

MEMO

To: Town Board, Town Clerk, John Tegeder, Adam Rodriguez. James Martorano, Matt Talbert
From: Councilwoman Susan Siegel
Re: Comments on draft Recreation Fee law
Date: October 11, 2025

Overall comments

The draft was designed to ensure that there was an appropriate recreation fee requirement for all site plans that include residential units. But, because the draft text is basically a “cut and paste” from the rec fee provisions for subdivisions, some of the provisions in the draft law are not relevant for site plans.

In addition to the draft text, the Board should also review two related provisions in the Zoning Code, 300-21 (C) (3) (a) (2) (f) that applies only to the R-3 zone and 300-22 (D) which deals with the ownership of multi family developments.

Also included are suggestions for adding two new provisions to both site plan and subdivision recreation fee requirements,

Text errors

1. The word “subdivision” needs to be changed to “site plan.” And, as this new section specifically deals with site plans that include residential units, the phrase “residential site plan” can be shortened to “site plan.”
2. There’s an internal inconsistency in the words used to describe the uses for the land subject to the recreation fee requirement. Examples:
 - Playground or active recreation use
 - Park, playground or other ecological use
 - Park or parks suitable for playground or other recreational purpose or other ecological purpose
 - Active recreation or open space

State enabling law says the reservation is to be used for land for “parks, playgrounds and other recreational purposes,” Nowhere is “ecological” use mentioned or a distinction made between active or passive recreation.

195.41.1 Public sites and open spaces on site plans containing residential units.

General comments

Section heading: Is this section for public or private land reservation? Or, simply land reservation – without regard for ownership? It’s not always clear.

Instead of adding a new section, 195.41.1, adding new text to 195.41 as “I” would be consistent with format of other parts of the chapter. The heading would be: Reservation of parkland containing residential units.

A. Reservation of land for parks

“May” should be changed to “shall.”

The provisions, which apply to all site plans with residential units regardless of the zone or size of the parcel, is problematic because

- (1) 10% and minimum size requirement may not be applicable to all site plans, e.g., CR-2 site plan. More flexible wording may be needed. As Section C, Money in lieu, also references Comp Plan, is that reference needed here?
- (2) Is text regarding condition of land needed – or should this be left up to site plan review? See also text about land “made usable for such use by the developer.” Is it needed?
- (3) Given the fact that size of parcels could range from 0.5 acre to 20 acres, specific site plan details such as frontage and dimensions should be left to site plan review.
- (4) Deals with public or private ownership issue and needs to be reviewed.

B. Plans for public land

Why is this section, also a “cut and paste” from subdivision provisions, needed? If site plan includes land for recreational use, these provisions would be part of the site plan.

C. Money in lieu

See edits to draft.

- (1) Upon consideration of the particular type of development proposed and a determination of the needs created by such development, the Planning Board may accept money in lieu of parkland reservation **upon written application from the developer.**
(Delete. This should be a Planning Bd decision.)
- (2) In determining the appropriateness of accepting such cash payment in lieu of reservation, the Board shall be guided by the following:
 - (a) The relationship of the ~~residential~~ site plan to the Town Comprehensive Plan, and particularly as such plan may show **a proposed park and playground or recreational area.**
 - (b) The character and recreation needs of the neighborhood **in which the** ~~residential~~ site plan is located.
 - (c) The unsuitability of land in the ~~subdivision~~ **for park and playground or recreational purposes** by reason of the **size** of the site, location, access, grade or cost of development or maintenance.
 - (d) The possibility that land immediately adjoining the ~~residential~~ site plan will serve, in whole or in part, the ~~park and playground~~ **recreational** needs of **the residents of** such ~~residential~~ site plan.
 - (e) **ADD: In the event the Planning Board determines that the proposed on site recreational facilities will not meet all the recreation needs of the site’s residents and that the residents will also utilize town recreational facilities, the Planning Board shall require the payment of an appropriate portion of the in lieu cash fee.**

(f) ADD: An evaluation of the present and anticipated future needs of park and recreational facilities in the town based on projected population growth to which the site plan will contribute. (Note: this language is from state enabling law.)

(3) The cash value of such land shall be determined as set forth in Article III, § 195-16.

This entire section, cut and paste from subdivision regulations, needs to be rewritten. It may be sufficient to simply say refer to the Master Fee Schedule, Chapter 168, which needs amending to include a Recreation Fee section. See below for sample language from Peekskill.

Chapter 300-169 (Transitional Zone)

There's no need to repeat the 195.41.1 provisions here. All that's needed is to add new provisions, such as:

300-169 Procedure for application and review. Edit as underlined below

B. Required referrals. The Town Board, upon receipt of the above, shall refer the application to rezone to the Planning Board, Planning Department, Town Engineer, Town Building Inspector ~~and~~ Town Attorney, and Recreation Commission if the application includes any residential units.

300-169 Add a new Section F

If the approved site plan includes any residential units, the rezoning and site plan approval resolutions shall include as a condition of the approval that the recreation fee requirements in Chapter 168 and Chapter 195 shall apply to all residential units.

Other recreation fee provisions in the Zoning Code that need to be reviewed, amended and possibly deleted

300-21 (C) (3) that applies only to R-3)

The draft deletes (g) that deals with 10% land or fee – but leaves in (f) that sets standards for requirements for play area, e.g., 400 sf/unit.

In light of the size of recent R-3 developments, e.g., Garden Lane, 4 unit development at Lee/East Main St, and 8 unit development off Lexington Ave, this requirement does not work for ALL R-3 plans and needs to be reevaluated. Or possibly delete entirely and leave it up to Planning Board to decide what, if any, on site recreation facilities make sense.

Instead of a “one-size fits all” requirement, see the more flexible Peekskill language at the end of the memo

It's also debatable whether this very specific standard belongs in the Zoning Code and instead, if still needed, should be relocated to Chapter 195, Land Development Regulations.

300-22 D. Flexibility. Money in lieu of the setting aside of land suitable for recreation purposes in condominium and cooperative apartment developments.

It's not clear how this provision works with/is consistent with the 10% requirement in section A.

- What is the rationale for requiring the 10% reservation for condo but not rental site plans, e.g., Toll vs AMS?
- Given the same site plan layout, what difference does ownership make, e.g., condo vs rental? Type of ownership is not a Planning Board issue – and developer may change ownership style during review process, e.g., Weyant.

New sections to be added to both new site plan section and existing subdivision section

Referrals

Site plans that include residential units and subdivision plans shall be referred to the Recreation Commission for review and comment. Plans that include a potential reservation of land to the town and/or the construction of what will be town owned and maintained recreational facilities shall also be referred to the Town Board for review and comment. (Note: A time requirements for responses can be added. See 270-8 (C) (2).)

When recreation requirements must be complied with

There are no provisions in the current code stating when the money in lieu fee should be paid or when the on site recreation facilities need to begin construction e.g., when the site plan/subdivision plan is approved? When construction starts? When first CO is issued? When all construction is completed?

Peekskill Code

Chapter 575 – Site Plans

G.

Reservation of parkland on site plans containing residential units.

[Added 8-15-2016 by L.L. No. 4-2016]

(1)

Before the Planning Commission may approve a site plan containing residential units, such site plan shall also show, when required by the Planning Commission, a park or parks suitably located for playground or other recreational activities.

(2)

Land for park, playground or other recreational purposes may be required if the Planning Commission has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the City. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the City based on projected population growth to which the site plan will contribute.

(3)

In the event the Planning Commission makes a finding pursuant to Subsection [G\(2\)](#) of this section, but a suitable park or parks of adequate size to meet the requirements cannot be properly located on the site plan, the Planning Commission may require payment of a sum of money in lieu thereof as set forth in Article [VI](#) of Chapter [275](#) of the City Code.

[\(4\)](#)

If the land included in a site plan under review is a portion of a subdivision plat that has been reviewed and approved, the Planning Commission shall credit the applicant for any land set aside or money donated in lieu of parkland under the subdivision approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

Parkland and Recreation Fees

§ 275-15 Purpose; findings.

The Common Council finds that the existing park and recreational facilities of the City are available to, and used by, residents of the City. The provision of adequate park and recreational facilities for both active and passive recreational pursuits is necessary and appropriate for the health, safety and well-being of existing and future residents. The Common Council further finds that residential development within the City places great demands on the City's park and recreational facilities. Therefore, the Common Council determines that, where the Planning Commission makes a finding that a proper case exists for requiring parkland on site plans or subdivision plats containing residential units, but that it is impractical to locate such land on the site plan or subdivision plat, it is in the best interests of the residents of the City that the applicant contribute a recreation fee in the amount set forth in the Consolidated Fee Schedule maintained by the office of the City Clerk. The Common Council further determines that the provisions of this section are consistent with Sections 27-a and 33 of the General City Law.

§ 275-16 Fee established.

A.

In the event the Planning Commission determines pursuant to § [575-56G](#) or [510-17A](#) of the City Code that a payment of a fee to the City in lieu of land for parkland or recreational purposes is required, the fee shall be in the amount as set forth in the Consolidated Fee Schedule maintained by the office of the City Clerk.

B.

All funds collected pursuant to this section shall be deposited into a trust fund to be used by the City exclusively for park or other recreational purposes, including the acquisition of property.

§ 275-17 through § 275-18. (Reserved)