

## **07 NCAC 13K .0109 SITE CONTROL AND RESTRICTION**

(a) Land acquired with PARTF assistance shall be restricted in perpetuity for local park and recreation purposes for the use and benefit of the general public. The restriction shall be recorded in the public property records by the grantee.

(b) The site of a PARTF project for development shall be controlled, such as through fee simple ownership or long-term lease, by the grantee by the closing date of the application submission period. Any lease agreement shall extend for a minimum of 25 years unless the property is the subject of a federal, State, or local leasing arrangement that provides assurance that 25 years of public recreational use will be maintained.

(c) Grantees shall assure that PARTF-assisted development facilities are maintained and managed for public recreation use for a minimum period of 25 years after the completion date set forth in the grant agreement.

(d) PARTF-assisted land and facilities shall not be converted to uses that are other than public recreation without approval by the Department, in the following manner:

- (1) A grant recipient shall request approval from the Department before any conversion occurs.
- (2) The grant recipient shall receive public comments for a period of 30 days regarding the proposed conversion and address comments received prior to forwarding a conversion request to the Department.
- (3) The Department shall deny the request if approval would impede access to or result in a net loss of recreational opportunities for the surrounding community.
- (4) All conversions shall be mitigated with measures determined by the Department and the grant recipient and approved by the Department with advice from the Parks and Recreation Authority.
- (5) The primary mitigation measure for a conversion is to have the grantee replace, at its own expense, land acquired with PARTF assistance with land of equal current fair market value and recreational usefulness. Recreational usefulness shall be determined by public recreational need in the surrounding community by the grantee, with approval by the Department. Facilities built with PARTF assistance shall be replaced with facilities of equal current replacement value, and recreational usefulness. Replacement areas shall also:
  - (A) be within the grantee's jurisdictional boundaries;
  - (B) provide or be part of a recreation area; and
  - (C) be consistent with all application requirements for a new PARTF application.
- (6) Replacement property and facilities shall be encumbered by the same obligations as specified in the project agreement and rules of this Section for the converted property or facility.
- (7) If the Department determines that the local government cannot replace the land or facilities, the Department may mitigate the conversion by the grantee repaying PARTF with funds equal to the current value of the land or facilities.
- (8) The Department shall include provisions on conversions in all grant agreements.

(e) If PARTF-assisted facilities are built on public school property, the applicant(s) shall submit an agreement with the application describing that the facilities will be available to the general public during non-school hours. Projects on land owned by a school shall have sign(s) installed informing the public that the facilities are open to the general public. These signs shall also state the times when the facilities are reserved exclusively for school use.

(f) Failure by the grantee(s) to comply with the rules of this Section or the project agreement may result, in addition to any other legal remedies, in the Authority declaring the grantee(s) ineligible for further participation in the PARTF until such time as compliance has been obtained.

*History Note: Authority G.S. 143B-135.56;  
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