

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.