

(b) The nonprofit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the Green Acres grant.

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(c) The nonprofit shall maintain separate records for each project including the amount, receipt, and disposition of all funding received for the project, including Green Acres loans and grants, contributions, gifts, or donations from any other sources.

(d) The nonprofit shall provide a duly authorized representative of the Department access to all records, books, documents, and papers pertaining to the project agreement and/or the approved project for audit, examination, excerpt, and transcript purposes. Such records shall be maintained and access shall be provided during performance of the project and for three years after the latter date of either final payment or audit resolution. The nonprofit shall include this requirement in all project-related contracts.

(e) The nonprofit shall conduct annual audits and submit audit reports in conformance with the Single Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156, Federal OMB Circular A-133: "Audits of Nonprofit Organizations," incorporated herein by reference, and State OMB Circular 98-07: "Single Audit Policy," incorporated herein by reference.

1. Audit reports shall address nonprofit's compliance and all specific instances of noncompliance with the material terms and conditions of the project agreement and applicable laws and regulations.

2. Audit reports shall contain an itemized schedule of all project-related financial assistance received by the nonprofit identifying: grantor agency, program title, State account number, and total disbursement.

(f) The Department shall adjust the nonprofit's final payment, if necessary, based on the results of the annual audit reports.

**SUBCHAPTER 20. REQUIREMENTS FOR
MAINTENANCE, USE, DEVELOPMENT,
AND DISPOSAL OR DIVERSION OF
FUNDED AND UNFUNDED PARKLAND;
ADJUDICATORY HEARING REQUESTS**

**7:36-20.1 Maintenance requirements for funded parkland;
compliance inspection**

(a) Each local unit or nonprofit is responsible for the satisfactory care, maintenance, and operation of funded parkland. Each local unit or nonprofit shall maintain and preserve funded parkland in a condition which is equal to or better than the condition of the land at the time it was acquired or developed.

(b) Each local unit shall maintain any development constructed with Green Acres funding in reasonable repair in

order to ensure its continuous use for the purpose for which it was constructed.

(c) Green Acres shall inspect funded parkland every three years to ensure compliance with the terms of the project agreement, this chapter, and the Green Acres laws.

1. Green Acres shall notify the local unit or nonprofit in advance of the date of the inspection.

2. The inspection shall include maintenance; integrity of parkland boundaries; presence of a Green Acres sign; diversion, if any, from outdoor recreation or conservation uses; compliance with the parkland use requirements of this subchapter; and such other aspects of the parkland necessary to determine compliance with the project agreement, this chapter, and the Green Acres laws.

3. Green Acres shall send an inspection summary to the local unit or nonprofit within 30 days after the date of the inspection. The summary shall include the status of compliance with the project agreement, this chapter, and the Green Acres laws, as well as the actions that the local unit or nonprofit must take in order to correct any instance of noncompliance.

**7:36-20.2 Disposal or diversion of funded parkland and
unfunded parkland**

(a) A local unit shall not dispose of any funded or unfunded parkland unless the local unit obtains prior approval from the Commissioner and the State House Commission in accordance with N.J.A.C. 7:36-21, except when the transferee is a local unit, the State, or the Federal government. If the parkland is transferred to a local unit, the State, or the Federal government, however, the Green Acres restrictions on the parkland shall continue to apply, and the document by which the parkland is transferred shall specify this.

(b) A local unit shall not divert to a use for other than recreation and conservation purposes any funded or unfunded parkland unless the local unit obtains prior approval from the Commissioner and the State House Commission in accordance with N.J.A.C. 7:36-21.

(c) A nonprofit shall not divert to a use for other than recreation and conservation purposes, any funded parkland unless the nonprofit obtains prior approval from the Commissioner and the State House Commission in accordance with N.J.A.C. 7:36-21.

(d) If a nonprofit sells, leases, exchanges, or donates any interest in funded parkland in accordance with the conditions described at N.J.A.C. 7:36-19.1(a)3ii, the nonprofit shall pay to the Treasurer of the State 50 percent of the net proceeds to the nonprofit of the conveyance or transfer. For the purposes of this subsection, "net proceeds" means the amount of compensation received by the nonprofit in excess of any unreimbursed costs. This reimbursement provision shall be included in the perpetual conservation

restriction or historic preservation restriction that the non-profit executes under N.J.A.C. 7:36-19.1(a)3iii.

(e) As examples, uses that may constitute the diversion of funded or unfunded parkland from recreation and conservation purposes include: bridges; through roads or other transportation improvements; rights-of-way; public or private utility easements; municipal buildings, libraries, schools, and fire, police, or emergency services facilities; housing; well houses or water towers; solid waste facilities; private recreation and conservation facilities; wetlands creation or buffer areas required by other laws, regulations, codes, or ordinances in connection with non-parkland uses; dredge spoils, except those used as part of a development as defined in these rules; sewage sludge disposal; pump stations; surface and subsurface non-recreational easements; stormwater management facilities such as detention, retention, or sedimentation basins and outfall structures to manage stormwater generated off-site; and flood control facilities such as levees, berms, flood walls, channel construction, and ponding areas unless the facilities will not have any negative effect on the natural resource or recreational value of the parkland.

(f) A regional flood control project that is part of a regional flood control plan and that will, as a significant design element and purpose of the project, create or enhance a permanent water body suitable for water-dependent public outdoor recreation does not constitute a diversion of funded or unfunded parkland from recreation and conservation purposes, provided the project does not have any significant adverse impact on the natural resource or recreational value of the affected funded or unfunded parkland.

7:36-20.3 Amendment of Recreation and Open Space Inventory (ROSI)

(a) A local unit that believes its Recreation and Open Space Inventory (ROSI) does not accurately reflect those lands held for recreation and conservation purposes at the time of the local unit's receipt of Green Acres funds shall submit a written request to Green Acres to amend the ROSI by either adding or deleting a parcel(s), by correcting the area of a parcel(s), or by correcting the block and lot identification of a parcel(s) in order to accurately describe the lands held for recreation and conservation purposes.

(b) If Green Acres determines that a request to add a parcel or to correct the area of or the block and lot identification of a parcel is appropriate, it shall send the local unit a confirmation letter. The local unit shall amend the ROSI and have the amended ROSI recorded with the county clerk or registrar as an amendment to the recorded project agreement or the declaration, as applicable, and return it to Green Acres.

(c) Green Acres shall consider the following factors, as applicable, in determining to approve or deny a request to delete a parcel from a ROSI:

1. The purpose for and the method by which the local unit acquired the parcel;
2. Whether the local unit took any formal action to dedicate the parcel for recreation or conservation purposes;
3. Any evidence relevant to the local unit's intentions regarding the use of the parcel at the time of acquisition and of receipt of Green Acres funds;
4. Whether the parcel is identified with a recreation or conservation designation on the official map of the municipality or its zoning map, or in the local unit's master plan; and
5. Whether the local unit expended funds to provide recreation or conservation use of the parcel or otherwise supported or encouraged such use.

(d) If Green Acres determines that there is sufficient public interest in a requested deletion of a parcel from a ROSI, then the local unit shall hold a public hearing regarding the requested deletion. The local unit shall publish notice of this public hearing as follows:

1. At least 15 days prior to the hearing, as a legal notice in the official newspaper of the municipality in which the parkland is located and, if the local unit is a county, in a local newspaper of general interest and circulation; and
2. At least seven days prior to the hearing, as an advertisement in the official newspaper of the municipality in which the parkland is located and, if the local unit is a county, in a local newspaper of general interest and circulation.

(e) If Green Acres approves a request to delete a parcel from a ROSI, it shall send the local unit a confirmation letter. The local unit shall amend the ROSI and send it to Green Acres. Green Acres shall then either:

1. Execute, with the local unit, an amendment to the project agreement or the declaration containing the amended ROSI, which the local unit shall have recorded with the county clerk or registrar and returned to Green Acres; or
2. Send to the local unit a release, which the local unit shall have recorded with the county clerk or registrar and returned to Green Acres.

(f) If Green Acres denies a request to delete a parcel from a ROSI, it shall notify the local unit in writing.

(g) If Green Acres has reason to believe that a parcel of land was held by a local unit for recreation and conservation purposes at the time of receipt of Green Acres funds and so should be listed on the local unit's ROSI, the process for amending the local unit's ROSI is as follows:

1. Green Acres shall send the local unit a letter identifying the parcel that should be listed on the ROSI and stating the basis for its belief that the parcel was held by the local unit for recreation and conservation purposes at the time of receipt of Green Acres funds.

2. If the local unit agrees that the parcel should be listed on its ROSI, the local unit shall promptly amend the ROSI in accordance with the procedure at (e) above.

3. If the local unit disagrees, it shall within 30 days submit to Green Acres documentation supporting its assertion that the land was not held for recreation and conservation purposes at the time of receipt of Green Acres funds.

4. Based on the documentation submitted and the factors described at (c) above, Green Acres shall within 30 days notify the local unit in writing of its determination that the parcel was or was not held for recreation and conservation purposes at the time of receipt of Green Acres funds.

(h) The local unit may request an adjudicatory hearing under N.J.A.C. 7:36-20.12 to contest the denial under (f) above of a request to delete a parcel from its ROSI or to contest the determination under (g) above that a parcel was held for recreation and conservation purposes at the time of receipt of Green Acres funds.

7:36-20.4 Development of parkland acquired as a grant incentive project

(a) A local unit may develop parkland acquired as a grant incentive project for the preservation of environmentally significant areas under N.J.A.C. 7:36-5.1(b)1, as follows:

1. If the proposed development meets the special conditions in the project agreement under N.J.A.C. 7:36-9.1(a) and consists of de minimis development (for example, the installation of unpaved paths, trails, boardwalks; or minor landscaping) that supports the use of the parkland for public outdoor recreation and conservation purposes and that will have no significant adverse impact on the natural resource values of the parkland, the local unit need not obtain prior approval from Green Acres.

2. If the proposed development meets the special conditions in the project agreement under N.J.A.C. 7:36-9.1(a) and consists of development, other than de minimis development, that supports the use of the parkland for public outdoor recreation and conservation purposes and that will have no significant adverse impact on the natural resource values of the parkland, the local unit shall:

i. If the proposed development is to be located in the area or areas delineated on the project reference map as areas in which development for recreation and conservation purposes is not expected to adversely impact the natural resource values of the parkland, obtain prior approval in accordance with (c) and (e) below; or

ii. If the proposed development is to be located in the area or areas delineated on the project reference map as areas in which development for recreation and conservation purposes is expected to adversely impact the natural resource values of the project, obtain prior approval in accordance with (d) and (e) below.

(b) A local unit may develop parkland acquired as a grant incentive project for the protection of cultural, historic, or archaeological resources under N.J.A.C. 7:36-5.1(b)2 only if the proposed development meets the special conditions in the project agreement under N.J.A.C. 7:36-9.1(a) and the local unit obtains prior approval from Green Acres in accordance with (d) and (e) below.

(c) A local unit seeking to develop parkland under (a)2i above shall submit to Green Acres a written request and the following items:

1. A site map, showing the location of the proposed development;
2. A narrative description of the proposed development; and
3. A narrative description of the impacts that the proposed development is likely to have on environmental resources.

(d) A local unit seeking to develop parkland under (a)2ii or (b) above shall:

1. Before submitting to Green Acres the written request and information required under (d)3 below, conduct a public hearing in the municipality in which the parkland is located to provide interested parties the opportunity to comment concerning the proposed development;
2. Provide notice of the public hearing regarding the proposed development as follows:

i. The local unit shall publish a notice of the public hearing in the official newspaper of the municipality in which the parkland is located and, if the local unit is a county, also in a newspaper of general interest and circulation, as a legal notice at least 15 days before the public hearing, and again in the same newspapers as a paid advertisement at least seven days before the hearing; and

ii. The local unit shall send a notice of the public hearing by certified mail to the governing body, the local planning board, and the environmental commission of the municipality in which the parkland is located, and to all owners of real property located within 200 feet of the location of actual construction on the proposed development site. If the parkland is county-owned parkland, the local unit shall, in addition, send a notice by certified mail to the county board of chosen freeholders, the county planning board, and the county environmental commission, if any; and

3. Submit to Green Acres a written request and the following items:

- i. A copy of the transcript or minutes of the public hearing held under (d)1 above;
- ii. A site map, showing the location of the proposed development;
- iii. A narrative description of the proposed development;
- iv. A copy of each of the notices of the public hearing required under (d)1 above; and
- v. A narrative description of the impacts that the proposed development is likely to have on environmental or historical resources, as appropriate.

(e) Within 45 days of its receipt of a request for approval of a proposed development under (a)2 or (b) above, Green Acres shall notify the local unit in writing of its approval or denial. Green Acres shall approve a request for approval under (a)2 or (b) above if the information submitted by the local unit in support of its request demonstrates that the proposed development will not have a significant adverse impact on the historical or natural resource values, as applicable, of the project site and the project, assuming the development were completed, would nonetheless have been assigned points sufficient to qualify as a grant incentive project under N.J.A.C. 7:36-5.1(b).

7:36-20.5 Construction of buildings on funded or unfunded parkland

(a) A local unit or nonprofit shall not construct a building on funded parkland unless the building directly supports the use of the funded parkland for recreation and conservation purposes and the local unit or nonprofit obtains prior approval from Green Acres in accordance with (c) below. Buildings that are considered to directly support the use of parkland for recreation and conservation purposes and that may be constructed under this section include, for example, park equipment storage areas, restrooms, concession stands, locker rooms, interpretive centers, park administration offices, and maintenance facilities for the parkland.

(b) A local unit shall not construct a building on unfunded parkland, unless the building is used for public outdoor or indoor recreation and the local unit obtains prior approval from Green Acres under (c) below.

(c) A local unit or nonprofit seeking approval of the proposed construction of a building on funded or unfunded parkland shall, at least 90 days before it intends to start construction, submit to Green Acres a written request, a narrative description, a site map, and a drawing of the building (with interior dimensions and uses labeled).

1. Green Acres shall notify the local unit or nonprofit in writing of its approval or denial within 30 days of its receipt of the request.

(d) The local unit or nonprofit may use any building constructed on funded parkland under this section for public indoor recreational activities, such as a multipurpose room for arts and crafts, or games, or a kitchen, provided the primary use of the building directly supports the use of the funded parkland for public outdoor recreation and conservation purposes. This use of the building for public indoor recreational activities shall take up no more than 25 percent of the square footage of the building.

7:36-20.6 Fees

(a) A local unit or nonprofit may establish a fee schedule for the use of funded parkland or for the use of individual facilities on funded parkland.

(b) Fees shall not be so excessive as to discourage reasonable public access.

(c) Fees may be established in the following categories:

1. Yearly, seasonal, monthly, weekly, daily, or hourly. However, if the local unit or nonprofit establishes seasonal and/or yearly fees, it shall also establish daily use fees.
2. Individual, group, or family;
3. Local unit resident or non-resident. However, the fee charged to a non-resident who lives in the State shall not be greater than two times the fee charged to a local unit resident; and
4. Handicapped, senior citizen, or student.

(d) A local unit or nonprofit shall use any fees it collects for the use of funded parkland or a facility on funded parkland for operating, maintenance, or capital expenses related to its funded parklands or to its recreation program as a whole. A local unit shall establish a trust account for this purpose, if permitted by law.

(e) Green Acres reserves the right to request that an audit be conducted and an audit report submitted in conformance with the Single Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156, Federal OMB Circular A-133: "Audits of State and Local Governments," incorporated herein by reference, and State OMB Circular 98-07: "Single Audit Policy," incorporated herein by reference, showing the use of collected fees.

(f) A local unit or nonprofit shall submit to Green Acres the initial fee schedule established for each parkland or facility as well as each subsequent revision of each fee schedule. With each fee schedule submitted, the local unit or nonprofit shall also submit a certification, by the clerk of the local unit or the chief executive officer of the nonprofit, respectively, that the fee schedule complies with this section. Green Acres reserves the right to request additional information and justification for a fee that appears to be excessive when compared with fees charged at similar facilities.

7:36-20.7 Public access to and use of funded parkland

(a) A local unit or nonprofit shall ensure that funded parkland is open to all New Jersey residents.