

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.