

Guidance to Counties on Buffer-Related Ordinances

The Minnesota Board of Water and Soil Resources (BWSR) and Minnesota Department of Natural Resources (DNR) have developed a comprehensive package of model ordinance language and operational guidance that counties may use to implement the Buffer Law (Minnesota Statutes, §103F.48). The intent of this package is to provide counties with a menu of implementation options and model language that is simple, consistent, and compliant with state law on buffers, shorelands, and public drainage systems.

This document provides specific guidance to counties on ordinance options and available model language. This guidance is not intended to provide legal advice. Counties are strongly encouraged to seek legal advice regarding the implementation of model ordinance language into their own ordinance.

Counties Electing Jurisdiction

For counties electing jurisdiction to enforce the Buffer Law, a model buffer ordinance is available on the [BWSR website](#). **This model buffer ordinance is designed to be a stand-alone chapter of a county's zoning ordinance, separate from the shoreland ordinance chapter.**

Although they are related, the Buffer Law and Shoreland Act are governed by two separate statutes with different purposes and state agency regulatory authorities. As such, counties are encouraged to keep ordinance provisions related to each program separate and distinct to minimize administrative confusion and retain program integrity long-term.

Regarding the width of buffers for public waters, counties have options under Minn. Stat. § 103F.48, subd. 3:

- **50' average/30' minimum buffer width:** If a county simply wants to enforce the 50' average/30' minimum buffer width in the Buffer Law, the model buffer ordinance contains this width by default. To alleviate potential confusion, a county should consider amending the 50' agricultural buffer requirement in its shoreland ordinance to be consistent with the 50' average/30' minimum requirement in the buffer ordinance. The DNR finds such an amendment to be substantially compliant with the statewide shoreland rules and has developed guidance and model language, which is available on the [DNR website](#).
- **≥ 50' minimum width:** If a county's shoreland ordinance requires a 50' or greater minimum width instead of the 50' average/30' minimum width in the Buffer Law, the county should plug the higher value into its buffer ordinance and eliminate the need to cross-reference the shoreland ordinance.

BWSR is the agency responsible for reviewing and approving local buffer ordinances. DNR is the agency responsible for reviewing and approving amendments to local shoreland ordinances.

Counties Not Electing Jurisdiction

Counties not electing jurisdiction to enforce the Buffer Law will not need to adopt a buffer ordinance and do not need to amend their shoreland ordinances. To alleviate potential confusion over varying standards in different laws, counties should work with their local SWCD and the entity taking on enforcement (watershed district and/or BWSR) to clarify which width will be enforced. The county may consider amending the 50' agricultural buffer requirement in its shoreland ordinance to be consistent with the 50' average/30' minimum standard in the buffer law. The DNR finds such an amendment to be substantially compliant with the statewide shoreland rules and has developed guidance and model language, which is available on the [DNR website](#). DNR is the agency responsible for reviewing and approving amendments to local shoreland ordinances.

More on Shoreland Ordinances & Enforcement

Enforcing shoreland ordinances: Whether or not a county elects jurisdiction to enforce the Buffer Law, all counties are still responsible for enforcing their shoreland ordinances (and wild and scenic river ordinances, if applicable), including any additional vegetative cutting and land alteration restrictions. These restrictions pertain to all properties in shoreland and wild and scenic river districts, not just properties with permitted agricultural uses.

Coordination with SWCDs and BWSR: It will be important for counties to coordinate with their SWCDs and BWSR to ensure that more protective buffer standards in their shoreland ordinances are adhered to when determining compliance and enforcement actions under the Buffer Law. This is especially true for counties that do not elect jurisdiction.

Restrictions on alternative practices in shoreland ordinances: Counties have the authority to prohibit or place restrictions on the use of alternative riparian water quality practices as provided in Minn. Stat. § 103F.48, subd. 3.(b) in their shoreland ordinances (see the following links: [394 - 2016 Minnesota Statutes](#), [103F.211, subp. 1 - 2016 Minnesota Statutes](#), and [6120.2800, subp. 1 - Minnesota Administrative Rules](#)).

This document produced by:

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, MN 55155
507-206-2894
bwsr.state.mn.us

Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4025
651-259-5697
mndnr.gov

Last Updated: July 7, 2017