

*SWIFT
COUNTY
BUFFER
ORDINANCE*



October 20, 2020

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

1.0 STATUTORY AUTHORIZATION AND POLICY

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

2.0 DEFINITIONS AND GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

2.3 **Data sharing/management.**

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

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

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

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

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

3.0 JURISDICTION