

## **CHAPTER 55-11 NATURE PRESERVES**

### **55-11-01. Declaration of policy.**

As a result of the continuing growth of the population and development of the economy of the state of North Dakota, it is necessary and desirable that natural areas be set aside and preserved for the benefit of present and future generations before such areas are destroyed. Such areas are irreplaceable as laboratories for scientific research; as reservoirs of natural materials not all of the uses of which are now known; as habitats for plant and animal species and biotic communities, the diversity of which enriches the meaning and enjoyment of human life; as living museums where people may observe natural biotic and environmental systems of the earth and the interdependence of all forms of life; as examples of our natural heritage; and as reminders of the vital dependence of the health of the human community upon the health of the natural communities of which human health is an inseparable part. It is essential to the people of the state of North Dakota that they retain the opportunities to maintain close contact with such living communities and environmental systems of the earth and to benefit from the scientific, aesthetic, cultural, and spiritual values they possess. It is therefore the public policy of the state of North Dakota that such areas be acquired and preserved by the state and that other agencies, organizations, and individuals, both public and private, be encouraged to set aside such areas for the common benefit of the people of present and future generations.

### **55-11-02. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Articles of dedication" means the writing by which any estate, interest, or right in a natural area is formally dedicated as permitted by section 55-11-05.
2. "Dedicate" and "dedication" mean the transfer to the department, for and on behalf of the state of North Dakota, of an estate, interest, or right in a natural area in any manner permitted by section 55-11-05.
3. "Department" means the parks and recreation department.
4. "Natural area" means an area of land or water, or both land and water, whether in public or private ownership, which either retains or has reestablished its natural character, whether or not it has been disturbed, or has unusual flora or fauna or has biotic, geological, aesthetic, scenic, or paleontological features of scientific or educational value, or which is selected or accepted by the department for the purpose of the reestablishment of such features of scientific or educational value.
5. "Nature preserve" means any natural area or any estate, interest, or right which has been formally dedicated under the provisions of this chapter.

### **55-11-03. System of nature preserves - Uses and purposes.**

In order to secure for the people of the state of North Dakota, of present and future generations, the benefits of an enduring resource of natural areas, the state of North Dakota, acting through the department, shall acquire and hold in trust for the benefit of the people of the state of North Dakota an adequate system of nature preserves for the following uses and purposes:

1. For scientific research in such fields as agriculture, ecology, forestry, genetics, geology, paleontology, pharmacology, soil science, taxonomy, and similar fields.
2. For the teaching of biology, natural history, ecology, conservation, and other subjects.
3. As habitats for plant and animal species and communities and other natural objects.
4. As reservoirs of natural materials.
5. As places of natural interest and beauty.
6. As living illustrations of our natural heritage wherein one may observe and experience natural biotic and environmental systems of the earth and their processes.
7. To promote understanding and appreciation of the aesthetic, cultural, and spiritual values of such natural areas by the people of the state of North Dakota.

8. For the preservation and protection of natural areas against modification or encroachment resulting from occupation, development, or other use which would destroy the scientific, educational, or aesthetic value of such areas.

**55-11-04. State parks and recreation department - Advisers - Meetings.**

Repealed by S.L. 1991, ch. 640, § 41.

**55-11-05. Acquisition of nature preserves and natural areas.**

The department is authorized and empowered, for and on behalf of the state of North Dakota, to acquire nature preserves by gift, devise, or exchange, or purchase, with prior approval of the legislative assembly or governor. The department may acquire the fee simple interest in a natural area or any one or more lesser estates, interests, and rights therein, including, without limitation upon the generality of the foregoing by reason of specification, a leasehold estate, an easement either appurtenant or in gross and either granting the state specified rights of use or denying to the grantor specified rights of use, or both.

**55-11-06. Dedication of natural areas - Recording of articles of dedication.**

An estate, interest, or right in a natural area may be dedicated by any state agency having jurisdiction thereof, by any other unit of government within the state having jurisdiction thereof, and by any private owner thereof. A dedication must be deemed effective, and a natural area becomes a nature preserve, only upon the acceptance of the articles of dedication by the department. Articles of dedication must be placed on record in the office of the recorder in the county in which the natural area is located.

**55-11-07. Articles of dedication - Contents.**

Articles of dedication may contain restrictions and other provisions relating to management, use, development, transfer, and public access and may contain such other restrictions and provisions as may be necessary or advisable to further the purposes of this chapter. They may, consistently with the purposes of this chapter, define the respective rights and duties of the owner or operating agency and the department. They may provide procedures to be applied in case of violation of their restrictions and other provisions. They may recognize and create reversionary rights and transfers upon conditions or with limitations. They may vary in provisions from one nature preserve to another in accordance with differences in characteristics and conditions of the several natural areas.

**55-11-08. Amendments to articles of dedication - Approval of governor - Restriction.**

With the approval of the governor and upon such terms and conditions as the department may determine, the department may, after giving notice and holding a public hearing as provided in section 55-11-12, enter into amendments of any articles of dedication upon a finding by the department that such amendments will not permit an impairment, disturbance, use, or development of the natural area inconsistent with the purposes of this chapter; provided, however, that if the fee simple interest in the natural area is not held by the state of North Dakota under this chapter, no amendment may be made without the written consent of the owner or owners of the fee simple interest therein.

**55-11-09. Department - Powers and duties - Penalty.**

In furtherance of the purposes of this chapter and in implementation of the powers and duties provided in this chapter, the department has the following additional powers and duties:

1. To formulate policies for the selection, acquisition, use, management, and protection of nature preserves.
2. To determine, supervise, and control the management of nature preserves and to make, publish, and amend reasonable rules necessary or advisable for the use and protection of nature preserves and for the business of the department.
3. To encourage and recommend the dedication of natural areas as nature preserves.

4. To acquire land adjacent to any nature preserve when necessary to serve as a protective buffer or service area, or both, for the nature preserve. No such buffer or service area is a nature preserve unless an estate, interest, or right therein is thereafter dedicated as a nature preserve under this chapter.
5. To cooperate and contract with any agency, organization, or individual.
6. To accept, administer, and use for the purposes of this chapter, gifts, grants, devises, and bequests of money, securities, and other property, conditional or unconditional, but the department may refuse any gift, grant, devise, or bequest which is upon terms or conditions unacceptable to it.
7. To make surveys and maintain registers and records of nature preserves and other natural areas within the state.
8. To promote, and to conduct or contract for, research and investigation of nature preserves and other natural areas within the state.
9. To carry on interpretive programs and publish and disseminate information pertaining to nature preserves and other natural areas within the state.
10. To promote and assist in the establishment, restoration, and protection of, and advise in the management of, natural areas and to foster and aid in the establishment, restoration, and preservation of natural conditions within the state elsewhere than in the system.
11. To design and control the use of official state nature preserve signs and to recommend to the department of transportation locations for such signs.
12. To submit to the governor an annual report on or before December thirty-first of each year which shall account for each nature preserve in the system and make such other reports and recommendations as the department may deem advisable.
13. To adopt suitable rules relating to the protection, care, and use of any state nature preserve or state-owned or state-managed natural area. Enforcement of these rules shall comply with the powers granted in chapter 55-08.

**55-11-10. Advisers to the state parks and recreation department.**

Repealed by S.L. 1991, ch. 640, § 41.

**55-11-11. Nature preserves - Taking for another use - Limitations.**

Each nature preserve within the system is hereby declared to be held in trust for those uses and purposes expressed in this chapter, which are not prohibited by the articles of dedication, for the benefit of the people of the state of North Dakota, of present and future generations, and declared to be put to its highest, best, and most important use for the public benefit. It must be managed and protected in the manner approved by, and subject to the rules and regulations established by, the department. It may not be taken for any other use except another higher public use after a finding by the department of the existence of an imperative and unavoidable public necessity for such other higher public use and with the approval of the governor. Except as may otherwise be provided in the articles of dedication, the department may grant, for a fair consideration and upon such terms and conditions as it may determine, an estate, interest, or right in, or the department may dispose of, a nature preserve, but only after a finding by the department of the existence of an imperative and unavoidable public necessity of a higher nature for such grant or disposition and such finding must be made subject to the approval of the governor.

**55-11-12. Hearings - Notice.**

Before the department makes any finding of the existence of an imperative and unavoidable public necessity of a higher nature, or grants any estate, interest, or right in a nature preserve, or disposes of a nature preserve or of any estate, interest, or right therein as provided in section 55-11-11, or enters into any amendment of any articles of dedication as provided in section 55-11-06, it shall give notice of such proposed action and an opportunity for any person to be heard. Such notice must be published once each week for two successive weeks in a newspaper having a general circulation in the county or counties wherein the nature preserve is

located and must be mailed within five days after such publication to all persons who have requested notice of all such proposed actions. The notice must set forth the substance of the proposed action and describe, with or without legal description, the nature preserve affected, and must specify a place and time not less than thirty days nor more than sixty days after such publication for a public hearing before the department on such proposed action. All persons desiring to be heard must have a reasonable opportunity to be heard prior to action by the department on such proposal.

**55-11-13. Limitations.**

Nothing contained in this chapter may be construed as interfering with the purposes stated in the establishment of or pertaining to any state or local park, preserve, wildlife refuge, or other area, or the proper management and development thereof, except that any agency administering a natural area dedicated as a nature preserve under the provisions of this chapter is responsible for preserving the character of the natural area in accordance with the articles of dedication and the applicable rules and regulations with respect thereto established by the department from time to time. Neither the dedication of a natural area as a nature preserve nor any action taken by the department under any of the provisions of this chapter voids or replaces any protective status under law which the natural area would have if it were not a nature preserve, and the protection provisions of this chapter are supplemental thereto. Under the provisions of this chapter, the department may not have or use the right of eminent domain.