

**Policy Guidelines for Consideration of: Land Use Changes,
Inter-Departmental Relinquishments of Custody, and Declaration of Surplus Parks and
Recreation Commission Lands***

1. The Parks and Recreation Commission supports the long term preservation of open space in the City of Newton for the benefit of current and future generations of Newton citizens. Open space used for park, recreation and playground purposes should be diverted to other uses only as a last resort after all other reasonable options have been found deficient.
 - a) In considering the transfer of land for a proposed new use, the Commission will analyze the short and long-term need for the new use in balance with the public trust served by the existing public open space use.
 - b) The Commission will insure that the intrinsic long-term public values of park and playground open space are weighed explicitly and substantially in the balance and are not overridden by the expediency that publicly owned park and playground open space does not require purchase or eminent domain. The consideration of intrinsic public values will include an estimation of the costs necessary to provide equivalents to the existing park and playground open space. The fact that using park, recreation or playground open space for a new use would be less expensive is not by itself sufficient to warrant the transfer of the land or to reject another potential alternative.
 - c) The Commission will not divert park and playground open space to other uses unless there has been a compelling showing that there is no feasible and prudent alternative, including both publicly and privately owned potential sites, as well as potential sites that are not currently in open space use.
2. In assessing the balance between the proposed and existing uses, the following questions will be addressed by the Commission in considering any request for transferring land or declaring it surplus:
 - a) What will be the impact of the loss of an open space parcel on the total publicly owned open space in the city?
 - b) What will be the impact on the distribution of publicly owned open space throughout the city?
 - c) What will be the impact on the city regarding the existing specific uses of the parcel? What is the level of use? Can these uses be diverted to other available sites, and are these sites in reasonable proximity, or will new sites need to be found?
 - d) What will be the costs of these alternatives?
 - e) Does the parcel possess unique features that cannot be duplicated at other sites?
 - f) What will be the impact of the loss of the open space on the adjacent abutters and surrounding neighborhood?
 - g) Are there legal constraints arising from: bequests, the use of federal or state funds to acquire or improve the land, or other restrictions placed when the land was transferred to public ownership by the city or from another city department to Parks & Recreation?
 - h) What compensatory open space is being offered for the land? If other compensation (funds, facilities, substitute services) are to be provided, are they a full and sufficient replacement?
3. The Commission recognizes that other issues may arise with regard to the transfer of land and will give them due consideration.

* In accord with MGL ch. 40 §15A Transfer of land procedure.

MGL 40 § 15. Conveyance of Land or Abandonment of Easements; Procedures.

If any officer of a city or town having charge of any land, easement or right taken for such city or town, otherwise than by purchase, notifies the city council or the selectmen that, in his opinion, such land, easement or right, or part thereof, is no longer required for public purposes, and if thereafter the city council or the inhabitants of the town by a two thirds vote authorize the conveyance of such land, or of part thereof, or the abandonment of such easement or right, or part thereof, and specify the minimum amount to be paid for such conveyance or abandonment, the mayor or the selectmen may, for such amount or a larger amount, and upon such other terms as the mayor or selectmen shall consider proper, convey said land, or part thereof, by deed, or declare said easement or right, or part thereof, to be abandoned. Such declaration, being recorded in the registry of deeds for the district where the land is situated, shall extinguish the easement or right, or part thereof.

No land heretofore or hereafter acquired by eminent domain by one city or town within the limits of another city or town shall be conveyed under this section unless the mayor or selectmen authorized to convey such land offer to convey such land to the city or town wherein such land lies for the minimum amount specified as aforesaid, nor unless such offer is not accepted within six months after notice thereof is given to the mayor or selectmen of the city or town wherein such land lies by the mayor or selectmen authorized to convey, nor unless such conveyance is made within three months after the expiration of said six months. Land so offered to a city or town wherein it lies may be purchased by such city or town whether or not needed for the municipal purposes of such city or town, and, if so purchased and if such land is not needed for municipal purposes, it shall be disposed of as such city or town shall determine.



MGL 40 §15A. Transfer of land; procedure.

Whenever a board or officer having charge of land, including land acquired for playground purposes pursuant to the provisions of section fourteen of chapter forty-five, but excluding land acquired for park purposes, constituting the whole or any part of an estate held by a city or town within its limits for a specific purpose shall determine that such land is no longer needed for such purpose, whether such land was acquired before or after the effective date of this section and whether acquired by eminent domain, purchase, gift, devise or

otherwise, such board or officer shall forthwith give notice of such determination to the city council of any city or the board of selectmen of the town. At any time after the receipt of such notice, the city council of the city by a two thirds vote of all its members, in the case of a city having a city manager, with the approval of said city manager, and in the case of other cities, with the approval of the mayor, or the town by a two thirds vote at a regular or special town meeting, may transfer the care, custody, management and control of such land to the same or another board or officer of the city or town for another specific municipal purpose, any provision of general or special law to the contrary notwithstanding; provided, that no such transfer shall be valid if it is in violation of any term or condition of the title of the city or town to such land.

In any city or town which accepts the provisions of this paragraph, when land is being transferred for the purpose of constructing low and moderate income housing, the vote required of the city council or the town meeting shall be by a majority vote.