

Notice & Agenda

Swift County Board of Commissioners

Tuesday, January 21, 2020

9:00 AM

LEC Meeting Room – 301 14th St N, Benson, MN

If you need any type of accommodation to participate in this meeting, please contact the County Administrator at 320-314-8399 at least 48 hours prior to the meeting.

<u>Time</u>	<u>Reference</u>	<u>Item</u>
9:00 a.m.		Call to Order and Roll Call
9:01 a.m.		Approve Agenda
9:02 a.m.		Consent Agenda
	1-3	(1) Minutes from January 7, 2019 Regular Meeting
	4-6	(2) Consider approving appointment of Kelsey Tollefson, District 1 to the Swift County RDA Board effective immediately
9:04 a.m.		Consider Approval of Commissioner warrants and review Auditor warrants
9:05 a.m.		Commissioner and Board reports
9:25 a.m.		County Administrator report
9:30 a.m.		Citizens Comments
9:35 a.m.		Award presentation
9:45 a.m.		Shelly Lottman, Restorative Practice Restorative Practice update
10:00 a.m.		Catie Lee, Human Services
	7-24	Consider approving Biennial State of Minnesota County Child Support Program Interagency Cooperative Agreement
	25-26	Monthly update Human Services Fiscal Summary Update
10:15 a.m.		Other Business
	27-37	Swift County Tobacco Ordinance discussion Discussion on Dispatch Center
10:30 a.m.		Adjournment

SWIFT COUNTY BOARD MINUTES

January 7, 2020

County Auditor Kim Saterbak called the organizational meeting to order at 9:00 AM with all Commissioners present as well as Administrator Kelsey Baker, County Attorney Danielle Olson, and Terri Orr.

Auditor Saterbak asked for nominations for Chair of the Board.

01-07-20-01 Commissioner Fox nominated Commissioner Hendrickx. Commissioner P. Peterson seconded the nomination. Commissioner Rudningen requested nominations cease. Commissioner E. Pederson seconded the request. Saterbak declared nominations closed and named Commissioner Hendrickx Board Chair for 2020. (Resolution No. 20-01-01)

Auditor Saterbak asked for nominations for Vice Chair of the Board.

01-07-20-02 Commissioner Rudningen nominated Commissioner Fox for Vice Chair. Commissioner P. Peterson seconded the nomination and moved nomination cease and a unanimous ballot be cast. Saterbak declared nominations closed and named Commissioner Fox Vice Chair for 2020. (Resolution No. 20-01-02)

Auditor Saterbak turned the meeting over to Chairman Hendrickx.

Chairman Hendrickx asked if there were any changes to the agenda. There were none.

01-07-20-03 Commissioner E. Pederson moved and Commissioner Rudningen seconded to approve the agenda as presented. Motion carried unanimously.

Commissioner P. Peterson requested that several words be stricken from the minutes on his board report.

01-07-20-04 Commissioner Rudningen moved and Commissioner Fox seconded to approve the Consent Agenda as amended which consisted of: (1) Approval of Minutes from December 31, 2019 Regular Meeting, (2) Approval of four Daycare Grants, (3) Approval of authorizing the Auditor to contract with ES&S and Command Central (KnowInk), Inc. to purchase new election equipment, (4) Approval of Human Service Policies, (5) Approval of Annual State of Minnesota Department of Human Services County Grant Contract. A brief discussion was held. Motion carried unanimously.

01-07-20-05 Commissioner P. Pederson moved and Commissioner Rudningen seconded to approve the Commissioner warrants as follows: Revenue: \$230,237.26; Solid Waste: \$8,890.69; County Road & Bridge: \$1,855.13; Human Services: \$917.28, County Ditches Fund.: \$220.00; which includes the following bills over \$2,000: 6W Department of Community Corrections, \$145,398.42; Association of Minnesota Counties, \$9,234.00; Benson Municipal Utilities, \$7,477.34; Center Point Energy, \$2,124.00; Countryside Public Health, \$60,708.00; Geyer Recycling, \$6,221.33. Motion carried unanimously.

Board and Committee Reports were given as follows: Commissioner P. Peterson reported on 6W Corrections. Commissioner E. Pederson had no reports to present. Chair Hendrickx reported on 6W Corrections. Commissioner Fox had no reports to present. Commissioner Rudningen reported on Non-Union Group.

Administrator Baker reported on the demolition project in Appleton, 2020 Goals, RDA Community Engagement Invite, Rural Housing Cohort meeting, Non-Union meeting, personnel meeting and Human Services Contract.

Chairman Hendrickx asked for citizen's comments. Mark Hughes was concerned with the DHS payment and deadline on moving refugees to the County.

01-07-20-06 Commissioner Rudningen moved and Commissioner E. Pederson seconded to approve Resolution No. 20-01-03 Adopting 2020 Board Committee Representatives, Advisory Committee Representatives, and Joint Ditch Board Representatives as on file in the County Auditor's Office with addition of E. Pederson as alternate for the Pomme de Terre and Chippewa River Watershed and moving Hendrickx and Fox to the PrimeWest Committees. Motion carried unanimously.

01-07-20-07 Commissioner E. Pederson moved and Commissioner Rudningen seconded to approve Resolution No. 20-01-04 to appoint Dr. A. Quinn Strobl as the County Medical Examiner for 2020 and may be supported by the Anoka County staff in the Anoka County Medical Examiner's Office. Motion carried unanimously.

01-07-20-08 Commissioner Fox moved and Commissioner P. Peterson seconded to approve Resolution No. 20-01-05 setting the 2020 County Board meetings as follows: 1st Tuesday of the month at 9:00 AM and 3rd Tuesday of the month at 9:00 AM, with these exceptions: June 16, 2020 9:00 AM meeting will be moved to 5:00 PM for the Board of Equalization; and the December 1, 2020 9:00 AM meeting will be moved to 5:00 PM and 6:00 PM for the TNT Hearing. The Swift County Board of Commissioner's meetings will be held at 301 14th St N in Benson, Minnesota. The board will also hold the following special meeting: Thursday December 31, 2020 at 9:00 AM for the end of the year. Motion carried unanimously.

01-07-20-09 Commissioner Rudningen moved and Commissioner P. Peterson seconded to approve Resolution No. 20-01-06 setting the 2020 mileage reimbursement rate at the IRS rate of 57.5 cents per mile. Motion carried unanimously.

01-07-20-10 Commissioner Rudningen moved and Commissioner Fox seconded to approve Resolution No. 20-01-07 adopting the Appleton Press as the County's official newspaper for 2020 with the Kerkhoven Banner as the secondary paper. Motion carried unanimously.

01-07-20-11 Commissioner Fox moved and Commissioner P. Peterson seconded to approve Resolution No. 20-01-08 for the County Treasurer, Sheriff, Attorney, and Commissioners as the Elected Officials designated to attend the annual conferences for their offices. Motion carried unanimously.

01-07-20-12 Commissioner P. Peterson moved and Commissioner Rudningen seconded to approve the Resolution No. 20-01-09 for the 2020 bounties as follows: pocket gopher bounty paid to the township as \$3.00 per gopher when the township pays a minimum of \$5.00 per gopher or \$2.00 per gopher when the township pays less than \$5.00 per gopher and the 2020 beaver bounty of \$100 for beaver in season and \$100 for beaver out of season in designated ditches only with the approval of the Parks and Drainage Supervisor and/or County Engineer. Motion carried unanimously.

01-07-20-13 Commissioner Fox moved and Commissioner Rudningen seconded to approve Resolution No. 20-01-10 allocating the cost of the County Attorney's services for Human Services to the Welfare Fund. Motion carried unanimously.

01-07-20-14 Commissioner Rudningen moved and Commissioner Fox seconded to approve Resolution No. 20-01-11 setting the corporate signatures for 2020. Motion carried unanimously.

01-07-20-15 Commissioner Fox moved and Commissioner P. Pederson seconded to approve resolution No. 20-01-12 for the designation of corporate depositories for 2020. Motion carried unanimously.

01-07-20-16 Commissioner Rudningen moved and Commissioner Fox seconded to approve Resolution No. 20-01-13 on the definition of employee for purposes of Workers Compensation. Motion carried unanimously.

01-07-20-17 Commissioner Rudningen moved and Commissioner P. Peterson seconded to approve Resolution No. 20-01-14 setting 2020 wages of elected officials. Motion carried unanimously.

01-07-20-18 Commissioner E. Pederson moved and Commissioner Rudningen seconded to approve Resolution No. 20-01-15 for the County Engineer to receive the same cost of living and other benefits provided to non-union employees for 2020. Motion carried unanimously.

01-07-20-19 Commissioner Fox moved and Commissioner P. Peterson seconded to approve Resolution No. 20-01-16 for the 2020 AMC policy committee assignments and delegate appointments. Motion carried unanimously.

Swift County Attorney Danielle Olson presented the Attorney's Quarterly report.

Geological Atlas Presentation was given by Barbra Lusardi, Emily Bauer from the Minnesota Geological Survey and Paul Putzier from the Department of National Resources.

01-07-20-20 Commissioner P. Peterson moved and Commissioner Rudningen seconded to adjourn. Motion carried unanimously.

The meeting adjourned at 10:30 AM.

WITNESSED:

Gary Hendrickx, Chair

ATTEST:

Kelsey Baker, County Administrator



Request for Board Action

BOARD MEETING DATE:
1/21/2020

Commissioner's Report

Department Information

ORIGINATING DEPARTMENT: RDA	REQUESTOR: Jennifer Frost	REQUESTOR PHONE: 320-842-4769
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Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Appoint Kelsey Tollefson, District 1 to the Swift County RDA Board effective immediately	
AGENDA YOU ARE REQUESTING TIME ON: Consent Agenda	ARE YOU SEEKING APPROVAL OF A CONTRACT? No
IS THIS MANDATED? No	EXPLANATION OF MANDATE: Click here to enter text.
BACKGROUND/JUSTIFICATION: Swift County RDA is a nine-member board made of Swift County residents with an interest in economic and community development from around the County. No more than three members can be from any one district, and terms are staggered. Members may serve no more than two consecutive full three-year terms. Jon Panzer's service representing District 1 on the RDA Board has reached its term limits and we thank him for his service. Attached is an application from Kelsey Tollefson to replace Jon and represent District 1.	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED?	Click here to enter text.

Budget Information

FUNDING: Click here to enter text.

Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS: Click here to enter text.	RECOMMENDATIONS: Click here to enter text.
COMMENTS: Click here to enter text.	COMMENTS:

Board Action

Motions ___ J Fox ___ G Hendrickx ___ E Pederson ___ P Peterson ___ E Rudningen	
Action	Vote

**Swift County Rural Development Finance Authority
REQUEST FOR APPOINTMENT TO BOARD**

Mission Statement of the Swift County RDA:

Providing opportunities for economic and community development in Swift County.

We welcome you as an applicant for the Swift County RDA Board. This group plays a very important role in Swift County. Please fill out the information requested below. You are encouraged to attach any additional information which you believe qualifies you for appointment to the board. Thank you!

PERSONAL INFORMATION

Name Kelsey Tollefson

Address 441 S Haven St

City Appleton

State MN

Zip 56208

Phone 320-297-0526

Email mktollefson@hotmail.com

How long have you been a resident of Swift County? 19 years

Are any members of your immediate family employed by the RDA or Swift County? Yes No

Have you served previously on any of Swift County's boards or commissions? Yes No

Have you served previously on any board/commission in any other community? Yes No

Occupation Mental Health Therapist

Name of Employer Appleton Area Health

I am a member of the following civic organizations Swift Co. Adult/Child Protection Teams; LqP Health Network

Please list your special interest, education, past experience, etc., which you feel would benefit the Swift County RDA by your appointment to the board

My special interests include improving access to mental health care in rural Minnesota in primary care clinics and schools; improving social determinants of health; improving access to local food sources to feed local residents; doing our part to be environmentally conscious; renewable energy development; retention of current employees/employers; developing a "brand" for Swift County that we are innovative, proactive, future oriented, and that we are investment ready.

I received my Bachelor's Degree in Sociology with a minor in Criminal Justice from South Dakota State University. I received my Master's Degree in Social Work from Minnesota State University, Mankato.

While I truthfully don't have any direct experience with rural development, I think it's important to know that I am highly motivated to learn, support and make changes to better our county. I see the potential in our community and believe our rural development can and will be transformative over the next ten years. I have a vision for how I want my community to look and thrive. I find value in sharing my vision with other people to in hopes of compounding success. I have been a long-time resident in Swift County, plan to remain a resident of Swift County and now feel it's time to do my part to help.

Additional comments _____



Request for Board Action

BOARD MEETING DATE:
January 21, 2020

Commissioner's Report

Department Information

ORIGINATING DEPARTMENT: Human Services	REQUESTOR: Catie Lee	REQUESTOR PHONE: 320-843-6301
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Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Consider approving Biennial State of Minnesota County Child Support Program Interagency Cooperative Agreement			
AGENDA YOU ARE REQUESTING TIME ON: Regular Agenda		ARE YOU SEEKING APPROVAL OF A CONTRACT? Yes	
IS THIS MANDATED? Most are		EXPLANATION OF MANDATE: County Board action needs to be taken to review and approve the Agreement	
BACKGROUND/JUSTIFICATION:			
Contracted Agent	Services Contracted	Date of contract	Changes from previous contract
State of Minnesota Department of Human Services, Child Support Division	Providing the services necessary to the operation of the child support enforcement program under Title IV-D of the Social Security Act	1/1/20-12/31/21	Biennial Update
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED?		Click here to enter text.	

Budget Information

FUNDING: Annual Budget

Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS: Click here to enter text.	RECOMMENDATIONS:
COMMENTS: n/a	COMMENTS: Click here to enter text.

ATTACHMENT A

CY 2020-2021 IV-D CHILD SUPPORT COOPERATIVE ARRANGEMENT

WITH

Swift OFFICES OF HUMAN SERVICES,

COUNTY SHERIFF and COUNTY ATTORNEY

The Swift Office of Human Services (hereinafter "COUNTY") and its designated Child Support Office (hereinafter referred to as "County IV-D Agency or IV-D Agency") and the Swift Attorney (hereinafter, "County Attorney"), and the Swift Sheriff (hereinafter "County Sheriff") hereby enter into the following Cooperative Arrangement.

RECITALS

Whereas, the COUNTY and its County IV-D Agency, according to Minnesota Statutes, section 393.07, subdivisions 2 and 3 and through their Cooperative Agreement with the Minnesota Department of Human Services, are responsible for operation of child support services;

Whereas, the COUNTY is also empowered to enter into Cooperative Arrangements with the County Sheriff and the County Attorney pursuant to Minnesota Statutes, chapter 388 and Minnesota Statutes, sections 393.11 and 471.59;

Whereas, the County Attorney is willing and able to provide legal services necessary to the operation of the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C., sections 651 through 699Bb;

Whereas, the County Sheriff is willing and able to perform activities necessary to the operation of the child support enforcement program under Title IV-D of the Social Security Act;

Whereas, the above-referenced entities enter into this Cooperative Arrangement to set forth their respective responsibilities in providing services necessary to the operation of the child support enforcement program under Title IV-D of the Social Security Act; and

Whereas, Title IV-D of the Social Security Act, Public Law 93-647, as amended, and 45 C.F.R., section 303.107 require a Cooperative Arrangement between the COUNTY and the other county entities that are a party to this Cooperative Arrangement, namely the County Attorney and the County Sheriff, in order to compensate said county entities with respect to reimbursement for costs incurred in providing services necessary to operate the child support enforcement system under Title IV-D of the Social Security Act.

NOW, THEREFORE, BE IT RESOLVED that the parties hereby agree as follows:

I. GENERAL TERMS

- A. **Duration of Arrangement.** It is agreed that this Cooperative Arrangement will commence on **January 1, 2020**, and will expire on **December 31, 2021**. The Cooperative Arrangement may be terminated earlier upon sixty (60) days written notice to all other parties. This Cooperative Arrangement shall be renewed upon written agreement of all parties.
- B. **Effective date for payment of federal funds.** The effective date of this Cooperative Arrangement for the payment of federal funds is the first date of the quarter in which the COUNTY, County Attorney, and County Sheriff obtain all required signatures.
- C. **Purpose.** The purpose of the child support program is to establish paternity and secure financial support for minor children who are living apart from one or both parents as more fully set forth in Title IV-D of the Social Security Act. In order to meet this purpose, this Cooperative Arrangement establishes procedures for the provision of services to the child support program by the County Attorney, and the County Sheriff.
- D. **Parties.** "Parties" means the COUNTY and the Cooperating Agencies. "Cooperative Agency" is defined in the Cooperative Agreement.
- E. **STATE.** "STATE" means the Minnesota Department of Human Services, Child Support Division.
- F. **DHS.** "DHS" means the Minnesota Department of Human Services.
- G. **CSD.** "CSD" means the STATE's Child Support Division.
- H. **Duties.** The specific duties of each Party are set forth more fully below. This Cooperative Arrangement also provides for reimbursing administrative costs in accordance with federal regulations and state policy.
- I. **Amendments.** Any amendment to this Cooperative Arrangement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Cooperative Arrangement, or their successors in office. Any amendment of this Cooperative Arrangement must be sent to the DHS' Director of the Child Support Division.
- J. **Records.** The parties will maintain all records, including financial records, related to all services provided under this Cooperative Arrangement for the longer of six (6) years following the end date of this agreement or as otherwise provided by law. Record maintenance will be in accordance with all federal, state, and local records retention policies, reporting and safeguarding requirements. Records related to services provided under this Cooperative Arrangement will be made available and subject to state and federal review and audit.
Pursuant to 45 C.F.R., section 303.2(c) staff with PRISM update access shall appropriately document case activity. For staff that do not have PRISM update access, the responsible party shall ensure that IV-D case activity is recorded by the appropriate staff. Said documentation shall include the date of action, a description of services rendered, and the result of the action.

All IV-D related contacts, actions and other appropriate IV-D case activity must be recorded as case events in PRISM by the COUNTY. "PRISM" is defined in the Cooperative Agreement.

Case records that are held or maintained by the COUNTY must be maintained pursuant to the requirements under 45 C.F.R., section 303.2(c) and referenced by a note in PRISM. The note must identify the nature of the records and the specific location of the records.

- K. **Applicable Laws and Policies.** All Parties will comply with Title IV-D of the Social Security Act and all applicable federal laws, regulations, action transmittals, and other directives, instructions, and requirements of the United States Department of Health and Human Services, Office of Child Support Enforcement, including but not limited to, applicable federal and state information privacy laws. All parties will comply with other applicable state statutes governing the child support program; state child support procedures; and applicable Minnesota laws and statutes.

1. Policy Dispute

The County Attorney may seek review of STATE policies through this section or through section 3.1.1 of the Cooperative Agreement, acting as the COUNTY.

a. CARC Review

The County Attorney shall be entitled to an administrative review of the STATE's interpretation of the above policies and procedures, if the CARC agrees that the difference in interpretation has a state-wide impact to multiple cases and the CARC agrees on a recommended resolution of the dispute. "CARC" is defined in the Cooperative Agreement.

b. Procedure

The County Attorney shall bring its disagreement with the STATE's interpretation to the CARC. The CARC shall decide whether to submit the dispute to the CSD Division Director. If a dispute is submitted to the STATE, it must clearly state the following information in writing: The disputed policy; exactly what part of the policy is disputed; the legal and/or policy reasons for the difference in interpretation; and a proposed solution to the differences in interpretation. The CSD Division Director and the CARC shall attempt to resolve the disagreement in an informal manner.

If the CARC and the CSD Division Director are unable to reach an informal resolution of the policy dispute, the CARC may request the CSD Division Director to issue a written decision. The CSD Division Director shall issue a written decision as soon as practicable. If the CARC disagrees with the written decision, the CARC may seek mediation of the policy dispute through the Minnesota Office of Administrative Hearings (OAH). The County Attorney's office initiating the policy dispute shall be responsible for the payment of mediation fees.

The decision of OAH is binding upon the COUNTY and the STATE unless an appeal is filed with the district court within thirty (30) calendar days of the OAH decision.

- L. **Monitoring and Corrective Action.** The COUNTY's performance, as set forth in this Cooperative Arrangement, may be monitored by the STATE as needed to ensure effective implementation of its terms and to identify problems that affect the delivery of services covered by the Cooperative Arrangement. The STATE may direct the COUNTY to develop corrective action plans as necessary to avoid fiscal sanctions, which may result if the COUNTY does not meet its obligation under this Cooperative Arrangement. The COUNTY must notify the STATE of conditions that have caused or may hinder its ability to meet its obligations under this Cooperative Arrangement. The COUNTY will develop corrective action plans and comply with them. The Cooperating Agencies agree to comply with any state or federally approved corrective action plans.
- M. **FFP Reimbursement for Child Support Activities.** The COUNTY agrees to comply with the provisions of 45 C.F.R., section 304.21, federal financial participation (FFP), in the costs of Cooperative Arrangements, as a condition for FFP. The COUNTY may be reimbursed for administrative expenses incurred as a result of the activities performed under this Cooperative Arrangement. Said reimbursement shall not exceed the percentage set by federal regulations or state statutes, and it may change during a given calendar year.

The STATE will send written notification to the COUNTY as soon as the STATE is officially notified of a proposed change in the reimbursement rate for administrative expenses, and the county shall notify Cooperating Agencies as soon as they are aware of any changes.

- N. **COUNTY's Duties, Functions, and Responsibilities.** The COUNTY is responsible for administering the program to establish paternity, establish and enforce child support, medical support, and child care support orders, and to enforce spousal support orders pursuant to state and federal law.

The COUNTY will seek reimbursement for the allowable costs incurred under the terms of this Cooperative Arrangement by appropriately reporting those costs to the STATE.

II. Information Privacy

The requirements contained in the *Information Privacy and Security Agreement (IPSA)* that has been separately executed by COUNTY and DHS, and any successor agreement thereto, are hereby incorporated by reference into and made part of this Cooperative Arrangement. The Parties to this Cooperative Arrangement agree that the IPSA governs the Parties' access, use, disclosure of, and responsibilities for protected information (as defined in the IPSA) administration of the Parties' administration of relating to the Title IV-D of the Social Security Act.

Additionally, the Parties agree to comply with the following provisions:

- A. **Confidentiality.** The information exchanged under this Cooperative Arrangement shall not be disclosed to individuals or agencies other than as provided in 45 C.F.R. sections 202.50 and 303.21, and as provided by the laws of the State of Minnesota. Information exchanged under this Cooperative Arrangement will only be used to promote or support the administration of programs authorized to share information under Title IV-D of the Social Security Act.

- B. **Data Privacy.** For purposes of executing its responsibilities and to the extent set forth in this Cooperative Arrangement, all of the Parties to this Cooperative Arrangement shall be part of the “welfare system,” as defined in Minnesota Statutes, section 13.46, subdivision 1. To the extent permissible by law, each Party’s employees and agents will have access to private or confidential data maintained by the other Parties to the extent necessary to carry out COUNTY’s responsibilities under this Cooperative Arrangement.
- C. **Duty to ensure proper handling of protected information.** The COUNTY shall be responsible for training its employees (and employees of (a) the County Human Services Agency, (b) the County Attorney’s Office, and (c) the County Sheriff’s Department) who are authorized to access and use protected information collected under the terms and for the purposes specified in this Cooperative Arrangement. This responsibility includes ensuring that staff are properly trained and comply with the following:
1. The Minnesota Government Data Practices Act (MGDPA), Minnesota Statutes Chapter 13, in particular, section 13.46 (welfare data);
 2. Security and Confidentiality of Department of Public Safety Driver and Vehicle Service (DVS) data;
 3. Internal Revenue Service (IRS) procedures and safeguards for the confidentiality and security of IRS sourced data under 26 United States Code, sections 6103 and 7213, and the penalties for misuse of IRS sourced data, under 26 United States Code, sections 7213 and 7431, and 26 Code of Federal Regulations, section 301.6103(n)-1,
 4. Federal Parent Locator Service and Child Support Program information privacy and safeguards, including information derived from the National Directory of New Hires, the Debtor File, and the Federal Case Registry, and the Federal Privacy Act; and
 5. Any other applicable state and federal statutes, rules, regulations, and agreements affecting the collection, storage, use and dissemination of private or confidential information.
- D. **Minimum necessary access to protected information.** The Parties shall comply with the “minimum necessary” access and disclosure standards set forth in the MGDPA. The accessing, use, and disclosure of protected information is limited to “that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government.” Minnesota Statutes, §13.05, subd. 3.
- E. **Each party shall.**
1. Maintain appropriate safeguards to prevent inappropriate access, use, or disclosure of protected information by its employees other than as provided for by this Cooperative Arrangement or as otherwise required by law;
 2. Immediately report any inappropriate access, use, disclosure, or unauthorized access to protected information not authorized by this Cooperative Arrangement of which it becomes aware;
 3. Ensure that any agents (including subcontractors), analysts, and others to whom

it provides private or confidential data, agree to be bound by the same restrictions, conditions, and training that apply to it with respect to such information;

4. At termination of this Cooperative Arrangement, extend the protections of this Cooperative Arrangement to protected information collected during the course of this Cooperative Arrangement.

F. *Family Violence Indicator.*

Pursuant to Minnesota Statutes, section 257.70 and federal law, the COUNTY and the Parties to this Cooperative Arrangement may not release information about the whereabouts of a person, if it has knowledge that a protective order with respect to the other party has been entered, or if the COUNTY has reason to believe that releasing the information might result in physical or emotional harm to the person about whom the information is sought. Child support workers are required to safeguard the privacy of said individuals by entering a safety concern indicator in PRISM.

Protected information, which includes information stored in or accessed from the PRISM system, includes information about all case participants, including persons with privacy protection. The COUNTY and the Parties to this Cooperative Arrangement will explain the sensitive nature of the safety concern indicator to all personnel with access to case information and will comply with safeguards to protect the privacy of all parties, including individuals protected with a privacy protection indicator.

Information about protected individuals may not be published, used, transmitted, or otherwise shared, without first removing all information about location, employment or other information identifying the whereabouts of the protected individual.

G. *Maintaining the Security of Protected Information Stored in or Accessed from the PRISM System.*

Protected information shall be stored in a place physically secure from access by unauthorized persons in conformance with DHS Child Support Division manuals and instructions regarding computer security. The manual is found in the CSD User Documentation. County Security Officers and local agencies can access the manual on DHS-SIR at <https://www.dhssir.cty.dhs.state.mn.us/PRISM>.

The COUNTY and the Parties to this Cooperative Arrangement shall require that all personnel with access to protected information will adhere to the policies and procedures of the CSD and state statutes regarding confidentiality and computer access that are referenced in the CSD User Documentation. The CSD Division Director or his/her designee may review each staff person's access to protected information to ensure that the level of access is consistent with their job duties.

- H. *Hold Harmless for data practices violations.*** The Parties are responsible for their own acts or omissions while performing the services described in this Cooperative Agreement.

III. PROVISION OF LEGAL SERVICES

A. *Duties of the COUNTY.* The COUNTY shall:

1. Refer appropriate cases to the County Attorney as provided for in federal regulations, state law, and policy.

2. Supply the County Attorney with appropriate information as provided for and defined in the federal regulations, the IV-D Program, the State Plan for Support Collection and Establishment of Paternity under Title IV-D of the Social Security Act, and state policy in accordance with DHS Child Support Division Program Manuals (DHS eMILO and SIR MILO) and other program instructions DHS may release from time to time.
3. Assist the County Attorney and the courts in carrying out programs for establishing paternity and securing support for children from legally liable persons.
4. Notify the County Attorney about failures to comply with court-ordered child support and maintenance whenever legal action appears necessary.
5. Consult with the County Attorney about any issues of law that may arise should the COUNTY need legal advice or counsel.
6. Assist in the service of process when the opportunity occurs to serve process before referral to the County Sheriff or other contracted process server.
7. Reimburse the County Attorney for providing services as specified in this Arrangement to the extent these services are federally required activities and services as provided in federal regulation and the IV-D Program.
8. Take any actions necessary to assist the County Attorney in meeting the federally mandated performance standards as set forth below.

B. *Duties of the County Attorney.* The County Attorney shall:

1. Take appropriate legal action, including making court appearances, to carry out the IV-D Program. The County Attorney agrees that the functions performed and services provided shall be performed in accordance with Title IV-D of the Social Security Act and all applicable federal laws, regulations, action transmittals, and other directives, instructions, and requirements of the United States Department of Health and Human Services, Office of Child Support Enforcement, including but not limited to, applicable federal and state information privacy laws. All Parties will comply with other applicable state statutes governing the child support program; state child support procedures; and applicable Minnesota statutes. The County Attorney agrees that disagreements over policy and procedure shall be handled through the CARC via section I, paragraph H of this arrangement or through the procedures in sections 3.1.1 of the Cooperative Agreement between the STATE and the COUNTY.
2. Review evidence and determine the adequacy of the evidence for court action.
3. Act on behalf of another COUNTY or Tribal IV-D Program or County Human Services Department upon their mutual agreement or as provided by state law or policy.
4. Counsel and advise the COUNTY with regard to issues of law and procedure and act as legal advisor for the COUNTY pursuant to Minnesota Statutes, chapter 388. The County Attorney will refrain from acting as counsel for or providing legal advice to applicants or recipients of IV-D services.
5. Inform the COUNTY of statutory and case law changes that may affect the COUNTY in any of its child support enforcement functions.

6. With the COUNTY, notify the CSD Division Director within seven (7) calendar days of any IV-D case that is appealed to the Minnesota Court of Appeals, the Minnesota Supreme Court, or federal court by either one of the case parties or the COUNTY. The STATE will review the appeal and consult with the County Attorney and the Office of the Attorney General as necessary.
7. In coordination with the COUNTY, report to the CSD Division Director within seven (7) calendar days of becoming aware of any child support judgments that call into question the constitutionality or enforceability of child support statutes or program instructions.
8. Retain records and make reports to the COUNTY, DHS, the court and law enforcement agencies as required by federal regulations and state policies for the effective and efficient administration of the IV-D Program.
9. Fully cooperate with the COUNTY and DHS with respect to the monitoring and evaluating activities pertaining to this Cooperative Arrangement.
10. Dedicate the necessary staff and equipment necessary to meet the performance standards set forth below.
11. Determine whether handling any particular case would constitute a conflict of interest or otherwise be professionally improper. If so, the County Attorney may select another attorney to handle the case at the same compensation rate as provided in this Cooperative Arrangement. The County Attorney shall require and ensure that the other attorney complies with the terms and conditions of this agreement.
12. Sign off, along with the COUNTY, on any corrective action plans developed as a result of deficiencies noted during a county review.
13. Prepare pleadings, including summons, petitions, orders to show cause, motions, and other necessary legal documents. Utilize relevant PRISM documents as consistent with eFiling and eService requirements. Draft interim orders. Prepare court orders, temporary orders, and judgments as necessary.
14. Cooperate with county, tribal, and state-operated economic support agencies, and all other agencies managing or operating federal or state programs, in administering the requirements of the IV-D Program.
15. Attend, if available, relevant training sessions provided by the COUNTY or the STATE.
16. Meet with the COUNTY Child Support Director as requested regarding policy and procedural issues.

C. County Attorney Performance Standards. The County Attorney shall:

1. In recognition of the Family Support Act of 1988, Public Law 100-485, and the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, the COUNTY and County Attorney will collaborate to meet the federally determined time limits for services as set forth by federal law and in accordance with Minnesota law, regulations, and policy. The federal time limits (including, but not limited to, those found at 45 C.F.R., sections 303.2 through 303.11; 303.30 through 303.31; 303.72; 303.100 through 303.102;

305.20; 42 U.S.C., sections 453A and 466(a)(10)) will be the primary standard against which performance under this Cooperative Arrangement will be measured.

2. Promptly notify the COUNTY of any actions that the COUNTY must take in order for the County Attorney to meet these performance standards.
3. Communicate with the COUNTY concerning child support cases prior to hearings;
4. Communicate, to the extent practicable, with opposing counsel prior to hearings;
5. Reserve, to the extent that it is within the County Attorney's control, the necessary time and resources necessary to effectuate the timely resolution of child support legal issues;
6. Meet all timeframes for taking legal actions and establishing and enforcing orders as set forth in the federal regulations and state policies, recognizing exigent circumstance.
7. Cooperate with the COUNTY to meet federal timeframes for IV-D Program services:
 - i. Within ninety (90) calendar days of locating the alleged father or noncustodial parent, establish paternity and establish an order for support or complete service of process necessary to commence proceedings.
 - ii. For cases in which service of process is necessary, establish paternity and establish an order for support:
 - Within six (6) months in 75% of the cases, and
 - Within twelve (12) months in 90% of the cases.
 - iii. From the date of service of process:
 - Within one hundred eighty (180) calendar days of receiving a request for review or locating the non-requesting parent, review and adjust the order or determine that the order should not be adjusted.
8. Comply with the Civil Rights Compliance standards for agencies that deliver services under Cooperative Arrangement with or sub-contracts/Cooperative Agreements with DHS.

- D. **Reimbursement to the County Attorney.** Reimbursement to the County Attorney shall be for the actual cost of providing services to the COUNTY incurred by the County Attorney's office. Payments claimed and paid shall be consistent with the requirements and prohibitions set out in Minnesota Statutes, chapter 388.

The County Attorney is responsible for assuring that the expenses claimed are in accordance with the federal regulations for claiming FFP reimbursement for activities in the child support enforcement program. Reimbursement is limited to reimbursement for activities and services that are required or allowed by law.

1. County Attorney Time: The County Attorney must track and account for attorney time expended on IV-D cases. If the IV-D program dedicates staff at 100% to eligible IV-D activities under Federal Regulations, the County Attorney may seek reimbursement for 100% of eligible staff time. For attorneys and staff that work on

eligible IV-D cases less than 100% of the time, the attorney and staff time may be accounted for in one of two ways:

- i. *Hourly Cost Method.* The County Attorney may track County Attorney and support staff time on an hourly basis; OR
 - ii. *Time Study/Salary Method.* The County Attorney may use a periodic time study to determine the proportion of time the County Attorney staff spends on IV-D Program activity versus all other activity. The office must regularly complete time studies. The study will be completed as follows:
 - a. All County Attorney staff providing IV-D Program services will complete a week-long time study each month. The study will record time spent on IV-D Program activity.
 - b. The results of each study will determine that percentage of time spent per staff person for IV-D Program services in relation to that person's total hours worked per month.
 - c. Reimbursement will be determined by applying the percentage of time determined to have been used for IV-D Program activity for an individual staff member to that individual's direct salary and benefits costs.
2. **County Attorney Costs:** The County Attorney must track and account for costs expended on IV-D cases. Direct costs must be accounted and claimed. Indirect costs may be claimed in accordance with Federal Regulations, 22 C.F.R., section 225, and OMB circular A-87, but the County Attorney, in cooperation with the COUNTY, must ensure that indirect costs are not double counted (i.e. claimed by both the COUNTY and County Attorney).

Reimbursement Estimate to the County Attorney:

The amount budgeted for eligible IV-D cases services provided by the County Attorney to the COUNTY in the budget year preceding this contract was \$ 12,000 .

Note: Estimated County Attorney costs may be calculated using the prior budgeted amount identified above, increased by a cost of living adjustment of 3% per year.

The total estimated County Attorney costs for each of the applicable COUNTY budget years of this contract are as follows:

2020: total estimated cost of \$ 12,000
2021: total estimated cost of \$ 12,300

If the estimated County Attorney costs in either of the contract years stated above are expected to exceed the budgeted amount in the preceding COUNTY budget year by more than 3%, please provide a brief explanation below.

Enter Description of Attorney costs > 3% of prior years budget.

The parties realize that the actual costs incurred and claimed by the County Attorney may exceed or stay below the estimated costs.

E. *Reimbursement Terms to the County Attorney.*

1. The County Attorney will submit monthly statements to the COUNTY for all reimbursements requested for the services provided in this Cooperative Arrangement.
2. Upon receipt, the COUNTY shall make payment in its usual and customary manner.
3. If the COUNTY determines that the County Attorney is not meeting the terms of this Cooperative Arrangement in any way, the payment to the County Attorney will not be made until it is determined by the COUNTY that the deficiency has been corrected. These deficiencies may include failure to perform (without good cause) within the parameters of the performance standards set forth in Section III, paragraph C of this Cooperative Arrangement, and delinquent or incorrect submission of required reports, violation of federal or state law, or repeated failure to perform (without good cause) within the parameters of the performance standards and other specified requirements of this Cooperative Arrangement.

IV. PROVISION OF SERVICES BY THE COUNTY SHERIFF

A. *Duties of the COUNTY.* The COUNTY shall:

1. Supply appropriate information as provided for and defined in federal regulations and state law and policy.
2. Reimburse the County Sheriff for the provision of services as specified in this Cooperative Arrangement to the extent that those services are federally required activities and services as provided in the federal regulations and the IV-D Program.

B. *Duties of the County Sheriff.* The County Sheriff shall:

1. Process Service:
 - a. Upon request, provide services to the COUNTY by performing service of process in Title IV-D cases, including, but not limited to, the service of summons, complaints, orders to show cause, motions, court orders, subpoenas, warrants, and writs of attachment.
 - b. Make diligent attempts to serve legal papers on IV-D participants believed to be residing in the county.
 - c. Document all service of process and attempted service of process by providing a proof of (attempted) service in the form of a server's affidavit or certificate of service. The affidavit or certificate must state the date, time and place of service, whether the respondent was personally served. For serving a summons, the server must also endorse the summons and indicate thereon the time and date, the place and manner of service, and upon whom service was made.
2. Execution of Warrants
 - a. Check the records for outstanding child support warrants, whenever civil papers are served on any person or an arrest is made for any reason.

- b. With due diligence, execute bench warrants, and orders for arrest or commitment in IV-D cases. If there are questions about the validity of said orders or the identity of the party, contact the COUNTY immediately.
 - c. Return all withdrawn IV-D warrants to the COUNTY.
- 3. Locate Services: Respond to COUNTY requests for location information by accessing available resources, such as the Minnesota Bureau of Criminal Apprehension, Crime Information Bureau and out- of-county and out-of-state law enforcement agents.
- 4. Security Services
 - a. To provide a bailiff to be present at IV-D hearings as requested by the COUNTY, the County Attorney, or as ordered or directed by the court.
 - b. Upon request, provide special security service to the COUNTY and to the courts.
 - c. Escort respondents who are in custody to hearings scheduled by the COUNTY and arrange for transportation of persons arrested in other counties.
- 5. Other Services
 - a. Provide daily jail and Huber (work release) rosters, and upon request, provide information to COUNTY about inmates' dates of incarceration, employment status, address information and any other relevant information.
 - b. Upon request, meet with the COUNTY Child Support Director regarding policy and procedural issues.
 - c. Ensure equal opportunity and equal access in service delivery. This includes the use of interpreters or procedures for acquiring translation and interpretation services when needed and the provision of reasonable accommodations or aids for people with disabilities.

C. *County Sheriff's Department Standards of Performance.*

- 1. Process Service
 - a. Execute due diligence by making at least three attempts to serve the respondent at each possible location furnished by the COUNTY. The County Sheriff may make fewer than three service attempts at a particular location, if, after attempting service, it is determined that further attempts at that particular location would be futile.
 - b. Effectuate service of process to meet due process requirements as set forth under Minnesota statutes
- 2. Execution of Warrants
 - a. With due diligence, execute bench warrants and arrest/commitment orders in IV-D cases.
 - b. If there are questions about the validity of any warrant or the identity of the party, contact the COUNTY within ten (10) days.

- c. Return all withdrawn IV-D warrants to the COUNTY within ten (10) days of withdrawal.
3. Locate Services
 - a. Respond to COUNTY requests for location information by accessing available resources such as National Crime Information Center (NCIC) and the Bureau of Criminal Apprehension (BCA) and other automated resources with due diligence.
 4. Security Services
 - a. With advanced notice, provide special security service to the COUNTY and to the courts.
 5. Other Services
 - a. On a daily basis, provide daily jail and Huber rosters, and upon request, provide information to COUNTY about inmates' dates of incarceration, employment status, address information and any other relevant information.
 - b. Meet with the COUNTY Child Support Director as requested, regarding policy and procedural issues.
 - c. Cooperate with the COUNTY to meet federal timelines for IV-D services:
 - d. Within seventy-five (75) days of determining that location is necessary, access appropriate locate sources.
 - e. If service of process is necessary, service must be completed or unsuccessful attempts must be documented within sixty (60) calendar days of identifying a delinquency, or of locating the noncustodial parent, if location is necessary.
 - f. Comply with the Civil Rights Compliance standards for agencies that deliver services under Cooperative Agreement with the State of Minnesota Department of Human Services.

D. *Reimbursement to the County Sheriff.*

1. The County Sheriff will be reimbursed for the actual cost of providing services to the COUNTY incurred by the County Sheriff's office. Payments claimed shall be consistent with the requirements and prohibitions set out in Minnesota Statutes, chapter 387.

The County Sheriff is responsible for assuring that the expenses claimed are in accordance with the federal regulations for claiming FFP reimbursement for activities in the child support enforcement program.

Reimbursement Estimate to the County Sheriff:

The amount budgeted for eligible IV-D cases services provided by the County Sheriff to the COUNTY in the budget year preceding this contract was
\$ 3,500

The total estimated County Sheriff costs for each of the applicable COUNTY budget years of this contract are as follows:

Note: Estimated County Sheriff costs may be calculated using the prior budgeted amount identified above, increased by a cost of living adjustment of 3% per year.

2020: total estimated cost of \$ 3,500

2021: total estimated cost of \$ 3,500

If the estimated County Sheriff costs in either of the contract years stated above are expected to exceed the budgeted amount in the preceding COUNTY budget year by more than 3%, please provide a brief explanation below.

Enter Description of Sheriff costs > 3% of prior years budget.
--

The parties realize that the actual costs incurred and claimed by the County Sheriff may exceed or stay below the estimated costs.

E. Reimbursement Terms to the County Sheriff.

1. The County Sheriff will submit monthly statements to the COUNTY for all reimbursements requested for the services provided in this Cooperative Arrangement.
2. Upon receipt, the COUNTY shall make payment in its usual and customary manner.
3. The County Sheriff is responsible for assuring that the expenses claimed are in accordance with the federal regulations for claiming FFP reimbursement for activities in the child support enforcement program. Reimbursement is limited to reimbursement for activities and services that are required or allowed by law.
4. If the COUNTY determines that the County Sheriff is not meeting the terms of this Cooperative Arrangement in any way, the payment to the County Sheriff will not be made until it is determined by the COUNTY that the deficiency has been corrected. These deficiencies may include failure to perform (without good cause) within the parameters of the performance standards set forth in Section IV.C., delinquent or incorrect submission of required reports, violation of federal or state law, or repeated failure to perform (without good cause) within the parameters of the performance standards and other specified requirements of this Cooperative Arrangement.

V. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion. Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the prospective lower tier participants (County Attorney and County Sheriff) must certify the following, as required by the regulations implementing Executive Order 12549:

A. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.

Instructions for Certification:

1. By signing and submitting this Cooperative Arrangement, the prospective lower

tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages sections of rules implementing Executive Order 12549 (Debarment and Suspension). You may contact the person to which this Cooperative Arrangement is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R., part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under title 48 of the C.F.R., part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph five of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under Title 48 of the C.F.R., part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

B. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this Cooperative Arrangement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Cooperative Arrangement.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS**

THE PARTIES HEREIN, HAVING APPROVED AND SIGNED THIS COOPERATIVE ARRANGEMENT, AGREE TO BE BOUND TO THE PROVISIONS SET FORTH IN THIS COOPERATIVE ARRANGEMENT.

Parties:

Swift

COUNTY NAME

SIGNATURE of Person Authorized to Execute Arrangement on Behalf of County

Date

Catherine Lee

Printed Name

Director

Title

County Attorney Signature
(REQUIRED ON ALL ARRANGEMENTS)

Date

Danielle Olson

Printed Name

County Sheriff Signature
(REQUIRED ON ALL ARRANGEMENTS)

Date

John Holtz

Printed Name

Approved By:

Signature of Director, MN Child Support Division
Minnesota Department of Human Services

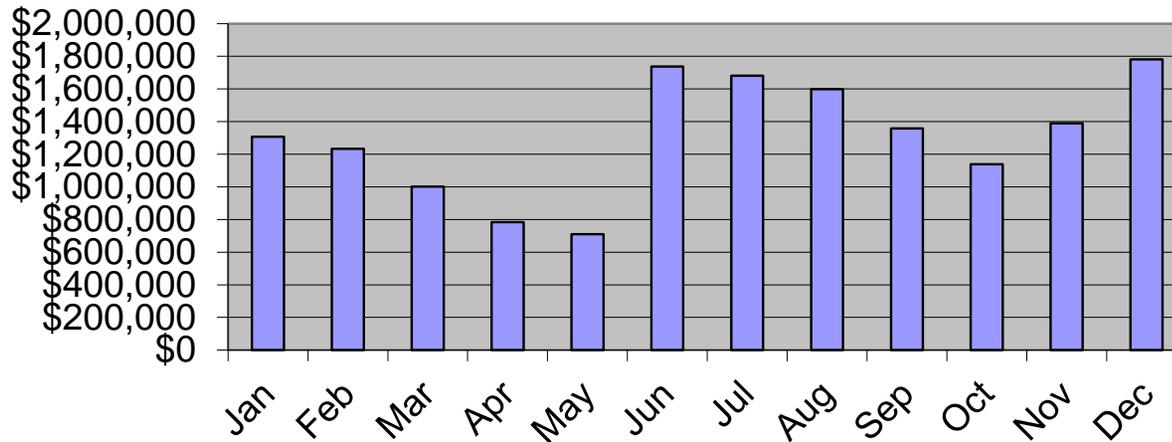
Date

Shaneen D. Moore

Printed Name

Swift County Human Services											
Ending Monthly Cash & Investment Balances											
2010 - 2019											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Average
Jan	\$ 1,116,112	\$ 1,027,808	\$ 977,091	\$ 909,780	\$ 846,281	\$ 983,278	\$ 933,563	\$ 1,668,733	\$ 2,045,847	\$ 2,559,803	\$1,306,830
Feb	\$ 1,069,918	\$ 1,004,522	\$ 829,326	\$ 788,543	\$ 739,793	\$ 882,373	\$ 886,577	\$ 1,562,756	\$ 1,967,692	\$ 2,603,360	\$1,233,486
Mar	\$ 810,381	\$ 848,432	\$ 551,477	\$ 576,608	\$ 601,437	\$ 593,206	\$ 636,635	\$ 1,278,985	\$ 1,706,416	\$ 2,416,328	\$1,001,991
Apr	\$ 732,868	\$ 820,387	\$ 328,272	\$ 451,920	\$ 446,379	\$ 168,803	\$ 352,306	\$ 1,085,797	\$ 1,415,224	\$ 2,030,159	\$783,212
May	\$ 576,849	\$ 669,878	\$ 329,407	\$ 300,099	\$ 269,118	\$ 187,841	\$ 289,965	\$ 804,645	\$ 1,279,329	\$ 2,385,140	\$709,227
Jun	\$ 1,244,642	\$ 1,460,435	\$ 1,218,863	\$ 1,145,907	\$ 1,361,018	\$ 1,187,485	\$ 1,476,200	\$ 2,165,333	\$ 2,745,303	\$ 3,377,509	\$1,738,270
Jul	\$ 1,349,636	\$ 1,142,375	\$ 1,113,725	\$ 1,094,712	\$ 1,165,952	\$ 1,217,022	\$ 1,483,669	\$ 2,160,790	\$ 2,842,236	\$ 3,246,109	\$1,681,623
Aug	\$ 1,237,374	\$ 1,228,978	\$ 894,462	\$ 982,736	\$ 1,199,826	\$ 1,126,524	\$ 1,532,984	\$ 1,995,009	\$ 2,661,662	\$ 3,137,129	\$1,599,668
Sep	\$ 1,085,187	\$ 1,079,263	\$ 804,086	\$ 714,174	\$ 921,407	\$ 877,167	\$ 1,220,833	\$ 1,650,293	\$ 2,409,864	\$ 2,814,711	\$1,357,699
Oct	\$ 878,408	\$ 773,615	\$ 538,645	\$ 627,339	\$ 667,331	\$ 646,265	\$ 1,028,981	\$ 1,459,114	\$ 2,139,152	\$ 2,621,771	\$1,138,062
Nov	\$ 826,623	\$ 741,489	\$ 483,013	\$ 377,803	\$ 477,198	\$ 513,740	\$ 2,056,684	\$ 2,511,571	\$ 3,278,552	\$ 2,633,850	\$1,390,052
Dec	\$ 1,279,178	\$ 1,242,733	\$ 1,094,736	\$ 1,057,825	\$ 1,180,113	\$ 1,187,268	\$ 1,888,413	\$ 2,296,240	\$ 3,077,192	\$ 3,506,591	\$1,781,029
Average	\$ 1,017,265	\$ 1,003,326	\$ 763,592	\$ 752,287	\$ 822,988	\$ 797,581	\$ 1,148,901	\$ 1,719,939	\$ 2,297,372	\$ 2,777,705	

**Average Monthly Cash & Investment Balance
2010-2019**



SWIFT COUNTY TOBACCO ORDINANCE

ADOPTED: ~~January 5,~~
~~2016~~ _____

EFFECTIVE: ~~January 27,~~
~~2016~~ _____

SWIFT COUNTY TOBACCO ORDINANCE

Table of Contents

Section 1 Purpose.....1

Section 2 Definitions and Interpretations.....1

Section 3 County Tobacco Retailer License 4

Section 4 Basis for Denial of Tobacco Retailer's License5

Section 5 Licensees Responsible for Actions of Employees6

Section 6 Mandatory Compliance Checks6

Section 7 Prohibited Sales6

Section 8 Prohibited Acts7

Section 9 Exception sand Defenses.....8

Section 10 Administrative Review8

Section 11 Administrative Penalties9

Section 12 Severability and savings Clause 10

Section 13 Repeal of Prior Ordinances..... 10

Section 14 Effective Date.....10

SWIFT COUNTY TOBACCO ORDINANCE

SECTION 1. PURPOSE

Because the County recognizes that ~~many persons under the age of 18 years purchase or otherwise obtain, possess, and use sale of commercial~~ tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products, ~~and such sales, possession and use are violations to persons under the age of 18 violates~~ of both state and federal laws; and because studies, which are hereby accepted and adopted (i.e. CDC, Minnesota Department of Public Health/ASSIST) have shown that ~~youth use of any commercial tobacco product has increased to 26.4% in Minnesota; and because most smokers people who smoke~~ begin smoking before they have reached the age of 18 years and that those persons who have reached the age of 18 years without having started smoking are significantly less likely to begin smoking; ~~and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments;~~ and because ~~commercial~~ tobacco use has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Ordinance shall be intended to regulate the sale, ~~possession, and use of commercial~~ tobacco, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products, for the purpose of enforcing and furthering existing laws, ~~to protect minors against the serious effects associated with the illegal use of tobacco and related licensed products,~~ and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke, as stated in Minnesota Statute 144.391.

SECTION 2. DEFINITIONS AND INTERPRETATIONS

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

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

Subd. 2. Compliance Checks. "Compliance Checks" shall mean the system the County uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this ordinance. Compliance checks may involve the use of minors as authorized by this Ordinance Compliance checks may also mean the use of minors who attempt to purchase licensed products for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to licensed products.

Subd. 3. Electronic Delivery Device. "Electronic Delivery Device" shall mean any product containing or delivering nicotine, lobelia, or any other substance, ~~whether natural or synthetic,~~ intended for human consumption ~~that can be used by a person to simulate smoking in the delivery of nicotine or any other substance~~ through inhalation of ~~aerosol or~~ vapor from the product. Electronic delivery device shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any

Commented [PHLC1]: A few updates for the city to consider in the purpose section that are reflected in the edits provided are:

- Removing language associated with PUP penalties (Please see comment in Section 8 re: PUP)
- Adding updated MN specific information about e-cigarette use.
- Using "commercial" before tobacco to distinguish between the sacred use of tobacco by Indigenous communities and the use of harmful products (consistent with Section 9 of this ordinance)
- Adding language that supports the reasoning behind adopting a youth-oriented facility proximity restriction

If the city considers pursuing a prohibition on the sale of flavored products (discussed in comment on page 3) the city could consider adding purpose language specific to prohibiting flavors.

Commented [PHLC2]: As reflected in the edits to this definition, the city could consider updating this definition to clearly capture the wide-range of e-cigarettes that have come onto the market even since the last time this was updated:

- Using "natural or synthetic" clearly captures products that may be using synthetic forms of nicotine
- Using the word "aerosol" is more scientifically accurate and better captures new products called "Heated Tobacco Products" that are somewhat of a hybrid between a cigarette and an e-cigarette
- Removing the "simulate smoking" language reflects the new, most popular e-cigarettes that no longer purport to simulate smoking.

product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose

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

~~**Subd. 5. Individually Packaged.** "Individually Packaged" shall mean 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.~~

Commented [PHLC3]: The city could consider deleting this definition because it is only used once in the ordinance (in the definition of loosies) and the meaning is clear without defining the term.

Subd. 65. Licensed Products. "Licensed Products" shall mean any tobacco, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device, as they are defined by this section.

Subd. 76. Loosies. "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette, or any other ~~tobacco product~~ licensed product that has been removed from its packaging and sold individually.

Subd. 87. Minor. "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 98. Moveable Place of Business. "Moveable Place of Business" shall refer to any form of business whose physical location is not permanent, including, but not limited to, any business operated out of a motorized vehicle, mobile sales kiosk, trailer, or other structure or equipment not permanently attached to the ground.

~~**Subd. 409. Nicotine or Lobelia Delivery Products.** "Nicotine or Lobelia Delivery Products" shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.~~

Subd. 140. Retail Establishment. "Retail Establishment" shall mean any place of business where tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Subd. 121. Sale. A "Sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 132. Self-Service Merchandising. "Self-Service Merchandising" shall mean open displays of licensed products in any manner where any person shall have access to licensed products without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the licensed products between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 143. Smoke or Smoking. "Smoke" or "Smoking" shall mean inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product, ~~whether natural or synthetic~~, or inhaling or exhaling aerosol or vapor from any electronic delivery device. Smoking shall include being in possession of a lighted or

Commented [PHLC4]: This suggested change the city could consider for the same reason of adding this language to the electronic delivery device definition – to ensure synthetic nicotine products are also captured here.

heated cigar, cigarette, pipe, or any other tobacco or plant product or an activated electronic delivery device intended for inhalation.

Subd. 154. Tobacco or Tobacco Products. "Tobacco" or "Tobacco Products" shall mean any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Subd. 165. Tobacco Related Devices. "Tobacco Related Devices" shall mean any pipe, wraps, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco related devices shall include accessories or components of tobacco related devices which may be marked or sold separately.

Commented [PHLC5]: The city could consider making this suggested change to clearly capture a product that was being sold in other communities: hemp wraps.

Subd. 176. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses licensed products, upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the licensed product.

Subd. 18. Youth-Oriented Facility. "Youth-oriented facility" shall mean any facility with residents, customers, visitors, or inhabitants of which 25 percent or more are regularly under the age of 21 or that primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21. Youth-oriented facility includes, but is not limited to, schools, playgrounds, recreation centers, and parks.

SECTION 3. COUNTY TOBACCO RETAILER LICENSE

No person shall sell or offer to sell any tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products, without first having obtained a license from the county.

Subd. 1. License Application. An application for a license to sell a licensed product shall be made on a form provided by the County. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information deemed necessary. Upon receipt of a completed application, the County Auditor shall forward the application to the County Board of Commissioners, or its designee for action at its next regularly scheduled meeting. If the County Auditor, or designee, shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2. Action on License. The County Board or its designee may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application it deems necessary. If the County Board shall approve the license, the County Auditor or designee shall issue the license to the applicant. If the license is denied, notice of the denial shall be given to the applicant along with the notice of the applicant's right to appeal the decision.

Subd. 3. License Fees. Each application for a tobacco retailer's license shall be

accompanied by a fee as set by the Swift County Board of Commissioners. Application for licenses issued after June 30 of a calendar year shall be accompanied by a prorated fee.

Subd. 4. License Term. The licensing period begins on June 30 of a calendar year and ends June 30 of the following calendar year. Each license issued shall expire on June 30 of the calendar year unless sooner revoked by the County or unless the business with respect to which the license was issued is transferred. In either case the holder of the license shall immediately surrender it to the County Auditor or designee.

Subd. 5. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for renewal shall be made at least thirty days, but no more than sixty days before the expiration of the current license.

Subd. 6. Issuance as a Privilege and Not a Right. The issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Subd. 7. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Ordinance.

Subd. 8. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. 9. Transfers. All licenses issued under this Ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.

Subd. 10. Revocation or Suspension. Any license issued under this Ordinance may be revoked or suspended as provided in Section 11 of the Ordinance.

Subd. 11. Proximity to youth-oriented facilities. No license will be granted to any person for a retail establishment location that is within 1,000 feet of a youth-oriented facility, as measured by the shortest line from the property line of the space to be occupied by the proposed licensee to the nearest property line of a youth-oriented facility. This restriction does not apply to an existing license holder who has been licensed to sell licensed products in that same location for at least one year before the date this section was enacted into law.

Commented [PHLC6]: Because the city does not establish any penalty involving revocation in Section 11, the city should consider changing the language as suggested in Section 11 or change the language in this provision. PHLC is happy to draft these changes for the final adopted ordinance.

Commented [PHLC7]: Because the city does not establish any penalty involving revocation in Section 11, the city should consider changing the language as suggested in Section 11 or change the language in this provision. PHLC is happy to draft these changes for the final adopted ordinance.

Commented [PHLC8]: This language is optional and is included to mitigate the risk of litigation – for example, a retailer may argue if they have to move their business to comply with the law that they are losing sales. However, it could be deleted, especially if no retailer currently exists within 1,000 feet of a youth-orientated facility.

SECTION 4. BASIS FOR DENIAL OF TOBACCO RETAILER'S LICENSE

The following shall be grounds for denying the issuance or renewal of a license under this Ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean the county must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

- A. The applicant is under the age of 18 years.
- B. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to licensed products.
- C. The applicant has had a license to sell tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products, suspended or revoked within the preceding twelve months of the date of application.

- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding such a license.

SECTION 5. LICENSEES RESPONSIBLE FOR ACTION OF EMPLOYEES

All licensees under this Ordinance shall be responsible for the actions of their employees in regard to the sale of licensed products on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the County from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, state or federal law, or other applicable law or regulation.

SECTION 6. MANDATORY COMPLIANCE CHECKS

All licensed premises shall be open to inspection by the Swift County ~~Sheriffs~~Sheriff's Department or its designee, Countryside Public Health, or other authorized County official during regular business hours. From time to time, but at least once a year, the county shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years, but less than eighteen (18) years, to enter the licensed premise to attempt to purchase licensed products. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers, Countryside Public Health personnel, or other authorized County personnel. ~~Minors used for compliance checks shall not be guilty of the unlawful purchase, or attempted purchase, nor the unlawful possession of licensed products, when such items are obtained or attempted to be obtained as part of the compliance check.~~ No minor used in compliance checks shall attempt to use false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or feral laws for education research or training purposes, or required for the enforcement of a particular state or federal law. Compliance checks for the purpose of this Ordinance will not be performed in townships or municipalities where a similar ordinance meeting the minimum requirements of this statute exists.

SECTION 7. PROHIBITED SALES

Subd. 1. General. It shall be a violation of this Ordinance for any person to sell or offer to sell any licensed products:

- A. To any person under the age of eighteen (18) years.
- B. By means of loosies as defined in Section 2, Subd. 6 of this Ordinance.
- C. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substance except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intent of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
- D. By any other means, to any other person, in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

Subd. 2. Vending Machines. It shall be unlawful for any person licensed under this Ordinance to allow the sale of licensed products by the means of a vending machine unless

Commented [PHLC9]: Please see comment in Section 8 below regarding PUP penalties.

Commented [PHLC10]: The city could also consider adopting a restriction on the sale of flavors. In the last 2 years, youth use of e-cigarettes has exploded to epidemic levels. Based on research and survey data, it is clear that the wide-range of flavors available on the market, many that have youth-alluring packaging and flavors, is one of the primary drivers in the epidemic.

Additionally, flavored products increase initiation amongst all populations by masking the harsh taste of tobacco and nicotine. Flavors like menthol and clove also provide a numbing effect that lead to longer breath-holding. This makes quitting flavored licensed products more difficult. Overwhelmingly, youth users of licensed products initially began using flavored products. Restricting the sale of flavored licensed products to stores that youth and young adults cannot enter can reduce youth access to and advertisements for the flavored products.

If the county wishes to adopt such a restriction, we are happy to draft this language (which includes adding additional findings, adding a definition of flavored products, and the restriction language) For your review, our model language for prohibiting all sales of flavored products is:

Subd. 5. Flavored products. No person shall sell or offer for sale any flavored products.

While a total prohibition has been the most common policy adopted in MN recently, some communities still prefer to restrict flavored sales to adult-only stores, that model language for your review is:

Subd. 5. Flavored products. No person shall sell or offer for sale any flavored products. This prohibition does not apply to retail establishments that:

- A. Prohibit persons under 21 from entering at all times;
- B. Derive at least 90 percent of their gross revenues from the sale of licensed products; and
- C. Meet all of the following building or structural criteria:
 - i. Shares no wall with, and has no part of their structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, and pass-throughs to the other business or retailer;
 - ii. Shares no walls with, and has no part of their structure directly adjoined to, another licensed tobacco retailer; and
 - iii. Is accessible by the public only by an exterior door.

Any retail establishment that sells flavored products must provide financial records documenting its annual sales, upon request by the city.

Commented [PHLC11]: The county currently has a minimum legal sales age of 18. Effective December 20, 2019, the minimum legal sales age for all tobacco products in the United States is 21. This means that to be in compliance with federal law, a jurisdiction should establish the same minimum legal sales age as soon as possible. We can expect that all localities and states that do not have a minimum legal sales age of 21 will be making these changes soon. Making these changes in the ordinance is not as simple as crossing out 18 and inserting 21. If the county is interested in updating this ordinance in compliance with state law, PHLC will be happy to draft that language.

minors are at all times prohibited from entering the licensed establishment.

Subd. 3. Self-Service Sales. It shall be unlawful for a licensee under this Ordinance to allow the sale licensed products by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the licensed products between the licensee or his or her clerk and the customer unless minors are at all times prohibited from entering the licensed establishment and unless ninety (90) percent or more of the licensed establishment are generated by the sale of tobacco and tobacco related products.

Subd. 4. Liquid Packaging. The sale of any liquid, whether or not such liquid contains nicotine, intended for human consumption and use in an electronic delivery device, that is not contained in child-resistant packaging is prohibited. All licensees under this chapter must ensure that any liquid intended for use in an electronic delivery device is sold in child-resistant packaging. Upon request, a licensee shall provide a copy of the certificate of compliance or the full protocol laboratory testing report for the packaging used.

SECTION 8. PROHIBITED ACTS

Unless otherwise provided, the following acts shall be a violation of this Ordinance:

~~**Subd. 1. Illegal Sales.** It shall be a violation of this Ordinance for any person to sell or otherwise provide any licensed products to any minor.~~

~~**Subd. 2. Illegal Possession.** It shall be a violation of this Ordinance for any minor to have in his or her possession any licensed products. This subdivision shall not apply to minors lawfully involved in a compliance check.~~

~~**Subd. 3. Illegal Use.** It shall be a violation of this Ordinance for any minor to smoke, chew, sniff, or otherwise use any licensed products.~~

~~**Subd. 4. Illegal Procurement by a Minor.** It shall be a violation of this Ordinance for any minor to purchase or attempt to purchase or otherwise obtain any licensed products. This subdivision shall not apply to minors lawfully involved in a compliance check.~~

Subd. 51. Illegal Procurement. It shall be a violation of this Ordinance for any person 18 years of age or older to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person 18 years of age or older to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any licensed products. ~~This subdivision shall not apply to minors lawfully involved in a compliance check.~~

Subd. 62. Use of False Identification. It shall be a violation of this Ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Subd. 73. Smoking. Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling licensed products is prohibited.

SECTION 9. EXCEPTIONS AND DEFENSES

Nothing in this Ordinance shall prevent the providing of tobacco or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to an alleged violation of this Ordinance for a person to have reasonably relied on proof of age as described by state law.

Commented [PHLC12]: Prohibiting Procurement, possession, use and purchase (referred to as PUP) laws may be unlikely to reduce youth smoking significantly.

Historically, these were strongly pushed by the industry to undermine other conventional avenues of youth discipline, divert attention from more effective tobacco control strategies, and relieve the tobacco industry of responsibility for its marketing practices. Many public health groups suggest focusing instead on the retailer, especially since this is a licensing code.

Research and practice have revealed that these policies are unlikely to be effective at addressing youth behavior because they are strongly addicted to these highly addictive products. In fact, in some respects, nicotine is more addictive than heroin and other drugs. Nicotine use in adolescence leads to permanent brain changes that makes quitting more difficult. To be successful in breaking a youth's addiction, adults need to provide support, education, and resources, not penalties.

For MN communities that have updated their tobacco ordinances in the last 2 years, the vast majority have removed these PUP provisions. Another concern that has prompted this change is that PUP provisions may be enforced inconsistently with respect to youth from certain racial and ethnic groups, resulting in their introduction into the criminal justice system.

For these reasons, the County may consider removing these provisions (and other provisions associated with these penalties) – those changes have been made in this edited version.

SECTION 10. ADMINISTRATIVE REVIEW

Subd. 1. Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation. The citation shall provide notice that a hearing must be requested within ten (10) business days of receipt.

Subd. 2. Hearings. If a person accused of violating this Ordinance so requests, a hearing shall be scheduled the time and place of which shall be published and provided to the accused violator.

Subd. 3. Hearing Officer. The Swift County Board or its designee shall serve as the hearing officer.

Subd. 4. Decision. If the hearing officer determines that a violation of this Ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 11 of this Ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred, or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

Subd. 5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the jurisdiction of the county in which the alleged violation occurred.

Subd. 6. Misdemeanor Prosecution. Any violation of this Ordinance [by persons 18 years of age and older](#) is a misdemeanor. Nothing in this section shall prohibit the county from seeking prosecution as a misdemeanor for any alleged violation of this Ordinance [by persons 18 years of age and older](#). If the county elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

Subd. 7. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

SECTION 11. ADMINISTRATIVE PENALTIES

Subd. 1. Licensees. Any licensee found to have violated this Ordinance, or whose employee shall have violated this Ordinance, shall be charged an administrative fee as follows:

First Offense:	\$75.00
Second Offense/at same licensed premise within 24 months:	\$200.00
Third and Subsequent Offense/at same licensed premise within 24 months and the license shall be suspended for not less than seven (7) days:	\$250.00

Second and subsequent offenses occurring on the same licensed premises after 24 months or more of a previous violation shall be treated as if it were a first offense.

Subd. 2. Instructional Program for licensees. [Any licensee who has violated this ordinance and all of that licensee's employees shall complete a training program on the legal requirements related to the sale of licensed products and the possible consequences of license violations. Any training program must be pre-approved by the city. Licensees must provide documentation of compliance with this requirement to the city within 30 days of notice of violation.](#)

Commented [PHLC13]: For enforcement of a commercial tobacco control ordinance, establishing fine amounts that deter the retailer from violating the ordinance is important. While these fine amounts are in line with the state minimum requirements, it should be noted that those fine amounts were set over 20 years ago. It is likely that those will be raised at the state level soon and many communities throughout MN have raised these amounts as well. Also, of note, these penalties do not allow for revocation for the most troublesome repeat offenses. The city could instead consider adopting our model language:

Subd. 1. Licensees. Any licensee found to have violated this ordinance, or whose employee violated this ordinance, will be charged an administrative fine as follows:

First Offense:	\$200
Second offense at the same licensed premises within a 24-month period:	\$500
Third or subsequent offense at the same location within a 24-month period:	\$750

Upon the third violation, the license will be suspended for a period of not less than 30 consecutive days. Upon a fourth violation, the license will be revoked.

Commented [PHLC14]: The county is considering adopting a requirement for a correctional education program if a clerk violates the ordinance but the county could also consider adopting this provision that would require licensees to complete an instructional program as part of their license application (prior to any potential violation) and renewal. The program we often recommend is ANSR MN's Stop Sales to Minors: <http://www.ansrmn.org/stopsalestominors>.

Subd. 32. Minors. Minors who use a false identification to purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the city determines to be appropriate. The County Board will consult with court personnel, educators, parents, children and other interested parties to determine an appropriate penalty for minors in the county. The penalty may be established by ordinance and amended from time to time. ~~found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery products, shall be charged an administrative penalty of \$25.00 and shall participate in an appropriate educational/diversion program. In second and subsequent offenses, minors shall be charged an administrative fee of \$50.00.~~

Commented [PHLC15]: This language institutes alternative penalties for minors who use false identification and is consistent with the goals of removing PUP penalties from the licensing ordinance.

Subd. 43. Other Individuals. Other individuals, other than minors, regulated by subdivision 2 of this subsection, found to be in violation of this Ordinance shall be charged an administrative fee of \$50.00.

SECTION 12. SEVERABILITY AND SAVINGS CLAUSE

If any section or portion of this Ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not invalidate the effectiveness of any other section or provision of this Ordinance.

SECTION 13. REPEAL OF PRIOR ORDINANCES

This Ordinance, upon its adoption, shall repeal the Swift County Tobacco Ordinance dated January 5, 2016 ~~December 1, 1998~~.

SECTION 14. EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.

ADOPTION OF ORDINANCE

Passed and approved by the Board of County Commissioners, Swift County, Minnesota, this 5th day of January, 2016.

_____, Chairperson

Attest: _____, Clerk of the Board

APPROVED AS TO FORM AND EXECUTION:

_____, County Attorney

