

Resources for Writing Ordinances that Protect Natural Resources

Many important natural resource issues have been detailed in the preceding chapters — impervious cover, protection of groundwater resources, riparian buffers, open space, stormwater runoff, identifying and protecting natural resources — which municipalities have an important role in addressing. Municipal and county governments have authority over local land use, and natural resource protection relies on sound land-use policies. The actions that a municipal government takes, either through management of municipal facilities and infrastructure (parks, sewer systems, roads) or through implementing effective land-use controls (zoning, subdivision, street standards) can make all the difference in protecting and even enhancing, the quality of the natural environment within and surrounding its borders.

Because most of Delaware's municipalities are small, they often do not have environmental expertise on their staffs to develop and implement complex ordinances that protect natural resources. For this reason, environmental standards and requirements need to be simple, clear, and easy to administer.

The purpose of this chapter is to provide resources for municipalities who want to incorporate natural resource protection into their ordinances. These resources include model ordinances, books and publications, and technical assistance.

Importance of Municipal Regulation

Because state policies encourage development in and around municipalities and because municipalities offer many of the services that developers, home buyers, and businesses seek, it is important that municipalities have a strong role in planning for the protection of natural resources within their boundaries. These ordinances must balance protection of resources with the appropriate densities associated with developing within municipalities. Generally, planning practice dictates that higher densities are appropriate within municipal urban contexts. This allows for more efficient service delivery, and it reduces the effect of low-density development spread across a larger area.

Best Management Practices

The best management practices relating to local ordinances have been detailed in previous chapters, including the following examples:

- Σ Minimum open-space requirements that provide for both active and passive/natural open space
- Σ Riparian/wetland buffer protection
- Σ Tree preservation/mitigation
- Σ Cluster development/conservation design on sensitive sites
- Σ Preservation of water resource protection areas
- Σ Natural landscaping
- Σ Protecting rare and endangered species habitat
- Σ Allowing or encouraging pervious alternatives to impervious cover

Tradeoffs

Providing adequate regulation to protect natural resources can be a challenge for municipalities, which have traditionally been and continue to be locations for more dense, intense development. However, these two interests need not be mutually exclusive. It is important, when developing ordinances to protect natural resources, to be cognizant of the urban environment and the appropriateness of certain regulations in an urban context. In many cases, regulations that may be appropriate in a more suburban or rural setting may not be appropriate within a municipality.

Resources Available to Assist Local Governments

Model Ordinances

- Σ The [American Planning Association](#) has developed *Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change*, 2002 edition (Stuart Meck, FAICP, general editor). This publication includes model legislation and ordinances to help implement smart growth initiatives. “Chapter 8: Local Land Development Regulation” and “Chapter 9: Special Environmental and Land Development Regulation and Land Use Incentives” include some model ordinances that might help municipalities protect natural resources. The guidebook is available at www.planning.org.
- Σ The [Environmental Protection Agency](#) has model ordinances for protecting water resources available on its web site at www.epa.gov/owow/nps/ordinance/.

Code and Ordinance Review

- Σ The [Center for Watershed Protection](#) published *Better Site Design: A Handbook for Changing Development Rules in Your Community* in 1998. This handbook discusses 22 principles of better site design and includes a “Code and Ordinance Worksheet” to help local governments evaluate ordinances, codes, and standards that shape development. The worksheet will help compare local development rules with the model development principles. It addresses such items as street standards, parking requirements, open-space management, buffers, and other development requirements that have an impact on watershed health. The worksheet and other publications about watershed protection are available at the Center for Watershed Protection’s web site at www.cwp.org/pubs_download.htm.

Technical Assistance

- Σ The [Delaware Forest Service’s Urban and Community Forestry Program](#) has two full-time foresters who assist cities, towns, and communities with the management and care of their urban forestry resources. They can assist with developing tree ordinances, management plans for publicly owned forests (such as city or county parks, street trees, etc.), and inventories of and maintenance schedules for these trees. Their staff also works with developers, planners, and engineers to help educate these individuals on methods of preserving trees during the development process. Grants through the program can assist with tree planting and management

and community planning. For more information, contact the Delaware Forest Service at (302) 698-4500.

Other Resources and Publications

- Σ *Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota*, 2000. <files.dnr.state.mn.us/forestry/urban/bmps.pdf>
- Σ *Nature Friendly Ordinances*, by James M. McElfish, Jr., Environmental Law Institute, 2004.
- Σ *Better Models for Development in Delaware*, Office of State Planning Coordination, 2004.