



Payments in Lieu of Open Space

Legality

Are Payments in Lieu of Open Space Legal?

Legality- In 1990 the Connecticut Legislature adopted Public Act 90-239 which amended the General Statutes to specifically allow municipalities to collect payments in lieu of open space.

Connecticut General Statutes Section 8-25 Subdivision of Land states :

. Such regulations may, with the approval of the commission, authorize the applicant to pay a fee to the municipality or pay a fee to the municipality and transfer land to the municipality in lieu of any requirement to provide open spaces. Such payment or combination of payment and the fair market value of land transferred shall be equal to not more than ten per cent of the fair market value of the land to be subdivided prior to the approval of the subdivision. The fair market value shall be determined by an appraiser jointly selected by the commission and the applicant. A fraction of such payment the numerator of which is one and the denominator of which is the number of approved parcels in the subdivision shall be made at the time of the sale of each approved parcel of land in the subdivision and placed in a fund in accordance with the provisions of section 8-25b. The open space requirements of this section shall not apply if the transfer of all land in a subdivision of less than five parcels is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration, or if the subdivision is to contain affordable housing, as defined in section 8-39a, equal to twenty per cent or more of the total housing to be constructed in such subdivision.



Middletown Regulations



In 1992 the Middletown Planning and Zoning Commission adopted new Subdivision Regulations.

Understanding that payments in lieu of open space were authorized but not widely tested the Commission reserved a spot for payments in lieu of:

Section 5.17.04 reads “ Reserved for Payments in Lieu of Open Space”

Options Available

Currently the only option available is require open space or not require open space. There have been many cases where the Commission has not required open space.

Adopting this amendment simply gives the Commission more options when considering open space in subdivisions:

- 1.) Require a percentage of the land to be dedicated as open space;
- 2.) Require a payment equal to 10 % of the appraised value prior to subdivision approval;
- 3.) Require a combination of open space dedication and a cash payment.

All payments will be deposited into an account dedicated to the purchase of open space.



Road Widths

It is well accepted in Connecticut that most municipalities require roads that are too wide for their surroundings.

Wide roads

- Unnecessarily increases the amount of impervious area;
- Decreases infiltration into the groundwater which cleanses the runoff;
- Directly injects urban pollutants, oils, gas, litter, pet waste directly into nearby water bodies;
- Requires elaborate drainage systems, including large detention ponds;
- Are out of character with their surroundings
- Unnecessarily increases public maintenance costs for snow plowing and repaving.





Current Requirement

In Middletown we require new residential, low traffic roads to be:

30 feet in the RPZ and R-15 zones, and

28 feet in R-30, R45, and R60.

Existing Roads

Ironically most existing roads, which serve as the collector roads, are between 18-24 feet in width.

For instance;

Atkins St. – 18 – 20 feet

Ballfall – 20 feet

East St. 22 feet

Margarite Rd. – 18 feet

Arbutus – 18 – 20 feet

Maromas – 18 – 20 feet

Bear Hill – 18 feet

Solution to the Road Width Problem



We need to have road standards which:

- Avoid disturbing natural drainage patterns
- Allow pavement width according to the surroundings; and
- Incorporate alternate storm water management techniques

Proposed New Road Widths

Amend regulations

Rural Roads - 22 feet

Cul-de-Sacs - 22 ft.

Equally important we are proposing new drainage requirements. The new requirements would allow for an open drainage system in our more rural parts of town, the R-30, R-45 and R-60 zones. Features of the new system would include a crowned road with no curbs and an open drainage swale on each side.

This new system will eliminate the need for catch basins, extensive piping, elaborate outlets and reduce the size and number of detention ponds. It could eliminate the need for a detention pond.

These amendments address all of the problems we find with roads that are too wide.





These amendments :

- Reduce the amount of impervious area;
- Increase infiltration into the groundwater which cleanses the runoff;
- Require urban pollutants, oils, gas, litter, pet waste to be filtered through the grass and soil before reaching nearby water bodies;
- Require a relatively simple drainage systems,
- Eliminates the reliance on unsightly detention ponds with standing water and mosquito concerns;
- Match the surrounding rural character of Middletown;
- Greatly reduce maintenance costs which saves taxpayers money.





Fire suppression in Rural Areas

- The Fire Department needs 15 – 20,000 gallons of water to fight a house fire;
- They bring an average of 2,000 gallons in a tanker;
- If the Commission requires a 20,000 gallon underground water tank, there is an immediate and sufficient within initial response time.



**Our research has shown that many communities are requiring fire tanks;
Some include Newtown, Woodbury, Marlobough, Ridgefield, Andover
and Hebron**

We have drafted the proposed language by taking what we and the Fire
Departments felt were the best

Time to Plan



Time to Plan - no one knows better than each of you that the Commission is overwhelmed with applications. This is true despite the fact that you meet twice a month. Most P&Z Commissions meet only once a month. The number of applications, the volume of the materials submitted with the applications, the length of the public hearings, the statutory time frames to make decisions and the legal and engineering complexities inherent in the applications simply prevents the Commission from undertaking thorough and meaningful reviews.

With all these applications, the Commission simply does not have the time or the energy to deal with adopting a new Plan of Conservation and Development, reviewing its own regulations and making necessary changes.

Insert moritorium language

