A BILL FOR

1 An Act authorizing counties to prepare, adopt, administer,
2 and enforce riparian buffer ordinances, including by
3 providing for the adoption of rules by the division of soil
4 conservation and water quality, providing penalties, and
5 including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. Section 161A.4, subsection 2, Code 2020, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. To adopt rules pursuant to chapter 17A necessary for a county board of supervisors to prepare, adopt, administer, and enforce a riparian buffer ordinance as provided in chapter 466B, subchapter V.

Sec. 2. NEW SECTION. 161A.77 Riparian buffer ordinance.
A person who is in violation of a riparian buffer ordinance authorized under chapter 466B, subchapter V, is not eligible to receive financial incentives to establish a permanent soil and water conservation practice or erosion control practice on land which is subject to the ordinance, unless such person is granted a waiver by the county board of supervisors as provided in that subchapter.

Sec. 3. Section 331.382, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 11. The board may adopt, administer, and enforce a riparian buffer ordinance as provided in chapter 466B, subchapter V.

Sec. 4. NEW SECTION. 466B.51 Definitions.
As used in this subchapter, unless the context otherwise requires:

1. “Authority” means a watershed management authority created pursuant to a chapter 28E agreement as provided in this subchapter.

2. “Commissioners” means the commissioners elected to govern a soil and water conservation district as provided in section 161A.5.

3. “Division” means the division of soil conservation and water quality created within the department of agriculture and land stewardship pursuant to section 159.5.

4. “Local government entity” means the commissioners of a soil and water conservation district, a watershed management authority, or a city.

5. “Riparian buffer” means a tract located adjacent to
1 a water source where there exists during the growing season
2 perennial vegetation, excluding invasive plants and noxious
3 weeds.
4 6. "Riparian buffer ordinance" or "ordinance" means an
5 ordinance as defined in section 331.101 that establishes
6 riparian buffers in a county.
7 7. "Tract" means a contiguous part of a section of land
8 adjoining a water source that is suitable for row crop
9 production.
10 8. "Water source" means a lake, river, reservoir, creek,
11 stream, ditch, or other body of water or channel having a bed
12 with water flow, except a lake or pond without outlet to which
13 only one landowner is riparian.
14 Sec. 5. NEW SECTION. 466B.52 Riparian buffer ordinance.
15 1. A county board of supervisors may adopt a riparian buffer
16 ordinance as provided in this section, upon the recommendation
17 of a local government entity, according to an assessment and
18 plan approved by the local government entity.
19 2. The purpose of the ordinance shall be to accomplish one
20 or more of the following:
21 a. Reduce soil erosion and sediment loss.
22 b. Manage nutrients and reduce contributing contaminant
23 loads to receiving surface waters.
24 c. Preserve and enhance soil health.
25 d. Reduce the volume or velocity of precipitation-induced
26 surface water.
27 3. The ordinance may do any of the following:
28 a. Identify water sources located in the county and
29 establish riparian buffer requirements for each tract adjacent
30 to a water source.
31 b. Provide for the issuance of permits, provide for
32 inspections, and set forth standards related to the
33 establishment and maintenance of riparian buffers.
34 4. The ordinance shall not require the establishment of a
35 riparian buffer that is more than thirty feet.
5. The ordinance may allow the county board of supervisors to approve an alternative method proposed by a person owning a legal or equitable interest in the tract to achieve the purpose of the ordinance, including but not limited to the establishment of a wetland, improvement, structure, or practice designed to improve water quality.

6. The county board of supervisors shall publish a copy of the proposed ordinance on the county's internet site not less than ten days and not more than twenty days prior to a hearing for its consideration or adoption. A notice of the hearing shall be posted as otherwise provided in section 21.4. The board shall set a time and place for a public hearing to vote on final passage of the ordinance and shall publish notice of the hearing not less than ten and not more than twenty days prior to the hearing in the county newspapers selected under chapter 349. At the hearing, a resident of the county may present to the county board of supervisors objections to or arguments in support of the ordinance.

Sec. 6. NEW SECTION. 466B.53 Duty of landowners.

A person holding a legal or equitable interest in a tract adjacent to a water source identified in a riparian buffer ordinance shall comply with the requirements of the ordinance, unless granted a waiver as provided in section 466B.54.

Sec. 7. NEW SECTION. 466B.54 Enforcement — penalty.

1. a. The county board of supervisors may issue an order requiring a person holding a legal or equitable interest in a tract to comply with a riparian buffer ordinance.

b. If the person fails to comply with the order, the county board of supervisors may petition the district court to order compliance or order the person to cease engaging in any conduct that is in violation of the ordinance.

c. A county board of supervisors may grant a person a waiver from the application of the ordinance during any period that the county board of supervisors determines that the person is unable to practicably comply with the ordinance.
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1  2. A person violating a riparian buffer ordinance is guilty of a county infraction as provided in section 331.307.
   a. In lieu of the amount of the civil penalty provided in section 331.307, a county board of supervisors may assess a civil penalty in an amount equal to not more than the market value of any crop produced on the tract during any period that the tract does not comply with the ordinance.
   b. A person is not subject to a civil penalty for the period that a person has been granted a waiver as provided in this section.

Sec. 8. NEW SECTION. 466B.55 Cooperation with local government entities.

1  1. A county board of supervisors may enter into an agreement under chapter 28E with a local government entity having jurisdiction over the same tract to assist the county in preparing, administering, and enforcing a riparian buffer ordinance.

2  2. Two or more boards of supervisors may enter into an agreement under chapter 28E to prepare, adopt, administer, and enforce a riparian buffer ordinance on a joint basis.

Sec. 9. NEW SECTION. 466B.56 Division rules.

The division shall adopt rules pursuant to chapter 17A as required for a county board of supervisors to effectively prepare, administer, and enforce a riparian buffer ordinance.

Sec. 10. Section 468.8, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Certification by the county board of supervisors that all land which is part of the district to be established complies with the requirements of the county's riparian buffer ordinance as provided in chapter 466B, subchapter V, unless such land is subject to a waiver granted by the county board of supervisors as provided in that subchapter.

Sec. 11. IMPLEMENTATION. The division of soil conservation and water quality of the department of agriculture and land

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stewardship shall adopt rules pursuant to chapter 17A necessary for a county board of supervisors to prepare, administer, and enforce a riparian buffer ordinance as provided in this Act, which rules shall take effect not later than January 1, 2022.

Sec. 12. EFFECTIVE DATE.
1. Except as provided in subsection 2, this Act takes effect January 1, 2022.
2. The section of this Act requiring the division of soil conservation and water quality of the department of agriculture and land stewardship to adopt rules to implement this Act takes effect upon enactment.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation’s substance by the members of the general assembly.

GENERAL. This bill authorizes a county board of supervisors (board), upon the recommendation of a local government entity (commissioners of a soil and water conservation district, a watershed management authority, or a city), to adopt and enforce a riparian buffer ordinance to achieve a purpose of reducing soil erosion and sediment loss; managing nutrients and reducing contributing contaminant loads to receiving surface waters; preserving and enhancing soil health; or reducing the volume or velocity of precipitation-induced surface water. A riparian buffer (buffer) constitutes a tract of agricultural land (tract) located adjacent to a water source where there exists during the growing season perennial vegetation. The buffer cannot exceed 30 feet. The board may approve a measure in lieu of a buffer (e.g., a wetland) that accomplishes the same objective.

COMPLIANCE. A person holding a legal or equitable interest in the tract is required to comply with the ordinance, unless granted a waiver by the board based on the board’s determination that it is not practical to comply with the ordinance. A person violating an ordinance and not granted a waiver is guilty of a county infraction (Code section...
The board may assess a civil penalty for a violation of the ordinance. Under current law, the civil penalty for a violation of a county infraction cannot exceed $750 for each violation or $1,000 for a repeat violation. The bill authorizes the board to assess an alternative civil penalty for an amount equal to not more than the market value of any crop produced on the tract. The person is not eligible to receive financial incentives (cost-share moneys) to establish permanent soil and water conservation practices or erosion control practices (Code chapter 161A). A petition to establish a drainage or levee district must include a certification that all land which is part of the proposed district complies with the requirements of the county's riparian buffer ordinance or is subject to a waiver (Code chapter 468).

COOPERATION. The board may enter into a cooperative agreement with a local government entity in order to prepare, administer, and enforce the ordinance. Two or more boards may enter into an agreement to adopt, administer, and enforce an ordinance on a joint basis. The division of soil conservation and water quality (division) within the department of agriculture and land stewardship is required to adopt rules required for a board to effectively prepare, administer, and enforce the ordinance.

EFFECTIVE DATES. Generally, the bill takes effect January 1, 2022. However, the section of the bill requiring the division to adopt rules necessary for a board to prepare, administer, and enforce an ordinance by that date takes effect upon enactment.