

Goodhue County Administrative Procedures for Buffer Compliance

This Administrative Procedures outlines the process to be used to ensure compliance with the Buffer Law implementation.

Section 1: COMPLIANCE DETERMINATIONS

- Subd. 1. **Compliance with the buffer requirements.** Compliance with the buffer requirements set forth in Goodhue County Zoning Ordinance (herein referred to as the “Ordinance”) will be determined by the SWCD on a parcel by parcel basis. The compliance status of each bank, or edge of a waterbody on an individual parcel will be determined independently.
- Subd. 2. **Parcel Evaluation.** The SWCD will evaluate parcels, including those suggesting alternative practices, through available documentation, such as County-wide aerial photography, Drone photography, GIS analysis, and onsite inspections to determine if a parcel is in compliance with the Ordinance. The SWCD will perform a baseline, overall County wide reviews of parcel compliance every two years in coordination with the County aerial photography.
- Subd. 3. **Compliant Parcel.** Upon completion of the evaluation of a parcel, if the parcel is determined to be compliant, the SWCD may issue a *Validation of Compliance* to the landowner, the County, and BWSR if requested, or if corrective actions have been deemed satisfied.
- Subd. 4. **Non-compliant Parcel.** When the County identifies, or is made aware of a potential non-compliant parcel, it will consult with the SWCD to determine the appropriate course of action.
- a) SWCD will contact the landowner and request an onsite inspection, use other appropriate data collection methods, or request documentation from the landowner, to verify the compliance status of the parcel.
 - b) If the parcel is determined to be non-compliant, the SWCD shall issue a *Notification of Noncompliance* to the landowner, the County, and BWSR.

Section 2: ENFORCEMENT

- Subd. 1. **Corrective Action Notice.** Upon receipt of an SWCD *Notification of Noncompliance*, the County will issue the landowner a *Corrective Action Notice*. The *Notice* shall include:
- a) A list of corrective actions needed to come into compliance with the requirements of Minn. Stat. §103F.48 and the Ordinance;
 - b) A timeline for complying with the *Corrective Action Notice*;
 - c) A compliance standard against which the County will judge the corrective action; and
 - d) A statement that failure to respond to this *Corrective Action Notice* may result in the assessment of criminal, civil or administrative penalties.

A. Notification to Landowner. The County shall transmit the *Corrective Action Notice* by either personal service to the landowner or by depositing the same in the U.S. Mail. If service is made by U.S. mail, the document is deemed received, three business days after the notice was placed in the U.S. mail. Failure of actual receipt of a corrective action notice that has either been

personally served or served by depositing the same in the U.S. Mail shall not be deemed a defense in an enforcement proceeding.

B. Notification to Others. The County shall send a copy of the *Corrective Action Notice* to both SWCD and BWSR.

C. Modifications. The County may modify the corrective actions and timeline for compliance, to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

- 1.) The landowner may supply information to the County or the SWCD in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the County may make a written modification to the *Corrective Action Notice* or timeline for compliance.
- 2.) Any such modification of a compliance determination will be served on the landowner in the manner provided for in Subdivision 1, A of this Section. The County shall provide the SWCD and BWSR a written copy of any modification made pursuant to this provision.

D. Compliance with a Corrective Action Notice. Upon notification from the landowner to SWCD that the corrections have been made, SWCD will re-evaluate the parcel to determine compliance. If the parcel is determined to be in compliance, SWCD will issue a *Validation of Compliance* to the landowner, the County, and BWSR. Upon receipt by the County of the *Validation of Compliance*, the *Corrective Action Notice* will be deemed to be closed.

Subd. 2. **Administrative Penalty Order.** The County may issue an *Administrative Penalty Order* as provided for in Minn. Stat. §§103F.48, subd. 7(b) and (c) and 103B.101, subdivision 12a to a landowner who has failed to take the corrective action as set forth in the *Corrective Action Notice*. The *Administrative Penalty Order* shall include:

- a) The facts constituting the violation of the riparian protection and water quality practices requirements set forth in the Ordinance or Minn. Stat. §103F.48;
- b) The specific statute and/or Ordinance section(s) that has/have been violated;
- c) A written description of prior efforts to work with the landowner to resolve the violation;
- d) The amount of the penalty to be imposed;
- e) The date the penalty will begin to accrue;
- f) The date that payment of the penalty is due;
- g) The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the *Corrective Action Notice*;
- h) A statement of the landowner's right to appeal the ADMINISTRATIVE PENALTY ORDER.

A. Notification to Landowner. The County shall transmit the *Administrative Penalty Order* by either personal service to the landowner or by depositing the same in the U.S. Mail. If service is made by U.S. mail, the document is deemed received, three business days after the notice was placed in the U.S. mail. Failure of actual receipt either been personally served or served by

depositing the same in the U.S. Mail shall not be deemed a defense in an enforcement proceeding.

B. Notification to Others. The County shall send a copy of the *Administrative Penalty Order* to both SWCD and BWSR.

C. Compliance with an Administrative Penalty Order. Upon notification from the landowner to SWCD that the corrections have been made, SWCD will re-evaluate the parcel to determine compliance. If the parcel is determined to be in compliance, SWCD will issue a *Validation of Compliance* to the landowner, the County, and BWSR. Upon receipt by the County of the *Validation of Compliance*, the *Administrative Penalty Order* will be deemed to be closed.

D. Right to Appeal. Within 30 days after receipt of the *Administrative Penalty Order*, a landowner may appeal the terms and conditions of an *Administrative Penalty Order* issued by a County to BWSR as provided in Minn. Stat. §103F.48, subd. 9. The appeal must be in writing and must include a copy of the *Administrative Penalty Order* that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail, or electronically, to the Executive Director of BWSR.

Subd. 3. **Misdemeanor.** Failure to comply with a *Corrective Action Notice* issued constitutes a misdemeanor and shall be punishable as defined by law.

A. Statute of Limitations. Any criminal enforcement action undertaken pursuant to the Ordinance must be undertaken within two years after the alleged violation was discovered or reasonably should have been discovered by the County.

Subd. 4. **Concurrency.** The County may serve a non-compliant parcel landowner a combined *Corrective Action Notice* and an *Administrative Penalty Order*. The County may also pursue a Criminal Prosecution concurrently with an *Administrative Penalty Order*

Section 3: PENALTIES

Subd. 1. **Penalty Fees.** Penalty fees are established by the County Board.

Subd. 2 **Penalty Due.** Unless the landowner appeals the *Administrative Penalty Order* as provided in this Policy, the penalty specified in the *Administrative Penalty Order* becomes immediately due and payable to the County as set forth in the *Administrative Penalty Order*.

A. Corrected violation. If the landowner submits written documentation that the violations have been corrected prior to the time the penalty becomes due and payable, the County shall verify compliance and adjust the penalty to an amount the landowner would have owed had the penalty been paid on the date the landowner submitted written documentation of compliance. Written documentation of compliance may include a written *Validation of Compliance* issued by the SWCD.

B. Incomplete correction of violation. If the County determines the violation was not fully corrected, the County shall notify the landowner by issuing a written letter of determination. The penalty will continue to accrue until the violation is corrected as provided in the *Corrective Action Notice* and *Administrative Penalty Order*.

Subd. 3. **Collection of Penalties.** All penalties and interest assessed under an *Administrative Penalty Order* must be paid by the landowner within the time specified in the Order. All payments shall be made payable to the County. The County Board may assess any unpaid penalties and penalty interest to the non-compliant parcel.

Section 4: Documentation

Subd. 1 **Documentation.** The County shall maintain all records pertaining to the status of the compliance for each buffer parcel and its related documentation.

**BOARD OF COUNTY COMMISSIONERS
GOODHUE COUNTY, MINNESOTA**

January 2, 2018

Moved by C/Anderson, seconded by C/Allen, and carried to adopt the staff report, attachments, and testimony into record, and approve the proposed amendments to Article 4, Article 10, Article 11, Articles 21-24, Article 26, and Article 31 in reference to: Shoreland Buffers; Conditional/Interim Use Permit Standards; Mixed Use Hamlet (MXH) zoning; Vegetative, Tree and Woodland Alternations; and Definitions.

State of Minnesota
County of Goodhue

Majerus	Yes	<u>X</u>	No	___
Allen	Yes	<u>X</u>	No	___
Drotos	Yes	<u>X</u>	No	___
Nesseth	Yes	<u>X</u>	No	___
Anderson	Yes	<u>X</u>	No	___

I, Scott O. Arneson, duly appointed, County Administrator of the County of Goodhue, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Goodhue County, Minnesota at their session held on the 2nd day of January, 2018, now on file in my office, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal at Red Wing, Minnesota, this 2nd day of January, 2018.



Scott O. Arneson
County Administrator
