

Why Use An Overlay District & This Checklist?

This checklist is for an overlay district which could be part of a local unit's zoning code. A Natural Environmental Areas Overlay District would identify all the lands that a community wishes to protect or conserve from development impacts. When creating such an overlay district, the community typically starts with the premise that they have natural areas (called here "Significant Natural Environment Areas") in which development should not take place. Enforceable by ordinance, development is guided toward those areas that do not fall within the overlay district. In this way, communities can grow while still enjoying the benefits supplied by local natural resources.

NR Checklist Series

This is one of a series of "checklists" produced for local units of government (LUG) by the Minnesota Department of Natural Resources, Metro Region. Each checklist is intended to help the community integrate natural resources into a particular type of local policy or plan. Each checklist is an outline of key components of a typical LUG planning document with important natural resource-related questions to consider and some examples, definitions, and references.

I. Statutory Authorization, Intent, and Purpose

A. Statutory Authorization

- ' Does the ordinance include language that clarifies the authority, such as, "This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters and Minnesota Rules Chapters ____."?

B. Intent

- ' Does the ordinance clearly establish the intent, such as "the protection and rehabilitation of the 'significant environmental natural areas' identified on a series of overlay district maps"?
- ' Are the reasons for conserving these areas also itemized within the ordinance?

C. Purpose

- ' Does the ordinance clearly state its basis in the local Comprehensive Plan, and State and Federal policies and statutes?
- ' Does the ordinance include a definition of "significant environmental natural areas" (SNEAs) and other terms critical to this document?
- ' Does the ordinance specify its purposes such as the following?
 - ' to identify and prioritize areas of SNEAs
 - ' to control natural environmental areas of ecological value in order to preserve and/or restore ecological functions to the maximum extent possible
 - ' to regulate the use and subdivision of land based upon criteria necessary for the long term sustainability of SNEAs
 - ' to promote innovative development techniques such as cluster development and open space subdivisions

Definitions

natural area

a site largely unaltered by modern human activity, where vegetation is distributed in naturally occurring patterns.

significant environmental natural areas (SNEAs)

natural areas designated by a city that are (1) preserved and minimally managed and (2) those needing more management to maintain and enhance their natural integrity

- ' to aid developers in their creation of development plans
- ' for foster the protection and creation of natural resource corridor connections between SNEAs
- ' to encourage cost effective site development through open space design practices that efficiently use land and resources
- ' to encourage sound natural resource management

II. General Provisions

A. Identification of SNEAs

- ' What are the types, characteristics and qualities of natural areas that the city wants to designate as SNEAs? For example, does it include resources such as the following?
 - ' rare, threatened or endangered species
 - ' high quality native plant communities (such as identified by the Minnesota County Biological Survey)
 - ' buffer areas along water bodies and protected wetlands
 - ' working forest lands (commercial forests and plantations)
- ' Has the city used a natural resource inventory and analysis to identify and prioritize its SNEAs?
- ' Have SNEAs been identified within an overall network of natural resource corridors (greenways)?
- ' Are these factors (above) specified in the ordinance?

B. Criteria for Designating SNEAs

- ' Does the ordinance specify criteria for designating lands whose use will be regulated as SNEAs?
- ' Does the community want to designate different types and levels of SNEA's? For example, a community could chose to have both Natural Resource Protection Zones (NRPZs) and Natural Resource Conservation Zones (NRCZs). (For further explanation of this see the model ordinance referenced at the end of this checklist.)
- ' Are the specific characteristics for NRPZs and NRCZs defined in the ordinance?

C. Establishment of SNEA's

Preliminary SNEA determination

- ' Has the natural resource inventory been used to identify the locations of the SNEAs (and categorized them as NRPZs or NRCZs if applicable)?
- ' Has the community identified what land uses are compatible with any designated NRCZs?

See Another Checklist natural resource inventory

A natural resource inventory will help communities identify those areas that will constitute the overlay district. See the "**Natural Resource Inventory Analysis for City or County**" Checklist..

Definitions

natural resource protection zone (NRPZ)

- natural areas extremely sensitive to development that are community priorities for protection from development; e.g., sites with 1+ of the following characteristic:

- a high degree of biodiversity and few exotics
- low edge:interior ratio (relatively large in size and not too narrow)
- intact area of pre-European settlement native plant community
- rare, endangered or endangered species
- sensitive geological and hydrological features

natural resource conservation zone (NRCZ)

- areas needing conservation and management of natural resources while permitting some land uses allowed in the underlying zoning; e.g., sites with 1+ of the following characteristic:

- contains or adjoins water bodies and is critical to maintaining water quality and rare species habitat
- acts as a buffer to a NRPZ
- has natural resources managed for commercial value, e.g. orchards, managed forestland, Christmas tree plantations, etc.
- offers high quality recreation or tourism amenity opportunities that would be degraded by other forms of development

Relationship to Other Environmental Regulations

- ' What is the relationship between these overlay provisions and other ordinance provisions?
- ' Does this or other local ordinances, or state or federal regulations adequately identify (map), designate, and regulate uses related to natural resources such as the following?
 - ' rare, threatened, and endangered species
 - ' woodland/forest areas of significance
 - ' plant communities of significance
 - ' wetlands
 - ' water quality (watersheds and imperviousness)
 - ' water bodies/shoreland
 - ' flood plains
 - ' natural resource corridors (greenways)
 - ' steep slopes and bluffs
 - ' geological features

III. Application of Natural Resource Protection Standards for SNEAs

A. When These Regulations Apply

- ' Does the ordinance specify the conditions where regulations are applied except in special cases? For example, do these regulations apply during activities such as the following?
 - ' development
 - ' land divisions
 - ' alterations (e.g. removing, cutting, clearing, etc) of vegetation, except as specified in a management plan
 - ' changes in topography and grading
 - ' resource enhancement
 - ' dedications/expansions of rights-of-way

B. Items Exempt from Regulations

- ' Are exemptions and related conditions specified, such are for the following?
 - ' temporary emergency procedures
 - ' change of ownership
 - ' existing developments
 - ' farming practices
 - ' operation and repair of irrigation, drainage, erosion control, and pollution reduction systems
 - ' improvements such as native planting, streets, sidewalks, utilities, trails, etc.

C. Development Standards

Purpose

- ' Are the purpose and provision of development standards

clearly described? For example, does it include standards such as the following?

- ' encourages sensitive development that minimizes impact on SNEAs
- ' provides clear limitations on disturbance within SNEAs
- ' provides tree protection, planting, and erosion control
- ' buffers NRPZ's
- ' does not detrimentally affect water quality
- ' limits public access to NRPZ's to minimize impact on resources

Procedures

- ' What types of permits or applications trigger review for compliance with these standards?
- ' What are the procedures for determining if a permit application complies with these standards?

Boundary Delineation

- ' Are the boundaries of the designated SNEAs (e.g. the NRPZs and the NRCZs) officially mapped?
- ' Who maintains and updates those maps?
- ' Are those boundaries incorporated with any related zoning maps?
- ' Is a process provided for appealing the mapping and designation?

Permit Application Requirements

- ' What do applicants for permits within the designated SNEAs need to submit in order for their proposal to be reviewed for compliance with the standards? For example, should the applicant be required to submit information such as the following?
 - ' a site-specific natural resource inventory and existing conditions map drawn to scale, including:
 - S 2-foot contour intervals
 - S location of all SNEAs (NRPZs and NCRZs) on site and within 50 feet of the site
 - S location and identification of any existing and proposed disturbance areas
 - S location and identification of any existing trees or native plant communities within 50 feet of a disturbance area
 - S local watershed divides and drainageways
 - S photographs of site
 - ' proposed development plan, including:
 - S location of proposed disturbance area(s), including all utility work

Definition

native plant community

A group of native plants (plants indigenous to the site) that interact with each other and their abiotic environment in ways not greatly altered by modern human activity or by introduced organisms.

- S erosion and sediment control plan
- S stormwater management plan
- S landscape plan
- S natural area management plan

D. Performance Standards

- ' What are the specific performance standards that apply to any development in a designated SNEA?
- ' If NRPZ's are designated do standards such as the following apply?
 - ' the NRPZ is to be 100% undisturbed open space
 - ' NRPZ's with rare, threatened, and endangered species are buffered sufficiently to protect these species from degradation
 - ' all structures are setback at least 50 feet from an NRPZ and no disturbance may take place in first 20 feet of this setback
 - ' the NRPZ is protected from adjoining development by an approved best management practices plan
 - ' no native vegetation may be removed, except as provided for in an approved management plan
- ' If NRCZ's are designated do standards such as the following apply?
 - ' impervious surfaces may not exceed 10% in NRCZ's within sensitive watersheds
 - ' slopes exceeding 25% are to be preserved in their natural state and maintained as permanent open space
 - ' no woodlands greater than __ acres may be cleared, regraded nor used for wetland mitigation unless specifically provided in an approved management plan
 - ' development must be set back at least 50 feet from the delineated edge of any wetland
 - ' disturbance to natural plant communities is to be avoided and if any area is disturbed it must be restored
- ' Are the designated SNEA's sufficiently protected by provisions in local stormwater management, floodplain, shoreland, and/or tree protection ordinances?

IV. Administrative Regulations

- ' What provisions are needed regarding the following?
 - ' administration
 - ' appeals
 - ' amendments to the ordinance
 - ' violation - penal offense
 - ' interpretation
 - ' severability

See Another Checklist
natural area management plan
 Any area designated as a SNEA should have an approved management plan establishing the process and responsible parties to keep the natural resource protection zone lands healthy. For an outline of the key components of such a plan, see the "**Natural Area Management Plan**" checklist.

Reference
model ordinance
 This checklist is adapted from the Natural Environmental Areas Overlay District Ordinance in "From Policy to Reality: Model Ordinances for Sustainable Development" Minnesota Planning. 2000. (prepared by Biko Associates, Inc., Desotelle Consulting, and BRW, Inc.). For the full model ordinance go to www.mnplan.state.mn.us/SDI/ordinances.html