

## **SECTION 9. FEEDLOT REGULATIONS**

### **Subsection 9.1: Statutory Authorization, Policy & General Provisions**

#### **A. Statutory Authorization.**

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

#### **B. Policy.**

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

#### **C. General Provisions.**

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

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

### **A. Permits.**

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

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

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

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

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

#### B. Appeals.

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

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

#### C. Variances.

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

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

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

#### D. Conditional Use Permits.

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

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

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

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

2. Conditional Uses.

A Conditional Use Permit shall be required for:

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

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

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

**Subsection 9.3: Feedlot Standards**

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

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

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

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

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

B. Animal Waste Storage Facilities.

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

C. Animal Waste Earthen Storage Basins.

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

D. Animal Waste Application and Utilization.

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

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

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

#### **Subsection 9.4: Nonconformities**

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

A. Construction, Additions or Expansions.

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

### **Subsection 9.5: Amendments**

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

#### **A. General Provisions.**

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

### **Subsection 9.6: Violations, Penalties, & Enforcement**

#### **A. General Provisions.**

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

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

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