

CHAPTER 22

ENVIRONMENTALLY SENSITIVE AREAS ORDINANCE

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10-22-1: TITLE

This Ordinance as amended from time to time shall be known as the "Environmentally Sensitive Areas Ordinance" of the City of Sartell, Minnesota, and shall be known, cited and referred to herein as "this Ordinance."

10-22-2: DEFINITIONS

Best Management Practices (BMP's) - Standard, well-defined methods for managing lands in compliance with federal, state and local regulations and/or recommendations regarding conservation of soil, water, plants, and animal habitats

Biodiversity -The variety of life forms that inhabit the earth. Biodiversity includes a) the number of different species of living things found in an area; b) the number of different ecosystems found in an area.

Buffers - Located within an impact zone. Buffers are areas of secondary protection established on a case-by-case basis for each environmentally sensitive area. The width of the buffer might, due to topography and species diversity, vary around the perimeter of each environmentally sensitive areas.

Clear Cutting- the substantial removal of trees or shrubs in a contiguous patch, strip, row, or block which is inconsistent with standard forest maintenance practices.

Cluster development - A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

Complex - Two or more environmentally sensitive areas adjacent to each other.

Concept Plan - A non-engineered plan for a property proposed for development. For properties containing an Environmentally Sensitive Area, the Concept Plan is more than a Sketch Plat since it must include enough detail to analyze the proposed development and its relation to the environmentally sensitive areas located on the property.

Corridors - Corridors are strips or blocks of land that form connections between two separated areas of similar habitat. These corridors allow plants and animals to disperse and travel from one "island" of

suitable habitat to another.

Ditch – Open channel of water to conduct the flow of water as per Minnesota Statutes 103E.005.

Environmentally Sensitive Areas: An area that contains native vegetation, natural features and/or natural resources. These include surface water (rivers, lakes, streams and ditches); shoreland and floodplain areas, especially riparian and wildlife corridors; wetlands, sensitive groundwater (wellhead) projection areas and sensitive geological features; state or federally listed (endangered, threatened or special concern) plant and animal species and their habitat; natural plant communities, including forests, woodlands and prairies, particularly those of high species diversity and other unique and sensitive features. ESAs contain natural communities, i.e., naturally-occurring associations of plants and animals whose existence and extent are determined by factors such as soil composition, hydrology, climate, solar conditions and a site's unique history. ESAs are sensitive in that further fragmentation, disturbance and development will adversely affect and may destroy the natural processes operating within them, as well as the composition, structure and function of the natural communities they contain.

Equitable Economic Return - Return to landowner guaranteed by the takings clauses of the Minnesota and United States Constitutions.

Forests - Trees with their crowns overlapping (generally forming 60 - 100% cover)

Groundwater - the water beneath the land surface that fills the spaces in rock and sediment

Impact zones - Zones assigned around the perimeter of environmentally sensitive areas. The Environment and Development Team review process shall be initiated whenever an activity that is regulated by this Ordinance is proposed to occur within an ESA or its impact zone. For purposes of this Ordinance impact zones shall extend the following distances outward from the ESA.

DNR Protected Waters, Riparian Corridors, Rock Outcrops and Native Prairies	100 feet
Natural Heritage Sites, Most Important Natural Resource Sites and all Wetlands	100 feet
More Important or Important Natural Resource Sites	50 feet

Native species/vegetation - A species that existed in an area prior to European settlement.

Native Prairie-A natural vegetative community primarily dominated by native grasses and herbaceous flowering plants with few or no trees, typically sustained by fire and/or grazing.

Natural community - A group of native plants and animals that interact with each other and their abiotic environment in ways not greatly altered by modern human activity or by introduced organisms. They are classified and described by considering vegetation, hydrology, landforms, soils, and natural disturbance regimes (such as wildfires, windstorms, normal flood cycles and normal infestation by native insects and microorganisms).

Natural Heritage Areas - Natural Heritage Areas, as designated in this Ordinance, are those environmentally sensitive areas that have been identified by the MN-DNR's Natural Heritage and Nongame Research Program and Minnesota County Biological Survey as having not only local, but state-wide significance. These areas are largely unaltered by modern human activity and have native vegetation distributed in naturally occurring patterns. Natural Heritage Areas are the few remaining examples of native vegetative communities present prior to European settlement. As such, they are of unusually high quality, may contain rare or endangered species, and represent remnants of Sartell's

history and heritage. Natural Heritage Areas are those areas of highest importance for protection.

Natural Resource Inventory-The systematic and scientific search and documentation of occurrences of natural resources and environmentally sensitive areas, which are then placed on one or more maps.

Natural Resource Areas - Natural Resource Areas, as designated in this ordinance, possess and/or protect important natural resources. These areas may contain rare species, important wildlife habitat and/or remnants of rare or uncommon natural communities. They may protect groundwater, rivers, lakes, streams and wetlands, or otherwise support natural resource functions. Natural Resource Areas are designated as most important, more important and important, based on the quality, rarity and interconnectedness of the resources.

Most Important - Natural resource areas slightly disturbed by human activity; in a complex (adjacent to another environmentally sensitive area or areas); uncommon statewide; very rare or unique locally.

More Important - Natural resource areas in a complex with moderate to severe human disturbance or not in a complex with only slight human disturbance. Although common statewide, many are experiencing widespread threats and are of poor quality while others are more secure.

Important - Natural resource areas with moderate to severe human disturbances; not part of a complex.

Non-native Species – An organism (plant, animal, or fish species) introduced intentionally or accidentally from its native range into an area where the species did not previously exist.

Non-Woody upland vegetation/prairie - refers to an area of land with low topographic relief that principally supports grasses and herbs, with few trees.

Open space - An area that is intended to provide light and air and is designed for environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, walkways, active and passive recreation areas, playgrounds, wooded areas and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

Overburden - The loose soil, silt, sand, gravel, or other unconsolidated material overlying bedrock, either transported or formed in place.

Rare species site - A documented historic location of a species that is listed on federal or state lists for endangered, threatened and or species of special concern.

Riparian corridors - The complex assemblages of organisms and their environment existing adjacent to and near flowing water. Such corridors have two essential characteristics: 1) laterally flowing water that rises and falls at least once within a growing season; 2) a high degree of connectedness with other ecosystems. As such, riparian corridors act as natural buffers between the flowing water and adjacent land uses, i.e. agriculture, urban areas, etc.

Rock outcrop - Bare exposure of bedrock without soil cover and regardless of plant association. These outcrops may indicate presence of sensitive soils, sensitive hydrological features, sensitive geological features, and/or unique biotic communities.

Savannah-Natural plant communities with open woodlands in which large trees grow in park-like stands. The native vegetation is transitional between woodland and prairie. Oaks and native grasses are dominant.

Scientist - A person with a professional degree or training in one or more of the following areas: Natural History, Ecology, Geology, Hydrology, Wildlife Biology or Botany.

Sensitive geological features - Any geologic feature easily modified or destroyed by human activity. Examples include glacially polished bedrock, open fractures and residual clays. Sensitive geological features are areas included within designated Natural Heritage and Natural Resource Areas, and/or the Stearns County Geologic Atlas.

Sensitive hydrological areas - A surface or groundwater feature where minor human disturbances will change water movement, water level or water quality. Sensitive hydrological features are areas included within designated Natural Heritage and Natural Resource Areas, and/or the Stearns County Geologic Atlas.

Sensitive soils - Soils that have a low capacity to maintain or recover specific soil functions after relatively minor disturbances. Examples of disturbances may include low levels of wind and/or water erosion, soil reworking or topsoil removal and compaction from equipment, human or livestock traffic. Examples of soil function may include vegetation maintenance or establishment (including crop rotation) and nutrient, pathogen and chemical treatment. A list of sensitive soils would include those that have a disproportionately higher loss of function than those other soils with the same degree of disturbance. Examples of sensitive soils might include thin soils underlain by shallow bedrock or hydric soils

Sketch Plat - A sketch preparatory to the concept plan and preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the EDT.

Steep slopes - Slopes that are unstable enough so that downslope movement is likely. An unstable condition can occur because of a combination of steepness, material, hydrologic conditions, and human disturbance. Where specific information from County soil surveys is not available steep slopes are lands having slopes over 12% as measured over horizontal distances of 50 feet. "Bluffs" have slopes over 18%.

Subdivision - Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, tracts, or of contractual interest for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residential and nonresidential-zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instruments. Subdivision includes re-subdivision.

Sustainable Development – The development of land for various uses taking into consideration current ecosystem health and the implementation of best management practices and measures to enhance, protect, preserve and conserve existing fish and wildlife habitat and other habitat areas that are important for specific natural processes and functions. Best management practices may include but not be limited to rain gardens, wetland avoidance, minimizing wetland impacts, the implementation of narrower streets, utilizing pervious surfaces, installation of green roofs, etc.

Sustainability - Sustainability is a function of how natural and social resources are used over time to maintain a specific level of ecosystem health for future generations.

Watershed -entire physical area or basin drained by a distinct stream or riverine system, physically separated from other watersheds by ridgetop boundaries

Wildlife corridor (Eco-system connections) – Areas of shelterbelts, windbreaks, forests, woodlands, prairies or other natural areas that are interconnected and that provide habitat or specific ecosystem types for fish and wildlife species in urban, rural or other natural areas. Wildlife corridors in urban areas can be important for cover, food, brooding/breeding and general fish and wildlife habitat and movements. Such corridors can also be discrete linear or contiguous vegetated areas along rivers, river wetlands, and tributary streams (riparian corridors) and fence lines (hedge rows) or broad connected patches of vegetated land.

Wetlands – Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this subpart, wetlands must:

- (1) have a predominance of hydric soils;
- (2) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation (i.e., plants that tolerate seasonal or permanent saturated soil conditions) typically adapted for life in saturated soil conditions; and
- (3) under normal circumstances, support a prevalence of hydrophytic vegetation.

Woodlands - Open stands of trees with crowns not usually touching (generally forming 25 - 60% cover).

10-22-3: PURPOSES: Ordinance Goals. The intent of this Ordinance is to pursue two equal goals:

Protect ESAs. To provide and encourage measures of protection to those properties identified as Environmentally Sensitive Areas (ESA).

Equitable return to landowner. To provide an opportunity for equitable economic return in consideration of protection and preservation of ESAs.

- A. Comprehensive Plan Goals. This Ordinance creates a process through which the City can comply with the Comprehensive Plan's pledge to support orderly growth and development while protecting environmentally sensitive resources within the City of Sartell. The goals and objectives of the Comprehensive Plan furthered by this Ordinance include the need to:
 1. Protect, conserve and enhance natural resources and environmentally sensitive areas within the city and its planned growth areas for the community's long-term environmental and economic benefits.
 2. Recognize the Mississippi, Sauk, Watab and other rivers as major recreational, environmental, economic and aesthetic assets to the community.
 3. To conserve and improve ESAs.
 4. To protect, preserve and enhance the supply of clean water and clean air for the current and future generations of Sartell citizens and businesses.
 5. To restore and re-establish native vegetation.
 6. To establish a balance between the protection of natural resources and the urban use of the land.
 7. Provide for the orderly growth and development of the City including commercial, industrial and residential areas.
 8. Promote flexible site planning and allow for a mix of housing types.
 9. Encourage coordination between city, county, state and federal agencies concerned with natural resources
 10. Encourage cooperation through joint planning and development with neighboring communities to protect, preserve, and enhance our shared natural environment.
 11. Encourage early cooperative planning between landowners/developers, the City and individuals with scientific expertise in natural communities and resources.
- B. State Planning Goals: This Ordinance is adopted in pursuance of the Community Based

Planning Act of 1997 (CBPA) Minnesota Statutes 4A.08, particularly the goals of economic development, conservation, land-use planning and sustainable development.

- C. Goals for the Process Guiding Future Development: This Ordinance requires that all future development occurring in areas identified as environmentally sensitive be guided by a concern to protect, conserve and enhance those resources. To accomplish this goal, this Ordinance creates a process to aid, support and promote development that achieves these environmental goals. This process will:
1. Identify and prioritize environmentally sensitive areas;
 2. Aid developers in the creation of their development plans;
 3. Aid City staff, the Planning Commission and City Council in their assessment development plans in environmentally sensitive areas; and
 4. Provide flexibility in the planning process when needed to balance environmental and economic goals.
- E. Rationale for Protecting Environmentally Sensitive Areas: The City of Sartell has a right and responsibility to conserve, protect and enhance ESAs for the present and future health, safety, and general welfare of the population. The continued strength and well-being of our community and the health of our natural environment are interdependent. Sustainable development maintains the natural environment and enhances economic opportunity by contributing to Sartell's:
1. Health (e.g. wetlands that function to filter and purify water)
 2. Safety (e.g. wetlands and riparian corridors contribute to flood control)
 3. Historical Preservation (e.g. examples of the pre-settlement environment)
 4. Wildlife Habitat and Natural Communities (e.g. indigenous plant or animal species)
 5. Recreation (e.g. walking, birding, skiing)
 6. Aesthetics and Quality of Life (e.g. beauty, solitude, and quiet amidst the noise of modern life)
 7. Education (e.g. children have local access to learn about their natural surroundings and history)

10-22-4: DESIGNATING LAND AS AN ENVIRONMENTALLY SENSITIVE AREA ESA

- A. Designation Criteria: Environmentally Sensitive Areas (ESAs) shall be areas within the City of Sartell that have one or more of the following characteristics (See Natural Resource Priority Matrix): Surface waters: Areas designated by the State of Minnesota as a public water, including rivers, lakes, streams, shorelands; or a public drainage ditch.
1. Floodplains: Areas designated as floodplain under the Sartell Floodplain Ordinance.
 2. Sensitive groundwater area: Land within the designated wellhead protection area for the City of Sartell; or designated as sensitive to groundwater.
 3. Stormwater management: Areas with stormwater management structures; or areas designated for stormwater management by the Sartell Stormwater Management Plan
 4. Wetlands: Protected wetlands as defined by the Minnesota Wetland Conservation Act.
 5. Sensitive Geological Features: Areas with rock outcrops identified by the Sartell Natural Resources Inventory. Areas with significant potential for soil erosion, including highly-erodible soils.
 6. Forests and wooded areas: Forested or wooded areas designated by the Sartell Natural Resources Inventory.
 7. System connections: Wildlife and riparian corridors, which create ecological connections.

8. Habitat: Areas designated by the Sartell Natural Resources Inventory as containing habitat of state or federal listed endangered or threatened species, or species of special concern; or areas identified in the Stearns County Biological Survey.
 9. Non-woody upland vegetation/prairie: Non-woody upland areas identified by the Sartell Natural Resources Inventory as containing native vegetation.
- B. Prioritization of ESAs: All ESAs meeting the designation criteria in subsection A. of this Section are important to the City of Sartell. In balancing land use planning goals, however, some ESAs are more important than other ESAs. A Natural Resources Priority Map, based on the characteristics below, may be adopted by resolution of the Sartell City Council. The priority of importance among ESAs shall be determined based on the presence of one or more of the following characteristics:
1. Degree of disturbance: Quality of the area as determined by the degree of human disturbance on the ecosystem. ESAs with less disturbance will receive a higher importance rating.
 2. Rarity: Local and/or state rarity. ESAs that are relatively rare will receive a higher importance rating.
 3. Biodiversity: Biodiversity of native species. ESAs with a greater percentage of native species will receive a higher importance rating.
 4. Interconnectedness: Corridors and complexes that form interconnected and contiguous areas and which allow for movement of species from one Environmentally Sensitive Area to another. Interconnected ESAs will receive a higher importance rating.
 5. Size: Each type of Environmentally Sensitive Area has its own size requirements that contribute to continued viability for that natural community. ESAs will be prioritized based on a minimum viability size. ESAs that are smaller than the size needed to be viable will receive a lower importance rating.
 6. Ecological sensitivity: The ability of the natural community to tolerate development and/or recover from human disturbance. ESAs, or buffers around ESAs, will be rated based on tolerance for adjacent development; the lower the tolerance for adjacent development, the higher the rating.
- C. Process for Designating ESAs: ESAs meeting the designation criteria in subsection A., and prioritized based on the characteristics in subsection B. shall be identified through one of the following processes:
1. Preliminary Designation: Preliminary determination of the location of ESAs will be made by the Planning Office and Engineering Department using the maps as denoted in Sections 10-22-4-C. ESAs as denoted on the maps in Sections 10-22-4-C and their impact zones shall be the only areas regulated by this Ordinance; except that the land area regulated also applies to any land area that is added, and does not apply to a land area deleted, as an ESA under the land area amendment process as outlined in 10-22-10.
 - a. Sartell Natural Resource Inventory
 - b. Sartell Natural Resource Importance Map
 - c. Stearns and Benton County Biological Survey
 - d. Sartell Floodplain Map
 - e. Sartell Wellhead Protection Area Map
 - f. Soils Survey of Stearns County
 - g. Sartell Zoning Map
 2. Final Designation. Final determination of the specific boundaries of an ESA will be made by

qualified scientists through the Site Planning Process.

3. Additional Information may be Used in Review: The City and the Environment and Development Team may use other pertinent reference maps, reports and documents, etc. in their review of a property that contains an ESA such as the following:
 - a. Aerial photos of the Sartell area.
 - b. SCSU Earth Science Dept. work on Sensitive Geological and Hydrological areas.
 - c. USGS topographic maps.
 - d. Field notes of scientists who conducted the Sartell Natural Areas Inventory and Planning Framework.
 - e. The USDA Soil Survey.
 - f. The Minnesota Geological Survey Geologic Atlas.
 - g. The U.S. Fish and Wildlife Service's National Wetlands Inventory.

The use of other resources is only for reference and does not create new ESAs. The process for amending the designation of land as an ESA is described in subsection 4., immediately below.

4. Amendment of ESAs. An amendment to the designation criteria, prioritization criteria, or preliminary mapping for ESAs may occur through the amendment process described in Section 10-22-10 of this Ordinance.

10-22-5: GENERAL PROVISIONS: The following provisions are designated to encourage land and development planning which help insure that the function and value of sensitive areas are protected.

- A. Regulated Activities: The following activities are subject to this Ordinance unless exempted under subsection B. of this Section.
 1. Subdivision of land.
 2. The following land alterations within the boundaries of ESA and its impact zone:
 - a. Clear cutting;
 - b. Removal of native vegetation;
 - c. Fills and excavations;
 - d. Grading;
 - e. Modification of drainage patterns; or
 - f. Other activity having a negative impact on the viability, function or survival of the environmentally sensitive areas.
 3. New roads, bridges, road expansion projects and/or public or private utilities above or below ground.
- B. Exemptions: The following land areas and activities are exempt from the regulations of this Ordinance.
 1. Otherwise regulated: That portion of property regulated by any of the following ordinances and statutes:
 - a. Sartell Flood Plain Management Ordinance;
 - b. Sartell Wetland Ordinance;
 - c. Minnesota Wetland Conservation Act;

- d. Section 404 of the Clean Water Act, not including contiguous impact zones.
 - e. At the request of the owner/developer of property mentioned above in this subsection, the ESA portion of said property may be included in the site planning process.
 - f. NPDES Phase II Construction Site Permit Requirements
 - g. Sartell Erosion and Sediment Control Ordinance
 - h. Illicit Discharge and Connection Ordinance
2. Prior approvals:
 - a. Property that has received preliminary or final plat approval prior to the effective date of this Ordinance.
 - b. Building projects for which a valid building permit exists that was issued prior to the effective date of this Ordinance.
 - c. Public street, bridge, trail and utility construction projects that have been approved for construction prior to the effective date of this Ordinance.
 3. Public projects: Public right-of-way dedication and improvement projects that are subject to the National Environmental Policy Act (NEPA) of 1969 and/or the Minnesota Environmental Review Program (MERP) and comply with the Comprehensive Plan.
 4. Maintenance:
 - a. Customary dredging and channel maintenance of existing drainage facilities. This includes vegetative maintenance for access and stormwater/flood control purposes within and adjacent to drainageways.
 - b. Activities associated with the repair, maintenance, or replacement of pipeline and utility lines within existing utility rights-of-way.
 - c. Activities associated with the repair, maintenance or replacement of public highways, roads, trails and bridges within existing street rights-of-way.
 - d. Activities associated with the routine maintenance of existing public road, utility and pipeline rights-of-way (this exemption is for the maintenance, but not the expansion, of rights-of-way in which roads and utilities are located).
 5. Emergency: Temporary emergency procedures necessary for the safety or protection of property and people.
 6. Utility poles: Single utility poles required providing service to the local area.
 7. Agriculture: Ongoing customary agricultural operations.
 8. Unplatted property: Unplatted property that is two acres or less in size, in its entirety, that is occupied by a single family residential dwelling unit prior to the effective date of this ordinance.
- C. Hierarchy of Protection and Development Guidelines. In developing and/or reviewing plans for a property that has an Environmentally Sensitive Area, City staff, Environment and Development Team, or approved governmental body shall take into account the following hierarchy of protection and development guidelines.
1. Hierarchy of Protection: The hierarchy of protection areas in subsections a through c below are listed in descending order from the highest to the lowest level of protection.
 - a. The preservation of rare species, riparian and wildlife corridors and complexes of the Environmentally Sensitive Areas will receive priority treatment in each category.
 - b. Natural Heritage Areas and Rare Species. The goal is that any development and alterations take place outside these areas.

- c. Natural Resource Areas. In general, higher priority areas should receive more protection than lower priority areas in the site planning process
 - 1. Most Important - The goal is to protect these areas and avoid any deterioration.
 - 2. More Important - The goal is to conserve the quality of these areas while allowing minor encroachment or disturbance.
 - 3. Important - The goal is that design, placement and construction techniques used in these areas will enhance the general function and value of the natural resource area.
- 2. Development Guidelines: The following guidelines are based on the hierarchy of protection in subsection 1., above, and shall be used in the site planning process to determine permitted site design and development activities.
 - a. Maximize the protection of the function and value of Environmentally Sensitive Areas.
 - b. Provide for an opportunity for equitable economic return for the development.
 - c. Maintain viable riparian and wildlife corridors, rare species, and connections between Environmentally Sensitive Areas.
 - d. Keep undeveloped Environmentally Sensitive Areas large enough to maximize sustainability and minimize fragmentation.
 - e. Maintain a buffer adequate to the health and viability of the Environmentally Sensitive Area.
 - f. Minimize adverse construction impacts on the Environmentally Sensitive Areas.

10-22-6: ENVIRONMENT AND DEVELOPMENT TEAM: An Environment and Development Team (EDT) shall be established to review each development proposal governed by this Ordinance. The following provisions govern the formation of the EDT.

- A. Composition of the Environment and Development Team: The Environment and Development Team for each development proposal consists of the following:
 - 1. The owner/developer.
 - 2. One other person designated by the owner/developer.
 - 3. Staff representative of each: Planning Office and Engineering Department
 - 4. Two volunteers with scientific expertise in natural resources.
- B. Appointment and Qualifications of Scientific Members: The two volunteer scientific experts in subsection A. 4., of this section, shall be appointed using the following process:
 - 1. Planning Commission recommendation: The Planning Commission, with assistance from the Planning Director, shall develop and recommend to the City Council a list of volunteers with training and experience in one or more of the following areas:
 - a. Natural history,
 - b. Ecology,
 - c. Geology,
 - d. Hydrology,
 - e. Wildlife biology,
 - f. Botany, or
 - g. Other scientific areas related to natural resource issues in Sartell.
 - 2. Residency not required. Residency in the City of Sartell is not required for volunteer scientific members.

3. City Council approved list: After receiving the recommended list from the Planning Commission, the City Council shall appoint a group of volunteers, any of which may be appointed to an EDT.
4. Selection by Planning Director. The Planning Director shall select two persons from the City Council approved list who have expertise appropriate to the natural resources on the proposed project to serve as members of the Environment and Development Team for that specific proposal.

10-22-7: SITE PLANNING PROCESS: This Section establishes a site planning process that shall be followed in reviewing development proposals governed by this Ordinance.

- A. Intent of the Site Planning Process: The intent of the site planning process is to protect, conserve and enhance Environmentally Sensitive Areas and to provide for an opportunity for equitable economic return in consideration of protection and preservation of ESAs. Allowing flexibility in the development design is crucial and a sketch drawing will be developed by the EDT for the specific property under consideration. The historical differences in development and use of land, based on the underlying zoning (i.e., agricultural, commercial, industrial, or residential), will be considered in the process. Furthermore, it is the intent of this Ordinance to discourage or deny requests for rezoning purely for the purpose of evading compliance with the goals, standards and requirements of this Ordinance.
- B. Activation of EDT: If the Planning Office determines that a proposed development will occur on an Environmentally Sensitive Area or its impact zone, then the Planning Office will activate the Environment and Development Team. Section 10-22-6 establishes the membership of the EDT. EDT members will be notified of activation by the Planning Office. Notification will include a tentative review schedule.
- C. Information to EDT: The Planning Office will provide to the Environment and Development Team all material pertinent to the proposal as it becomes available, preferably before the initial EDT meeting is convened. The following information will be provided by the Planning Office or the owner/developer for the initial meeting with the EDT and will be used in the development of the Concept Plan and Natural Resource Management Plan.
 1. ESA Ordinance and other relevant ordinances
 2. Sartell Natural Resources Inventory
 3. Current ESA map
 4. Aerial Photograph of the property (with ½ mile radius of the property).
 5. Any preliminary sketch plans
 6. Existing features, including:
 - a. A contour map based at least upon topographical maps published by the U.S. Geological Survey.
 - b. The location of elements such as wetlands, watercourses, intermittent streams and 100-year flood plains, and existing or proposed rights-of-way and easements.
 - c. The sketched location of features such as woodlands, tree lines, prairies, wildlife habitat, open and/or active fields or non-woody vegetation/prairies, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails.
- D. On-site Visit: On-site visits by the EDT together are highly recommended to familiarize EDT members with the property prior to the initial meeting of the EDT. In the event a site visit is not conducted, the reason why not will be part of the public record.
- E. Verification of an ESA:
 1. Refinement of ESA boundaries: Based on a site visit, scientific members of the EDT will help determine more accurately the boundaries of the ESA, connections of the natural

communities present on and adjacent to the property, and the quality and significance of the identified environmentally sensitive area. The Planning Office will assist in mapping the refined ESA boundaries. The EDT shall verify the potential habitat sites for actual habitat sites during the refinement process.

2. Additional expertise: In the event that EDT volunteer scientific members do not have required expertise, the City of Sartell in collaboration with the owner/developer may hire one or more experts to assist in the site planning process. The need for such experts shall be identified by the Planning Office as early as possible in the process. The cost of such experts shall be paid by the owner/developer.
3. ESA findings report: The scientists will report their findings, including inconsistencies in the NRI and/or significant alterations to the property prior to the proposed development, to all the members of the EDT. The ESA findings report should include recommendations for rectifying inconsistencies.

F. EDT Meetings:

1. Initial meeting: The Planning Office will convene the initial meeting of the Environment and Development Team. The ESA findings report shall be presented and reviewed. The EDT members will work together sharing perspectives on how development might proceed on the property to accommodate development and stewardship of the ESA. Staff and scientific members will work in an advisory capacity to the owner/developer regarding the development of a Concept Plan and Natural Resource Management Plan. The EDT may discuss various tools and incentives for protection (see Section 10-22-8).
2. Additional meetings: Additional meetings of the EDT may be scheduled by the Planning Office as necessary to complete the requirements of this Ordinance.

G. Concept Plan and Natural Resource Management Plan: During the development of the Concept Plan and the Natural Resource Management Plan, the owner/developer will work with City staff and EDT members to meet the goals and requirements of this Ordinance. Additional meetings of the EDT may expedite the development of the plans.

1. Concept Plan requirements: A Concept Plan is a non-engineered plan for a property proposed for development. The Concept Plan will provide information in sufficient detail to analyze the proposed development and its relation to the Environmentally Sensitive Areas located on the property. This plan must be completed prior to any development or alteration to the property.
2. Natural Resource Management Plan requirements: A Natural Resource Management Plan is a plan meeting the requirements of this Ordinance to help protect the composition, structure and function of the natural communities and wildlife habitat within the Environmentally Sensitive Areas to be protected within the project and any adjacent buffer areas.
 - a. The Natural Resource Management plan outlines specific management and protection measures and how they will be accomplished for the Environmentally Sensitive Area and any buffer areas.
 - b. The Natural Resource Management Plan outlines by whom and how implementation takes place.
3. EDT review: Upon completion, the owner/developer shall submit the Concept Plan and the Natural Resource Management Plan to the Planning Office. The Planning Office shall provide copies of the documents to the EDT members and convene a meeting of the EDT to review the plans.

H. Additional Review Requirements for Development Proposals Not Involving Platting: A development proposal with an ESA that does not involve platting or an Environmental Planned Unit Development (EPUD) shall follow the requirements of subsections A. through F of this Section, except that the Planning Director will make the final decision on the Concept Plan and

Natural Resource Management Plan. Planning Commission and City Council review is not required.

- I. Additional Review Requirements for Development Proposals Involving Platting: In addition to the requirements of subsection J of this Section, a development proposal with an ESA that requires a subdivision plat, but does not require a rezoning or is part of an Environmental Planned Unit Development, shall meet the following:
 1. Preliminary plat: The developer/owner shall prepare the preliminary plat in accordance with the Concept Plan and the Natural Resource Management Plan and submit them to the Planning Office. The Planning Office shall provide the preliminary plat to the EDT team members.
 2. ESA findings report: The scientists shall assess the conformance of the preliminary plat with the Concept Plan and the Natural Resources Management Plan. The report shall be submitted to the Planning Office, which will provide the report to EDT members.
 3. EDT recommendation: The EDT will review the ESA findings report on the preliminary plat and make a recommendation to the Planning Commission and the Park Commission if a dedicated park is proposed. The EDT recommendation shall indicate if the preliminary plat and plans meet the requirements of this Ordinance. If a consensus recommendation of the EDT is not reached, any members of the EDT will be given the opportunity to report their findings to the Planning Commission in writing and/or at the meeting of the Planning Commission at which the majority recommendation is presented.
 4. Planning Commission public hearing and recommendation on the preliminary plat: After receipt of the EDT recommendation, the Planning Commission shall hold a public hearing on the proposed preliminary plat and Natural Resource Management Plan. EDT members may attend the public hearing and may be called upon to answer questions from the public. After the public hearing, the Planning Commission shall make a recommendation on the proposed preliminary plat and natural resource management plan to the City Council. Such recommendation shall include findings on conformance of the proposed preliminary plat to the provisions of this Ordinance.
 5. City Council public hearing and final action on the preliminary plat: After receipt of the Planning Commission recommendation, the City Council shall hold a public hearing on the proposed preliminary plat and Natural Resource Management Plan and make a final decision. The final decision shall include findings and shall indicate reasons for any deviation from the Planning Commission recommendation.
 6. Planning Commission Recommendation on the Final plat: The developer shall submit a final plat in accordance with the preliminary plat to the Planning Commission for review. The Planning Commission shall make a recommendation on the final plat to the City Council.
 7. City Council final plat action: After receipt of the Planning Commission recommendation on the final plat and EPUD, the City Council shall make a final decision on the proposed final plat and Natural Resource Management Plan. The Natural Resource Management Plan shall be part of final plat approval and shall be included in the development agreement and/or the deed.
 8. Continuing requirement: All activities on the property during and after development shall follow the Final Plat and Natural Resource Management Plan.
- J. Additional Review Requirements for Development Proposals Involving an Environmental Planned Unit Development (EPUD): In addition to the requirements of subsections A. through I of this Section, a development proposal with an ESA that is part of an Environmental Planned Unit Development (EPUD), shall meet the following:
 1. Purpose: The purpose of the Environmental Planned Unit Development (EPUD) is to offer an alternative to residential, commercial, industrial and agricultural zones, as outlined in the Zoning Ordinance, for development of parcels containing Environmentally Sensitive Areas

(ESAs) and/or their impact zones as designated in this Ordinance. The EPUD is similar to a PUD except that it pertains only to parcels regulated under this Ordinance, and it follows the planning and review process as outlined in this Ordinance.

2. Criteria for allowing EPUDs: Deviation from the definitive and precise requirements of the single purpose zones is to be conditionally allowed as an EPUD if the particular areas to be developed can offer greater value to the community and better meet the community's health, welfare and safety requirements and the goals of this Ordinance.
3. Multiple uses allowed. The EPUD may be multi-purpose in nature so that it may contain several classifications for residential use as well as a combination of uses, which could include appropriate commercial and/or industrial uses as long as it is consistent with the comprehensive plan.
4. EPUD review process: The development process for EPUDs shall include the process outlined in subsections A. through I of this Section and the following.
 - a. Rezoning request: The owner/developer requests EPUD zoning.
 - b. Preliminary plat and EPUD: The owner/developer shall prepare a preliminary plat and EPUD in accordance with the Concept Plan and the Natural Resource Management Plan and submits it to the Planning Office. The Planning Office shall provide the preliminary plat and EPUD to the EDT team members to be considered in the EDT recommendation to the Planning Commission.
 - c. ESA findings report: The scientists shall assess the conformance of the preliminary plat and EPUD with the Concept Plan and the Natural Resources Management Plan. The report shall be submitted to the Planning Office, which will provide the report to EDT members.
 - d. EDT recommendation: The EDT will review the ESA findings report on the preliminary plat and EPUD and make a recommendation to the Planning Commission and the Park Commission if a dedicated park is proposed.
 - e. Planning Commission public hearing and recommendation: After receipt of the EDT recommendation, the Planning Commission shall hold a public hearing on the preliminary plat, EPUD and Natural Resource Management Plan. EDT members may attend the public hearing and may be called upon to answer questions from the public. After the public hearing, the Planning Commission shall make a recommendation on the proposed EPUD, preliminary plat and natural resource management plan to the City Council. Such recommendation shall include findings on conformance of the proposed development to the provisions of this Ordinance.
 - f. City Council public hearing and decision: After receipt of the Planning Commission recommendation on the preliminary plat, EPUD and Natural Resource Management Plan, the City Council shall hold a public hearing. After the public hearing, the City Council shall make a decision on the proposed development, EPUD and Natural Resource Management Plan. The decision shall include findings and shall indicate reasons for any deviation from the Planning Commission recommendation. Conditions of the approval shall be included in the EPUD.
5. Planning Commission Recommendation on the Final plat and EPUD: The developer shall submit a final plat in accordance with the preliminary plat to the Planning Commission for review. The Planning Commission shall make a recommendation on the final plat to the City Council.
6. City Council final plat and EPUD action: After receipt of the Planning Commission recommendation on the final plat and EPUD, the City Council shall make a final decision on the proposed final plat, EPUD and Natural Resource Management Plan. The Natural Resource Management Plan shall be part of final plat approval and shall be included in the development agreement and/or the deed.

7. Continuing requirement: All activities on the property during and after development shall follow the Final Plat and Natural Resource Management Plan.

10-22-8: MINIMUM STANDARDS

- A. Setbacks from public water ways shall comply with MN DNR Rules.

10-22-9: INCENTIVES: To provide for an opportunity for equitable economic return in consideration of protection and preservation of Environmentally Sensitive Areas covered by this Ordinance, incentives may be offered including, but not limited to (but subject to applicable local, state and federal laws) the following:

- A. Deviations from subdivision and zoning regulations, such as allowing narrower public right-of-way, reduced sidewalk requirements reduced street widths, reduced setback requirements,
- B. Acceptance of donation of ESAs in lieu of park dedication
- C. Preservation of an ESA through conservation easement or Natural Resource Management Plan in lieu of park dedication,
- D. Assessment on storm drain to exclude the square footage that is in the protected area,
- E. Allowance for wetlands. If incentives are given for a wetland on property that has other ESAs, development should occur outside said other ESAs.
- F. Allowance of increased density and smaller lot size, .
- G. Clustering of development outside the ESA
- H. Variance from lot coverage regulations and Sartell's wetland regulations (consistent with existing laws and protective of the ecological function of the wetland),
- I. Waiver of application fees,
- J. Land swaps.
- K. Land acquisitions of ESAs.
- L. Low Impact Development (See Minnesota Stormwater Manual)
- M. In commercial and industrial districts, additional incentives include, but are not limited to, the following:
 1. Reduction of the required area for paved parking
 2. Waiver of standard height restrictions.
 3. Variance from standard setback requirements
 4. Variance from landscaping requirements
 5. Use of unpaved, dust free parking surfaces
- N. Incentives that increase impact pressures on other ESAs should be avoided.
- O. Environmental Planned Unit Development
- P. Perpetual Conservation Easement
- Q. Locally-Enacted Preservation Overlay Zone
- R. Transfer of Development Rights (TDR) and Purchase of Development Rights (PDR)

10-22-10: ADMINISTRATIVE REGULATIONS

- A. Administration: The Planning Director shall administer and enforce this Ordinance.
- B. Permit Requirements: A building permit shall not be issued or any alterations to the property allowed unless it is in conformity with this Ordinance.
- C. Appeals: The City Council shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Planning Director in the enforcement or administration of this Ordinance. The procedure for appeals shall follow the procedures as denoted in 10-16-1 of the Sartell Zoning Ordinance.
- D. Variances: The City Council shall hear and decide request for variance from the literal provisions of this Ordinance in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. The procedure for variances shall follow the procedures as denoted in 10-16-4 of the Sartell Zoning Ordinance.

10-22-11: AMENDMENTS TO THE ENVIRONMENTALLY SENSITIVE AREAS ORDINANCE: Subject to the procedure as prescribed in the Zoning Ordinance, Title 10, Section 15, Amendments and Rezonings, the Council may on its own motion, or at the request of the Planning Commission or on the petition or appeal of the affected property owner(s):

- A. Remove land that has been designated on the maps if it is found that an error was made in that said property fails to meet the criteria as outlined in 10-22-4 of this Ordinance.
- B. Add land to the maps if it is found that said land meets the criteria as outlined in 10-22-4 of this Ordinance to be classified as an environmentally sensitive area.
- C. Change any of the regulations or requirements of this Ordinance by amendment to this Ordinance.
- D. In the event that any land not previously inventoried is annexed to the City after the effective date of this Ordinance, said land shall be inventoried as soon as feasible for inclusion on the Environmentally Sensitive Areas Maps, said inventory period not to exceed 9 months.
- E. For purposes of a petition to change this Ordinance, map, etc., the word "owner" shall be deemed to include any person having a freehold interest or a contractual interest, which may become a freehold interest.

10-22-12: VIOLATIONS: Upon a determination that probable cause exists to indicate a violation of any of the provisions of this Ordinance has been committed or shall exist, the owner or lessee of the building or premises, or the owner or lessee of any part of the building or premises constituting the violation shall be served by certified mail, return receipt requested, with the appropriate written order to remove the violation, and if necessary, to restore the site to its status prior to the existence of the violation. If the violation continues to exist ten (10) days from receipt of such written order, the owner or lessee shall be guilty of a misdemeanor. After conviction for a violation becomes final, the continued violation of such provision shall constitute a separate offense for each day such violation shall continue to exist.

10-22-13: INTERPRETATION: In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity and general welfare. It is not the intent of this Ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of building or premises, the provisions of this Ordinance shall govern.

10-22-14: SEVERABILITY: Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

