

GUIDE TO APPENDIX 8

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INTRODUCTION

Early in the planning process, discussion with the Coordinating Committee revealed that the municipalities of Northern Chester County vary in their use of mandatory dedication of parkland provisions, and some have no provisions at all. As a result, municipalities are not accumulating public parkland or recreation facilities through this no-cost-to-acquire method. This section cites the authority and requirements for municipal mandatory dedication of parkland, analyses the current provisions, and makes preliminary recommendations that all municipalities adopt or revise their mandatory dedication provisions in order to acquire land for recreation.

AUTHORITY FOR MANDATORY DEDICATION OF PARKLAND PROVISIONS

The Mandatory Dedication of Parkland Provision, Article V Section 503 (11), of the Pennsylvania Municipalities Planning Code (MPC) is a powerful planning tool that enables municipalities to acquire parkland or develop recreation facilities at no cost through the land development process. This provision enables a municipality to enact language in the subdivision/land development ordinance requiring the dedication of land for recreational purposes. In order to impose the mandatory dedication of parkland requirement, the municipality must meet the following standards:

1. The ordinance must include “definitive standards” for amounts of land or fees to be dedicated.
2. The land or fees shall only be used to provide facilities “accessible to the development.”
3. There must be a formally-adopted recreation plan.
4. The amount and location of land or fees must bear a “reasonable relationship” to the use of facilities by future inhabitants.
5. Fees from each development shall be designated for specific recreation facilities and shall only be spent for those facilities.
6. If the municipality does not use the fees within three years after payment, the applicant or developer who paid the fees receives a refund upon request, including interest earned.
7. The municipality cannot require the dedication of land, fees, or facilities except in accordance with these standards.

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Municipalities Planning Code Article V Section 503 (11)

(11) Provisions requiring the public dedication of land suitable for the use intended; and, upon agreement with the applicant or developer, the construction of recreational facilities, the payment of fees in lieu thereof, the private reservation of the land, or a combination, for park or recreation purposes as a condition precedent to final plan approval, provided that:

(i) The provisions of this paragraph shall not apply to any plan application, whether preliminary or final, pending at the time of enactment of such provisions.

(ii) The ordinance includes definite standards for determining the proportion of a development to be dedicated and the amount of any fee to be paid in lieu thereof.

(iii) The land or fees, or combination thereof, are to be used only for the purpose of providing park or recreational facilities accessible to the development.

(iv) The governing body has a formally-adopted recreation plan, and the park and recreational facilities are in accordance with definite principles and standards contained in the subdivision and land development ordinance.

(v) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by future inhabitants of the development or subdivision.

(vi) A fee authorized under this subsection shall, upon its receipt by a municipality, be deposited in an interest-bearing account, clearly identifying the specific recreation facilities for which the fee was received. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only in properly allocable portions of the cost incurred to construct the specific recreation facilities for which the funds were collected.

(vii) Upon request of any person who paid any fee under this subsection, the municipality shall refund such fee, plus interest accumulated thereon from the date of payment, if the municipality had failed to utilize the fee paid for the purposes set forth in this section within three years from the date such fee was paid.

(viii) No municipality shall have the power to require the construction of recreational facilities or the dedication of land, or fees in lieu thereof or private reservation except as may be provided by statute.

Alternatively, and if the municipality and the developer both agree, the development may accomplish one or more of the following in place of parkland dedication:

1. Construct recreational facilities.
2. Pay fees in place of (or in combination with) land dedication.
3. Reserve land in private ownership.

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APPLICATION AND VALUE

A municipality’s need for future parkland and recreation facilities depends on its standards or level of service – even if current conditions fall short of this goal – and its future population growth. Therefore, goals for parkland and recreation facilities and prioritized needs, documented in a recreation plan, are essential to the mandatory dedication process. The provision for “reasonable relationship” to future inhabitants establishes that the land or facilities serve future residents in line with these goals. It does not attempt to place the burden of meeting current recreational deficiencies on new development.

As an example, applying the long-standing accepted national practice of 10.5 acres per 1,000 residents as the standard, and with the population projections presented in Appendix 1, *Table A8.1* demonstrates a potential regional parkland need of more than 85 acres in Northern Chester County by 2030. If every jurisdiction had a 10.5 acre per 1,000 standard, the jurisdictions of Northern Chester County would be able to add a minimum of 96.5 acres of parkland by 2030 at no cost. At an estimated land value of \$38,000 per acre, the savings of mandatory dedication in place of municipal fee-simple purchase totals \$3,668,007.

Higher acreage per population standards, and thus higher fees, are acceptable if they are based on sound analysis of the community’s need for more parkland. See Future Needs in Northern Chester County below.

Table A8.1: Example Application of Mandatory Dedication of Parkland

	2010-2020			Parkland Need per Pop	2020-2030		Parkland Need per Pop	Total Add'l Parkland Need by
	2010	2020	Increase	2010- 2020	2030	Increase	2020- 2030	2030
Northern Chester County	43,907	48,860	4,953	52.0	53,100	4,240	44.5	96.5
East Coventry	6,636	7,040	404	4.2	7,800	760	8.0	12.2
East Nantmeal	1,803	2,080	277	2.9	2,190	110	1.2	4.1
East Pikeland	7,079	8,410	1,331	14.0	9,360	950	10.0	24.0
East Vincent	6,821	8,050	1,229	12.9	9,070	1,020	10.7	23.6
North Coventry	7,866	8,130	264	2.8	8,430	300	3.2	5.9
South Coventry	2,604	2,700	96	1.0	2,890	190	2.0	3.0
Warwick	2,507	2,850	343	3.6	2,930	80	0.8	4.4
West Pikeland	4,024	5,020	996	10.5	5,500	480	5.0	15.5
West Vincent	4,567	4,580	13	0.1	4,930	350	3.7	3.8

Source: U.S. Census Bureau, 2010 census; Delaware Valley Regional Planning Commission, Municipal Data Navigator (2020, 2030); parkland needs calculated by Gannett Fleming, Inc.

CURRENT PROVISIONS IN NORTHERN CHESTER COUNTY

Seven of the nine municipalities have mandatory dedication provisions in their subdivision and land development ordinances as a means to acquire land for future parkland and open space, or to collect fees for the development of recreation facilities. East Nantmeal and Warwick have no provisions for dedicated parkland. Summary information of current mandatory dedication of parkland provisions are presented in *Table A8.2*.

East Coventry, East Vincent, South Coventry and West Vincent follow the most common practice of specifying an acreage (or square footage) to be dedicated based on the number of residential units. All include a fee-in-lieu option. Methods for fee determination vary across all four. East Vincent uses a predetermined fee, East Coventry and South Coventry require the applicant to present the fee based on the fair market value of the undeveloped land, and West Vincent determines its fee based on the cost of a similar land acquisition.

East Pikeland and North Coventry require a percentage of the proposed development to be dedicated, based on the proposed use. This overall percentage is further broken down into minimum percentages for active recreation land and passive recreation/open space. This approach has worked well where parcels are large enough to yield parkland of at least five acres. North Coventry includes a minimum area of three acres among its layout standards, directing applicants who cannot meet this requirement to its fee-in lieu option.

West Pikeland has provisions for the dedication of land based on the proposed number of families to be served, i.e., residential units and no fee-in-lieu option. East Nantmeal and Warwick have no provisions for the dedication of parkland per se.

Warwick and West Vincent both have open space requirements in their zoning ordinances. Warwick's provisions do not inherently or specifically address the need for recreational land.

The Pennsylvania MPC does not distinguish between residential development and other types of development with regard to mandatory dedication. While most municipalities in Pennsylvania enforce their mandatory dedication requirement only on residential land development submissions, East Pikeland, and North Coventry have enacted mandatory dedication of parkland provisions for all types of development.

The majority of the ordinances specify purposes for mandatory dedication of parkland. These generally include:

1. **Providing a variety of active and passive open space lands to serve the varied recreational needs of the township's residents, as well as businesses and industry** in some ordinances. East Coventry, East Pikeland, and North Coventry require a percentage of land from commercial, industrial, and institutional uses.

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Table A8.2: Mandatory Dedication of Parkland Provisions

Ordinance	Parkland Requirement	Fee-in-Lieu Option	Comments
East Coventry Township Subdivision and Land Development Ordinance (SLDO), 2011. Section 426 Park, Recreation and Open Space	<ul style="list-style-type: none"> 0.02 acres per dwelling unit or building lot 	Value of fee-in-lieu of dedication is to be equal to the total fair market value of the required land.	
East Nantmeal Township	No mandatory dedication of parkland provisions.	N/A	
East Pikeland Township SLDO, as amended in 2008. Section 424 Park, Recreation, Open Space and Trails	Based on use: <ul style="list-style-type: none"> residential use based on size (0-40%) adult community, industrial and commercial uses (20%) institutional uses (25%) Percentages of total specified for active use (0-25%) and passive use/ open space (5-25%) also based on use/density.	\$3,909 per dwelling unit or equivalent dwelling unit, adjusted each year based upon the consumer price index (CPI) for the Philadelphia region for each year from the effective date up to and including the year in which the fee is actually paid to the Township	<ul style="list-style-type: none"> Includes extensive provisions for trails (Section 424.E.): <ol style="list-style-type: none"> Purpose Provision Maintenance Fee-In-Lieu of Trails Trail Conservation Standards Trail Construction Specifications Inspections of Trails Performance Guarantee for the Construction of Trails As-built Plans of Trails Continuous Offer of Dedication of Trails Maintenance Guarantee Private Trails
East Vincent Township SLDO, as amended in 2004. Section 22-428 Dedication of Land, or Payment of Fees in Lieu Thereof, for Parks, Recreation, and Open Space Use	Minimum 0.125 acres/ 5,445 square feet per proposed dwelling unit. No dedication required for non-residential uses.	A minimum of \$3,000 per proposed residential unit; no inflation or market value reference.	

continued

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Ordinance	Parkland Requirement	Fee-in-Lieu Option	Comments
North Coventry Township SLDO, 2008. Section 320-53 Community Facilities, Park Land and Open Space	Based on use: <ul style="list-style-type: none"> residential uses (12-15%) commercial uses (15%) industrial uses (20%) institutional uses (25%) 	Value of fee-in-lieu of dedication is to be equal to the fair undeveloped market value of the required land.	<ul style="list-style-type: none"> Provides for ownership alternatives contingent upon approval of Board of Supervisors. Provides for long-term management and maintenance of dedicated land.
South Coventry Township, SLDO (2007). Section 626 Public Facilities, Open Space and Recreation	0.115 acres/ 5,000 square feet per dwelling unit with at least half of the land suitable for active sports.	Value of fee-in-lieu of dedication is to be equal to the fair undeveloped market value of the required land.	
Warwick Township SLDO, 2005. Section 812	No mandatory dedication of parkland provisions. Refers to open space requirement in zoning ordinance.	None	<ul style="list-style-type: none"> Zoning Article 20: Open Space Provisions addresses open space protection but establishes no requirement for active recreation parkland: <ul style="list-style-type: none"> Requires minimum dedication of 1.5 acres; no per-unit or percentage ratio. Allows ownership and maintenance alternatives.
West Pikeland Township SLDO, 1997. Section 627 Public Facilities and Open Space	Sliding scale of 3 acres (minimum) to 10 percent (maximum) based on number of families to be served, i.e., residential units.	None	<ul style="list-style-type: none"> Section 628 Community Assets recognizes the community value of “natural features, such as large trees, water courses, steep or wooded slopes, historic areas and structures;” serves as guidance for open space protection; establishes no requirement for active recreation parkland.
West Vincent Township SLDO Section 615C	5,000 square feet per dwelling unit.	Value based on the Township’s estimated cost of acquiring similar land that has attributes which would better serve the public recreational needs.	<ul style="list-style-type: none"> Provisions in the Zoning Ordinance address open space protection by district and density; requirements range from 50-80% open space, generally separate from primary conservation, which may be used for recreation; and applicable to residential and commercial districts.

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- 2. Preserving open space and protecting the natural, scenic, and historic resources.** This seems to be the focus of ordinance application in the Region. However, once dedicated, lands where these resources are found are not inventoried, managed, or promoted for the passive recreation opportunities they offer.
- 3. Developing a system of public parklands and other open space areas that can effectively and efficiently offer recreational opportunities and experiences.** Little progress has been made in the development of a park and open space system in any of the municipalities, with the exception of land protection along French Creek in East Pikeland Township for the future development of the French Creek Trail.
- 4. Providing equitable and convenient accessibility to recreation facilities and open space areas.** Without multiple parks and open space places, access by residents is not equitable and convenient. However, on a regional scale, this condition may be improved as residents far from a municipal park in their home municipality may be nearer a park in an adjacent municipality. Trail development may be the single-most important improvement to equitable and convenient access.
- 5. Supporting community development and stability.** This has been accomplished to date, and will be into the future, through the use of public parks for special events that enable the community to come together socially.

East Vincent's purposes further acknowledge equitable and convenient accessibility to recreation facilities and open space areas "within the township's urbanizing areas" and community development and stability "through a balance of developed areas, locally- and regionally-valued open space resources, and neighborhood, community, and regional recreational opportunities." West Vincent's purposes recognize that certain lands, as set forth in the West Vincent Township Open Space and Recreation Plan, are "irreplaceable and environmentally sensitive."

UNIQUE ASPECTS OF MANDATORY DEDICATION PROVISIONS IN NORTHERN CHESTER COUNTY

Provisions in East Pikeland, North Coventry, and West Vincent ordinances allow that the land remain as private property and be reserved and restricted in perpetuity under other forms of ownership as specified. North Coventry's ordinance specifies, in the event that lands remain as private property, that future dedication is permitted if the land and facilities meet the specified standards.

Provisions specifying land characteristics and design standards for dedicated land are highly consistent across the five ordinances in which they are found. The compiled list of standards from East Coventry, East Pikeland, East Vincent, North Coventry, and South Coventry includes:

- Free of non-recreational structures.
- Size, length-to-width ratio, and contiguous or single-parcel configuration.
- Accessibility.
- Minimal interference with adjacent dwelling units, parking, driveways, and roads.
- Connectivity with open space lands within and adjoining the subdivision.

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- Buffers to adjoining parks, preserves, or other protected lands.
- Pedestrian pathways for use by the residents of the subdivision and/or the township.
- Access as required for land management and emergency purposes.
- Undivided by public or private streets.
- Suitably landscaped either by retaining existing natural cover and wooded areas and/or according to a Landscaping Plan.
- Consistency with the policies of the Township's Comprehensive Plan and Open Space Plan.

Several of the ordinances incorporate or reference environmental features that may be protected by dedicated parkland. West Pikeland's Subdivision and Land Development Ordinance recognizes a variety of natural and cultural features, which if retained, add value to the subdivision as community assets. North Coventry's ordinance includes a prioritized list of resources to be protected through parkland and open space.

Provisions in several municipalities recognize trails as an appropriate facility for passive parkland and open space. Only East Pikeland Township's mandatory dedication of parkland provisions incorporates standards for trail design, construction, maintenance, and dedication, making it the most comprehensive and extensive mandatory dedication ordinance in the Northern Chester County region.

Fees-in-lieu of land dedication are common to those municipalities with mandatory dedication of parkland provisions, however provisions vary. Two municipalities specify a value, one refers to the township's estimated cost of acquiring land of the required size better suited to public recreation, and three refer to the fair market value of the required land acreage. The basis and method of determining the fair market value also varies among the three.

FUTURE NEEDS IN NORTHERN CHESTER COUNTY

The municipalities in Northern Chester County recognize that acquiring parkland is only part of the goal. Having the right mix of recreation facilities available and accessible to residents is equally important. For this reason, the planning process placed great emphasis on the inventory of recreation facilities and the needs of citizens in order to identify and prioritize the development of additional facilities on currently held future parklands.

In addition, residents' interest in living active, healthy lifestyles where walking, hiking, and biking in the outdoors is part of everyday life, suggests that parkland standards that can provide and protect natural landscapes, not just neighborhood parks, need to be established. For this reason, the parkland standard for Northern Chester County will need take into account the available federal, state, county, and municipal park acreages in recommending a baseline percentage for future mandatory dedication of parkland.

FINDINGS

1. East Coventry, East Vincent, South Coventry and West Vincent follow the most common practice of specifying an acreage (or square footage) to be dedicated based on the number of residential units.
2. East Pikeland, and North Coventry require a percentage of the land proposed-for development, including commercial, industrial, and institutional uses, to be dedicated. This approach works well where parcels are large enough to yield parkland of at least five acres. West Vincent requires a dedication of a percentage of residential and commercial developments to public space uses.
3. Preserving open space and protecting the natural, scenic, and historic resources seems to be the focus of mandatory dedication (and open space) ordinances in the region. However, these lands are generally not inventoried, managed, or promoted for the passive recreation opportunities they offer.
4. Trail development may be the single-most important improvement to equitable and convenient access.
5. Fees-in-lieu of land dedication are common in this region but could be strengthened by provision for fair market value assessment and inclusion of trails as permitted uses of such fees.
6. Provisions specifying land characteristics and design standards for dedicated land are highly consistent across the five ordinances in which they are found.
7. Provisions in several municipalities recognize trails as an appropriate facility for passive parkland and open space. Only East Pikeland Township's mandatory dedication of parkland provisions incorporates standards for trail design, construction, maintenance, and dedication, making it the most comprehensive and extensive ordinance.
8. Recreation and open space advocates in Northern Chester County are interested in higher-than-average standards for mandatory dedication of parkland, and fee-in-lieu alternatives.

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