the conditions allowed by this ordinance section;
 - ii. The conditions causing the hardships are unique to the property and were not created by the landowner;
 - iii. The granting of the variance will not essentially alter the character of the locality;
 - iv. The granting of the variance is consistent with the provisions of this ordinance section;
 - v. Including obtaining a conditional use, if applicable.
2. Granting of Variances. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394, as applicable. A variance shall not circumvent the general purposes and intent of this ordinance section. No variance may be granted which would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment shall also consider whether the property owner has a reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.
 3. Decisions. The Board of Adjustment shall hear and decide requests for variances in accordance with the rules it has adopted for the conduct of business.

D. Conditional Use Permits.

Conditional Use permits may only be issued for those conditional uses specifically identified in this ordinance section.

1. Application and Hearing Procedures. The following application and hearing process shall be followed in applying for and deciding requests for a Conditional Use Permit. The following evaluation criteria and conditions apply but are not limited to:
 - a. Evaluation Criteria. A thorough evaluation of the existing or proposed site shall be conducted by the Environmental Director and/or Planning Commission, and shall include but it is not limited to an on-site inspection, to ensure:
 - i. The prevention of possible pollution of public waters, both during and after construction;
 - ii. An adequate waste plan is filed with Swift County Environmental Services and complies with all state and federal laws;

- iii. The Conditional Use Permit is consistent with the provisions of this ordinance section.
- b. Conditions attached to Conditional Use Permits. The Planning Commission upon consideration of the criteria listed above and the purpose of this ordinance section, shall attach such conditions to the issuance of the Conditional Use Permit as it deems necessary to fulfill the purposes of this ordinance section. Such conditions may include, but are not limited to the following:
 - i. Increased setbacks;
 - ii. Limitation on the number of animals units;
 - iii. Conditions that are consistent with the provisions of the ordinance section;
 - iv. Technology that enhances environmental protection such as biofilters, etc.
- c. Application Information. The application form is completed by the applicant and submitted together with all required and necessary information to the Environmental Director for review and comment. When the application has been completed and reviewed, the Environmental Director, at the direction of the Planning Commission, shall schedule a public hearing. Notice shall be given in the official county newspaper at least (10) days prior to the hearing. In addition, the Environmental Director shall notify the following of the time, place, and purpose of the public hearing:
 - i. The applicant;
 - ii. The Clerk of any Township within two (2) miles of the feedlot;
 - iii. The Clerk of any City within two (2) miles of the feedlot;
 - iv. Property owner(s) within one (1) mile of the affected feedlot and/or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners.
- d. Prior to approval or disapproval of a Conditional Use Permit the Planning Commission shall determine that the proposed development and/or use meets the following criteria:
 - i. Is expressly identified in the ordinance section;
 - ii. Conforms to the conditions enumerated in the ordinance section;
 - iii. Is not injurious to the uses already permitted in the area;
 - iv. Does not impede the normal and orderly development and improvement of the surrounding property;
 - v. Has or will have adequate utilities, access roads, drainage, and other necessary facilities;
 - vi. Reasonable measures will be taken to minimize offensive odor, fumes, dust and noise so that none of these will constitute a public nuisance;
 - vii. The prevention of possible pollution of public waters, both during and after construction;
 - viii. An adequate animal waste plan is present;

- ix. The Conditional Use Permit is consistent with the provisions of this ordinance section;
 - x. Prior to granting a Conditional Use Permit, the Environmental Director and the Planning Commission shall determine that the applicant has obtained all necessary State and Federal permits.
- e. Based upon the testimony at the public hearings and the possible effect on the surrounding area, the Planning Commission shall either recommend to approve, recommend to approve with conditions, or recommend to disapprove the Conditional Use Permit within sixty (60) days or receipt of a completed application, or within thirty (30) days after the public hearing and forward all recommendations to the Swift County Board of Commissioners for their approval or disapproval;
 - f. If granted, a copy of the Conditional Use Permit shall be filed with the County Recorder's Office.

2. Conditional Uses.

A Conditional Use Permit shall be required for:

- a. Any new feedlot with greater than 500 animal units;
- b. Expansion of a feedlot once the 500 animal unit threshold has been reached, regardless of animal units;
- c. Any existing feedlot of 50-500 animal units expanded within one (1) mile of a municipality;
- d. An expansion or modification of an existing feedlot within shoreland management districts or bluff impact zones;
- e. Any feedlot requiring the environmental review program pursuant to Minnesota Statute 1160.04 and 1160.045 and its administrative rules adopted by the Environmental Quality Board (4410.0200-4410.7800);
- f. Any new feedlot or expansion with an earthen storage basin, regardless of animal size.

3. Animal Waste Plan(s). All Conditional Use Permits shall have animal waste plans consisting of the following:

- a. Compliance with all standards established within the County Feedlot Regulations;
- b. Submission of any other additional information requested by the Environmental Director, Planning Commission, County Board or the MPCA;
- c. Compliance with all MPCA animal waste requirements prior to the Planning Commission's consideration of the Conditional Use Permit application as specified in Subsection 9.3 C;
- d. Operation and Maintenance Plan;
- e. Approved Plans for Earthen Storage Basins (NRCS Practice Standards for Waste Storage Ponds and/or a registered professional engineer);
- f. Construction inspection plan(s) and verification log(s).

Subsection 9.3: Feedlot Standards

A. Feedlot Setbacks and Separations. In order to prevent pollution of surface and groundwater, protect valuable agricultural lands, promote sound agricultural practices, and prevent conflicts, this ordinance section shall regulate feedlot size and location.

1. Feedlot Setbacks. All setbacks of this ordinance section shall apply across county lines. The setback standards of the county where the feedlot is located shall apply:
 - a. ½ mile from a public park;
 - b. 1 mile from a residential area or municipality;
 - c. ¼ mile from an urban development;
 - d. All new feedlots shall be 300 feet from all public and private drainage ditches;
 - e. Existing feedlots with total confinements shall be allowed a 100 foot setback from all public and private drainage ditches;
 - f. ½ mile from a FAA approved airport;
 - g. ½ mile from a building used as a school, church, synagogue or place of worship with regular scheduled services or has tax exemption status;
 - h. ¼ mile from a cemetery governed by a cemetery association, local government, or congregation or worshipers.

Swine	
<i>Animal Units</i>	<i>Setback Distance</i>
51 – 999	¼ mile setback from neighboring residence and require a Conditional Use Permit at 500 animal units
1000 – 1999	½ mile setback from neighboring residence and require a Conditional Use Permit along with odor technology
2000 – Greater	1 mile setback from neighboring residence and require a Conditional Use Permit along with odor technology
For Other Species	
<i>Animal Units</i>	<i>Setback Distance</i>
51 – 999	¼ mile setback from neighboring residence and require a Conditional Use Permit at 500 animal units
1000 – Greater	½ mile setback from neighboring residence and require a Conditional Use Permit along with odor technology

*Measure from corner of house that is closest to feedlot to closest corner of nearest barn on feedlot.

2. Non-farm dwellings. No non-farm dwelling shall be allowed within ¼ mile of an existing, permitted, or registered feedlot, unless it is to replace an existing dwelling.

B. Animal Waste Storage Facilities.

1. Requirements. All new liquid manure holding structures for animal waste shall have a minimum storage capacity of nine months and shall meet the minimum construction standards required by the MPCA.

C. Animal Waste Earthen Storage Basins.

1. Standards. The standards for animal waste earthen storage basin and lagoons shall be in compliance with:
 - a. Minimum MPCA requirements;
 - b. A Conditional Use Permit must be obtained and approved by the Swift County Planning Commission and Board of Commissioners;
 - c. All earthen plans shall be prepared and approved by a registered professional engineer or NRCS job authority approval;
 - d. Soils identified as having severe limitations due to seepage shall have a synthetic line;
 - e. Temporary manure storage areas such as daily scrape areas are not considered earthen basins or concrete pits and shall be operated in a non-polluting manner;
 - f. Reasonable measures will be taken to minimize offensive odor, fumes, dust and noise so that none of these will constitute a public nuisance;
 - g. An approved fence for safety will be required on all approved earthen basin construction;
 - h. Earthen basins shall be kept mowed and weed free; no rodent burrowing shall be allowed.

D. Animal Waste Application and Utilization.

1. Application. All application of animal waste shall comply with all setbacks of this ordinance section to minimize odor nuisance, potential point and non-point pollution.
2. Utilization/Acreage Requirements. All utilization of animal manure as fertilizer shall be applied in the most agronomically efficient manner. The required acreage for a rate equal to the estimated crop utilization of nitrogen on an animal basis. All applicants must provide:
 - a. Animal unit capacity of facilities;
 - b. Acreage available for spreading of manure (a spreading agreement shall be provided when adequate acres are not available);
 - c. Typical crop rotation and annual acres of each crop;
 - d. System(s) used for the collection, storage and application of manure.
3. Animal Waste Application and Utilization Setback Chart:

Animal Waste Application and Utilization Setbacks		
<i>Surface Applied</i>	<i>Injection</i>	
300 Feet	100 Feet OHWL	Watercourses, streams, rivers, lakes, wetlands & ditches
1,000 Feet	1,000 Feet	Municipal Well
200 Feet	200 Feet	Private Wells
500 Feet	100 Feet	Residential area (10 or more homes) or municipality
300 Feet	100 Feet	Residence, neighboring residence or cemeteries
500 Feet	100 Feet	Urban Development District
Prohibited	Yes	10 year floodplain
100 Feet	10 Feet	Field tile intake

4. Exemption. When the area topography slopes away from an adjacent watercourse, animal manure may be exempted from the required setbacks upon written approval of the Environmental Director and meeting minimum MPCA guidelines.

Subsection 9.4: Nonconformities

All nonconforming feedlots as of the date of this ordinance section may continue, but, they will be managed according to the applicable local, state and federal statutes and this ordinance section for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use. The following standards shall apply:

A. Construction, Additions or Expansions.

1. General. All construction, additions or expansions to the outside dimensions of an existing nonconforming feedlot within the setbacks as defined by this ordinance section must be authorized by a variance issued in conformance to the following:
 - a. The substitution of one nonconforming use for another nonconforming use on the same property may be permitted only when such substituted use is of a same or more restrictive classification provided the Board of Adjustment deems the proposed use to be no more harmful than the existing nonconforming use. In permitting such nonconforming use substitution, the Board of Adjustment may require appropriate conditions in accordance with the provisions of this ordinance section. In no case shall such nonconforming use substitution be construed to alter the intent of this ordinance section;
 - b. When a nonconforming use is discontinued or abandoned for sixty (60) consecutive months the structure, or structure and premises in combination, shall not thereafter be used except in conformance with this ordinance section. A reasonable interim between tenants or ownership shall not be construed to mean discontinuance or abandonment;
 - c. No existing nonconforming structure or land use shall be allowed to expand unless specifically authorized in this ordinance section;
 - d. Any nonconforming structure or premises devoted to a nonconforming use which is destroyed or damaged by fire, flood, tornado, or similar noncontrollable cause to an extent of more than fifty (50) percent of its value shall if rebuilt comply fully with the provisions of this ordinance section;
 - e. Modifications or expansion to existing feedlots located within a bluff impact zone or shoreland of any river class or within 300 feet of any lake class is allowed if they do not further encroach into the riparian setback or bluff impact zone.

Subsection 9.5: Amendments

This ordinance section may be amended whenever the public necessity and the general welfare requires such amendment(s).

A. General Provisions.

1. Initiation of Proceedings to Amend This Ordinance section. Amendment proceedings may be initiated by a petition of the owner(s) of property affected, or by the County Board.
2. Amendment by County Board. The County Board may amend the procedures, standards, requirements, maps and other provisions of this ordinance section after holding such public hearings as it deems necessary. At least one (1) public hearing shall be required with notice published in the official county newspaper at least ten (10) days before the public hearing. In addition, the Board shall give written notice of any changes and/or amendments of the official control(s) to the following:
 - a. The governing bodies of all towns and all municipalities located within the county;
 - b. Affected board of town supervisors and municipal council of any municipality within two (2) miles of the affected property;
 - c. Owners of record within one-half (1/2) mile of the affected property.
3. Amendment Initiated by Property Owners. Amendments initiated by property owners shall require at least one (1) public hearing with notice published in the official county newspaper at least ten (10) days before the public hearing. The Environmental Director shall also give written notice to the following for amendments changing the zoning district of specific properties:
 - a. The property owners of record;
 - b. The owners of record of any lot of parcel within one-half (1/2) mile of the affected property;
 - c. The Clerk of any Township in which the affected parcel is located;
 - d. The Clerk of any City within one (1) mile of the affected parcel.

Subsection 9.6: Violations, Penalties, & Enforcement

A. General Provisions.

1. Violations. Failure to comply with any provision of this ordinance section shall constitute a violation of the ordinance section punishable as specified in Subdivision 9.6 A 2 of this ordinance section. Violations include the making of a false statement in any document required to be submitted under the provisions of the ordinance and failure to comply with any of the requirements of the ordinance section, including violations of conditions and safeguards established in connection with grants of variances or Conditional Use Permits. Violations of this ordinance section may occur regardless of whether or not a permit is required for a regulated activity. Each day that violation continues shall constitute a separate violation.
2. Penalties. Any person violating this ordinance section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by imprisonment of both as set by State Statutes. Each day that a violation continues shall constitute a separate offense. A Notice of Violation shall be delivered in

person or by certified mail return receipt requested to the owner of the property 30 days before a criminal prosecution may be commenced. If notice is given by certified mail return receipt requested, said notice is effective as of the date of mailing. For purposes of this subsection, owner is defined as the owner of record. The address of mailing will be the address maintained at the County Auditor's Office.

3. Criminal and Civil Actions. A criminal or civil action may be commenced by the County simultaneously or separately.
4. Enforcement. This ordinance section shall be administered and enforced by the Environmental Director, who is hereby designated the enforcement officer.
5. Processing Fees. The County Board may adopt a schedule of fees to defray all or any portion of the costs of administering the provisions of this ordinance section.

SECTION 6. FLOODPLAIN MANAGEMENT DISTRICT

Subsection 6.1: Statutory Authorization, Findings of Fact & Purpose

- A. Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 394, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

- B. Findings of Fact:
 - 1. The flood hazard areas of Swift County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - 2. Methods Used to Analyze Flood Hazards. This ordinance section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
 - 3. National Flood Insurance Program Compliance. This ordinance section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

- C. Statement of Purpose: It is the purpose of this ordinance section to promote the public health, safety, and general welfare and to minimize those losses described in the Findings of Fact by provisions contained herein.

Subsection 6.2: General Provisions

- A. Lands to Which ordinance section Applies: This ordinance section shall apply to all lands within the jurisdiction of Swift County shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.

- B. Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance section. The attached material shall include the document title "Flood Insurance Study, Swift County, Minnesota And Incorporated Areas" and all Flood Insurance Rate Map panels therein, as developed by the Federal Emergency Management Agency and dated February 2006. The Official Zoning Maps shall be on file in the office of the Swift County Zoning Administrator located at 301 14th Street North, Benson Minnesota 56215.

- C. Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

- D. Interpretation: The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance section or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.
- E. Warning and Disclaimer of Liability: This ordinance section does not imply that areas outside the Floodplain Districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance section shall not create liability on the part of Swift County or any officer or employee thereof for any flood damages that result from reliance on this ordinance section or any administrative decision lawfully made thereunder.
- F. Definitions: Unless specifically defined below, words or phrases used in this ordinance section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance section its most reasonable application.

***all definitions have been removed and placed in General Provisions, Section 1**

Subsection 6.3: Establishment of Floodplain Districts

- A. Districts:
1. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in the Official Zoning Map.
 2. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map as adopted in the Official Zoning Map as being within Zone AE, Zone AO, or Zone AH but being located outside of the floodway.
 3. General Floodplain District. The General Floodplain District shall include those areas designated as Zone A or Zone AE, Zone AO, or Zone AH without a floodway on the Flood Insurance Rate Map adopted in the Official Zoning Map.
- B. Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this ordinance section and other applicable regulations which apply to uses within the jurisdiction of this ordinance section. Within the Floodway, Flood Fringe and General Floodplain Districts, all uses not listed as permitted uses or conditional uses in Subsections 6.4, 6.5, and 6.6 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this ordinance section and specifically Subsection 6.9.
2. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this ordinance section and specifically Subsection 6.11.
3. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance section and specifically as stated in Section 6.10 of this ordinance section.

Subsection 6.4: Floodway District (FW)

A. Permitted Uses:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-commercial loading areas, parking areas, and airport landing strips.
3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
4. Residential lawns, gardens, parking areas, and play areas.

B. Standards for Floodway Permitted Uses:

1. The use shall have a low flood damage potential.
2. The use shall be permissible in the underlying zoning district if one exists.
3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

C. Conditional Uses:

1. Structures accessory to the uses listed in Permitted Uses above and the uses listed in Conditional Uses below.
2. Extraction and storage of sand, gravel, and other materials.
3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Railroads, streets, bridges, utility transmission lines, and pipelines.
5. Storage yards for equipment, machinery, or materials.
6. Placement of fill or construction offences.
7. Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Subsection 6.9 C of this ordinance section.
8. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and

levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. Standards for Floodway Conditional Uses:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
2. All floodway conditional uses shall be subject to the procedures and standards contained in Subsection 6.10 D of this ordinance section.
3. The conditional use shall be permissible in the underlying zoning district if one exists.
4. Fill:
 - a. Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method;
 - b. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan;
 - c. As an alternative, and consistent with 4b immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.
5. Accessory Structures:
 - a. Accessory structures shall not be designed for human habitation;
 - b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
 - i. Whenever possible, structure shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - ii. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - c. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

- i. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
 - ii. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
 - iii. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all opening must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
6. Storage of Materials:
 - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited;
 - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
7. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.
8. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

Subsection 6.5: Flood Fringe District (FF)

A. Permitted Uses:

Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District “Standards for Flood Fringe Permitted Uses” (B) and the “Standards for all Flood Fringe Uses” listed below (E).

B. Standards for Flood Fringe.

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be now lower than 1 foot below the regulatory flood protection elevation and the fill shall

extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Subsection 6.4 D 5C.
3. The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Subsection 6.5 B1.
4. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
5. The provisions of Subsection 6.5 E of this ordinance section shall apply.

C. Conditional Uses:

Any structure that is not elevated on fill or flood proofed in accordance with Subsection 6.5 B 1-2 and or any use of land that does not comply with the standards in Subsection 6.5 B 3-4 shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Subsections 6.5 D-E and 6.10 D of this ordinance section.

D. Standards for Flood Fringe Conditional Uses:

1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
 - a. Design and Certification – The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding;
 - b. Specific Standards for Above-grade, Enclosed Areas – Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - i. A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above

grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood water without any form of human intervention; and

- ii. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
2. Basements, as defined in Section 1 (General Provisions) Subsection 1.9 (Definitions) of this ordinance section, shall be subject to the following:
 - a. Residential basement construction shall not be allowed below the regulatory flood protection elevation.
 - b. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Subsection 6.5 D 3 of this ordinance section.
3. All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
4. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.
5. Storage of Materials and Equipment:
 - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited;

- b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
6. The provisions of Subsection 6.5 E of this ordinance section shall also apply.

E. Standards for All Flood Fringe Uses:

1. All new principal structures must have vehicular access at or above an elevation not more than 2 feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
2. Commercial Uses – accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds 4 upon occurrence of the regional flood.
3. Manufacturing and Industrial Uses – measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Subsection 6.5 E 2 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
4. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation – FEMA’s requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
5. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoin flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
6. Standards for recreational vehicles are contained in Subsection 6.9 C.
7. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Subsection 6.6: General Floodplain District

A. Permissible Uses:

1. The uses listed in Subsection 6.4 A of this ordinance section shall be permitted uses.
2. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Subsection 6.6 B below. Subsection 6.4 shall apply if the proposed use is in the Floodway District and Subsection 6.5 shall apply if the proposed use is in the Flood Fringe District.

B. Procedures for Floodway and Flood Fringe Determinations within the General Flood Plain District.

1. Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.
 - a. A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information;
 - b. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets;
 - c. Photographs showing existing land uses, vegetation upstream and downstream, and soil types;
 - d. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
 - a. Estimate the peak discharge of the regional flood;
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas;

- c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
3. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District Boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analysis to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Subsections 6.4 and 6.5 of this ordinance section.

Subsection 6.7: Subdivisions

- A. Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this ordinance section and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- B. Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in Section 6.2 of this ordinance section to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
- C. Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

Subsection 6.8: Public Utilities, Railroads, Roads, & Bridges

- A. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- B. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Subsection 6.4 and 6.5 of this ordinance section. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. On-Site Sewage Treatment and Water Supply Systems. Where public utilities are not provided:
 - 1. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system; and
 - 2. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

Subsection 6.9: Manufactured Homes & Manufactured Home Parks & Placement of Recreational Vehicles

- A. New manufactured home parks and expansion to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Subsection 6.7 of this ordinance section.
- B. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with Subsection 6.5 of this ordinance section. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5.51, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.
 - 1. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- C. Recreational Vehicles that do not meet the exemption criteria specified in Subsection 6.9 C 1 below shall be subject to the provisions of this ordinance section and as specifically spelled out in Subsections 6.9 C 3-4 below.

1. Exemption – Recreational vehicles are exempt from the provisions of this ordinance section if they are placed in any of the areas listed in Subsection 6.9 C 2 below and further they meet the following criteria:
 - a. Have current licenses required for highway use;
 - b. Are highway-ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it;
 - c. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
2. Areas Exempted For Placement of Recreational Vehicles:
 - a. Individual lots or parcels of record;
 - b. Existing commercial recreational vehicle parks or campgrounds;
 - c. Existing condominium type associations.
3. Recreational vehicles exempted in Subsection 6.9 C 1 lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Subsections 6.4 and 6.5 of this ordinance section. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
4. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any similar use exceeding 5 units or dwelling sites shall be subject to the following:
 - a. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Subsection 6.5 E 1 of this ordinance section. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood;
 - b. All new or replacement recreational vehicles not meeting the criteria of (i) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Subsection 6.10 D of this ordinance section. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate the provisions of Subsection 6.9 C 1: i, ii of this ordinance section shall be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Subsection 6.8 C of this ordinance section.

Subsection 6.10: Administration

- A. Zoning Administrator: A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this ordinance section. If the Zoning Administrator finds a violation of the provisions of this ordinance section the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Subsection 6.12 of this ordinance section.
- B. Permit Requirements:
1. Permit Required. A permit issued by the Zoning Administrator in conformity with the provisions of this ordinance section shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
 2. Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
 3. State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.
 4. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance section.
 5. Construction and Use to be as Provided on Applications, Plans, Permits, Variances, and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance section, and punishable as provided in Subsection 6.12 of this ordinance section.
 6. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building, elevations were accomplished in compliance

with the provisions of this ordinance section. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

7. Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
8. Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
9. Notification to FEMA When Physical Changes Increase or Decrease 100-year Flood Elevation. As soon as is practicable, but not later than 6 months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

C. Board of Adjustment:

1. Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.
2. Administrative Review. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administration of this ordinance section.
3. Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this ordinance section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this ordinance section, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - a. Variances shall not be issued by community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;
 - b. Variances shall only be issued by community upon:

- i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of hearing.
5. Decisions. The Board of Adjustment shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this ordinance section, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the finding of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Subsection 6.10 D 6, which are in conformity with the purposes of this ordinance section. Violations of conditions and safeguards, when made in part such variance is granted, shall be deemed a violation of this ordinance section punishable under Subsection 6.12. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of such action.
6. Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.
7. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that:
 - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - b. Such construction below the 100-year or regional flood level increases risks to life and property.Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

D. Conditional Uses. The Swift County Planning Commission shall hear and decide applications for conditional uses permissible under this ordinance section.

Applications shall be submitted to the Zoning Administrator who shall forward the application to Swift County Planning Commission for consideration.

1. Hearings. Upon filing with the Zoning Administrator an application for a conditional use permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
2. Decisions. The Swift County Planning Commission shall arrive at a decision on a conditional use within 60 days from the date a completed application is filed. In granting a conditional use permit the Swift County Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.46, which are in conformity with the purposes of this ordinance section. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this ordinance section punishable under Section 12.0. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of such action.
3. Procedures to be followed by the Swift County Planning Commission in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.
 - a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Swift County Planning Commission for determining the suitability of the particular site for the proposed use:
 - i. Plans in triplicate drawn to scale showing the nature, location, dimension, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and
 - ii. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 - b. Transmit one copy of the information described immediately above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters;
 - c. Based upon the technical evaluation of the designated engineer or expert, the Swift County Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
4. Factors Upon Which the Decision of the Swift County Planning Commission Shall Be Based. In passing upon conditional use applications, the Swift County Planning Commission shall consider all relevant factors specified in other sections of this ordinance section, and:
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachments;

- b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures;
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - e. The importance of the services provided by the proposed facility to the community;
 - f. The requirements of the facility for a waterfront location;
 - g. The availability of alternative locations not subject to flooding for the proposed use;
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the Swift County Comprehensive Plan and Floodplain Management program from the area;
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
 - l. Such other factors which are relevant to the purposes of this ordinance section.
5. Time for Acting on Application. The Swift County Planning Commission shall act on an application in the manner described above within 60 days from receiving the completed application, except that where additional information is required pursuant to Subsection 6.10 D 3 of this ordinance section. The Swift County Planning Commission shall render a written decision within 60 days from the receipt of such additional information.
6. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this ordinance section, the Swift County Planning Commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance section. Such conditions may include, but are not limited to, the following:
- a. Modification of waste treatment and water supply facilities;
 - b. Limitation on period of use, occupancy, and operation;
 - c. Imposition of operational controls, sureties, and deed restrictions;
 - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures;
 - e. Flood proofing measures, in accordance with the State Building Code and this ordinance section. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

Subsection 6.11: Nonconforming Uses

- A. A structure of the use of a structure or premises which was unlawful before the passage or amendment of this ordinance section but which is not in conformity with the provisions of this ordinance section may be continued subject to the following conditions. Historic structures, as defined in Section 1 (General Provisions) Subsection 1.9 (Definitions) of this ordinance section, shall be subject to the provisions of Sections 6.11 A 1-5 of this ordinance section.
1. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
 2. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in Subsection 6.11 A 3; 6 below.
 3. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Subsection are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower and labor. If the current cost of all previous and proposed alterations and additions exceed 50 percent of the current market value of the structure, then the structure must meet the standards of Subsection 6.4 or Subsection 6.5 of this ordinance section for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
 4. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance section. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.
 5. If any nonconforming use or structure is substantially damaged, as defined in Section 1 (General Provisions) Subsection 1.9 (Definitions) of this ordinance section, it shall not be reconstructed except in conformity with the provisions of this ordinance section. The applicable provisions for establishing new uses or new structures in Subsections 6.4, 6.5, 6.6 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Floodplain District, respectively.
 6. If a substantial improvement occurs, as defined Section 1 (General Provisions) Subsection 1.9 (Definitions) of this ordinance section, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by Subsection 6.11 A 2 above) and the existing nonconforming building must meet the requirements of Subsection 6.4 or 6.5 of this ordinance section for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

Subsection 6.12: Penalties for Violation

- A. Violation of the provisions of this ordinance section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

- B. Nothing herein contained shall prevent Swift County from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
 1. In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
 2. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.
 3. The Zoning Administrator shall notify the suspected party of the requirements of this ordinance section and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use are under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either:
 - a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
 - b. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.
 4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this ordinance section and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this ordinance section.

Subsection 6.13: Amendments

The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he/she determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this ordinance section, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10 days written notice of all hearings to consider an amendment to this ordinance section and said notice shall include a draft of the ordinance section amendment or technical study under consideration.

CHAPTER 2. FOOD & BEVERAGE ORDINANCE

SECTION 1. PURPOSE

Countryside Public Health: Big Stone, Chippewa, Lac qui Parle, Swift and Yellow Medicine Counties have agreed to perform the functions assigned to the State by Minnesota Statutes, Chapter 157, regarding an Ordinance for the licensing and inspection of hotels, motels, boarding houses, lodging houses, restaurants, places of refreshment, temporary and push cart commissaries, drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts, schools, public buildings and churches and resorts located in Big Stone, Chippewa, Lac qui Parle, Swift and Yellow Medicine Counties and has agreed to enforce all applicable statutes, rules, and ordinances pertaining thereto Minnesota Rules, parts 4626.0010 to 4626.1870.

Countryside Public Health Service, Board of Health pursuant to Minnesota Statutes 145A.07, shall become effective upon adoption of the amended Minnesota Food Code (Minnesota Rules, parts 4626.0010 – 4626.1870).

SECTION 2. DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this Ordinance.

- A. **Board:** Countryside Public Health (CPH) Community Health Board acting under the provisions of Minnesota Statute 145A.07, as the Board of Health.
- B. **Environmental Health Department:** Countryside Public Health (CPH) Community Health Board and its Environmental Health Staff.
- C. **Environmental Health Director:** Countryside Public Health (CPH) Community Health Board's Environmental Health Director and any related staff acting under the Board's authority.

SECTION 3. ADOPTION OF FOOD & BEVERAGE ESTABLISHMENT STANDARDS

The standards for Food & Beverage Establishments outlined in Minnesota Rules Chapter 4626.0010 to 4626.1870 and all amendments or additions thereto are hereby incorporated in and made part of this Ordinance and those authorities which are the responsibility of the Minnesota Department of Agriculture. Wherein Minnesota Rules Chapter 4626 refers to the Commissioner, Commissioner shall mean the Countryside Public Health (CPH) Community Health Board and its designated agents.

SECTION 4. EMBARGO, CONDEMNATION, & TAGGING

Subsection 4.1: General

The Environmental Health Director may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of Minnesota Rules Chapter 4626 in accordance with Section 4626.1805 through 4626.1815.

SECTION 5. PLAN REVIEW OF FUTURE CONSTRUCTION

Subsection 5.1: General

When an establishment, in Big Stone, Chippewa, Lac Qui Parle, Swift and Yellow Medicine counties licensed or to be licensed under the provisions of Minnesota Statutes 157 is hereafter constructed or remodeled, or when an existing structure is converted for use as a licensed establishment, it shall submit

to the Environmental Health Department all required plans, specifications and materials, and comply with the requirements of Minnesota Rules 4626. Plans and the fee specified by the Community Health Board shall be submitted at least 30 days before beginning construction, extensive remodeling or conversion of a food establishment.

SECTION 6. PROCEDURE WHEN INFECTION IS SUSPECTED

Subsection 6.1: General

- A. When the Environmental Health Director, or staff, has reasonable cause to suspect the possibility of disease transmission from a food or beverage service establishment employee, the Environmental Health Department shall secure an illness or morbidity history of the suspected employee, and/or make other investigations as may be required, and take appropriate action. The Environmental Health Department may require any or all of the following measures:
1. The immediate exclusion of the employee(s) from all food service establishments;
 2. The immediate closure of the food service establishment concerned until, in the opinion of the Environmental Health Director, no further danger of disease outbreak exists;
 3. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease, and;
 4. Adequate medical and laboratory examinations of the employee, or other employees, and their body discharges;
 5. Collection of samples of food(s) and beverage(s) from the establishment for laboratory examination.

SECTION 7. COMPLIANCE PROCEDURES

Subsection 7.1: Licenses Needed

It shall be unlawful for any person to operate a food and/or beverage service establishment within Big Stone, Chippewa, Lac Qui Parle, Swift or Yellow Medicine counties who does not possess a valid license issued to them by the Environmental Services Department as required by this Ordinance. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one establishment, person or location to another establishment, person or location. A valid license shall be posted in every food service establishment. All licenses expire as of December 31 each year.

Subsection 7.2: Application for License

- A. Any person desiring to operate a food service establishment shall make written application for a license on forms provide by the Environmental Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm, partnership or corporation, the location and type of proposed food service establishment, as well as the signature of the applicant or applicants. If a partnership, the names of the partners, together with the appropriate license fee as described herein shall be submitted to the Environmental Health Department on or before December 31st, prior to the expiration of the current year's license, or in the case of a new business, ten (10) days prior to the opening date of such a business. Any person who operates a food service establishment

without submitting a license application and appropriate fee shall be deemed to have violated this Ordinance and shall be subject to prosecution as provided for in this Ordinance.

- B. Proprietors of any food and/or beverage establishment shall pay an annual license fee at a rate specified by resolution of the Countryside Community Health Board. This annual license fee may be adjusted from time to time as the Board shall deem appropriate. A penalty fee at a rate specified by Community Health Board resolution shall be added to the amount of the license fee and paid by the proprietor if the annual license fee has not reached the Environmental Health Department office by the date specified in section 6.2A.

Subsection 7.3: Inspection & Correction

- A. The Environmental Health Department shall inspect food, beverage, and lodging establishments according to Minnesota Statute 157 and rules adopted under Minnesota Statute 157.
- B. The person operating a food establishment shall, upon request of the Environmental Health Department and after proper identification, permit access to all parts of the establishment at any reasonable time for purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain sources of food or other compliance with the provisions of this Ordinance.
- C. Every person engaged in the operation of a food establishment, as herein defined, shall upon request; furnish reasonable samples free of charge to the Environmental Health Department for laboratory analysis.
- D. Whenever an inspection of a food establishment is made, the findings shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge of the establishment. The completed inspection report form is a public document that shall be made available for public discourse to any person who requests it, except when report forms are a part of pending litigations or are scheduled for follow-up inspections.
- E. The inspection report shall specify a specific and reasonable period of time for the correction of the violations. Correction of the violations shall be accomplished within the period specified.

Subsection 7.4: Suspension of License

- A. Licenses may be suspended temporarily by the Environmental Health Director, or staff, at any time for failure by the holder to comply with the requirements of this Ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this Ordinance, that license holder or operator may be notified in writing that the license upon service of notice is immediately suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for appeal is filed with the Environmental Health Director by the license holder.

- B. Notwithstanding the other provisions of this Ordinance, whenever the Environmental Health Director or Registered Sanitarian finds unsanitary or other condition(s) in the operation of a food establishment which, in their judgment, may constitute a substantial hazard to the public health, they can without warning, notice or hearing, issue written notice to the license holder or operator citing such condition(s), specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and if deemed necessary, such order shall state that the license is immediately suspended, and all food and/or beverage operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Environmental Health Director, shall be afforded an appeal before the Appeals Board.
- C. Any person whose license or permit has been suspended may at any time make application for a re-inspection for the purpose of reinstatement of the license. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in their opinion the condition(s) causing suspension of the license has/have been corrected, the Environmental Health Director or Registered Sanitarian shall make a re-inspection. If the applicant is in compliance with the requirements of this Ordinance and Minnesota Rules Chapter 4626, the license shall be reinstated.

Subsection 7.5: Revocation of License

For serious or repeated violations of any of the requirements of this Ordinance or Minnesota Rules Chapter 4626, the license may be permanently revoked. Prior to such action, the Environmental Health Director shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period. The license holder shall be advised of the same time than an opportunity for hearing before the Appeals Board will be provided if a written request for appeal is filed with the Environmental Health Director by the license holder.

Subsection 7.6: Appeals Board

- A. The Appeals Board shall consist of the Chairperson of the Countryside Community Health Board or a designated appointee, Community Health Services Administrator or designated agent and one Community Health Services Committee representative or a designated agent.
1. **Request for Hearing.** Any person affected by a notice of embargo, suspension, or revocation shall be granted a hearing of the matter before the Appeals Board upon filing in the office of the Environmental Health Director, a written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) days after the notice was served;
 2. **Date of Hearing.** The hearing requested shall be held not more than ten (10) days after the date on which the petition was filed. The Chairman of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the Chairman's judgment a good and sufficient reason exists for such postponement;
 3. **Notice of Hearing.** The Environmental Health Director shall cause five (5) days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing by certified mail to the petitioner or petitioner's last known address;
 4. **Proceedings.** At such hearing the petitioner, their agent or attorney shall be given an opportunity to be heard and to show cause why the notice of embargo, suspension, or revocation issued by the Environmental Health Director should be modified or

- withdrawn. The Environmental Health Director shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing;
5. **Decisions of the Appeals Board.** The Appeals Board, within three (3) days after such hearing shall sustain, modify or withdraw the notice of embargo, suspension, or revocation depending upon its findings. A copy of the decision of the Appeals Board shall be served by mail on the petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief there from in any court of competent jurisdiction as provided by the laws of the state;
 6. **Record of Proceedings.** A summary record of the proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Environmental Health Director shall be kept as a public record in the office of the Environmental Health Director. Such a record shall include a copy of every notice or order or writing issued in connection with the matter;
 7. **Notices not appealed.** Any notice served pursuant to the provisions of this Ordinance shall automatically become final if a written petition for a hearing is not filed with the Environmental Health Director within ten (10) days after the notice is served.

Subsection 7.7: Minnesota Department of Health

The requirements contained in this Ordinance are intended to be comparable to the Minnesota Department of Health Rules and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends rules or adopts new rules setting more restrictive sanitary standards than the ones established in this Ordinance, the rules set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this Ordinance.

Subsection 7.8: Penalties

Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed seven hundred dollars (\$700) or by imprisonment not to exceed ninety (90) days or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

SECTION 8: SEVERABILITY

The provisions of this Ordinance shall be severable. Should any section, paragraph, sentence, clause, phrase or portion of this Ordinance be declared invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

SECTION 9: REPEAL & EFFECTIVE DATE

This Ordinance repeals and replaces in its entirety the Food and Beverage Ordinance provided by Countryside Public Health and passed May 3, 1990 and the Amendment to the Ordinance passed on May 4, 1999. This Ordinance shall be in full force and effect upon publication and passage as provided by law.

Passed by the Swift County Board of Commissioners on February 15, 2011.

(Seal)

Chairperson

Attest:

County Auditor

Approved as to form and execution:

County Attorney

CHAPTER 6. MINI-TRUCK ORDINANCE

SECTION 1. PURPOSE

The purpose of this ordinance is to establish standards for the use of Mini Trucks within Swift County.

SECTION 2. SCOPE

This ordinance shall provide for the authorization of the operation of mini trucks on designated roadways within Swift County.

SECTION 3. AUTHORITY

This ordinance is enacted pursuant to Minnesota Statute § 169.045 which establishes the authority for the County to authorize by ordinance the operation of mini trucks on designated roadways within Swift County.

SECTION 4. DEFINITIONS

For the purposes of this ordinance, the following definitions will apply:

- A. **Mini-Truck:** A motor vehicle that has four wheels, is propelled by an electric motor with a rated power of 7500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less, has a total dry weight of 900 to 2200 pounds, contains an enclosed cabin and a seat for the vehicle operator, commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle, and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404 and successor requirements.
- B. **A Mini-Truck Does Not Include:**
 - 1. A neighborhood electric vehicle or a medium speed electric vehicle; or
 - 2. A motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements.
- C. **Designated Roadway:** All county roads and county state-aid highways within Swift County.

SECTION 5. PERMIT NEEDED

It shall be unlawful for any person to operate a mini truck on roadways within Swift County, except on designated roadways and in compliance with the permit requirements of this ordinance.

SECTION 6. APPLICATION FOR A PERMIT

- A. Any person desiring to operate a mini truck on designated roadways within Swift County shall make written application for a permit on forms provided by the Swift County Environmental Services Office. Such application shall include the full name and address of the applicant; proof of insurance in compliance with Minn. Stat. § 65B.48 Subd. 5; evidence of a valid driver's license; make, model and serial number

of the vehicle; and such other conditions as deemed appropriate by the Swift County Environmental Services Office.

- B. Applicant shall also submit a permit fee in an amount determined by the Swift County Board of Commissioners via resolution.
- C. Permits may be granted for duration not to exceed one year and may be renewed annually.
- D. An applicant may be required to submit a certificate signed by a physician that the applicant is able to safely operate a mini truck on designated roadways.
- E. If persons operating a mini truck cannot obtain liability insurance in the private market, that person may purchase automobile insurance including no-fault coverage, from the Minnesota Automobile Insurance Plan under Minn. Stat. § 65B.01 to § 65B.12, at a rate to be determined by the commissioner of commerce.

SECTION 7. PERMIT CONDITIONS

- A. The operator, under a permit, of a mini truck may cross any street or highway intersecting a designated roadway.
- B. Every person operating a mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of Minn. Stat. § 169, except when those provisions cannot be reasonably applied to mini trucks and except as otherwise provided within Section 7 C below.
- C. The provisions of Minn. Stat. §171 are applicable to persons operating mini trucks under permit on designated roadways.
- D. Notwithstanding any other law, a mini truck may be operated on designated roadways under permit only if it is equipped with:
 - 1. At least two (2) headlamps.
 - 2. At least two (2) tail lamps.
 - 3. Front and rear turn-signal lamps.
 - 4. An exterior mirror mounted on the driver's side of the vehicle and either:
 - a. an exterior mirror mounted on the passenger's side of the vehicle; or
 - b. an interior mirror.
 - 5. A windshield.
 - 6. A seat belt for the driver and front passenger.
 - 7. A parking brake.

SECTION 8. REVOCATION

- A. A permit may be revoked at any time if there is evidence that the permittee cannot safely operate the mini truck on designated roadways.

- B. Said revocation shall be effective three days after the date of mailing, via certified mail, notice of revocation of the permit to the permittee at the address listed on permittee's application.
- C. Permittee may challenge the revocation of the permit by submitting notice in writing to the Swift County Auditor at Swift County Courthouse, 301 – 14th Street North, Benson, MN 56215 within 14 days of the date of the Notice of Revocation. Said notice shall specify the basis of the appeal.
- D. Upon receipt of an appeal of a permit revocation, the Swift County Auditor shall set the appeal on for a hearing before the Swift County Board of Commissioners within 30 days of the receipt of the Notice of Appeal. The County Auditor shall cause at least 10 days written notice of the hearing to be given to the permittee by certified mail to permittee's address as listed on the permit application.
- E. At the hearing before the Swift County Board of Commissioners, the permittee shall be given an opportunity to be heard and to show cause why the notice of revocation issued should be modified, withdrawn, or rescinded.
- F. The Swift County Board of Commissioners shall issue detailed, written findings following the hearing of the appeal.
- G. Any notice of revocation served pursuant to the provisions of this ordinance shall automatically become final if written notice of appeal is not filed with the County Auditor within 14 days after the notice of revocation is served.

SECTION 9. SEVERABILITY

The provisions of this ordinance shall be severable. Should any section, paragraph; sentence, clause, phrase or portion of this regulation be declared invalid for any reason, the remainder of said regulation shall not be affected and the remainder of the provisions shall remain in full force and effect.

SECTION 10. PENALTIES

- A. Any person, firm or corporation who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions thereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1000) and/or by imprisonment of not to exceed ninety (90) days. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.
- B. In the event of a violation, or a threat of a violation, of this Ordinance, the County Attorney may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance, or other appropriate action in Court, if necessary, to prevent, restrain, correct or abate such

violations or threatened violations.

SECTION 11. REPEAL & EFFECTIVE DATE

This Ordinance repeals and replaced in its entirety the Mini-Truck Ordinance passed on December 1, 2009. This Ordinance shall be in full force and effect upon publication and passage as provided by law.

Passed by the Swift County Board of Commissioners on February 15, 2011.

(Seal)

Chairperson

Attest:

County Auditor

Approved as to form and execution:

County Attorney

Chapter 7

Park Ordinance

March 15, 2011

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CHAPTER 7. PARK ORDINANCE

SECTION 1. PURPOSE, AUTHORITY, & DEFINITIONS

Subsection 1.1: Purpose

The purpose of this Ordinance is to provide rules and regulations for the use of and conduct in Swift County Parks. This Ordinance shall apply in all County Parks:

- A. Appleton OHV Park.
- B. Swift Falls Park.
- C. Pomme de Terre Wayside Park.

Subsection 1.2: Authority

Minnesota Statute Section 398.34 authorizes the County to enact Ordinance relating to the County Park System; and said Ordinance may prescribe regulations, not inconsistent with law, for the protection and use of County parks or other units subject to and in accordance with Minnesota Statute 398.31 to 398.36. This Ordinance is enacted in order to establish rules and regulations for the safe and peaceful use of parklands; the recreation and education of the public; the protection and preservation of property and natural resources; and the general welfare of the public.

Subsection 1.3: Definitions

The following definitions shall apply in the interpretation and enforcement of this Ordinance.

- A. **Alcoholic Beverage:** Includes any intoxicating beverage as defined by Minnesota law and includes beer, 3.2 beer, and wine.
- B. **Board:** Shall indicate the Swift County Board of Commissioners.
- C. **Motorized Off-Road Vehicle:** Means any self-propelled, off the road or all-terrain vehicle, designed to be driven off a roadway. Such vehicles include, but are not limited to: snowmobiles, mini-bike, amphibious vehicle, motorcycle, go-cart, scooter, dune buggy, or all-terrain vehicles.
- D. **Park:** Any land or water area and all facilities thereon, including but not limited to trails, under the jurisdiction, control or ownership of Swift County devoted to active or passive recreation.
- E. **Person:** Is any person, firm partnership, association, corporation, company or organization of any kind.
- F. **Pet:** Any animal that is tamed and domesticated and kept as a companion.
- G. **Vehicle:** Is any conveyance, whether motor-powered, animal-drawn, or self-propelled, and also includes snowmobiles. The term shall include any trailer in tow of any size/description. Exceptions are made for wheelchairs, baby carriages, and vehicles in service of the County parks.

SECTION 2. OPERATION REQUIREMENTS FOR ALL PARKS

Subsection 2.1: Prohibited Conduct

It shall be unlawful, except with express permission from the County Parks & Drainage Supervisor or Board, for any person in a public park to:

- A. Mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings or paving materials, water lines

or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

- B. Dig or remove any soil, rock, sand, stones, trees, shrubs, plants, wood or materials; make any excavation by tool, equipment, blasting or other means or agency.
- C. Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon, or access such lands.
- D. Damage, cut, carve, mark, transplant or remove any plant, or injure the bark, or pick powers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area.
- E. Climb any tree or walk, climb, stand, sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purpose.
- F. Throw, discharge, or otherwise place or cause to be placed in the waters of any fountains, pond, lake, stream, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.
- G. Take into, carry through, or put into any park, any rubbish, refuse, garbage or other materials. Such refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.
- H. Leave any glass beverage container in any park or leave any broken glass in a park.
- I. Cause or permit to run loose any animal, unless under direct supervision or control.
- J. Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird; nor shall he/she remove or have in his/her possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird. Fishing is allowed within the Minnesota Game and Fish Regulations and Laws.
- K. Offer items for sale, barter, or donation in any park.
- L. The use of fireworks in any park.

- M. Rules and regulations may be made from time to time by the Board governing the further use and enjoyment of parks, parkways, playgrounds, lakes, streams and canals, and the facilities thereof.

Subsection 2.2: Amplified Music

- A. Generally. Ipods, docking machines, radios, tape players, or televisions/computers may be used as long as they do not disturb other park users.
- B. Amplified Sound. It shall be unlawful except with express permission from the County Parks & Drainage Supervisor or Board, to operate any loudspeaker or amplifier or other device by which sounds are magnified and may be heard by persons other than a person using earphones or a hearing aid device.

Subsection 2.3: Fires

No person shall kindle, build, maintain or use a fire except in places provided for such purposes. Any fire shall be continuously under the care and direction of a competent person from the time it is kindled until it is extinguished. Every person who starts and/or uses a fire is hereby charged with the duty of completely extinguishing fire before leaving such park. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or under any tree or in underbrush.

Subsection 2.4: Pets

It shall be unlawful for any person to:

- A. Bring any dog, cat, or other pet into a park, unless caged or kept on a leash not more than six feet in length.
- B. Allow any dog, cat or other pet to enter a beach area, picnic area, park building, or other unauthorized area within a park.
- C. Permit a pet under his/her control to disturb, harass or interfere with any park visitor, a park visitor's property, or a park employee.
- D. Tether any animal to a tree, plant, building or park equipment.
- E. Have custody or control of any domestic pet in a designated area of a park without possessing an appropriate device for cleaning up pet feces and disposing of it in a sanitary manner.

Subsection 2.5: Prohibited Conduct Regarding Vehicles

It shall be unlawful for any person in a public park to:

- A. Drive any vehicle on any area except the park roads or parking areas, or marked trails such areas as may on occasion be specifically designated as temporary areas.
- B. Park a vehicle anywhere except in a designated parking area.

- C. Leave a vehicle standing or parked in established parking areas or elsewhere in the park during hours when parks are closed.
- D. Cause or allow a vehicle's tires to make a squealing noise upon acceleration or operation of the vehicle.

Subsection 2.6: Public Nuisance

It shall be unlawful for any person to engage in fighting or exhibit threatening, violent, disorderly or indecent behaviors; make unreasonable noise or coarse utterance, gesture or display; or address abusive language to any person present; or disturb or interfere unreasonably with any person or party occupying any area.

Subsection 2.7: Unlawful Occupancy

It shall be unlawful for any person to enter in any way any building, installation or area that may be under construction or locked or closed to public use or to enter or be upon any building, installation or area after the posted closing time or before the posted opening time or contrary to posted notice in any park.

Subsection 2.8: Weapons

It shall be unlawful for any person to bring into or have in his/her possession in any park:

- A. Any pistol or revolver or objects upon which loaded or blank cartridges may be used.
- B. Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow, or other weapon in which the propelling force is gunpowder, a spring or air. Said items may be allowed if properly cased and stored in a vehicle in the parking area.

SECTION 3. APPLETON OHV PARK REGULATIONS

Subsection 3.1: General Regulations

- A. Park Hours. The park will be closed from sunset to sunrise to OHV riders; excluding snowmobile riders during the winter season.
- B. Alcohol/Mood-altering Substances. No person shall use, consume or possess any alcoholic beverage or mood-altering substance not prescribed by a physician.

Subsection 3.2: Permitted Activities

Activities allowed within Appleton OHV Park limits:

- A. OHV Riding. Off-Highway Vehicles includes: Off-Highway Motorcycles, Off-Road Vehicles, All-Terrain Vehicles, and Snowmobiles.
 1. All OHV's must be registered with the Minnesota Department of Natural Resources. Out of State OHV riders must obtain a trail pass that can be purchased through the Minnesota Department of Natural Resources.
 2. Required Equipment: Off-highway vehicles operated on public lands, waters, trails, and public streets and roads open to vehicle use, must be equipped as follows:
 - a. Brakes;

- b. Throttle;
 - c. Muffler;
 - d. Towing Capabilities;
 - e. Overall noise emission from ATVs and ORVs may not exceed 99 decibels at a distance of 20 inches;
 - f. At least 16 square inches of reflective material that is unobstructed and visible mounted on each side and rear of trailer or other device.
3. Trail Riding Requirements.
- a. All trail signs and rules must be obeyed;
 - b. All designated trails are two-way unless posted otherwise;
 - c. One-way trails must be traveled in the direction indicated;
 - d. Certain OHVs must remain on specifically designated trails as noted on trail signs.
- B. Boating/Canoeing. It shall be unlawful for any person to:
- 1. Launch or land any watercraft upon any waters within a park, except at designated locations and times.
 - 2. Leave any watercraft unattended on land or in the water, except in designated areas.
 - 3. Operate any watercraft in a designated swimming area or other prohibited area.
 - 4. Tow a person on water skis, surf board, knee board, inner tube or Jet Ski in a designated swimming area, boat launching area or other unauthorized area or enter a designated swimming area on the device.
- C. Fishing. It shall be unlawful for any person to:
- 1. Fish in a park in violation of any provision of Minnesota Statutes, Chapter 97C "Fishing".
 - 2. Fish in a prohibited area.
 - 3. Leave any structure, shelter or ice house upon a frozen body of water in park after sunset; except in such areas and times as may be designated by the Parks & Drainage Supervisor.
 - 4. Clean fish and dispose of the remains, except at a place provided by and designated by the Parks & Drainage Supervisor.
- D. General Trails. It shall be unlawful for a pedestrian to walk/bicycle throughout the Park outside of designated walking trails or areas. This is for pedestrian safety purposes.

Subsection 3.3: Prohibited Activities

It shall be unlawful for any person to camp, hunt, or horseback ride in the Appleton OHV Park.

**SECTION 4. SWIFT FALLS & POMME DE TERRE WAYSIDE PARKS
REGULATIONS**

Subsection 4.1: General Regulations

- A. Park Hours. The park will be closed from 11:00 P.M. to 5:00A.M.; excluding permitted campers.
- B. Alcohol. It shall be unlawful for any person to possess an alcoholic beverage in containers larger than one and one-half (1.5) liters in Swift Falls & Pomme de Terre Wayside Parks.
- C. Use Permits. Persons intending to camp are to utilize "Honor Boxes" located at Park sites and pay dues as posted.
 - 1. Requirements.
 - a. Use permits are required for the exclusive or special use of all or portions of park areas, buildings, or trails;
 - b. Use permits shall be approved by the Parks & Drainage Supervisor or his or her authorized designee, or by the Board;
 - c. It shall be unlawful for a person(s) to violate any provisions of an approved permit.
 - 2. User Fees.
 - a. User fees shall be set by the Board as needed;
 - b. It shall be unlawful for any person to use, without payment, any facility or area for which a user fee is charged.
 - 3. Large Groups. Use permits shall be required for any entertainment, tournament, exhibition or other special use which can reasonably be expected to have thirty (30) or more persons involved.
 - 4. Revocation of Permit. The Sheriff's Department and the Parks & Drainage Department are authorized to revoke a permit immediately upon a finding of a violation of any park rule, Ordinance, or permit condition. The applicant shall be liable for any loss, damage or injury sustained by virtue of the activity conducted pursuant to the permit.

Subsection 4.2: Permitted Activities

Activities allowed within Swift Falls Park and Pomme de Terre Wayside Park limits:

- A. Camping/Activity Rules. It shall be unlawful for any person to:
 - 1. Camp or stay overnight in a park, except with a permit in areas provided and designated for that purpose.
 - 2. Fail to produce a permit claimed to have, upon request of any authorized person who shall desire to inspect the permit to enforce compliance with the Ordinance.
 - 3. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of the permit.
- B. Other Activities Allowed.
 - 1. Boating/Canoeing. It shall be unlawful for any person to:
 - a. Launch or land any watercraft upon any waters within a park, except at designated locations and times;

- b. Leave any watercraft unattended on land or in the water, except in designated areas;
 - c. Operate any watercraft in a designated swimming area or other prohibited area;
 - d. Tow a person on water skis, surf board, knee board, inner tube or Jet Ski in a designated swimming area, boat launching area or other unauthorized area or enter a designated swimming area on the device.
2. Cross-Country Skiing.
 3. Fishing. It shall be unlawful for any person to:
 - a. Fish in a park in violation of any provision of Minnesota Statutes, Chapter 97C "Fishing";
 - b. Fish in a prohibited area;
 - c. Leave any structure, shelter or ice house upon a frozen body of water in park after sunset; except in such areas and times as may be designated by the Parks & Drainage Supervisor;
 - d. Clean fish and dispose of the remains, except at a place provided by and designated by the Parks & Drainage Supervisor.
 4. Swimming. In designated areas.

Subsection 4.3: Prohibited Activities

It shall be unlawful for any person to hunt, horseback ride, or operate Off-Highway Vehicles in the Swift Falls Park and Pomme de Terre Wayside Park.

SECTION 5: PENALTY, COUNTY AUTHORITY, SEVERABILITY

Subsection 5.1: Penalty

Violation of any of the sections of this Ordinance Chapter shall constitute a misdemeanor, as defined by Minnesota State Statutes. Every person shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the County Jail for not more than ninety (90) days, or both.

Subsection 5.2: Authority of Sheriff's & County Parks & Drainage Departments

The Sheriff's Department and/or County Parks & Drainage Department shall have the authority to close areas of the parks to the public for construction work in the park, to prevent access to dangerous areas, protect seedlings and plantings, for maintenance purposes, and for natural disasters. Any Sheriff's Department shall eject from the Park any person whose conduct is in violation of this Ordinance, Minnesota State Laws and Statutes, or other Ordinances.

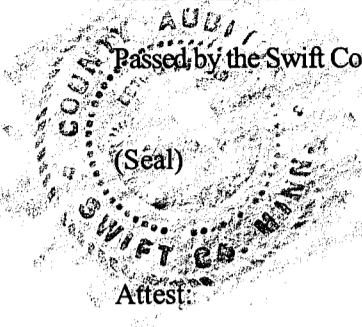
Subsection 5.3: Severability

The provisions of this ordinance shall be severable. Should any section, paragraph; sentence, clause, phrase or portion of this regulation be declared invalid for any reason, the remainder of said regulation shall not be affected and the remainder of the provisions shall remain in full force and effect.

SECTION 6: REPEAL & EFFECTIVE DATE

This Ordinance repeals and replaced in its entirety the Chapter 2 Park Ordinance passed on October 21, 1969 and the amendment to Chapter 2 passed on April 17, 1980. This Ordinance shall be in full force and effect upon publication and passage as provided by law.

Passed by the Swift County Board of Commissioners on March 15, 2011.



Gary Hendrichs
Chairperson

Byron Miese
County Auditor

Approved as to form and execution:

John W. Simke
County Attorney

SECTION 13. PUBLIC HEALTH NUISANCE REGULATIONS.

Subsection 13.1: Purpose

- A. Regulations defining Public Health Nuisances, prohibiting their creation or maintenance, and providing for abatement and penalties for violation thereof.

Subsection 13.2: Public Nuisances Affecting Health

It is hereby declared to be a public health nuisance to permit, maintain, or harbor any of the following within a dwelling or fifty (50) feet from perimeter of dwelling:

- A. Animals, fish, or fowl, wild or domestic, whether confined or running at large having a contagious disease or condition which endangers public health, safety, or welfare.
- B. Garbage not stored in rodent-free of fly-tight containers, or garbage stored so as to emit foul and disagreeable odors, or garbage stored so as to constitute a hazard to public health or safety.
- C. Unreasonable accumulations of refuse or garbage, or any combination thereof.
- D. The public exposure of persons having a contagious disease or condition which endangers public health, safety, or welfare.
- E. Infestations of insects, vermin or rodents.

Subsection 13.3: Enforcement

- A. It shall be the duty of Countryside Community Health Board, by and through its Environmental Health Department to enforce the provisions of this ordinance section. The Director of Environmental Health, Sanitarian, or other designated staff member is hereby the delegated authority to enforce the provisions of this ordinance section, including such power to inspect private premises as exists by law, issue orders for abatement, issue citations for violations, and abate nuisances. The officers charged with the enforcement of this ordinance section shall take all reasonable precautions to prevent the commission and maintenance of public health nuisances.

Subsection 13.4: Abatement of Nuisance & Assessment of Cost

- A. When any public health nuisance is found to exist within Swift County, the Health Authority shall order the owner or occupant thereof to remove the same, at the expense of the owner or occupant, within a period not to exceed thirty (30) days, the exact time to be specified in the notice. Upon failure of the owner or occupant to abate the nuisance, Countryside Community Health Board or its designee will consult with the Swift County Board of Commissioners for further action. Prior to the solicitation of bids to abate the nuisance the Swift County Board must approve the action. Once the bids are sought and approved by the County Board, the Auditor will contact the Environmental Health Director to proceed with the enforcement. The cost of the enforcement action may be assessed and charged against the real property on which the public health nuisance was located, pursuant to Minnesota Statute 145A.04 and 145A.08. No person shall obstruct any official

of Countryside Community Health Board or Swift County Board in enforcing this ordinance section.

- B. In the event the Health Authority deems a nuisance situation to constitute an immediate public health hazard, the Health Authority may immediately abate or condemn the nuisance.
- C. The owner or occupant shall then make safe or secure the property or nuisance in accordance with the above provisions.

Subsection 13.5: Penalty

- A. Any person violating any of the provision of this ordinance section shall, upon conviction, be guilty of a misdemeanor and subject to a fine of not more than seven hundred (\$700) dollars or by imprisonment for a period of not exceeding ninety (90) days or both, together with costs or prosecution.
- B. Each day that a prohibited act shall continue or such nuisance shall be maintained, shall constitute a separate offense.

Subsection 13.6: Injunctive Relief

- A. In the event of a violation or threat of this ordinance section, Countryside Community Health Board, by action of the County Attorney may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the County Attorney may institute a civil action. All costs of such action, inclusive of reasonable attorney fees, shall be charged against the property owner or against the real estate from which the nuisance has been abated, all in accordance with Minnesota Statutes Section 145A.04, subdivision 08 and 145A.08. No person shall obstruct any official of Countryside Community Public Health Board in enforcing this ordinance section.

SECTION 14. REPEAL AND EFFECTIVE DATE.

Subsection 14.1: Repeal

This Zoning and Land Regulation Code Ordinance repeals and replaced in its entirety the ordinances pertaining to Zoning, Feedlot, Wind Energy, Adult Use, Establishing Standards & Procedures Regulating Manufactured Home Parks & Recreational Camping Areas, and Public Health Nuisances.

Subsection 14.2: Effective Date

This Ordinance shall be in full force and effect upon publication and passage as provided by law.

Passed by the Swift County Board of Commissioners on February 15, 2011.

(Seal)

Chairperson

Attest:

County Auditor

Approved as to form and execution:

County Attorney

SECTION 7. SHORELAND MANAGEMENT DISTRICT

Subsection 7.1: District Description

This area consists of 40-acre parcels of land located in the unincorporated areas of Swift County which have been identified as potential shoreland areas, according to the definition, adjacent to public water bodies, rivers and streams as classified in this ordinance section.

Pursuant to Minnesota Regulations, Parts 6120.2500-6120.3900 and the planning and zoning enabling legislation in Minnesota Statutes Chapter 394, no lake, pond, or flowage less than 25 acres in size in the unincorporated areas need be regulated in a local government’s shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance section.

Subsection 7.2: Shoreland Classification System & Land Use Districts

A. Shoreland Classification System.

The public waters of Swift County have been classified below consistent with the criteria found in Minnesota Regulations Part 6120.3300, and the Protected Waters Inventory Map for Swift County, Minnesota. The shoreland area for the water bodies listed below shall be defined as stated under “Definitions” and as shown on the official Zoning Map.

1. Lakes

a. Natural Environment Lakes:

Identification Number	Lake Name	Section(s)	Township(s)
6-2P	Artichoke	31: 6	Hegbert & Shible
760115	Byrne	1: 6	Fairfield & Tara
760072	Camp	1: 2	Camp Lake
760092	Frovold	15, 16	Benson
760148	Griffin	32: 5	Hegbert & Shible
760140	Hart	20	Shible
760057	Hollerberg	2, 11, 12, 14	Kildare
760034	Frank	5, 6: 31	Hayes & Kerkhoven
760086	Hassel	4, 8, 9, 10, 16, 17	Benson
760094	Johnson	17, 18, 19, 20	Benson
760088	Moore	10, 11, 14, 15	Benson
760146	Oliver	26, 27, 35, 36: 1	Hegbert & Shible
37-46P	Lac Qui Parle	28, 29, 30, 33, 34	Appleton
760160	Large Henry	20, 29, 32	Hegbert
760107	Malachy	15, 21, 22	Clontarf
760108	Lynch	27	Clontarf
6-1P	Marsh	19, 30	Appleton

Continued on following page.

Identification Number	Lake Name	Section(s)	Township(s)
760033	Monson	35, 36: 1, 2	Kerkhoven & Hayes
760163	Reu	27, 28	Hegbert
760031	School	36	Hayes
12-30P	Shakopee	31	Dublin
760141	Shible	27, 28, 33, 34	Shible
61-34P	Simon	4, 5	Kerkhoven
760159	Small Henry	20, 21, 28	Hegbert
760149	S. Drywood	7, 8	Hegbert
760169	N. Drywood	5, 6	Hegbert
760130	Spring	33: 4, 5	Shible & Appleton
34-359P	Sunburg	36: 1	Kerkhoven & Hayes
76-32P	W. Sunburg	36: 1	Kerkhoven & Hayes
76009	Unnamed	1, 2, 11, 12	Hayes
760010	Unnamed	2, 3, 10, 11	Hayes
760015	Unnamed	11	Hayes
61-35WP	Unnamed	6	Kerkhoven
760037	Unnamed	3, 9, 10	Kerkhoven
760041	Unnamed	13	Kerkhoven
760043	Unnamed	28	Kerkhoven
760063	Unnamed	3	Camp Lake
760070	Unnamed	36	Camp Lake
760071	Unnamed	36	Camp Lake
760089	Unnamed	13, 24	Benson
760090	Unnamed	14, 15, 23	Benson
760105	Unnamed	21	Six Mile Grove
760110	Unnamed	3, 4	Marysland
760112	Unnamed	17, 20	Tara
760113	Unnamed	18	Tara
760116	Unnamed	13, 24: 19	Fairfield & Tara
760117	Unnamed	31	Edison
760123	Unnamed	32	Fairfield
760133	Unnamed	3, 4	Shible
760134	Unnamed	4	Shible
760135	Unnamed	4	Shible
760136	Unnamed	6	Shible
760138	Unnamed	6, 7	Shible
760147	Unnamed	34: 3	Hegbert & Shible
760156	Unnamed	19, 20	Hegbert
760157	Unnamed	19, 30	Hegbert
760158	Unnamed	20, 21	Hegbert
760161	Unnamed	22	Hegbert
760164	Unnamed	29, 30	Hegbert
760166	Unnamed	30, 31	Hegbert
760168	Unnamed	33, 34	Hegbert

2. Rivers and Streams (Transitional, Agricultural, Tributary):

Class	Name	To			From		
		Sec.	Twp.	Rng.	Sec.	Twp.	Rng.
Transitional	Minnesota River	30	120N	43W	30	120N	43W
Agricultural	Pomme de Terr (PDT)	5	122N	42W	3	120N	43W
Agricultural	Chippewa River	34	121N	40W	32	120N	40W
		31	120N	40W	35	120N	41W
		35	120N	40W	35	120N	40W
		35	120N	40W	34	120N	40W
Agricultural	EBCR (Basin 245)	1	122N	38W	24	122N	38W
Tributary	Dry Wood Creek (Basin 169)	5	122N	43W	5	122N	43W
		2	122N	43W	6	122N	42W
Tributary	Artichoke Creek (Basin 157)	19	122N	43W	6	122N	43W
							(Basin 169)
Tributary	Unnamed to PDT (Basin 113)	18	122N	41W	16	122N	42W
Tributary	Unnamed to Unnamed	11	122N	42W	15	122N	42W
Tributary	Cottonwood Creek	21	120N	41W	33	120N	41W
Transitional	East Branch Chippewa River (EBCR)	3	122N	38W	32	122N	40W
							(Basin 245)
Tributary	Mud Creek (Basin 61-477)	4	122N	37W	24	122N	39W
							(Basin 243)
Tributary	Unnamed to River Bottom Lake	4	122N	37W	3	122N	38W
							(Basin 61-477)
Tributary	Unnamed to River Bottom Lake	12	122N	37W	3	122N	38W
							(Basin 61-477)
Tributary	Unnamed to Unnamed (Basin 37)	3	122N	37W	3	122N	37W
Tributary	Spring Creek	22	122N	37W	18	122N	37W
Tributary	Unnamed to EBCR (Basin 67)	20	122N	38W	30	122N	38W
Tributary	Unnamed to EBCR (Basin 84)	2	122N	39W	13	122N	39W
							(Basin 226)
Tributary	Unnamed to EBCR (Basin 229)	26	122N	39W	26	122N	39W
Tributary	Mud Creek (MC)	12	120N	39W	12	120N	37W
Tributary	Unnamed to Mud Creek	36	121N	37W	11	120N	37W
Tributary	Unnamed to Mud Creek	22	121N	37W	3	120N	37W
Tributary	Unnamed Tributary (Basin 262)	9	121N	37W	9	121N	37W
Tributary	Unnamed Tributary (Basin 86)	9	122N	39W	21	122N	39W
Tributary	Hassel Creek	4	122N	39W	4	122N	39W
							(Basin 86)
Tributary	Unnamed Tributary	6	122N	39W	5	122N	39W
Tributary	Unnamed Tributary	6	122N	40W	13	122N	41W
Tributary	Unnamed to Shakopee Creek	21	120N	39W	20	122N	39W

B. Land Use District Descriptions.

1. The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the Official Zoning Map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200,

Subp. 3. The land use districts in this section must be consistent with the goals, policies and objectives of the Swift County Comprehensive Plan and the following criteria, considerations, and objectives:

- a. General Considerations and Criteria for all Land Uses:
 - i. Preservation of natural areas;
 - ii. Present ownership and development of shoreland areas;
 - iii. Shoreland soil types and their engineering capabilities;
 - iv. Topographic characteristics;
 - v. Vegetative cover;
 - vi. In-water physical characteristics, values, and constraints;
 - vii. Recreational use of the surface water;
 - viii. Road and service center accessibility;
 - ix. Socioeconomic development needs and plans as they involve water and related land resources;
 - x. Land requirements of industry which, by its nature, requires location in shoreland areas; and
 - xi. Necessity to preserve and restore certain areas having significant historical or ecological value.

2. Land Use Districts for Lakes:

Land Use Districts	General Development Lakes	Recreational Development Lakes	Natural Environment Lakes
<i>Special Protection District – Uses</i>			
Forest Management	P	P	P
Sensitive Resource Management	P	P	P
Agricultural: Cropland & Pasture	P	P	P
Agricultural Feedlots	C	C	C
Parks & Historic Sites	C	C	C
Extractive Uses	C	C	C
Single Residential	C	C	C
Mining of Metallic Minerals & Peat	P	P	C
<i>Urban Development District - Uses</i>			
Single Residential	P	P	P
Semipublic	C	C	C
Parks & Historic Sites	C	C	C
Extractive Use	C	C	C
Duplex, Triplex, Quad Residential	P	P	C
Forest Management	P	P	P
Mining of Metallic Minerals & Peat	P	P	C

*Planned Unit Developments are not allowed on any Shoreland District.

3. Land Use Districts for Rivers & Streams:

Land Use Districts	General Development Lakes	Recreational Development Lakes	Natural Environment Lakes
<i>Special Protection District – Uses</i>			
Forest Management	P	P	P
Sensitive Resource Management	P	P	P
Agricultural: Cropland & Pasture	P	P	P
Agricultural Feedlots	C	C	C
Parks & Historic Sites	C	C	C
Extractive Uses	C	C	C
Single Residential	C	C	C
Mining of Metallic Minerals & Peat	P	P	P
<i>Urban Development District - Uses</i>			
Single Residential	P	P	P
Semipublic	C	C	C
Parks & Historic Sites	C	C	C
Extractive Use	C	C	C
Duplex, Triplex, Quad Residential	C	C	C
Forest Management	P	P	P
Mining of Metallic Minerals & Peat	P	P	P

*Planned Unit Developments are not allowed on any Shoreland District.

4. Use and Upgrading of Inconsistent Land Use Districts:

- a. The Land Use Districts adopted in this ordinance section, as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified above. These inconsistent land use designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Official Zoning Map or to modify the boundaries of an existing land use district shown on the Official Zoning Map;
- b. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:
 - i. Lakes. When a revision to a land use district designation on a lake is being considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this ordinance section on said lake must be revised to make them substantially compatible with the framework previously described in this ordinance section;
 - ii. Rivers and Streams. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance section must be revised to make them substantially compatible with the framework previously described in this ordinance section. If the same river classification

is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

- c. When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district’s boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the Planning Commission;
- d. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Planning Commission will direct the Zoning Administrator to provide such additional information for the water body as is necessary to satisfy items 1 & 2;
- e. The Planning Commission must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said water body, are consistent with the enumerated criteria and use provisions of this ordinance section.

Subsection 7.3: Zoning & Water Supply/Sanitary Provisions

A. Lot Area and Width Standards.

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triple and quad residential lots created after the date of enactment of this ordinance section for the lake and river/stream classifications are the following:

1. Unsewered Lakes.

a. Natural Environment:

Residential Lots	Riparian Lots		Non-Riparian Lots	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

b. General Development:

Residential Lots	Riparian Lots		Non-Riparian Lots	
	Area	Width	Area	Width
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

2. Sewered Lakes.

a. Natural Environment:

Residential Lots	Riparian Lots		Non-Riparian Lots	
	Area	Width	Area	Width
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

b. General Development:

Residential Lots	Riparian Lots		Non-Riparian Lots	
	Area	Width	Area	Width
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

3. River/Stream Lot Width Standards – Minimum lot size requirement of 2 ½ acres for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the two river/stream classifications are:

Residential Lots	Transitional	Agricultural
Single	250	150
Duplex	375	225
Triplex	500	300
Quad	625	375

4. Additional Special Provisions.

a. Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:

- i. Each building must be set back at least 200 feet from the Ordinary High Water Level;
- ii. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- iii. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- iv. No more than twenty-five percent (25%) of a lake's shoreline can be in duplex, triplex or quad developments.

b. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions, provided the following standards are met:

- i. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;

- ii. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
 - iii. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- c. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:
- i. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;
 - ii. If docking, mooring, or over-water storage of more than six (6) watercrafts is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six (6), consistent with the following table:
 - 1) Controlled Access Lot Frontage Requirements:

Ratio of Lake Size to Shore Length (acres/mile)	Required Increase in Frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- iii. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lots; and
- iv. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include: swimming, sunbathing or picnicking. The covenant must limit the total number of watercrafts allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking area,

storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

B. Placement of Structures on Lots.

1. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the Ordinary Water Level provided the proposed building site is not located in a shoe impact zone or in a bluff impact zone. Structures shall be located as follows:
 - a. Structures and Onsite Sewage Systems Setbacks (in feet) from Ordinary High Water Level;

Setbacks			
Classes of Public Waters	Structures		Sewage Treatment System
	Unsewered	Sewered	
<i>Lakes</i>			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	50
<i>Rivers</i>			
Remote	200	200	150
Forested & Transition	150	150	100
Agricultural, Urban & Tributary	100	50	75
One water-oriented accessory structure designed in accordance with the Design Criteria For Structures section of this Ordinance may be set back a minimum distance of ten (10) feet from the Ordinary High Water Level.			

- b. Additional Structures Setback. The following additional structure setbacks apply, regardless of the classification of the water body:

Setback From:	Setback (in feet)
Top of Bluff	30
Unplatted Cemetery	50
Right-of-Way line of Federal, State, County highway or town road	50
Right-of-Way line of public street, or other roads or streets not classified	20

- c. Bluff Impact Zones. Structures and accessory facilities, except stairways and lands, must not be placed within bluff impact zones;
 - d. Uses Without Water-Oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set

back double the normal Ordinary High Water Level setback or be substantially screen from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria for Structures.

- a. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest flood, including the basement, is placed or flood-proofed must be determined as follows:
 - i. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the Ordinary High Water Level, whichever is higher;
 - ii. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data is not available, by placing the lowest floor at least three feet above the Ordinary High Water Level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts of the Ordinance governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
 - iii. Water-oriented accessory structures may have the lowest flood placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- b. Water-Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in the Placement of Structures on Lots section of this ordinance section if this water-oriented accessory structure complies with the following provisions:
 - i. The structure or facility must not exceed ten feet in height, exclusive of safety rail, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
 - ii. The setback of the structure or facility from the Ordinary High Water Level must be at least ten feet;
 - iii. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
 - iv. The roof may be used as a deck with safety rail, but must not be enclosed or used as a storage area;

- v. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
- c. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
 - i. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and public open-space recreational properties;
 - ii. Landings for stairways must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties and public open-space recreational properties.
 - iii. Canopies or roofs are not allowed on stairways, lifts, or landings;
 - iv. Stairways, lifts and landings may either be constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - v. Stairways, lifts and landings must be located in the lots visually inconspicuous portion of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - vi. Facilities such as ramps, lifts, or mobility paths for physically disabled persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards 1-5 are complied within in addition to the requirements of Minnesota Regulations, Chapter 1340.
- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository;
- e. Steep slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

3. Height of Structures.

All structures in residential districts, except churches and nonresidential agricultural structures must not exceed twenty-five (25) feet in height.

C. Shoreland Alterations.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

1. Vegetation Alterations:

- a. Vegetation alternation necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by the Placement and Design of Roads, Driveways, and Parking Areas section of this ordinance section are exempt from the vegetation alteration standards that follow;
- b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in the Ordinance is allowed subject to the following standards:
 - i. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control sedimentation plan is developed and approved by the soil and water conservation district in which the property is located;
 - ii. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landing, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - 1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - 2) Along rivers, existing shading of water surface is preserved; and
 - 3) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

2. Topographic Alterations/Grading and Filling.

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways;
- b. Public roads and parking areas are regulated by the section of this ordinance section dealing with Placement and Design of Roads, Driveways, and Parking Areas;

- c. Notwithstanding items 1 & 2 above, a grading and filling permit will be required for:
 - i. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - ii. The movement of more than 50 cubic yards outside of steep slopes and shore and bluff impact zones.
- d. The following considerations and conditions must be adhered to during the issuance of construction permits, variances and subdivisions approvals:
 - i. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:
 - 1) Sediment and pollutant trapping and retention;
 - 2) Storage of surface runoff to prevent or reduce flood damage;
 - 3) Fish and Wildlife habitat;
 - 4) Recreational use;
 - 5) Shoreline or bank stabilization; and
 - 6) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.
 - ii. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
 - iii. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
 - iv. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
 - v. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United State Soil Conservation Service;
 - vi. Fill or excavated material must not be placed in a manner that creates an unstable slope;
 - vii. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slop stability and must not create finished slopes of 30 percent or greater;
 - viii. Fill or excavated material must be placed in bluff impact zones;

- ix. Any alterations below the Ordinary High Water Level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 105.42;
 - x. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
 - xi. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the Ordinary High Water Level, and the height of the riprap above the Ordinary High Water Level does not exceed three feet.
- e. Connections to public waters. Excavation where the intended purpose is connection to public water, such as boat slips, canals, lagoons and harbors must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public water.

D. Placement and Design of Roads, Driveways, and Parking Areas.

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts (permit required).
3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of the Topographic Alterations/Grading and Filling section of this ordinance section must be met.

E. Stormwater Management.

The following general and specific standards shall apply:

1. General Standards
 - a. When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters;
 - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site;

- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various skimming devices, dikes, waterways and ponds may be used. Preferences must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and manmade materials and facilities.

2. Specific Standards.

- a. Impervious surface coverage of lots must not exceed 25 percent of the lot area;
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts;
- c. New constructed stormwater outfalls to public waters must provide for filtering or setline of suspended solids and skimming of surface debris before discharge.

F. Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.

1. Standards for Commercial, Industrial, Public and Semipublic Uses.

- a. Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
 - i. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
 - ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
 - iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey the needed information to the public, subject to the following general standards:
 - 1) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages maybe placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - 2) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed

information such as product brand and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

- 3) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

- b. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be setback double the normal Ordinary High Water Level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agricultural Use Standards.

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses is steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the Ordinary High Water Level;
- b. Animal Feedlots must meet the flowing standards:
 - i. New feedlots must not be located in the shoreland of watercourses or in the bluff impact zones and must meet a minimum setback of 300 feet from the Ordinary High Water Level of all public waters basins; and
 - ii. Modifications or expansions to existing feedlots that are located within 300 feet of the Ordinary High Water Level or within a bluff impact zone are allowed if they do not further encroach into the existing Ordinary High Water Level setback or encroach on bluff impact zones.

3. Forest Management Standards.

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota”.

4. Extractive Use Standards.

- a. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hour and duration of operation,

and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end;

- b. Setbacks for Processing Machinery. Processing machinery must be location consistent with setback standards for structures from Ordinary High Water Levels of public waters and from bluffs;
- c. Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes sec. 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes sec 93.44 to 93.51 are satisfied.

G. Conditional Uses.

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
 - a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - b. The visibility of structures and other facilities as viewed from public waters is limited;
 - c. The site is adequate for water supply and onsite sewage treatment; and
 - d. The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.
2. Conditions attached to Conditional Use Permits. The Planning Commission, upon consideration of the criteria listed above and the purposes of this ordinance section, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance section. Such conditions may include, but are not limited to, the following:
 - a. Increased setbacks form the Ordinary High Water Level;
 - b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 - c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

H. Water Supply and Sewage Treatment.

1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
2. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - a. Publicly-owned sewer systems must be used where available;

- b. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance section;
- c. Onsite sewage treatment systems must be set back from the Ordinary High Water Level in accordance with the setbacks contained in the Placement of Structures on Lots section of this ordinance section;
- d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the evaluation criteria in subitems 1-4. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from onsite field investigations. Evaluation Criteria:
 - i. Depth to the highest known or calculated ground water table or bedrock;
 - ii. Soil conditions, properties and permeability;
 - iii. Slope;
 - iv. The existence of lowlands, local surface depressions, and rock outcrops.
- e. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with this ordinance section.

Subsection 7.4: Nonconformities

All legally established nonconformities as of the date of this ordinance section may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

- A. Construction on Nonconforming Lots of Record.
 - 1. Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of the Lot Area and Width Standards of this ordinance section may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the same time, and sewage treatment and setback requirements of this ordinance section are met.
 - 2. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
 - 3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of the Lot Area and Width Standards section of this ordinance section the lot must not be considered as a

separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the lot requirements of this ordinance section as much as possible.

B. Additions/Expansions to Nonconforming Structures.

1. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance section. Any deviation from these requirements must be authorized by a variance.
2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the Ordinary High Water Level if all of the following criteria and standards are met:
 - a. The structure existed on the date the structure setbacks were established;
 - b. A thorough evaluation of property and structure reveals no reasonable location for a deck meeting or exceeding the Ordinary High Water Level setback of the structure;
 - c. The deck encroachment toward the Ordinary High Water Level does not exceed 15 percent of the existing setback of the structure from the Ordinary High Water Level or does not encroach closer than 30 feet, whichever is more restrictive; and
 - d. The Deck is constructed primarily of wood, and is not roofed or screened.

C. Nonconforming Sewage Treatment Systems.

1. A sewage treatment system not meeting the standards of the Water Supply and Sewage Treatment System section of this ordinance section must be upgraded, at a minimum, at any time a land transfer occurs, a zoning permit or variance of any type is applied for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the Ordinary High Water Level.
2. The governing body of Swift County has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. Swift County will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes sec. 103F, in effect at the time of installation may be considered conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by MPCA's Chapter 7080 for design of onsite sewage treatment systems, shall be considered nonconforming.

Subsection 7.5: Subdivision/Platting Provisions

- A. Land Suitability. Each lot created through subdivision must be suitable to its natural state for the proposed use with minimum alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitation for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

- B. Consistency with Other Controls. Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with MPCA and this ordinance section's standards can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of the Lot Area and Width Standards section of this ordinance section, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

- C. Information Requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:
 - 1. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
 - 2. The surface water features required in Minnesota Statutes sec 505.02, sub. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.
 - 3. Adequate soils information to determine suitability for building and onsite sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods.
 - 4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities.
 - 5. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
 - 6. A line or contour representing the Ordinary High Water Level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

- D. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- E. Platting. All subdivisions that create five or more lots or parcels that are 2 ½ acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as a part of a formal subdivision.
- F. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria under the Additional Special Provisions section of this ordinance section.

**SWIFT COUNTY LAND AND RELATED
RESOURCE MANAGEMENT ORDINANCE**

**SOLAR POWER
MANAGEMENT**

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SUBDIVISION 1. TITLE

The title of this ordinance is the Swift County Solar Power Management Ordinance, and will be referred to herein as “this Ordinance”.

SUBDIVISION 2. PURPOSE

This ordinance is established to set forth processes for permitting solar energy systems and to regulate the installation and operation of solar energy systems within Swift County pursuant to Minnesota Statutes Chapters 216C.25, 500.30, and Minnesota Rules Chapter 1325.1100, as amended, in order to promote the health, safety, and general welfare of the citizens of Swift County.

SUBDIVISION 3. JURISDICTION

The regulations of this Ordinance shall apply to all the area of Swift County outside the incorporated limits of municipalities.

SUBDIVISION 4. INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Where the provisions of this Ordinance impose greater restriction than those of any statute, other ordinance or regulations, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

SUBDIVISION 5. EXEMPTIONS

Solar arrays with a generator nameplate capacity under one (1) kilowatt, and solar thermal systems with a solar collector surface under fifty (50) square feet in area, are exempt from the requirements of this ordinance.

SUBDIVISION 6. DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Ordinance. If not specifically defined in this Section or in Section 22 of the Swift County Zoning Ordinance, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

1. Array (Solar). Any number of solar photovoltaic modules or panels connected together to provide a single electrical output, or solar thermal collectors connected together to provide a single output.
2. Generator nameplate capacity. The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to the generator.
3. Ground Mounted Solar Energy System. Freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus.
4. Large Solar Energy System. A solar array designed for wholesale production and sale of

power where the primary land use of the parcel is for a solar energy system.

5. Module (Solar). A number of individual solar cells connected together in an environmentally protected housing producing a standard output voltage and power. Multiple modules/panels can be assembled into an array for increased power and/or voltage.
6. Photovoltaic Array. A group of solar photovoltaic modules connected together to increase voltage and/or power to the level required for a given system.
7. Photovoltaic Device. A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.
8. Power Purchase Agreement. A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.
9. Roof or Building Mounted Solar Energy System. A solar energy system that is mounted to the roof or building using brackets, stands or other apparatus.
10. Small Solar Energy System. A solar array that is an accessory use in which the energy produced is first used on-site before any excess energy produced is sold back to the operator's regular electrical service provider. Small solar energy systems include solar thermal systems that are designed to provide heat or energy on-site.
11. Solar cell. The basic unit of a photovoltaic solar panel.
12. Solar Collector. A device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
13. Solar Easement. A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined in Section 216C.06, Subdivision 17, to solar energy. Required contents of a Solar Easement are defined in Minnesota Statute Section 500.30.
14. Solar energy system. A device or set of devices, a substantial purpose of which is to provide for the collection, storage and distribution of sunlight for space heating or cooling, generation of electricity, or water heating.
15. Solar Thermal System. A system that includes a solar collector and a heat exchanger that heats or preheats water or air for building heating systems or other heat or hot water needs.
16. Tracking Solar Array. A solar array that follows the path of the sun during the day to maximize the solar radiation it receives.

SUBDIVISION 7. PERMIT REQUIRED

Land Use Permits, Conditional Use Permits, and Variances shall be applied for and reviewed under the procedures established by Swift County Ordinance and Minnesota Statutes Chapter 394. A Land Use Permit must be obtained from the Zoning Administrator by the landowner prior to construction or installation of any solar energy system that is subject to this Ordinance.

1. An application for a permit under this section for a solar energy system is not complete unless it contains the following:
 - a. Address, Township, Section, and legal description of the property on which the solar energy system is proposed to be installed.
 - b. General description of the solar energy system, including type, size (area) of the array, generator nameplate capacity, and total height.
 - c. Setbacks from property lines, public ditches and tile lines, road rights-of-way, neighboring dwellings, and natural waterways.
 - d. A site plan showing the existing property lines, existing buildings, and the proposed location of the Solar energy system on the parcel.

2. In addition to the permit application requirements in part 1 above, an application for a permit under this section for a Large Solar energy system is not complete unless it contains the following:
 - a. A site plan of existing conditions showing the following:
 - i. The names of the adjacent property owners and current use of those properties.
 - ii. Existing public and private roads, showing widths of the roads and any associated easements.
 - iii. Location and size of any abandoned wells, sewage treatment systems and dumps.
 - iv. Topography at 2' intervals (or less) and source of contour interval.
 - v. Existing vegetation (list type and percent of coverage; i.e. grassland, plowed field, wooded areas, etc.)
 - vi. Waterways, watercourses, lakes and public water wetlands.
 - vii. Delineated wetland boundaries.
 - viii. The 100-year flood elevation and Regulatory Flood Protection Elevation, if

available. Floodway, flood fringe, and/or general flood plain district boundary, if applicable.

- ix. The shoreland district boundary, the ordinary high water level and the highest known water level, and the toe and top of any bluffs within the project boundaries, if any portion of the project is located in a shoreland district.
 - x. Surface water drainage patterns.
- b. A site plan of proposed conditions showing the following:
- i. Approximate location and spacing of solar panels.
 - ii. Location of access roads.
 - iii. Proposed location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.
 - iv. New electrical equipment other than at the existing building or substation that is the connection point for the Large Solar energy system.
 - v. Proposed erosion and sediment control measures.
 - vi. Proposed storm water management measures.
- c. Proposed specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks, if known.
- d. A description of the method of connecting the array to a substation.
- e. A decommissioning plan ensuring that facilities are properly removed in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. If necessary, the Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

SUBDIVISION 8. DISTRICT REGULATIONS

Solar energy systems will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below (P=Permitted, C=Conditionally Permitted, NP=Not Permitted):

District	Small Solar Energy System	1 & Less Megawatt	1.1 to 5 Megawatts	5.1 & Over Megawatts
Agricultural	P	P	C	C
Urban Expansion	P	P	C	NP
Floodplain- flood fringe	P	C	NP	NP
Floodplain- floodway/wetlands	NP	NP	NP	NP
Shoreland	P	C	NP	NP
Scenic River	P	P	NP	NP

Nothing herein shall be construed to exempt a solar energy system from the regulations, requirements, and standards of the District in which it is located.

SUBDIVISION 9. SETBACKS AND STANDARDS

1. Solar energy systems shall be subject to the structure setbacks set forth in each respective Zoning District in respect to property lines, road right-of-way lines, County tile lines, and County and Judicial Ditches.
2. Any ground mounted solar energy system larger than .25 acres in area must be located away from a dwelling according to the following chart: (Other than the project owner’s dwelling(s)).

Solar Energy Systems Setbacks - Feet

District	Small Solar Energy System	1 & Less Megawatt	1.1 to 5 Megawatts	5.1 & Over Megawatts
Agricultural	100	200	250	350
Urban Expansion	100	200	300	NA
Floodplain- flood fringe	100	200	200	200
Floodplain- floodway/wetland	NA	NA	NA	NA
Shoreland	100	250	NA	NA
Scenic River	100	NA	NA	NA

Setbacks shall be measured from foundation of neighboring dwelling to closest point of solar panel except where noted above.

3. Standards for all Solar Energy Systems.
 - a. Height. Solar energy systems are subject to the following height requirements:
 - i. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height for structures in the zoning district in which the system is being installed, and shall not extend more than 10 feet above the building or roof on which they are mounted.
 - ii. Ground or pole-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.
 - b. Location within Lot. Solar energy systems must meet the accessory structure setback for the zoning district.
 - i. Roof-mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least 2 feet. Exterior piping for solar thermal systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - ii. Ground-mounted Solar Energy Systems.

- A. Ground-mounted solar energy systems may not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.
 - B. Ground-mounted solar energy systems that result in the creation of one or more acres of impervious surface, must comply with the MPCA Construction Stormwater Permit Requirements.
 - c. **Approved Solar Components.** Electric solar energy system components must have an Underwriters Laboratory (UL) listing.
 - d. **Compliance with State Electric Code.** All photovoltaic systems shall comply with the Minnesota State Electric Code.
 - e. **Utility Notification.** No grid-intertie photovoltaic system shall be installed until evidence has been given to the Department that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
 - f. **Vegetative screening or buffering of the solar energy system** may be required as part of the conditions of approval. Screening or buffering shall be based on the proximity of the system to residential buildings and to abutting public rights-of-way.
4. **Standards for Large Solar Energy Systems.**
- a. **Stormwater Management and Erosion and Sediment Control** shall meet the requirements of the MPCA Construction Stormwater Permit requirements.
 - b. **Foundations.** The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
 - c. **Other standards and codes.** All Large Solar Energy Systems shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.
 - d. **Power and communication lines.** Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground, to the extent practicable.

SUBDIVISION 10. DECOMMISSIONING

In the event that a solar energy system is unused or abandoned for a period of 12 consecutive

months, the solar energy system must be removed by the system owner or landowner.

1. All structures and foundations must be completely removed and the soil and vegetation restored.
2. Removal must occur within 90 days of a determination that the solar energy system is unused or abandoned, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the system to service.
3. Disposal of structures, foundations, and any other equipment or material must conform to Federal, State, and local laws, rules, and ordinances.

CHAPTER 5. SWIFT COUNTY SOLID WASTE ORDINANCE

SECTION 1. STATEMENT OF POLICY

It is the policy of Swift County to provide its citizens with a long term solution for managing solid waste generated within Swift County. It shall be the goal of Swift County to manage its solid waste in an economical and environmentally safe manner, by promoting the concept of composting solid waste and recycling so as to reduce the need for on-land disposal of solid waste.

SECTION 2. DEFINITIONS

- A. **Adequate container:** is a container used for storage of solid waste that is constructed of material that is durable, rust resistant, nonabsorbent, watertight, rodent and insect proof, and which has sufficient cover and handles.
- B. **Adequate turf:** a living ground cover of native perennial grasses or other suitable vegetation free of noxious weeds which provides sufficient ground cover to effectively prevent loss of final cover by winds or water erosion.
- C. **Agency:** the Minnesota Pollution Control Agency, its agent or representative.
- D. **Backyard Compost Site:** a site used to compost food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings from a single family or household, apartment, or single commercial office, a member of which is the owner, or lessee of the property.
- E. **Commercial Hauler:** any person who owns, operates, or leases vehicles for hire for the purpose of collection and/or transportation of any type of solid waste.
- F. **Compost Facility:** a site used to compost or co-compost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate, and storage areas for the incoming waste, the final product, and residuals resulting from the composting process.
- G. **Compostables:** biodegradable materials including food waste, yard waste, wood and lumber less than 4 inches in diameter and less than 3 feet in length, paper materials that are not considered recyclable including (but not limited too) glossy paper, catalogs, books, magazines, coffee filters, tissue paper, cereal boxes, and paper board.
- H. **Composting:** the controlled microbial degradation of organic waste to yield humus like product.
- I. **County Board:** the elected officers composing the Swift County Board of Commissioners.
- J. **County Facility:** the Swift County Composting/Recycling facility located in Section 1 of Six-Mile Grove Township, Swift County, Minnesota.
- K. **Demolition Debris:** solid waste resulting from the demolition of buildings, roads, and other man-made structure including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. Demolition debris does not include asbestos wastes.
- L. **Demolition Debris Land Disposal Facility:** a site used to dispose of demolition debris.
- M. **Facility:** the land, structure, monitoring devices, and other improvements on the land used for monitoring, treating, processing, storing, or disposing of solid waste, leachate, or residuals from solid waste processing.

- N. **Garbage:** discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.
- O. **Generator or Solid Waste Generator:** any person that generates waste.
- P. **Hazardous Substance:** the meaning given it in Minnesota Statutes, section 115B.02, subdivision 8.
- Q. **Household Hazardous Waste:** refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because its quantity, concentration, or chemical, physical or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.
- R. **Karst:** a type of topography that is formed from the dissolution of limestone, dolomite, or gypsum and that is characterized by closed depressions or sinkholes, and underground drainage through conduits enlarged by dissolution.
- S. **Land Disposal Facility:** any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.
- T. **Non-processibles:** solid waste which is not recyclable or compostable, including: Demolition debris, Styrofoam products, light bulbs, window glass, plastic and cellophane bags, aerosol cans, and toothpaste tubes.
- U. **Open Burning:** burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct, or chimney.
- V. **Operator:** the person or persons responsible for the operation of a facility.
- W. **Owner or Facility Owner:** the person or persons who own a facility or part of a facility.
- X. **Person:** any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing, or any other legal entity, but does not include the Pollution Control Agency.
- Y. **Recyclables:** solid waste materials that have a market for reuse in their form or in manufacturing processes, including but not limited to the following: newsprint, glass containers, aluminum containers and aluminum scrap, corrugated cardboard, tin and bimetal containers, office and ledger paper, and recyclable plastic containers including polyethylene terephthalate (PET), high density polyethylene (HDPE), and low density polyethylene (LDPE) beverage containers.
- Z. **Recycling Facility:** a site used to collect, process, and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.
- AA. **Refuse:** putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial

solid wastes, and including municipal treatment wastes which do not contain free moisture.

- BB. **Refuse Collection Service:** a public or private operation engaged in solid waste collection and solid waste transportation.
- CC. **Solid Waste:** garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid, liquid, or contained gaseous form, resulting industrial, commercial mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluent or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.
- DD. **Solid Waste Management Facility:** a facility for the storage, collection, transportation, processing or reuse, conversion, or disposal of solid waste.
- EE. **Solid Waste Officer:** the person designated by the County Board as the Solid Waste Officer.
- FF. **Unacceptable Waste:** any hazardous waste, infectious waste, lead acid batteries, waste oil, auto hulks, and other solid waste that is normally collected in a separate waste stream.
- GG. **Waste Tire:** a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.
- HH. **Yard Waste:** the garden wastes, leaves, lawn cuttings, weeds, and prunings generated at residential or commercial properties.

SECTION 3. PERMITS & LICENSES FOR SOLID WASTE FACILITIES

Subsection 3.1: License Required

Unless otherwise provided by this ordinance no person shall cause, permit, or allow real or personal property under the person's control to be used for the following solid waste management operations unless a license for that purpose has been granted by Swift County.

Licenses shall be required for construction and operation of:

- A. Solid Waste Land Disposal Facilities.
- B. Recycling Facilities.
- C. Composting Facilities.
- D. Waste Tire Processing or Collection Facilities.
- E. Demolition Debris Facilities.

Subsection 3.2: License Application

This license application for a solid waste facility shall include three sets of complete plan, specifications, design data and ultimate land use plans. Proposed operating procedures for a solid waste management facility must be prepared by a professional engineer registered in Minnesota. The applicant shall procure a proper zoning permit to accompany the application if required by the County Zoning Ordinance. The applicant shall also procure an Agency permit to accompany the application. No license shall be issued for a solid waste management facility unless the applicant has demonstrate to the satisfaction of the County Board the availability of revenues necessary to operate the facility in accordance with applicable state and local laws, ordinances and rules.

Subsection 3.3: Referral to Solid Waste Officer

After receiving an application for operation, the County Board shall refer such applications to the Solid Waste Officer who shall give their recommendations to the County Board concerning whether it should issue or deny the license. If an applicant is denied a license, such applicant shall be notified in writing of the reasons therefore by the County Board. A denial shall be without prejudice to the applicant's right to file a further application after revisions are made to satisfy objections specified as reasons for the denial.

Subsection 3.4: Compliance with Ordinances & Rules

The County Board shall refuse to issues a license to any operation which does not comply with this Ordinance, Agency rules and the county's solid waste management plan as provided for in the Minnesota Statutes.

Subsection 3.5: Bond

Issuance of any license pursuant to the provisions of this ordinance shall be contingent upon the applicant furnishing to the County a bond in an amount to be set by the by County Board. This bond shall name the County as obligee with sufficient sureties duly licensed and authorized to transact business in the State of Minnesota as sureties. The condition of such bond shall be that if the licensee fails to comply with any of the requirements or fails to perform any of the acts required of an operation or cases to operation, and the County is required to expend any monies, or expend any labor or material to restore the operation to a condition in compliance with this Ordinance, the bond holder and the sureties on its bond shall reimburse the County for any and all the expenses incurred by the County to remedy failure of the licensee to comply with the terms of this Ordinance and the bond holder and its sureties shall indemnify and save the County harmless from all losses, costs, and charges that may occur to the bond holder or its sureties because of any default of the licensee under the terms of their license to operate in compliance with the terms of the ordinances of the County.

Subsection 3.6: Certificate of Insurance

In addition to the bond referred to in Subsection 3.5, issuance of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant securing, and furnishing to the County a copy of a certificate therefore, the following types of insurance issued to the licensee by insurers fully licensed within the State of Minnesota and in amounts to be set by the County Board; general liability including, but not limited to, bodily injury, property damage, motor vehicle, loading and unloading insurance.

Subsection 3.7: License Suspension & Revocation

Any license granted by the County Board under the provision of this Ordinance may be suspended by the County Board at any time for non-compliance with the provisions of the license, this Ordinance or applicable state laws or rules, or upon written notification to the licensee and the County Board by the Solid Waste Officer or by an authorized representative of the Agency that the continued use of the operation may endanger the health, welfare, or safety of the public or that the continued use may cause pollution or impairment of the environment.

The notice of suspension shall be deemed adequately served whenever it is served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. A copy of the notice of suspension shall be provided to the County Board. The County Board shall remove the license suspension only upon presentation of evidence acceptable to the County Board that the conditions which were cited as cause for suspension have been fully corrected. A license may be revoked only after the County Board has held a public hearing at which the licensee and other persons wishing to be heard concerning the operation shall have the right to be heard. The date of the hearing for license revocation shall be set by the County Board and shall not be held earlier than ten calendar days after notice of said hearing was mailed to the licensee. Evidence may be adduced in a manner consistent with the rules of evidence applied in civil cases. A transcript therefore shall be made by tape recording or other suitable technique. If, pursuant to said hearing, the County Board may revoke the license or continue such suspension in effect until the operation has demonstrated that full compliance with the provisions of the license, this Ordinance, State laws and State rules has been attained and that such compliance will be continued in the foreseeable future.

Subsection 3.8: Inspections

The licensee shall allow authorized representatives of the County or the Agency access to the facility at any reasonable time and upon presentation of appropriate credentials for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this Ordinance, and any other applicable statute, ordinance, or rule.

Subsection 3.9: License Transfer

No license issued under this Ordinance may be transferred without written approval of the County Board. In case of a transfer of ownership, the licensee shall notify the Solid Waste Officers sixty (60) days in advance of the date of effective transfer of ownership.

Subsection 3.10: Agency Permit & Rules

Nothing in this Ordinance shall relieve a licensee from the requirements of obtaining an Agency permit and compliance with Agency rules. Copies of all applications, licenses or permits submitted to the Agency or granted by the Agency shall be filed by the licensee with the Solid Waste Officer.

Subsection 3.11: Backyard Compost Sites

No license shall be required for a single household or business prior to operating a backyard compost site for yard waste provided that the site is located on the property of the owner, occupant or lessee of the single household or business and provided that the site shall not contaminate the air, water, or cause rodent problems or create a nuisance.

SECTION 4. COLLECTION AND TRANSPORTATION OF SOLID WASTE

Subsection 4.1: Responsibility for Collection & Transportation

The owner, lessee or occupant of any premises, business establishment or industry and/or Commercial Hauler shall be responsible for the satisfactory collection and transportation of all solid waste accumulated at a premises, business establishment or industry to a solid waste disposal site or facility for which a permit has been issued by the Agency unless otherwise provided in this Ordinance.

Subsection 4.2: Vehicles & Containers

Vehicles or containers used for the collection and transportation of garbage and similar putrescible wastes, or refuse containing such materials, shall be covered, leak proof, durable, and of easily cleanable construction. These shall be cleaned to prevent nuisances, pollution, or insect breeding, and shall be maintained in good repair.

Subsection 4.3: Spillage

Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill there from and shall be covered when necessary to prevent blowing of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

Subsection 4.4: Compliance with Law

The collections and transportation of solid wastes, toxic wastes, and of hazardous wastes shall be in accordance with this Ordinance and all pertinent statutes and Agency regulations.

Subsection 4.5: Commercial Hauler License

- A. No Commercial Hauler shall collect and transport solid waste or hazardous waste unless the commercial hauler has first obtained a license to do so from the County Board. Commercial Haulers that are owned and operated by Swift County or any incorporated municipality within Swift County shall be exempt from county licensing.
- B. Each Commercial Hauler license issued by the County Board shall expire on December 31st of each year. Such licenses shall be renewed by the County Board upon application by the Commercial Hauler and payment of the license fee, which shall be set by resolution of the Board.

Subsection 4.6: License Application

Persons intending to engage in the business of being a Commercial Hauler must file an application with the Solid Waste Officer for initial issuance of license, using forms provided by the County. The Solid Waste Officer shall review each application and forward the same to the County Board with a recommendation for the issuance or denial of license. Such application to the Solid Waste Officer and subsequent annual renewals shall contain the following information:

- A. The name and address of the applicant.

- B. A description of each vehicle to be used for solid waste collection, including the vehicle identification, make, model, the capacity of the body or the capacity and number of rollofs.
- C. The date of the last State of Minnesota safety inspection of the vehicle.
- D. The location and address describing the place where the applicant is storing their equipment/vehicle.
- E. Current copy of certification of insurance, indicating insurance coverage in an amount not less than \$600,000.00 combined single limit per occurrence for bodily injury and property damage for the period of the license and including the name of the insurance carrier, its agent, policy number, and effective dates.
- F. A map of the area of each city, township, and county served.
- G. The type and number of location served and the estimated weekly weight of volume of solid waste collected.
- H. Submission of a description of the route to be followed by all solid waste collection and transportation vehicles between the area of collection and the solid waste operation, which route shall be subject to approval by the Solid Waste Officer.
- I. Other information the County may reasonably require including applicant's signature, and a statement that the applicant will comply with all terms of this Ordinance and pertinent statutes and rules.

Subsection 4.7: License Not Transferable

Commercial Waste Hauler licenses are not transferable to any other person.

Subsection 4.8: Investigation of Complaints

Each Commercial Hauler shall investigate any complaint about employees, equipment, and service. Whenever a complaint is referred to a Hauler by the County, a written report shall be made by the Hauler to the Solid Waste Officer within fifteen (15) days, setting for their investigation findings and action on such complaint.

SECTION 5. SOLID WASTE STORAGE

Subsection 5.1: Person Responsible for Storage

The owner, lessee, or occupant of any premises, business establishment or industry shall be responsible for the satisfactory storage of all solid waste accumulated at the premises, business establishment or industry to a solid waste disposal site or facility, for which a permit has been issued by the Agency. No building, structure, area, or premises shall be constructed or maintained for human occupancy, use or assembly without adequate facilities for sanitary and safe storage, collection, transportation and disposal of all solid wastes.

Subsection 5.2: Separate Containers

Separate containers shall be used to allow for the separate storage of recyclables, compostables and non-processibles.

Subsection 5.3: Container Construction

Recyclables shall be placed in the container provided by Swift County to single households. All other persons shall place recyclables in a separate container clearly marked for recyclables. Compostables shall be placed loose in an adequate container. If a plastic bag is used for compostables before being placed in an adequate contain the bag shall be clear and shall remain open and untied to allow the contents to be easily removed for composting. Non-processibles shall be placed in clear bags that have sufficient strength to securely contain the contents. The bags shall be securely tied or closed to prevent the contents from mixing with compostables upon collection. Non-processibles need not be placed in clear bags if it is too large for a bag, is easily identifiable as a non-processible and can be easily removed from the compostable waste stream.

Subsection 5.4: Container Maintenance

All solid waste containers shall be maintained in a neat, clean, sanitary, and leak-resistant condition by the container's owner to prevent insect breeding, nuisances, and unsightly conditions. Containers shall be maintained by the property holder or by the commercial hauler, when supplied by them.

Subsection 5.5: Frequency of Container Service

Solid wastes shall not be stored on public or private property for more than two (2) weeks without the written approval of the Solid Waste Officer.

Subsection 5.6: Toxic and Hazardous Waste

All toxic and hazardous wastes shall be stored in accordance with state rules administered by the Agency.

SECTION 6. SWIFT COUNTY COMPOSTING/RECYCLING FACILITY

Subsection 6.1: General

- A. The County Facility has been specifically designed for the composting and recycling of solid wastes. All non-processibles received by the County Facility are transported out of Swift County for land disposal. The high cost of transporting and disposing of non-processibles is greatly increased when recyclables and compostables are not properly separated from the non-processible waste stream.
- B. The County Facility can operate in an efficient and cost effective manner only if all solid waste generators using the facility properly separate their solid wastes before collection or delivery to the County Facility.

Subsection 6.2: Mandatory Solid Waste Separation

Unless otherwise provided in the Ordinance, each solid waste generator utilizing the County Facility shall separate and store their solid wastes into three categories: recyclables,

compostables, and non-processibles. It shall be the responsibility of each solid waste generator to properly separate solid wastes before collection or delivery to the County Facility.

Subsection 6.3: Exception to Mandatory Separation

Any person that owns solid waste containers and makes those containers available and open for use by the general public under such conditions that would make it an unreasonable health or safety risk for the owner to be required to separate the public solid wastes – such person may apply to the Solid Waste Officer for a permit for exemption from mandatory separation.

Exemption permits shall be granted by the County Board only for those solid waste containers that are open to the general public and not under the continuous control of the applicant, their agents or employees. Each exemption permit issued by the County Board shall expire on December 31st of each year. Such permits may be renewed upon the filing of an application and payment of the annual permit fee, which shall be set by resolution of the County Board. Any person granted an exemption permit shall store and transport all exempted solid wastes in the same manner as non-processibles.

Subsection 6.4: Exemption Permit Application

Any person wishing to be exempt from mandatory separation must first apply for and receive an exemption permit from the County Board. Application shall be made to the Solid Waste Officer on an approved form which shall include the following:

- A. The name and street of the applicant.
- B. A description of the number, size and location of the public solid waste containers on the premises of the applicant.
- C. The estimated weekly weight or volume of solid waste collected in said containers.
- D. A statement of facts which the applicant believes entitles them to an exemption permit;
- E. Payment of annual permit fee to be established by resolution of the County Board.
- F. Any other information the County may reasonably require.

The Solid Waste Officer shall forward the application and permit fee to the County Board along with their recommendation for the issuance of the exemption permit.

Subsection 6.5: Collection of Improperly Separated Solid Waste Prohibited

Except as provided in Subsection 6.3 no person, including a commercial hauler, shall collect or transport improperly separated solid waste to the County Facility. A commercial hauler shall leave improperly separated wastes at the premises of the violation to the solid waste generator and promptly report the nature and location of the violation to the Solid Waste Operator, who shall notify the generator of the violation and action necessary to correct it.

Subsection 6.6: Delivery of Improperly Separated Waste to County Facility

The Solid Waste Officer or their designee shall inspect each load of solid waste delivered to the County Facility and determine whether each such load complies with the mandatory separation requirement.

- A. Upon such inspection, if the Solid Waste Officer or their designee suspects that a load is not in compliance with this Ordinance the following shall apply:
 1. The County Facility personnel shall mix said load and from said load shall remove a three percent (3%) sample, by weight.
 2. All improperly separated recyclables and non-processibles shall be removed from the compostables and weighed.
- B. If the weight of said materials exceeds twenty percent (20%) of the total weight of the three percent (3%) sample, the entire load is presumed to be improperly separated.
- C. If the Solid Waste Officer or their designee determines any load of solid waste to be improperly separated as described in 6.6 (b) or for any other reason, they shall issue a written notice of noncompliance to the person delivering the load. The notice shall include the following information:
 1. Name and address of the person delivering improperly separated solid waste.
 2. Date and time of delivery.
 3. Total weight and /or volume of the delivered waste.
 4. Description of the nature of the violation.
 5. Notice that the person may appeal the decision of the Solid Waste Officer to the County Board within ten (10) days. The time and procedures for an appeal shall be determined by the County Board.
- D. Any person delivering improperly separated solid wastes to the County Facility shall choose of the following options:
 1. Removal of the improperly separated solid wastes to another solid waste facility licensed by the Agency.
 2. Disposal at the County Facility by paying the regular tipping fee plus an additional 100% thereof as a penalty.

Subsection 6.7: Acceptable Special Wastes

- A. Upon payment of the fees to be set by the County Board and posted at the County Facility. The County Facility shall accept the following special wastes:
 1. Major appliances.
 2. Televisions and microwaves.
 3. Mattresses and box springs;
 4. Waste Tires.
 - a. 16-inch rim size or less;
 - b. More than 16-inch rim size;
 - c. Large implement tires.
- B. The County Board may adjust the fees for acceptable special wastes at any time by resolution.

Subsection 6.8: Unacceptable Special Wastes

The County Facility shall not accept inoperable motor vehicles or parts, waste oil, lead acid batteries, infectious wastes, or toxic or hazardous waste.

Subsection 6.9: Disposal Fees

Except as otherwise provide in this Ordinance, all persons delivering solid waste to the County Facility shall pay a disposal fee to the Solid Waste Officer. The disposal fee shall be based upon the weight of the delivered solid waste. The disposal fee shall be set by resolution of the County Board and may be adjusted periodically to reflect the cost of operations, facility maintenance, public education, publicity, land disposal costs, and any other factors the County Board may determine to have an impact on the reasonableness of the disposal fee.

Subsection 6.10: Curbside Recyclables Pickup

- A. Swift County or its agents shall offer free weekly curbside pickup of recyclable materials to all single and double family residential dwellings in incorporated cities in Swift County. This service shall be coordinated with the pickup or collection of compostables and non-processible materials.
- B. Ownership of recyclable materials placed for collection by Swift County its agents shall be vested in Swift County. It shall be unlawful and a violation of this Ordinance for any person, firm, or corporation other than the owner, lessee, or occupant of the residential dwelling, to pickup said materials for his/her own use.

SECTION 7. TERMINATION OF SOLID WASTE OPERATIONS

All land disposal facilities including those heretofore abandoned shall be closed in accordance with pertinent statutes and Agency regulations. The person or persons having the responsibility for the operation of the site shall properly complete the disposal site closure record and submit it to the Solid Waste Officer.

SECTION 8. NONCONFORMING SITES & FACILITIES

Solid waste management facilities in existence on the effective date of this Ordinance and operation of such facilities shall conform to the provision of this Ordinance no later than sixty (60) days after the adoption of the Ordinance, or terminate operation no later than that date unless granted a variance by the County Board.

SECTION 9. VARIANCES

- A. Upon written application by the applicant or operator the County Board shall grant variances from the provision of this Ordinance requiring adherence to certain statutes and Agency regulations, if and only if a variance from the provisions of such statute and Agency regulations has first been granted by the Agency.
- B. Upon written application by the applicant or operator, and in accordance with the following provisions, the County Board may grant variances from the other provisions of this Ordinance in or to promote the effective and reasonable application and enforcement of the provisions of this Ordinance. The written application shall contain such information as the County may require from time to time.

- C. A variance under this subdivision may be granted by the County Board after a public hearing where the County Board determines that enforcement of this Ordinance would cause the applicant undue hardship, or that the Ordinance cannot be complied with due to technological impossibility or economic unreasonableness. Such a variance shall not be granted for a period in excess of two (2) years, but may be renewed upon application of the applicant and after a public hearing. A variance may be revoked by the County Board after a public hearing and prior to expiration of the variance.

SECTION 10. ADDITIONAL REQUIREMENTS

For the purpose of protecting the health, safety and welfare, the County Board may impose additional requirements consistent with the intent of this Ordinance for the operation of solid waste facilities.

SECTION 11. SEVERABILITY

It is hereby declared to be the intention of the County Board that the several provisions of this Ordinance be severable in accordance with the following:

- A. If any Court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect the validity of any other provisions of this Ordinance not specifically included in said judgment.
- B. If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular structure, site, facility, or operation, such judgment shall not affect the application of said provision to any other structure, site, facility, or operation not specifically included in said judgment.

SECTION 12. VIOLATIONS

It is hereby declared to be the intention of the County Board that the several provisions of this Ordinance be severable in accordance with the following:

- A. Any violation of statutes or Agency regulations with which compliance is required by this Ordinance is also a violation of this Ordinance.
- B. Any person who shall violate or fails, neglects, or refuses to comply with the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished therefore as provided by Minnesota law. A separate offense shall be deemed committed upon each separate day during or on which a violation occurs or continues. The County is responsible for the enforcement of this Ordinance.
- C. The Ordinance, in addition to other remedies, may be enforced by injunction, action to compel performance or other appropriate action in District Court to prevent, restrain, correct or abate violations.

SECTION 13. OTHER ORDINANCES & REGULATIONS

Swift County does not release any of its Solid Waste Management powers under Minnesota Statutes and Agency regulations to other local units of government. If any regulations, existing or hereafter adopted by any other local unit of government, conflict with the intent of this

Ordinance or the Swift County Solid Waste Management Plan, this county ordinance and the plan shall prevail.

SECTION 14. REPEAL & EFFECTIVE DATE

This Ordinance repeals and replaced in its entirety the Solid Waste Ordinance passed on July 23, 1991. This Ordinance shall be in full force and effect upon publication and passage as provided by law.

Passed by the Swift County Board of Commissioners on February 15, 2011.

(Seal)

Chairperson

Attest:

County Auditor

Approved as to form and execution:

County Attorney

SECTION 8. SUPPLEMENTAL REGULATIONS

Subsection 8.1: Structures to be Removed

No structure shall be moved to a new location within Swift County until a building permit has been secured. Any such structure shall conform to all provisions of this Ordinance and the uses specified within the respective district the structure is being moved to.

Subsection 8.2: Structures Under Construction

Any structure for which a building permit has been issued and the construction has started prior to the effective date of this Ordinance may be completed and used in accordance with the plans and application on which the building permit was granted for the structure.

Subsection 8.3: Subdivisions

No subdivision shall occur outside the incorporated limits of those Municipalities located within Swift County. Subdivisions shall only occur within a Municipality's incorporated limits. Any future subdivision of land lying outside the incorporated limits of a Municipality must first be annexed and approved by the respective Municipality where each subdivision is adjacent to.

Subsection 8.4: Exploration & Excavation of Mineral Materials

The use of land for the exploration and/or commercial excavation of mineral materials or removal of topsoil, sand and gravel are not permitted in any district within the unincorporated areas of Swift County except with the granting of a conditional use permit as specified by this Ordinance. Permits shall be granted for one year and shall be subject to review and approval at that time.

- A. Upon the receipt of an application, after the annual renewal time of notice for other conditional use permits for commercial excavation of sand and gravel, the Zoning Administrator is authorized to issue a conditional use permit provided:
 1. The applicant was granted a conditional use permit by the County Board of Commissioners for the same pit in the immediate preceding year.
 2. The Zoning Administrator shall publish notice and in notify in writing, as prescribed in Subsection 2.9(Conditional Use Permits).
 3. The Zoning Administrator receives no objections in writing within ten (10) days of the notice, to the granting of the permit.
 4. A fee of double the amount for the conditional use permit for commercial excavation of sand and gravel shall accompany the late application.
 5. All conditions attached to other conditional use permits for commercial excavation of sand and gravel in the current year shall be attached to this permit, in addition to any special conditions attached to this permit in preceding years.
- B. When the Zoning Administrator receives written objections to the granting of conditional use permits under the preceding terms, then the Zoning Administrator shall set a date for the public hearing to be held and re-notify in writing all person receiving the original notice. This public hearing shall be included as part of the original application of this party for the current year.

C. Special Conditional for Commercial Extraction of Mineral Materials.

1. No stock, overbearing, etc. shall be located within 100 feet from the centerline of a road or 75 feet from the right-of-way line, or whichever distance is greater.
2. No excavation of topsoil, mineral material, etc. shall be done within 5 feet of a property line, right of way line or Municipal boundary. The side walls of all extraction pits shall be sloped to a grade of not less than 4 to 1.
3. Sufficient topsoil shall be retained at the excavation site to renovate the area.
4. When sufficient area has been excavated, the area already excavated shall be renovated as far as practical each year with topsoil being spread over the side slopes and bottom and seeded to cover crop.
5. Surface water drainage in the area cannot be disturbed.
6. Compliance with the preceding conditions shall be the responsibility of the property owner. Failure to comply with these conditions shall be cause for revoking this permit until conditions are corrected.
7. Roads that are damaged due to the activities of the pit will be repaired by the pit owner or operator to their pre-existing conditions.
8. An operator's permit will be required each year the pit is in operation.

Subsection 8.5: Fences

No fence, wall, structure, planting or other obstruction shall be permitted over three feet in height within 25 feet of any road right-of-way intersection in order to ensure visibility across such road intersections. Open fences constructed so as not to obstruct snow shall be permitted on property lines.

Subsection 8.6: Landfill Operations

The location of expansion of existing and future landfill sites must be approved by the MPCA. Proposals to expand or relocate landfill site operations must receive a conditional use permit from the Swift County Board of Commissioners prior to the development of a land site operation. No landfill site operation shall be located within the Floodplain Management District, however, a conditional use permit may be granted to develop a landfill site operation within all other districts located in the County if approved by the MPCA.

Subsection 8.7: Sanitary Provisions

- A. All sewage facilities shall be connected to sewers when available; where sewers are not constructed or in operation, all sewage facilities shall be connected to septic tanks and disposal fields in accordance with MPCA Rule #7080.
- B. Upon a change in ownership of any parcel involving a dwelling structure or structure requiring an onsite sewage treatment system, or at any time construction is proposed for an addition to such structure, the onsite sewage treatment system shall be inspected for conformance with MPCA's Rule # 7080. For the purpose of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the system's improper setback from the Ordinary High Water Level or property line.

- C. If the Zoning Administrator determines that an onsite sewage treatment system is a nonconforming system, that system shall be upgraded and brought into conformance within 90 days.

Subsection 8.8: Easements

- A. No easements may be obtained, nor land purchased, for any of the following uses without first obtaining a conditional use permit for such use:
 - 1. Exploration and/or extraction of mineral materials including, but not limited to the commercial removal of topsoil, stone, sand or gravel.
 - 2. All pipelines.
 - 3. All commercial transmission towers.
 - 4. Electrical transmission lines over 69 kilovolts.
- B. In order to protect prime and good agricultural land, no electric overhead transmission lines over 69 kilovolts shall cross agricultural diagonally, and future transmission lines will follow existing roadways or section lines. No exceptions will be made for State and Federal lands where such lines are proposed.
- C. The purchase of water easements by the Department of Natural Resources and the U.S. Fish and Wildlife Service will be included in this subsection.
- D. The Construction of all underground pipelines must conform to Minnesota Statutes 116.06, subdivisions 1-10.
- E. In the event that it becomes necessary for the Swift County Board of Commissioners or the individual landowner to construct new legal or private (county and judicial) drainage ditches and tile lines in the future, crossing underground public utilities, that would require the lowering of said utility, the public utility company agrees to lower or relocate its utility at its own expense provided they are given at least 60 days prior to notice in writing of such requirement, including the exact location(s) of such crossing(s), and the design depth(s) and width(s) of such proposed drainage ditch(es) or tile line(s).
 - 1. If the existing public utility company should elect to relocate rather than lower its utilities to accommodate such future ditch(es) or tile line(s), the Swift County Board of Commissioners agrees to make timely amendment of this permit or grant in a timely manner as such new permits as may be required.
- F. In the event that it becomes necessary to construct new County and Township roads in the future where the crossing of underground public and private utilities would require lowering of said utility, the public and private owned utility agrees to lower or relocate its utility at its own expense, provided they are given at least 60 days prior notice in writing of such crossing(s) and the locations of such proposed County and Township roads.
 - 1. If the existing public or privately owned utility should elect to relocate rather than lower its utility to accommodate such future County and Township roads, the

Swift County Board of Commissioners agrees to make timely amendment of this permit or grant in a timely manner as new permits as may be required.

Subsection 8.9: Vacant Farmsteads

Vacant farmsteads in any district can be sold and used for non-farm residential dwellings.

Subsection 8.10: Home Occupations

All parking for home occupations must occur off Township, County or State roads and any road right-of-ways they abut.

Subsection 8.11: Rehabilitation

A permit shall be required for the construction of any building (farm or non-farm) and their accessory buildings where the outside perimeter is being increased.

Subsection 8.12: Existing Commercial or Industrial Developments

- A. Commercial or industrial developments that were in operation on or before July 1, 1983, shall be allowed to continue as such. Any further improvements, expansion, or change in operations which would affect the use; will require a conditional use permit (Subsection 2.9). An increase in lot size, however, is prohibited.
- B. In all cases, proof of existence before July 1, 1983, will be required. Any development which is located in the Floodplain Management District will, however, be excluded from this regulation and will be dealt with as a nonconforming use (Subsection 1.7).

Subsection 8.13: Existing Poultry Operations in the Urban Development District

Existing poultry operations shall not exceed 500 animal units and shall have open ranging of birds. Manure shall not be spread in the Urban Development District, but may be stockpiled at the building site. This stockpile shall be removed from the area at least once a year.

Subsection 8.14: Salvage Yard Performance Standards

- A. Salvage yards are allowed only through a conditional use permit in Agricultural Districts, and the Urban Development District,
- B. Salvage yards must be set back 1,000 feet from the centerline of State and Federal roadways; and 300 feet from the centerline of County and Township roadways,
- C. Access or egress cannot be obtained from State or Federal roadways in agricultural districts,
- D. All salvage yards shall be screened with buffer planting or screen fences. Plans for such screens shall be submitted for approval by the Planning Commission,
- E. Draining, dumping or disposing of any fluid on the ground other than water is prohibited. Such fluids must be contained and disposed of in the proper manner.

- F. Any existing salvage yard has one year from the date of amendment of this Ordinance to submit a conditional use permit for the operation of that junk yard. Failure to do so will place that use in violation of this Ordinance.

Subsection 8.15: Nuisances

A. Nuisance Characteristics

1. No noise, odors, vibration, smoke, air pollution, liquid or solid waste, heat, glare, or other such adverse influences from other than normal or permitted activities shall be allowed in any district that will in any way have a detrimental effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities and conform to the Swift County Solid Waste Ordinance.

B. The following standards apply to non-industrial districts:

1. Animals – Any building in which farm animals are kept shall be a distance of three hundred (300) feet or more from any other occupied buildings. Any open air roofed enclosure in which animals are kept shall be a distance of two hundred (200) feet or more from any occupied residence. The governing body may order the owner of any animals to apply for a conditional use permit if it is deemed to be in the interest of the public health, safety, or general welfare. These regulations shall not apply to normal farm or agricultural operations or residences.

C. Miscellaneous Nuisances

1. No use, structure, sign, building, vehicle, machine, or any piece or article of real estate or personal property may be abandoned or permitted in any public or private place because of disuse or neglect, to become unsightly or offensive to the public.
2. It shall be unlawful to create or maintain a junk yard or vehicle dismantling yard except as provided herein.
3. It shall be unlawful to create a nuisance affecting the health, peace or safety of any person.
4. The following are declared to be nuisances affecting public health or safety:
 - a. The effluence from any cesspool, septic tanks, drainfield or human sewage disposal system, discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized;
 - b. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
 - c. Carcasses of animals not buried or destroyed or otherwise disposed of within 24 hours after death;
 - d. The placing or throwing on any street, alley, road, highway, sidewalk, or other public property of any glass, tacks, nails, bottles, garbage or other nuisances which may injure any person or animal or damage any pneumatic tire when passing over the same;
 - e. The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed of sufficient

size to retain any person to be exposed or accessible to the public without removing the doors, lids, hinges, or latches; or providing locks to prevent access by the public.

*SWIFT
COUNTY
BUFFER
ORDINANCE*



October 20, 2020

**SWIFT COUNTY BUFFER ENFORCEMENT ORDINANCE PURSUANT TO STATUTES SECTION
103F.48**

1.0 STATUTORY AUTHORIZATION AND POLICY

- 1.1 **Statutory authorization.** This buffer ordinance is adopted pursuant to the authorization and policies contained in Minn. Stat. §103F.48, the Buffer Law as amended from time to time, Minn. Stat. §103B.101, subdivision 12a, authority to issue penalty orders, and the County planning and zoning enabling legislation in Minn. Stat. chapter 394.
- 1.2 **Purpose and intent.** It is the purpose and intent of the County to:
- (a) Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:
 - (1) Protect state water resources from erosion and runoff pollution;
 - (2) Stabilize soils, shores and banks; and
 - (3) Protect or provide riparian corridors.
 - (b) Coordinate the implementation and enforcement of the water resources riparian protection requirements of Minn. Stat. §103F.48 with the shoreland management rules and ordinances adopted under the authority of Minn. Stat. §103F.201 to 103F.227 and the management of public drainage systems established under Minn. Stat. chapter 103E where applicable; and
 - (c) Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

2.0 DEFINITIONS AND GENERAL PROVISIONS

- 2.1 **Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.
- 2.1.1 **"APO"** means the administrative penalty order issued pursuant to Minn. Stat. §103F.48, subd. 7 and Minn. Stat. §103B.101, subd. 12a.
 - 2.1.2 **"Buffer"** has the meaning provided in Minn. Stat. §103F.48, subd. 1(c).
 - 2.1.3 **"Buffer protection map"** has the meaning provided in Minn. Stat. §103F.48, subd. 1(d) and which are available on the Department of Natural Resources website.
 - 2.1.4 **"BWSR"** means the Board of Water and Soil Resources.
 - 2.1.5 **"Cultivation farming"** means farming practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface.
 - 2.1.6 **"Drainage authority"** has the meaning provided in Minn. Stat. §103E.005, subd. 9.
 - 2.1.7 **"Landowner"** means the holder of the fee title, the holder's agents or assigns, any lessee, licensee, or operator of the real property and includes all land occupiers as defined by Minn. Stat.

§103F.401, subd. 7 or any other party conducting farming activities on or exercising control over the real property.

2.1.8 **"Parcel"** means a unit of real property that has been given a tax identification number maintained by the County.

2.1.9 **"Public drainage system"** has the meaning given to "drainage system" in Minn. Stat. §103E.005, subd. 12.

2.1.10 **"Local water management authority"** has the meaning provided in Minn. Stat. §103F.48, Subd. 1(g).

2.1.11 **"Normal water level"** means the level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

2.1.12 **"SWCD"** means Soil and Water Conservation District.

2.1.13 **"County"** means Swift County and its employees, designees or representatives.

2.1.14. **"Validation of Compliance"** means a notice issued by SWCD that validates that a site(s) is compliant and that said validation is good as long as all practices identified/documented continue to be in place and substantially in the condition identified at the time of issuance. Said notice shall be in recordable form.

2.2 **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

2.3 **Data sharing/management.**

2.3.1 The County may enter into arrangements with an SWCD, a watershed district if applicable, BWSR and other parties with respect to the creation and maintenance of, and access to, data concerning buffers and alternative practices under this ordinance.

2.3.2 The County will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

2.4 **Delegation of Enforcement.** Nothing herein shall prevent the County from entering into an agreement with any other entity, authorized under statutes section 103F.48 to enforce buffer requirements, for the enforcement of buffer requirements within its jurisdiction according to this ordinance or other properly adopted enforcement rule. The County may delegate certain other functions under this ordinance to the SWCD under separate agreement.

2.5 **Drainage System Acquisition and Compensation for Buffer.** Nothing in this ordinance shall prevent the acquisition and compensation of grass buffers on public drainage systems pursuant to Minnesota Statutes chapter 103E.

2.6 **Notice.** Any notice or other communication to be provided herein shall be directed to the Landowner whose name and address appears on the County's Property Taxes Records and listed as the taxpayer. Notice on said Landowner shall be considered sufficient notice to all those who may be considered a Landowner as defined in Section 2.1.7.

3.0 JURISDICTION

- 3.1 **Jurisdiction.** The provisions of this ordinance apply to all waters, shown on the buffer protection map, excluding public drainage systems for which the County is not the drainage authority or a member of joint drainage authority under Minn. Stat. chapter 103E, where another enforcement authority has elected enforcement jurisdiction.

4.0 BUFFER REQUIREMENTS

- 4.1 **Buffer width.** Except as provided in subsection 4.4 and 4.5, a landowner owning property adjacent to a water body identified on the buffer protection map must establish and maintain a buffer area as follows:
- (a) For waters shown on the buffer protection map requiring a fifty (50) foot width buffer, the buffer width will be fifty (50) foot average and thirty (30) foot minimum width as provided in Minn. Stat. §103F.48, subd. 3 as measured according to subsection 4.2; and
 - (b) For waters shown on the buffer protection map requiring a sixteen and a half (16.5) foot minimum width buffer, the buffer width will be sixteen and a half (16.5) feet as provided in Minn. Stat. §103F.48, subd. 3 and as measured according to subsection 4.2. This subsection applies only if the County is the drainage authority.
- 4.2 **Measurement.**
- (a) The width of any required buffer on land adjacent to a water requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer shall be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level as provided in Minn. Stat. §103F.48, subd. 3(c).
 - (b) The width of any required buffer on land adjacent to a water requiring a sixteen and a half (16.5) foot minimum width buffer shall be measured in the same manner as for measuring the vegetated grass strip under Minn. Stat. §103E.021, subd. 1 as provided in Minn. Stat. §103F.48, subd. 3(c).
- 4.3 **Use of buffer area.** Except as provided in sections 4.4 and 4.5 a buffer as defined in this ordinance may not be put to any use, included but not limited to cultivation farming, which would remove or prevent the permanent growth of perennial vegetation.
- 4.4 **Exemptions.** The requirement of section 4.1 does not apply to land that is exempted from the water resources riparian protection requirements under Minn. Stat. §103F.48, subd. 5.
- 4.5 **Alternative practices.** As provided in Minn. Stat. §103F.48, subd. 3(b) an owner of land that is used for cultivation farming may demonstrate compliance with subsection 4.1 by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practice(s) which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in sections 4.1 to 4.3. The adequacy of any alternative practice allowed under this section shall be based on:
- (a) the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
 - (b) common alternative practices adopted and published by BWSR;
 - (c) practices based on local conditions approved by the SWCD that are consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or
 - (d) other practices adopted by BWSR.

4.6 Compliance with other statute, ordinance or regulation. Where the provisions of any statute, other ordinance or regulation imposes greater restrictions than this ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

5.0 COMPLIANCE DETERMINATIONS

5.1 Compliance determinations. Compliance with the buffer requirements set forth in section 4 will be determined by the SWCD on a parcel by parcel basis. The compliance status of each bank, or edge of a watercourse on an individual parcel will be determined independently.

5.2 Investigation and notification of noncompliance. When SWCD identifies a potential noncompliance with the buffer requirements or receives a third party complaint from a private individual or entity, or from another public agency, it will consult with the County to determine the appropriate course of action to document compliance status. This may include communication with the landowner, inspection or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of the evidence gathered in this process, the SWCD may issue a Notification of Noncompliance to the County. If the SWCD does not issue such a Notification, the County will not pursue a compliance or enforcement action under Minnesota Statutes §103F.48 and subsection 6.2. If the SWCD does issue such a Notification, the SWCD must include, for consideration by the County, a list of corrective actions needed to come into compliance with the requirements of Minn. Stat. §103F.48; a recommended timeline for completing the corrective actions; and a standard by which the SWCD will judge compliance with the requirements of Minn. Stat. §103F.48 after the corrective actions are taken.

At any time during process set forth in 5.2 and 5.3, the landowner may provide documentation of compliance to the SWCD.

5.2.1 Compliance determination. The SWCD will evaluate the available documentation, and/or evaluate and/or inspect the buffer and/or alternative practices to determine if the parcel is in compliance. Upon completion of the evaluation and/or inspection the SWCD shall issue a written compliance determination to the landowner, the County and BWSR. The SWCD may also issue a Validation of Compliance if applicable and requested by the landowner.

5.3 Corrective Action Notice. On receipt of an SWCD Notification of Noncompliance, the County will issue the landowner a Corrective Action Notice that will:

(a) include a list of corrective actions needed to come into compliance with the requirements of Minn. Stat. §103F.48;

(b) provide a timeline for completing the corrective actions;

(c) provide the standard by which compliance will be evaluated after the corrective actions are taken; and

(d) include a statement that failure to complete corrective actions and achieve compliance within the timeline provided may result in civil or administrative enforcement actions and the assessment of administrative penalties.

The County may send the landowner a combined Corrective Action Notice and APO as provided in section 6.2 so long as the combined Notice/APO includes all the required elements of both.

The County shall transmit the corrective action notice by either personal service to the landowner or by

depositing the same in the U.S. Mail. If service is made by U.S. mail, the document is deemed received three business days after the notice was placed in the U.S. mail. Failure of actual receipt of a corrective action notice that has either been personally served or served by depositing the same in the U.S. Mail shall not be deemed a defense in an enforcement proceeding under section 6.0. The County shall also send a copy of the Notice to the SWCD and BWSR.

Counties may modify the corrective actions and timeline for compliance, in accordance with section 5.2, to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

5.3.1 At any time after receipt of a corrective action notice, the landowner may provide documentation of compliance to the County. In addition, the landowner may supply information to the County or the SWCD in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the County, after consulting the SWCD, may make a written modification to the Corrective Action Notice or timeline for compliance. The County, upon review and notification by the SWCD, should also make a written determination documenting whether the noncompliance has been fully corrected. Any such modification of a compliance determination will be served on the landowner in the manner provided for in section 5.3. The County shall provide the SWCD and BWSR a written copy of any modification made pursuant to this provision.

5.3.2 The SWCD may, after an evaluation of the evidence documenting compliance submitted by the landowner, issue a written Validation of Compliance if requested by the landowner. Upon receipt by the County of a written compliance determination issued by the SWCD, the Corrective Action Notice will be deemed withdrawn for the purpose of section 6.0, and the subject property will not be subject to enforcement under that section.

6.0 ENFORCEMENT

6.1 Administrative Penalty. The County may issue an APO as provided for in Minn. Stat. §§103F.48, subd. 7(b) and (c) and 103B.101, subdivision 12a to a landowner who has failed to take the corrective action as set forth in the corrective action notice. For the APO to be effective it must be served on the landowner together with a copy of the corrective action notice or alternatively the County may serve the landowner with a combined Corrective Action Notice and APO so long as the combined Notice/APO includes all the elements of both. Service is effective either by personal service or by depositing the documents set forth herein in the U.S. Mail. Any penalty assessed in the APO shall continue to accrue until the violation is corrected as provided in the Corrective Action Notice and APO.

6.2 Administrative Penalty Order (APO).

(a) Initial violation. The penalty for a landowner on a single parcel that has not previously been issued a corrective action notice by the County shall be:

- i. \$0 for 11 months after issuance of the Corrective Action Notice or during the schedule issued for taking correction actions, whichever is greater;
- ii. Up to \$200 per parcel per month for the first six (6) months (180 days) following the time period in i; and
- iii. Up to \$500 per parcel per month after six (6) months (180 days) following the time period in ii.

(b) Repeat violation. The penalty for a landowner on a single parcel that has previously been issued a corrective action notice by the County shall be:

- i. Up to \$200 per parcel per day for 180 days after issuance of the subsequent Corrective Action Notice; and
- ii. Up to \$500 per parcel per day for after 180 days following the time period in i.

(c) Ongoing penalty assessment. Any penalty assessed under this section shall continue until the corrective action notice has been satisfied.

6.2.1 Penalty Determination. For administrative penalties imposed by the County, the County shall determine the severity of the noncompliance, intentional nature of noncompliance and frequency of noncompliance in determining the amount of violation. The amount of an administrative penalty will be based on considerations including the extent, gravity and willfulness of the noncompliance; its economic benefit to the responsible party; the extent of the responsible party's diligence in addressing it; any noncompliance history; the public costs incurred to address the noncompliance; and other factors as justice may require. Upon appropriate findings, the County shall use the following table to determining a penalty amount:

Nature of Violation	Severity of Violation		
	Minor	Moderate	Substantial
Initial noncompliance (initial term)	\$50	\$100	\$150
Initial noncompliance (subsequent term)	\$200	\$300	\$400
Subsequent initial noncompliance (new parcel, initial term)	\$100	\$150	\$200
Subsequent initial noncompliance (new parcel, subsequent term)	\$300	\$400	\$500
Repeat noncompliance (same parcel, initial term)	\$100	\$150	\$200
Repeat noncompliance (same parcel, subsequent term)	\$300	\$400	\$500

6.2.2 APO. To be valid the APO shall include, at a minimum:

- i. The facts constituting the violation of the riparian protection and water quality practices requirements set forth in this section 4.0 of this ordinance or Minn. Stat. §103F.48 ;
- ii. The specific statute and/or ordinance section(s) that has/have been violated;
- iii. A written description of prior efforts to work with the landowner to resolve the violation;
- iv. The amount of the penalty to be imposed;
- v. The facts supporting the amount of the penalty;
- vi. The date the penalty will begin to accrue;
- vii. The date that payment of the penalty is due;
- viii. The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the Corrective Action Notice; and
- ix. A statement of the landowner's right to appeal the APO.

6.2.3 All or part of the penalty may be forgiven based on the correction of the noncompliance by the date specified in the APO by the landowner as provided in Minn. Stat. §103F.48, subd. 7(d).

6.2.4 A copy of the APO must be sent to the SWCD and BWSR.

6.2.5 An APO issued under this section may be appealed to the BWSR within 30 days of receipt by the landowner in accordance with the requirements set for the in Minn. Stat. §103F.48, subd. 9. Any APO that is not appealed within the 30 day period shall be deemed final.

6.3 Administrative Penalty Order Procedures

6.3.1 Statute of limitations. Any administrative enforcement proceeding including the issuance of an APO should be undertaken within three years after the alleged violations was discovered or reasonably should have been discovered by the SWCD. According to Minn. Stat. §541.07, the County has two years in which to commence an APO action after the date the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the landowner involved.

6.3.2 Compliance verification. Once a landowner has provided notice and submitted written evidence of correction of the violation set forth in the notice of compliance, compliance must be verified. The County will refer the landowner's evidence and notice to the SWCD to:

- i. Review and evaluate all information related to the corrective action notice or APO to determine if the violation has been corrected;
- ii. Verify compliance by site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and
- iii. Document compliance verification.

The SWCD may consult with the County when conducting a compliance verification.

6.3.3 Right to appeal. Within 30 days after receipt of the APO, a landowner may appeal the terms and conditions of an APO issued by a County to BWSR as provided in Minn. Stat. §103F.48, subd. 9. The appeal must be in writing and must include a copy of the APO that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail, or electronically, to the Executive Director of BWSR.

6.3.4 Penalty due. Unless the landowner appeals the APO as provided in section 6.3.3 the penalty specified in the APO becomes immediately due and payable to the County as set forth in the APO. If, however, the landowner submits written documentation that the violations has been corrected prior to the time the penalty becomes due and payable the County shall verify compliance and adjust the penalty to an amount the landowner would have owed had the penalty been paid on the date the landowner submitted written documentation of compliance. Written documentation of compliance may include a written validation of compliance issued by the SWCD.

However, if the County determines the violation was not fully corrected, the County shall notify the landowner by issuing a written letter of determination and depositing it in the U.S. Mail. Any determination sent by U.S. Mail shall be deemed received three business days after the letter of determination has been deposited in the U.S. Mail. The landowner shall have an additional 20 days after receipt of the letter of determination to pay the penalty or the time period specified in the APO as issued, whichever is later. The penalty will continue to accrue until the violation is corrected as

provided in the Corrective Action Notice and APO.

6.3.5 Referral for collection of penalty. All penalties and interest assessed under an APO must be paid by the landowner. All payments shall be made payable to the County. Any penalty or interest not received in the specified time may be collected by the County using any lawful means, including, if lawful, recovery by additional property tax or by recording a lien against the property.

6.3.6 Reporting and documentation. The SWCD shall maintain the following records for any potential violation of the riparian protection and water quality practices requirements. Said records shall include but are not limited to the following:

- iv. The cause of the violation;
- v. The magnitude and duration of the violation;
- vi. Documentation showing whether the violation presents an actual or imminent risk to public health and safety;
- vii. Documentation showing whether the violation has the potential to harm to the natural resources of the state;
- viii. A record of past violations;
- ix. Efforts by the SWCD, County, Watershed District or BWSR to assist the responsible party or parties to become compliant, including written and oral communications with the responsible party or parties ; and
- x. Past and present corrective action efforts by the responsible party or parties.

Passed by the Swift County Board of Commissioners on October 20, 2020

(Seal)




Gary Hendrickx, Chair
Swift County Board of Commissioners

Attest: 

Kelsey Baker, Administrator
Swift County

Approved as to Form and Execution:



Danielle Olson
Swift County Attorney

CHAPTER 4. REGULATING TATTOS PARLORS

SECTION 1. PURPOSE & INTENT

It is the purpose and intent of this Ordinance to establish standards and regulations relating to the practice of tattooing to prevent the transmission of communicable diseases and promote the general welfare of the public.

SECTION 2. GENERAL PROVISIONS

Subsection 2.1: Definitions

The following definitions shall apply in the interpretation and enforcement of this Ordinance.

- A. **Countryside Public Health:** The community Public Health Agency serving Big Stone, Chippewa, Lac qui Parle, Swift and Yellow Medicine counties through a multi-county joint powers agreement established in 1974.
- B. **Health Officer:** Director of Environmental Health, or the director's designee, or any inspector who is designated by Countryside Community Health Board.
- C. **Tattooing:** Any method of marking the skin of a person, by insertion of permanent pigments through puncture of the skin.
- D. **Person:** Any individual, firm or corporation, owner or operator of a tattooing establishment.

Subsection 2.2: License Required

It shall be unlawful for any person to engage in the practice of tattooing, conduct any establishment where tattooing is practiced, for a fee or any other consideration, without being licensed under this Ordinance.

Subsection 2.3: Location Restricted

No person shall engage in the practice of tattooing at any place other than the place or location named or described in the license application and license.

Subsection 2.4: Investigation & Inspection

It shall be the duty of the Health Officer to inspect the premises where tattooing is proposed to be practiced, and if it shall appear to the Health Officer that the sanitary conditions prevailing upon the premises comply with the provisions of the Ordinance and conform to the rules and regulations promulgated by this Ordinance, the license application for the establishment shall be approved.

Subsection 2.5: False Information

The submission of false information or statements, whether by the licensee or any other person, shall be considered a violation of this Ordinance and subject to any appropriate and authorized penalties.

Subsection 2.6: License Fee Term & Renewal

The initial fee for a license to engage in the practice of tattooing shall be \$250.00 dollars. All licenses issued under this Ordinance shall expire on December 31 of each calendar year. License renewal shall be granted to any previously licensed tattooist in good standing upon application

and payment of the annual relicensing fee of \$100.00 dollars. Countryside Community Health Board may require inspection of the premises where tattooing is practiced and/or the submission of additional information with an application for renewal as deemed necessary. Any change in the location of an establishment where a licensed tattooist conducts business must be made known to Countryside Community Health Board, which at its discretion may require inspection of the new location. The license shall be amended to reflect the new location at a fee of \$50.00 dollars.

Subsection 2.7: Tattooing of Minors

It shall be unlawful to tattoo any person under the age of eighteen (18) years, except in the presence of, and with written permission of, the parent or legal guardian of such person.

Subsection 2.8: General Instructions

The tattooing license and regulations of the Division of Environmental Health shall be posted at all times in a conspicuous place in the tattooing establishment.

SECTION 3: HEALTH AND SANITARY REQUIREMENTS

Subsection 3.1: General

No person shall engage in the practice of tattooing in any place without complying with the following regulations:

A. Premises.

1. All tattooing establishments shall be maintained in a clean and sanitary condition. Antiseptic procedures shall be followed to ensure physical cleanliness and sanitation.
2. Every place where tattooing is practiced shall be equipped with a sewer and water connected water closet and hand lavatory, which meet applicable plumbing and sewage codes. The hand lavatory shall be supplied with hot and cold running water under pressure and shall be maintained in good working order and kept in a clean and sanitary condition at all times.
3. No rooms or interior space used for the practice of tattooing shall be used or occupied for living or sleeping quarters, or for any other purpose other than tattooing.
4. There shall be no less than one hundred fifty (150) square feet of floor space at the place where tattooing is conducted and such space shall be so lighted and ventilated as to comply with standards approved by Countryside Community Health Board, and other applicable building codes.

B. Equipment and Materials:

1. All needles, needle tubes, operating instruments or other equipment or materials which may come in direct or indirect contact with the tattooing process shall be sterilized in a steam pressure autoclave for at least 15 minutes at a minimum of 250 degrees F. (121 degrees C) and at a minimum of fifteen (15) pounds of chamber pressure or in a chemical vapor sterilizer for at least twenty (20) minutes at a minimum of fifteen (15) pounds of chamber pressure or in a chemical vapor

- sterilizer for at least twenty (20) minutes at a minimum of 270 degrees F. (132 degrees C) before use on any customer and after use shall again be so sterilized.
2. Sterilizing solutions may be used for the purpose of sterilizing items other than needles and needle tubes when such sterilizing solutions are approved by Countryside Community Health Board, according to Minnesota Department of Health Sanitizing Guidelines.
 3. All equipment, including, but not limited to, needle bars, tubes, pigment receptacles, stencils, razors, and razor blades shall be kept in a dust proof glass case or container when not in use.
 4. All laboratory and infectious wastes, including, but not limited to, needles razors, other sharps, must be disposed of properly in accordance with the Minnesota Infectious Waste Control Act, Chapter 116.
 5. Single service towels or wipes shall be used for each customer, and such towels and wipes shall be stored and disposed of in a sanitary manner.
 6. All tables, chairs and operating furniture shall be constructed of metal. Work surfaces shall be light colored enamel or porcelain, or stainless steel, or other National Sanitation Foundation International approved equivalent, and shall be kept in a clean and sanitary manner.
 7. Pigments of dyes used in tattooing shall be manufactured solely for the purpose of tattooing shall contain an antiseptic, and shall be free from bacteria and noxious agents and substances. Pigments or dyes used from stock containers shall be placed in single-service receptacles for each customer, and shall be discarded after use on each customer.
 8. Only sterile bandages and surgical dressing may be used in the practice of tattooing.
 9. Every single person shall wear clean, white, washable garments when engaged in the practice of tattooing.

C. Skin Preparation.

1. Aseptic technique must be utilized in the practice of tattooing.
2. The tattooist shall scrub his or her hands thoroughly with antibacterial soap before and after each customer. Tattooists with skin infections of the hands, or other communicable diseases which may be transmitted via the tattooing process, shall not tattoo.
3. The tattooist shall wear surgical/latex gloves during the process of tattooing.
4. When necessary to shave the skin area to be tattooed, a single use razor shall be used. If an electric clipper is used for hair removal the clipper shall be sanitized by a method in accordance with Minnesota Sanitizing Guidelines.
5. The skin area to be tattooed must be thoroughly cleaned with a surgical prep soap and sterilized with Isopropyl alcohol, minimum 90% by volume. Only single-service towels or wipes shall be used in the skin cleaning process.
6. Acetate stencils, if used, shall be thoroughly cleaned and sanitized after each use on each customer and stored in a non-absorbent, dust proof container.
7. Tattooing shall not be performed on any area of the skin where there is evident skin infection, open sores, or inflammation.
8. After tattooing, a sterile dressing or bandage shall be applied to the tattooed area.

9. The tattooist shall explain the care required during the healing process to each customer and provide them with printed instructions detailing the approved care during the healing process.

SECTION 4: OTHER RESTRICTIONS

Subsection 4.1: Regulations

No person shall engage in the practice of tattooing at any place without complying with the following restrictions:

- A. Every person to be tattooed shall be asked whether he or she has had viral hepatitis. No person who has had, or is suspected of having had, viral hepatitis shall be tattooed.
- B. No person shall practice tattooing while under the influence of alcohol or drugs.
- C. No person shall be tattooed who is under the influence of alcohol or drugs.
- D. If any infection or blood borne pathogen infections of the skin occur and are known by the licensed tattooist, they shall be reported to Countryside Community Health Board.
- E. Articles contaminated with infectious material should be appropriately discarded or bagged and labeled before being sent for decontamination and reprocessing, in accordance with the Minnesota Infectious Waste Control Act, Chapter 116.
- F. No person shall be granted a license under this Ordinance who is not of good moral character and free from communicable disease or has been convicted of a felony or gross misdemeanor within the past seven (7) years.

SECTION 5: INSURANCE

Every person licensed under this Ordinance shall, during the period of licensure, maintain a policy of liability insurance pertaining to any personal injury occurring during the conduct of the business of tattooing as a result of any negligence, error, omission or oversight on the part of the license holder, in the minimum amount of \$100,000 dollars per individual, and \$250,000 dollars annual aggregate limits.

SECTION 6: SURETY BONDS

A surety bond in the penal sum of five thousand dollars (\$5,000.00) with sufficient sureties, to be approved by Countryside Community Health Board, shall accompany each application for a license and shall become effective upon the issuance of each license. The surety bond shall be conditioned upon the licensee in every situation conforming to the requirements of this Ordinance which may hereafter be passed regulating and licensing tattooing. The surety bond shall be renewed upon the same terms and provided with each application for renewal of license.

SECTION 7: DENIAL, SUSPENSION OR REVOCATION OF LICENSE

Upon the recommendation of Countryside Community Health Board, or the County Sheriff's Department and upon reasonable notice and opportunity for hearing, Countryside Community Health Board may deny, suspend, or revoke any tattoo license as defined in this Ordinance. A conviction for any violation of this Ordinance shall be sufficient cause for revocation of the license. It is specifically provided, however, that violations of this Ordinance, whether or not he subject of criminal prosecution, may be the basis for a recommendation for denial, suspension or revocation. Any person whose license has been denied, suspended, or revoked for any reason may not reapply for a tattooing license in Big Stone, Chippewa, Lac qui Parle, Swift or Yellow Medicine counties for a period of two (2) years. In the event of any violation of this Ordinance reasonably determined to be an immediate hazard by Countryside Community Health Board, any officer of Countryside Community Health Board, may, by written order delivered to and/or posted at the establishment, close the tattooing establishment immediately, pending notice and hearing as aforesaid. Upon such posted notice, the license of the individual tattooist shall be suspended pending hearing.

SECTION 8: PENALTY & INJUNCTIVE RELIEF

Subsection 8.1: Penalty

Any person violating any provision of this Ordinance shall, upon conviction, be guilty of a misdemeanor, and shall be penalized in accordance with Minnesota Statutes therefore.

Subsection 8.2: Injunctive Relief

In the event of a violation or threat of violation of this Ordinance, Countryside Community Health Board by action of the County Attorney may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the County Attorney may institute a civil action. All costs of such action, inclusive of reasonable attorney fees, shall be charged against the licensee and the surety bond of the license holder.

SECTION 9: SEVERABILITY

The provisions of this Ordinance shall be severable. Should any section, paragraph, sentence, clause, phrase or portion of this Ordinance be declared invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

SECTION 10: REPEAL & EFFECTIVE DATE

This Ordinance repeals and replaced in its entirety the Regulating Tattoo Parlors Ordinance passed in 1996. This Ordinance shall be in full force and effect upon publication and passage as provided by law.

Passed by the Swift County Board of Commissioners on February 15, 2011.

(Seal)

Chairperson

Attest:

County Auditor

Approved as to form and execution:

County Attorney

SWIFT COUNTY TOBACCO ORDINANCE

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SWIFT COUNTY TOBACCO ORDINANCE

SECTION 1. PURPOSE

Because the County recognizes that the sale of commercial tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products to persons under the age of 21 violates state and federal law; and because studies, which are hereby accepted and adopted (i.e. CDC, Minnesota Department of Public Health/ASSIST) have shown that youth use of any commercial tobacco product has increased to 27.6% in Minnesota; and because most people who smoke begin smoking before they have reached the age of 21 years and that those persons who have reached the age of 21 years without having started smoking are significantly less likely to begin smoking; and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because commercial tobacco use has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Ordinance shall be intended to regulate the sale of commercial tobacco, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products, for the purpose of enforcing and furthering existing laws and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke, as stated in Minnesota Statute 144.391.

SECTION 2. DEFINITIONS AND INTERPRETATIONS

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural, and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given them:

Subd. 1. Child-resistant packaging. "Child-resistant packaging" shall mean packaging that meets the definition as set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

Subd. 2. Compliance Checks. "Compliance Checks" shall mean the system used by the County investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this ordinance. Compliance checks may involve the use of persons under the age of 21 as authorized by this Ordinance and applicable state and federal laws. Compliance checks may also mean the use of persons under the age of 21 who attempt to purchase licensed products for educational, research and training purposes as authorized by state and federal laws. Compliance

checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to licensed products.

Subd. 3. Electronic Delivery Device. "Electronic Delivery Device" shall mean any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. Electronic Delivery Device includes but is not limited to devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. Electronic Delivery Device shall include any component part of such a product whether or not sold separately. Electronic Delivery Device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Subd. 4. Indoor Area. "Indoor Area" shall mean all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A standard (0.011) gauge window screen is not considered a wall.

Subd. 5. Licensed Products. "Licensed Products" shall mean any tobacco, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device, as they are defined by this section.

Subd. 6. Loosies. "Loosies" shall mean the common term used to refer to single cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. "Loosies" does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

Subd. 7. Moveable Place of Business. "Moveable Place of Business" shall refer to any form of business whose physical location is not permanent, including, but not limited to, any business operated out of a motorized vehicle, mobile sales kiosk, trailer, or other structure or equipment not permanently attached to the ground.

Subd. 8. Nicotine or Lobelia Delivery Products. "Nicotine or Lobelia Delivery Products" shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Subd. 9. Retail Establishment. "Retail Establishment" shall mean any place of business where tobacco, tobacco related devices, electronic delivery devices, or nicotine

or lobelia delivery products are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Subd. 10. Sale. A "Sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 11. School. A "School" shall mean any public or private educational institution with the purpose of providing academic classroom instruction, trade, craft, computer or other technical training to pupils ordinarily enrolled in prekindergarten through grade 12 and as defined by Minn. Stat. § 120A.05, subs. 9, 10a, 11, 13, and 17.

Subd. 12. Self-Service Merchandising. "Self-Service Merchandising" shall mean open displays of licensed products in any manner where any person shall have access to licensed products without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the licensed products between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 13. Smoke or Smoking. "Smoke" or "Smoking" shall mean inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product, whether natural or synthetic, or inhaling or exhaling aerosol or vapor from any electronic delivery device. Smoking shall include being in possession of a lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product or an activated electronic delivery device intended for inhalation.

Subd. 14. Tobacco or Tobacco Products. "Tobacco" or "Tobacco Products" shall mean any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Subd. 15. Tobacco Related Devices. "Tobacco Related Devices" shall mean any pipe, wraps, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco products. Tobacco related devices shall include accessories or components of tobacco related devices which may be marked or sold separately.

Subd. 16. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses licensed products, upon the insertion of money, tokens, or other form of payment directly into the machine by the

person seeking to purchase the licensed product.

Subd. 17. Tobacco Products Shop. "Tobacco Products Shop" shall mean a retail establishment that has an entrance door opening directly to the outside, that cannot be entered at any time by persons younger than 21 years of age, and that derives more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, and other electronic delivery devices, as defined in Minn. Stat. § 609.685, and in which the sale of other products is merely incidental. Tobacco Products Shop does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

SECTION 3. COUNTY TOBACCO RETAILER LICENSE

No person shall sell or offer to sell any tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products, without first having obtained a license from the county.

Subd. 1. License Application. An application for a license to sell a licensed product shall be made on a form provided by the County. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information deemed necessary. Upon receipt of a completed application, the County Auditor shall forward the application to the County Board of Commissioners, or its designee for action at its next regularly scheduled meeting. If the County Auditor, or designee, shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2. Action on License. Within thirty (30) days, the County Board or its designee may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application it deems necessary. If the County Board shall approve the license, the County Auditor or designee shall issue the license to the applicant. If the license is denied or delayed, notice of the denial or delay, which shall include the reason for the denial or delay, shall be given to the applicant along with the notice of the applicant's right to appeal the decision. Notice of the County Board's decision shall be sent to the applicant within five (5) business days by the County Auditor.

Subd. 3. License Fees. Each application for a tobacco retailer's license shall be accompanied by a fee as set by the Swift County Board of Commissioners. Application for licenses issued after June 30 of a calendar year shall be accompanied by a prorated fee.

Subd. 4. License Term. The licensing period begins on June 30 of a calendar year and ends June 30 of the following calendar year. Each license issued shall expire on the

30th day of June 30 following issuance of the license unless sooner revoked by the County or unless the business with respect to which the license was issued is transferred. In either case the holder of the license shall immediately surrender it to the County Auditor.

Subd. 5. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for renewal shall be made at least thirty days, but no more than sixty days before the expiration of the current license.

Subd. 6. Issuance as a Privilege and Not a Right. The issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Subd. 7 Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. 8. Transfers. All licenses issued under this Ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.

Subd. 9. Revocation or Suspension. Any license issued under this Ordinance may be revoked or suspended as provided in Sections 4 and 11 of this Ordinance.

SECTION 4. BASIS FOR DENIAL OF TOBACCO RETAILER'S LICENSE

Subd. 1. Denial of License. Any one or more of the following shall be grounds for denying the issuance or renewal of a license under this Ordinance:

- A. The applicant is under the age of 21 years.
- B. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to licensed products.
- C. The applicant has had a license to sell tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products, suspended or revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding such a license.

F. The applicant seeks a license for a retail establishment that is located within 500 feet of a School, as measured by the shortest line from the property line of the space to be occupied by the proposed licensee to the nearest property line of a School. This restriction shall not apply to an existing license holder who has been licensed to sell licensed products in that same location for at least one year prior to the enactment of this provision.

G. The applicant seeks licensure for a moveable place of business.

The existence of any particular ground for denial is sufficient for denial of licensure. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

Subd. 2. Right to Administrative Review. An applicant whose application for license was denied shall have the right to request review. Upon receipt of the County Board's decision, the applicant shall request a review within ten (10) days of receipt of the decision. The review hearing shall be heard at the next regularly scheduled meeting of the County Board, and the applicant shall be allowed to present information to the County Board regarding its license application and the basis for denial. The County Board shall receive the information at its public meeting and shall make a decision regarding issuance of the license. If the County Board denies the license, it must detail why the license was denied pursuant to the factors listed in Section 4, subd. 1.

SECTION 5. LICENSEES RESPONSIBLE FOR ACTION OF EMPLOYEES

All licensees under this Ordinance shall be responsible for the actions of their employees in regard to the sale of licensed products on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the County from also subjecting the employee to whatever penalties are appropriate under this Ordinance, state or federal law, or other applicable law or regulation.

SECTION 6. MANDATORY COMPLIANCE CHECKS

All licensed premises shall be open to inspection by the Swift County Sheriff's Department or its designee, Countryside Public Health, or other authorized County official during regular business hours. From time to time, but at least once per year, the County shall conduct a compliance check that shall include the use of a person who is at least 17 years of age, but under the age of 21, to enter the licensed premises to attempt to purchase licensed products under the direct supervision of a law enforcement officer or an employee of Countryside Public Health. Prior written consent of a parent or guardian is required for any person under the age of 18 to participate in a compliance check. The

age requirements for persons participating in compliance checks under this section or pursuant to Minn. Stat. § 461.12, subd. 5 shall not affect the age requirements in federal law for persons participating in federally required compliance checks of these locations.

SECTION 7. PROHIBITED SALES

Subd. 1. General. It shall be a violation of this Ordinance for any person to sell or offer to sell any licensed products:

- A. To any person under the age of twenty-one (21) years.
- B. By means of loosies as defined in Section 2, subd. 6 of this Ordinance.
- C. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substance except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intent of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
- D. By any other means, to any other person, in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

Subd. 2. Vending Machines. It shall be unlawful for any person licensed under this Ordinance to allow the sale of licensed products by the means of a vending machine unless persons under the age of 21 are at all times prohibited from entering the licensed establishment.

Subd. 3. Self-Service Sales. Except where the licensee is a Tobacco Products Shop, it shall be unlawful for a licensee under this Ordinance to allow the sale of licensed products by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the licensed products between the licensee or his or her clerk and the customer.

Subd. 4. Liquid Packaging. The sale of any liquid, whether or not such liquid contains nicotine, intended for human consumption and use in an electronic delivery device, that is not contained in child-resistant packaging is prohibited. All licensees under this chapter must ensure that any liquid intended for use in an electronic delivery device is sold in child-resistant packaging. Upon request, a licensee shall provide a copy of the certificate of compliance or the full protocol laboratory testing report for the packaging used.

SECTION 8. PROHIBITED ACTS

Unless otherwise provided, the following acts shall be a violation of this Ordinance:

Subd. 1. Illegal Procurement. It shall be a violation of this Ordinance for any person 21 years of age or older to purchase or otherwise obtain such items on behalf of a person under the age of 21. It shall further be a violation for any person 21 years of age or older to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use any licensed products.

Subd. 2. Use of False Identification. It shall be a violation of this Ordinance for any person under the age of 21 to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Subd. 3. Smoking. Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling licensed products is prohibited

SECTION 9. AGE VERIFICATION AND SIGNAGE REQUIRED

Subd. 1. Signage. At each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold, the licensee shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.

Subd. 2. Age Verification. At each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold, the licensee shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense to a violation of this subdivision that the person appeared to be 30 years of age or older.

SECTION 10. EXCEPTIONS AND DEFENSES

Subd. 1. Affirmative Defense – Reliance on Identification. It shall be an affirmative defense to an alleged violation of this Ordinance for a person to have reasonably relied on proof of age as described by state law.

Subd. 2. Spiritual or Cultural Ceremony.

Subd. 2a. Notwithstanding Section 8, subd. 1, an Indian may furnish tobacco to an Indian under the age of 21 years if the tobacco is furnished as part of a traditional Indian spiritual ceremony. For purposes of this subdivision, an Indian is a person who is a member of an Indian tribe as defined in Minn. Stat. § 260.755, subd. 12.

Subd. 2b. The penalties of this ordinance do not apply to a person under the age of 21 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices while under the direct supervision of a responsible adult for training education, research, or enforcement purposes.

SECTION 11. ADMINISTRATIVE REVIEW OF SUSPECTED VIOLATIONS

Subd. 1. Notice. Upon discovery of a suspected violation, the County Auditor shall issue the alleged violator, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation. The citation shall be issued within ten (10) business days of the suspected violation and shall provide notice that a hearing must be requested within ten (10) business days of receipt of the citation. Any uncontested citations duly served shall be subject to the appropriate Administrative Penalty set forth in Section 12. A copy of the citation shall be sent to the County Attorney's office for record keeping and for review of additional charging.

Subd. 2. Hearings. If a person accused of violating this Ordinance so requests, a hearing shall be scheduled the time and place of which shall be published and provided to the accused violator.

Subd. 3. Hearing Officer. The Swift County Board or its designee shall serve as the hearing officer.

Subd. 4. Decision. If the hearing officer determines that a violation of this Ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 11 of this Ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred, or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

Subd. 5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the jurisdiction of the county in which the alleged violation occurred.

Subd. 6. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

SECTION 12. ADMINISTRATIVE AND OTHER PENALTIES

Subd. 1. Licensees. Any licensee found to have violated this Ordinance, or whose employee shall have violated this Ordinance, shall be charged an administrative fee as follows pursuant to the notice requirements of Section 11:

First Offense:	\$300.00
Second Offense:	\$600.00
Third and any subsequent Offense:.....	\$1,000.00

Upon a third or any subsequent violation, the license shall be suspended for not less than sixty (60) days and may be revoked. A subsequent offense ("Second," "Third") is an offense that occurs at the same licensed premises within a 36-month period following the preceding offense.

Subd. 2. Instructional Program for licensees. Any licensee who has violated this ordinance and all of that licensee's employees shall complete a training program on the legal requirements related to the sale of licensed products and the possible consequences of license violations. Any training program must be pre-approved by the County Board. Licensees must provide documentation of compliance with this requirement to the County within 30 days of notice of violation.

Subd. 3. Persons under the age of 21 - Alternative Penalties for Use of False Identification. The County Board shall consult with interested persons, as applicable, including but not limited to educators, parents, guardians, persons under the age of 21 years, and representatives of the court system to develop alternative penalties for persons under the age of 21 years who purchase, or attempt to purchase, tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia deliver products using a driver's license, permit, Minnesota identification card, or any other type of false identification to misrepresent the person's age in violation of Minn. Stat. § 609.685 or 609.6855. The County Board and the interested persons shall consider a variety of alternative civil penalties, including, but not limited to, tobacco-free education; tobacco-cessation programs; notice to schools, parents, or guardians; community service; and court diversion programs. Alternative civil penalties shall not include fines or monetary penalties.

Subd. 4. Administrative Penalty for Sales and Furnishing. An individual who sells, gives or otherwise furnishes tobacco, tobacco-related devices, electronic delivery

devices, or nicotine or lobelia delivery products to a person under the age of 21 years may be charged an administrative penalty of \$50.00, which may only be imposed following all notice and other requirements of Section 11.

SECTION 13. SEVERABILITY AND SAVINGS CLAUSE

If any section or portion of this Ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not invalidate the effectiveness of any other section or provision of this Ordinance.

SECTION 14. REPEAL OF PRIOR ORDINANCES

This Ordinance, upon its adoption, shall repeal the Swift County Tobacco Ordinance dated January 5, 2016.

SECTION 15. EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.

ADOPTION OF ORDINANCE

Passed and approved by the Board of County Commissioners, Swift County, Minnesota,

this 6 day of October, 2020.

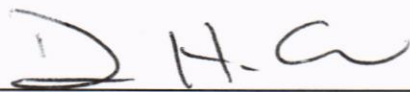


Gary Hendrickx, Chairperson

Attest: 

Kelsey Baker, County Administrator

APPROVED AS TO FORM AND EXECUTION:



Danielle H. Olson, County Attorney

Approved: 10-6-2020

Enacted: 10-6-2020

SECTION 15. EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.

SECTION 5. URBAN DEVELOPMENT DISTRICT

Subsection 5.1: District Description

This area consists of 40-acre land parcels located in unincorporated areas of Swift County, which are potential urban development areas near municipalities. Criteria identifying potential urban development areas consist of identifying existing adjacent municipality services and whether the proposed development is on prime, good, marginal and non-tillable farmland.

Subsection 5.2: Permitted Uses

- A. Farm Dwelling and Accessory Buildings.
- B. Agricultural Buildings and Accessory Buildings.
- C. Soil and Water Conservation Practices (permit not required).
- D. Home Occupations (permit not required).
- E. Agricultural Uses (permit not required).
- F. Used Car Dealerships (permit not required).
 - 1. With no more than five (5) salvaged vehicles on the premises at any given time. Salvaged vehicles are used for parts and not intended for sale.

Subsection 5.3: Conditional Uses

- A. Municipal Sewage Treatment Plants.
- B. Non-farm Dwellings.
- C. Motels.
- D. Truck Rest-Stops.
- E. Gasoline Stations.
- F. Restaurants.
- G. Commercial Buildings.
- H. Industrial Buildings.
- I. Wind Turbines.
- J. Feedlot.
- K. Adult-Use Business.

L. Manufactured Home Park.

Subsection 5.4: Physical Development Standards

A. Front-yard Setback.

1. No structures, tree plantings, or temporary storage of farm or non-farm products or equipment shall be located within 100 feet from the center of the road(s) they abut. On lands that affect the visibility of vehicular traffic at intersections, setbacks shall be located no less than 200 feet from the center of the intersection on those lands.

B. Side-yard Setback.

1. No structure shall be located less than 20 feet from any side property line they adjoin.

C. Rear-yard Setback.

1. No structure shall be located less than 20 feet from any rear property line they adjoin.

D. Building Height.

1. A maximum structure height shall not exceed 35 feet, excluding telecommunication towers, storage silos, barns and other agricultural structures.

E. Minimum Lot Area.

1. For each single non-farm dwelling, a minimum lot area of two and a half (2.5) acres is required prior to issuing a conditional use permit; unless the Township where the dwelling is proposed has adopted by resolution a minimum lot area greater than the standard set by this Ordinance.
2. Prior to adopting a resolution, the Township must conduct a public hearing on the preferred minimum lot area standard being proposed. A copy of the resolution must be filed with the County Register of Deeds and the County Zoning Administrator.

SECTION 10. WIND ENERGY CONVERSION SYSTEMS.

Subsection 10.1: Purpose

This section established to regulate the installation and operation of Wind Energy Conversion Systems (WECS) within Swift County not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act (MS 116C.51-116C.697).

Subsection 10.2: Procedures

- A. Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Swift County Code of Ordinances.

- B. The application for all WECS shall include the following information:
 1. The name of project applicant.
 2. The name of the project owner.
 3. The legal description and address of the project.
 4. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid
 5. Site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
 6. Engineer's certification.
 7. Documentation of land ownership or legal control of the property.

- C. The application for Large WECS shall also include:
 1. The latitude and longitude of individual wind turbines.
 2. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the proposed WECS.
 3. Location of wetlands, scenic, and natural areas including bluffs within 1,320 feet of the proposed WECS.
 4. FAA Permit Application.
 5. Location of all known Communications Towers within 2 miles of the proposed WECS.
 6. Decommissioning Plan.
 7. Description of potential impacts on nearby WECS and wind resources on adjacent properties.

Subsection 10.3: Aggregated Projects & Procedures

Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews and as appropriate approvals. Permits will be issued and recorded separately. Joint applications will be assessed fees as one project. [Aggregated projects having a combined capacity equal to or greater than the

threshold for State oversight as set forth in MS Statute 116C.691 through 116C.697 shall be regulated by the State of Minnesota.]

Subsection 10.4: District Regulations

WECS will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below:

District	Non-Commercial*	Commercial	Meteorological Tower*
Agriculture Preservation District #1	Permitted	Conditional	Permitted
Agriculture Preservation District #2	Conditional	Conditional	Permitted
Urban Development District	Conditional	Conditional	Permitted
Floodplain Management District	Conditional	Not Permitted	Not Permitted
Shoreland Management District	Conditional	Not Permitted	Not Permitted

* Small Scale WECS and Meteorological towers shall require a conditional use permit if over 125 feet in height.

Subsection 10.5: Setbacks – Wind Turbines & Meteorological Towers

A. All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Small WECS	Wind Turbine - Large WECS	Meteorological Towers
Property Lines	1.1 times the total height or in Agricultural or Industrial Land Use Districts only. the distance of the fall zone, as certified by a professional engineer + 10 feet	1.1 times the total height	The fall zone, as certified by a professional engineer + 10 feet or 1.1 times the total height.
Neighboring Dwellings*	750 feet		The fall zone, as certified by a professional engineer + 10 feet or 1.1 times the total height.
Road Rights-of-Way **	The distance of the fall zone, as certified by a professional engineer + 10 feet or 1 times the total height.	1 times the height, may be reduced for minimum maintenance roads or a road with an Average Daily Traffic Count of less than 10.	The fall zone, as certified by a professional engineer + 10 feet or 1 times the total height.
Other Rights-of-Way (Railroads, power lines, etc)	The lesser of 1 times the total height or the distance of the fall zone, as certified by a professional engineer + 10 feet.	To be considered by the planning commission	The fall zone, as certified by a professional engineer + 10 feet or 1 times the total height.

	Wind Turbine – Small WECS	Wind Turbine - Large WECS	Meteorological Towers
Public conservation lands managed as grasslands	N/A	600 feet	600 feet
Wetlands, USFW Types III, IV and V	N/A	600 feet	600 feet
Other Structures	To be considered.		
Other Existing WECS***	N/A		To be considered based on: - Relative size of the existing and proposed WECS; alignment of the WECS relative to the predominant winds; topography; extent of wake interference impacts on existing WECS; property line setback of existing WECS; Other setbacks required.

* The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within 750 feet of a large wind turbine.

** The setback shall be measured from future rights-of-way if a planned changed or expanded right-of-way is known.

*** Waived for internal setbacks in multiple turbine projects, including aggregated projects.

- B. Substations and Accessory Facilities. Minimum setback standards for substations and feeder lines shall determined in the permitted process, based upon the site’s unique circumstances.

Subsection 10.6: Requirements & Standards

- A. Engineering Certification. For all WECS, the manufacture’s engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

- B. Clearance – Rotor blades or airfoils must maintain at least 12 feet of clearance between their lowest point and the ground.

C. Warnings:

1. For all Large WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. [Signs with emergency contact information shall also be posted on the turbine or at another suitable point.]

2. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Visible fencing may be required around anchor points of guy wires.
- D. Total height. Small Scale WECS shall have a total height of less than 200 feet.
- E. Tower configuration:
 1. All wind turbines, which are part of a large WECS, shall be installed with a tubular, monopole type tower.
 2. Meteorological towers may be guyed.
- F. Color and Finish. All wind turbines and towers that are part of a large WECS shall be white, gray or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matt or non-reflective. International blade markings are acceptable.
- G. Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations,. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided.
- H. Other Signage. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle, compartment containing the electrical generator, of the WECS.
- I. Feeder Lines. All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service. This standard applies to all feeder lines subject to Swift County authority.
- J. Waste Disposal. Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
- K. Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after 1 year without energy production, unless a plan is developed and submitted to the Swift County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 90 days of the discontinuation of use.

- L. Each Large WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities.
- M. Orderly Development. Upon issuance of a conditional use permit, all Large WECS shall notify the Environmental Quality Board Power Plant Siting Act program Staff of the project location and details on the survey form specified by the Environmental Quality Board.

Subsection 10.7: Other Applicable Standards

- A. Noise. All WECS shall comply with Minnesota Rules 7030 governing noise.
- B. Electrical Codes and Standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
- C. Federal Aviation Administration. All WECS shall comply with FAA standards and permits.
- D. Uniform Building Code. All WECS shall comply with the Uniform Building Code adopted by the State of Minnesota.
- E. Interference. The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions.

Subsection 10.8: Avoidance & Mitigation of Damages to Public Infrastructure

- A. Roads. Applicants shall:
 - 1. Identify all county, city or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
 - 2. Conduct a pre-construction survey, in coordination with the impacted local road authority(ies) to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.

3. Be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges to preconstruction conditions.

B. Drainage System. The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

Appendix 1

Ordinance Number	Ordinance Name	Task Accomplished	Date Adopted
	Zoning	Passed	April 19, 1983
	Food and Beverage	Passed	May 3, 1990
	Solid Waste	Passed	July 23, 1991
	Standards and Procedures Regulating Manufactured Home Parks and Recreational Camping Areas	Passed	January 1, 1991
	Zoning	Amended	February 1, 1993
	Zoning	Amended	May 4, 1993
	Regulating Tattoo Parlors	Passed	1996
	Public Health Nuisance	Passed	September 1, 1998
	Reducing Youth Access to Tobacco	Passed	November 3, 1998
	Food and Beverage	Amended	May 4, 1999
	Feedlot	Passed	October 19, 2004
	Regulation of Adult Uses Sexually Oriented Business	Passed	February 15, 2005
	Floodplain Management Ordinance	Passed	January 9, 2006
	Wind Energy	Passed	June 3, 2008
	Mini-Truck	Passed	December 1, 2009
	Sewage & Wastewater Treatment	Passed	1996
1	Zoning	Deletions, Rewording to Zoning Code, Incorporated additional Ordinances, Remunerations/Formatting	February 15, 2011
2	Food and Beverage	Remunerations/Formatting	February 15, 2011
3	Reducing Youth Access to Tobacco	Remunerations/Formatting	February 15, 2011
4	Regulating Tattoo Parlors	Remunerations/Formatting	February 15, 2011
5	Solid Waste	Remunerations/Formatting	February 15, 2011
6	Mini-Truck	Remunerations/Formatting	February 15, 2011