



Parks and Recreation Master Plan

Town of Amenia, New York

"Play is the
highest form of
research."

- Albert Einstein

Town of Amenia Plan of Development Goals

- Enhance the downtown centers located at Amenia and Wassaic into walkable mixed-use communities with expanded recreational opportunities
- Create opportunities for the development of affordable and workforce housing in these centers to provide opportunities to diversify the population demographic
- Expand and enhance open space and greenways to connect open space to maintain the town's rural character
- Protect the town's natural and agricultural resources
- Celebrate the history of the community

Amenia Parks and Recreation Master Plan Timeline

Milestone 1 Investigation Phase

- Collect data and maps for Wassaic Park and Amenia Town Green
- Site Inventory
- Reviewed regulations and codes
- Coordination with Recreation Commission

Milestone 2 Analysis Phase

- Develop program of elements for each property
- Analyze each property for efficacy of program elements
- Develop functional diagrams for each property
- Coordination with Recreation Commission
- Presentation of Amenia Town Green to public

Milestone 3 Design Phase

- Expand master plan to include additional sites in Wassaic owned by Wassaic Project and NYDEC
- Develop program of elements for additional sites
- Analyze each site for efficacy of program elements
- Develop functional diagrams for each site
- Coordination and presentation to Recreation Commission, Wassaic Project and NYDEC

Milestone 4 Final Master Plan

- Develop master plan for 5 sites
- Develop budgets for grants
- Develop phasing for each site
- Coordination with Recreation Commission, Wassaic Project and NYDEC
- Presentation to public
- Provide digital copy of plan to town

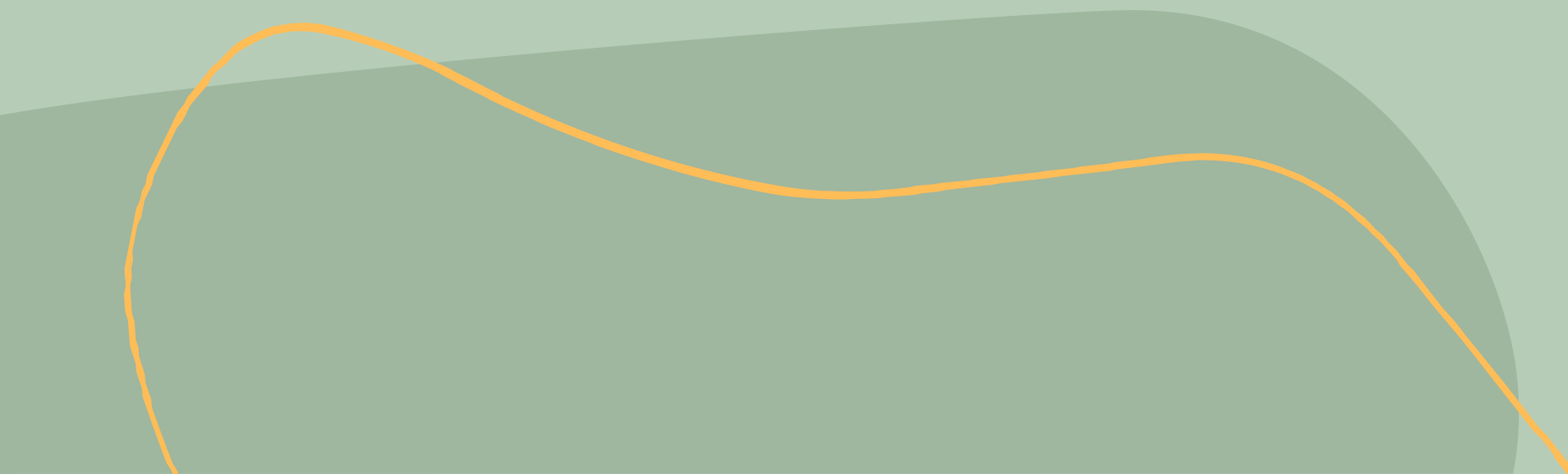
Amenia Parks and Recreation Master Plan Presentation

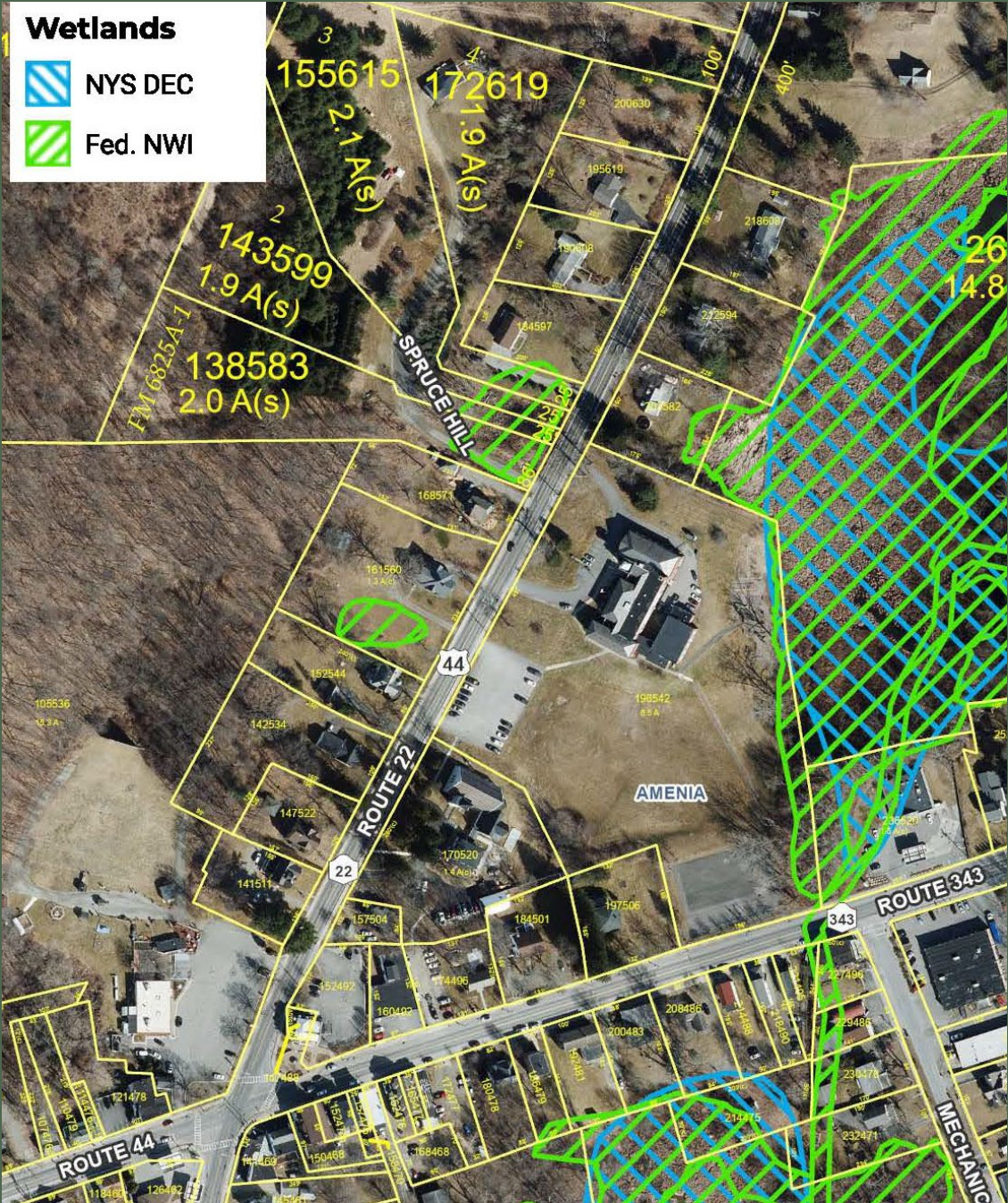
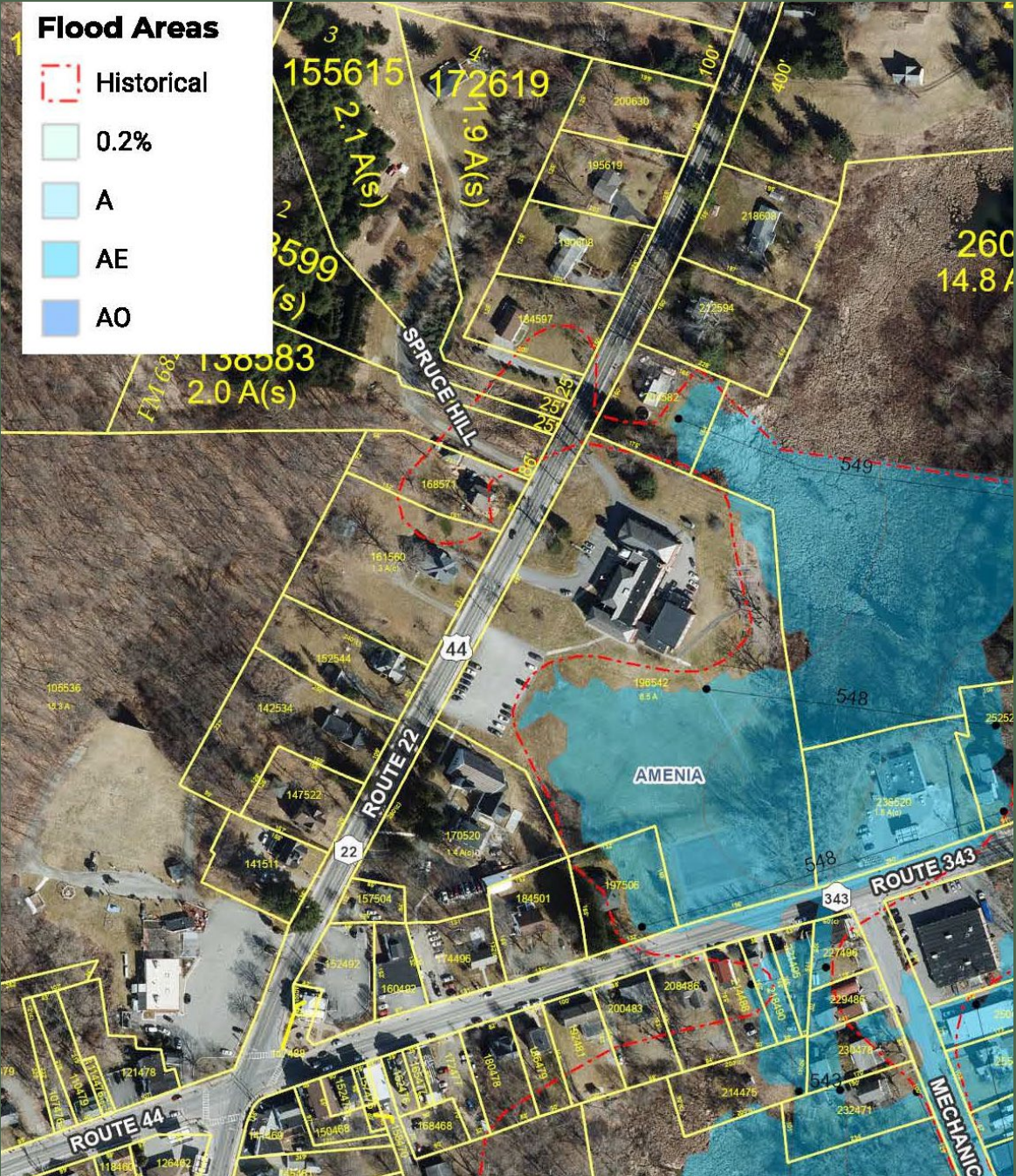
Amenia Town Green

Wassaic Park with
trails extending into
NYDEC property

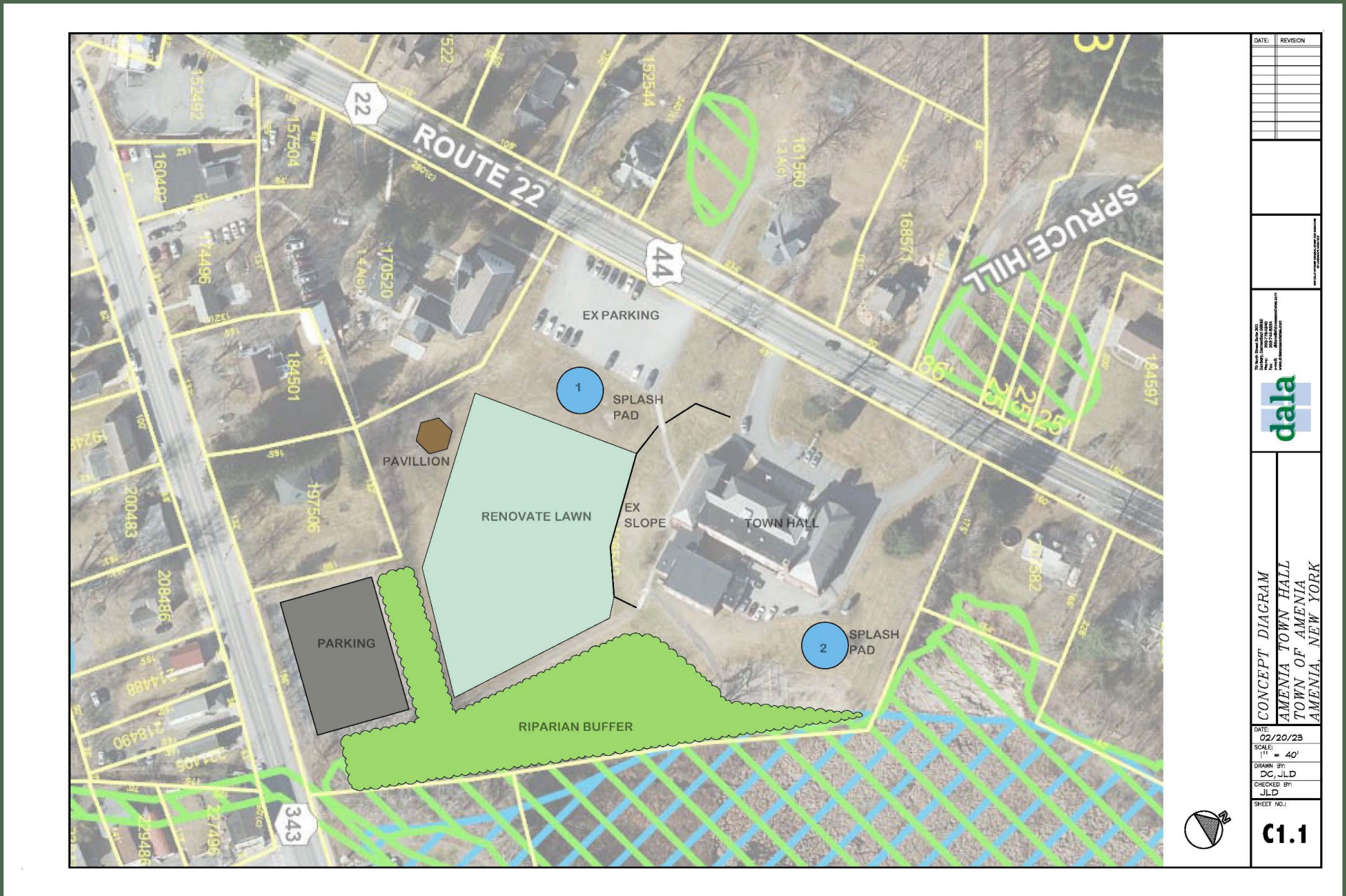
Wassaic Play Area

Wassaic Pump Track and
Skate Park





**Amenia Town Green
Existing Conditions**



Amenia Town Green Program/Inspiration

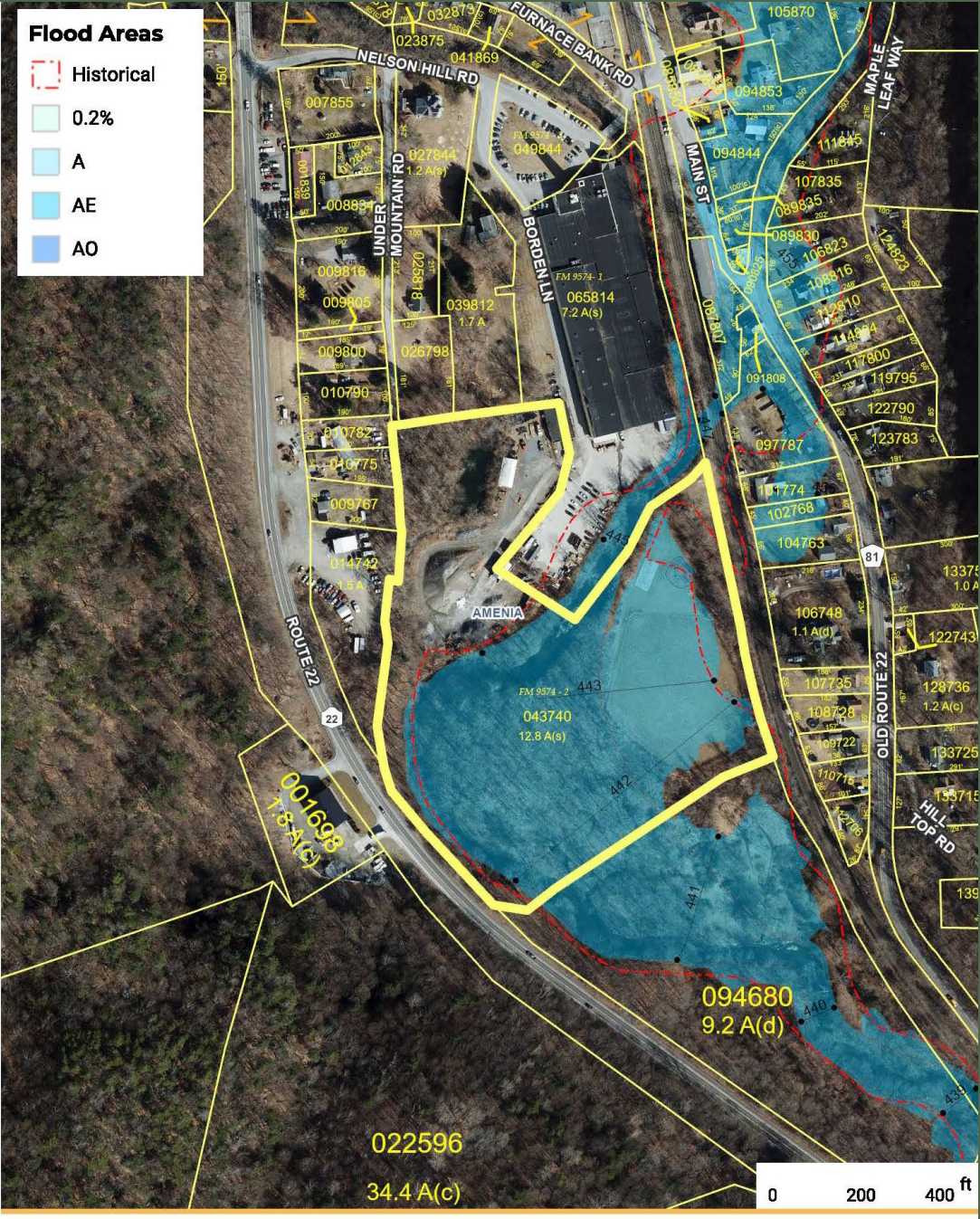


The conceptual framework for the **Amenia Town Green** Master plan is to create a destination gathering place for every member of the community, whether it's a daily walker enjoying the natural setting, a parent and child enjoying an outing at the play area or splash pad, a group of friends enjoying a game of basketball, a gathering of the community members and visitors enjoying a concert, an art show, a farmers' market. The Amenia Town Green is meant to become the heart of the community.

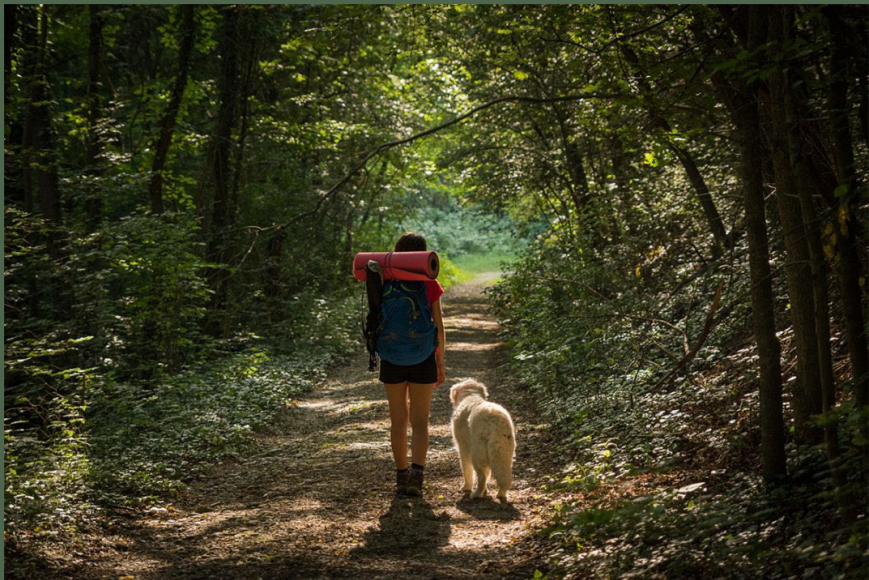
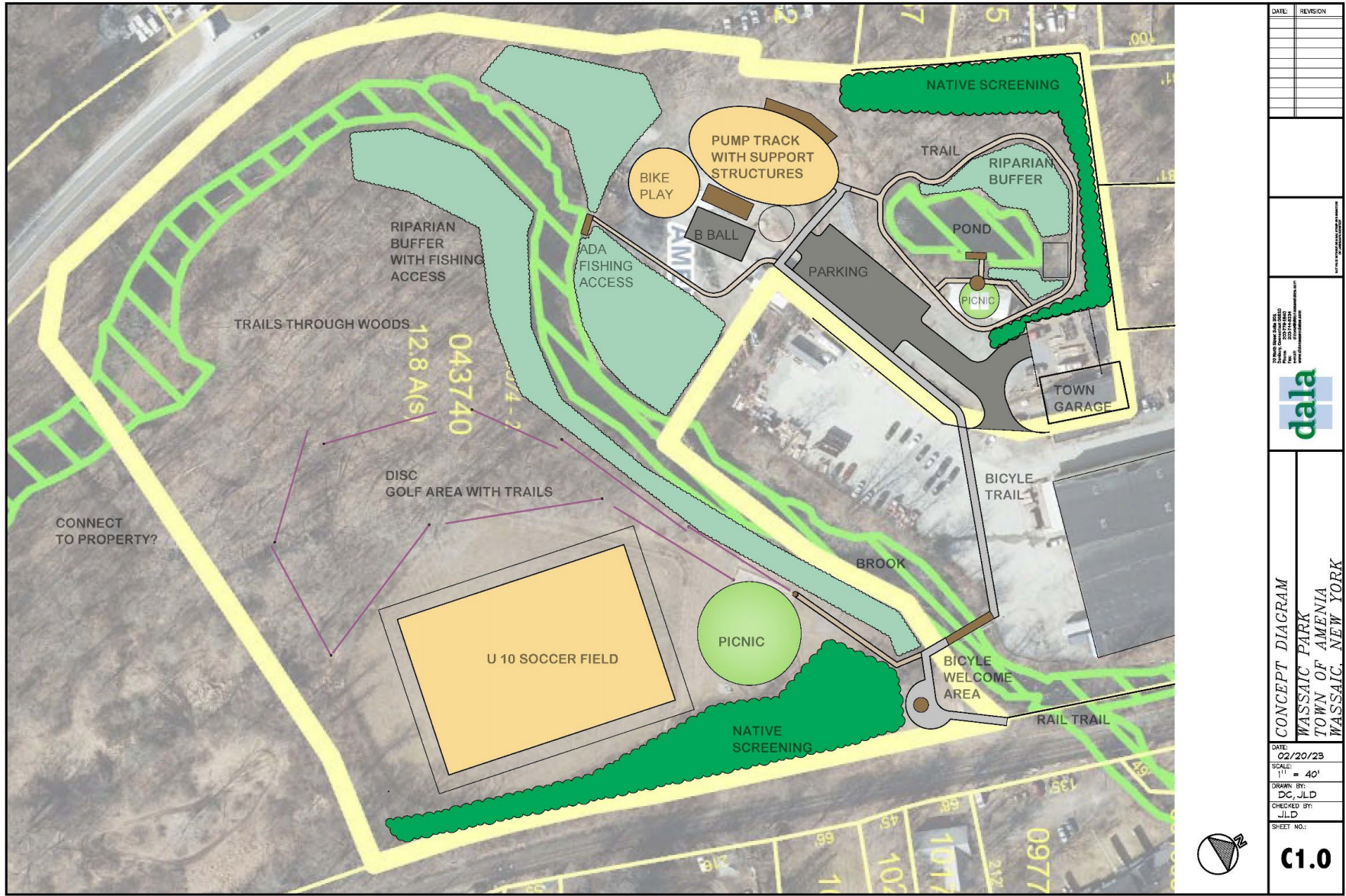
The proposed elements are:

- A renovated lawn area with eco turf that reduces need for fertilization and watering
- Green infrastructure that provides a natural backdrop to the green while also providing water quality enhancements
- A permeable pathway that provides many routes including an accessible route to access the green
- A pavilion that anchors the green for events and concerts
- Expanded parking areas for convenient parking and overflow for events
- Pollinator plants with educational signs that enhance the landscape at the play area and rain garden
- Native plants that provide diverse habitat and a natural screen
- Benches in strategic places for congregation or solitary reflection
- Shade structure and bathroom structures that provide daily comfort and opportunities for parties and events

Amenia Town Green Master Plan



**Wassaic Park
Existing Conditions**



Wassaic Park Program/Inspiration

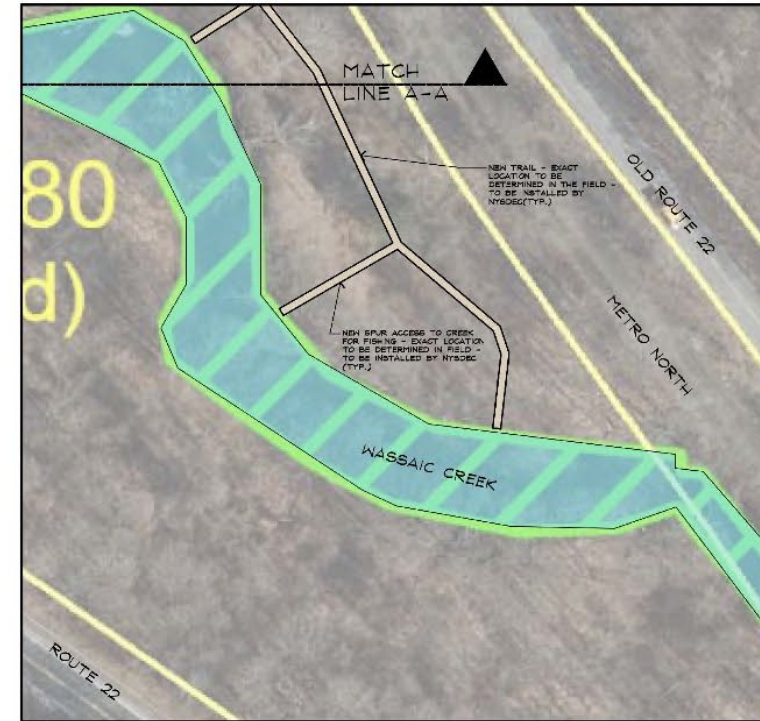
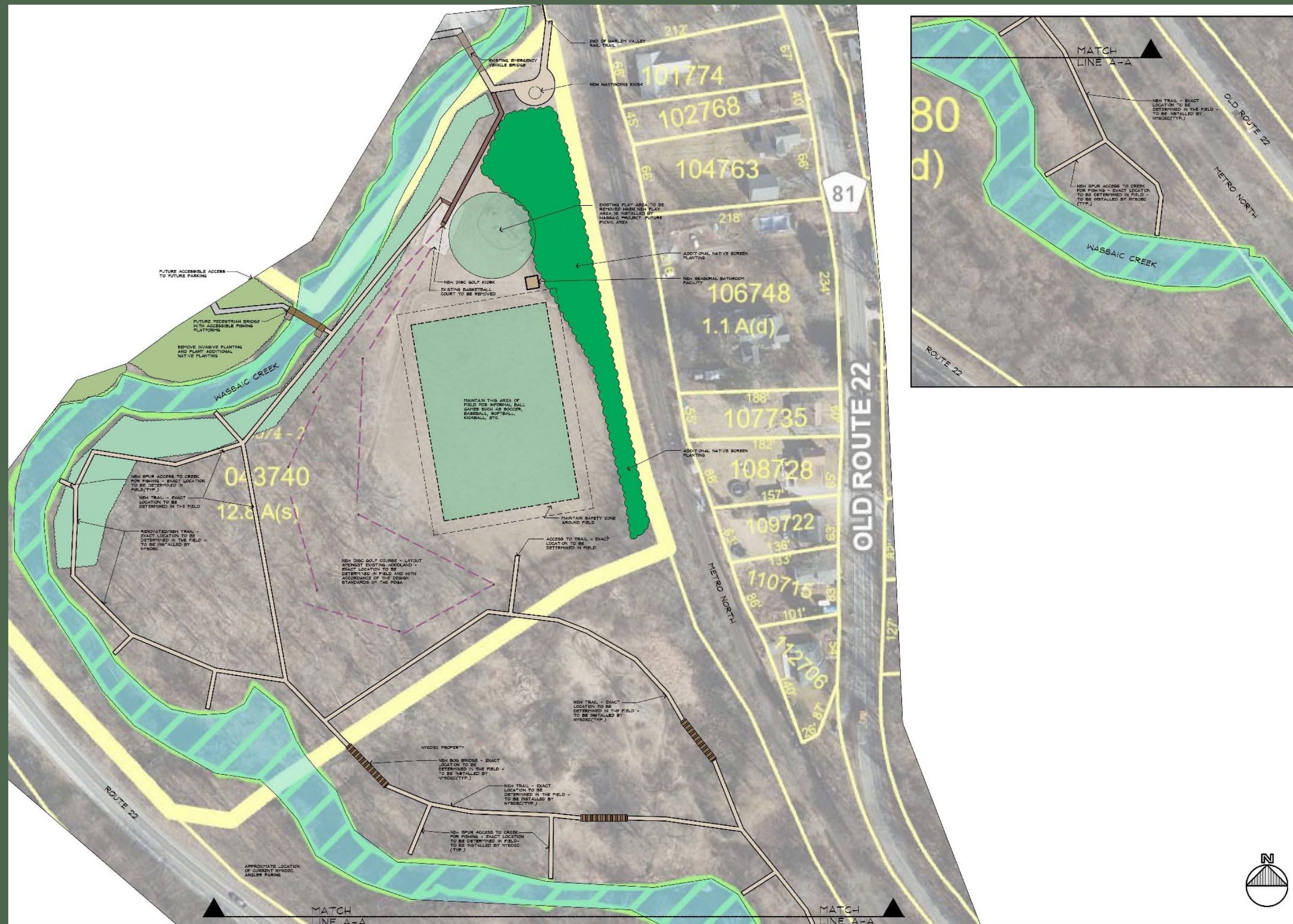


The conceptual framework for **Wassaic Park** master plan is to create a destination recreation area for informal play and passive activities. Wassaic Park will be a place where every member of the family can enjoy the outdoors.

The proposed elements are:

- A new dog park for the community dogs divided by size with outdoor support facility
- A renovated historic pond with trail, picnic area, renovated decorative pump house, native riparian buffer planting and screen planting.
- A new parking area with accessible parking
- An accessible route connecting parking to a new pedestrian bridge and accessible fishing platforms
- New native plantings and a renovated creek edge to be developed in coordination with the NYDEC, the Housatonic Valley Authority, Mid Hudson Trout Unlimited. Coordinate recommendations with the “Ten Mile Watershed Management Plan” and the HVA “Local Waterfront Revitalization Program Development for the Hamlet of Wassaic”.
- A new passive recreation trail system through the woodlands south of Wassaic creek connecting to the 9 Acres of NYDEC property.
- A new 9-hole disc golf course within the wooded area adjacent to field.
- A renovated connection with wayfinding from the park to the terminus of the Harlem Valley Rail Trail.
- A new small picnic area with updated bathroom facilities

Wassaic Park Master Plan

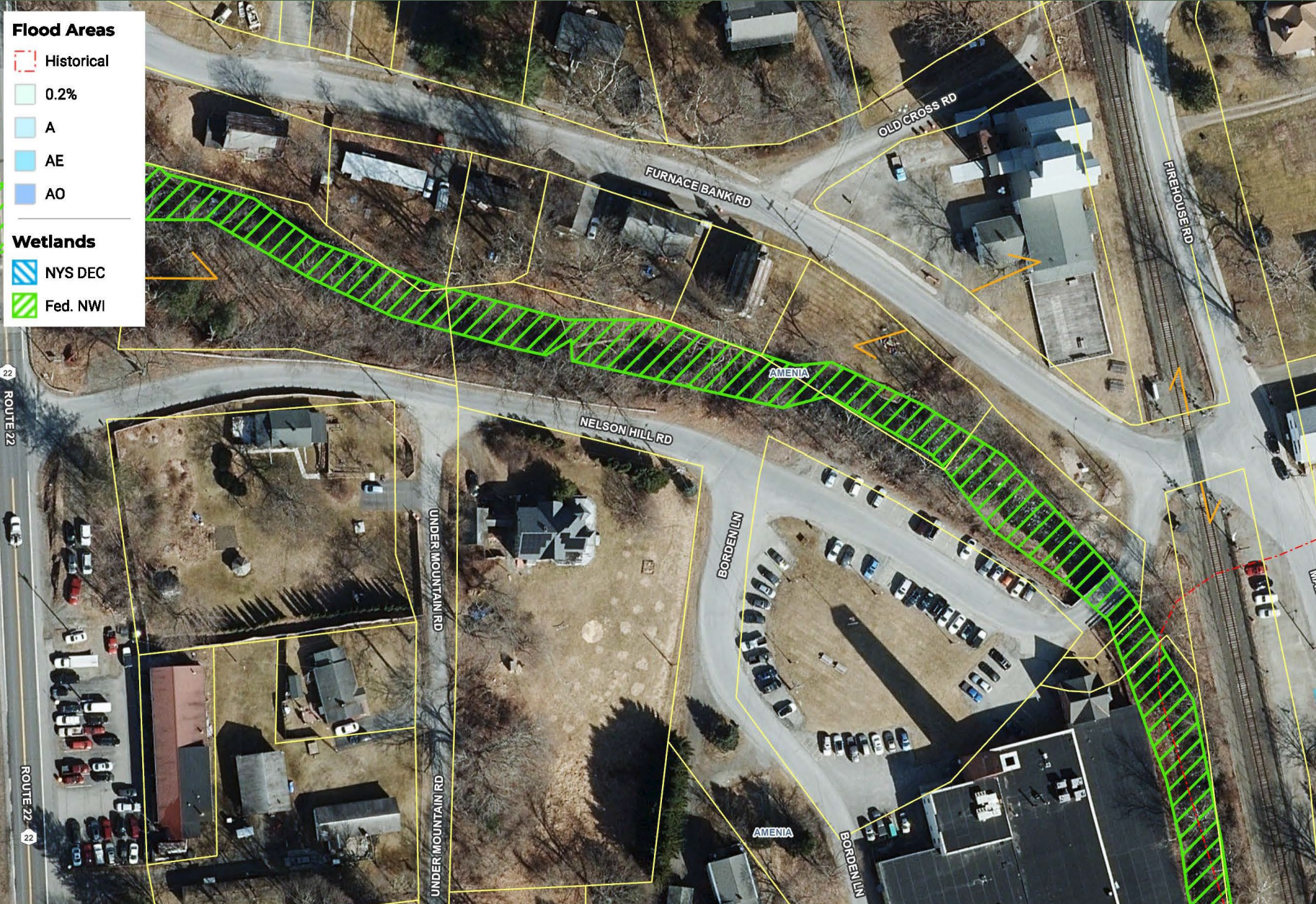


The trails will be installed in coordination with NYDEC. NYDEC will install the trails and bog bridges on their property.

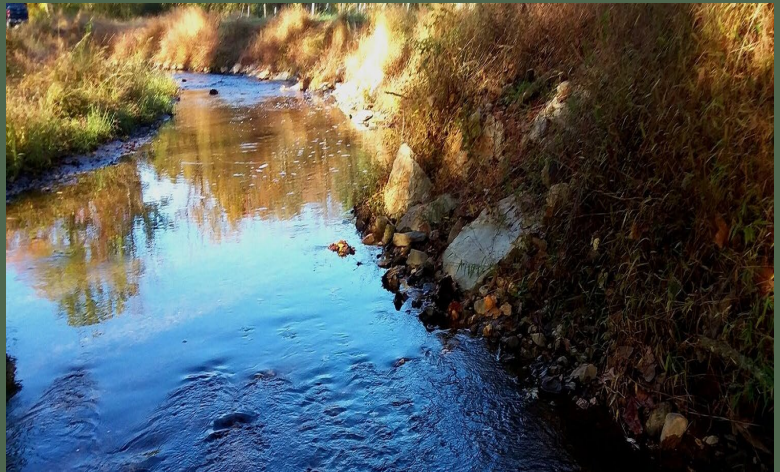
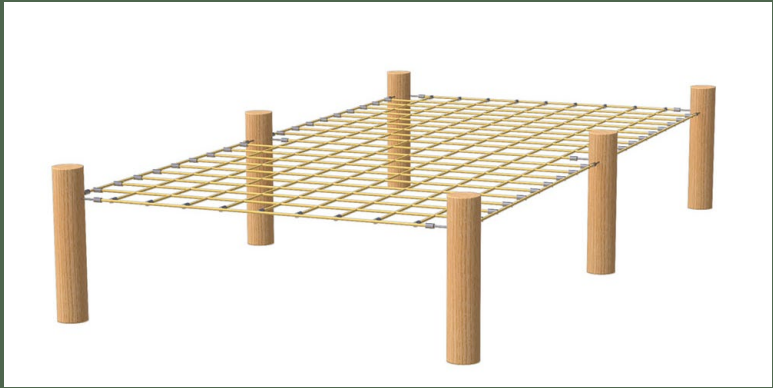
The proposed elements are:

- Renovate existing trails and spur access to Wassaic Creek
- Add new trails as per map and in field conditions using the NYDEC detail
- Create connections to the creek using spur trails to accommodate fishing access
- Create a loop that is entirely located on Wassaic Park property
- Create connections to NYDEC property that can be tied into by NYDEC as the trails may not be installed at the same time
- Accommodate connection to future pedestrian bridge
- Accommodate area for disc golf course
- Create a connection to the ball field area

Wassaic Park/NYDEC Trails Master Plan



**Wassaic Play Area
Existing Conditions**



Wassaic Play Area Program/Inspiration





The conceptual framework for **Wassaic Play Area** master plan is to create a Wassaic resource of biophilic play and adventure. Wassaic Play Area will be a place free expression, learning and enjoyment within walking distance to all the other Wassaic resources.

The proposed elements are:

- Two play areas for tot to 5-year-old and 5 to 12 years old adhering to the NYS play safety code
- Biophilic play structures with more natural materials and sculptural quality and provide accessible play
- Play surface the meets the NYS play safety code and provides accessible route to play structures
- Play structures placed to not only enhance the park layout but also to adhere to each piece of equipment's safety zones
- Decorative rope fence that meets the NYS play safety code but complements the biophilic play structures
- Enhanced streetscape planting using native pollinator plants
- Amphitheater separating the two play areas and constructed using natural materials for seating as well as biofiltration for treatment of the stormwater from Furnace Bank Road
- Renovated stream edge using bioengineering techniques and climate adaptive strategies where possible
- Connection of all three areas with permeable pavement walk that is also accessible

Wassaic Play Area Master Plan



**Wassaic Pump/Skate
Park
Existing Conditions**



Wassaic Pump/Skate Park Program/Inspiration

Comments

- Combine the skate park with the pump track
- Provide an area that will accommodate a local public track
- Track to be designed by an outside company that provides design and materials of these tracks
- Provide access from the Harlem Valley Rail Trail
- Move parking closer to rail trail
- Wassaic Project has designated the area shown for the track but has agreed to expand that area if required by the design of the track
- Provide a small bathroom facility
- Provide an access to the track and place for gathering and viewing

**Wassaic Pump/Skate
Park
Comments**



The conceptual framework for **Wassaic Pump/Skate Park** master plan is to create a Wassaic resource of active recreation and a destination for organized events. The proposed elements are:

- A combined Pump Track/Skateboard Park for everyday use and organized events.
- A permeable accessible path for access to, gathering and viewing of track.
- A bathroom/storage facility.
- A picnic seating area with lawn area for blankets and tents.
- A permeable accessible path from the Harlem Valley Rail Trail.
- A small parking area accessed from the Wassaic Project driveway – 13 spaces including an accessible ADA compliant parking space
- A new biofiltration planting area with native plants to treat any stormwater runoff and provide a more diverse habitat.
- A buffer of native upland plants
- A seeded meadow slope of native meadow mix to stabilize any disturbed areas.
- A relocated grass path/road for access to balance of property.

Wassaic Pump/Skate Park Master Plan

Amenia Parks and Recreation Master Plan Phasing Strategy

Phase 1

Amenia Town Green

- Implement a funding strategy through grants, donations and matching funds
- Hire a design team to identify any wetlands, survey the property, develop plans into permit applications and construction documents
- Implement a communication strategy with the community and permitting agencies
- Once all permits are attained, develop and implement a construction schedule and strategy
- Construct the town green
- Groundbreaking and Ribbon Cutting ceremonies
- Develop a maintenance strategy

Phase 2

Wassaic Park/NYDEC Trails

- Implement a funding/sweat equity strategy that includes grants, donations of money, time and expertise.
- Work with local service and outdoor organizations like girl and boy scouts to develop projects
- Coordinate with NYDEC throughout entire process
- Groundbreaking and Ribbon Cutting ceremonies
- Develop a maintenance strategy

Phase 3

Wassaic Play area and Pump Track/Skate Park

- Work with Wassaic Project to finalize agreement for the use of these two properties.
- Implement a funding strategy through grants, donations and matching funds
- Hire a design team to develop plans into permit applications and construction documents
- Implement a communication strategy with the community, Wassaic Project and permitting agencies
- Once all permits are attained, develop and implement a construction schedule and strategy
- Construct the Play Area and Pump Track/Skate Park
- Groundbreaking and Ribbon Cutting ceremonies
- Develop a maintenance strategy

Phase 4

Wassaic Park North

- Move the operations of the town garage to new location.
- Hire a design team to develop plans into permit applications and construction documents
- Implement a funding strategy through grants, donations and matching funds
- Implement a communication strategy with the community and permitting agencies
- Once all permits are attained, develop and implement a construction schedule and strategy
- Construct the Play Area and Pump Track/Skate Park
- Groundbreaking and Ribbon Cutting ceremonies
- Develop a maintenance strategy

Appendix

Do I Need a Freshwater Wetlands Permit?

[A NYS Freshwater Wetlands Permit](#) is required for any physical disturbance, within the boundary or within the adjacent area of a state protected freshwater wetland. The adjacent area usually extends 100 feet from the wetland but has been extended beyond 100 feet under unusual circumstances.

NYS Freshwater Wetland regulations identify compatible uses for conducting activities in wetlands. Almost any activity that may adversely impact the wetlands, or their adjacent areas, is regulated. Examples of activities that require a permit include:

- Constructing buildings, roadways, septic systems, bulkheads, dikes, or dams
- Filling, excavating, or grading
- Modifying, expanding or extensively restoring existing structures
- Draining, except for agriculture
- Clearing trees and eliminating other vegetation
- Applying pesticides

Note that your project or activity may require additional permits under other DEC programs:

Protection of Waters permits are required for certain activities, such as dredging or filling which take place in navigable waters; or activities which may result in disturbance to the bed or banks of protected streams or the construction of overwater structures.

- i. If an activity will require a permit from the Corps of Engineers, then a Section 401 Water Quality Certification by DEC may also be needed.
- ii. If the activity will involve a discharge to ground water, a SPDES permit will be required.

If you are not sure whether your project requires more than one permit, contact the [Regional DEC Division of Environmental Permits](#) office for the county in which the project is located.

See [Application Procedures](#) and [Downloadable Permit Application Forms Freshwater Wetlands](#) for additional information regarding the Freshwater Wetland Permit Program.

Not all wetlands are protected by DEC. You may be subject to federal or local wetland regulations for wetlands not protected by DEC. Please contact your town officials and the [United States Army Corps of Engineering](#) for any permitting they might require. If a DEC Freshwater Wetland Permit is required, when you file your application, a copy will also be forwarded to the Corps of Engineers.



Department of
Environmental
Conservation

Stepping Through the SEQR Process

Steps toward satisfying SEQR: Step through the process by clicking the Step 1 link and after reading each page, click on the link for the next step which you will find at or near the bottom of each page. Or you may click on the links that follow. While the image maps a branching path between steps 4 and 5 and between step 6 and 7, this text version makes a linear representation. You do not go on to step 5 unless you are faced with impacts that cannot be avoided or mitigated through conditions placed on a permit. At step 6 you may review the Draft EIS and determine that it must be returned for revision rather than proceeding to step 7.

More about Stepping Through the SEQR Process:

[Follow the SEQR Path](#) - Mapping of the SEQR path

[Step 1. Classifying the Action](#) - The first step in classifying the action is to decide whether it is subject to SEQR

[Step 2. Complete the Correct Environmental Assessment Form](#) - NYSDEC SEQR Process - Step 2 Environmental Assessment

[Step 3: Coordinate Review](#) - NYSDEC SEQR Process - Step 3 Coordinate Review

[Step 4: Determine Significance](#) - The lead agency has 20 calendar days to make its determination of significance

[Step 5: Scope the Draft EIS](#) - Scoping is the process by which the issues to be addressed in the draft EIS are identified

[Step 6 Preparation of the Draft EIS](#) - The applicant always has the right to prepare the draft EIS. If the applicant refuses to prepare the draft EIS, the lead agency has the option of preparing the draft EIS, having it prepared by a consultant, or terminating its review of the action

[Step 7 Determine the Adequacy of the Draft EIS for Public Review \(Accept or Return for Revision\)](#) - Upon receipt of a submitted draft EIS, the lead agency has 45 days to determine whether the document is adequate for public review in terms of scope and content

[Step 8: Publish Notice that an EIS is Accepted for Public Review](#) - Publish Notice

[Step 9 Public Comment](#) - The filing of the Notice of Completion of a Draft EIS starts the public comment period

[Step 10 Decide Whether to Hold a Public Hearing](#) - After the lead agency accepts the draft EIS, it must decide whether to hold a public hearing [see 617.9(a)(4)]

[Step 11 Preparation of the Final EIS](#) - The lead agency is responsible for the adequacy and accuracy of the final EIS, regardless of who prepares it

[Step 12 SEQR Findings](#) - Part 617.11 requires that each involved agency must prepare its own written SEQR findings statement, after a final EIS has been filed and before the agency makes a final decision



New York State
Department of Environmental Conservation

Division of Fish, Wildlife and Marine Resources

ARTICLE 24
Freshwater Wetlands
Title 23 of Article 71
of the
Environmental Conservation Law

Reprinted
May 1997

DAVID A. PATERSON, Governor

ALEXANDER B. GRANNIS, Commissioner

ENVIRONMENTAL CONSERVATION LAW
ARTICLE 24
Freshwater Wetlands

- Title**
- 1. General provisions and public policy. (§§24-0101-24-0107).**
 - 3. Freshwater wetlands studies; notification and maps. (§24-0301).**
 - 5. Local implementation. (§§24-0501-24-0511).**
 - 7. Freshwater wetlands regulations. (§§24-0701-24-0705).**
 - 8. Regulation of wetlands in the Adirondack park. (§24-0801-24-0805).**
 - 9. Freshwater wetlands preservation program. (§§24-0901-24-0905).**
 - 11. Appeal and review. (§§24-1101-24-1105).**
 - 13. Miscellaneous provisions. (§§24-1301-24-1305).**

TITLE 1

GENERAL PROVISIONS AND PUBLIC POLICY

- Section**
- 24-0101. Short title.**
 - 24-0103. Declaration of policy.**
 - 24-0105. Statement of findings.**
 - 24-0107. Definitions.**

§24-0101. Short title.

This article shall be known as the "Freshwater Wetlands Act".

§24-0103. Declaration of policy.

It is declared to be the public policy of the state to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands, and to regulate use and development of such wetlands to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the state.

§24-0105. Statement of findings.

1. The freshwater wetlands of the state of New York are invaluable resources for flood protection, wildlife habitat, open space and water resources.
2. Considerable acreage of freshwater wetlands in the state of New York has been lost, despoiled or impaired by unregulated draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such areas. Other freshwater wetlands are in jeopardy of being lost, despoiled or impaired by such unrelated' acts.

*So in original. Probably should read "unregulated".

3. Recurrent flooding aggravated or caused by the loss of freshwater wetlands has serious effects upon natural ecosystems.
4. Freshwater wetlands conservation is a matter of state concern since a wetland in one region is affected by acts on rivers, streams and wetlands of other regions.
5. The natural systems affecting freshwater wetlands overlap many localities. While many local governments individually have enacted ordinances to conserve freshwater wetlands and to reduce flood hazards and losses, effective freshwater wetlands management requires uniformity in laws to eliminate inconsistent or conflicting local laws. One locality alone lacks adequate jurisdiction to protect itself from misuse or neglect of adjacent localities.
6. Freshwater wetlands are an integral part of the unique scenic, aesthetic, wildlife, recreational, open space, ecological and natural resources of the Adirondack park and are recognized and protected by the Adirondack park agency act. The act provides a mechanism for the regulation of Adirondack wetlands by the Adirondack park agency and local governments which is consistent with both the state interest in the preservation and development of the park area and the state policy to preserve, protect and conserve freshwater wetlands expressed in this article.
7. Any loss of freshwater wetlands deprives the people of the state of some or all of the many and multiple benefits to be derived from wetlands, to wit:
 - (a) flood and storm control by the hydrologic absorption and storage capacity of freshwater wetlands;
 - (b) wildlife habitat by providing breeding, nesting and feeding grounds and cover for many forms of wildlife, wildfowl and shorebirds, including migratory wildfowl and rare species such as the bald eagle and osprey;
 - (c) protection of subsurface water resources and provision for valuable watersheds and recharging ground water supplies;
 - (d) recreation by providing areas for hunting, fishing, boating, hiking, bird watching, photography, camping and other uses;
 - (e) pollution treatment by serving as biologicO and chemical oxidation basins;
 - (f) erosion control by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and harbors;
 - (g) education and scientific research by providing readily accessible outdoor bio-physicallaboratories, living classrooms and vast training and education resources; and
 - (h) open space and aesthetic appreciation by providing often the only remaining open areas along crowded river fronts and coastal Great Lakes regions; and

(i) sources of nutrients in freshwater food cycles and nursery grounds and sanctuaries for freshwater fish.

8. Regulation of freshwater wetlands, in accordance with the agricultural exemption established in title seven hereof, is consistent with the legitimate interests of farmers and other landowners to graze and water livestock, make reasonable use of water resources, harvest natural products of the wetlands, selectively cut timber and otherwise engage in the use of land for agricultural production.

§24-0107. Definitions.

1. "Freshwater wetlands" means lands and waters of the state as shown on the freshwater wetlands map which contain any or all of the following:

(a) lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation of the following types:

(1) wetland trees, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other trees; including, among others, red maple (*Acer rubrum*), willows (*Salix* spp.), black spruce (*Picea mariana*); swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), black ash (*Fraxinus nigra*), silver maple (*Acer saccharinum*), American elm (*Ulmus americana*), and Larch (*Larix laricina*);

(2) wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other shrubs; including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*), dogwoods (*Cornus* spp.), and leatherleaf (*Chamaedaphne calyculata*);

(3) emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wildrice (*Zizania aquatica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*), and water plantain (*Alisma plantago-aquatica*);

(4) rooted, floating-leaved vegetation; including, among others, water-lily (*Nymphaea odorata*), water shield (*Brasenia schreberi*), and spatterdock (*Nuphar* spp.);

(5) free-floating vegetation; including, among others, duckweed (*Lemna* spp.), big duckweed (*Spirodela polyrhiza*), and watermeal (*Wolffia* spp.);

(6) wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently water-logged soils to give it a competitive advantage over other open land vegetation; including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*), and „pikerush (*Eleocharis* spp.);

(7) bog mat vegetation; including, among others, sphagnum mosses (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*), and cranberries (*Vaccinium macrocarpon* and *V. oxycoccos*);

(8) submergent vegetation; including, among others, pondweeds (*Potamogeton* spp.), naiads (*Najas* spp.), bladderworts (*Utricularia* spp.), wild celery (*Vallisneria americana*), coontail (*Ceratophyllum demersum*), water milfoils (*Myriophyllum* spp.), muskgrass (*Chara* spp.), stonewort (*Nitella* spp.), water weeds (*Elodea* spp.), and water smartweed (*Polygonum amphibium*);

(b) lands and submerged lands containing remnants of any vegetation that is not aquatic or semi-aquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet and provided further that such conditions can be expected to persist indefinitely, barring human intervention;

(c) lands and waters substantially enclosed by aquatic or semi-aquatic vegetation as set forth in paragraph (a) or by dead vegetation as set forth in paragraph (b) the regulation of which is necessary to protect and preserve the aquatic and semi-aquatic vegetation as set forth in paragraph (a) or by dead vegetation as set forth in paragraph (b) the regulation of which is necessary to protect and preserve the aquatic and semi-aquatic vegetation; and

(d) the waters overlying the areas set forth in (a) and (b) and the lands underlying ©.

2. "Freshwater wetlands map" shall mean a map promulgated by the department pursuant to section 24-0301 of this article on which are indicated the boundaries of any freshwater wetlands.

3. "Boundaries of a freshwater wetland" shall mean the outer limit of the vegetation specified in paragraphs (a) and (b) of subdivision one of section 24-0107 and of the lands and waters specified in paragraph (c) of such subdivision.

4. "Local government" shall mean a village, town, city, or county.

5. "State agency" shall mean any state department, bureau, commission, board or other agency, public authority or public benefit corporation.

6. "Person" means any corporation, firm, partnership, association, trust, estate, one or more individuals, and any unit of government or agency or subdivision thereof, including the state.

7. "Board" shall mean the freshwater wetland* appeals board.

8. "Pollution" shall mean the presence in the environment of man-induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or wildlife, or other animal life or to property.

*So in original. Probably should read "wetlands".

TITLE 3
FRESHWATER WETLANDS STUDIES; NOTIFICATION AND MAPS

Section 24-0301. Commissioner's study.

§24-0301. Commissioner's study.

1. The commissioner shall, as soon as practicable, conduct a study to identify and map those individual freshwater wetlands in the state of New York which shall have an area of at least twelve and four-tenths acres or more, or if less than twelve and four-tenths, (a) have, in the discretion of the commissioner, and subject to review of his action by the board created pursuant to title eleven of this article, unusual local importance for one or more of the specific benefits set forth in subdivision seven of section 24-0105 or (b) are located within the Adirondack park and meet the definition of wetlands contained in subdivision sixty-eight of section eight hundred two of article twenty-seven of the executive law, and shall determine their characteristics. This study shall, in addition to such other data as the commissioner may determine to be included, consist of the freshwater wetlands inventory of the department of environmental conservation, currently being made, together with other available data on freshwater wetlands, whether assisted by the state of New York under the tidal wetlands act. or otherwise, or assembled by federal or local governmental or private agencies, all of which information shall be assembled and integrated, as applicable, into a map of freshwater wetlands of the state of New York. Such study may, in the discretion of the commissioner, be carried out on a sectional or regional basis, as indicated by need, subject to overall completion in an expeditious fashion subject to the terms of this chapter. This map, and any orders issued pursuant to the provisions of this article, shall comprise a part of the statewide environmental plan as provided for in section 3-0303 of this chapter. As soon as practicable the commissioner shall file with the secretary of state a detailed description of the technical methods and requirements to be utilized in compiling the inventory, and he shall afford the public an opportunity to submit comments thereon.

2. Upon completion of a freshwater wetlands inventory, the commissioner shall prepare a tentative freshwater wetlands map delineating the boundaries of such wetlands as determined by the study and inventory conducted pursuant to subdivision one of this section. The map may be prepared for different sections or regions of the state separately, as the commissioner shall determine. The commissioner shall consult and cooperate with the Adirondack park agency in the preparation of a tentative freshwater wetlands map for any area within the Adirondack park.

3. The tentative freshwater wetlands map shall set forth the boundaries of such wetlands as accurately as is practicable to inform the owners thereof, the public and the department of the approximate location of the actual boundaries of the wetlands, subject to motion for delineation pursuant to this section, or more precise definition thereof in the discretion of the commissioner. The commissioner shall take into consideration whenever possible, the boundaries of the local government or governments within which the wetlands are located.

4. Upon completion of the tentative freshwater wetlands map for a particular area, the commissioner or his designated hearing officer shall hold a public hearing in that area in order to afford an opportunity for any person to propose additions or deletions from such map. The commissioner shall give notice of such hearing to each owner of record as shown on the latest completed tax assessment rolls, of lands designated as such wetlands as shown on said map and also to the chief administrative officer and clerk of each local government within the boundaries of which any such wetland or a portion thereof is located and, in the case of a tentative freshwater wetlands map for any area within the Adirondack park, to the Adirondack park agency, by certified mail not less than thirty days prior to the date set for such hearing and shall assure that a copy of the relevant map is available for public inspection at a convenient location in such local government. The commissioner shall also cause notice of such hearing to be published at least once, not more than thirty days nor fewer than ten days before the date set for such hearing, in at least two newspapers having general circulation in the area where such wetlands are located.
5. After considering the testimony given at such hearing and any other facts which may be deemed pertinent, after considering the rights of affected property owners and the ecological balance in accordance with the policy and purposes of this article, and, in the case of wetlands or portions thereof within the Adirondack park, after consulting with the Adirondack park agency, the commissioner shall promulgate by order the final freshwater wetlands map. Such order shall not be promulgated less than sixty days from the date of the hearing required by subdivision four hereof. A copy of the order, together with a copy of such map or relevant portion thereof shall be filed in the office of the clerk of each local government in which each such wetland or a portion thereof is located and, in the case of a map for any area within the Adirondack park, with the Adirondack park agency. The commissioner shall simultaneously give notice of such order to each owner of lands, as shown on the latest completed tax assessment rolls, designated as such wetlands by mailing a copy of such order to such owner by certified mail in any case where a notice by certified mail was not sent pursuant to subdivision four hereof, and in all other cases by first class mail. The commissioner shall also give notice of such order at such time to the chief administrative officer of each local government within the boundaries of which any such wetland or a portion thereof is located. At the time of filing with such clerk or clerks, the commissioner shall also cause a copy of such order to be published in at least two newspapers having general circulation in the area where such wetlands are located.
6. Except as provided in subdivision eight of this section, the commissioner shall supervise the maintenance of such boundary maps, which shall be available to the public for inspection and examination at the regional office of the department in which the wetlands are wholly or partly located and in the office of the clerk of each county in which each such wetland or a portion thereof is located. The commissioner may readjust the map thereafter to clarify the boundaries of the wetlands, to correct any errors on the map, to effect any additions, deletions or technical changes on the map, and to reflect changes as have occurred as a result of the granting of permits pursuant to section 24-0703 of this article, or natural changes

which may have occurred through erosion, accretion, or otherwise. Notice of such readjustment shall be given in the same manner as set forth in subdivision five of this section for the promulgation of final freshwater wetlands maps.

7. Except as provided in subdivision eight of this section, the commissioner may, upon his own initiative, and shall, upon a written request by a landowner whose land or a portion thereof may be included within a wetland, or upon the written request of another person or persons or an official body whose interests are shown to be affected, cause to be delineated more precisely the boundary line or lines of a freshwater wetland or a portion thereof. Such more precise delineation of a freshwater wetland boundary line or lines shall be of appropriate scale and sufficient clarity to permit the ready identification of individual buildings and of other major man-made structures or facilities or significant geographical features with respect to the boundary of any freshwater wetland. The commissioner shall undertake to delineate the boundary of a particular wetland or wetlands, or a particular part of the boundary thereof only upon a showing by the applicant therefor of good cause for such more precise delineation and the establishment of such more precise line.

8. The supervision of the maintenance of any freshwater wetlands map or portion thereof applicable to wetlands within the Adirondack park, the readjustment and precise delineation of wetland boundary lines and the other functions and duties ascribed to the commissioner by subdivisions six and seven of this section shall be performed by the Adirondack park agency, which shall make such maps available for public inspection and examination at its headquarters.

TITLE 5 LOCAL IMPLEMENTATION

Section	24-0501. Local freshwater wetlands protection procedures.
	24-0503. Transfer of function to county; supersession by department.
	24-0505. Exemption from local implementation.
	24-0507. Reservation of local jurisdiction.
	24-0509. Relationship to other laws.
	24-0511. Local freshwater wetlands protection procedures in the Adirondack park.

§24-0501. Local freshwater wetlands protection procedures.

1. On or after September 1, 1975, each local government may adopt, amend, and, upon the filing of the appropriate freshwater wetlands map, implement a freshwater wetlands protection law or ordinance in accordance with this article to be applicable to all freshwater wetlands wholly or partially within its jurisdiction. No freshwater wetlands protection law or ordinance adopted by a county pursuant to this section shall be applicable within the boundaries of any city, town or village which has adopted and is implementing a local freshwater wetlands protection law or ordinance consistent with this article.

2. Said freshwater wetlands protection law or ordinance may be in such form and with such procedures prescribed as may be determined by the local government adopting the same, or it

may set forth the procedures and concepts contained in this article; provided, however, that no local freshwater wetlands protection law or ordinance enacted pursuant to subdivision one hereof shall be less protective of freshwater wetlands or effectiveness of administrative and judicial review, than the procedures set forth in this article, nor shall such local law or ordinance affect the activities exempted from permit by section 24-0701 of title seven hereof.

3. Adoption by a local government, pursuant to this article, of a local freshwater wetlands protection law or ordinance by reference to the procedures and concepts set forth herein shall be sufficient if reference is made to the procedures and concepts of this article with exceptions, additions, and modifications thereto noted; and the adoption, once effected, shall include subsequent statutory amendments to this article as aforesaid; subject, again, to exception, addition, or modification by such municipality, without time limitation. At any time after a local adoption of the procedures contained in this article, a local government subject to this section may rescind its adoption thereof and simultaneously adopt a local freshwater wetlands protection procedure in accordance with subdivisions one and two of this section.

4. If a city, town or village fails to adopt and implement a freshwater wetlands protection law or ordinance in accordance with this article by the date the applicable freshwater wetlands map is filed by the department or by September 1, 1977, whichever is later, it shall be deemed to have transferred the function to the county in accordance with section 24-0503. If the county fails within ninety days after the date of filing of the applicable freshwater wetlands map or after September 1, 1977, which ever is later, to adopt and implement a freshwater wetlands protection law or ordinance in accordance with this article, it shall be deemed to have transferred the function to the department. Within thirty days after the adoption of a freshwater wetlands protection law or ordinance pursuant to this article, the local government shall notify the department thereof, under such terms and conditions as the department may prescribe, together with its technical and administrative capacity to administer the act. Failure of a local government to give such notice shall constitute a transfer of function pursuant to this subdivision and section 24-0503.

5. A local government or the department shall have the right, in its regulation of freshwater wetlands within its jurisdiction, to change such fees and expenses to an applicant for official action as shall enable it to recover the costs incurred by reason of such application.

6. Any local government which defaults or transfers its authority pursuant to subdivision four of this section or section 24-0503 of this article, may recover such authority at any time by adopting a local freshwater wetland* protection local law or ordinance consistent with this article and notifying the county and the department of the adoption. Such notice shall be given by certified mail within ten days of the adoption thereof. Such local law or ordinance shall not become effective in less than sixty nor more than one hundred days from the adoption thereof.

So in original. Should probably read "wetlands".

7. The technical services of the department shall be made available to municipalities, on a fee basis, in the implementation of the procedure herein set forth.

§24-0503. Transfer of function to county; supersession by department.

1. In the event that a town, village, city or county shall certify in writing, as hereinafter provided, that it does not possess the technical capacity or the procedures effectively to carry out the requirements of this title, such local function shall be transferred to the county or the department, as the case may be. The certification of the town, village or city shall be by certified mail to the chief executive officer of the county, or, in the case of a county, to the commissioner.
2. In the event that the commissioner shall find that a local government does not possess the technical capacity or the implemented procedures effectively to carry out the requirements of this title, and that his failure to act will entail a default, or the potential of a default, in freshwater wetlands regulation, the commissioner may supersede the local government and order, alternatively, either that the local function be transferred to the county, or that the department itself undertake the local function, all to the extent necessary to carry out the purposes of this article. The supersession of the local government, shall be by order of the commissioner sent, by certified mail, to the chief executive officer of the local government involved.
3. In the event of transfer or supersession under subdivision one or two of this section, subsequent proceedings shall be in accordance with the further requirements of this article.

§24-0505. Exemption from local implementation.

The commissioner, by rule, may exempt from local implementation under this title those freshwater wetlands which, by reason of their size or special characteristics of unique environmental value or by reason of common characteristics, are appropriately to be administered pursuant to this article by the department alone. Such rule, based upon findings of fact made after public hearing, may relate to classes of wetlands based on size or particular characteristics, or to particular wetlands the characteristics of which make them subject to the exercise of the commissioner's discretion pursuant to this section. The commissioner shall make an order to such effect in each such instance and send a certified copy thereof to the executive officer of each local government affected thereby within ten days of his signing the same; such order shall not take effect until forty days after such signing.

§24-0507. Reservation of local jurisdiction.

Except as provided in this article, jurisdiction over all areas which would qualify as freshwater wetlands except that they are not designated as such on the freshwater wetlands map pursuant to section 24-0301 of this article because they are less than twelve and four-tenths acres in size and are not of unusual local importance is reserved to the city, town or village in which they are wholly or partially located, and the implementation of this article with respect thereto is the responsibility of said city, town or village, in accordance with section 24-0501 and title twenty-three of article seventy-one of this chapter, except that a city, town or village in the exercise of its powers under this section, shall not be subject to

the provisions of subdivision four of section 24-0501, subdivisions two and three of section 24-0503, or section 24-0505, but shall be subject to judicial review under subdivision two of section 24-1105 of this article.

§24-0509. Relationship to other laws.

No provision of this article shall be deemed to remove from any local government any authority pertaining to the regulation of freshwater wetlands, whether such wetlands are under the jurisdiction of the department or a county pursuant to subdivision 4 of section 24-0501 of this title, under the county, general city, general municipal, municipal home rule, town, village, or any other law, provided, however, that any such regulation by a local government shall be at least as protective of freshwater wetlands as the regulations in effect pursuant to the provisions of this chapter or any rule or regulation promulgated pursuant to the provisions of this article or pursuant to a local freshwater wetlands protection law or ordinance adopted by a county pursuant to the provisions of section 24-0501 of this title.

§24-0511. Local freshwater wetlands protection procedures in the Adirondack park.

Except for section 24-0509, this title shall not apply to freshwater wetlands protection laws or ordinances adopted by towns or villages with respect to their territories within the Adirondack park. Such laws or ordinances are governed by title eight of this article.

TITLE 7 FRESHWATER WETLANDS REGULATIONS

Section 24-0701. Permits.
24-0703. Applications for permits.
24-0705. Granting permits.

§24-0701. Permits.

1. After issuance of the official freshwater wetlands map of the state, or of any selected section or region thereof, any person desiring to conduct on freshwater wetlands as so designated thereon any of the regulated activities set forth in subdivision two of this section must obtain a permit as provided in this title.
2. Activities subject to regulation shall include any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel or other aggregate from any freshwater wetland, either directly or indirectly; and any form of dumping, filling, or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly; erecting any structures, roads, the driving of pilings, or placing of any other obstructions whether or not changing the ebb and flow of the water; any form of pollution, including but not limited to, installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes into or so as to drain into a freshwater wetland; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in section 24-0105 of this article. These activities are subject to regulation whether or not they occur upon the wetland itself, if they impinge upon or otherwise substantially effect the wetlands and are located not more than one hundred feet from the boundary of such wetland. Provided, that a greater distance from

any such wetland may be regulated pursuant to this article by the appropriate local government or by the department, whichever has jurisdiction over such wetland, where necessary to protect and preserve the wetland.

3. The depositing or removal of the natural products of the freshwater wetlands by recreational or commercial fishing, shell-fishing, aquaculture, hunting or trapping shall be excluded from regulated activities, where otherwise legally permitted and regulated.

4. The activities of farmers and other landowners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of the wetlands, selectively cutting timber, draining land or wetlands for growing agricultural products and otherwise engaging in the use of wetlands or other land for growing agricultural products shall be excluded from regulated activities and shall not require a permit under subdivision one hereof, except that structures not required for enhancement or maintenance of the agricultural productivity of the land and any filling activities shall not be excluded hereunder, and provided that the use of land designated as a freshwater wetland upon the freshwater wetlands map at the effective date thereof for uses other than those referred to in this subdivision shall be subject to the provisions of this article.

5. Public health activities, orders, and regulations of the department of health shall be excluded from regulated activities. Copies of all such public health orders and regulations affecting wetlands shall be filed with the department of environmental conservation. The commissioner may request modification of such orders or regulations if he deems such necessary to implement the policy of this article.

6. The commissioner shall review all current mosquito control projects to determine whether they are having any adverse impact on freshwater wetlands. Where any adverse impact is found, the commissioner may require modification of such projects if he deems such necessary for the implementation of the policies of this article.

7. Where dredging or filling is in navigable waters of the state or is for the reconstruction or repair of certain dams and docks, and where such activity also affects freshwater wetlands, any person undertaking such activity must seek permission under this, article as well as under any other applicable law.

8. On any land that is being developed pursuant to a planned unit development ordinance or local law where freshwater wetlands are to remain as open space, development activities shall be permitted in areas contiguous to such wetlands if the local government affirms that such activities will not despoil said wetland.

§24-0703. Applications for permits.

1. Any person proposing to conduct or cause to be conducted a regulated activity upon any freshwater wetland shall file an application for a permit with the clerk of the local government having jurisdiction or the department, as the case may be. Review of the application shall be made by the local government or the commissioner, as the case may be, in accordance with applicable law and such rules hereunder as may be adopted by the

commissioner. Such application shall include a detailed description of the proposed activity and a map showing the area of freshwater wetland directly affected, with the location of the proposed activity thereon. The clerk or commissioner shall cause notice of such application to be mailed to all local governments where the proposed activity or any part of it is located.

2. No sooner than thirty days and not later than sixty days after the receipt by a local government of an application, and after notice of application has been published by the applicant in two newspapers having a general circulation in the area, the local government shall hold a public hearing on such application at a suitable location in the local government where the affected wetland is situated unless no notice of objection has been filed or unless the local government finds the activity to be of such a minor nature as not to affect or endanger the balance of systems within the wetlands, in which case the local government may, in the exercise of discretion, dispense with such hearing. Where the local government finds that a hearing is not necessary, a decision setting forth reasons therefor shall be prepared, shall be a matter of public record and shall be mailed to all local governments where the proposed work or any part of it is located and to all persons who filed a statement with the local government following the publication of such notice of application. All owners of record of the adjacent land and the local governments where the proposed activity is located shall be notified by certified mail of the hearing not less than fifteen days prior to the date set for such hearing. The local government shall cause notice of such hearing to be published in two newspapers having a general circulation in the area where the affected freshwater wetlands are located. All applications and maps and documents relating thereto shall be open for public inspection at the office of the clerk of the local government in which the wetland is situated. At such hearing any person or persons filing a request for a hearing or a timely notice of appearance may appear and be heard.

3. In addition to the provisions of article 70 of this chapter and rules and regulations adopted thereunder, the rules and regulations adopted by the department pursuant to this article to implement its processing of permit applications, renewals, modifications, suspensions and revocations shall govern permit administration by the department under this article, provided however, that after the department has given notice to an applicant that an application is complete, or the application is deemed complete, the applicant shall cause a notice of application to be published in a newspaper of general circulation in the affected area as provided in rules and regulations of the department.

4. The applicant shall have the burden of demonstrating that the proposed activity will be in accord with the policies and provisions of this article. To the greatest extent practicable, such hearing shall be incorporated with any public hearing required by the town, village, general city, general municipal or environmental conservation laws in connection with approvals or permits otherwise required before commencement of regulated activities on lands containing such wetlands.

5. Prior to the promulgation of the final freshwater wetlands map in a particular area and the implementation of a freshwater wetlands protection law or ordinance, no person shall conduct, or cause to be conducted, any activity for which a permit is required under section 24-0701 of this article on any freshwater wetland unless he has obtained a permit from the

commissioner under this section. Any person may inquire of the department as to whether or not a given parcel of land will be designated a freshwater wetland subject to regulation. The department shall give a definite answer in writing within thirty days of such request as to whether such parcel will or will not be so designated. Provided that, in the event that weather or ground conditions prevent the department from making a determination within thirty days, it may extend such period until a determination can be made. Such answer in the affirmative shall be reviewable pursuant to title eleven of this article; such an answer in the negative shall be a complete defense to the enforcement of this article as to such parcel of land. The commissioner may by regulation adopted after public hearing exempt categories or classes of wetlands or individual wetlands which he determines not to be critical to the furtherance of the policies and purposes of this article.

§0705. Granting permits.

1. In granting, denying or limiting any permit, the local government or the commissioner shall consider the effect of the proposed activity with reference to the public health and welfare, fishing, flood, hurricane and storm dangers, and protection or enhancement of the several functions of the freshwater wetlands and the benefits derived therefrom which are set forth in section 24-0103* of this article. The effects of the proposed activity shall be considered by the department or a local government, as the case may be, irrespective of political boundaries.
2. Duly filed notice in writing that the state or any agency or subdivision thereof is in the process of acquiring any freshwater wetlands by negotiation or condemnation shall be sufficient basis for denial of any permit.
3. No permit shall be granted under this section unless the proposed activity is consistent with the land use regulations applicable pursuant to section 24-0903 of this article within the boundaries of the local government involved and with the policy set forth in section 24-0103 of this article.
4. In granting a permit, the local government or the commissioner may limit the same or impose conditions or limitations designed to carry out the public policy set forth in this article. The local government or the commissioner may require a bond in an amount and with surety and conditions satisfactory to him securing to the state or local government, as the case may be, compliance with the conditions and limitations set forth in the permit. The local government may suspend or revoke a permit if it finds that the applicant has not complied with any of the conditions or limitations set forth in the application. The local government may suspend the permit if the applicant fails to comply with the terms and conditions set forth in the application. Department suspension and revocation proceedings shall be governed by the provisions of article 70 of this chapter and rules and regulations adopted thereunder and by the provisions of rules and regulations adopted by the department as provided in section 24-1301 of this article.

*So in original. Probably should read "section 24-0105".

5. The local government or the commissioner shall state upon the record findings and reasons for all actions taken pursuant to this section.
6. Review of the determination of the local government or of the commissioner shall be, within a period of thirty days after the filing thereof, pursuant to the provisions of title eleven of this article or article seventy-eight of the civil practice law and rules. Any owner of the wetland affected and any resident or citizen of the local government shall be deemed to have the requisite standing to seek review.
7. In the event that the court finds the action reviewed constitutes a taking without just compensation, and the land so regulated merits protection under this article, the court may, at the election of the commissioner, either (i) set aside the order or (ii) require the commissioner to proceed under the condemnation law to acquire the wetlands or such less than fee rights therein as have been taken.

TITLE 8

REGULATION OF WETLANDS IN THE ADIRONDACK PARK

- Section 24-0801. Permits for wetlands in the Adirondack park.**
24-0803. Transfer of jurisdiction to local government.
24-0805. Land use regulations for freshwater wetlands in Adirondack park.

§24-0801. Permits for wetlands in the Adirondack park.

1. As used in this title, the term "freshwater wetlands", in addition to its meaning under section 24-0107 of this article, shall mean "wetlands" as defined in subdivision sixty-eight of section eight hundred two of article twenty-seven of the executive law.
2. Where the activities otherwise subject to regulation under this article involve freshwater wetlands located within the boundaries of the Adirondack park, the inquiries referred to and the applications provided for in section 24-0703 of this article shall be made to and filed with the Adirondack park agency at its headquarters office, under such regulations and procedures as the Adirondack park agency may promulgate. The Adirondack park agency shall review the application in place of the commissioner or local government as provided in section 24-0705 of this article, having due regard for the declaration of policy and statement of findings set forth in this article and for the considerations set forth in subdivision one of section 24-0705 of this article. The agency shall in addition determine prior to the granting of any permit that the proposed activity will be consistent with the Adirondack park land use and development plan and would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park, taking into account the economic and social or other benefits to be derived from the activity. Any person may seek review of a ruling made solely pursuant to the provisions of this article by the Adirondack park agency pursuant to the provisions of title eleven of this article or article seventy-eight of the civil practice law and rules.

§24-0803. Transfer of jurisdiction to local government.

1. Notwithstanding anything in article twenty-seven of the executive law to the contrary, the Adirondack park agency may transfer to a town or village any or all of its jurisdiction over regulated activities conducted upon, or land use and development or subdivision involving, those wetlands located on private lands which it finds, due to their size or other characteristics, are of lesser regional importance and are appropriately to be administered by such local governments alone.

2. The agency shall not transfer such jurisdiction unless the town or village (a) has adopted and implemented a local freshwater wetlands protection law or ordinance or has in a local land use program provided by local law or ordinance for the protection of such wetlands, which law or ordinance:

(i) meets the criteria set forth in subdivision two of section 24-0501 of this article;

(ii) provides for a review of regulated activities, land use and development and subdivision pursuant to the standards set forth in subdivision two of section 24-0801 of this article, and

(iii) contains at a minimum land use regulations meeting the criteria of subdivision one of section 24-0903 of this article; and (b) possesses the technical or administrative capacity to administer the local law or ordinance.

3. In connection with a transfer of its jurisdiction pursuant to this section, the agency may impose reasonable conditions in furtherance of the policies and purposes of this article and of article twenty-seven of the executive law.

4. A local government regulating wetlands pursuant to this section shall have the right to charge such fees and expenses to an applicant for official action as shall enable it to recover the costs incurred by reason of such application.

5. The technical services of the department or the agency shall be made available to towns and villages, on a fee basis, in the implementation of the procedures set forth in this section.

§24-0805. Land use regulations for freshwater wetlands in the Adirondack park.

Except as to wetlands upon private lands within local governments to which jurisdiction has been transferred pursuant to section 24-0803 of this article, the Adirondack park agency shall also exercise the functions assigned to the commissioner under section 24-0903 of this article.

TITLE 9
FRESHWATER WETLANDS PRESERVATION PROGRAM

Section 24-0901. Cooperative agreements.
24-0902. Adopt-a-wetland stewardship program.
24-0903. Land use regulations for freshwater wetlands.
24-0905. Tax abatement.

§24-0901. Cooperative agreements.

1. Upon completion of the freshwater wetlands map, the commissioner shall confer with local government officials in each region in which the inventory has been conducted to establish a program for the protection of the freshwater wetlands of the state.
2. The commissioner may enter into cooperative agreements with any city, village, town or county, or with an owner of freshwater wetlands or with any one or more of them, for the purpose of preserving and maintaining, in accordance with the policies of this article, those freshwater wetlands which are within the boundaries of such city, village, town or county.
3. The cooperative agreement shall provide that the freshwater wetlands be preserved and maintained in their natural state and may provide for access thereto to be retained by such owner for purposes compatible with the purposes of this article.
4. A cooperative agreement with any such village, town, city or county may provide for the development by personnel and facilities of the department or the payment out of funds appropriate therefor, for the purpose of preserving, maintaining, or enhancing such wetlands in accordance with the policies of this article, and may be agreed upon by the parties to the cooperative agreement.
5. This section shall not prevent any freshwater wetland from being designated as part of the natural and historic preserves of the state, nor shall it prevent preservation of such lands by dedication as state parks. The office of parks and recreation shall outline to the commissioner its plans to preserve freshwater wetlands as parks and reserves as soon as possible after the effective date of this article.

§24-0902. Adopt-a-wetland stewardship program.

1. The commissioner may enter into stewardship agreements with any person or persons for the purposes of preserving, maintaining, or enhancing a state-owned wetland or portion thereof in accordance with the policies of this article.
2. The stewardship agreement shall provide that the wetland be preserved and maintained in its natural state or managed to enhance or restore the wetland values they provide, consistent with the provisions of this chapter and purposes of this article. Activities may include: remediating vandalism, picking up litter, and trash, establishing or maintaining access or nature trails, providing interpretive services for school groups and other citizens, managing fish and wildlife habitat, and otherwise providing positive benefits to the wetland.

3. Stewardship agreement with any person or persons may provide for assistance of personnel, facilities and supplies of the department for the purposes of supporting appropriate activities under such stewardship agreement, in accordance with the provisions of this article.
4. The department shall establish procedures by which a person or persons may apply for a stewardship agreement, and shall be responsible for working with such persons to identify specific sections of a state-owned wetland and specific activities deemed appropriate for such stewardship agreement. The department may consider factors such as safety, environmental sensitivity, need, cost and other factors deemed relevant in determining which wetlands or activities may be eligible or appropriate for a stewardship agreement.
5. The department shall provide recognition of the stewardship activities by appropriate signage on or near the adopted wetland, and may provide recognition by such other measures as it may determine to be appropriate, including but not limited to press releases, certificates, and newsletters.
6. The stewardship agreement may be modified in scope or altered in any other manner at the sole discretion of the department, not inconsistent with the provisions of this section. The person or persons shall have the option of renewing the agreement subject to the approval of the department and the continuation by the department of the adopt-a-wetland stewardship program. The department may terminate the agreement and remove the signs upon thirty day notice, if in its sole judgement it finds and determines that the person or persons are not meeting the terms and conditions of the agreement.
7. Notwithstanding any inconsistent provisions of law, the state and its employees shall not be liable for damages suffered by any person resulting from the actions or activities of such volunteers.

§24-0903. Land use regulations for freshwater wetlands.

1. Upon completion of the freshwater wetlands map of the state, or of any selected section or region thereof, the commissioner shall proceed to classify freshwater wetlands so designated thereon according to their most appropriate uses, in light of the values set forth in section 24-0105 of this article and the present conditions of such wetlands. The commissioner shall determine what uses of such wetlands are most compatible with the foregoing and shall prepare minimum land use regulations to permit only such compatible uses. The classification may cover freshwater wetlands in more than one governmental subdivision. Permits pursuant to section 24-0701 of this article are required whether or not a classification has been promulgated.
2. The commissioner shall upon completion of minimum land use regulations as provided in subdivision one of this section, forward the same to the local governments affected thereby. Within six months of receipt of the minimum land use regulations, the legislative body of each such local government shall submit to the commissioner proposed regulations governing the freshwater wetlands within its boundaries. Such proposed regulations shall be consistent with the purposes of this article and may be more restrictive than the minimum land use regulations as determined by the commissioner under this article. Where the proposed local

wetlands use regulations do not meet the minimum land use regulations as determined by the commissioner, the proposed local regulations shall be accompanied by supporting materials setting forth, among other things, that there are overriding economic and social considerations vital to the growth and economic base of such local government that clearly require such variance.

3. If the commissioner finds that the proposals meet the conditions stated in subdivision two of this section, the commissioner, after taking into consideration their effect on other local governments, may approve said local land use regulations.

4. In the event the commissioner does not approve local freshwater wetlands land use regulations, he shall then frame land use regulations governing such freshwater wetlands.

5. Prior to the adoption of any land use regulations governing freshwater wetlands, the commissioner shall hold a public hearing thereon in the area in which the affected freshwater wetlands are located, and give fifteen days prior notice thereof by publication at least once in a newspaper having general circulation in the area of the local government involved. The commissioner shall promulgate the regulations within thirty days of such hearing and publish such order at least once in a newspaper having general circulation in the area of the local government affected and make such plan available for public inspection and review; such order shall not take effect until thirty days after the filing thereof with the clerk of the county in which such wetland is located.

6. The commissioner shall accept and review applications to change the regulations annually.

7. Any person aggrieved by any such order or regulation may seek review pursuant to the provisions of title eleven of this article or judicial review pursuant to article seventy-eight of the civil practice law and rules in the supreme court for the county in which the freshwater wetland is located, within thirty days after the date of the filing of the order with the clerk of the county in which the wetland is located.

8. Except as provided in section 24-0805 of this article, this section shall not apply to freshwater wetlands or portions thereof located within the Adirondack park.

§24-0905. Tax abatement.

Any freshwater wetland subject to land use regulations pursuant to section 24-0903 of this article or subject to a cooperative agreement pursuant to section 24-0901 of this article shall be deemed subject to a limitation on the use of such wetlands for the purposes of property tax evaluation, in the same manner as if an easement or right had been acquired pursuant to the general municipal law. Assessed value shall be based, during the duration of such agreement or regulations, on the uses remaining to the owner thereof.

TITLE 11
APPEAL AND REVIEW

Section	24-1101. Freshwater wetlands appeals board.
	24-1103. Powers
	24-1104. Special review of freshwater wetlands in Richmond county.
	24-1105. Judicial review.

§24-1101. Freshwater wetlands appeals board.

1. There is hereby created in the department an appeals board, to be known as the freshwater wetlands appeals board, hereinafter in this article referred to as the board, consisting of five members.
2. Four members of such board shall be appointed by the governor for terms of two years; and one member shall be appointed by the governor for a term of three years, by and with the advice and consent of the senate, who shall be the chairman of such board and serve as its chief executive officer. No member of the board shall be an employee of the state or any political subdivision thereof. The chairman of the board shall have the power and the duty to (i) promote the efficient transaction of the business of the board; (ii) appoint such employees and agents as he may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties; (iii) prepare an annual operating budget to be submitted to the commissioner for inclusion in the department's annual budget request; and (iv) enter into contracts, within the limits of such operating budget, for the purposes of carrying out the provisions of this title.

Each member shall continue to hold office until his successor is appointed or designated and duly qualified. A member chosen to fill a vacancy created otherwise than by expiration of a term shall be designated or appointed, as the case may be, for the unexpired term of the member whom he is to succeed.
3. Appeals shall be heard by one member of the board in one of the counties wherein the freshwater wetlands affected by such appeal are located and a majority vote of the members of the entire board shall be necessary for a determination of such appeal.
4. The chairman of the board and two other members shall be attorneys, admitted to practice before the supreme court. Each member of the board, including the chairman, shall be reimbursed for actual and necessary expenses incurred in the performance of his duties and shall be compensated for his services at the rate of two hundred fifty dollars per day, provided, however, that the aggregate compensation for any one year of service for a member, other than the chairman, shall not exceed fifteen thousand dollars. The aggregate compensation for the chairman for any year of service shall not exceed twenty thousand dollars. A member may be removed by the governor for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon.

§24-1103. Powers.

1. The board shall have power, and it shall be its duty:
 - a. To meet and function at any place within the state;
 - b. To adopt, promulgate, amend and rescind suitable procedural rules with respect to the functioning of the board and the setting of time limits for the hearing of appeals, the rendering of decisions thereon, and the filing of the determination, decision or order of the board with the clerk of the county in which the freshwater wetland is located;
 - c. To hear appeals by any party to any proceeding before the commissioner or local jurisdiction from all orders or decisions of the commissioner or local jurisdiction issued or made pursuant to this article, provided such appeals are commenced by the filing with the board of a notice of appeal within thirty days after service of such order or after notice of such decision given, as the case may be;
 - d. To review any decision or order of the commissioner or local government made pursuant to this article upon appeal therefrom by any person or municipal corporation affected thereby, providing such review is commenced by the filing with the board of a notice of review within thirty days after service of such order or notice of such decision given, as the case may be;
 - e. To receive briefs, and, where the board deems it advisable, to hear oral argument with respect to such appeals;
 - f. To require the submission to it by the commissioner or local jurisdiction of an original or certified copy of the entire record on which any order or decision appealed from is based, which record need not be reproduced;
 - g. To stay the effectiveness of any order or decision of the commissioner or local jurisdiction pending the determination of an appeal in proper cases and on such terms and conditions as the board may require.
2. The board may affirm, remand or reverse ,my order or decision of the commissioner or local government or remand the matter to the commissioner or local government for further proceedings in whole, or with respect to any part thereof, or with respect to any party, provided however that the board shall limit its review to whether the order or decision of the commissioner or local government is:
 - a. in conformity with the constitution and the laws of the state and the United States;
 - b. within the commissioner's or local government's statutory jurisdiction or authority;
 - c. made in accordance with procedures required by law or established by appropriate rules or regulations of the commissioner or local government;

- d. supported by substantial evidence on the whole record; or
- e. not arbitrary, capricious or characterized by abuse or* discretion or clearly unwarranted exercise of discretion.

The commissioner or local government shall be bound by the decision of the board except to the extent such decision is reversed or otherwise modified by a court of competent jurisdiction pursuant to this article.

§24-1104. Special review of freshwater wetlands in Richmond county [expired June 30, 1992.]

1. Notwithstanding any other provisions of this chapter, the board is hereby empowered to review the tentative or final designation or any order or decision of the commissioner pursuant to this article with respect to any privately owned parcel of land or part thereof owned on January first, nineteen hundred eighty-seven located in Richmond county which did not contain a designation as a freshwater wetland on the tentative freshwater wetlands map filed in the office of the clerk of Richmond county in nineteen hundred eighty-one. Upon the request of an effected ** landowner, the department shall make available all relevant evidence upon which it relied in adjudicating or will rely in defending the designation of a parcel as a wetland. The board shall schedule and hold a public hearing as soon as practicable but in no event more than one hundred eighty days after receipt of a request for review of a designation of such property as wetlands, or of any order or decision of the commissioner pursuant to this article with respect to such property. The department in such hearing shall have the affirmative burden of demonstrating by a preponderance of the evidence that the parcel or part thereof under review is a wetland. Beginning six months after the effective date of this section, the board shall issue its final decisions within sixty days of the close of the record of the public hearing scheduled under this subdivision. The board, in exercising those powers specifically set forth in section 24-1103 of this article, shall review such designation to determine if there are unnecessary hardships in the application of such designation. If the board determines that such hardship exists, consistent with the declaration of policy contained in section 24-0103 of this chapter, the board may affirm, reverse, modify, or remand, with recommendations, the commissioner's designation, order or decision.

Notwithstanding the foregoing in the case of the owner of a privately owned parcel of land or part thereof which is not greater than ten thousand square feet in area, the board shall schedule a hearing within sixty days of receipt of a request for review of a designation of such property as wetlands or of any order or decision of the commissioner pursuant to this article with respect to such property. The department in such hearing shall have the affirmative burden of demonstrating by clear and convincing evidence that the parcel or part thereof under review is a wetland.

2. Within sixty days after the effective date of this section, the commissioner shall:
- (a) cause a notice of the provision of this section to be published in at least two daily

*So in original. Probably should read "of".

**So in original. Probably should read "affected".

newspapers having a general circulation in the county of Richmond in excess of twenty thousand; and

(b) given notice in writing of the provisions of this section to each owner previously notified in writing of designation of freshwater wetlands in connection with a tentative freshwater wetlands map filed in the office of the clerk of Richmond county in nineteen hundred eighty-six.

3. Nothing in this section shall be construed to abridge or deny any right or remedy available to any owner of any interest in a privately owned parcel of land or part thereof or to any permit applicant or to any project sponsor under any provision of law.

4. The provisions of this section do not apply to any parcel of land or part thereof, owned wholly or in part by any unit of government or agency or subdivision thereof, any authority or agency existing pursuant to governmental action, or subdivision thereof; including the state and city of New York.

5. This section is remedial in nature and the review powers of the board are intended to apply retroactively or prospectively to designations, orders and determinations of the commissioner made prior to the effective date of this section notwithstanding the denial or pendency of a permit application, commencement of judicial review, or a prior appeal to the board.

6. The commissioner shall be bound by the decision of the board, except to the extent such decision is reversed or otherwise modified by a court of competent jurisdiction pursuant to this article.

§24-1105. Judicial review.

1. The institution of a judicial proceeding to review a determination or order of the commissioner or local government shall preclude the institution of a proceeding before the board to review such a determination or order. The availability of such review by the board shall not affect the right of any person to seek review of a determination of the commissioner or local government as provided in article seventy-eight of the civil practice law and rules, and the limitations upon the availability of such remedy as prescribed in section seventy-eight hundred one of the civil practice law and rules shall not be applicable to applications for review of determinations and orders made pursuant to the this article.

2. Any determination, decision or order of the board pursuant to this title may be judicially reviewed pursuant to article seventy-eight of the civil practice law and rules in the supreme court for the county in which the freshwater wetlands affected are located, within thirty days after the date of the filing of the determination, decision or order of such board with the clerk of the county in which such wetland is located. The board shall be represented by the attorney general upon commencement of such judicial review; provided, however, that in instances in which the attorney general determines that its representation of the department or any other department or bureau of the state raises a conflict of interest, the board may be represented either by counsel to the board or by outside counsel.

TITLE 13

MISCELLANEOUS PROVISIONS

Section 24-1301. Miscellaneous provisions.
24-1303. Severability.
24-1305. Applicability.

§24-1301. Miscellaneous provisions.

1. The provisions of this article shall not be construed to limit in any manner the functions, powers and duties of the commissioner or the department of environmental conservation, or of any other state department or agency, under this chapter or any other laws.
2. The commissioner, his agents or employees and the personnel of the Adirondack park agency may enter upon any lands or waters after reasonable notice and for good cause shown for the purpose of undertaking any investigations, examination, survey, or other activity for the purposes of this article.
3. The commissioner may adopt and, from time to time, amend rules and regulations consistent with this article to assist him in carrying out his functions, powers and duties hereunder.
4. Notwithstanding any other provision of this chapter, a privately owned parcel of land or part thereof within the county of Richmond that did not contain a designation as a freshwater wetland on the tentative freshwater wetlands map filed in the office of the clerk of Richmond county in 1981 shall not be on any tentative freshwater wetlands map if the landowner has any written determination from the department pursuant to subdivision five of section 24-0703 of this article that such parcel of land or part thereof did not meet the statutory definition of a freshwater wetland. Such representations shall be considered to have been definitive when made, and such parcel or part thereof shall not be designated as a freshwater wetland on any final map filed in the office of the clerk of Richmond county pursuant to this article. The provisions of this subdivision shall not apply to any parcel of land or part thereof, purchased after January first, nineteen hundred eighty-seven, or to any such parcel or part thereof owned wholly or in part by any unit of government or agency or subdivision thereof, any authority or agency existing pursuant to governmental action, or subdivision thereof; including the state and the city of New York.

§24-1303. Severability.

The provisions of this article shall be severable, and if any clause, sentence, paragraph, subdivision or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§24-1305. Applicability.

The provisions of this article shall not apply to any land use, improvement or development for which final approval shall have been obtained prior to the effective date of this article from the local governmental authority or authorities having jurisdiction over such land use. As used in this section, the term "final approval" shall mean:

- (a) in the case of the subdivision of land, conditional approval of a final plat as the term is defined in section two hundred seventy-six of the town law, and approval as used in section 7-728 of the village law and section thirty-two of the general cities law;
- (b) in the case of a site plan not involving the subdivision of land, approval by the appropriate body or office of a city, village or town of the site plan; and
- (c) in those cases not covered by subdivision (a) or (b) above, the issuance of a building permit or other authorization for the commencement of the use, improvement or development for which such permit or authorization was issued or in those local governments which do not require such permits or authorizations, the actual commencement of the use, improvement or development of the land.

ARTICLE 71

TITLE 23

ENFORCEMENT OF ARTICLE 24

- Section** **71-2301. Applicability of title.**
 71-2303. Violation; penalties.
 71-2305. Enforcement.
 71-2307. Abatement of pollution.

§71-2301. Applicability of title.

In addition to the provisions of sections 71-0101, 71-0301 and title five of this article, the provisions of this title shall be applicable to the enforcement of article twenty-four of this chapter.

§71-2303. Violation; penalties.

1. Administrative sanctions. Any person who violates, disobeys or disregards any provision of article twenty-four, including title five and section 24-0507 thereof or any rule or regulation, local law or ordinance, permit or order issued pursuant thereto, shall be liable to the people of the state for a civil penalty of not to exceed three thousand dollars for every such violation, to be assessed, after a hearing or opportunity to be heard upon due notice and with the rights to specification of the charges and representation by counsel at such hearing, by the commissioner or local government. Such penalty may be recovered in an action brought by the attorney general at the request and in the name of the commissioner or local government in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner or local government before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any

such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner or local government. In addition, the commissioner or local government shall have power, following a hearing held in conformance with the procedures set forth in section 71-1709 of this chapter, to direct the violator to cease his violation of the act and to restore the affected freshwater wetland to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the commissioner or local government. Any such order of the commissioner or local government shall be enforceable in an action brought by the attorney general at the request and in the name of the commissioner or local government in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner or local government pursuant to this subdivision shall be reviewable in a proceeding pursuant to article seventy-eight of the civil practice law and rules.

2. Criminal sanctions. Any person who violates any provision of article twenty-four of this chapter, including any rule or regulation, local law or ordinance, permit or order issued pursuant thereto, shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than five hundred nor more than one thousand dollars; for a second and each subsequent offense he shall be guilty of a misdemeanor punishable by a fine of not less than one thousand nor more than two thousand dollars or a term of imprisonment of not less than fifteen days nor more than six months or both. Instead of these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetland to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the commissioner or local government. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

§71-2305. Enforcement.

1. The attorney general, upon his own initiative or upon complaint of the commissioner or local government, shall prosecute persons alleged to have violated any such order of the commissioner or local government pursuant to article twenty-four.

2. The commissioner or local government shall have the right to seek equitable relief to restrain any violation or threatened violation of any provisions of article twenty-four.

3. In exercising its authority pursuant to title eight of article twenty-four of this chapter, the Adirondack park agency shall have authority to exercise the powers of the commissioner to enforce article twenty-four set forth in this title; provided, however, that nothing herein contained shall empower the agency to exercise the powers granted the commissioner by section 71-0525 of this article.

§71-2307. Abatement of pollution.

Where any freshwater wetlands have been damaged or endangered by pollution or are subject to pollution, the commissioner shall take all appropriate action to abate the pollution. The commissioner may restrict or order cessation of solid waste disposal, deep well disposal, or liquid waste disposal where such is polluting a given freshwater wetland.



Section four of Chapter 614 of the Laws of 1975 provides:

The commissioner is directed, as part of his continuing study under title three of the act, to report to the legislature within three years after the effective date of the act with respect to its implementation and his recommendations better to carry out the purposes hereof, with appropriate legislation, including recommendations with regard to increasing the effectiveness both of statewide and local implementation; the classes and sizes of freshwater wetlands to be included in or removed from the state and local programs, respectively; with regard to hearing and review procedures, and their increased effectiveness; and with respect to improving the technical implementation of the act at all levels.

Article 24 of the Environmental Conservation Law, as enacted by Chapter 614 of the Laws of 1975, effective September 1, 1975, and as amended by Chapter 311 of the Laws of 1976, effective June 8, 1976; Chapter 771 of the Laws of 1976, effective July 24, 1976; Chapter 654 of the Laws of 1979, effective September 1, 1979; Chapter 697 of the Laws of 1979, effective July 13, 1979; and Chapter 408 of the Laws of 1987, effective July 30, 1987, provided, however, that section 24-1104 of this act shall take effect on September first, nineteen hundred eighty-seven and such section shall remain in full force and effect only until and including June thirtieth, nineteen hundred ninety-two at which time the provisions of this act shall be deemed repealed; and except that any proceeding commenced prior to such date may be continued until a final determination has been rendered.

This is the AKC
guidelines of how to
establish and design
a dog park

Establishing a **Dog Park** in Your Community



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What Is a Dog Park and How Does It Benefit the Community?

With cities becoming more and more crowded and leash laws becoming more restrictive, many concerned dog owners are looking to the creation of dog parks as a solution to their need for a place to spend quality time with their pets. But just what is a “dog park,” and what benefits can one bring to your city or town?

A dog park is a public park, typically fenced, where people and their dogs can play together. Similarly, a dog run is a smaller fenced area, created for the same use, that is often located within an existing park. As the names imply, these places offer dogs off-leash play areas where their owners can enjoy a park-like setting and the chance to socialize with other canines and their owners. Dog parks, which are sometimes managed by park users in conjunction with city or town officials, are being established all over the country and offer a wealth of benefits to dogs, dog owners and the community as a whole.



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More than just “room to roam,” the creation of a dog park . . .

Allows dogs to exercise and socialize safely. Puppies and adult dogs need room to run, and enclosed play areas permit them to do so while preventing them from endangering themselves and others (for example, by running into the path of an oncoming vehicle). In addition, dogs who are accustomed to playing with animals and people other than their owners are more likely to be well-socialized and react well toward strangers.

Promotes responsible dog ownership. Dog parks prevent off-leash animals from infringing on the rights of other community residents and park users such as joggers, small children, and those who may be fearful of dogs. Parks also make it easier for a city to enforce its leash laws, as resident dog owners with



Enclosed play areas for exercise make dogs better-adjusted neighbors.

park access have no reason to allow their canine companions off-leash when outside of the park.

Provides an outlet for dog owners to socialize. Dog parks are a great place for owners to meet other people with common interests. The love people share for their dogs reaches beyond economic and social barriers and helps foster a sense of community. Park users also benefit from the opportunity to ask questions of other owners and find solutions to problems they might be having with their pet.

Makes for a better community by promoting public health and safety. Well-exercised dogs are better neighbors who are less likely to create a nuisance, bark excessively, and destroy property. Their presence in the park, along with their owners, also may help deter crime.



How to **Build** a Dog Park in Your Community

By now you've recognized the need for a dog park in your area, and you're eager to see one established. But how do you get started? The following are some strategies for a successful campaign:

The First Steps . . .

Start with a core group of committed dog park activists. Talk with a half dozen other individuals who are concerned about the lack of off-leash spaces. These may be people you already know, or you may want to put a notice in the local paper. This group may form a park association and will be responsible for meeting with public officials, making presentations, maintaining the park and defusing any problems that arise.

Hold a public meeting. Once the core group is in place, a larger community meeting will help you get the word out to supporters and solicit input and suggestions. Contact other dog owners, dog-related clubs, veterinarians, and humane society and animal control officials to gather interest and support. Do so by posting, mailing, or distributing notices in areas such as neighborhood bulletin boards, pet supply stores, animals hospitals, and shelters. Encourage people to write letters of support to public officials and the media, and to make presentations to community groups whose backing would be valuable.

Educate your fellow dog owners on the need to be responsible. The owner who neglects to pick up after his dog or who allows an aggressive or unsocialized dog to run loose can do a lot of damage to your cause and undermine your chances of success.

Write a clear mission statement that details the need and purpose of the park, stressing the benefits to dog owners, their canine companions, and the greater community. The Redwood City [California] Responsible Dog Owners' statement says it all: "To establish a fenced-in, off-leash dog park where well-behaved canine citizens can exercise in a clean, safe environment without endangering or annoying people, property or wildlife. To



Dog owners who neglect to pick up after their dogs can damage your cause.



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develop a beautiful, well-maintained space open to all dog lovers and friends who are willing to uphold the park's rules and restrictions. To view this park as a community project, in partnership with the City of Redwood City, designed to satisfy the needs of dog-owners and non-dog owners alike."

Choose a site. The ideal area will be a safe, accessible location that takes into account the needs of park users as well as the effect the park will have on neighbors and the environment. Please refer to "Dog Park Design" on page 15 for additional recommendations.

Create a budget. Determine how much it will cost to construct and maintain the park – costs for grass, fences, garbage removal, lawn maintenance, drinking water, field drainage, lighting, benches, and a pooper-scooper station. Some cities are willing and able to finance a dog park; others would rather share the cost with a group committed to maintaining the park and ensuring that park rules are followed. Keep in mind that, if it is within your budget to do so,

SUCCESS STORY #1

Monmouth County, New Jersey

In the summer of 1999, a newly organized group of Monmouth County dog owners petitioned the county park system and several local municipalities to establish an off-leash dog park. The Bay Shore Companion Dog Club and New Jersey D. O. G. (Dog Owners Group) helped recruit members and collect signatures from owners of the nearly 40,000 licensed dogs living in the county.

After collecting 12,000 signatures, the group presented its proposal to the county park system's Board of Recreation Commissioners and municipal park system officials. Officials agreed that a dog park would offer many benefits to residents. They talked to other counties with successful parks about liability issues, rules, and regulations, before voting to approve funding for the estab-

lishment of an off-leash area in Monmouth County. The Thompson Park Dog Run opened on October 30, 1999, to enormous popularity.

Now that the park has opened, area dog owners will concentrate on forming a core group to help keep up the site and prevent potential problems. Just because dogs are allowed to run free does not mean that owners will not be responsible for their animals' actions. There are rules to be followed, guidelines to be maintained. "Public education for dog owners will be critical to the park's success," notes one of the organizers. The park itself provides a terrific venue for teaching people to be responsible dog owners. Members of the local dog community have already held a "Park Do's and Don'ts" seminar and plan to host future programs there.



sharing expenses with the city can be a great public relations tool. It shows officials that you are committed to the project, will help foster good community relations and may increase your chance for the park's approval.

Depending on your situation, you will have to determine how you will generate revenue for your budget. One possibility to consider is user fees – requiring all park users to pay an annual or daily fee. Permits could be obtained from the city or town or through the park association. Fund-raisers such as a dog wash or concession sale at a local dog show can also help to generate money to cover expenses and maintenance costs. Finally, consider soliciting town and city sources. By convincing elected officials that there is wide support for a dog park among taxpayers and voters, you may help encourage funding for the park.

Solicit the input and seek the approval of significant organizations in your community. Meet with the proposed park's neighbors before talking to city hall. As soon as someone brings up a concern, address it and try to come up with a solution. With a little good will and cooperation, neighborhood differences can usually be resolved.



OK, you’ve gathered your resources. Where do you go from here?

Create a proposal. Your well-prepared presentation will include your mission statement and goals, and should address issues such as location, funding, maintenance and enforcement. Committee members will be expected to establish and enforce reasonable health and safety rules for the park, and these should be included in the proposal as well. Suggestions for these guidelines can be found in the “Rules and Regulations” section of this brochure. A good proposal will also do the following:

Demonstrate need. Do this by gathering statistics on the dogs and the people in your community.

- How many dogs would use a dog park?
- What are the demographics of the people in your city?
- Who currently uses city parks – and who doesn’t? Downplay the “dog factor” and emphasize people issues. Dogs don’t pay taxes or vote.





Demonstrate support. In many communities, organizers found that a simply worded request, circulated on a petition, helped convince city officials that there was indeed both a need and widespread public support for a responsibly run dog park.

- Place petition gatherers at supermarkets, pet-supply stores and other high-traffic areas.

SUCCESS STORY #2

Sarasota County, Florida

Sarasota County is the proud home to two successful “paw parks,” thanks in part to some active AKC®-affiliated dog club members.

One long-time club member chaired the Animal Welfare Advisory Committee that approved the opening of the 17th Street Paw Park last year. The chairman and his rescued Greyhound participated in a ribbon-cutting ceremony that attracted the attention of enthusiastic dog owners, media and city officials alike. The overwhelming success of the 17th Street Paw Park led to the creation of a second

off-leash area at Woodmere Park in Venice, Florida. In support of the move, the Greater Venice Florida Dog Club donated a decorative sign to mark the new paw park’s location.

In the last year, county officials from across the nation have contacted the Sarasota County Parks and Recreation Department regarding their success in developing and maintaining paw parks. Based on the positive response community residents have had to the parks, both off-leash areas will continue to serve as models for dog groups in the future.



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- Enlist the support of local veterinarians, groomers, dog walkers, and others who have a real interest in seeing a community filled with healthy, well-socialized dogs. Involve them in gathering petitions, writing letters to the editor of local papers and generally spreading the word.
- Organize local residents to contact their community representatives, parks department officials, and media in the form of letters, e-mails, and phone calls, asking for their support.
- Consider sending press releases to local media, explaining how the community will benefit from a dog park and providing information about the success of existing parks in other areas.
- You'll need to get the neighbors' approval, too. Explain your proposal to them, as well as the ways that a dog park will benefit them, and ask them to sign a separate petition stating that they are willing to have the park in their neighborhood.

Get to know local officials – your city council members and the director of your department of parks and recreation. Attend meetings, join them at fund-raisers. Find out what they need from you to move the dog park forward. To help you get started, the AKC's Government Relations Department can provide you with brochures offering tips on working with government officials.



When you're ready, request a hearing with city government to discuss your proposal. Have two or three carefully selected, knowledgeable and articulate members of your group present your plan, clearly expressing its many benefits to the community and calmly addressing any concerns. Be prepared to deal with a range of concerns, including the risk of dog fights, dog bites, noise level, parking and traffic needs, liability issues, and maintenance. Explain why some of these are nonissues – the park's dogs, for example, will be well-socialized and therefore less likely to fight, bite, and cause accidents in the community. Have a plan to address legitimate issues, like traffic and noise.

Be patient and flexible. Dealing with city government is rarely a quick process, but don't give up! Follow through with continued letters and e-mails, and be willing to work toward compromise.

SUCCESS STORY #3

Sausalito, California

In early 1991, the City of Sausalito passed a law requiring dogs to be leashed at all times within the city limits. After receiving a citation and fine for walking her dog Remington without a leash, one owner led a citizen group that worked with the city council, the parks and recreation department and the Marin Humane Society to establish a dedicated enclosed area where the dogs of Sausalito could be off leash.

During that summer volunteers raised funds to fence a 1.3 acre area in the Martin Luther King School area, located on the north side of Sausalito, to be used as a dedicated dog park. In November 1991, the "Remington Dog Park" was officially opened with a gala ribbon cutting attended by city council members, local citizens, and their dog companions.

Although the city provides utilities, including water, electricity, and garbage removal, the park has been maintained by its users since the opening. Regularly scheduled work parties cut the grass as

well as maintain and improve the grounds.

Improvements to the park in excess of \$36,000 to date have been made through donations solely from park users. In addition to original fencing the park now has lighting, a storage shed, a riding lawnmower, picnic tables, benches, a dog drinking-water area, and a "scooper" cleaning station.

The park is the home of champion show dogs as well as mixed breeds. Dog owners have adopted over 30 "rescue" dogs. Many owners now have two dogs as a result of this program.

Having received the highest rating of "4 Paws" in The California Dog Lover's Companion, the Sausalito Dog Park is now used by over 300 dogs per day. From sunup to sundown, dogs of all ages, sizes, and types can be seen romping in the park, chasing a never ending supply of tennis balls, simply lying at their masters' feet under a picnic table or on top of the picnic table demanding face-to-face attention.

(See also www.dogpark-sausalito.com.)



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SUCCESS STORY #4

Tallahassee, Florida

Members of the Ochlockonee River Kennel Club are always looking for ways to give back to their community, so when the opportunity came to help with the establishment of a dog park in Tallahassee, they jumped at the chance.

The group had long realized how important it was for dog owners to have a place where they could socialize with others and let their dogs run or play Frisbee. At the same time, their community was facing problems at a nearby city park where owners were permitting their dogs to illegally roam off-leash. The solution seemed simple -build a dog park! A public committee was formed, and an ORKC board member volunteered to serve on behalf of the dog community.

While the city of Tallahassee was

receptive to the idea, it was clear that little could be done without funds for fencing, pooper-scoopers, and the like. ORKC, which donates to various organizations every year, soon agreed to give the city the \$4,000 that would be needed to fence the two-acre park. Other clubs and fanciers followed suit, donating money for watering holes, cleanup facilities, shade trees, and benches. The city even donated old fire hydrants to add to the fun.

The park has been extremely popular since its opening in the summer of 1999, and city officials, who originally agreed to open the park on a trial basis only, are now enthusiastic about developing more. Members of the ORKC are pleased to have had a helping hand in the park's establishment and see it as a great opportunity to increase awareness of responsible dog ownership.

Congratulations – they approved it! Now what?

Your efforts have been successful, and development of the dog park is moving forward. Now is the time to thank everyone who helped bring the park to fruition, including volunteers, government officials, and community residents. As a result of everyone's hard work, many dog owners will soon have a new opportunity to enjoy their canine companions! Be sure to share this good news with the AKC's Government Relations Department so we can pass it on to others.

The key to future and continued success of the dog park will lie in responsible park-association members and park users who strictly enforce the rules. For the most part, this will mean getting people to clean up after their dogs, quiet excessive barking and curtail any aggressive behavior. Occasionally larger issues may arise, and it will be up to you to help settle disputes in a responsive, flexible manner.

Maintenance will be another important consideration. In some areas, park associations work in conjunction with local kennel clubs and parks department officials to organize volunteer "park cleanup" days. Kennel clubs and other dog organizations may also be willing to donate funds for future supplies of scoopers, trash bags, and cans.

The development of a successful dog park requires a great deal of planning and effort. But your involvement and dedication will hopefully lead to the ultimate reward – the joy of creating and maintaining a special place where dogs and their families can run, romp and socialize.



REMINGTON DOG PARK

HOURS

6:30AM–8PM

DAYLIGHT SAVINGS TIME 6:30AM–9PM

BARK–FREE ZONE

PLEASE BE CONSIDERATE. NOISE FROM THE PARK IS A NUISANCE TO OUR NEIGHBORS. DOGS THAT BARK PERSISTENTLY MUST BE REMOVED FROM THE PREMISES.

UNATTENDED DOGS WILL BE IMPOUNDED

DO NOT LEAVE YOUR PET IN THE DOG PARK WITHOUT SUPERVISION.

CALL THE
MARIN HUMANE SOCIETY
883–4621

TO REPORT A DOG PROBLEM
OR LOST PET.

Dog Park Design:

The Ideal Dog Park Should Include . . .

- One acre or more of land surrounded by a four- to six-foot high chain-link fence. Preferably, the fence should be equipped with a double-gated entry to keep dogs from escaping and to facilitate wheelchair access.
- Cleaning supplies, including covered garbage cans, waste bags, and pooper-scooper stations.
- Shade and water for both dogs and owners, along with benches and tables.
- A safe, accessible location with adequate drainage and a grassy area that is mowed routinely.
- If space allows, it is preferable to provide separate areas for small and large dogs. This will enable large dog owners to allow their pets to run more freely, while protecting smaller dogs who may not be suited to the enthusiastic play of larger breeds.
- Signs that specify park hours and rules.
- Parking close to the site.



A double-gated entry prevents dogs from escaping.



Rules and Regulations

Members of a dog park committee should establish and enforce reasonable health and safety rules for the park, such as the following:

- Owners are legally responsible for their dogs and any injuries caused by them.
- Puppies and dogs must be properly licensed, inoculated, and healthy.
- Animals should wear a collar and ID tags at all times.
- Owners must clean up after their dogs.
- Dogs showing aggression toward people or other animals will be removed from the park. Animals who exhibit a history of aggressive behavior will not be permitted to enter.
- Puppies using the park must be at least four months old.
- Owners should not leave their dogs unattended or allowed out of sight. If young children are permitted in the dog park, they too should be under constant supervision.
- Dogs in heat will not be allowed inside the park.
- Owners must carry a leash at all times. Dogs should be leashed before entering and prior to leaving the park.
- Violators will be subject to removal from the park and suspension of park privileges.

REMINGTON DOG PARK *RULES*

1. Dogs must NEVER be left unattended.
2. All dogs must wear a current license.
3. Owners are required to clean up after their dogs.
4. Unruly dogs are not allowed.
5. Female dogs "in heat" are not allowed in the Dog Park area.

Marin Humane Society 883-4621



AMERICAN KENNEL CLUB®

AKC® Web Site: www.akc.org

For more information, contact
the Government Relations Department

Phone: 919-816-3720

Fax: 919-816-4275

E-Mail: doglaw@akc.org

Photos of Remington Dog Park, Sausalito, CA, by Vicky Cook



this article provides the issues needed to be addressed if a municipality takes on the responsibility of a dog park. Great article to read through. I have highlighted some issues that I believe are relevant

Designing a Model Dog Park Law

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- **Author:** John J. Ensminger and Frances Breitkopf
- **Place of Publication:** Originally published 2011; updated last May 2016. Michigan State University College of Law
- **Publish Year:** 2016
- **Primary Citation:** Animal Legal & Historical Center

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Summary: This article was originally posted by the Animal Legal & Historical Center five years ago and the authors feel it has been in need of revision for some time. We will from now update the article periodically in this location so that those readers who are involved in creating dog parks, and legislators and their staff involved in modifying laws and regulations to take into account the significance of dog parks in the legal and governmental systems of states, counties, and municipalities, can have what benefit our analysis may provide concerning developments relevant to their interests. Also, those committees and groups that must decide on rules for use of a dog park to be posted at an entrance gate can understand what we think is appropriate and reasonable for a list of requirements, given that users will not want to spend large amounts of time reading a legal text before getting a dog inside the park.

The article begins with our views on how dog park law has evolved in recent years, then discusses the laws and regulations that apply to dog parks and similar spaces. It then reviews the rules that often apply to the users of dog parks around the United States. Finally, the model laws and rules are contained in the last section. The model law provisions are somewhat unusual in contemplating the

adoption of provisions at a number of legislative levels. Thus there is no single proposed law, but rather a collection of suggested modifications of statutes and regulations, some of which may be appropriately contained in a statute in one jurisdiction but a regulation in another, depending on where related issues are addressed in the codes and rules issued by a state, county, municipality, or other park-regulating entity. [1]

I. Dog Parks Are Working Well

When we first wrote this article five years ago, we expected we would be seeing more legislative and judicial activity concerning dog parks than has been the case. Relatively few states have seen the need to assure any specific level of immunity to those who own the land on which a dog park is created. There have been some lawsuits in tort regarding unsafe conditions for visitors to dog parks, but it does not seem to us that the number of such suits is disproportionate to the amount of land involved. Indeed, we suspect that many dog parks, often created by committees of citizens in many rounds of discussions, are well thought out to avoid such problems and the frequency of personal injuries appears to be very low. There is also the goodwill of the dog-owning users, who see the benefits of such parks for their dogs and themselves and who make an extra effort to reduce both human and canine aggression.

The number of legal decisions and orders, either formally reported or published in Westlaw or Lexis-Nexis, that concern disputes that arose between visitors of dog parks has also not been very significant in our opinion. It appears that people with aggressive dogs are not prone to bring them to dog parks. Indeed, one of the values of a dog park is that it provides a place where a dog owner can socialize a dog that might not otherwise be meeting many members of its own species. Encounters on leash, on streets and roads, are often cut short or prevented at all, so that for many busy dog-owners with limited time to enjoy their pets, a dog park may be the best place to assure some frequency of socialization activity.

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The area where we see the most legal activity concerns the creation of dog parks. Attempts to stop the creation of dog parks have arisen because of noise that may disturb neighbors, possible effects of dog waste, the nearby presence of schools and medical facilities, municipal reluctance to devote limited land resources to an activity in which most citizens will not participate, and other reasons. In the end, reading about such issues convinces us that many disputes are thin covers for the never-ending divide between those in our society who love dogs and those who do not. Yet the number of disputes that result in judicial decisions and orders that reach a level where we can detect their existence in Westlaw and Lexis-Nexis has, in our opinion, not been significant.

We have not made any formal effort to calculate the number of dog parks in the United States, or the number that are created in any recent year. Without trying, we are certain that the number of new dog parks created annually is in the hundreds, perhaps in the thousands. Therefore, we believe that dog parks are becoming an important aspect of the urban landscape, just as graveyards, parks of various sorts, and monuments have been since the settling of North America. We are, admittedly, advocates for dog parks and believe that the trend will continue. Although it can be expected that there will on occasion be bad press for a dog park here and there, the number of disasters that will lead to strong opposition to a park will not, in our opinion, lead to any general public distaste for these small environments that now dot city and town maps. Therefore, the following analysis, which highlights some instances that have led to legal friction or legislative resolution, are generally relatively mild birth pangs for what we believe to be a generally positive social development.

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II. Dog Parks in American Society

A dog park is a place where dogs run off leash in the presence of their owners or handlers. Although most spaces called dog parks are surrounded by fencing, [2] this is not always the case as some off-leash areas are called dog parks, at least by those who use these spaces. We will use the term “off-leash area” to describe spaces that lack fencing, reserving “dog park” for fenced-in areas.

Dog parks sometimes begin as off-leash areas where a group of citizens, with the approval of a local authority, install fencing to provide for the safety of their dogs and the surrounding community. [3] Dog parks are increasingly incorporated, generally tax-exempt, entities, though many have no formal legal status, being approved uses of a particular space by the municipal or park authority that owns the space. This approval may itself be rather informal, indicated by no more than a city council passing a resolution to permit a citizens’ group to install a fence around some section of municipal property. The citizens’ group may never formally incorporate itself, remaining a collection of park users who have banded together to post some rules for users of the park, and

occasionally gathering to clean the space or raise funds to provide some amenities for users. Private developments may also set aside common areas for dog parks. [4]

→ Dog parks are generally open to all dogs, though some may have separate sections for small and large dogs, or even small, medium, and large dogs. The American Kennel Club recommends that parks should not be open to dogs under four months old. [5] Wright State University in Dayton, Ohio, has a dog park for the service animals on campus to which pets are not allowed. [6]

There are few laws regarding the creation of dog parks. The District of Columbia provides a framework under which a citizens' group can approach the Department of Parks and Recreation for the creation of a dog park. [7] Administrative codes may authorize park authorities to designate areas inside of parks as off-leash areas or dog parks, but usually provide no guidance beyond perhaps specifying the authority empowered to approve such an area or park. [8]

check state statutes

Few state statutes use the word “dog park” and few state laws have been modified, as might seem required, to allow for their existence. Many states prohibit dogs running at large, requiring generally that, outside of the handler’s property, a dog be on a leash or otherwise restrained. Dog parks would seem in violation of such laws, yet only a few states have formally excepted dog parks from such state-wide leash laws. [9] Other states empower counties and municipalities to establish leash laws, so a dog park would not require modification of a state law, yet even here many county and municipal ordinances regarding usage of leashes often remain unmodified to take into account dog parks that these governments have approved. [10] This kind of informality may be accepted by police and animal control authorities as a variance from local law, but if a serious attack by a dangerous dog were to occur in a dog park, the lack of formality might justify plaintiff’s counsel in arguing that a city was negligent in failing to enforce provisions that could have prevented an attack. Few provisions even attempt to preclude liability on the part of a county or municipal authority that permits dog parks. Other laws, such as dangerous dog laws, dog bite laws, and abandonment laws, should in many states be modified to take dog parks into consideration, but remain unaltered, creating various but potentially significant legal risks. On the other hand, the lack of legislative attention probably indicates, as we noted at the beginning of this article, that dog parks are generally functioning well in the United States.

who will enforce rules

The lack of formality in the law of dog parks may in part explain why police and animal control authorities are often reluctant to become involved in enforcement issues regarding these spaces. Although a number of crimes can occur in dog parks—dog bites, attacks by dangerous dogs, even illegal activities by users such as dealing drugs—these spaces often receive little attention from local police, who may see the lack of formality as meaning that dog park users should reach their own accommodations with each other. Similarly, although dog parks may become popular places to abandon unwanted dogs, animal control officers may not want to be seen

as taking sides in disputes between users that they lack any clear authority to resolve and only enter the park on request from a dog park group that, formally or not, oversees the operation of the park.

While the posted rules that apply to users of dog parks have some uniformity around the U.S., and it was not difficult for us to build model park usage rules from this uniformity, there are few laws specifying the procedures by which dog parks can be created or the requirements for their continued management and maintenance. The District of Columbia has issued comprehensive municipal regulations on the application process of creating a dog park, what elements dog parks must have, how complaints are to be dealt with, and how rules are to be enforced. These D.C. regulations became the basis of the model provisions we drafted concerning the creation and maintenance of dog parks, provisions that we consider could be adopted by states, counties, or municipalities, or by some mixture of authorities at different levels.

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things to consider

III. State and Local Laws That May Require Modification for Dog Parks and Off-Leash Areas

State statutory laws deal with a wide range of dog matters, some of which, as mentioned above, should be changed to take into account the unique aspects of dog parks and off-leash areas. The following issues may be considered by legislatures in this regard, though some will only be relevant for a select group of states. Many states provide general delegation of authority for dog regulation to counties and municipalities, [\[11\]](#) in which event the issues discussed below should be considered by these authorities.

Abandonment. Abandoning a dog is often made a crime, [\[12\]](#) and may result in extermination of the dog if it is not reclaimed. [\[13\]](#) Dog parks have become favored spots for doing so, [\[14\]](#) despite the fact that dogs abandoned at a park can become frightened and dangerous, and animal control authorities are not going to treat dogs left at dog parks any differently than dogs left anywhere else. [\[15\]](#) Theft of an animal is generally a crime, [\[16\]](#) but would not apply to removing an abandoned dog from a dog park. A statute that lists potential locations of abandonment (e.g., kennels) should be modified to mention dog parks. The authors have heard of cases where owners temporarily left dogs in parks because of laws precluding leaving the animals in parked cars. [\[17\]](#) Owners should be aware that dog parks are not places to park dogs during shopping trips.

Advertising. General public park rules may prohibit or limit advertising. [\[18\]](#) Dog parks may want to allow for some advertising displays as a means of raising funds. Pet-oriented businesses, and pet friendly businesses, may see advertising in a dog park as a means of reaching a highly targeted audience, as well as generally supporting an initiative that presents the municipality or area as dog

friendly. State policy may not be averse to this, as indicated by the growing trend of issuing pet friendly license plates. [19]

Animal control authority. Animal control authorities may be created at various governmental levels, [20] and may be private entities with which a county or municipality contracts. [21] An animal control authority could be assigned specific responsibilities as to the inspection of dog parks, but at least should be empowered to investigate health and safety conditions of dog parks. Animal control authorities are often responsible for investigating nuisance complaints against dogs said to be barking excessively. [22] This will occasionally arise from regular use of a dog park, but may also apply where someone uses a park after posted hours. Some parks may use an informal overseer or interested group to report infractions and behavior problems to the municipality, which may then take action through the police or perhaps through a local animal control officer.

Beaches. States sometimes prohibit dogs from going on beaches, often in warmer months. Delaware law, for instance, provides that only law enforcement and guide dogs may go on beaches between May 1 and September 30. [23] No change to such laws should be required, unless to specify the distance a dog park must be from a beach. Beach arrangements can be informal in parks, though environmental groups can be increasingly expected to object to or attempt to limit such arrangements.

Dangerous dogs. State law often requires that dangerous or potentially dangerous dogs be kept indoors. [24] Such dogs may be euthanized by an animal control authority under certain circumstances. [25] Attacks by dangerous dogs are often crimes, with the level of the crime and potential severity of the punishment increasing with the number of attacks. [26] State law may permit municipalities to impose additional requirements as to dangerous dogs. [27] Some states specify that a dog that is the subject of a dangerous dog investigation may not be relocated or transferred to another owner pending the outcome of the investigation. [28] The frequency of a dog's biting may be part of the definition of a dangerous dog. [29] Some states have separate categories of "dangerous" and "vicious" dogs. [30] These laws should not generally require modification for bringing such dogs to dog parks unless to increase the penalty for not confining such a dog.

Dog bites. Even if a dog has not been designated as dangerous or vicious, the owner will be liable for damages to a person bitten, particularly if the owner is aware of any propensity of the dog to be aggressive. [31] A case from Connecticut, *Nucci v. Harding* [32], did not contain enough facts to know exactly what happened, but the Connecticut Superior Court concluded that a person attacked in a dog park could bring an action for public nuisance against another user of the park whose dog had attacked her. The defendant did not need to control the dog park to be liable for the nuisance created by an out-of-control dog. This is a matter regarding remedies, but there will generally be some way in which an irresponsible dog owner can be liable for an aggressive dog, and liability can even be both civil and criminal. As provided by Florida law:

The owner of any dog that bites any person while such person is on or in a public place, or lawfully on or in a private place, including the property of the owner of the dog, is liable for damages suffered by persons bitten, regardless of the former viciousness of the dog or the owners' knowledge of such viciousness. However, any negligence on the part of the person bitten that is a proximate cause of the biting incident reduces the liability of the owner of the dog by the percentage that the bitten person's negligence contributed to the biting incident. A person is lawfully upon private property of such owner within the meaning of this act when the person is on such property in the performance of any duty imposed upon him or her by the laws of this state or by the laws or postal regulations of the United States, or when the person is on such property upon invitation, expressed or implied, of the owner. However, the owner is not liable, except as to a person under the age of 6, or unless the damages are proximately caused by a negligent act or omission of the owner, if at the time of any such injury the owner had displayed in a prominent place on his or her premises a sign easily readable including the words "Bad dog." The remedy provided by this section is in addition to and cumulative with any other remedy provided by statute or common law. [33]

The owner of the dog biting someone is generally liable even if the dog, at the time of the bite, was under the control of someone else, such as a dog walker. [34] Criminal liability generally attaches as well as civil. The level of the offense is likely to increase if the owner, seeing the dog begin to attack a person, does not intervene. [35] Some state laws empower counties or municipalities to impose requirements on dogs that have bitten people. [36] Identifying a dog that has bitten someone in a dog park, or another dog, can be difficult if the handler is uncooperative. Persons witnessing a bite or attack may have a responsibility to report the incident. [37] Getting the dog's collar is one means of identifying it, if the collar contains licensing information, but taking off a dog's collar without the owner's permission is a crime in some states. [38] As discussed under "park rules" below, some dog parks now require registration of users, and even issue swipe cards, which make identification of individuals using dog parks easier.

Liability may also attach when an owner knows the dog has a propensity to push people over in dog parks. In *Hamlin v. Sullivan*, however, the owner was not liable when she did not know of a dog's allegedly dangerous propensities because she had been taking the dog to a dog park for four years without seeing the animal being anything more than rambunctious. The court said that such "typical canine behavior" was "insufficient to establish vicious propensities." [39]

Dog pounds. Animal control authorities and municipalities are generally empowered to impound stray dogs, which include dogs abandoned in dog parks. [40] Dogs taken to pounds will generally be sterilized if they are not euthanized. [41]

Dog training areas. Some states provide for licensing private dog training areas for training hunting dogs. Delaware provides that the organization applying for such a license must have 20 or more members who are citizens of the state, and shall be at least 100 acres

and not more than 250 acres. [\[42\]](#) Dog parks may consider raising funds by separating off an area as a professional dog training area, usage of which can involve a fee. Hunting dog training area requirements are irrelevant, but legislators should make sure that the two types of training are distinguished in statutory language.

Euthanizing of dogs by animal control authority. All states have some animal control authority, which can euthanize dogs under certain circumstances. No modification of state law should be required as to dogs abandoned in dog parks. Dogs must generally be held for a specific period before being euthanized. Nonprofit organizations may have the authority to take dogs from pounds. [\[43\]](#) Also, dogs without licenses may absolve the animal control authority of any notice requirement to owners. [\[44\]](#)

Land for use as a dog park. State land may sometimes be used for dog parks, but the state legislature may have to approve the arrangement. [\[45\]](#) The federal government permitted development of a dog park on land no longer used for military purposes at the former Puget Sound Naval Station at Sand Point. [\[46\]](#)

Leash laws. Leash laws may be statewide, and may give exceptions for dogs in the open, [\[47\]](#) including for hunting dogs. Some states have specific leash requirements as to state parks, [\[48\]](#) and sometimes other specific locations. [\[49\]](#) Leash law authority may be delegated to counties and cities. [\[50\]](#) Leash laws (also “running at large” statutes) should be modified to state that turning a dog loose in a fenced-in dog park is not considered a violation. If the state approves off-leash areas that are not fenced in, such provisions should be modified. Missouri requires that domestic household animals not be allowed in any state park “unless restrained by a leash not longer than ten feet held by some person or firmly affixed to some stationery object so as to prevent the animal from ranging at large.” [\[51\]](#) Leash laws also apply to federal land. Dogs can be taken into Yellowstone National Park, for instance, but must be “on leash, crated, or otherwise under physical restraint” and kept “within 100 feet of established roads and parking areas.” They may not be brought on established trails and boardwalks. [\[52\]](#)

Liability. A number of states have considered exempting cities developing dog parks from certain liabilities that may arise due to a park. [\[53\]](#) California Government Code 831.7.5, effective January 1, 2014, provides that a “public entity that owns or operates a dog park shall not be held liable for injury or death of a person or pet resulting solely from the actions of a dog in the dog park.” This confirmed earlier case law finding that a city was not liable when the plaintiff fell on the sidewalk in a dog park. The city cited the state’s recreational use immunity statute, California Government Code § 831.4, providing immunity to a public entity for an injury caused by a condition of an unpaved road or trail “which provides access to fishing, hunting, camping, hiking, riding, including animal and all types of vehicular riding, water sports, recreational or scenic areas and which is not a (1) city street or highway or (2) county, state or federal highway or (3) public street or highway of a joint highway district, boulevard district, bridge and highway district or

similar district formed for the improvement or building of public streets or highways.” The plaintiff argued that the path in the dog park was a sidewalk, for which a city could be liable. The trial court agreed with the city, and the California appellate court affirmed. [\[54\]](#)

See, however, *Hall v. City Fence, Inc.*, where user of dog park was injured at gate of temporary dog park. A private contractor had put up the fencing and gate for the dog park and the municipality argued it was not on notice as to any defect in the fencing. Nevertheless, the trial court ruled that “notwithstanding its lack of any role in the design or erection of the dog park, the City, by virtue of its status as the holder of the fee title to LaSalle Park, continued to owe a duty to maintain the park, including its dog park, in a condition reasonably safe for park users such as plaintiff.” [\[55\]](#) Such exemptions, of course, do not absolve users of the park for torts or crimes that may be committed between them.

Licensing. Although pet licensing is often delegated to counties and municipalities, [\[56\]](#) state statutory authority may empower law enforcement or animal control officers to seize unlicensed dogs found running at large on public highways and other locations. [\[57\]](#) New York City imposes requirements on handlers who use dog parks, known as “dog runs” in the city’s code:

Dog Runs. Certain fenced park areas may be designated by the Commissioner as dog runs, and persons owning or possessing dogs that are wearing a license tag and vaccinated against rabies pursuant to the laws of the State of New York and City of New York are permitted to allow such animals to remain unleashed in these areas. Users of dog runs shall obey posted rules. Users of such dog runs shall provide proof of current vaccination against rabies and proof of current licensing upon the request of any Police Officer, Urban Park Ranger, Parks Enforcement Patrol Officer or other Department employee or employee of the DOHMH, the refusal of which shall constitute a violation of §1-03(c), §1-04(i) and of this paragraph. [\[58\]](#)

Rabies. Some states allow that, in the event of a rabies outbreak, extreme measures, such as requiring dog owners to confine their animals, may be required. [\[59\]](#) Such measures may require the temporary suspension of the use of dog parks.

Reporting dog bites. Statutes may require that dog bites be reported. Professionals treating individuals who have received dog bites may also be required to report such incidents. [\[60\]](#) A dog bite may require an investigation by an animal control authority, which may seize the dog and even destroy it under certain circumstances. [\[61\]](#) Dogs that have bitten must often be confined for a period of observation, [\[62\]](#) and if rabies is suspected, a dog bitten by a potentially rabid dog must also generally be confined. [\[63\]](#) Generally no modification to refer to dog parks should be required.

Running at large. As already noted in several contexts, state statutes often prohibit allowing dogs to run at large. [64] Police and animal control authorities are often required to impound dogs found running at large, and may destroy them after required efforts are made to find an owner. [65] Some such statutes (e.g., Georgia) specifically prohibit letting dogs in heat run free. [66] Oregon permits county elections to determine if dogs can run at large in a county. [67] General “running free” statutes should be modified to allow an exception for dogs in dog parks or off-leash areas. [68] Crimes and penalties associated with dogs running at large should not be enforced for dogs in off-leash areas or dog parks. [69] Some statutes allow municipalities to prohibit dogs from running at large. [70] In such cases, the municipal law should be modified with regard to off-leash areas and dog parks. Some statutes provide that uninoculated animals should not run at large, [71] but this does not require modification. Dogs are sometimes permitted to run at large on farms of a certain size (e.g. 20 acres, from October 1 through February 28, in Delaware [72]). A driver who puts a dog in the back of a pickup without restraint may be guilty of a crime if the dog jumps out and runs at large. [73] Massachusetts provides that dogs in highway rest areas are to be on a chain or leash, [74] though rest areas in some states include fenced-in dog parks to which any such law would presumably not apply unless a posting indicated that dogs were not to be taken off leash in the area. Dogs escaping from dog parks and injured on roadways may be treated by veterinarians, who would have a claim for reimbursement from the owners. [75]

Service and police dogs. While service and police dogs are uncommon in dog parks, handlers of other dogs should be aware that attacking such dogs is often a higher level of crime than the typical dog bite. [76] Since such laws may require that the handler of the attacking dog be aware the dog under attack is a guide or other skilled dog, such laws might not apply if the dog was released from its harness. Police and service dogs that bite people or other dogs are often exempted from quarantine requirements. [77] No change to such laws will generally be necessary.

Stray dogs. Animal control authorities are responsible for picking up stray dogs, though private individuals may do so as well. [78] Private individuals picking up stray dogs should notify animal control authorities if a dog has identifying information. [79]

Training. Some activities, such as commercial dog training, require a permit. [80] Permits could include the right to train in designated areas of dog parks for a fee paid to the municipality in which the park is located.

Vaccination. Dogs may not use county dog parks or off-leash areas unless currently vaccinated for rabies. If wolves, coyotes, and hybrids of these animals with dogs are permitted in the state, the vaccination requirement might be specifically required for these animals as well. [81] If a dog is abandoned in a dog park without a vaccination tag, police may be authorized to kill the animal without impounding it. [82] A permit for a Chicago dog park requires that a veterinarian provide a user with proof of vaccination for

distemper, hepatitis, parainfluenza, parvovirus, bordetella, and leptospirosis. [83] Authorities considering approving dog parks should consult with state or regional veterinary authorities regarding appropriate vaccinations and other veterinary measures that should be required for use of dog parks.

Vicious dog. A person commits the crime of allowing a vicious dog to attack or bite another individual or dog if the person knows or has reason to know the dog has a propensity to attack, cause injury, or endanger the safety of other persons without provocation. [84] Commission of this crime includes taking a vicious dog to a dog park or off-leash area. Such offenses may be treated as misdemeanors. [85]

Water sources. States may require capping unused wells, but this is to prevent dogs, livestock, and children from falling into them. [86] Dog parks created in hot climates are often provided with water sources, which may require additional approvals for the location of a dog park site, [87] including compliance with wellhead protection and anti-pollution regulations. [88]

Wolves, Coyotes, Wolf-dog, and Coyote-dog Hybrids. State law may allow wolves and coyotes and hybrids of these animals with dogs to be pets, [89] though a permit may be required. [90] If there is an added confinement requirement as to such animals, a separate provision should not be necessary as to dog parks. [91] If no provision exists, the state may consider banning such animals from certain public areas. [92] Indiana requires that wolf hybrids and coydogs (crosses of coyotes and dogs) be confined to a building or secure enclosure or kept on a leash. [93] In Montana, “a person may kill a wolf or mountain lion that is in the act of attacking or killing a domestic dog.” [94] No exception is made as to pet wolves.

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general outline of
common rules

IV. Park Rules

The hundreds of sets of dog park rules that have been posted on the Internet show a certain uniformity, though some rules, such as pit bull bans, are not widely adopted. Some restrictions may not be specific to a dog park, but may apply to a larger park of which a dog park is a part. [95] This often applies to smoking bans and prohibitions of alcoholic beverages.

Regional differences come into play because of factors like weather. Miami dog park rules contain an admonition to periodically hose your dog or bring it into the shade. [96] The Portland, Oregon, Department of Parks & Recreation posts a guide, *Off-Leash Park Etiquette*, containing such advice as: “Be aware that dogs have different play styles. Always respect the wishes of other handlers and

be prepared to move to another area if your dog is too rambunctious.” [\[97\]](#)

Breed-specific rules. Rules excluding pit bulls have been adopted by a number of parks. Some states (such as Colorado [\[98\]](#) and Oklahoma [\[99\]](#)) preclude counties and municipalities from imposing breed-specific rules. States where wolves, coyotes, and hybrids of these animals with domestic dogs are allowed as pets may also be considering banning such animals. [\[100\]](#)

Children. Many, probably most, parks have an age limit on children who come to the park. Such rules are adopted from health and safety concerns. Dog bites of children can be fatal, and the risk of an attack on a child is greater than on an adult. [\[101\]](#) Other considerations may argue against such limitations, such as the desire to have tourists use the dog park. Seattle dog park rules specify that users must “closely supervise young children.” [\[102\]](#) Tourists may be families with both pets and children that they will not want to separate. The Indiana Commission on Autism noted in meeting minutes for September 15, 2010, that some children were being taken to a dog park to learn compassion for animals. [\[103\]](#)

Leash requirements. Dogs are usually only allowed off-leash in an off-leash area or inside of a dog park, but must be brought to the park on a leash and removed once inside. The handler is often required to carry the leash while the dog is off-leash so that it can be put back on in case of an attack or for any other reason. Seattle dog parks, and some other parks, provide that a dog’s pinch or choke collar must be removed before entering the off-leash area. [\[104\]](#) Park rules may require that the handler remain in eye contact with his or her dog, and keep the dog under his or her control.

Numbers of dogs. Many park rules do not specify a maximum number of dogs, though others may limit the number per owner or handler to two or three. [\[105\]](#) Given the difficulty of keeping three dogs in visual control, the lower number may be preferable.

Aggressive dogs. Parks may require handlers to remove aggressive dogs, but may also allow such dogs to remain if muzzled. [\[106\]](#) For the health of a muzzled dog, park rules should probably exclude dogs that need to be muzzled.

Young dogs and dogs in heat. Park rules commonly preclude bringing animals below 4 or 6 months to a park. Besides disease risks to the puppy, many states except young dogs from vaccination requirements. [\[107\]](#) State leash laws may require that dogs in heat always be on a leash, so a separate rule for a park may not be necessary. On the other hand, it is probably best to prohibit dogs in heat from a dog park. Dogs that are sick are excluded by many, probably most, dog parks.

Cleaning up. Handlers are almost always required to clean up after dogs. This may not be a requirement of some private hotel dog

parks where hotel staff members are responsible for periodically cleaning the park, but even here a clean-up rule will generally apply to users. Rules should specify that owners and handlers are responsible for cleaning up after their dogs. Some parks post a fine that can be imposed for failure to clean up. [108] Dog waste bags and receptacles should be available at several points in the park, and should repeat the rule concerning the responsibility of cleaning up after the handler's dog.

Food and water. Parks will often prohibit both dog and human food, or limit food to dog treats. [109] Even treats can trigger aggressive behavior and are sometimes listed among items not to be brought into parks. Seattle dog parks advise that bringing food into off-leash areas is at the person's own risk. [110] If a dog water fountain is not available, users should be advised to bring their own water and water bowls.

Dog toys. Some parks limit kinds of dog toys that may be brought into a park, or exclude them altogether as possible causes of aggression. [111] Nevertheless, many dog parks will have a ready supply of frisbees, balls, sticks, and abandoned stuffed toys that will continue to degenerate until becoming unidentifiable and finally thrown out. Some parks may have agility equipment temporarily or permanently installed.

Bicycles and skateboards. Parks will often specify that recreational vehicles not be used in a dog park, and may even preclude bringing them into a park. This may not be practical in high-crime areas, where a prohibition on using the recreational vehicle inside the dog park should be enough.

Destruction. Handlers are responsible for destruction caused by their dogs and may be advised that they are responsible for filling in any holes dug by their dogs. A handler watching his or her dog and in control of the dog should be able to stop this quickly, but some handlers will need to be reminded of this responsibility and it is often mentioned in posted rules.

Permit requirements. Some parks require that users obtain a permit in advance. The Ohlone Dog Park Association in Berkeley, California, has a member charge, which is reduced for low-income individuals and seniors, but which does not require that the applicant own a dog. [112] The NOLA City Bark, a dog park in New Orleans, requires that prospective users fill out a two-page application with identifying and contact information on the handler and vaccination and registration information on the handler's dogs. The applicant must sign a "release and waiver of liability and assumption of risk," and agree to abide by a list of rules. [113] Users are issued an electronic card which they swipe to enter the facility, though once inside, the park is policed by users. If a dog becomes aggressive, the card system can be checked to determine who entered the park around the time of the incident.

The permit or membership approach will help assure responsible usage of a park, but will not appeal to many communities that want to assure that people use the park in preference to informal off-leash areas. Chicago dog parks have announced a policy of requiring a permit for using a dog park, which can be obtained from a veterinarian. Failure to have a valid permit and registration tag is to be penalized, and after three violations can result in a fine of \$1,000 and imprisonment of up to six months. [\[114\]](#)

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V. Appendix: Model Laws and Rules

Model State Law Modifications to Allow for Dog Parks and Off-Leash Areas

Running-At-Large/Leash Law

1. A dog that is current on required vaccinations, duly licensed in accordance with applicable law, and not in heat, is not considered to be running at large if it is under the control of a handler.

Municipal Liability

2. Any municipality or political subdivision allowing dog parks and off-leash areas shall be immune from criminal and civil liability, except for willful and wanton misconduct, for damages that may result from occurrences in a dog park or off-leash area. Owners and handlers of dogs entering such areas are to be on notice from a posted list of rules that entrance is at their own risk. This provision shall not negate such rights as owners and handlers may have as to other individuals making use of the dog park or off-leash area.

Dangerous Dog

3. An owner or handler of a dog that has been designated as dangerous, or which he or she has reason to know is dangerous, shall not bring such a dog into a dog park or off-leash area. Violation of this provision shall be an offense for an initial violation, but a misdemeanor for a second or any further violation. This provision shall not negate any other penalties that may apply for harboring a dangerous dog.

Dog Bites

4. A dog bite occurring in a dog park or off-leash area shall be reported to the local police or animal control officer by anyone involved or anyone witnessing such event, or by a physician or veterinarian or other health service provider treating the victim of a bite. Dog park rules shall post a phone number for calling the appropriate authority to report a bite.

Abandonment

5. Abandonment shall include leaving a dog unattended at an off-leash area or dog park.

[State, County, or Municipal] Law Provisions for Dog Parks and Off-Leash Areas

Statement of Purpose

6. The [state, county, or municipal authority] having determined that the residents of communities need safe places to bring their dogs for off-leash exercise, hereby authorizes [county and] municipal authorities to designate appropriate areas within parks for off-leash exercise of dogs and appropriate areas to be fenced in as dog parks.

Dog Parks and Off-Leash Areas: General Provisions

7. The [county or municipal authority], whether in conjunction with other communities, may establish and maintain parkland to be designated for off-leash dog areas and dog parks.

8. The [county or municipal authority] may permit the creation of private dog parks by hotels and other businesses where such dog parks are to be used by customers of such businesses for the exercise of dogs that are visiting the area. Such businesses may open such areas to the community with the approval of the county or municipal authority, but the grant of permission to make such a private dog park shall not depend on the availability of the park to local residents.

9. No person shall use a dog park for any commercial purpose. Professional dog walkers, whose business is to walk dogs for private individuals, may bring no more than two dogs, or for some parks, three dogs inside at any one time. Violation of this restriction shall be subject to a fine of \$50 per incident.

10. The [county or municipal authority] may designate hours for the use of the dog park, which shall preclude use of the park after 9 p.m. and before 7 a.m., or during hours of daylight. The [county or municipal authority] may specify times when the park will be closed

so that sanitation workers may clean the park and the park authority may mow the lawn and take care of any plants or facilities inside of a dog park or off-leash area.

11. The [county or municipal authority] may close a park for an extended time if necessary for repairs, grading of the land, installation of drainage systems, and other necessary modifications. Notice of such closure shall be posted at the entrance of the dog park or off-leash area at least one week before the first day of such closure and shall state the reason and expected duration of the closure.

12. For enclosed dog parks, the [county or municipal authority] shall provide or assure the installation of appropriate fencing, which shall be at least five (5) feet in height [alternatively six (6) feet], with a double-gated entrance area for each section of the dog park. Dog parks may be divided into large- and small-dog sections [alternatively, small-, medium-, and large-dog sections], with the difference between the sections determined by the weight of the dog, such weight to be 25, 30, or 35 pounds. Dog park rules may specify that individuals with both small and large dogs must use the large-dog area if one of the dogs fits in the large-dog category.

13. The [county or municipal authority] must post a notice stating that all handlers using a dog park or off-leash area do so at their own risk, and that the [state, county, and municipality] shall not be liable for any injury or damage caused by the dog park. This provision does not preclude a handler for seeking damages from another user of the park under either statutory or common law.

Dog Parks: Application

14. The [state, county, or municipal authority] may create a dog park, or may allow a group of concerned and interested citizens to form a group (“Dog Park Group”) to undertake the responsibility of proposing a park, including providing plans for a park, which plans may specify a particular area owned by the [state, county, or municipal authority], or owned by another government authority or private entity. The [state, county, or municipal authority] may request that the Dog Park Group provide a budget for the creation and maintenance of the park, suggest sources of funds to defray some or all of the cost of the park, and suggest what responsibilities as to the maintenance of the park shall be provided by volunteers. The [state, county, or municipal authority] may designate responsibilities as to the creation and maintenance of the dog park or off-leash area will not be provided by the [state, county, or municipal authority] and may not be funded in whole or in part by it.

15. The [state, county, or municipal authority] may ask that the Dog Park Group make a presentation to the authority regarding the proposal for a dog park or off-leash area at any point during the process of proposing or creating a park, and may ask that the residents of affected communities be able to speak and comment at such meetings.

16. The [state, county, or municipal authority] shall cooperate with the Dog Park Group in investigating the ownership of any proposed site, and if the ownership does not lie with the [state, county, or municipal authority], shall investigate whether zoning requirements would permit a dog park in the location and, if so, shall make inquiry of the owner of the area as to the owner's interest in allowing development of the dog park in the area. It is expected that appropriate areas might be owned by other government authorities, such as utility authorities or state parks, which areas may already have some informal usage by dog handlers and dogs.

17. The [state, county, or municipal authority] may provide the Dog Park Group with a list of existing groups of residents and local officials who should be contacted for issues relevant to the creation or maintenance of a dog park. The [state, county, or municipal authority] may separately notify local police, fire, health, animal control, and other authorities of the efforts of the [authority] and the Dog Park Group to create a dog park or off-leash area [alternatively, the principal governmental authority may require that the Dog Park Group contact such authorities].

18. When a formal proposal has been prepared for a dog park or off-leash area, the [state, county, or municipal authority] shall designate a member of the [authority] to head a committee which shall consist of a law enforcement official of the [state, county, or municipal police authority], a representative of the [animal control authority], a veterinarian practicing in the area, a representative of a local animal shelter or animal rescue organization, an official of the waste management authority for the area, and such other officials as are deemed appropriate by the [state, county, or municipal authority] for evaluating the practicality and affordability of the proposal. This group shall be designated the Dog Park Review Committee and the composition of the Committee shall be published along with the proposal. This Committee may be made permanent as determined by the [state, county, or municipal authority]. [Alternatively, particularly in small towns, no separate sub-group of the state, county, or municipal authority need be created.]

19. When a formal proposal has been prepared for a dog park or off-leash area, the [state, county, or municipal authority] shall publish notice thereof in [appropriate government and private publications and websites].

20. The Dog Park Review Committee shall review the application for creation of a dog park and shall make written recommendations within thirty (30) days of the submission of the application. The [state, county, or municipal authority] may, if it so chooses, provide comments of the Dog Park Review Committee directly to the Dog Park Group and may delay a public hearing until the Dog Park Group has had an opportunity to make any changes it deems appropriate in response to the Dog Park Review Committee's recommendations.

21. The [state, county, or municipal authority] may accept the proposal of the Dog Park Group as made, accept the proposal

provisionally with a requirement that certain changes be made, or reject the proposal. If the proposal is rejected, the [state, county, or municipal authority] shall state the reasons for rejection of the proposal and state whether the proposal may be accepted later if modified in accordance with certain recommendations.

22. If the proposal of the Dog Park Group is accepted, the [state, county, or municipal authority] may enter into a memorandum of understanding with the Dog Park Group and with such other officials as may be appropriate, regarding the responsibilities of various groups and authorities for the creation and subsequent maintenance of the dog park or off-leash area. The [state, county, or municipal authority] may specify that the Dog Park Group take a formal legal status with an agreement to provide daily management of the park and with the understanding that if the Group does not continue to maintain the park, it may be shut down and the property used for other purposes.

Dog Park Site Guidelines and Specifications

this is somewhat of
AKC guidelines.
See attached

23. Dog parks in the [state, county, municipality] shall be no less than five thousand (5,000) square feet in area, though off-leash areas can be of any size satisfactory to the needs of the area. Parks of less space can be considered on prior approval of the [state, county, or municipal authority].

24. A dog park shall be located on well-drained land to prevent soil erosion and shall sit at least 50 feet from surface waters that drain into any river or creek; the surface shall allow for drainage away from the site in a manner that mitigates waste management issues. Where possible, under-utilized areas should be considered. [Alternatively, such restrictions should be left to the permit system of the environmental authority or local building inspector.]

25. A dog park may be located near a water supply line for drinking fountain (dog and human) and for maintenance purposes. [Alternatively, proximity to water supplies should be left to an environmental authority.]

26. A dog park must comply with the Americans with Disabilities Act, the Clean Water Act, and such other legislation and standards as apply to parks located in the area where the park is located.

27. A dog park shall not be located within 100 yards [or other designated distance] of a school playground or designated children's play area, or of an athletic field or court, or near a sensitive wildlife habitat area as determined by an environmental protection agency operating in the area.

like a trout stream

28. The Dog Park Group will post rules for the dog park or off-leash area in English [and Spanish], in type large enough to be easily read by those entering the park.

Complaints and Enforcement

29. Law enforcement authorities and the local animal control authority may enforce laws under their jurisdictions that apply to dog parks, which shall include the authority to remove and impound dangerous dogs, restrain and impound dogs biting individuals or other dogs for rabies inspections, arrest individuals for violations occurring in dog parks, and all other aspects of their authority that may be exercised in the area of the dog park.

30. Complaints not properly directed to police, fire, health, or other authorities shall be directed to the Dog Park Group as formally created and recognized by the [state, county, or municipal authority]. If the complaint has not been satisfactorily resolved, the complainant may, after 30 days of filing the complaint, request a meeting with an official designated by the Dog Park Committee.

31. If the [state, county, or municipal] authority [or Dog Park Committee] determines that the Dog Park Group is consistently unresponsive to complaints (other than mere complaints about the existence of the dog park), the authority [or Dog Park Committee] may designate a permanent representative to deal with such complaints, and may notify the Dog Park Group that the authority [or Committee] may recommend further action by the [state, county, or municipal authority], which action may include the replacement of the Group with other individuals or the termination of the dog park itself.

32. The Dog Park Group shall be empowered to contact the [police or other appropriate law enforcement authority] and the animal control authority to enforce dangerous and vicious dog rules and to arrange for the removal of abandoned dogs and dogs that should be impounded to determine the possibility of disease.

33. The Dog Park Group, in consultation with the [state, county, or municipal] authority [or Dog Park Committee], may impose a requirement that users of the park have a Dog Park Registration Tag specific to the dog park or the dog parks in the area.

34. The Dog Park Group, in consultation with the [state, county, or municipal] authority [or Dog Park Committee], may arrange a card swipe or other mechanism for limiting access to the park to persons holding a valid and up-to-date Dog Park Registration Tag.

Dog Park Rules

1. Each handler using the park is responsible for reading the rules of the dog park on first entering it.
2. No handler may bring more than two (2) [alternatively, three (3)] dogs into the park at one time.
3. A handler must be sixteen (16) years of age or older.
4. A child between ten (10) and sixteen (16) years may enter the park only with a responsible adult.
5. A child under ten (10) may not be brought into the park in any case.
6. Each dog brought into the park must be wearing, or the handler must carry, current vaccination and registration tags, which tags may be checked by a member of the Dog Park Group or by the animal control authority or other law enforcement authority.
7. Dogs are to be brought to the park on leashes and released inside the dog park, and put under the control of the leash again as they exit the dog park. No spike, choke, electric, or prong collars are allowed on dogs in the park.
8. No female dog in heat, or sick dog, shall be brought into the dog park.
9. Food, toys, and glass containers are not permitted in the dog park. Smoking is prohibited in the dog park.
10. Handlers are to remain in visual contact with their dogs in the park, and shall have verbal control of their dogs in the park.
11. A handler shall immediately leash and remove a dog that becomes aggressive, regardless of whether the dog has a history of bites or has been designated as a dangerous or vicious dog under state or other applicable law; in no event may a dog that has been designated as dangerous or vicious be brought into the park. Criminal penalties apply to bringing a dangerous or vicious dog into this park.
12. Dog bites shall be reported immediately to the [local police or animal control officer] at [phone number and email address]. All animal bites of other dogs or people shall be reported to local police and the animal control authority by anyone involved or witnessing the bite.
13. Handlers shall control excessive barking.
14. A handler is responsible for destruction caused by his or her dog, which includes the responsibility of filling in any holes the dog digs while in the park.

[1] John J. Ensminger is a member of the New York bar and is the author of *Service and Therapy Dogs in American Society* (Charles C. Thomas, Springfield, Ill. 2010) and *Police and Military Dogs* (Taylor & Francis, Ltd., New York and London, 2011). Frances Breitkopf is the Chair of the Woodstock Dog Park Committee. The authors wish to thank Terrie Rosenblum, Kingsbury Parker, Ronald Keats, and L.E. Papet for helpful suggestions.

[2] The District of Columbia provides that a dog park “shall be completely enclosed by a fence and gate, both no less than 5 feet in

height.” [D.C. Code 8-1808.01](#).

[3] City of Buffalo could not avoid liability for alleged defective condition, a fence on which a user had tripped and fallen, in temporary dog park inside of Lasalle Park, merely because it had ceded maintenance responsibility to Erie County. Temporary dog park had been created in response to various citizens organized by veterinary group, whose permit to have the temporary dog park had expired. The City of Buffalo had publicly announced it would not take down the dog park even though another dog park had been built in Lasalle Park. *Hall v. City Fence, Inc.*, 36 Misc.3d 1237 (Sup.Ct., Erie County, 2012). For citations to early press coverage of the creation of dog parks, see Huss, R.J. (2002). [Valuing Man’s and Woman’s Best Friend: The Moral and Legal Status of Companion Animals](#). *Marquette Law Review*, 47, 86, at n. 7.

[4] Several authorities may sometimes be involved in permitting a dog park. A land trust holding a conservation easement denied use of land for a dog park that was sought by Manchester, New Hampshire. See Korngold, G. (2011). Globalizing Conservation Easements: Private Law Approaches for International Environmental Protection. *Wisconsin International Law Journal*, 28, 585, n.97. Conflicts can arise as to what funds an authority may be able to use to maintain a dog park. *Diehl v. Rarity Bay Community Assoc.*, No. 3:12-CV-499 (ED Tenn. 2013). An easement may be necessary for access to the park. This may involve separate environmental impact issues. See Public Notice of the Alaska Department of Natural Resources, Division of Mining, Land and Water, Northern Regional Office, 4/22/2008 (2008 AK Reg. Text 135066(NS)), regarding a proposed easement to the Fairbanks Dog Park, Inc.

[5] <http://www.akc.org/learn/family-dog/dog-park-courtesy-urban-rules/>.

[6] Huss, R.J. (2012). Canines on Campus: Companion Animals at Postsecondary Educational Institutions. *Missouri Law Review*, 77, 417, n. 128. The rules for the Wingerd Service Dog Park of Wright University, as posted online, specify that the “park is strictly designated for use by service dogs and trainees only. Pets are not permitted under any circumstances.” <https://www.wright.edu/disability-services/community/service-dog-park#tab=park-rules>. In spring 2016, according to Diana Riggs of the Office of Disability Services of Wright State University, 24 service and emotional support animals were registered to live in campus housing and eligible to use the Park (personal communication to JE, 4/19/2016).

[7] DC Order 2007-53 (delegation of authority under the Dog Park Establishment Act of 2005) (2007 DC Reg. Text 68645(NS)).

[8] Rules of Hawaii § 10-1.7 (“The director [of parks and recreation] is authorized to designate areas in public parks for use by persons having custody and control of dogs on a leash and to designate public parks for use as off-leash parks for dogs. In designating parks as

off-leash parks and in designating parks or areas therein for leashed dogs, the director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary actual or designed use of each park or area included in the designation. The director shall post signs that notify the public of such designation that describe or map the park or park areas so designated.”); see *Hawaii v. Hitchcock*, Docket No. 29847 (2010) (designation of space as dog park does not preclude closing it for maintenance two days per week); Anchorage Municipal Code § 17.10.090 (off-leash dog park spaces; areas to be recommended by “animal control advisory board with concurrence of the parks and recreation commission and the mayor, subject to approval by the assembly.”).

[9] Illinois has revised its “running at large” statute to state that a “dog that is in a dog-friendly area or dog park is not considered to be running at large if the dog is monitored or supervised by a person.” ([510 ILCS 5/9](#)) The District of Columbia states that a dog being at large “does not include a dog in a dog park that is under the verbal command of a responsible adult.” [D.C. Code 8-1801](#). This is a better approach, since it allows enforcement against someone who is not in control, or not responsible. The District of Columbia specifically prohibits permitting a dog on a school ground “when school is in session on any public recreation area, other than a dog park, unless the dog is leashed.” [D.C. Code 8-1808](#).

[10] But see Okla. City Muni. Code § 8-153 (confinement section does not apply to city-approved dog park); Code of Ordinances, City of North Platte, Nebraska § 8-9 (unlawful to enter public park with animal not on leash, but city park department may provide exception); Omaha Muni. Code § 6-1 (exception to leash law for dog park recognized by city), § 6-74 (nuisance not to clean up dog excrement in dog park); Phoenix City Code [§ 8-1](#) (defining dog park), [§ 8-14](#) (at-large requirements do not apply to “area within a park, that is designated by the Director [of the City of Phoenix Parks and Recreation Department] or the Parks and Recreation Board as a dog park”); Aurora, Colorado, Ordinance [§ 14-5](#) (at-large requirements do not apply “when the dog is upon the premises of a city dedicated off-leash dog park”); Fort Worth City Ordinances [§ 6-13](#) (tethering not required in “designated city dog park”).

[11] [Mass. Gen. Laws Ann. ch. 140 § 147A](#).

[12] [Colo. Rev. Stat. § 18-9-202](#). If a dog is not properly licensed but does have identification, the owner will generally have to pay the license fee before the dog will be released from a pound. [Idaho Code § 25-2804](#).

[13] [N.M. Stat. Ann. § 77-7-17](#) (abandonment after term for care has expired when dog placed with “veterinarian, kennel, animal clinic or hospital, grooming parlor or other animal care facility”).

[14] As are kennels, veterinarians' offices, neighborhoods with large dog populations, etc. See [Fla. Stat. § 705.19](#).

[15] [Ga. Code Ann. § 4-8-2](#) precludes abandoning a dead dog on public property, which would obviously include a publicly-owned dog park.

[16] La. Rev. Stat. Ann. § 14:67.2.

[17] [Nev. Rev. Stat. Ann. § 574.195](#) ("a person shall not allow a cat or dog to remain unattended in a parked or standing motor vehicle during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog.").

[18] There may also be zoning restrictions on advertising. See *Wag More Dogs, LLC v. Artman*, 795 F.Supp.2d 377 (E.D. Va. 2011). See Orland, C.C. (2013). Art of Signage?: The Regulation of Outdoor Murals and the First Amendment. [Cardozo Law Review, 35, 867](#).

[19] Kansas Stat. Ann. § 8-1,164 (authorizing Kansas State University veterinary college to design pet friendly logo for license plate and receive royalties when plates are issued).

[20] See [Del. Code Ann. tit. 9, § 921](#) (providing for a five-member Dog Control Panel consisting of a veterinarian, a member of the AKC or other dog club, an animal behaviorist and a member of the Association of Pet Dog Trainers (APDT), a police officer, and a representative of the Delaware Society for the Prevention of Cruelty to Animals).

[21] [Mass. Gen. Laws Ann. ch. 140 § 151](#) (instead of appointing dog officers, "any city or the board of selectmen of any town may ... enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, to perform the duties required of dog officers....").

[22] [Mass. Gen. Laws Ann. ch. 140 § 147](#).

[23] [Del. Code Ann. tit. 7 § 1702](#) (with a fine of between \$25 and \$50 for the first violation, going up to \$100 thereafter).

[24] [Cal. Food and Agric. Code § 31642](#); [Colo. Rev. Stat. Ann. § 18-9-204.5](#) ("building or enclosure designed to be escape-proof and, whenever the dog is outside of the building or enclosure, keep the dog under the owner's control by use of a leash"; after a second or subsequent offense, the dog is to be kept muzzled; microchipping also required). See [Fla. Stat. Ann. § 767.12](#) ("unlawful for the owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain

or leash and under the control of a competent person The owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his or her sight and only members of the immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present.”; violation is infraction, with fine up to \$500); [Neb. Rev. Stat. § 54-618](#) (“No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is retrained securely by a chain or leash.”); N.Y.C. Admin. Code § 17-345 (dangerous dog may be ordered muzzled); [N.C. Gen. Stat. § 67-4.2](#) (unlawful to permit dangerous dog beyond owner’s property “unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled”).

[25] [Cal. Food and Agric. Code § 31645](#).

[26] [Colo. Rev. Stat. § 18-9-204.5](#) (injury or death of domestic animal is class 3 misdemeanor in first instance, class 2 misdemeanor in second instance; attacks on persons can be felonies); [Fla. Stat. § 767.13](#) (if dog has previously been declared dangerous, on subsequent attack dog is to be confiscated immediately).

[27] [Colo. Rev. Stat. § 18-9-204.5\(5\)](#) (referring to authority of states and counties to impose additional requirements; no breed-specific rules may be imposed).

[28] [Fla. Stat. Ann. § 767.12](#) (“animal control authority shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous”).

[29] [La. Rev. Stat. Ann. § 14:102.14](#) (defining “dangerous dog” as a dog that “which, when unprovoked, bites a person causing an injury; or ... which, when unprovoked, on two separate occasions within the prior thirty-six month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury to a domestic animal off the property of the owner of the dog.”).

[30] [510 Ill. Comp. Stat. 5/2.19b](#) (“‘Vicious dog’ means a dog that, without justification, attacks a person and causes serious physical injury or death or any individual dog that has been found to be a ‘dangerous dog’ upon 3 separate occasions”); [La. Rev. Stat. Ann. §§ 14:102.13, 14:102.17](#) (separate registration and increased fees for dangerous dog); [Ohio Rev. Code Ann. § 955.11](#) (dangerous dog is one that “has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper, or harbinger and not under the reasonable control of its owner, keeper, harbinger, or some other responsible person, or not physically restrained or confined in a locked pen which

has a top, locked fenced yard, or other locked enclosure which has a top”; a vicious dog may be a police dog that has caused serious injury or a “dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog”; the location requirement is a curious and perhaps inadvertent restriction); [R.I. Gen. Laws § 4-13.1-2](#) (defining “vicious dog” as “ (i) Any dog that, when unprovoked, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; (ii) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise endanger the safety of human beings or domestic animals; (iii) Any dog that bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal without provocation on public or private property; or (iv) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting. “).

[31] [510 Ill. Comp. Stat. 5/16](#) (“If a dog or other animal, without provocation, attacks, attempts to attack, or injures any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, the owner of such dog or other animal is liable in civil damages to such person for the full amount of the injury proximately caused thereby.”); [Ind. Code § 15-20-1-3](#) (owner liable even if he or she has no knowledge of prior vicious behavior of dog); [Utah Code Ann. § 18-1-1](#) (“Every person owning or keeping a dog is liable in damages for injury committed by the dog, and it is not necessary in the action brought therefor to allege or prove that the dog was of a vicious or mischievous disposition or that the owner knew that it was vicious or mischievous.”).

[32] *Nucci v. Harding*, No. 08-5005416, 2009 WL 1142578 (Conn.Super. April 2, 2009).

[33] [Fla. Stat. § 767.04](#) (damage by dogs).

[34] See *Clea v. Odom*, No. 27029, 2011 WL 3667611 (S.C. Sup. Ct. 2011) (exercise of control of owner sufficient for liability).

[35] [Indiana Code § 15-20-1-4](#) (Class A misdemeanor if the violation results in serious bodily injury to a person, Class C felony if the attack results in death of a person).

[36] [Haw. Rev. Stat. § 142-75\(c\)](#) (“county may enact and enforce ordinances regulating persons who own, harbor, or keep any dog that has bitten, injured, or maimed a person”).

[37] [Iowa Code § 351.38](#) (duty of “any person having knowledge of such bite or attack to report this act to a local health or law enforcement official”; physicians and veterinarians also obligated to make such reports); [Ky. Rev. Stat. Ann. § 258.065](#) (“every

physician shall, within twelve (12) hours after his first professional attendance of a person bitten by a dog ... report to the local health department the name, age, sex, and precise location of the person so bitten”).

[38] [Ga. Code Ann. § 4-8-6.1](#) (though the statute specifies that the removal is an offense if done “with the intention of preventing or hindering the owner from locating such dog,” which may not apply to a dog park brawl); [Ky. Rev. Stat. Ann. § 258.212](#) (permitting law enforcement or animal control officer to remove identification tag if done “for a legitimate purpose,” which would presumably include identification of a dog that has bitten someone; anyone else removing identification would be guilty of a Class A misdemeanor); Mass. Gen. Laws ch. 266 § 47 (wrongful removal of a collar can lead to fine of not more than \$100 or imprisonment of six months, or both); [Mich. Comp. Laws § 287.262](#) (unlawful “for any person except the owner or authorized agent, to remove any license tag from a dog”). Holding an aggressive or dangerous dog's collar may also be one means of controlling it, and military working dog handlers are taught to do this. The problem with this approach, as described in a recent police dog bite case, is that once the person holding the collar lets go, the dog is liable to bite him or her, and it may be argued that by grabbing the collar the person trying to control the dog assumed the risk of bites following release of the collar. *Lockrem v. U.S.*, No. C10-0871JLR, 2011 WL 3501693 (W.D. Wash. 2011).

[39] [Hamlin v. Sullivan](#), 93 A.D.3d 1013 (Sup.Ct., 3rd Dept. 2012).

[40] [Conn. Gen. Stat. § 22-332](#). Impounding may also be authorized if the owner is incarcerated. Kan. Stat. Ann. § 21-4316 (providing for euthanasia after 21 days if bond is not posted; also providing for return of the dog “if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct”).

[41] [Conn. Gen. Stat. § 22-380f](#) (No pound shall sell or give away any unspayed or unneutered dog or cat to any person unless such pound receives forty-five dollars from the person buying or adopting such dog or cat).

[42] [Del. Code Ann. tit. 7 § 1703](#). Destroying a fence around such an area is a separate crime. [§ 1706](#).

[43] [Cal. Food and Agric. Code § 31108\(b\)](#).

[44] [Cal. Food and Agric. Code §§ 31107](#), [31108\(c\)](#) (also requiring authorities to scan stray dogs for microchips that may identify them). See also [510 Ill. Comp. Stat. 5/11](#).

[45] Miss. Statutes 253.185 provides that the state's Department of Natural Resources “may designate a specified area within any

state park to serve as a dog park or an off-leash area for domestic household animals.” Missouri's "[Cabins for Canines](#)" program, which began in 2012, now covers about 30% of the state park system's total lodging units, including outpost cabins, camper cabins, yurts, single-unit cabins, fourplexes and duplexes.

[46] See Government Accountability Office, *Federal Real Property: Most Public Benefit Conveyances Used as Intended, but Opportunities Exist to Enhance Federal Oversight*, GAO-06-511 (June 2006). A user of this Sand Point Dog Park advises the authors of an unusual feature of this park: “The dog park is well fenced with a long trail heading down to the lake where quite a few dogs are in the water pretty much all day. That lake access for dogs is fenced about 30 feet out into the water so dogs can swim out and around onto on-leash land if the owners are not careful.” (Kingsbury Parker, personal communication, 8/7/2011 email to JE).

[47] [Mich. Comp. Laws § 287.262](#) (certain working dogs permitted to work off leash).

[48] [Okla. Stat. tit. 74 § 2217](#) (precluding a person from entering a state park with a dog, unless the dog is on a leash); S.C. Code Ann. § 51-3-10 (dog not to be brought into state park “unless it is crated, caged, or upon a leash not longer than six feet or otherwise under physically restrictive control at all times”).

[49] [W. Va. Code § 5A-4-4](#) (“unlawful for any person to knowingly allow a dog owned by him to be upon the grounds of the capitol buildings or governor's mansion unless such dog is under control by leash. Any person who knowingly allows a dog owned by him to be upon the grounds of the capitol buildings or governor's mansion while not under control by leash shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars.”); Tex. Gov't Code Ann. § 443.018 provides that “all pets except Seeing Eye dogs are not permitted in the Capitol, and shall be restrained at all times on a leash or similar device in the immediate control of the owner while on the grounds of the Capitol, except as approved by the board.” The limit of access to a government facility to guide dogs violates federal requirements now applicable to such places. See Department of Justice, Nondiscrimination on the Basis of Disability in State and Local Government Services. 75 Fed. Reg. 56164 (September 15, 2010). Pets brought on property of the U.S. National Arboretum (USNA) in Washington, D.C., “must have proper vaccinations and, except assistance trained animals, must be kept on leash at all times. The release or abandonment of fish, plants, and other animals of any kind on USNA grounds is prohibited.” 7 CFR 500.10. Communities that receive permission to use federal land for a dog park must verify that no variance is required for use of the land as a dog park.

[50] [Tex. Health & Safety Code Ann. § 822.007](#) (municipality or county not prohibited “from adopting leash or registration requirements applicable to dogs”).

[51] Mo. Rev. Stat. § 253.185.

[52] 36 CFR 7.13(h).

[53] [510 Ill. Comp. Stat. 5/35](#) (“municipality or political subdivision allowing dog parks shall be immune from criminal liability and shall not be civilly liable, except for willful and wanton misconduct, for damages that may result from occurrences in the dog park”).

[54] *Amberger-Warren v. City of Piedmont*, 143 Cal.App.4th 1074, 49 Cal.Rptr. 631 (Ct. App. 2006).

[55] *Hall v. City Fence, Inc.*, 36 Misc.3d 1237(A), 2012 WL 3833713 (Sup.Ct. Erie County 2012).

[56] [Idaho Code Ann. § 25-2801](#); [La. Rev. Stat. Ann. § 3:2772](#) (parish or municipality that levies a license fee to issue a metallic license tag), [3:2731](#) (license fees and fines may be used by parish or municipality for its animal control program or for enforcement of animal control ordinances); [N.D. Cent. Code § 40-05-02\(22\)](#); [Wyo. Stat. Ann. § 11-31-213](#) (“board of county commissioners may require the registration of all dogs and cats within a rabies control district....”).

[57] [Haw. Rev. Stat. § 143-8](#) (officer “shall seize any unlicensed dog found running at large or found upon any public highway, street, alley, court, place, square, or grounds, or upon any unfenced lot, or not within a sufficient enclosure, whether in the immediate presence of the owner or otherwise, and confine it in a pound or any suitable enclosure for a period of forty-eight hours, during which time it shall be subject to redemption by its owner by payment of the license due, if any, and a penalty to be set by each county council; provided that until and unless provided by ordinance the penalty shall be \$2.50. If not so redeemed, the dog shall be sold by the officer for the amount of the license and penalty due, or as much more as can be obtained therefor; provided that the officer may neuter or require the neutering of the dog prior to sale, and if not so sold it shall be humanely destroyed. The owner of any unlicensed dog impounded and not claimed within forty-eight hours as provided in this section, may redeem the dog at any time before sale or destruction of the dog by paying to the officer, in addition to the amount of the license and penalty, an impoundment fee per day for the number of days over two days the dog was impounded. Each county council shall have the power to fix the impoundment fee for dogs; provided that until and unless otherwise provided by ordinance the impoundment fee shall be \$2.50 a day. Of the money so received the amount of the license fee shall be paid to the director of finance and the balance shall be retained by the officer to defray the expenses of collecting, keeping, and feeding the dog.”); N.C. Gen. Stat. § 105-350 (empowering tax collectors to collect “property, dog, license, privilege, and franchise taxes”; the authors are unaware of any tax collector using a dog park to find unlicensed dogs for tax collection purposes, but the possibility cannot be excluded).

[58] Rev. Code N.Y. § 56.1-05(r)(3)

[59] [Ark. Code Ann. § 20-19-310](#), [Cal. Health & Safety Code §§ 121575-121710](#).

[60] Colo. Rev. Stat. § 12-36-135 (failure to report is a petty offense, which can lead to a fine and a brief imprisonment); [§ 25-4-603](#).

[61] [Cal. Food & Agric. Code §§ 31621-5](#).

[62] [Colo. Rev. Stat. § 25-4-604](#) (confinement at pound at the owner's expense); Del. Code Ann. 3.8201(o).

[63] [Colo. Rev. Stat. § 25-4-605](#).

[64] [Idaho Code Ann. § 25-2803](#); [Me. Rev. Stat. Ann. tit. 7, § 3911](#) (“unlawful for any dog, licensed or unlicensed, to be at large, except for hunting.”). Many states also criminalize allowing dogs to harass livestock or game. [Idaho Code Ann. §§ 25-2806, 36-1101](#); [Ky. Rev. Stat. Ann. § 258.265](#) (authorizing “peace officer or animal control officer” to “seize or destroy any dog found running at large between the hours of sunset and sunrise and unaccompanied and not under the control of its owner or handler”; authority is to “make a fair and reasonable effort to determine whether any dog found at large between sunset and sunrise is a hound or other hunting dog which has become lost temporarily from a pack or wandered from immediate control of its owner, or handler”); [Minn. Stat. § 35.69](#) (prohibiting dog running at large “unless the dog is effectively muzzled so that it cannot bite any other animal or person.”); [Mo. Rev. Stat. § 273.033](#) (running at large onto person's property is trespass allowing person to kill dog if action was to prevent “imminent harmful contact”); [N.H. Rev. Stat. Ann. § 466.31](#) (dog being used for hunting, supervised competition, exhibition, or training for such activities, if accompanied by an owner or custodian, is not considered at large); [N.J. Stat. Ann. § 2A:42-107](#) (landlord can refuse to renew senior citizen's lease if senior citizen fails to properly leash dog on premises); [S.C. Code Ann. § 47-3-10](#) (dog is running at large “if off the premises of owner or keeper and not under the physical control of the owner or keeper by means of a leash or other similar restraining device”); [Wash. Rev. Code § 16.08.020](#); [Wis. Stat. § 174.042](#).

[65] [Miss. Code Ann. § 41-53-11](#) (lack of evidence of vaccination can lead to immediate destruction).

[66] [Ga. Code Ann. § 4-8-6](#); [Ky. Rev. Stat. Ann. § 258.255](#) (“Every female dog in heat shall be confined in a building or secure enclosure in such a manner that the female dog cannot come in contact with a male dog except for a planned breeding.”); [Md. Code Ann., Art. 24 § 11-514](#) provides that female dogs in heat are to be confined, but also that they are to be kept from contacting “roaming dogs,” “dogs that are attracted to the premises,” and “migrating dogs.” The latter term is not separately defined, but may refer to feral dogs.

[67] [Or. Rev. Stat. § 609.040](#) (100 or more electors can petition for vote “for and against permitting dogs to run at large in the county,” but such may not be done inside a city with an established dog licensing program); [Va. Code Ann. § 3.2-6539](#) (“governing body of any locality may adopt ordinances requiring that dogs within any such locality be kept on a leash or otherwise restrained and may, by resolution directed to the circuit court, request the court to order a referendum as to whether any such ordinance so adopted shall become effective.”)

[68] [510 Ill. Comp. Stat. 5/9](#) (“dog that is in a dog-friendly area or dog park is not considered to be running at large if the dog is monitored or supervised by a person”); Seattle Municipal Code §§ 9.25.084, 18.12.030, 18.12.080.

[69] Ark. Code Ann. § 15-41-113, for instance, allows for termination of employees of the Arkansas State Game and Fish Commission for allowing dogs to run at large.

[70] [Conn. Gen. Stat. § 7-148\(b\)\(7\)\(A\)](#) (allowing municipalities to “[r]egulate and prohibit the going at large of dogs and other animals in the streets and public places of the municipality....”); [S.D. Codified Laws § 9-29-12](#) (municipalities “have power to regulate or prohibit the running at large of dogs, animals, and poultry, to establish pounds, appoint poundmasters, and regulate the impounding of animals, and to impose a tax or license on dogs running at large;” perhaps such a tax could be imposed on the users of a dog park, though this was not likely the original intent of the law, first passed in 1890 and last modified in 1913).

[71] [Colo. Rev. Stat. § 25-4-610](#).

[72] [Del. Code Ann. tit. 9, § 908\(a\)](#).

[73] Me. Rev. Stat. Ann. tit. 29-A, § 2087 (“person driving an open vehicle may not transport a dog in the open portion of that vehicle on a public way unless the dog is protected in a manner that prevents the dog from falling or jumping or being thrown from the vehicle.”).

[74] [Mass. Gen. Laws ch. 140, § 174B](#).

[75] [Mass. Gen. Laws ch. 150, § 151B](#).

[76] [Conn. Gen. Stat. § 22-364b](#) (appropriate gear must identify dog as guide dog for infraction to apply); see also § 53-247 (protection also applies to dog part of voluntary canine search and rescue team).

[77] [Florida Statutes § 767.16](#). The owner should be able to establish that the dog is in fact a service dog. Unlawfully claiming that a dog is a service dog when, in fact, it is not is a crime in some states. [Idaho Code Ann. § 18-5811A](#). Such bogus service dogs would not be excepted from quarantine requirements.

[78] [Me. Rev. Stat. Ann. tit. 7, § 3913](#) (“person finding a stray dog and taking control of that dog shall take that dog to its owner if known or, if the owner is not known, to the animal shelter designated by the municipality in which the dog was found”); [Tenn. Code Ann. § 5-1-120](#) (counties authorized to “establish and operate shelters and other animal control facilities, and regulate, capture, impound and dispose of stray dogs, stray cats and other stray animals”).

[79] [Haw. Rev. Stat. § 143-10](#).

[80] [Kansas Stat. Ann. § 32-954](#); Me. Rev. Stat. Ann. tit. 12, § 12052 (dog training area for hunting dogs); [34 Pa. Cons. Stat. § 2941](#) (20 or more citizens may apply for permit for dog training area on land owned by them, generally for training hunting dogs on land of between 100 and 250 acres).

[81] [Ark. Code Ann. § 20-19-401, 406](#) specifically applies canine vaccination requirements to wolves and wolf-dog hybrids, noting that “wolves and dogs are scientifically classified as the same species.”

[82] [Iowa Code § 351.26](#) (“duty of all peace officers within their respective jurisdictions unless such jurisdiction shall have otherwise provided for the seizure and impoundment of dogs, to kill any dog for which a rabies vaccination tag is required, when the dog is not wearing a collar with rabies vaccination tag attached”).

[83] Chicago dog park rules (www.chicagoparkdistrict.com/docs/7a322e31-f650-4680-ba0b-100d626ead3f_document.pdf).

[84] [Ark. Code Ann. § 5-62-125](#).

[85] [Colo. Rev. Stat. § 30-15-102\(2\)](#) (class 2 misdemeanor, punishable for each separate offense).

[86] Conn. Gen. Stat. § 19a-39.

[87] Other factors may affect the choice of a site. Cities have had disputes when dog parks are located near city boundaries. See *Rocky River v. Lakewood*, 2008 WL 5191383 (Ct. App. 2008). The proponents of a location may find that a particular location violates

a deed restriction. See [Bloomfield Estates Improvement Association, Inc. v. City of Birmingham](#), 479 Mich. 206, 737 N.W.2d 670 (2007); for an analysis of the case under property law, see D.E. Nykanen (2009). Real Property. *Wayne Law Review*, 55, 575-598, at 592-3; *Baker v. Board of Selectmen of the Town of Foxborough*, 2008 WL 4799468 (Mass. Land Ct. 2008), aff'd 77 Mass.App.Ct. 1117, 2010 WL 3257845 (2010), aff'd sub nom. *Hubrich v. Town of Foxborough*, 78 Mass.App.Ct. 1120, 939 N.E.2d 803 (table), 2011 WL 103949 (2011).

[88] Mich. Comp. Laws §§ 325.1003b.

[89] [Me. Rev. Stat. Ann. tit. 7 § 3921-A](#) (providing that wolf hybrids may be identified “through tattooing, the placement of a microchip under the animal’s skin or any other method determined by the commissioner as adequately providing a permanent means of identification on the body of the animal.”).

[90] [Mass. Gen. Laws ch. 131 § 77A](#).

[91] See [Ark. Code Ann. § 20-19-407](#).

[92] Vermont permits a city or town to “regulate the keeping, leashing, muzzling, restraint, impoundment, and destruction of domestic pets or wolf-hybrids and their running at large....” [Vt. Stat. Ann. tit. 20 § 3549](#). The distinction of wolf-hybrids from pets would seem to permit separate exclusion of such animals from dog parks by municipal ordinance.

[93] [Ind. Code § 15-20-1-5](#).

[94] Mont. Code Ann. § 87-3-130.

[95] Under RCNY 24.161.05(b)(1), the New York City Department of Parks and Recreation can close dog runs at night.

[96] Miami-Dade County Bark Park Rules (www.miamidade.gov/parks/library/bark_park.pdf).

[97] Portland Parks & Recreation, Off-Leash Park Etiquette” (www.portlandonline.com/shared/cfm/image.cfm?id=160385).

[98] [Colo. Rev. Stat. § 18-9-204.5\(5\)](#).

[99] [Okla. Stat. tit. 4 § 46](#) (“Potentially dangerous dogs or dangerous dogs may be regulated through local, municipal and county

authorities, provided the regulations are not breed specific.”).

[100] Note that [Ark. Code Ann. § 20-19-402](#) states that “No animal may be judged to be a wolf or wolf-dog hybrid based strictly on its appearance.”

[101] Tsokos, M., Byard, R.W., and Puschel, K. (2007). Extensive and Mutilating Craniofacial Trauma Involving Defleshing and Decapitation: Unusual Features of Fatal Dog Attacks in the Young. *The American Journal of Forensic Medicine and Pathology*, 28(2), 131-136; Sacks, J.J., Sinclair, L., Gilchrist, J., et al. (2000). Breeds of Dogs Involved in Fatal Human Attacks in the United States Between 1979 and 1998. *Journal of the American Veterinary Medical Association*, 217, 836–840; Gershman, K.A., Sacks, J.J., and Wright, J.C. (1994). Which Dogs Bit? A Case-control Study of Risk Factors. *Pediatrics*, 93, 913–917; Avner, J.R. and Baker, M.D. (1991). Dog Bites in Urban Children. *Pediatrics*, 88, 55–57 (finding 94% of pit bull attacks to be unprovoked compared with 46% overall); Shields, L.B.E., Bernstein, M.L., Hunsaker, J.C., and Stewart, D.M. (2009). Dog Bite-Related Fatalities: A 15-Year Review of Kentucky Medical Examiner Cases. *American Journal of Forensic Medical Pathology*, 30, 223-230.

[102] Seattle Parks and Recreation Rules for Seattle’s Off-Leash Areas (photograph of rules provided by Kingsbury Parker).

[103] Posted (www.in.gov/legislative/interim/committee/minutes/AUTID9F.pdf).

[104] Seattle Parks and Recreation Rules for Seattle’s Off-Leash Areas (photograph of rules provided by Kingsbury Parker).

[105] Two (Hawaii Kai Dog Park; Bucks County, Pennsylvania, Off-Leash Dog Area; Essex County, New Jersey, Dog Park Rules); three (New Orleans NOLA City Bark, City of Albuquerque). Some Colorado parks restrict the number of dogs a single handler can bring at one time into a “designated dog off-leash area.” See rules for Rifle Falls State Park and Cherry Creek State Park (Colorado Regs. 2.405-1 (2010 CO REG TEXT 233281(NS)). The Presidio Trust requires that persons walking four or more dogs in Area B of the Presidio of San Francisco have a Commercial Dog Walking Permit from the City and County of San Francisco (77 Fed. Reg. 69785, November 21, 2012). This suggests, of course, that walking a large number of dogs can be a source of revenue for a community. For a history of off-leash areas in national parks in San Francisco, see *U.S. v. Barley*, [495 F.Supp.2d 1121](#) (ND Cal. 2005).

[106] Seattle Parks and Recreation Rules for Seattle’s Off-Leash Areas (photograph of rules provided by Kingsbury Parker).

[107] [Colo. Rev. Stat. § 30-15-101](#) (allowing county commissioners to specify an age below which dogs do not have to be inoculated).

[108] \$500 under City of Chicago Ordinance 7-12-420. Statutes and rules requiring that owners pick up their pets' waste generally apply to dog parks as to other public areas. (See Consolidated Colorado Regulations 2.405-1.) General recreational park usage rules apply to dog parks, though this will not always be stated. (See Alabama Reg. 797 X-4, General Park Rules (9)(a).).

[109] Dogs are generally prohibited in food service areas, though Maryland specifically allows dogs in outdoor portions of restaurants. [Md. Code Ann. § 21-304.2](#) (a sign must be posted informing patrons that dogs are allowed in the outdoor dining area).

[110] Seattle Parks and Recreation Rules for Seattle's Off-Leash Areas.

[111] The NOLA City Bark in New Orleans has a rule specifying that only balls and frisbees may be brought into the park (www.nolacitybark.org).

[112] Ohlone Dog Park Association (www.ohlonepark.org).

[113] NOLA City Bark (www.nolacitybark.org).

[114] Administrator, Cook County Department of Animal and Rabies Control, Regulation VIII on the operation of dog friendly areas (DFAs) (issued under authority of § 20-15, Cook County Animal and Rabies Control Ordinance (www.chicagoparkdistrict.com/docs/7a322e31-f650-4680-ba0b-100d626ead3f_document.pdf)).

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ACCESS TRAIL TECHNICAL PROVISIONS (NOT ACCESS ROUTE)

- TRAIL WIDTH & SURFACE

- CLEAR WIDTH—36" MIN. PROVIDE A "FIRM AND STABLE" SURFACE: A FIRM SURFACE RESISTS DEFORMATION BY INDENTATIONS. A STABLE SURFACE IS NOT PERMANENTLY AFFECTED BY EXPECTED WEATHER CONDITIONS & CAN SUSTAIN NORMAL WEAR & TEAR FROM THE EXPECTED USES BETWEEN PLANNED MAINTENANCE.

- RUNNING SLOPE

- NO MORE THAN 30% OF THE TOTAL TRAIL LENGTH TO EXCEED 1:12 (8.3%)

- CROSS SLOPE

- 1:48 (2%) MAX.; WHERE SURFACE IS ASPHALT CONCRETE OR BOARDS, 1:20 (5%) MAX IF NECESSARY FOR DRAINAGE

- RESTING INTERVALS

- 60" MIN. LENGTH; 36" WIDTH MIN. ADJACENT TO TRAIL OR SAME WIDTH AS WIDEST POINT OF TRAIL IF WITHIN TRAIL
- ▶ 1:20 (5%)– 1:12 (8.33%)–EVERY 200'
- ▶ 1:12 (8.33%)–1:10 (10%)– EVERY 30'
- ▶ 1:10 (10%)–1:8 (12.5%)–EVERY 10'
- ▶ SHALL OVERLAP PASSING SPACES TO BE PROVIDED AT LEAST EVERY 1000'

- OPENINGS (ALSO APPLIES TO ACCESS ROUTES)

- DRAINAGE GRATES, GAPS BETWEEN BOARDS—PLACE OUTSIDE OF TRAIL OR ACCESS ROUTE WHERE POSSIBLE
- SIZE DOES NOT PERMIT THE PASSAGE ANYWHERE OF A 1/2" DIAMETER SPHERE
 - ▶ (1/2 INCH MAX.)
- ELONGATED OPENINGS SHALL BE PLACED SO THAT THE LONG DIMENSION IS PERPENDICULAR OR DIAGONAL TO THE DOMINANT DIRECTION OF TRAVEL.

- VIEWING SPACE

- SHALL ADJOIN/OVERLAP ROUTE OR TRAIL. CLEAR GROUND SPACE SHALL BE 36"X 48" MIN. WITH CROSS SLOPE & FIRM SURFACE AS NOTED ABOVE. VIEWING SPACE SHALL BE CLEAR FROM A HEIGHT OF 32"-51" & EXTEND FULL WIDTH OF CLEAR GROUND SPACE.

- PASSING SPACE

- PASSING SPACE IS REQUIRED WHERE PATH WIDTH IS LESS THAN 60" AT LEAST EVERY 1000 FEET; EACH SHALL BE 60" X 60" EXCEPT AT INTERSECTION OF 2 T-SHAPED TRAILS, SHALL EXTEND 48" MIN. OFF THE TRAIL ON EACH SIDE OF THE T.

- TRAIL OBSTACLES

- 2" HIGH MAX. (1" FOR ROUTES) WITH 1/2" FOR ASPHALT, CONCRETE OR BOARD SURFACES; WHERE POSSIBLE, SEPARATE BY 48" ACROSS TRAIL WIDTH (ROCK, ROOTS) & BEVEL/SMOOTH TO 45 DEGREES (1:2) MAX.

- PROTRUDING OBJECTS

- A 4-INCH PROTRUDING OBJECT IS ALLOWED ONTO THE CLEAR WIDTH OF THE TRAIL FROM A HEIGHT OF 27 INCHES UP TO A HEIGHT OF 80 INCHES (SUCH AS A FOR PART OF A SIGN, RAILING, ETC. BUT ONLY AS A LAST OPTION)

- VERTICAL CLEARANCE



- AN 80-INCH HEAD CLEARANCE IS REQUIRED WITHIN THE CLEAR WIDTH THROUGHOUT THE TRAIL

- TRAILHEAD SIGNS

- TRAILHEAD SIGN INFO SHALL INCLUDE:
 - ▶ LENGTH OF TRAIL OR SEGMENT, SURFACE TYPE, TYPICAL & MIN. TRAIL WIDTH, TYPICAL & MAX. RUNNING SLOPE, & TYPICAL AND MAX. CROSS SLOPE

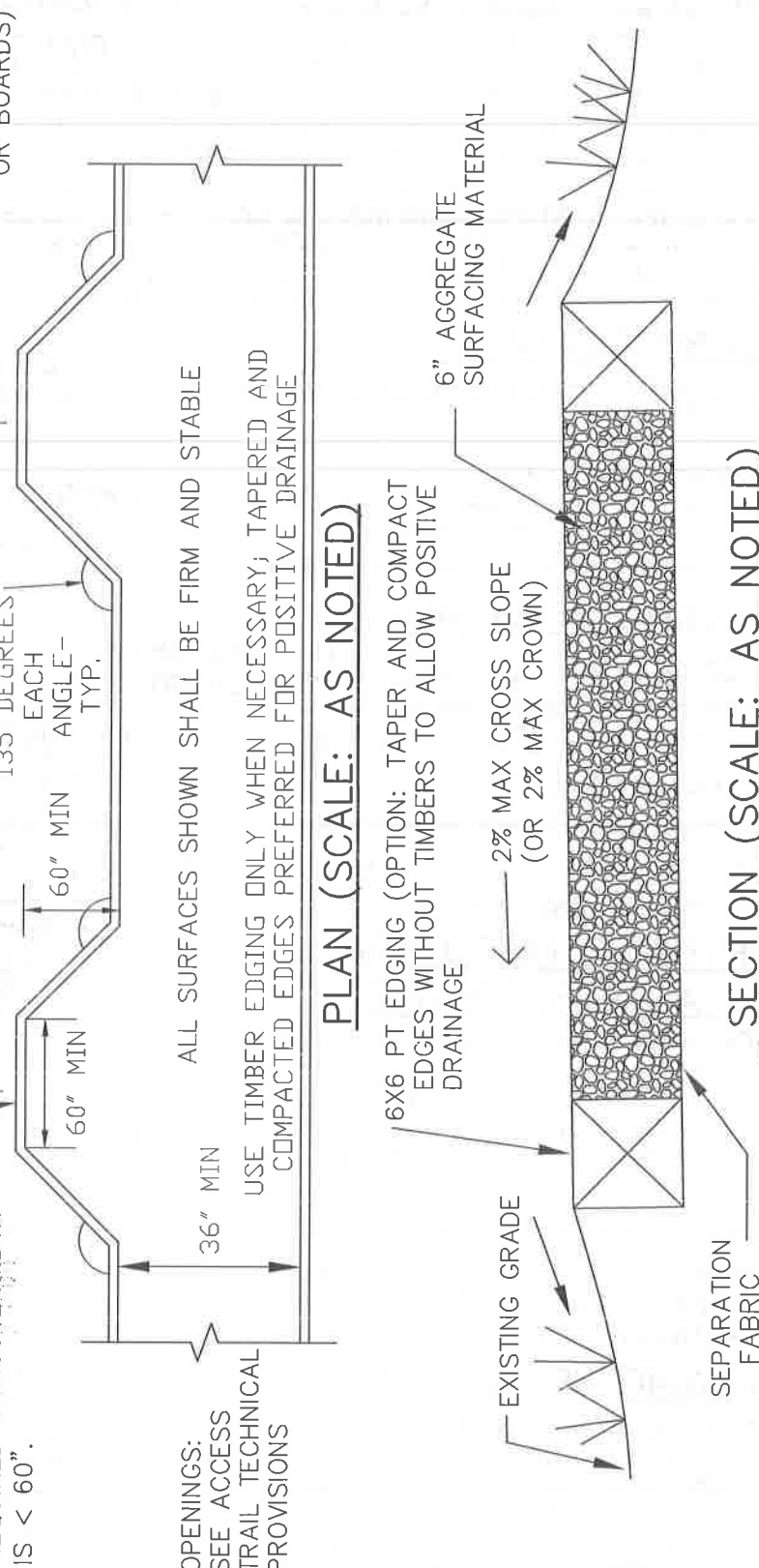
EDGE PROTECTION

- ▶ IF PROVIDED, MUST BE FLUSH WITH GRADE AND MATERIAL MUST BE A MINIMUM OF 3" IN HEIGHT (6 X 6 INCH PRESSURE TREATED (PT) TIMBERS TYPICAL). OVERALL DRAINAGE MUST BE ADEQUATELY DIRECTED OFF THE TRAIL. PREFERRED OPTION IS TO NOT USE TIMBER EDGING BUT TO TAPER AND COMPACT EDGES SUFFICIENTLY TO PREVENT EROSION AND TO PROVIDE OVERALL POSITIVE DRAINAGE. DRAINAGE SHALL BE DIRECTED BY CROWNING OR CROSS SLOPING TRAIL ALONG ALL SIDES AND SURFACES.

DRAWING NO.	SCALE	DATE	PROJECT NO.	PLANTING NO.	SHEET NO.	PROJECT DESCRIPTION	REVISIONS			DESIGNED BY	CHECKED BY	DRAWN BY		STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION DIVISION OF OPERATIONS BUREAU OF DESIGN & CONSTRUCTION
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22	AS NOTED	201	67454	XXXX	XXXX	DEC STANDARD ACCESSIBLE								STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION DIVISION OF OPERATIONS BUREAU OF DESIGN & CONSTRUCTION
						DESIGNS FOR OUTDOOR								
						RECREATIONAL FACILITIES								
						ACCESS TRAIL								
						TECHNICAL PROVISIONS								
								AS BUILT						

OUTDOOR RECREATION ACCESS ROUTE (ORAR)

- CONNECTS ACCESSIBLE ELEMENTS WITHIN CAMPGROUND AND DAY USE AREAS (NOT A TRAIL).
- CROSS SLOPE: 1:48 (2%) MAX EXCEPT IF SURFACE IS OTHER THAN ASPHALT, CONCRETE OR BOARDS 1:20 (5%) IF NECESSARY FOR DRAINAGE.
- RUNNING SLOPE:
 - UP TO 1:20 (5%) FOR ANY DISTANCE
 - 1:20 (5%) TO 1:12 (8.33%)—50' MAX
 - 1:12 ((8.33%) TO 1:10 (10%)—30' MAX
- ALL DRAINAGE SHALL BE DIRECTED OFF EACH SEGMENT. THE ROUTE.
- PASSING SPACE WITH DIMENSIONS SHOWN IS REQUIRED IF ROUTE WIDTH IS < 60".
- 200' MAX
- 135 DEGREES EACH ANGLE—TYP.
- 60" MIN
- 60" MIN
- 36" MIN
- ALL SURFACES SHOWN SHALL BE FIRM AND STABLE
- USE TIMBER EDGING ONLY WHEN NECESSARY; TAPERED AND COMPACTED EDGES PREFERRED FOR POSITIVE DRAINAGE
- OPENINGS: SEE ACCESS TRAIL TECHNICAL PROVISIONS
- PLAN (SCALE: AS NOTED)
- SECTION (SCALE: AS NOTED)



DRAWING NO. 21 SCALE AS NOTED DATE 2014 PROJECT NO. 67495 FACILITY NO. XXXX PROJECT NAME XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX	PROJECT DESCRIPTION DEC STANDARD ACCESSIBLE DESIGNS FOR OUTDOOR RECREATIONAL FACILITIES OUTDOOR RECREATION ACCESS ROUTE		REVISIONS <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> AS BUILT		NO.	DATE	DESCRIPTION	BY													DESIGNED BY CHECKED BY DRAWN BY	STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION DIVISION OF OPERATIONS BUREAU OF DESIGN & CONSTRUCTION
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Public Playground Safety Handbook



U.S. Consumer Product Safety Commission
Saving Lives and Keeping Families Safe





U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

December 29, 2015

The U.S. Consumer Product Safety Commission's ("CPSC" or "Commission") *Public Playground Safety Handbook* was first published in 1981 under the name *A Handbook for Public Playground Safety*. The recommendations in the *Handbook* are focused on playground-related *injuries* and mechanical mechanisms of injury; falls from playground equipment have remained the largest single hazard pattern associated with playground use. Since the first edition, the Commission has included recommendations that playgrounds not be installed over concrete, asphalt, or paved surfaces to address serious head injuries due to falls from the equipment. Additionally, the Commission has made suggestions for commonly used loose-fill and unitary surfacing materials (*e.g.*, wood mulch, pea gravel, sand, gym mats, and shredded/recycled rubber mulch) that provide head impact attenuation and can mitigate the hazard presented by falls from playground equipment. Maintaining the focus on falls, the *Handbook's* surfacing recommendations are based on the surfacing material's energy absorbing effectiveness.

During the past 35 years, innovations in technology have led to new playground equipment and surfacing practices. Voluntary standards for equipment and impact attenuation for protective surfacing have evolved. The 2010 edition of the *Handbook*, the most recent version, still discusses common materials, but also covers new surfacing systems that are specifically designed and tested to comply with ASTM F1292, the voluntary standard for measuring impact attenuation of surfacing. Maintaining that focus, Section 2.4 of the *Handbook* identifies shredded/recycled rubber mulch as an "Appropriate Surfacing" product, given that this product can meet the impact attenuation requirements of ASTM F1292, as long as minimum depths of the material are maintained, as specified in Table 2 of Section 2.5. This notation is solely focused on the impact attenuation to minimize serious head injuries, and not on other aspects that may pose other risks, such as chemical exposure or ingestion.

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1. INTRODUCTION

In recent years, it is estimated that there were more than 200,000 injuries annually on public playgrounds across the country that required emergency room treatment. By following the recommended guidelines in this handbook, you and your community can create a safer playground environment for all children and contribute to the reduction of playground-related deaths and injuries.

1.1 Scope

This handbook presents safety information for public playground equipment in the form of guidelines. Publication of this handbook is expected to promote greater safety awareness among those who purchase, install, and maintain public playground equipment. Because many factors may affect playground safety, the U.S. Consumer Product Safety Commission (CPSC) staff believes that guidelines, rather than a mandatory rule, are appropriate. These guidelines are not being issued as the sole method to minimize injuries associated with playground equipment. However, the Commission believes that the recommendations in this handbook along with the technical information in the ASTM standards for public playgrounds will contribute to greater playground safety.

Some states and local jurisdictions may require compliance with this handbook and/or ASTM voluntary standards. Additionally, risk managers, insurance companies, or others may require compliance at a particular site; check with state/local jurisdictions and insurance companies for specific requirements.

1.2 Intended Audience

This handbook is intended for use by childcare personnel, school officials, parks and recreation personnel, equipment purchasers and installers, playground designers, and any other members of the general public (e.g., parents and school groups) concerned with public playground safety and interested in evaluating their respective playgrounds. Due to the wide range of possible users, some information provided may be more appropriate for certain users than others. The voluntary standards listed in 1.4.1 contain more technical requirements than this handbook and are primarily intended for use by equipment manufacturers, architects, designers, and any others requiring more technical information.

1.3 What is a Public Playground?

“Public” playground equipment refers to equipment for use by children ages 6 months through 12 years in the playground areas of:

- Commercial (non-residential) child care facilities
- Institutions
- Multiple family dwellings, such as apartment and condominium buildings
- Parks, such as city, state, and community maintained parks
- Restaurants
- Resorts and recreational developments
- Schools
- Other areas of public use

These guidelines are not intended for amusement park equipment, sports or fitness equipment normally intended for users over the age of 12 years, soft contained play equipment, constant air inflatable play devices for home use, art and museum sculptures (not otherwise designed, intended and installed as playground equipment), equipment found in water play facilities, or home playground equipment. Equipment components intended solely for children with disabilities and modified to accommodate such users also are not covered by these guidelines. Child care facilities, especially indoor, should refer to ASTM F2373 — *Standard Consumer Safety Performance Specification for Public Use Play Equipment for Children 6 Months Through 23 Months*, for more guidance on areas unique to their facilities.

1.4 Public Playground Safety Voluntary Standards and CPSC Handbook History

- 1981 – First CPSC *Handbook for Public Playground Safety* was published, a two-volume set.
- 1991 – *Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment*, ASTM F1292, was first published.
- 1991 – Two-volume set was replaced by a single-volume handbook, which contained recommendations based on a COMSIS Corporation report to the CPSC (*Development of Human Factors Criteria for Playground Equipment Safety*).

- 1993 – First version of voluntary standard for public playground equipment, ASTM F1487 — *Standard Consumer Safety Performance Specification for Playground Equipment for Public Use*, was published (revisions occur every 3 to 4 years).
- 1994 – Minor revisions to the *Handbook*.
- 1997 – *Handbook* was updated based on (1) staff review of ASTM F1487, (2) playground safety roundtable meeting held October 1996, and (3) public comment received to a May 1997 CPSC staff request.
- 2005 – First version of voluntary standard for playground equipment intended for children under two years old, ASTM F2373 — *Standard Consumer Safety Performance Specification for Public Use Play Equipment for Children 6 Months Through 23 Months*, was published.
- 2008 – *Handbook* was updated based on comments received from members of the ASTM F15 Playground Committees in response to a CPSC staff request for suggested revisions. Significant revisions are listed below.

1.4.1 ASTM playground standards

Below is a list of ASTM technical performance standards that relate to playgrounds.

- **F1487** *Standard Consumer Safety Performance Specification for Playground Equipment for Public Use*.
- **F2373** *Standard Consumer Safety Performance Specification for Public Use Play Equipment for Children 6 Months through 23 Months*.
- **F1292** *Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment*.
- **F2075** *Standard Specification for Engineered Wood Fiber for Use as a Playground Safety Surface Under and Around Playground Equipment*.
- **F2223** *Standard Guide for ASTM Standards on Playground Surfacing*.
- **F2479** *Standard Guide for Specification, Purchase, Installation and Maintenance of Poured-In-Place Playground Surfacing*.
- **F1951** *Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment*.
- **F1816** *Standard Safety Specification for Drawstrings on Children's Upper Outerwear*.

- **F2049** *Standard Guide for Fences/Barriers for Public, Commercial, and Multi-Family Residential Use Outdoor Play Areas*.
- **F1148** *Standard Consumer Safety Performance Specification for Home Playground Equipment*.
- **F1918** *Standard Safety Performance Specification for Soft Contained Play Equipment*.

1.5 Significant Revisions for 2008

1.5.1 Equipment guidelines

- Age ranges expanded to include children as young as 6 months based on ASTM F2373
- Guidelines for track rides and log rolls added
- Exit zone requirements for slides harmonized with ASTM F1487

1.5.2 Surfacing guidelines

- Critical height table revised
- Suggestions for surfacing over asphalt added

1.5.3 General guidelines

- Suggestions on sun exposure added

1.5.4 Other revisions

- Editorial changes to make the *Handbook* easier to understand and use

1.6 Background

The safety of each individual piece of playground equipment as well as the layout of the entire play area should be considered when designing or evaluating a playground for safety. Since falls are a very common playground hazard pattern, the installation and maintenance of protective surfacing under and around all equipment is crucial to protect children from severe head injuries.

Because all playgrounds present some challenge and because children can be expected to use equipment in unintended and unanticipated ways, adult supervision is highly recommended. The handbook provides some guidance on supervisory practices that adults should follow. Appropriate equipment design, layout, and maintenance, as discussed in this

handbook, are also essential for increasing public playground safety.

A playground should allow children to develop gradually and test their skills by providing a series of graduated challenges. The challenges presented should be appropriate for age-related abilities and should be ones that children can perceive and choose to undertake. Toddlers, preschool- and school-age children differ dramatically, not only in physical size and ability, but also in their intellectual and social skills. Therefore, age-appropriate playground designs should accommodate these differences with regard to the type, scale, and the layout of equipment. Recommendations throughout this handbook address the different needs of toddlers, preschool-age, and school-age children; “toddlers” refers to children ages 6 months through 2 years of age, “preschool-age” refers to children 2 through 5 years, and “school-age” refers to children 5 through 12 years. The overlap between these groups is anticipated in terms of playground equipment use and provides for a margin of safety.

Playground designers, installers and operators should be aware that the Americans with Disabilities Act of 1990 (ADA) is a comprehensive civil rights law which prohibits discrimination on the basis of disability. Titles II and III of the ADA require, among other things, that newly constructed and altered State and local government facilities, places of public accommodation, and commercial facilities be readily accessible to and usable by individuals with disabilities. Recreation facilities, including play areas, are among the types of facilities covered by titles II and III of the ADA.

The Architectural and Transportation Barriers Compliance Boards – also referred to as the “Access Board” – has developed accessibility guidelines for newly constructed and altered play areas that were published October 2000. The play area guidelines are a supplement to the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Once these guidelines are adopted as enforceable standards by the Department of Justice, all newly constructed and altered play areas covered by the ADA will be required to comply. These guidelines also apply to play areas covered by the Architectural Barriers Act (ABA).

Copies of the play area accessibility guidelines and further technical assistance can be obtained from the U.S. Access Board, 1331 F Street, NW, Suite 1000, Washington, DC 20004-1111; 800-872-2253, 800-993-2822 (TTY), www.access-board.gov.

1.7 Playground Injuries

The U. S. Consumer Product Safety Commission has long recognized the potential hazards that exist with the use of playground equipment, with over 200,000 estimated emergency room-treated injuries annually. The most recent study of 2,691 playground equipment-related incidents reported to the CPSC from 2001-2008 indicated that falls are the most common hazard pattern (44% of injuries) followed by equipment-related hazards, such as breakage, tip over, design, and assembly (23%).¹ Other hazard patterns involved entrapment and colliding other children or stationary equipment. Playground-related deaths reported to the Commission involved entanglement of ropes, leashes, or clothing; falls; and impact from equipment tip over or structural failure.

The recommendations in this handbook have been developed to address the hazards that resulted in playground-related injuries and deaths. The recommendations include those that address:

- The potential for falls from and impact with equipment
- The need for impact attenuating protective surfacing under and around equipment
- Openings with the potential for head entrapment
- The scale of equipment and other design features related to user age and layout of equipment on a playground
- Installation and maintenance procedures
- General hazards presented by protrusions, sharp edges, and crush or shear points

1.8 Definitions

Barrier — An enclosing device around an elevated platform that is intended to prevent both inadvertent and deliberate attempts to pass through the device.

Composite Structure — Two or more play structures attached or functionally linked, to create one integral unit that provides more than one play activity.

Critical Height — The fall height below which a life-threatening head injury would not be expected to occur.

¹O'Brien, Craig W.; Injuries and Investigated Deaths Associated with Playground Equipment, 2001–2008. U.S. Consumer Product Safety Commission: Washington DC, October, 2009.

Designated Play Surface — Any elevated surface for standing, walking, crawling, sitting or climbing, or a flat surface greater than 2 inches wide by 2 inches long having an angle less than 30° from horizontal.

Embankment Slide — A slide that follows the contour of the ground and at no point is the bottom of the chute greater than 12 inches above the surrounding ground.

Entanglement — A condition in which the user's clothes or something around the user's neck becomes caught or entwined on a component of playground equipment.

Entrapment — Any condition that impedes withdrawal of a body or body part that has penetrated an opening.

Fall Height — The vertical distance between the highest designated play surface on a piece of equipment and the protective surfacing beneath it.

Footing — A means for anchoring playground equipment to the ground.

Full Bucket Seat Swing — A swing generally appropriate for children under 4 years of age that provides support on all sides and between the legs of the occupant and cannot be entered or exited without adult assistance.

Geotextile (filter) Cloth — A fabric that retains its relative structure during handling, placement, and long-term service to enhance water movement, retard soil movement, and to add reinforcement and separation between the soil and the surfacing and/or sub-base.

Guardrail — An enclosing device around an elevated platform that is intended to prevent inadvertent falls from the elevated surface.

Infill — Material(s) used in a protective barrier or between decks to prevent a user from passing through the barrier (e.g., vertical bars, lattice, solid panel, etc.).

Loose-Fill Surfacing Material — A material used for protective surfacing in the use zone that consists of loose particles such as sand, gravel, engineered wood fibers, or shredded rubber.

Preschool-Age Children — Children 2 years of age through 5 years of age.

Projection — Anything that extends outward from a surface of the playground equipment and must be tested to determine whether it is a protrusion or entanglement hazard, or both.

Protective Barrier — See Barrier.

Protective Surfacing — Shock absorbing (i.e., impact attenuating) surfacing material in the use zone that conforms to the recommendations in §2.4 of this handbook.

Protrusion — A projection which, when tested, is found to be a hazard having the potential to cause bodily injury to a user who impacts it.

Roller Slide — A slide that has a chute consisting of a series of individual rollers over which the user travels.

School-Age Children — Children 5 years of age through 12 years of age.

Slide Chute — The inclined sliding surface of a slide.

Stationary Play Equipment — Any play structure that has a fixed base and does not move.

Supervisor — Any person tasked with watching children on a playground. Supervisors may be paid professionals (e.g., childcare, elementary school or park and recreation personnel), paid seasonal workers (e.g., college or high school students), volunteers (e.g., PTA members), or unpaid caregivers (e.g., parents) of the children playing in the playground.

Toddlers — Children 6 months through 23 months of age.

Tube Slide — A slide in which the chute consists of a totally enclosed tube or tunnel.

Unitary Surfacing Material — A manufactured material used for protective surfacing in the use zone that may be rubber tiles, mats, or a combination of energy absorbing materials held in place by a binder that may be poured in place at the playground site and cures to form a unitary shock absorbing surface.

Upper Body Equipment — Equipment designed to support a child by the hands only (e.g., horizontal ladder, overhead swinging rings).

Use Zone — The surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land. These areas are also designated for unrestricted circulation around the equipment.

2. GENERAL PLAYGROUND CONSIDERATIONS

2.1 Selecting a Site

The following factors are important when selecting a site for a new playground:

Site Factor	Questions to Ask	If yes, then...Mitigation
Travel patterns of children to and from the playground	Are there hazards in the way?	Clear hazards.
Nearby accessible hazards such as roads with traffic, lakes, ponds, streams, drop-offs/cliffs, etc.	<p>Could a child inadvertently run into a nearby hazard?</p> <p>Could younger children easily wander off toward the hazard?</p>	Provide a method to contain children within the playground. For example, a dense hedge or a fence. The method should allow for observation by supervisors. If fences are used, they should conform to local building codes and/or ASTM F-2049.
Sun exposure	Is sun exposure sufficient to heat exposed bare metal slides, platforms, steps, & surfacing enough to burn children?	<p>Bare metal slides, platforms, and steps should be shaded or located out of direct sun.</p> <p>Provide warnings that equipment and surfacing exposed to intense sun can burn.</p>
	Will children be exposed to the sun during the most intense part of the day?	Consider shading the playground or providing shaded areas nearby.
Slope and drainage	Will loose fill materials wash away during periods of heavy rain?	Consider proper drainage re-grading to prevent wash outs.

2.1.1 Shading considerations

According to the American Academy of Dermatology, research indicates that one in five Americans will develop some form of skin cancer during their lifetime, and five or more sunburns double the risk of developing skin cancer. Utilizing existing shade (e.g., trees), designing play structures as a means for providing shading (e.g., elevated platforms with shaded space below), or creating more shade (e.g., man-made structures) are potential ways to design a playground to help protect children's skin from the sun. When trees are used for shade, additional maintenance issues arise, such as the need for cleaning up debris and trimming limbs.

2.2 Playground Layout

There are several key factors to keep in mind when laying out a playground:

- Accessibility
- Age separation
- Conflicting activities
- Sight lines
- Signage and/or labeling
- Supervision

2.2.1 Accessibility

Special consideration should be given to providing accessible surfaces in a play area that meets the *ASTM Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment*, ASTM F1951.

Equipment selection and location along with the type of protective surfacing are key components to ensuring the opportunity for children with disabilities to play on the playground.

2.2.2 Age separation

For playgrounds intended to serve children of all ages, the layout of pathways and the landscaping of the playground should show the distinct areas for the different age groups. The areas should be separated at least by a buffer zone, which could be an area with shrubs or benches. This separation and buffer zone will reduce the chance of injury from older, more active children running through areas filled with younger children with generally slower movement and reaction times.

2.2.3 Age group

In areas where access to the playground is unlimited or enforced only by signage, the playground designer should recognize that since child development is fluid, parents and caregivers may select a playground slightly above or slightly below their child's abilities, especially for children at or near a cut-off age (e.g., 2-years old and 5-years old). This could be for ease of supervising multiple children, misperceptions about the hazards a playground may pose to children of a different age, advanced development of a child, or other reasons. For this reason, there is an overlap at age 5.

Developmentally a similar overlap also exists around age 2; however, due to the differences in ASTM standards and entrapment testing tools, this overlap is not reflected in the handbook. Playgrounds used primarily by children under the supervision of paid, trained professionals (e.g., child-care centers and schools) may wish to consider separating playgrounds by the facility's age groupings. For example, a child-care facility may wish to limit a playground to toddlers under 2 exclusively and can draw information from this guide and ASTM F2373. A school, on the other hand, may have no children under 4 attending, and can likewise plan appropriately. Those who inspect playgrounds should use the intended age group of the playground.

2.2.4 Conflicting activities

The play area should be organized into different sections to prevent injuries caused by conflicting activities and children running between activities. Active, physical activities should be separate from more passive or quiet activities. Areas for playground equipment, open fields, and sand boxes should be located in different sections of the playground. In addition, popular, heavy-use pieces of equipment or activities should be dispersed to avoid crowding in any one area.

Different types of equipment have different use zones that must be maintained. The following are general recommendations for locating equipment within the playground site. Specific use zones for equipment are given in §5.3.

- Moving equipment, such as swings and merry-go-rounds, should be located toward a corner, side, or edge of the play area while ensuring that the appropriate use zones around the equipment are maintained.
- Slide exits should be located in an uncongested area of the playground.
- Composite play structures have become increasingly popular on public playgrounds. Adjacent components on composite structures should be complementary. For example, an access component should not be located in a slide exit zone.

2.2.5 Sight lines

Playgrounds that are designed, installed, and maintained in accordance with safety guidelines and standards can still present hazards to children. Playgrounds should be laid out to allow parents or caregivers to keep track of children as they move throughout the playground environment. Visual barriers should be minimized as much as possible. For example, in a park situation, playground equipment should be as visible as possible from park benches. In playgrounds with areas for different ages, the older children's area should be visible from the younger children's area to ensure that caregivers of multiple children can see older children while they are engaged in interactive play with younger ones.

2.2.6 Signage and/or labeling

Although the intended user group should be obvious from the design and scale of equipment, signs and/or labels posted in the playground area or on the equipment should give some guidance to supervisors as to the age appropriateness of the equipment.

2.2.7 Supervision

The quality of the supervision depends on the quality of the supervisor's knowledge of safe play behavior. Playground designers should be aware of the type of supervision most likely for their given playground. Depending on the location and nature of the playground, the supervisors may be paid professionals (e.g., childcare, elementary school or park and recreation personnel), paid seasonal workers (e.g., college or high school students), volunteers (e.g., PTA members), or unpaid caregivers (e.g., parents) of the children playing in the playground.

Parents and playground supervisors should be aware that not all playground equipment is appropriate for all children who may use the playground. Supervisors should look for posted






signs indicating the appropriate age of the users and direct children to equipment appropriate for their age. Supervisors may also use the information in Table 1 to determine the suitability of the equipment for the children they are supervising. Toddlers and preschool-age children require more attentive supervision than older children; however, one should not rely on supervision alone to prevent injuries.

Supervisors should understand the basics of playground safety such as:

- Checking for broken equipment and making sure children don't play on it.
- Checking for and removing unsafe modifications, especially ropes tied to equipment, before letting children play.
- Checking for properly maintained protective surfacing.
- Making sure children are wearing foot wear.

TABLE 1. EXAMPLES OF AGE APPROPRIATE EQUIPMENT

 <p>Toddler — Ages 6-23 months</p> <ul style="list-style-type: none"> • Climbing equipment under 32" high • Ramps • Single file step ladders • Slides* • Spiral slides less than 360° • Spring rockers • Stairways • Swings with full bucket seats 	 <p>Preschool — Ages 2-5 years</p> <ul style="list-style-type: none"> • Certain climbers** • Horizontal ladders less than or equal to 60" high for ages 4 and 5 • Merry-go-rounds • Ramps • Rung ladders • Single file step ladders • Slides* • Spiral slides up to 360° • Spring rockers • Stairways • Swings – belt, full bucket seats (2-4 years) & rotating tire 	 <p>Grade School — Ages 5-12 years</p> <ul style="list-style-type: none"> • Arch climbers • Chain or cable walks • Free standing climbing events with flexible parts • Fulcrum seesaws • Ladders – Horizontal, Rung, & Step • Overhead rings*** • Merry-go-rounds • Ramps • Ring treks • Slides* • Spiral slides more than one 360° turn • Stairways • Swings – belt & rotating tire • Track rides • Vertical sliding poles
<p>* See §5.3.6</p>	<p>** See §5.3.2</p>	<p>*** See §5.3.2.5</p>

- Watching and stopping dangerous horseplay, such as children throwing protective surfacing materials, jumping from heights, etc.
- Watching for and stopping children from wandering away from the play area.

2.3 Selecting Equipment

When selecting playground equipment, it is important to know the age range of the children who will be using the playground. Children at different ages and stages of development have different needs and abilities. Playgrounds should be designed to stimulate children and encourage them to develop new skills, but should be in scale with their sizes, abilities, and developmental levels. Consideration should also be given to providing play equipment that is accessible to children with disabilities and encourages integration within the playground.

Table 1 shows the appropriate age range for various pieces of playground equipment. This is not an all-comprehensive list and, therefore, should not limit inclusion of current or newly designed equipment that is not specifically mentioned. For equipment listed in more than one group, there may be some modifications or restrictions based on age, so consult the specific recommendations in §5.3.

2.3.1 Equipment not recommended

Some playground equipment is not recommended for use on public playgrounds, including:

- Trampolines
- Swinging gates
- Giant strides
- Climbing ropes that are not secured at both ends.
- Heavy metal swings (e.g., animal figures) – These are not recommended because their heavy rigid metal framework presents a risk of impact injury.
- Multiple occupancy swings – With the exception of tire swings, swings that are intended for more than one user are not recommended because their greater mass, as compared to single occupancy swings, presents a risk of impact injury.
- Rope swings – Free-swinging ropes that may fray or otherwise form a loop are not recommended because they present a potential strangulation hazard.
- Swinging dual exercise rings and trapeze bars – These are rings and trapeze bars on long chains that are generally considered to be items of athletic equipment and are not recommended for public playgrounds. *NOTE: The recommendation against the use of exercise rings does not apply to overhead hanging rings such as those used in a ring trek or ring ladder (see Figure 7).*



2.4 Surfacing

The surfacing under and around playground equipment is one of the most important factors in reducing the likelihood of life-threatening head injuries. A fall onto a shock absorbing surface is less likely to cause a

serious head injury than a fall onto a hard surface. However, some injuries from falls, including broken limbs, may occur no matter what playground surfacing material is used.

The most widely used test method for evaluating the shock absorbing properties of a playground surfacing material is to drop an instrumented metal headform onto a sample of the material and record the acceleration/time pulse during the impact. Field and laboratory test methods are described in ASTM F1292 *Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment*.

Testing using the methods described in ASTM F1292 will provide a “critical height” rating of the surface. This height can be considered as an approximation of the fall height below which a life-threatening head injury would not be expected to occur. Manufacturers and installers of playground protective surfacing should provide the critical height rating of their materials. This rating should be greater than or equal to the fall height of the highest piece of equipment on the playground. The fall height of a piece of equipment is the distance between the highest designated play surface on a piece of equipment and the protective surface beneath it. Details for determining the highest designated play surface and fall height on some types of equipment are included in §5 Parts of the Playground.

2.4.1 Equipment not covered by protective surfacing recommendations

The recommendations for protective surfacing do not apply to equipment that requires a child to be standing or sitting at ground level. Examples of such equipment are:



Appropriate Surfacing

- Any material tested to ASTM F1292, including unitary surfaces, engineered wood fiber, etc.
- Pea gravel
- Sand
- Shredded/recycled rubber mulch
- Wood mulch (not CCA-treated)
- Wood chips



Inappropriate Surfacing

- Asphalt
- Carpet not tested to ASTM F1292
- Concrete
- Dirt
- Grass
- CCA treated wood mulch

- Sand boxes
- Activity walls at ground level
- Play houses
- Any other equipment that children use when their feet remain in contact with the ground surface

2.4.2 Selecting a surfacing material

There are two options available for surfacing public playgrounds: unitary and loose-fill materials. A playground should never be installed without protective surfacing of some type. Concrete, asphalt, or other hard surfaces should never be directly under playground equipment. Grass and dirt are not considered protective surfacing because wear and environmental factors can reduce their shock absorbing effectiveness. Carpeting and mats are also not appropriate unless they are tested to and comply with ASTM F1292. Loose-fill should be avoided for playgrounds intended for toddlers.

2.4.2.1 Unitary surfacing materials

Unitary materials are generally rubber mats and tiles or a combination of energy-absorbing materials held in place by a

binder that may be poured in place at the playground site and then cured to form a unitary shock absorbing surface. Unitary materials are available from a number of different manufacturers, many of whom have a range of materials with differing shock absorbing properties. New surfacing materials, such as bonded wood fiber and combinations of loose-fill and unitary, are being developed that may also be tested to ASTM F1292 and fall into the unitary materials category. When deciding on the best surfacing materials keep in mind that some dark colored surfacing materials exposed to the intense sun have caused blistering on bare feet. Check with the manufacturer if light colored materials are available or provide shading to reduce direct sun exposure.

Persons wishing to install a unitary material as a playground surface should request ASTM F1292 test data from the manufacturer identifying the critical height rating of the desired surface. In addition, site requirements should be obtained from the manufacturer because some unitary materials require installation over a hard surface while others do not. Manufacturer's instructions should be followed closely, as some unitary systems require professional installation. Testing should be conducted in accordance with the ASTM F1292 standard.

2.4.2.2 Loose-fill surfacing materials

Engineered wood fiber (EWF) is a wood product that may look similar in appearance to landscaping mulch, but EWF products are designed specifically for use as a playground safety surface under and around playground equipment. EWF products should meet the specifications in ASTM F2075: *Standard Specification for Engineered Wood Fiber* and be tested to and comply with ASTM F1292.

There are also rubber mulch products that are designed specifically for use as playground surfacing. Make sure they have been tested to and comply with ASTM F1292.

When installing these products, tips 1-9 listed below should be followed. Each manufacturer of engineered wood fiber and rubber mulch should provide maintenance requirements for and test data on:

- Critical height based on ASTM F1292 impact attenuation testing.
- Minimum fill-depth data.
- Toxicity.
- ADA/ABA accessibility guidelines for firmness and stability based on ASTM F1951.

Other loose-fill materials are generally landscaping-type materials that can be layered to a certain depth and resist compacting. Some examples include wood mulch, wood chips, sand, pea gravel, and shredded/recycled rubber mulch.

Important tips when considering loose-fill materials:

1. Loose-fill materials will compress at least 25% over time due to use and weathering. This must be considered when planning the playground. For example, if the playground will require 9 inches of wood chips, then the initial fill level should be 12 inches. See Table 2 below.
2. Loose-fill surfacing requires frequent maintenance to ensure surfacing levels never drop below the minimum depth. Areas under swings and at slide exits are more susceptible to displacement; special attention must be paid to maintenance in these areas. Additionally, wear mats can be installed in these areas to reduce displacement.
3. The perimeter of the playground should provide a method of containing the loose-fill materials.
4. Consider marking equipment supports with a minimum fill level to aid in maintaining the original depth of material.

5. Good drainage is essential to maintaining loose-fill surfacing. Standing water with surfacing material reduces effectiveness and leads to material compaction and decomposition.
6. Critical height may be reduced during winter in areas where the ground freezes.
7. Never use less than 9 inches of loose-fill material except for shredded/recycled rubber (6 inches recommended). Shallower depths are too easily displaced and compacted.
8. Some loose-fill materials may not meet ADA/ABA accessibility guidelines. For more information, contact the Access Board (see §1.6) or refer to ASTM F1951.
9. Wood mulch containing chromated copper arsenate (CCA)-treated wood products should not be used; mulch where the CCA-content is unknown should be avoided (see §2.5.5.1).

Table 2 shows the minimum required depths of loose-fill material needed based on material type and fall height. The depths shown assume the materials have been compressed due to use and weathering and are properly maintained to the given level.

2.4.2.3 Installing loose-fill over hard surface

CPSC staff strongly recommends against installing playgrounds over hard surfaces, such as asphalt, concrete, or hard packed earth, unless the installation adds the following layers of protection. Immediately over the hard surface there should be a 3- to 6-inch base layer of loose-fill (e.g., gravel for drainage). The next layer should be a Geotextile cloth. On top of that should be a loose-fill layer meeting the specifications addressed in §2.4.2.2 and Table 2. Embedded in the loose-fill layer should be impact attenuating mats under high traffic areas, such as under swings, at slide exits, and other places where displacement is likely. Figure 1 provides a visual representation of this information. Older playgrounds that still exist on hard surfacing should be modified to provide appropriate surfacing.

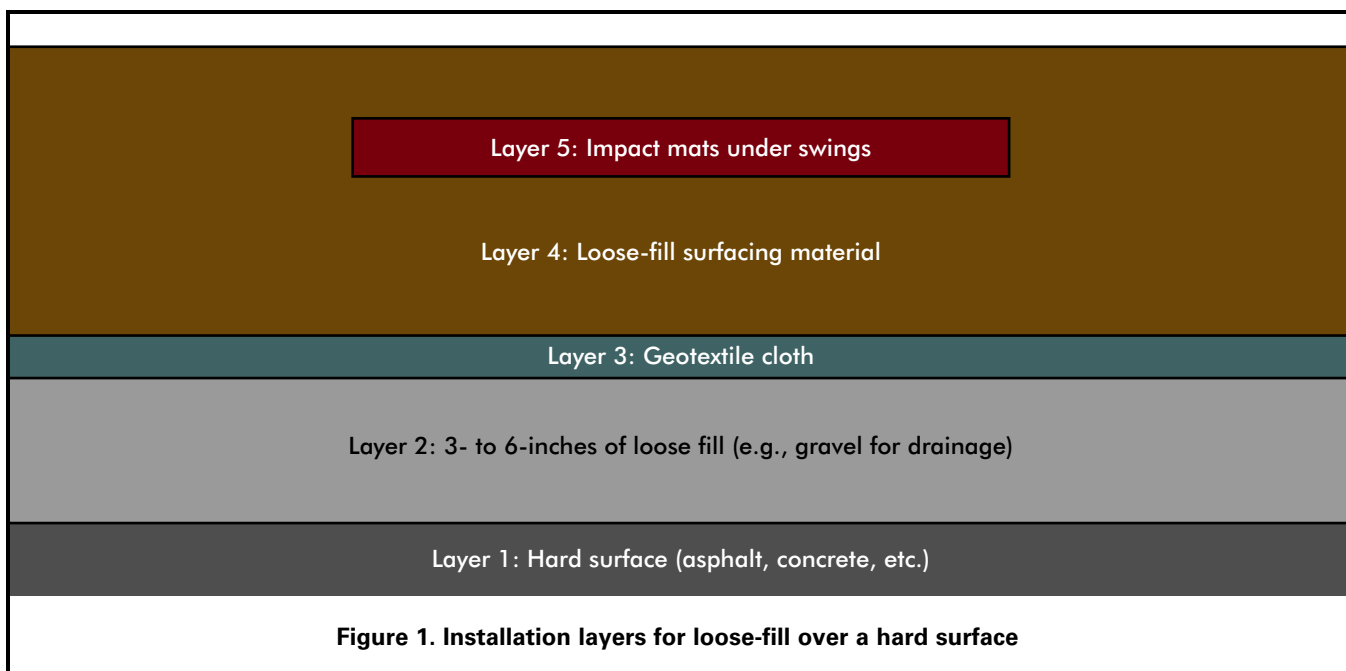
2.5 Equipment Materials

2.5.1 Durability and finish

- Use equipment that is manufactured and constructed only of materials that have a demonstrated record of durability in a playground or similar setting.

Table 2. Minimum compressed loose-fill surfacing depths

Inches	Of	(Loose-Fill Material)	Protects to	Fall Height (feet)
6*		Shredded/recycled rubber		10
9		Sand		4
9		Pea Gravel		5
9		Wood mulch (non-CCA)		7
9		Wood chips		10
* Shredded/recycled rubber loose-fill surfacing does not compress in the same manner as other loose-fill materials. However, care should be taken to maintain a constant depth as displacement may still occur.				

**Figure 1. Installation layers for loose-fill over a hard surface**

- Finishes, treatments, and preservatives should be selected carefully so that they do not present a health hazard to users.
- All fasteners, connectors, and covering devices that are exposed to the user should be smooth and should not be likely to cause laceration, penetration, or present a clothing entanglement hazard (see also §3.2 and Appendix B).
- Lock washers, self-locking nuts, or other locking means should be provided for all nuts and bolts to protect them from detachment.
- Hardware in moving joints should also be secured against unintentional or unauthorized loosening.

2.5.2 Hardware

When installed and maintained in accordance with the manufacturer's instructions:

- All fasteners, connectors, and covering devices should not loosen or be removable without the use of tools.

- All fasteners should be corrosion resistant and be selected to minimize corrosion of the materials they connect. This is particularly important when using wood treated with ACQ/CBA/CA-B² as the chemicals in the wood preservative corrode certain metals faster than others.
- Bearings or bushings used in moving joints should be easy to lubricate or be self-lubricating.
- All hooks, such as S-hooks and C-hooks, should be closed (see also §5.3.8.1). A hook is considered closed if there is no gap or space greater than 0.04 inches, about the thickness of a dime.

2.5.3 Metals

- Avoid using bare metal for platforms, slides, or steps. When exposed to direct sunlight they may reach temperatures high enough to cause serious contact burn injuries in a matter of seconds. Use other materials that may reduce the surface temperature, such as but not limited to wood, plastic, or coated metal (see also Slides in §5.3.6).
- If bare or painted metal surfaces are used on platforms, steps, and slide beds, they should be oriented so that the surface is not exposed to direct sun year round.

2.5.4 Paints and finishes

- Metals not inherently corrosion resistant should be painted, galvanized, or otherwise treated to prevent rust.
- The manufacturer should ensure that the users cannot ingest, inhale, or absorb potentially hazardous amounts of preservative chemicals or other treatments applied to the equipment as a result of contact with playground equipment.
- All paints and other similar finishes must meet the current CPSC regulation for lead in paint.
- Painted surfaces should be maintained to prevent corrosion and deterioration.
- Paint and other finishes should be maintained to prevent rusting of exposed metals and to minimize children playing with peeling paint and paint flakes.

- Older playgrounds with lead based paints should be identified and a strategy to control lead paint exposure should be developed. Playground managers should consult the October 1996 report, CPSC Staff Recommendations for Identifying and Controlling Lead Paint on Public Playground Equipment, while ensuring that all paints and other similar finishes meet the current CPSC regulation.³

2.5.5 Wood

- Wood should be either naturally rot- and insect-resistant (e.g., cedar or redwood) or should be treated to avoid such deterioration.
- Creosote-treated wood (e.g., railroad ties, telephone poles, etc) and coatings that contain pesticides should not be used.

2.5.5.1 Pressure-treated wood

A significant amount of older playground wood was pressure-treated with chemicals to prevent damage from insects and fungi. Chromated copper arsenate (CCA) was a chemical used for decades in structures (including playgrounds). Since December 31, 2003, CCA-treated wood is no longer processed for use in playground applications. Other rot- and insect-resistant pressure treatments are available that do not contain arsenic; however, when using any of the new treated wood products, be sure to use hardware that is compatible with the wood treatment chemicals. These chemicals are known to corrode certain materials faster than others.

Existing playgrounds with CCA-treated wood

Various groups have made suggestions concerning the application of surface coatings to CCA-treated wood (e.g., stains and sealants) to reduce a child's potential exposure to arsenic from the wood surface. Data from CPSC staff and EPA studies suggest that regular (at least once a year) use of an oil- or water-based, penetrating sealant or stain can reduce arsenic migration from CCA-treated wood. Installers, builders, and consumers who perform woodworking operations, such as sanding, sawing, or sawdust disposal, on pressure-treated wood should read the consumer information sheet available at the point of sale. This sheet contains important health precautions and disposal information.

² Ammoniacal copper quat (ACQ), copper boron azole (CBA), copper azole type B (CA-B), etc.

³ CPSC Staff Recommendations for Identifying and Controlling Lead Paint on Public Playground Equipment; U.S. Consumer Product Safety Commission: Washington, DC, October 1996.

When selecting wood products and finishes for public playgrounds, CPSC staff recommends:

- Avoid “film-forming” or non-penetrating stains (latex semi-transparent, latex opaque and oil-based opaque stains) on outdoor surfaces because peeling and flaking may occur later, which will ultimately have an impact on durability as well as exposure to the preservatives in the wood.
- Creosote, pentachlorophenol, and tributyl tin oxide are too toxic or irritating and should not be used as preservatives for playground equipment wood.
- Pesticide-containing finishes should not be used.
- CCA-treated wood should not be used as playground mulch.

2.6 Assembly and Installation

- Strictly follow *all* instructions from the manufacturer when assembling and installing equipment.
- After assembly and before its first use, equipment should be thoroughly inspected by a person qualified to inspect playgrounds for safety.
- The manufacturer’s assembly and installation instructions, and all other materials collected concerning the equipment, should be kept in a permanent file.
- Secure anchoring is a key factor to stable installation, and the anchoring process should be completed in *strict* accordance with the manufacturer’s specifications.

3. PLAYGROUND HAZARDS

This section provides a broad overview of general hazards that should be avoided on playgrounds. It is intended to raise awareness of the risks posed by each of these hazards. Many of these hazards have technical specifications and tests for compliance with ASTM F1487 and F2373. Some of these tests are also detailed in Appendix B.

3.1 Crush and Shearing Points

Anything that could crush or shear limbs should not be accessible to children on a playground. Crush and shear points can be caused by parts moving relative to each other or to a fixed part during a normal use cycle, such as a seesaw.

To determine if there is a possible crush or shear point, consider:

- The likelihood a child could get a body part inside the point, and
- The closing force around the point.

Potential crush/shear hazards specific to certain pieces of equipment are identified in §5.3 Major Types of Playground Equipment.

3.2 Entanglement and Impalement

Projections on playground equipment should not be able to entangle children's clothing nor should they be large enough to impale. To avoid this risk:

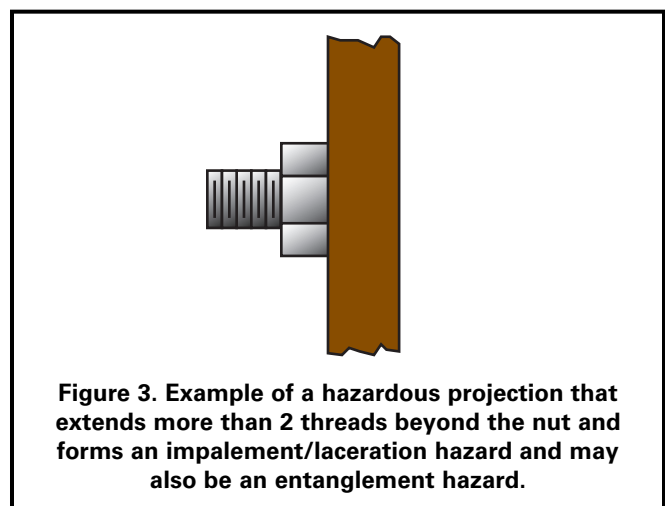
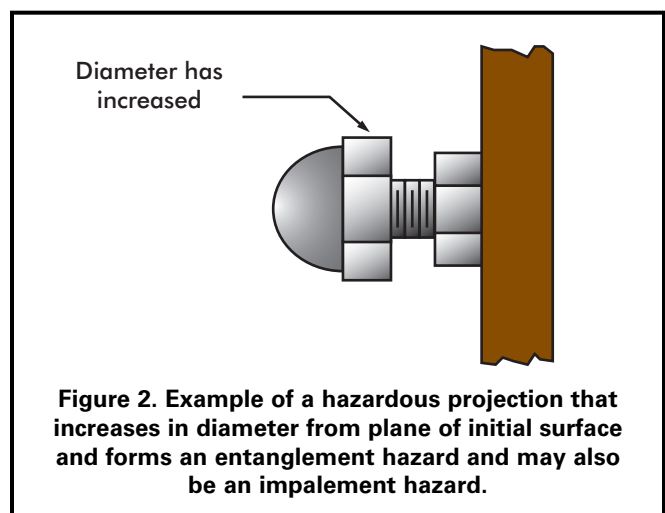
- The diameter of a projection should not increase in the direction away from the surrounding surface toward the exposed end (see Figure 2).
- Bolts should not expose more than two threads beyond the end of the nut (see Figure 3).
- All hooks, such as S-hooks and C-hooks, should be closed (see also §5.3.8.1). A hook is considered closed if there is no gap or space greater than 0.04 inches, about the thickness of a dime.
 - Any connecting device containing an in-fill that completely fills the interior space preventing entry of clothing items into the interior of the device is exempt from this requirement.

- Swings and slides have additional recommendations for projections detailed in §5.3.
- See Appendix B for testing recommendations.

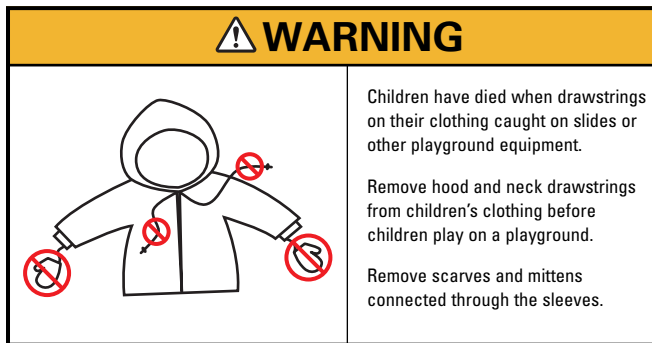
3.2.1 Strings and ropes

Drawstrings on the hoods of jackets, sweatshirts, and other upper body clothing can become entangled in playground equipment, and can cause death by strangulation. To avoid this risk:

- Children should not wear jewelry, jackets or sweatshirts with drawstring hoods, mittens connected by strings through the arms, or other upper body clothing with drawstrings.
- Remove any ropes, dog leashes, or similar objects that have been attached to playground equipment. Children can become entangled in them and strangle to death.



- Avoid equipment with ropes that are not secured at both ends.
- The following label, or a similar sign or label, can be placed on or near slides or other equipment where potential entanglements may occur.



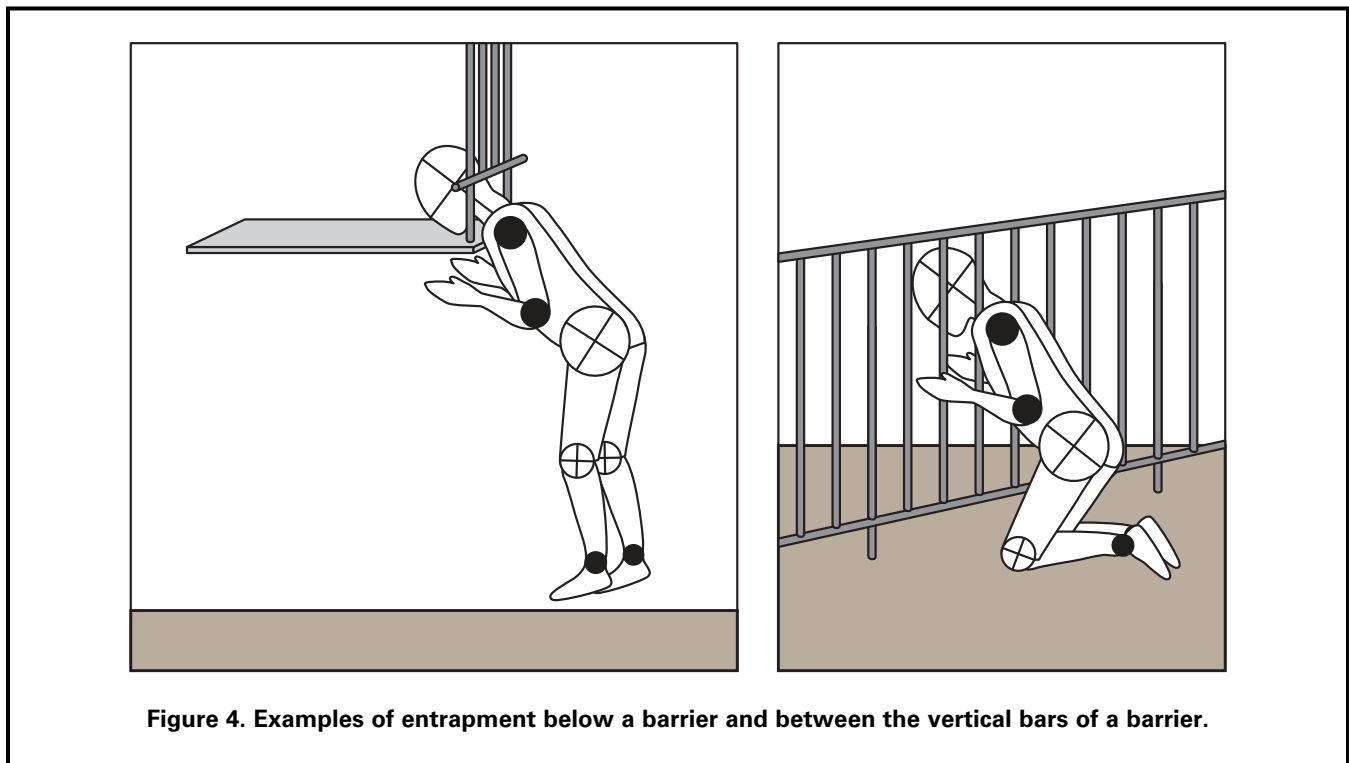
3.3 Entrapment

3.3.1 Head entrapment

Head entrapment is a serious concern on playgrounds, since it could lead to strangulation and death. A child's head may become entrapped if the child enters an opening either feet first or head first. Head entrapment by head-first entry generally occurs when children place their heads through an

opening in one orientation, turn their heads to a different orientation, then are unable to get themselves out. Head entrapment by feet first entry involves children who generally sit or lie down and slide their feet into an opening that is large enough to permit their bodies to go through but is not large enough to permit their heads to go through. A part or a group of parts should not form openings that could trap a child's head. Also, children should not wear their bicycle helmets while on playground equipment. There have been recent head entrapment incidents in which children wearing their bicycle helmets became entrapped in spaces that would not normally be considered a head entrapment.

Certain openings could present an entrapment hazard if the distance between any interior opposing surfaces is greater than 3.5 inches and less than 9 inches. These spaces should be tested as recommended in Appendix B. When one dimension of an opening is within this range, all dimensions of the opening should be considered together to evaluate the possibility of entrapment. Even openings that are low enough for children's feet to touch the ground can present a risk of strangulation for an entrapped child. (See Figure 4). Younger children may not have the necessary intellectual ability or motor skills to reverse the process that caused their heads to become trapped, especially if they become scared or panicked.



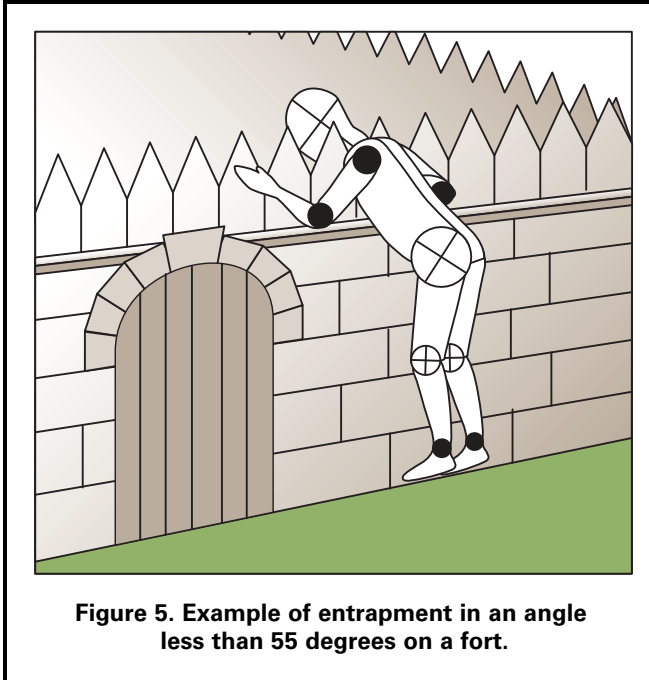


Figure 5. Example of entrapment in an angle less than 55 degrees on a fort.

3.3.2 Partially bound openings and angles

Children can become entrapped by partially bound openings, such as those formed by two or more playground parts.

- Angles formed by two accessible adjacent parts should be greater than 55 degrees unless the lowest leg is horizontal or below horizontal.
- Use the partially-bound opening test in Appendix B to identify hazardous angles and other partially-bound openings.

3.4 Sharp Points, Corners, and Edges

Sharp points, corners, or edges on any part of the playground or playground equipment may cut or puncture a child's skin. Sharp edges can cause serious lacerations if protective measures are not taken. To avoid the risk of injury from sharp points, corners and edges:

- Exposed open ends of all tubing not resting on the ground or otherwise covered should be covered by caps or plugs that cannot be removed without the use of tools.
- Wood parts should be smooth and free from splinters.
- All corners, metal and wood, should be rounded.
- All metal edges should be rolled or have rounded capping.

- There should be no sharp edges on slides. Pay special attention to metal edges of slides along the sides and at the exit (see also §5.3.6.4).
- If steel-belted radials are used as playground equipment, they should be closely examined regularly to ensure that there are no exposed steel belts/wires.
- Conduct frequent inspections to help prevent injuries caused by splintered wood, sharp points, corners, or edges that may develop as a result of wear and tear on the equipment.

3.5 Suspended Hazards

Children using a playground may be injured if they run into or trip over suspended components (such as cables, wires, ropes, or other flexible parts) connected from one piece of the playground equipment to another or hanging to the ground. These suspended components can become hazards when they are within 45 degrees of horizontal and are less than 7 feet above the protective surfacing. To avoid a suspended hazard, suspended components:

- Should be located away from high traffic areas.
- Should either be brightly colored or contrast with the surrounding equipment and surfacing.
- Should not be able to be looped back on themselves or other ropes, cables, or chains to create a circle with a 5 inch or greater perimeter.
- Should be fastened at both ends unless they are 7 inches or less long or attached to a swing seat.

These recommendations do not apply to swings, climbing nets, or if the suspended component is more than 7 feet above the protective surfacing and is a minimum of one inch at its widest cross-section dimension.

3.6 Tripping Hazards

Play areas should be free of tripping hazards (i.e., sudden change in elevations) to children who are using a playground. Two common causes of tripping are anchoring devices for playground equipment and containment walls for loose-fill surfacing materials.

- All anchoring devices for playground equipment, such as concrete footings or horizontal bars at the bottom of flexible climbers, should be installed below ground level

and beneath the base of the protective surfacing material. This will also prevent children from sustaining additional injuries from impact if they fall on exposed footings.

- Contrasting the color of the surfacing with the equipment color can contribute to better visibility.
- Surfacing containment walls should be highly visible.
- Any change of elevation should be obvious.
- Contrasting the color of the containment barrier with the surfacing color can contribute to better visibility.

3.7 Used Tires

Used automobile and truck tires are often recycled as playground equipment, such as tire swings or flexible climbers, or as a safety product such as cushioning under a seesaw or shredded as protective surfacing. When recycling tires for playground use:

- Steel-belted radials should be closely examined regularly to ensure that there are no exposed steel belts/wires.
- Care should be taken so that the tire does not collect water and debris; for example, providing drainage holes on the underside of the tire would reduce water collection.
- Recycled tire rubber mulch products should be inspected before installation to ensure that all metal has been removed.

In some situations, plastic materials can be used as an alternative to simulate actual automobile tires.

4. MAINTAINING A PLAYGROUND

Inadequate maintenance of equipment has resulted in injuries on playgrounds. Because the safety of playground equipment and its suitability for use depend on good inspection and maintenance, the manufacturer's maintenance instructions and recommended inspection schedules should be strictly followed. If manufacturer's recommendations are not available, a maintenance schedule should be developed based on actual or anticipated playground use. Frequently used playgrounds will require more frequent inspections and maintenance.

4.1 Maintenance Inspections

A comprehensive maintenance program should be developed for each playground. All playground areas and equipment should be inspected for excessive wear, deterioration, and any potential hazards, such as those shown in Table 3. One possible procedure is the use of checklists. Some manufacturers supply checklists for general or detailed inspections with their maintenance instructions. These can be used to ensure that inspections are in compliance with the manufacturer's specifications. If manufacturer-provided inspection guidelines are not available, a general checklist that may be used as a guide for frequent routine inspections of public playgrounds is included at Appendix A. This is intended to address only general maintenance concerns. Detailed inspections should give special attention to moving parts and other parts that can be expected to wear. Maintenance inspections should be carried out in a systematic manner by personnel familiar with the playground, such as maintenance workers, playground supervisors, etc.

4.2 Repairs

Inspections alone do not constitute a comprehensive maintenance program. Any problems found during the inspection should be noted and fixed as soon as possible.

- All repairs and replacements of equipment parts should be completed following the manufacturer's instructions.
- User modifications, such as loose-ended ropes tied to elevated parts, should be removed immediately.
- For each piece of equipment, the frequency of thorough

Table 3. Routine inspection and maintenance issues

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Broken equipment such as loose bolts, missing end caps, cracks, etc. |
| <input type="checkbox"/> | Broken glass & other trash |
| <input type="checkbox"/> | Cracks in plastics |
| <input type="checkbox"/> | Loose anchoring |
| <input type="checkbox"/> | Hazardous or dangerous debris |
| <input type="checkbox"/> | Insect damage |
| <input type="checkbox"/> | Problems with surfacing |
| <input type="checkbox"/> | Displaced loose-fill surfacing (see Section 4.3) |
| <input type="checkbox"/> | Holes, flakes, and/or buckling of unitary surfacing |
| <input type="checkbox"/> | User modifications (such as ropes tied to parts or equipment rearranged) |
| <input type="checkbox"/> | Vandalism |
| <input type="checkbox"/> | Worn, loose, damaged, or missing parts |
| <input type="checkbox"/> | Wood splitting |
| <input type="checkbox"/> | Rusted or corroded metals |
| <input type="checkbox"/> | Rot |

inspections will depend on the type and age of equipment, the amount of use, and the local climate.

- Consult the manufacturer for maintenance schedules for each piece of equipment. Based on these schedules, a maintenance schedule for the entire playground can be created. This routine maintenance schedule should not replace regular inspections.

4.3 Maintaining Loose-Fill Surfacing

Loose-fill surfacing materials require special maintenance. High-use public playgrounds, such as child care centers and schools, should be checked frequently to ensure surfacing has not displaced significantly, particularly in areas of the playground most subject to displacement (e.g., under swings and slide exits). This can be facilitated by marking ideal surfacing depths on equipment posts. Displaced loose-fill

surfacing should be raked back into proper place so that a constant depth is maintained throughout the playground. Impact attenuating mats placed in high traffic areas, such as under swings and at slide exits, can significantly reduce displacement. They should be installed below or level with surfacing so as not to be a tripping hazard.

The following are key points to look for during regular checks of surfacing:

- Areas under swings and at slide exits. Activity in these areas tends to displace surfacing quickly. Rake loose-fill back into place.
- Pooling water on mulch surfacing. For example, wet mulch compacts faster than dry, fluffy mulch. If puddles are noticed regularly, consider addressing larger drainage issues.
- Frozen surfacing. Most loose-fill surfacing that freezes

solid no longer functions as protective surfacing. Even if the first few inches may be loose, the base layer may be frozen and the impact attenuation of the surfacing may be significantly reduced. It is recommended that children not play on the equipment under these conditions.

4.4 Recordkeeping

Records of all maintenance inspections and repairs should be retained, including the manufacturer's maintenance instructions and any checklists used. When any inspection is performed, the person performing it should sign and date the form used. A record of any accident and injury reported to have occurred on the playground should also be retained. This will help identify potential hazards or dangerous design features that should be corrected.

5. PARTS OF THE PLAYGROUND

5.1 Platforms, Guardrails and Protective Barriers

5.1.1 Platforms

- Platforms should be generally flat (i.e., within $\pm 2^\circ$ of horizontal).
- Openings in platforms should be provided to allow for drainage.
- Platforms should minimize the collection of debris.
- Platforms intended for toddlers should be no more than 32 inches from the ground.

5.1.2 Stepped platforms

On some composite structures, platforms are layered or tiered so that a child may access the higher platform without steps or ladders. Unless there is an alternate means of access/egress, the maximum difference in height between stepped platforms should be:

- Toddlers: 7 inches.
- Preschool-age: 12 inches.
- School-age: 18 inches.

An access component (such as a rung) is needed if the difference in height is more than 12 inches for preschool-age and 18 inches for school-age children.

The space between the stepped platforms should follow the recommendations to minimize entrapment hazards in enclosed openings:

- Toddlers: if the space is less than 7 inches, infill should be used to reduce the space to less than 3.0 inches.
- Preschool-age: if the space exceeds 9 inches and the height of the lower platform above the protective surfacing exceeds 30 inches, infill should be used to reduce the space to less than 3.5 inches.
- School-age: if the space exceeds 9 inches and the height of the lower platform above the protective surfacing exceeds 48 inches, infill should be used to reduce the space to less than 3.5 inches.

5.1.2.1 Fall height

- The fall height of a platform is the distance between the top of the platform and the protective surfacing beneath it.

5.1.3 Guardrails and protective barriers

Guardrails and protective barriers are used to minimize the likelihood of accidental falls from elevated platforms. Protective barriers provide greater protection than guardrails and should be designed to discourage children from climbing over or through the barrier. Guardrails and barriers should:

- Completely surround any elevated platform.
- Except for entrance and exit openings, the maximum clearance opening without a top horizontal guardrail should be 15 inches.
- Prevent unintentional falls from the platform.
- Prevent the possibility of entrapment.
- Facilitate supervision.

For example:

- Guardrails may have a horizontal top rail with infill consisting of vertical bars having openings that are greater than 9 inches. These openings do not present an entrapment hazard but do not prevent a child from climbing through the openings.
- A barrier should minimize the likelihood of passage of a child during deliberate attempts to defeat the barrier. Any openings between uprights or between the platform surface and lower edge of a protective barrier should prevent passage of the small torso template (see test in B.2.5).

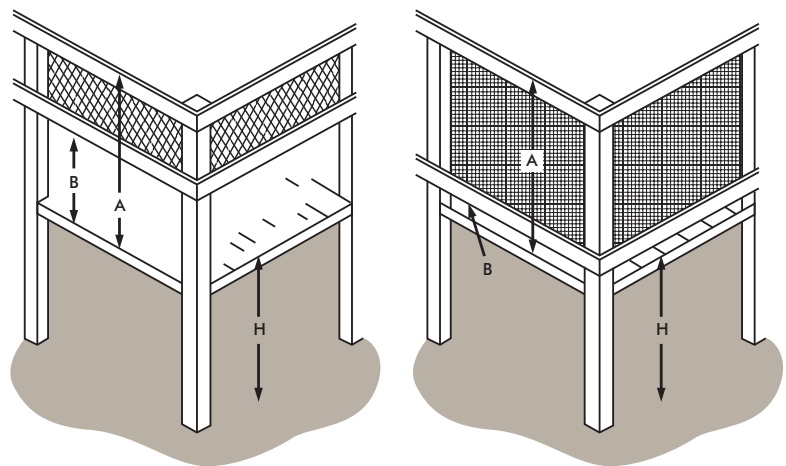
Guardrails or protective barriers should be provided on elevated platforms, walkways, landings, stairways, and transitional surfaces. In general, the younger the child, the less coordination and balance they have, therefore the more vulnerable they are to unintentional falls. Toddlers are the most vulnerable, and equipment intended for this age should use barriers on all elevated walking surfaces above 18 inches. Physical skills develop further in preschool-age children and then more with school-age children; therefore, minimum elevation recommendations for guardrails and barriers increase with each age group.

Guardrails and barriers should be high enough to prevent the tallest children from falling over the top. For guardrails, the lower edge should be low enough so that the smallest children cannot walk under it. Barriers should be low enough to prevent the smallest child from getting under the barrier in any way. This is generally done by designing the barrier so that the small torso probe (see test methods in Appendix B) cannot pass under or through the barrier. Vertical infill for protective barriers may be preferable for younger children because the vertical components can be grasped at whatever height a child chooses as a handhold.

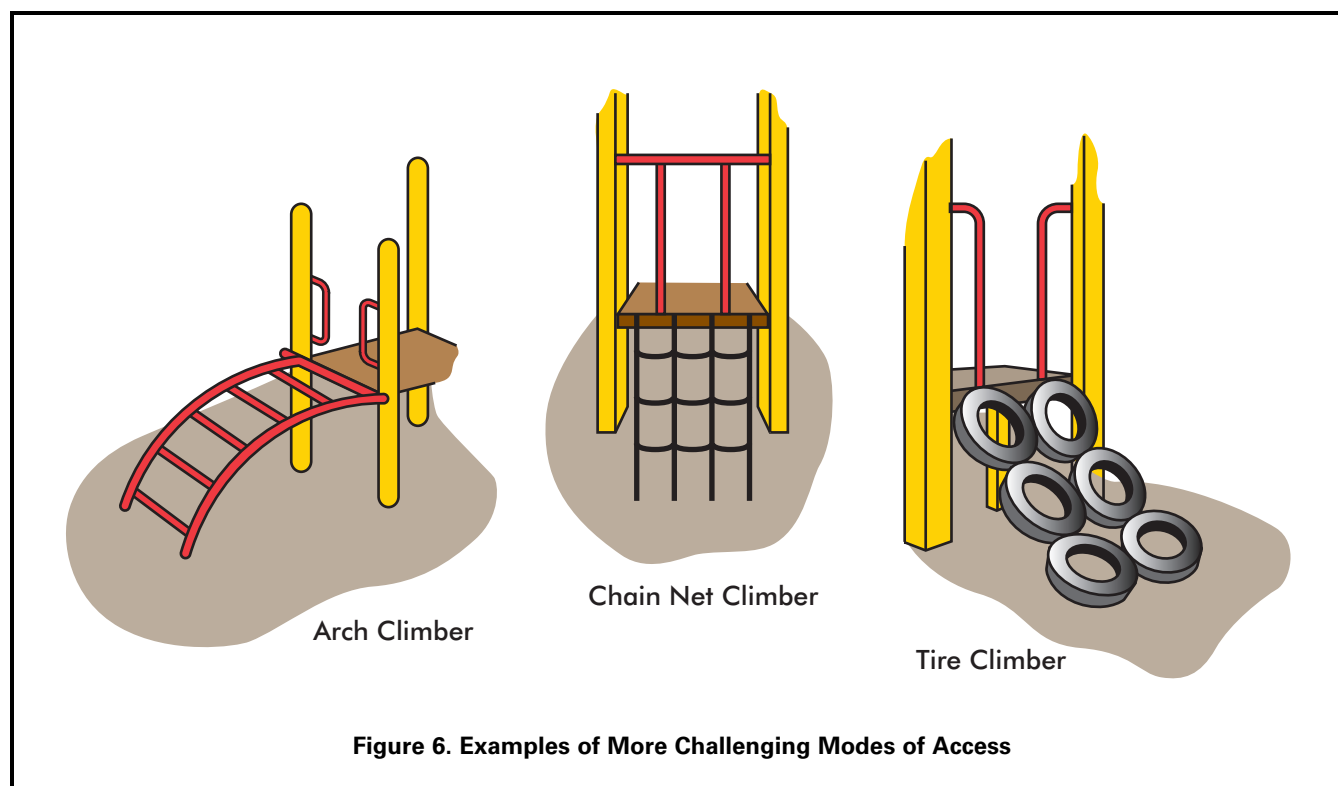
Guardrail and barrier recommendations are shown in Table 4. However, the recommendations do not apply if the guardrail or barrier would interfere with the intended use of the equipment, such as:

- Climbing equipment
- Platforms layered so that the fall height is:
 - Toddlers: 7 inches or less.
 - Preschool-age: 20 inches or less.
 - School-age: 30 inches or less.

Table 4. Guardrails and Barriers



	Guardrail	Barrier
Protects against accidental falls from platform	Yes	Yes
Discourages climbing over	No	Yes
Protects against climbing through	No	Yes
Toddlers		
A Top edge distance from platform	Not recommended	A = 24" or higher
B Bottom edge distance from platform	Not recommended	B < 3"
H Recommended when platform fall height is:	Not recommended	H = 18" or higher
Preschool-age		
A Top edge distance from platform	A = 29" or higher	A = 29" or higher
B Bottom edge distance from platform	9" < B ≤ 23"	B < 3.5"
H Recommended when platform fall height is:	20" < H ≤ 30"	H > 30"
School-age		
A Top edge distance from platform	A = 38" or higher	A = 38" or higher
B Bottom edge distance from platform	9" < B ≤ 28"	B < 3.5"
H Recommended when platform fall height is:	30" < H ≤ 48"	H > 48"



5.2 Access Methods to Play Equipment

Access to playground equipment can take many forms, such as conventional ramps, stairways with steps, and ladders with steps or rungs. Access may also be by means of climbing components, such as arch climbers, climbing nets, and tire climbers (see Figure 6).

As children develop, they gain better balance and coordination, so it is important to pick appropriate access methods based on the age group. Table 5 shows the most common methods of access and the youngest appropriate age group.

Access to platforms over 6 feet high (except for free-standing slides) should provide an intermediate standing surface so that the child can pause and make a decision to keep going up or find another way down. Children generally master access before egress, that is, they can go up before they can get back down a difficult component. Therefore, if there are more difficult access methods, it is important to have easier components for egress.

Table 5. Methods of access and egress

Method of Access	Challenge Level	Appropriate for
Ramps	Easiest	Toddlers +
Straight stairways	Easy	Toddlers +
Spiral stairways	Moderate	Toddlers* +
Step ladders	Moderate	15 months* +
Rung ladders	Moderate	Preschool* +
Arch climbers	Difficult	Preschool* +
Flexible climbers (nets, tires)	Difficult	Preschool* +
* only if an easy egress method is also provided		

5.2.1 Ramps, stairways, rung ladders, and step ladders

Ramps, stairways, rung ladders, and step ladders each have different recommendations for slope and tread dimension, but the steps or rungs always should be evenly spaced - even the spacing between the top step or rung and the surface of the platform. Table 6 contains recommended dimensions for: access slope; tread or rung width; tread depth; rung diameter; and vertical rise for rung ladders, step ladders, and stairways. Table 6 also contains slope and width recommendations for ramps. However, these recommendations are not intended to address ramps designed for access by wheelchairs.

- Openings between steps or rungs and between the top step or rung and underside of a platform should prevent entrapment.
- When risers are closed, treads on stairways and ladders should prevent the accumulation of sand, water, or other materials on or between steps.
- Climbing equipment should allow children to descend as easily as they ascend. One way of implementing this recommendation is to provide an easier, alternate means of descent, such as another mode of egress, a platform, or another piece of equipment. For example, a stairway can be added to provide a less challenging mode of descent than a vertical rung ladder or flexible climbing device (see Table 5).
- For toddlers and preschool-age children, offering an easy way out is particularly important since their ability to descend climbing components develops later than their ability to climb up the same components.

Table 6. Recommended dimensions for access ladders, stairs, and ramps*

AGE OF INTENDED USER			
Type of Access	Toddler	Preschool-age	School-age
<i>Ramps (not intended to meet ADA/ABA specifications)</i>			
Slope (vertical:horizontal)	< 1:8	≤ 1:8	≤ 1:8
Width (single)	≥ 19"	≥ 12"	≥ 16"
Width (double)	≥ 30"	≥ 30"	≥ 36"
<i>Stairways</i>			
Slope	≤ 35°	< 50°	< 50°
Tread width (single)	12-21"	≥ 12"	≥ 16"
Tread width (double)	≥ 30"	≥ 30"	≥ 36"
Tread depth (open riser)	Not appropriate	≥ 7"	≥ 8"
Tread depth (closed riser)	≥ 8"	≥ 7"	≥ 8"
Vertical rise	≤ 7"	≤ 9"	≤ 12"
<i>Step ladders</i>			
Slope	35≤65°	50-75°	50-75°
Tread width (single)	12-21"	12-21"	≥ 16"
Tread width (double)	Not appropriate	Not appropriate	≥ 36"
Tread depth (open riser)	Not appropriate	≥ 7"	≥ 3"
Tread depth (closed riser)	8"	≥ 7"	≥ 6"
Vertical rise	> 5" and ≤ 7"	≤ 9"	≤ 12"
<i>Rung ladders</i>			
Slope	Not appropriate	75-90°	75-90°
Rung width	Not appropriate	≥ 12"	≥ 16"
Vertical rise	Not appropriate	≤ 12"	≤ 12"
Rung diameter	Not appropriate	0.95-1.55"	0.95-1.55"
* entrapment recommendations apply to all openings in access components			

5.2.2 Rungs and other hand gripping components

Unlike steps of stairways and step ladders that are primarily for foot support, rungs can be used for both foot and hand support.

- Rungs with round shapes are easiest for children to grip.
- All hand grips should be secured in a manner that prevents them from turning.
- Toddlers:
 - Handrails or other means of hand support should have a diameter or maximum cross-section between 0.60 and 1.20 inches.
 - A diameter or maximum cross-section of 0.90 inches is preferred to achieve maximal grip strength and benefit the weakest children.
- Preschool- and school-age:
 - Rungs, handrails, climbing bars, or other means of hand support intended for holding should have a diameter or maximum cross-section between 0.95 and 1.55 inches.
 - A diameter or maximum cross-section of 1.25 inches is preferred to achieve maximal grip strength and benefit the weakest children.

5.2.3 Handrails

Handrails on stairways and step ladders are intended to provide hand support and to steady the user. Continuous handrails extending over the full length of the access should be provided on both sides of all stairways and step ladders, regardless of the height of the access. Rung ladders do not require handrails since rungs or side supports provide hand support on these more steeply inclined accesses.

5.2.3.1 Handrail height

Handrails should be available for use at the appropriate height, beginning with the first step. The vertical distance between the top front edge of a step or ramp surface and the top surface of the handrail above it should be as follows:

- Toddlers: between 15 and 20 inches.
- Preschool-age: between 22 and 26 inches.
- School-age: between 22 and 38 inches.

5.2.4 Transition from access to platform

Handrails or handholds are recommended at all transition points (the point where the child must move from the access component to the play structure platform).

- The handhold should provide support from the access component until the child has fully achieved the desired posture on the platform.
- Any opening between a handrail and an adjacent vertical structure (e.g., vertical support post for a platform or vertical slat of a protective barrier) should not pose an entrapment hazard.
- Access methods that do not have handrails, such as rung ladders, flexible climbers, arch climbers, and tire climbers, should provide hand supports for the transition between the top of the access and the platform.

5.3 Major Types of Playground Equipment

5.3.1 Balance beams

- Balance beams should be no higher than:
 - Toddlers: not recommended.
 - Preschool-age: 12 inches.
 - School-age: 16 inches.

5.3.1.1 Fall height

The fall height of a balance beam is the distance between the top of the walking surface and the protective surfacing beneath it.

5.3.2 Climbing and upper body equipment

Climbing equipment is generally designed to present a greater degree of physical challenge than other equipment on public playgrounds. This type of equipment requires the use of the hands to navigate up or across the equipment. “Climbers” refers to a wide variety of equipment, such as but not limited to:

- Arch climbers
- Dome climbers
- Flexible climbers (usually chain or net)
- Parallel bars
- Sliding poles



Simple Arch Climber



Geodesic Dome Climber



Overhead Horizontal Ladder



Overhead Loop Ladder

Figure 7. Examples of climbers

- Spiral climbers
- Upper body equipment (horizontal overhead ladders, overhead rings, track ride).

School-age children tend to use climbing and upper body equipment more frequently and more proficiently than preschool children. Young preschool children may have difficulty using some climbers because they have not yet developed some of the physical skills necessary for certain climbing activities (balance, coordination, and upper body strength). Older preschool children (i.e., 4- and 5-year-olds) are beginning to use flexible climbers, arch climbers, and upper body devices.

5.3.2.1 Design considerations

5.3.2.1.1 Layout of climbing components

When climbing components are part of a composite structure, their level of challenge and method of use should be compatible with the traffic flow from nearby components. Upper body devices should be placed so that the swinging movement generated by children on this equipment cannot interfere with the movement of children on adjacent structures, particularly children descending on slides. The design of adjacent play structures should not facilitate climbing to the top support bars of upper body equipment.

5.3.2.1.2 Fall Height

Climbers:

- Unless otherwise specified in this section, the fall height for climbers is the distance between the highest part of the climbing component and the protective surfacing beneath it.
- If the climber is part of a composite structure, the fall height is the distance between the highest part of the climber intended for foot support and the protective surfacing beneath it.
 - Toddlers: The maximum fall height for free standing and composite climbing structures should be 32 inches.

Upper Body Equipment:

- The fall height of upper body equipment is the distance between the highest part of the equipment and the protective surface below.

5.3.2.1.3 Climbing rungs

Some of the access methods discussed in §5.2 are also considered climbing devices; therefore, the recommendations for the size of climbing rungs are similar.

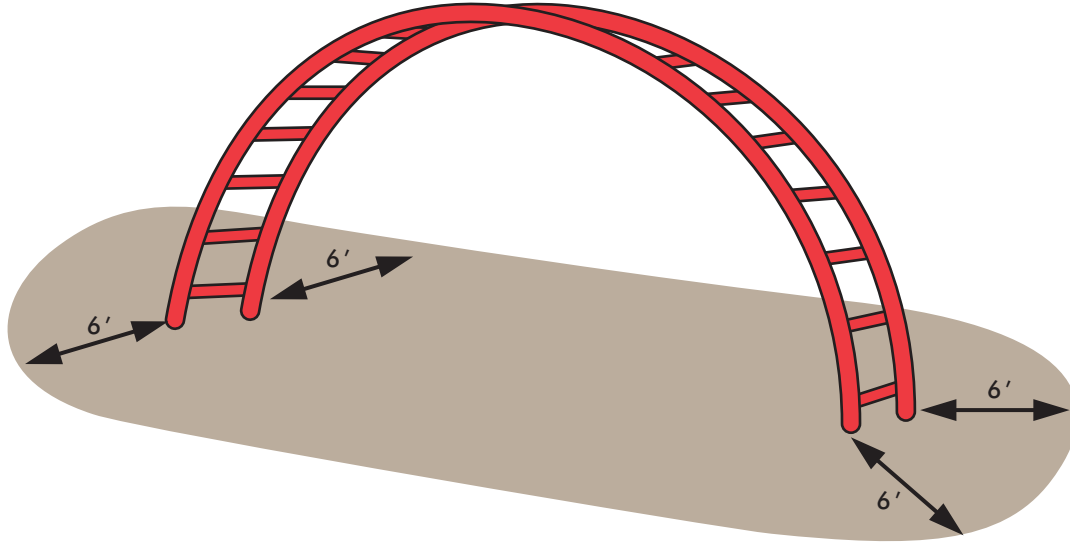


Figure 8. Use zone surrounding a freestanding arch climber

- Rungs should be generally round.
- All rungs should be secured in a manner that prevents them from turning.
- Climbing rungs should follow the same diameter recommendations as in §5.2.2.

5.3.2.1.4 Use zone

- The use zone should extend a minimum of 6 feet in all directions from the perimeter of the stand alone climber. See Figure 8.
- The use zone of a climber may overlap with neighboring equipment if the other piece of equipment allows overlapping use zones and
 - There is at least 6 feet between equipment when adjacent designated play surfaces are no more than 30 inches high; or
 - There is at least 9 feet between equipment when adjacent designated play surfaces are more than 30 inches high.

5.3.2.1.5 Other considerations

- Climbers should not have climbing bars or other rigid structural components in the interior of the climber onto

which a child may fall from a height of greater than 18 inches. See Figure 9 for an example of a climber that **DOES NOT** follow this consideration.



Figure 9: Climber with rigid structural components that DOES NOT meet 5.3.2.1.5

5.3.2.2 Arch climbers

Arch climbers consist of rungs attached to convex side supports. They may be free standing (Figure 10) or be provided as a more challenging means of access to other equipment (Figure 11).

- Arch climbers should not be used as the sole means of access to other equipment for preschoolers.
- Free standing arch climbers are not recommended for toddlers or preschool-age children.
- The rung diameter and spacing of rungs on arch climbers should follow the recommendations for rung ladders in Table 6.

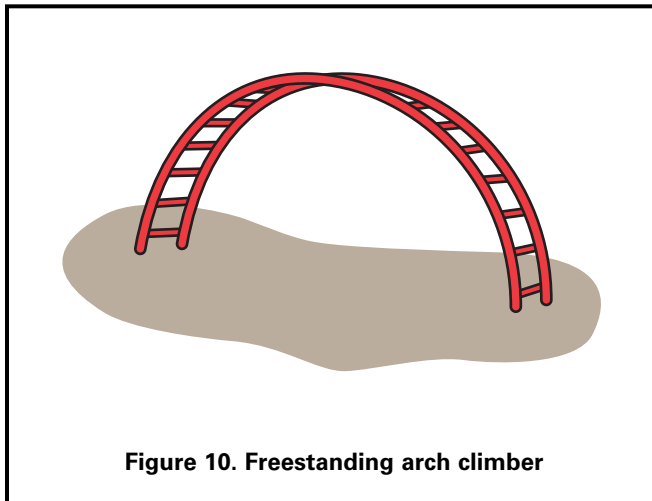


Figure 10. Freestanding arch climber

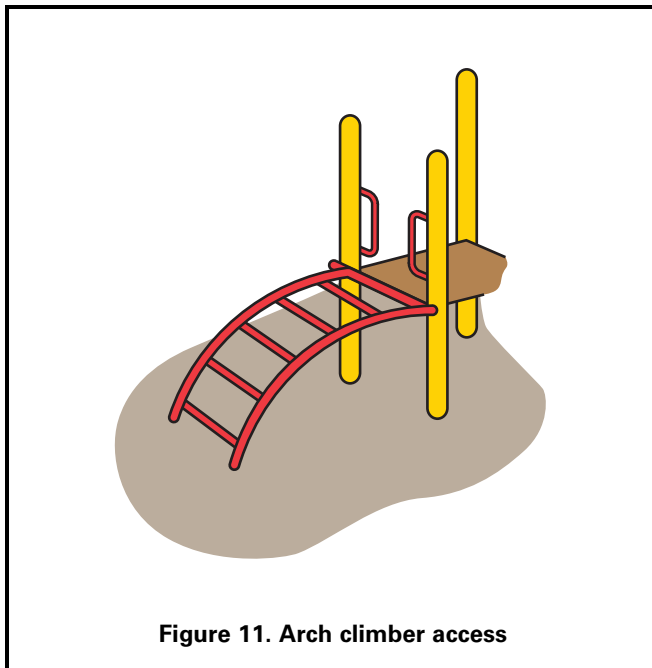


Figure 11. Arch climber access

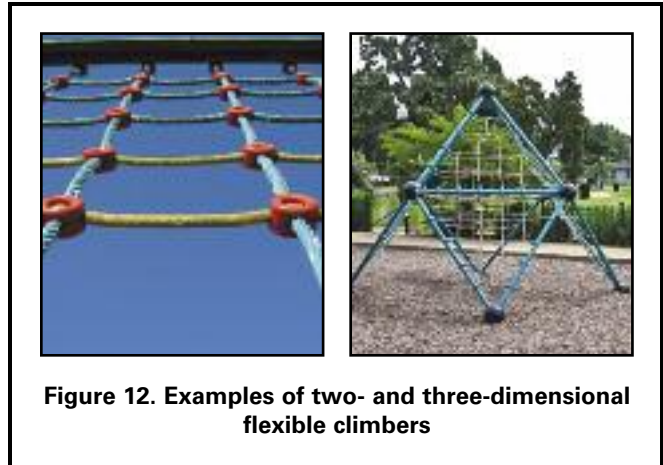


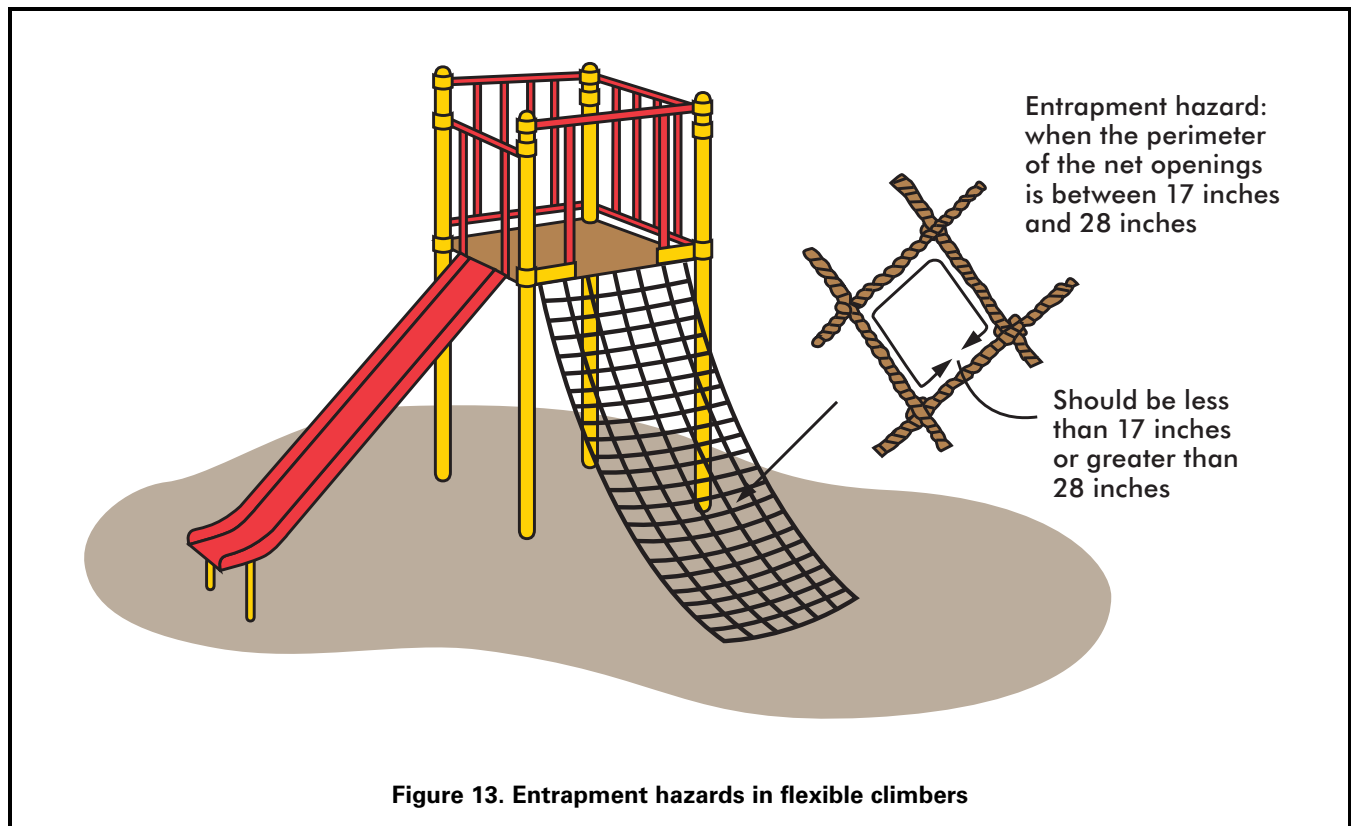
Figure 12. Examples of two- and three-dimensional flexible climbers

5.3.2.3 Flexible climbers

Flexible climbers use a grid of ropes, chains, cables, or tires for climbing. Since the flexible parts do not provide a steady means of support, flexible climbers require more advanced balance abilities than rigid climbers.

Rope, chain, and cable generally form a net-like structure that may be either two or three dimensional. See Figure 12. Tire climbers may have the tires secured tread-to-tread to form a sloping grid, or the tires may be suspended individually by chains or other means.

- Flexible climbers that provide access to platforms should be securely anchored at both ends.
- When connected to the ground, the anchoring devices should be installed below ground level and beneath the base of the protective surfacing material.
- Connections between ropes, cables, chains, or between tires should be securely fixed.
- Flexible climbers are not recommended as the sole means of access to equipment intended for toddlers and preschool-age children.
- Free-standing flexible climbers are not recommended on playgrounds intended for toddlers and preschool children.
- Spacing between the horizontal and vertical components of a climbing grid should not form entrapment hazards.
- The perimeter of any opening in a net structure should be less than 17 inches or greater than 28 inches (see Figure 13).



5.3.2.4 Horizontal (overhead) ladders

Horizontal (overhead) ladders are a type of climber designed to build upper body strength. They are designed to allow children to move across the ladder from end to end using only their hands.

Four-year-olds are generally the youngest children able to use upper body devices like these; therefore, horizontal ladders should not be used on playgrounds intended for toddlers and 3-year-olds. The recommendations below are designed to accommodate children ages 4 through 12 years.

- The first handhold on either end of upper body equipment should not be placed directly above the platform or climbing rung used for mount or dismount. This minimizes the risk of children impacting rigid access structures if they fall from the first handhold during mount or dismount.
- The horizontal distance out to the first handhold should be:
 - No greater than 10 inches but not directly above the platform when access is from a platform.
 - At least 8 inches but no greater than 10 inches when access is from climbing rungs.
- The space between adjacent rungs of overhead ladders should be greater than 9 inches to prevent entrapment.
- Horizontal ladders intended for preschool-age children should have rungs that are parallel to one another and evenly spaced.
- The maximum height of a horizontal ladder (i.e., measured from the center of the grasping device to the top of the protective surfacing below) should be:
 - Preschool-age (4 and 5 years): no more than 60 inches.
 - School-age: no more than 84 inches.
- The center-to-center spacing of horizontal ladder rungs should be as follows:
 - Preschool-age (4 and 5 years): no more than 12 inches.
 - School-age: no more than 15 inches.
- The maximum height of the take-off/landing platform above the protective surfacing should be:
 - Preschool-age (4 and 5 years): no more than 18 inches.
 - School-age: no more than 36 inches.

5.3.2.5 Overhead rings

Overhead rings are similar to horizontal ladders in terms of the complexity of use. Therefore, overhead rings should not be used on playgrounds intended for toddlers and 3-year-olds. The recommendations below are designed to accommodate children 4 through 12 years of age.

Overhead rings differ from horizontal ladders because, during use, the gripped ring swings through an arc and reduces the distance to the gripping surface of the next ring; therefore, the spacing distance recommendations for horizontal ladders do not apply.

- The first handhold on either end of upper body equipment should not be placed directly above the platform or climbing rung used for mount or dismount. This minimizes the risk of children hitting rigid access structures if they fall from the first handhold during mount or dismount.
- The horizontal distance out to the first handhold should be:
 - No greater than 10 inches but not directly above the platform when access is from a platform.
 - At least 8 inches but no greater than 10 inches when access is from climbing rungs.
- The maximum height of overhead rings measured from the center of the grasping device to the protective surfacing should be:
 - Preschool-age (4 and 5 years): 60 inches.
 - School-age: 84 inches.
- If overhead swinging rings are suspended by chains, the maximum length of the chains should be 7 inches.
- The maximum height of the take-off/landing platform above the protective surfacing should be:
 - Preschool-age (4 and 5 years): no more than 18 inches.
 - School-age: no more than 36 inches.

5.3.2.6 Sliding poles

Vertical sliding poles are more challenging than some other types of climbing equipment. They require upper body strength and coordination to successfully slide down the pole. Unlike other egress methods, there is no reverse or stop, so a child cannot change his or her mind. Children who start a sliding pole must have the strength to slide the whole way or they will fall.

- Sliding poles are not recommended for toddlers or preschool-age children since they generally don't have the upper body and/or hand strength to slide.

- Sliding poles should be continuous with no protruding welds or seams along the sliding surface.
- The pole should not change direction along the sliding portion.
- The horizontal distance between a sliding pole and any structure used for access to the sliding pole should be between 18 inches and 20 inches.
- The pole should extend at least 60 inches above the level of the platform or structure used for access to the sliding pole.
- The diameter of sliding poles should be no greater than 1.9 inches.
- Sliding poles and their access structures should be located so that traffic from other events will not interfere with the users during descent.
- Upper access should be on one level only.
- The upper access area through the guardrail or barrier should be 15 inches wide at most.

5.3.2.6.1 Fall height

- For sliding poles accessed from platforms, the fall height is the distance between the platform and the protective surfacing beneath it.
- For sliding poles not accessed from platforms, the fall height is the distance between a point 60 inches below the highest point of the pole and the protective surfacing beneath it.
- The top of the sliding pole's support structure should not be a designated play surface.

5.3.2.7 Track rides

Track rides are a form of upper body equipment where the child holds on to a handle or other device that slides along a track above his or her head. The child then lifts his or her feet and is carried along the length of the track. Track rides require significant upper body strength and the judgment to know when it is safe to let go. These are skills not developed until children are at least school-age; therefore, CPSC staff recommends:

- Track rides should not be used on playgrounds for toddlers and preschool-age children.
- Track rides should not have any obstacles along the path of the ride, including anything that would interfere in the take-off or landing areas.

- Two track rides next to each other should be at least 4 feet apart.
- The handle should be between 64 inches and 78 inches from the surfacing and follow the gripping recommendations in §5.2.2.
- Nothing should ever be tied or attached to any moving part of a track ride.
- Rolling parts should be enclosed to prevent crush hazards.

5.3.2.7.1 Fall height

- The fall height of track ride equipment is the distance between the maximum height of the equipment and the protective surface beneath it.
- Equipment support posts with no designated play surfaces are exempt from this requirement.

5.3.3 Log rolls

Log rolls help older children master balance skills and increase strength. Children must balance on top of the log as they spin it with their feet. See Figure 14.

- Log rolls are not recommended for toddlers and preschool-age children. These children generally do not possess the balance, coordination, and strength to use a log roll safely.
- Log rolls should have handholds to assist with balance.
- The handholds should follow the guidelines in §5.2.2.
- The highest point of the rolling log should be a maximum of 18 inches above the protective surface below.
- When not part of a composite structure, the use zone may overlap with neighboring equipment if the other piece of equipment allows overlapping use zones (see §5.3.9) and
 - There is at least 6 feet between equipment when adjacent designated play surfaces are no more than 30 inches high; or
 - There is at least 9 feet between equipment when adjacent designated play surfaces are more than 30 inches high.

5.3.3.1.1 Fall height

The fall height of a log roll is the distance between the highest portion of the rolling log and the protective surfacing beneath it.



Figure 14. Log roll

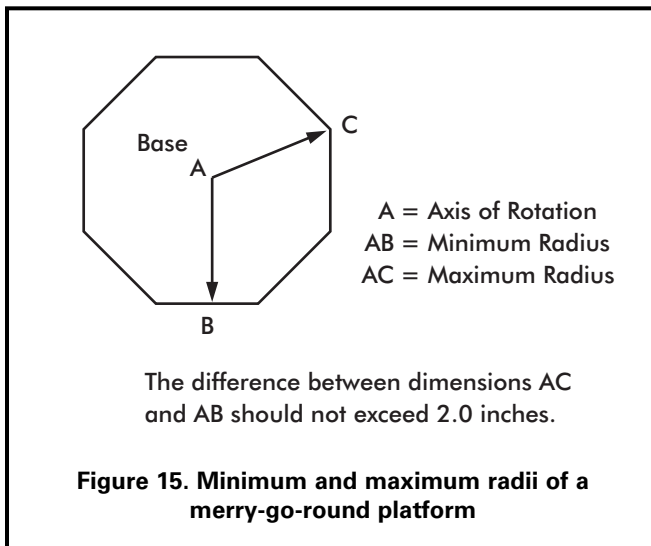
5.3.4 Merry-go-rounds

Merry-go-rounds are the most common rotating equipment found on public playgrounds. Children usually sit or stand on the platform while other children or adults push the merry-go-round to make it rotate. In addition, children often get on and off the merry-go-round while it is in motion. Merry-go-rounds may present a physical hazard to preschool-age children who have little or no control over such products once they are in motion. Therefore, children in this age group should always be supervised when using merry-go-rounds.

The following recommendations apply when the merry-go-round is at least 20 inches in diameter.

- Merry-go-rounds should not be used on playgrounds intended for toddlers.
- The standing/sitting surface of the platform should have a maximum height of:
 - Preschool: 14 inches above the protective surface.
 - School-age: 18 inches above the protective surface.
- The rotating platform should be continuous and approximately circular.
- The surface of the platform should not have any openings between the axis and the periphery that permit a rod having a diameter of 5/16 inch to penetrate completely through the surface.

- The difference between the minimum and maximum radii of a non-circular platform should not exceed 2.0 inches (Figure 15).



- The underside of the perimeter of the platform should be no less than 9 inches above the level of the protective surfacing beneath it.
- There should not be any accessible shearing or crushing mechanisms in the undercarriage of the equipment.
- Children should be provided with a secure means of holding on. Where handgrips are provided, they should conform to the general recommendations for hand gripping components in §5.2.2.
- No components of the apparatus, including handgrips, should extend beyond the perimeter of the platform.
- The rotating platform of a merry-go-round should not have any sharp edges.
- A means should be provided to limit the peripheral speed of rotation to a maximum of 13 ft/sec.
- Merry-go-round platforms should not have any up and down (oscillatory) motion.

5.3.4.1 Use zone

- The use zone should extend a minimum of 6 feet beyond the perimeter of the platform.
- The use zone may not overlap other use zones, unless the rotating equipment is less than 20 inches in diameter and the adjacent equipment allows overlap.

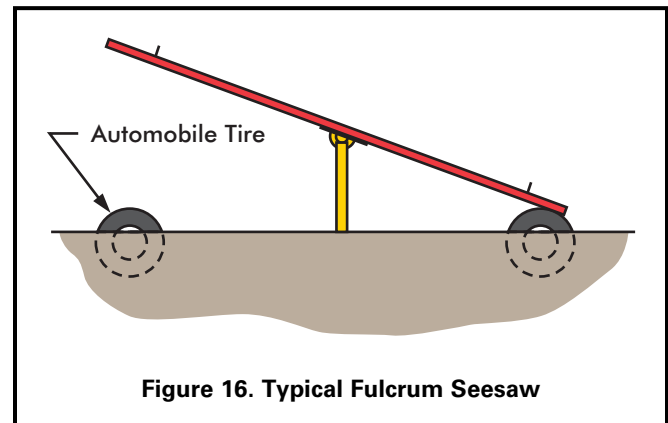
5.3.4.2 Fall height

The fall height for a merry-go-round is the distance between the perimeter of the platform where a child could sit or stand and the protective surfacing beneath it.

5.3.5 Seesaws

5.3.5.1 Fulcrum seesaws

The typical seesaw (also known as a “teeter totter”) consists of a board or pole with a seat at each end supported at the center by a fulcrum. See Figure 16. Because of the complex way children are required to cooperate and combine their actions, fulcrum seesaws are not recommended for toddlers or preschool-age children.



- The fulcrum should not present a crush hazard.
- Partial car tires, or some other shock-absorbing material, should be embedded in the ground underneath the seats, or secured on the underside of the seats. This will help prevent limbs from being crushed between the seat and the ground, as well as cushion the impact.
- The maximum attainable angle between a line connecting the seats and the horizontal is 25°.
- There should not be any footrests.

5.3.5.2 Spring-centered seesaws

Preschool-age children are capable of using spring-centered seesaws because the centering device prevents abrupt contact with the ground if one child dismounts suddenly. Spring-centered seesaws also have the advantage of not requiring two children to coordinate their actions in order to play safely. Spring-centered seesaws should follow the recommendations for spring rockers including the use of footrests (§5.3.7).

5.3.5.3 Use zone for fulcrum and spring-centered seesaws

- The use zone should extend a minimum of 6 feet from each outside edge of the seesaw.
- The use zone may overlap with neighboring equipment if the other piece of equipment allows overlapping use zones and
 - There is at least 6 feet between equipment when adjacent designated play surfaces are no more than 30 inches high; or
 - There is at least 9 feet between equipment when adjacent designated play surfaces are more than 30 inches high.

5.3.5.4 Handholds

- Handholds should be provided at each seating position for gripping with both hands and should not turn when grasped.
- Handholds should not protrude beyond the sides of the seat.

5.3.5.5 Fall height

The fall height for a seesaw is the distance between the highest point any part of the seesaw can reach and the protective surfacing beneath it.

5.3.6 Slides

Children can be expected to descend slide chutes in many different positions, rather than always sitting and facing forward as they slide. These other positions should be discouraged at all times to minimize injuries.



Slides may provide a straight, wavy, or spiral descent either by means of a tube or an open slide chute. They may be either free-standing (Figure 17), part of a composite structure, or built on the grade of a natural or man-made slope (embankment slide). Regardless of the type of slide, avoid using bare metals on the platforms, chutes, and steps. When exposed to direct sunlight the bare metal may reach temperatures high enough to cause serious contact burn injuries in a matter of seconds. Provide shade for bare metal slides or use other materials that may reduce the surface temperature such as, but not limited to, plastic or coated metal.

5.3.6.1 Slide access

Access to a stand-alone slide generally is by means of a ladder with rungs, steps, or a stairway with steps. Slides may also be part of a composite play structure, so children will gain access from other parts of the structure. Embankment slides use the ground for access.

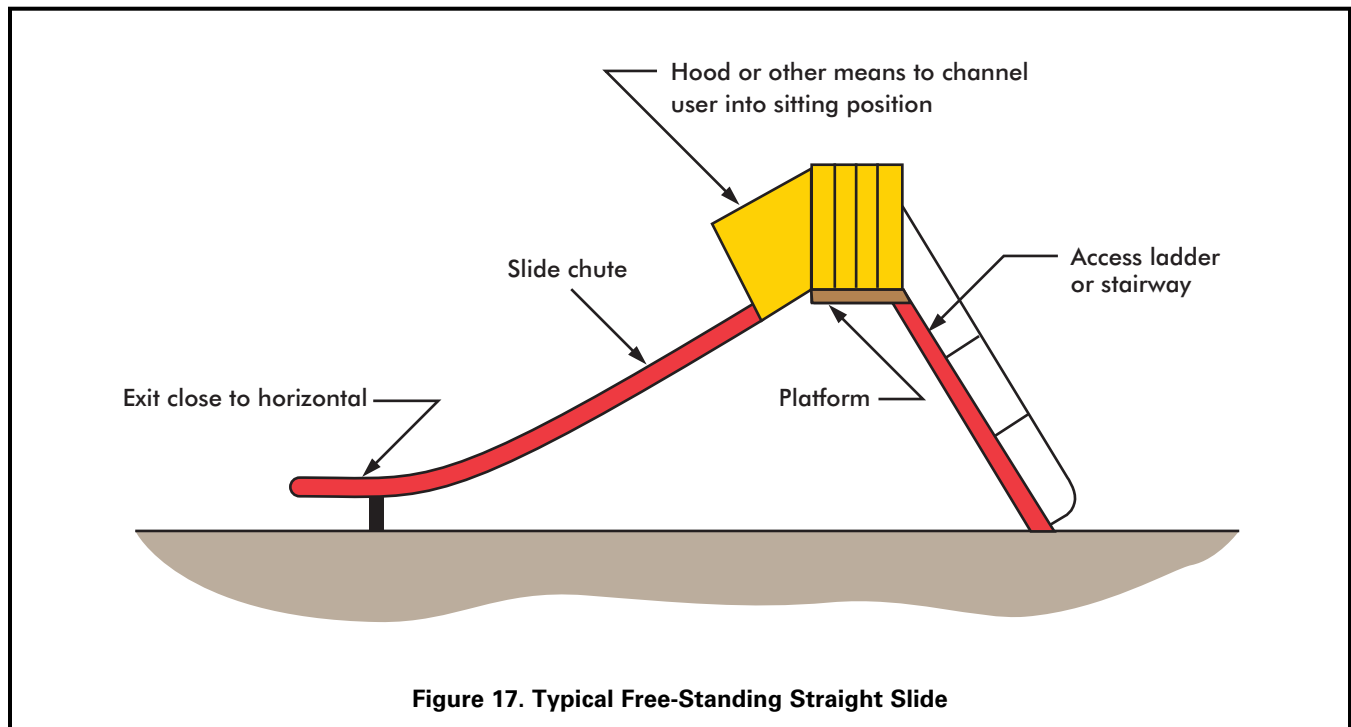


Figure 17. Typical Free-Standing Straight Slide

5.3.6.2 Slide platform

All slides should be provided with a platform with sufficient length to facilitate the transition from standing to sitting at the top of the inclined sliding surface. Embankment slides are exempt from platform requirements because they are on ground level; however, they should not have any spaces or gaps as noted below.

The platform should:

- Be at least 19 inches deep for toddlers.
- Be at least 14 inches deep for preschool-age and school-age children.
- Be horizontal.
- Be at least as wide as the slide chute.
- Be surrounded by guardrails or barriers.
- Conform to the same recommendations as general platforms given in §5.1.1.
- Not have any spaces or gaps that could trap strings, clothing, body parts, etc. between the platform and the start of the slide chute.
- Provide handholds to facilitate the transition from standing to sitting and decrease the risk of falls (except tube slides where the tube perimeter provides hand support). These should extend high enough to provide hand support for the largest child in a standing position, and low enough to provide hand support for the smallest child in a sitting position.
- Provide a means to channel a user into a sitting position at the entrance to the chute, such as a guardrail, hood, or other device that discourages climbing.

5.3.6.3 Slide chutes

5.3.6.3.1 Embankment slides

- The slide chute of an embankment slide should have a maximum height of 12 inches above the underlying ground surface. This design basically eliminates the hazard of falls from elevated heights.
- Embankment slides should follow all of the recommendations given for straight slides where applicable (e.g., side height, slope, use zone at exit, etc.).
- There should be some means provided at the slide chute entrance to minimize the use of embankment slides by children on skates, skateboards, or bicycles.

5.3.6.3.2 Roller slides

- Roller slides should meet applicable recommendations for other slides (e.g., side height, slope, use zone at exit, etc.).
- The space between adjacent rollers and between the ends of the rollers and the stationary structure should be less than 3/16 inch.
- Frequent inspections are recommended to insure that there are no missing rollers or broken bearings and that the rollers roll.

5.3.6.3.3 Spiral slides

- Spiral slides should follow the recommendations for straight slides where applicable (e.g., side height, slope, use zone at exit, etc.).
- Special attention should be given to design features which may present problems unique to spiral slides, such as lateral discharge of the user.
- Toddlers and preschool-age children have less ability to maintain balance and postural control, so only short spiral slides (one 360° turn or less) are recommended for these age groups.

5.3.6.3.4 Straight slides

- Flat open chutes should have sides at least 4 inches high extending along both sides of the chute for the entire length of the inclined sliding surface.
- The sides should be an integral part of the chute, without any gaps between the sides and the sliding surface. (This does not apply to roller slides).
- Slides may have an open chute with a circular, semicircular or curved cross section provided that:
 - A. The vertical height of the sides is no less than 4 inches when measured at right angles to a horizontal line that is 8 inches long when the slide is intended for toddlers, 12 inches long when the slide is intended for preschool-age children, and 16 inches long when the slide is intended for school-age children (Figure 18); or
 - B. For any age group, the vertical height of the sides is no less than 4 inches minus two times the width of the slide chute divided by the radius of the slide chute curvature (Figure 19).

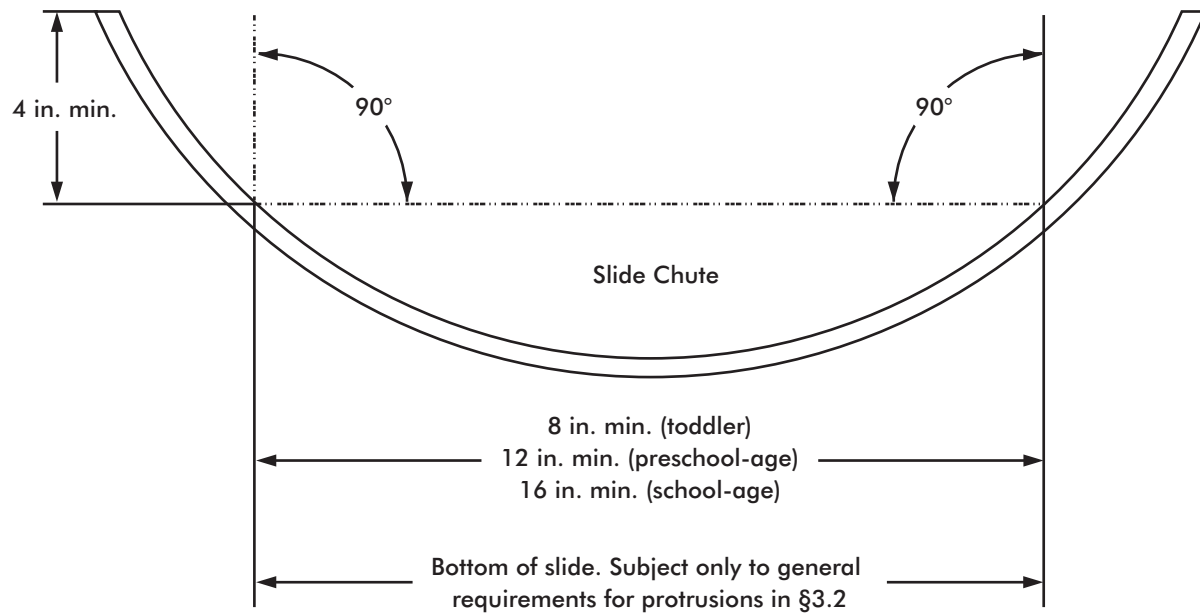


Figure 18. Minimum Side Height for Slide with Circular Cross Section

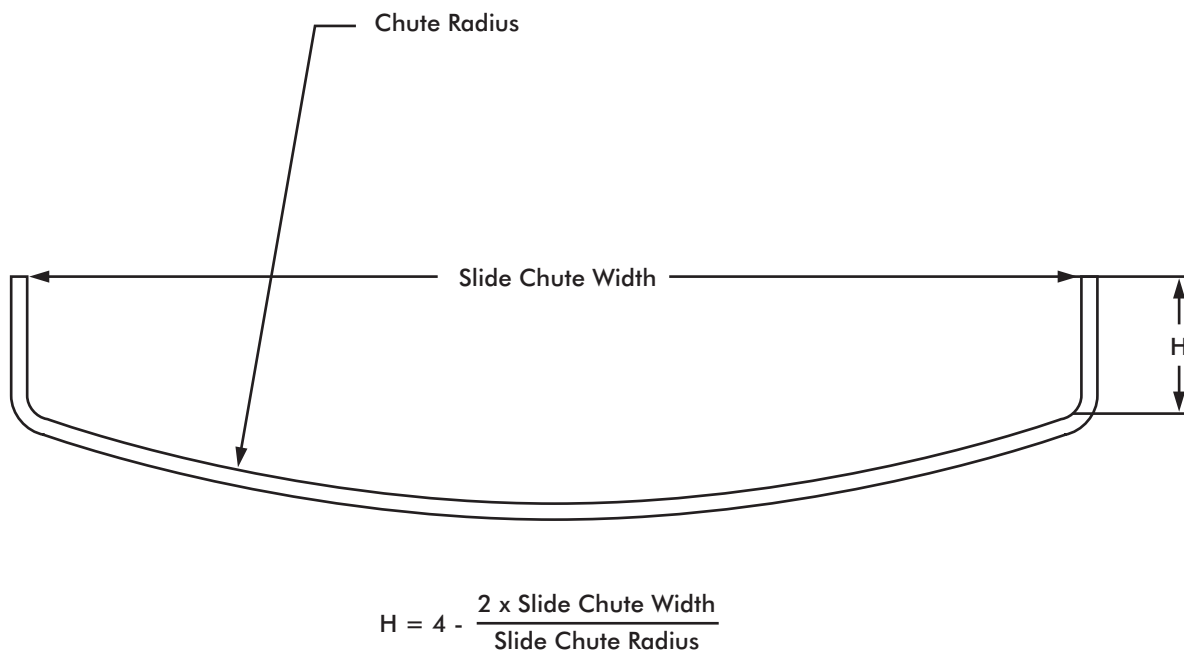


Figure 19. Formula for Minimum Vertical Side Height for Slide with Curved Chute

- For toddlers:
 - The average incline of a slide chute should be no more than 24° (that is, the height to horizontal length ratio shown in Figure 20 does not exceed 0.445).
 - No section of the slide chute should have a slope greater than 30° .
 - The slide chute should be between 8 and 12 inches wide.
- For preschool- and school-age children:
 - The average incline of a slide chute should be no more than 30° (that is, the height to horizontal length ratio shown in Figure 20 does not exceed 0.577).
 - No section of the slide chute should have a slope greater than 50° .

5.3.6.3.5 Tube slides

- Tube slides should meet all the applicable recommendations for other slides (e.g., side height, slope, use zone at exit, etc.).
- Means, such as barriers or textured surfaces, should be provided to prevent sliding or climbing on the top (outside) of the tube.
- The minimum internal diameter of the tube should be no less than 23 inches.
- Supervisors should be aware of children using tube slides since the children are not always visible.

5.3.6.4 Chute exit region

All slides should have an exit region to help children maintain their balance and facilitate a smooth transition from sitting to standing when exiting. The chute exit region should:

- Be between 0 and -4° as measured from a plane parallel to the ground.
- Have edges that are rounded or curved to prevent lacerations or other injuries that could result from impact with a sharp or straight edge.
- For toddlers the chute exit region should:
 - Be between 7 and 10 inches long if any portion of the chute exceeds a 24° slope.
 - Be no more than 6 inches above the protective surfacing.
 - Have a transition from the sliding portion to the exit region with a radius of curvature of at least 18 inches.
- For preschool- and school-age the chute exit region should:
 - Be at least 11 inches long.
 - Be no more than 11 inches above the protective surfacing if the slide is no greater than 4 feet high.
 - Be at least 7 inches but not more than 15 inches above the protective surfacing if the slide is over 4 feet high.

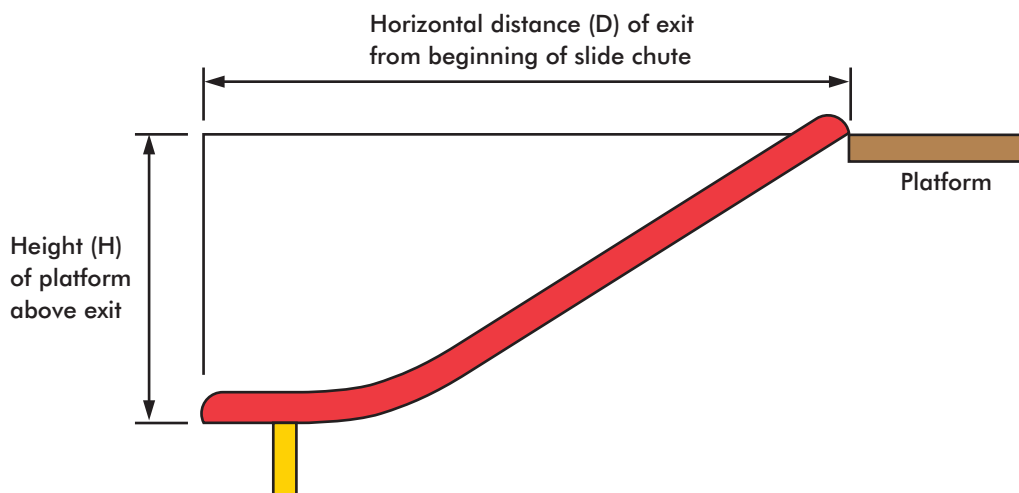


Figure 20. Slide Slope

5.3.6.5 Slide use zone

Toddlers:

- In a limited access environment
 - The use zone should be at least 3 feet around the perimeter of the slide.
 - The area at the end of the slide should not overlap with the use zone for any other equipment.
- In public areas with unlimited access
 - For a stand-alone slide, the use zone should be at least 6 feet around the perimeter.
 - For slides that are part of a composite structure, the minimum use zone between the access components and the side of the slide chute should be 3 feet.
 - The use zone at the end of the slide should be at least 6 feet from the end of the slide and not overlap with the use zone for any other equipment.

Preschool- and school-age (see Figure 21):

- The use zone in front of the access and to the sides of a slide should extend a minimum of 6 feet from the perimeter of the equipment. This recommendation does not apply to embankment slides or slides that are part of a composite structure (see §5.3.9).
- The use zone in front of the exit of a slide should never overlap the use zone of any other equipment; however, two or more slide use zones may overlap if their sliding paths are parallel.
- For slides less than or equal to 6 feet high, the use zone in front of the exit should be at least 6 feet.
- For slides greater than 6 feet high, the use zone in front of the exit should be at least as long as the slide is high up to a maximum of 8 feet.

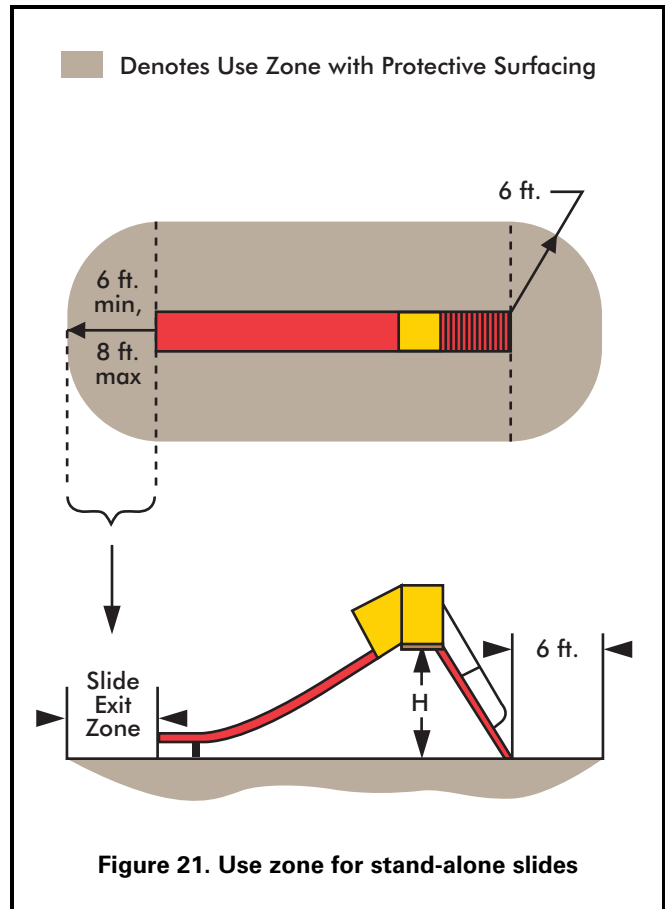
5.3.6.6 Fall height

The fall height for slides is the distance between the transition platform and the protective surfacing beneath it.

5.3.6.7 Entanglement hazard

Children have suffered serious injuries and died by getting parts of their clothing tangled on protrusions or gaps on slides.

To reduce the chance of clothing entanglement:



- Projections up to 3 inches in diameter should not stick up more than 1/8 inch from the slide.
- There should be no gaps at the tops of slides where the slide chute connects with the platform that can entangle clothing or strings.
- See Appendix B for full recommendations and details of the protrusion test procedure.

5.3.6.8 Other sliding equipment

Equipment where it is foreseeable that a primary use of the component is sliding should follow the same guidelines for entanglement that are in 5.3.6.7.

5.3.7 Spring rockers

Toddlers and preschool-age children enjoy the bouncing and rocking activities presented by spring rockers, and they are the primary users of rocking equipment. See Figure 22. Older children may not find it challenging enough.

- Seat design should not allow the rocker to be used by more than the intended number of users.



Figure 22. Example of spring rocker

- For toddlers:
 - The seat should be between 12 and 16 inches high.
 - Spring rockers with opposing seats intended for more than one child should have at least 37 inches between the seat centers.
- For preschoolers:
 - The seat should be between 14 and 28 inches high.
- Each seating position should be equipped with handgrips and footrests. The diameter of handgrips should follow the recommendations for hand gripping components in §5.2.2.
- The springs of rocking equipment should minimize the possibility of children crushing their hands or their feet between coils or between the spring and a part of the rocker.
- The use zone should extend a minimum of 6 feet from the “at rest” perimeter of the equipment.
- The use zone may overlap with neighboring equipment if the other piece of equipment allows overlapping use zones and
 - There is at least 6 feet between equipment when adjacent designated play surfaces are no more than 30 inches high; or

- There is at least 9 feet between equipment when adjacent designated play surfaces are more than 30 inches high; and
- The spring rocker is designed to be used from a seated position.

5.3.7.1 Fall height

The fall height of spring rockers is the distance between either (1) the highest designated playing surface or (2) the seat, whichever is higher, and the protective surfacing beneath it.

5.3.8 Swings

Children of all ages generally enjoy the sensations created while swinging. Mostly they sit on the swings; however, it is common to see children jumping off swings. Younger children also tend to swing on their stomachs, and older children may stand on the seats. To prevent injuries, these behaviors should be discouraged.

Swings may be divided into two distinct types:

- Single axis: Sometimes called a to-fro swing. A single-axis swing is intended to swing back and forth in a single plane and generally consists of a seat supported by at least two suspending members, each of which is connected to a separate pivot on an overhead structure.
- Multi-axis: A multi-axis swing consists of a seat (generally a tire) suspended from a single pivot that permits it to swing in any direction.

5.3.8.1 General swing recommendations

- Hardware used to secure the suspending elements to the swing seat and to the supporting structure should not be removable without the use of tools.
- S-hooks are often part of a swing’s suspension system, either attaching the suspending elements to the overhead support bar or to the swing seat. Open S-hooks can catch a child’s clothing and present a strangulation hazard. S-hooks should be pinched closed. An S-hook is considered closed if there is no gap or space greater than 0.04 inches (about the thickness of a dime).
- Swings should be suspended from support structures that discourage climbing.
- A-frame support structures should not have horizontal cross-bars.

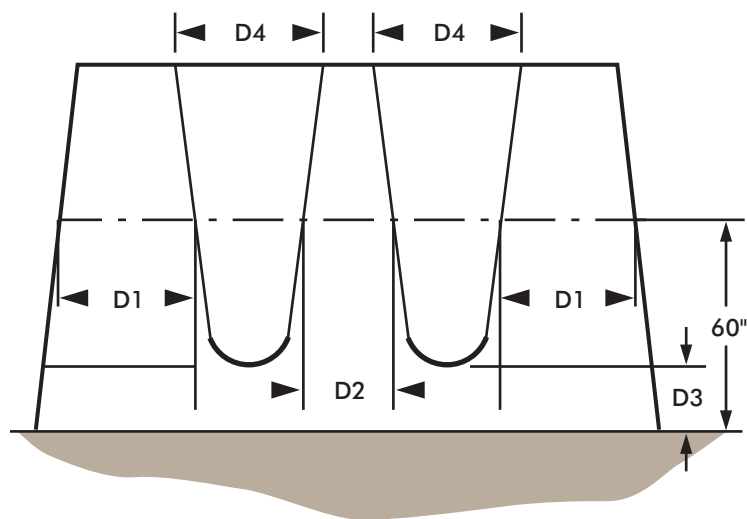


Figure 23. Minimum Clearances for Single-Axis Swings

Table 7. Minimum clearance dimensions for swings

Reason	Dimension	Toddler Full bucket	Preschool-age Belt	School-age Belt
Minimizes collisions between a swing and the supporting structure	D1	20 inches	30 inches	30 inches
Minimizes collisions between swings	D2	20 inches	24 inches	24 inches
Allows access	D3	24 inches	12 inches	12 inches
Reduces side-to-side motion	D4	20 inches	20 inches	20 inches

- Fiber ropes are not recommended as a means of suspending swings since they may degrade over time.
- Swing structures should be located away from other equipment or activities to help prevent young children from inadvertently running into the path of moving swings. Additional protection can be provided by means of a low blockade such as a fence or hedge around the perimeter of the swing area. The blockade should not be an obstacle within the use zone of a swing structure or hamper supervision by blocking visibility.

5.3.8.2 Fall height

The fall height for swings is the vertical distance between the pivot point and the protective surfacing beneath it.

5.3.8.3 Single-axis swings

5.3.8.3.1 Belt seats used without adult assistance

- The use zone to the front and rear of single-axis swings should never overlap the use zone of another piece of equipment.
- To minimize the likelihood of children being struck by a moving swing, it is recommended that no more than two single-axis swings be hung in each bay of the supporting structure.

- Swings should not be attached to composite structures.
- Swing seats should be designed to accommodate no more than one user at any time.
- Lightweight rubber or plastic swing seats are recommended to help reduce the severity of impact injuries. Wood or metal swing seats should be avoided.
- Edges of seats should have smoothly finished or rounded edges and should conform to the protrusion recommendations in 5.3.8.5.
- If loose-fill material is used as a protective surfacing, the height recommendations should be determined after the material has been compressed.
- The full bucket seat materials should not present a strangulation hazard, such as might be presented with a rope or chain used as part of the seat.
- Openings in swing seats should conform to the entrapment criteria in §3.3.
- Full bucket seat swings should be suspended from structures that are separate from those for other swings, or at least suspended from a separate bay of the same structure.
- Full bucket seat swings should not allow the child to enter and exit alone.
- Pivot points should be more than 47 inches but no more than 96 inches above the protective surfacing.

5.3.8.3.2 Full bucket seat swings

Full bucket seat swings are similar to single-axis swings since they move in a to-fro direction. However, full bucket seat swings are intended for children under 4 years of age to use with adult assistance.

- The seats and suspension systems of these swings, including the related hardware, should follow all of the criteria for conventional single axis swings.
- Full bucket seats are recommended to provide support on all sides of a child and between the legs of the occupant (see Figure 24).



Figure 24. Example of full bucket seat swings

5.3.8.3.3 Use zone for single-axis swings – belt and full bucket

The use zone in front of and behind the swing should be greater than to the sides of such a swing since children may deliberately attempt to exit from a single-axis swing while it is in motion. See Figure 25.

- The use zone for a belt swing should extend to the front and rear of a single-axis swing a minimum distance of twice the vertical distance from the pivot point and the top of the protective surface beneath it.
- The use zone for a full bucket swing should extend to the front and rear a minimum of twice the vertical distance from the top of the occupant's sitting surface to the pivot point.
- The use zone in front of and behind swings should never overlap with any other use zone.
- The use zone to the sides of a single-axis swing should extend a minimum of 6 feet from the perimeter of the swing. This 6-foot zone may overlap that of an adjacent swing structure or other playground equipment structure.

5.3.8.4 Multi-axis (tire) swings

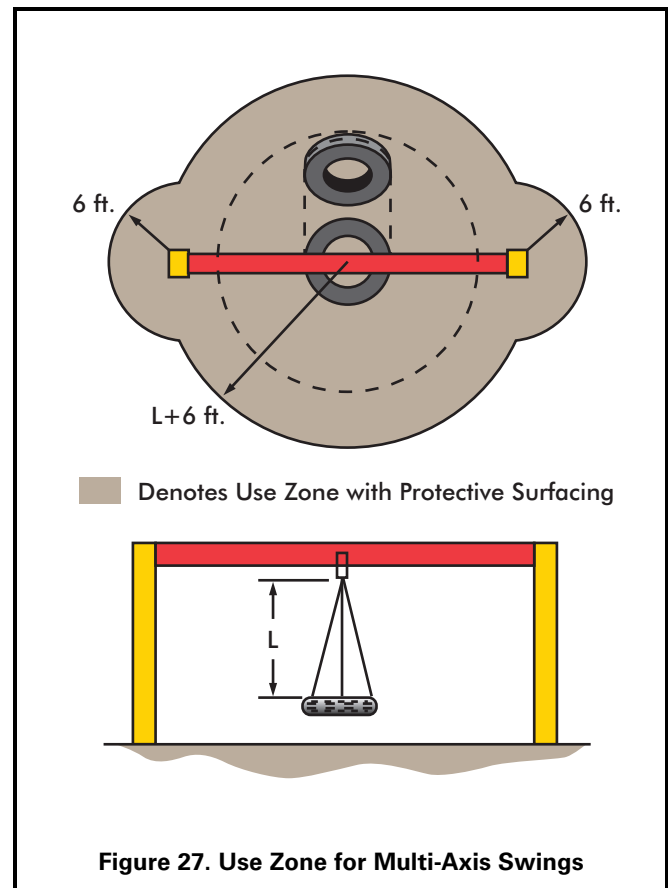
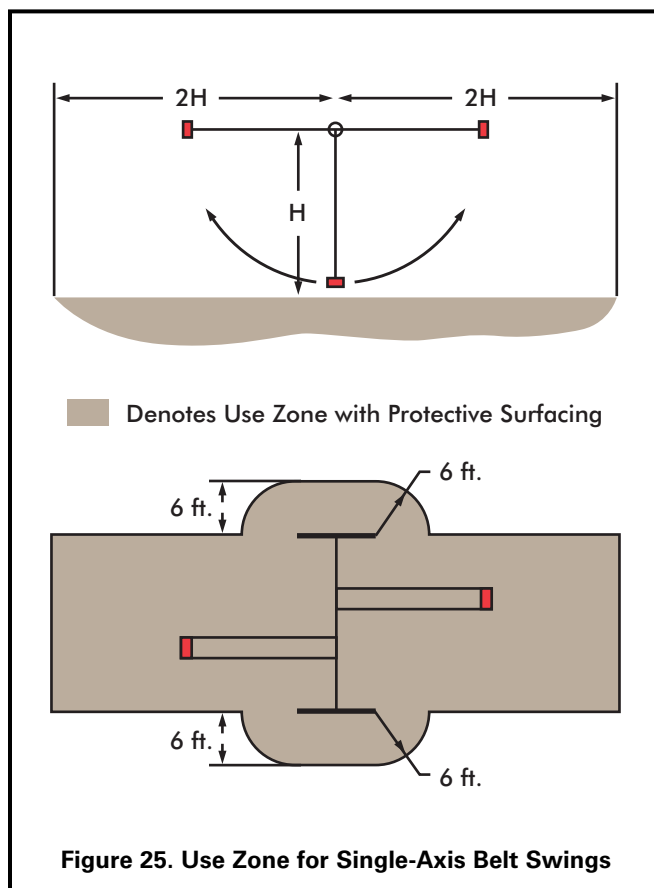
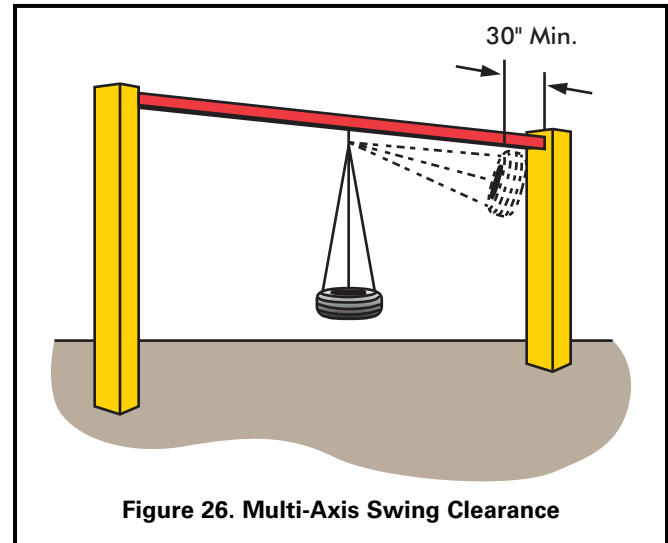
Tire swings are usually suspended in a horizontal orientation using three suspension chains or cables connected to a single swivel mechanism that permits both rotation and swinging motion in any axis.

- A multi-axis tire swing should not be suspended from a structure having other swings in the same bay.
- Attaching multi-axis swings to composite structures is not recommended.

- To minimize the hazard of impact, heavy truck tires should be avoided. Further, if steel-belted radials are used, they should be closely examined to ensure that there are no exposed steel belts or wires that could be a potential protrusion or laceration hazard. Plastic materials can be used as an alternative to simulate actual automobile tires. Drainage holes should be provided in the underside of the tire.
- Pay special attention to maintenance of the hanger mechanism because the likelihood of failure is higher for tire swings due to the added stress of rotational movement and multiple occupants.
- The hanger mechanisms for multi-axis tire swings should not have any accessible crush points.
- The minimum clearance between the seating surface of a tire swing and the uprights of the supporting structure should be 30 inches when the tire is in a position closest to the support structure (Figure 26).
- The minimum clearance between the bottom of the seat and the protective surface should not be less than 12 inches.

5.3.8.4.1 Multi-axis swing use zones

- The use zone should extend in any direction from a point directly beneath the pivot point for a minimum distance of 6 feet plus the length of the suspending members (see Figure 27). This use zone should never overlap the use zone of any other equipment.



- The use zone should extend a minimum of 6 feet from the perimeter of the supporting structure. This 6-foot zone may overlap that of an adjacent swing structure or other playground equipment structure.

5.3.8.5 Protrusions on suspended members of swing assemblies

Protrusions on swings are extremely hazardous because of the potential for impact incidents. Nothing, including bolts or other parts, on the front, back, or underside of a swing should stick out more than 1/8 of an inch. See test procedures in Appendix B.

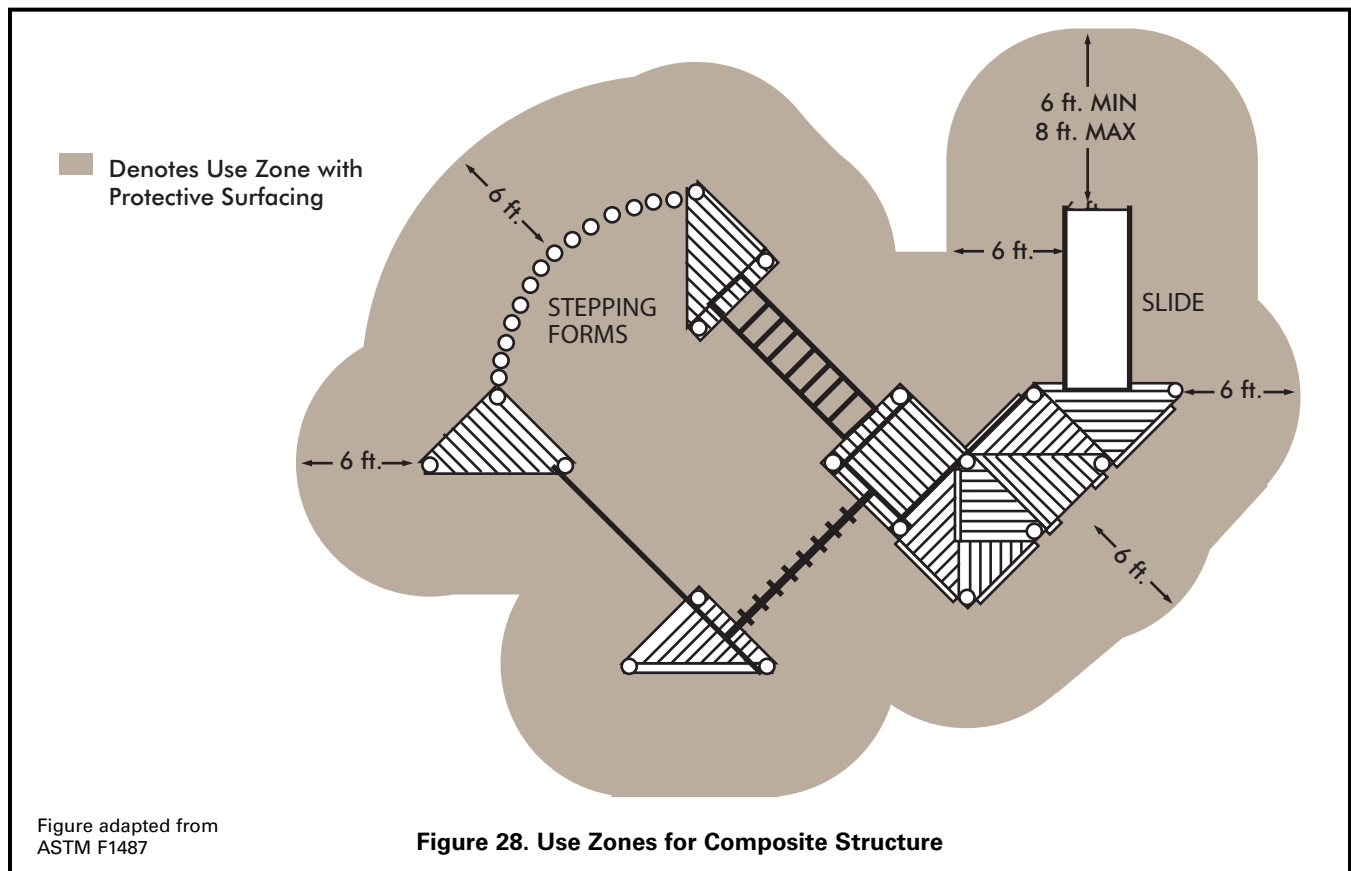
5.3.9 Fall height and use zones for composite structure

When two or more complementary play components are linked together in a composite structure (e.g., combination climber, slide, and horizontal ladder), the use zone should extend a minimum of 6 feet from the external perimeter of the structure (see Figure 28). Where slides are attached to a platform higher than 6 feet from the protective surfacing, the use zone may need to extend further in front of the slide (see §5.3.6.5).

5.3.10 Fall height and use zones not specified elsewhere

Most playground equipment belongs in one of the categories listed above. If it does not, the following general recommendations should be applied:

- The fall height of a piece of playground equipment is the distance between the highest designated playing surface and the protective surface beneath it.
- The use zone should extend a minimum of 6 feet in all directions from the perimeter of the equipment.
- The use zones of two stationary pieces of playground equipment that are positioned adjacent to one another may overlap if the adjacent designated play surfaces of each structure are no more than 30 inches above the protective surface and the equipment is at least 6 feet apart.
- If adjacent designated play surfaces on either structure exceed a height of 30 inches, the minimum distance between the structures should be 9 feet.
- Use zones should be free of obstacles.



APPENDIX A: SUGGESTED GENERAL MAINTENANCE CHECKLISTS

Surfacing (§2.4)

- ☐ Adequate protective surfacing under and around the equipment.
 - ☐ Install/replace surfacing
- ☐ Surfacing materials have not deteriorated.
 - ☐ Replace surfacing
 - ☐ Other maintenance: _____
- ☐ Loose-fill surfacing materials have no foreign objects or debris.
 - ☐ Remove trash and debris
- ☐ Loose-fill surfacing materials are not compacted.
 - ☐ Rake and fluff surfacing
- ☐ Loose-fill surfacing materials have not been displaced under heavy use areas such as under swings or at slide exits.
 - ☐ Rake and fluff surfacing

Drainage (§2.4)

- ☐ The entire play area has satisfactory drainage, especially in heavy use areas such as under swings and at slide exits.
 - ☐ Improve drainage
 - ☐ Other maintenance: _____

General Hazards

- ☐ There are no sharp points, corners or edges on the equipment (§3.4).
- ☐ There are no missing or damaged protective caps or plugs (§3.4).
- ☐ There are no hazardous protrusions (§3.2 and Appendix B).
- ☐ There are no potential clothing entanglement hazards, such as open S-hooks or protruding bolts (§2.5.2, §3.2, §5.3.8.1 and Appendix B).
- ☐ There are no crush and shearing points on exposed moving parts (§3.1).
- ☐ There are no trip hazards, such as exposed footings or anchoring devices and rocks, roots, or any other obstacles in a use zone (§3.6).

Security of Hardware (§2.5)

- ☐ There are no loose fastening devices or worn connections.
 - ☐ Replace fasteners
 - ☐ Other maintenance: _____
- ☐ Moving parts, such as swing hangers, merry-go-round bearings, and track rides, are not worn.
 - ☐ Replace part
 - ☐ Other maintenance: _____

Durability of Equipment (§2.5)

- ☐ There are no rust, rot, cracks, or splinters on any equipment (check carefully where it comes in contact with the ground).
- ☐ There are no broken or missing components on the equipment (e.g., handrails, guardrails, protective barriers, steps, or rungs).
- ☐ There are no damaged fences, benches, or signs on the playground.
- ☐ All equipment is securely anchored.

Leaded Paint (§2.5.4)

- ☐ Paint (especially lead paint) is not peeling, cracking, chipping, or chalking.
- ☐ There are no areas of visible leaded paint chips or accumulation of lead dust.
 - ☐ Mitigate lead paint hazards

General Upkeep of Playgrounds (§4)

- ☐ There are no user modifications to the equipment, such as strings and ropes tied to equipment, swings looped over top rails, etc.
 - ☐ Remove string or rope
 - ☐ Correct other modification
- ☐ The entire playground is free from debris or litter such as tree branches, soda cans, bottles, glass, etc.
 - ☐ Clean playground
- ☐ There are no missing trash receptacles.
 - ☐ Replace trash receptacle
- ☐ Trash receptacles are not full.
 - ☐ Empty trash

NOTES:

DATE OF INSPECTION:

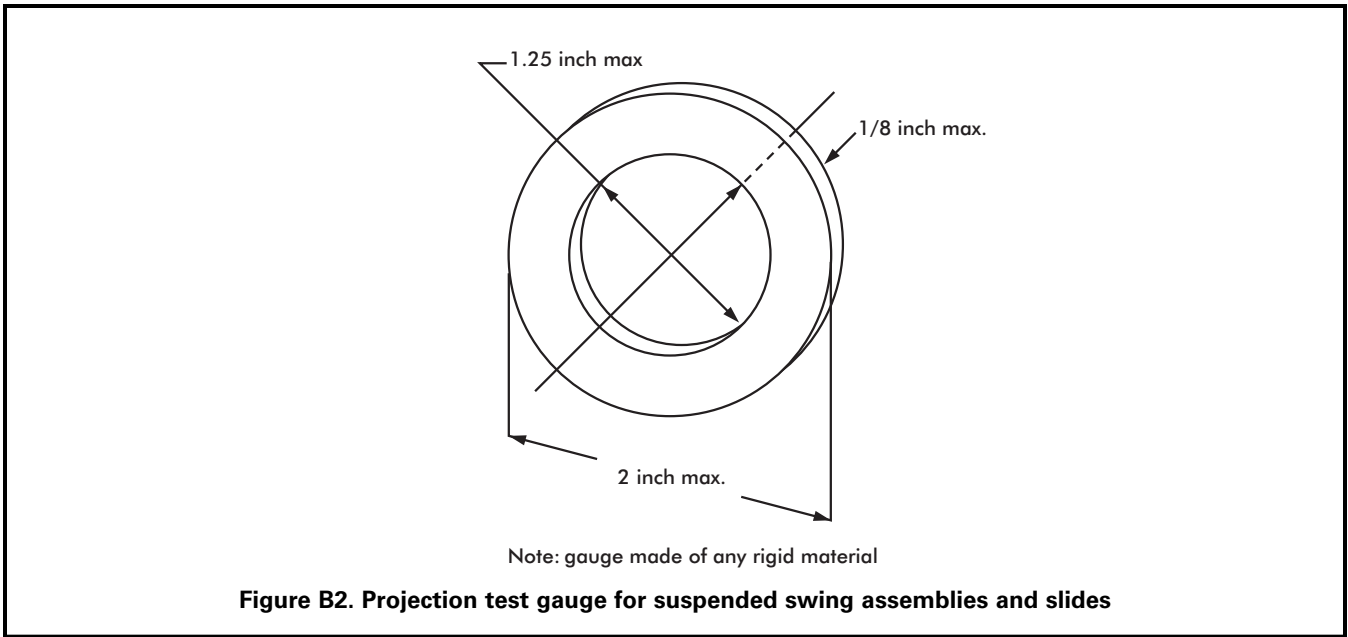
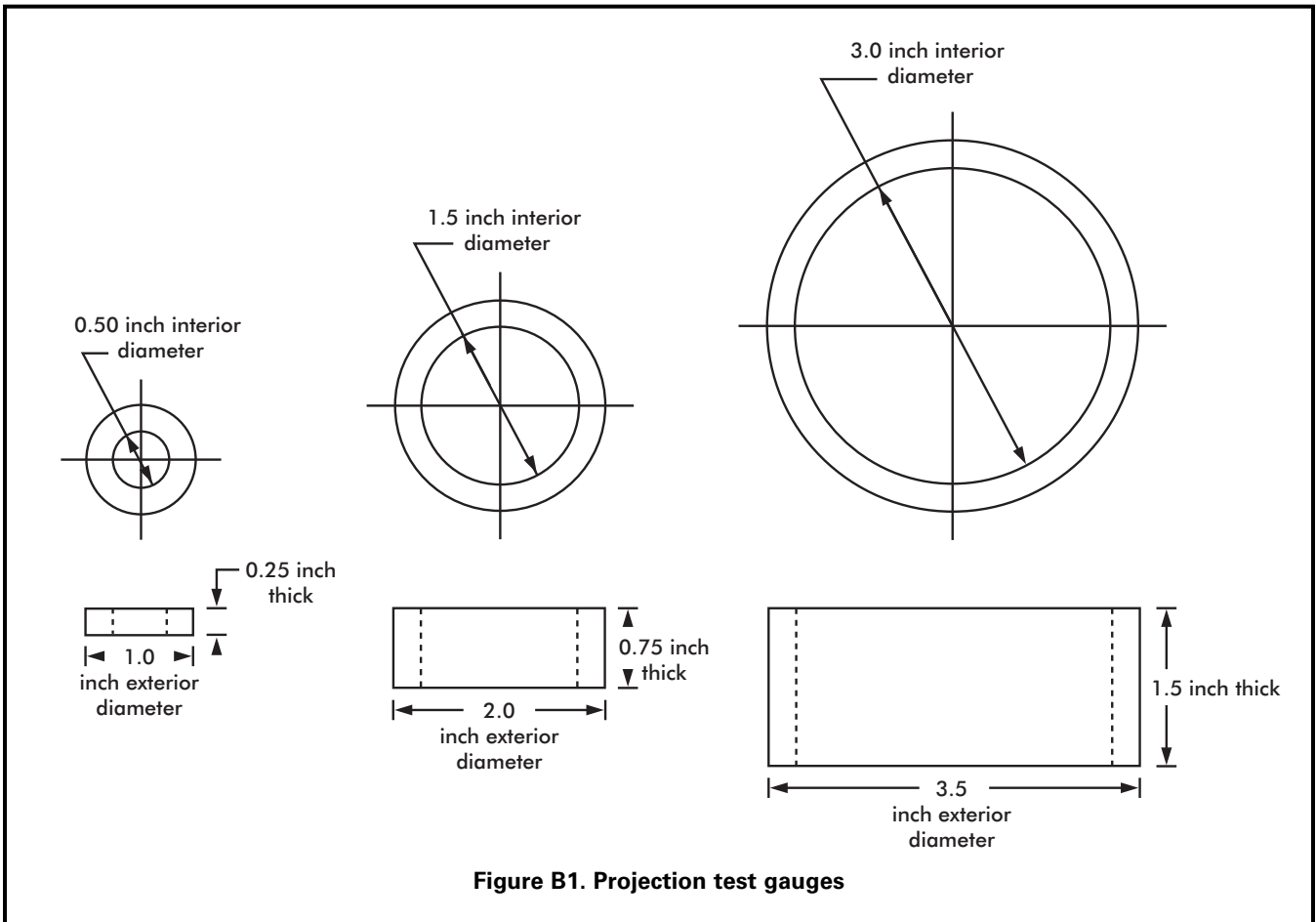
INSPECTION BY:

Routine Inspection and Maintenance Issues

- ☐ Broken equipment such as loose bolts, missing end caps, cracks, etc.
- ☐ Broken glass & other trash
- ☐ Cracks in plastics
- ☐ Loose anchoring
- ☐ Hazardous or dangerous debris
- ☐ Insect damage
- ☐ Problems with surfacing
- ☐ Displaced loose-fill surfacing (see Section 4.3)
- ☐ Holes, flakes, and/or buckling of unitary surfacing
- ☐ User modifications (such as ropes tied to parts or equipment rearranged)
- ☐ Vandalism
- ☐ Worn, loose, damaged, or missing parts
- ☐ Wood splitting
- ☐ Rusted or corroded metals
- ☐ Rot

APPENDIX B: PLAYGROUND TESTING

B.1 Templates, Gauges, and Testing Tools



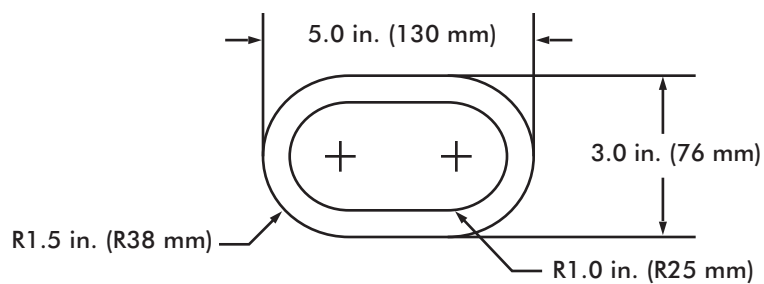


Figure B3. Toddler small torso template

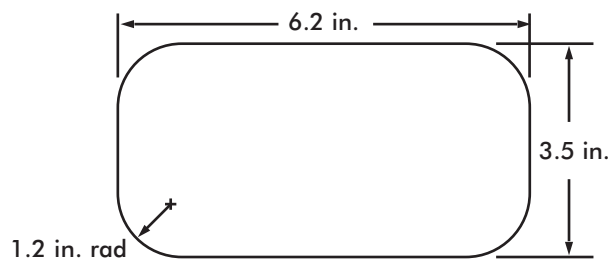


Figure B4. Preschool- and school-age small torso template

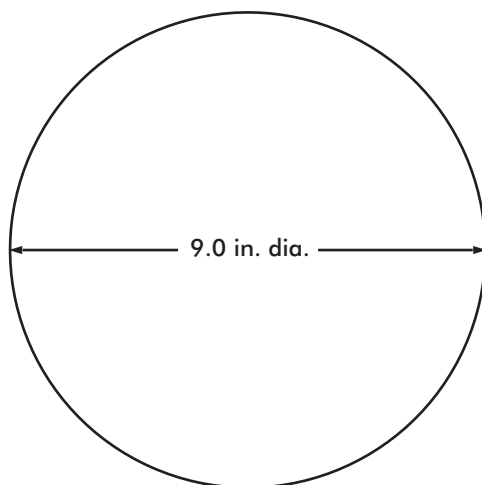
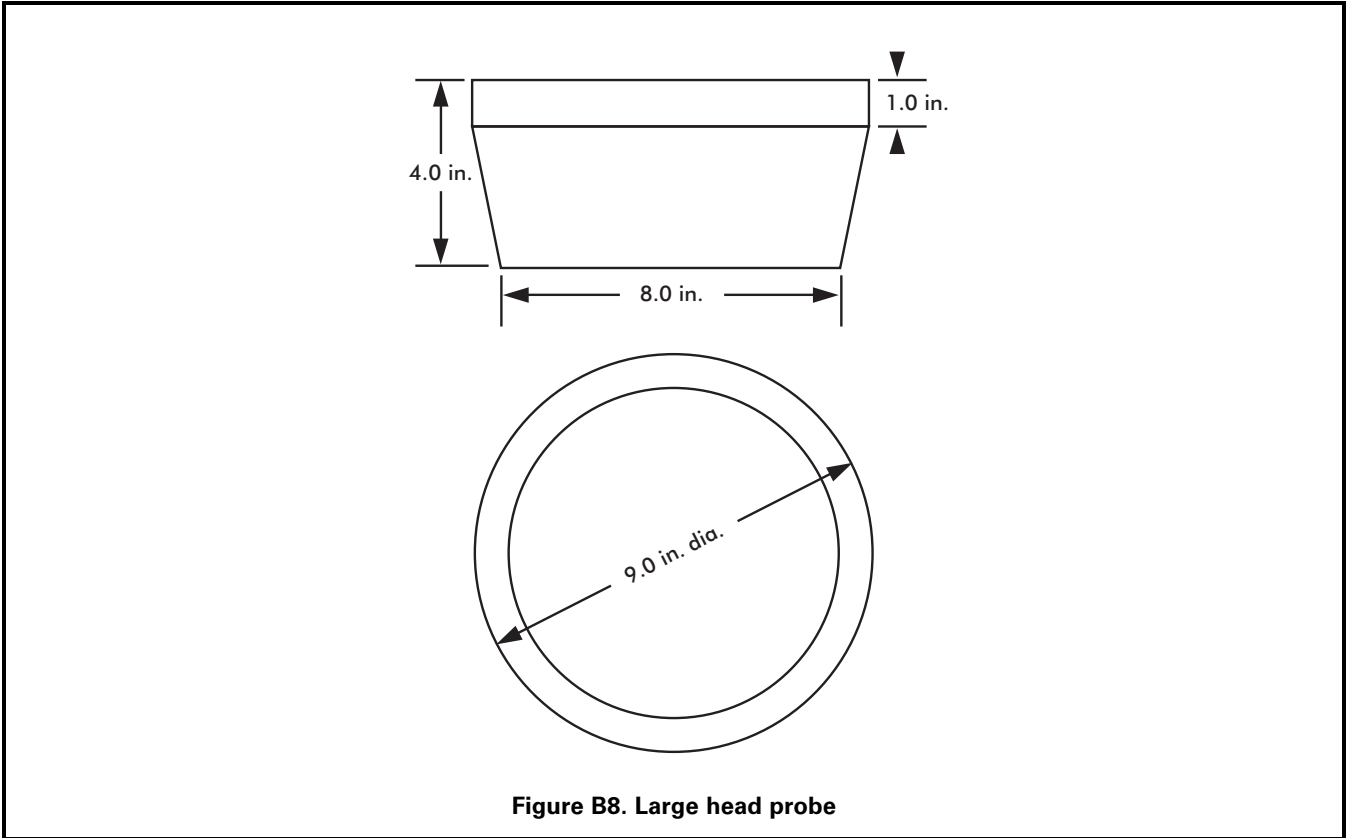
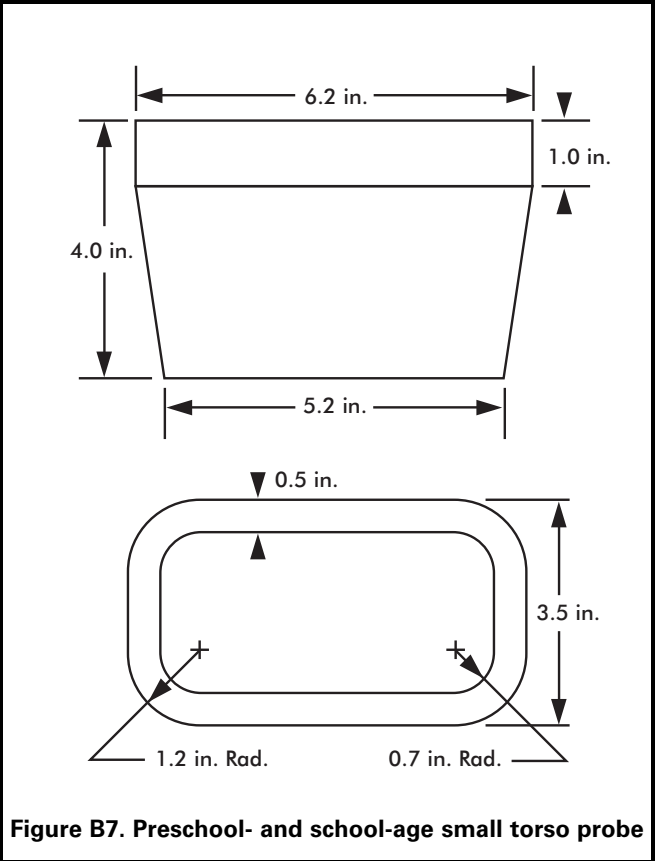
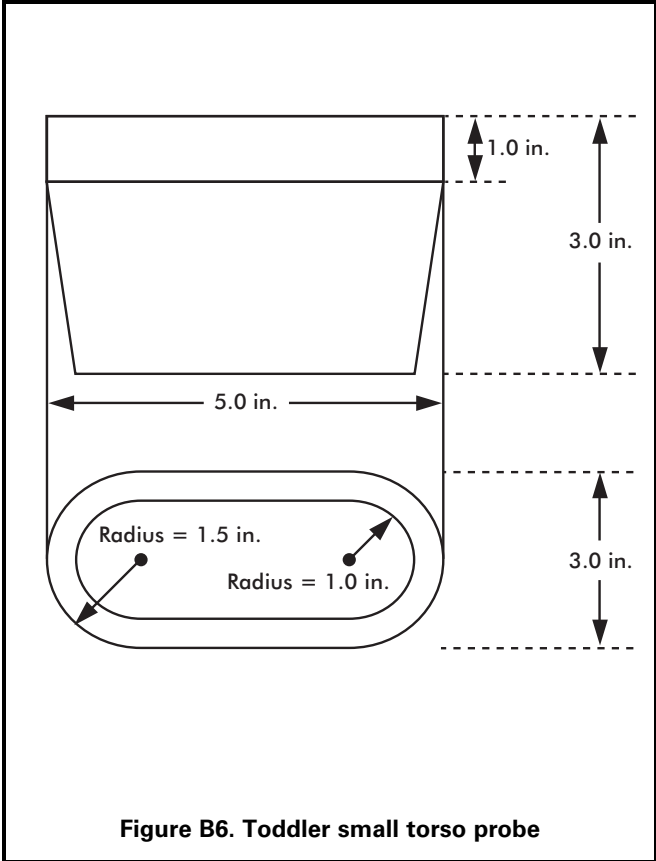


Figure B5. Large head template



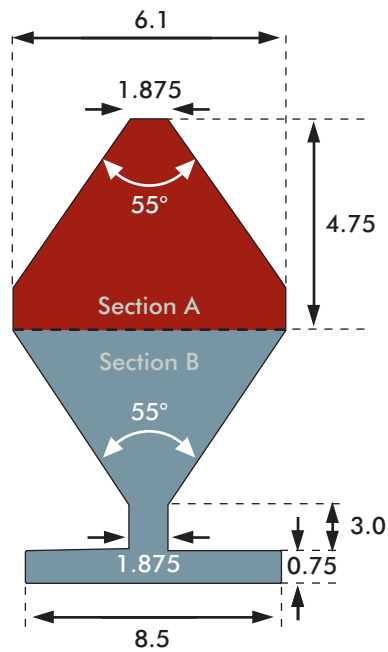


Figure B9. Preschool/School-age partially bound probe (dimensions in inches, template is 0.75 inches thick)

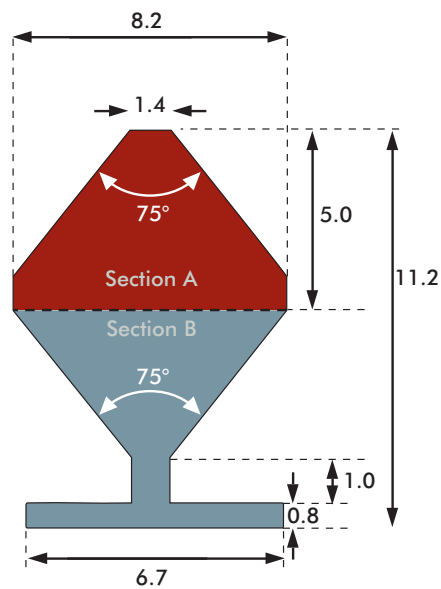


Figure B10. Toddler partially bound probe (dimensions in inches, template is 0.60 inches thick)

APPENDIX B: PLAYGROUND TESTING

B.2 Test Methods

B.2.1 Determining whether a projection is a protrusion

B.2.1.1 Test procedure

- Step 1: Successively place each projection test gauge (see Figure B1) over any projection
- Step 2: Visually determine if the projection penetrates through the hole and beyond the face of the gauge (see Figure B11 below).
- Pass:** A projection that does not extend beyond the face of the gauge passes.
- Fail:** A projection that extends beyond the face of any one of the gauges is considered a hazardous protrusion and should be eliminated.

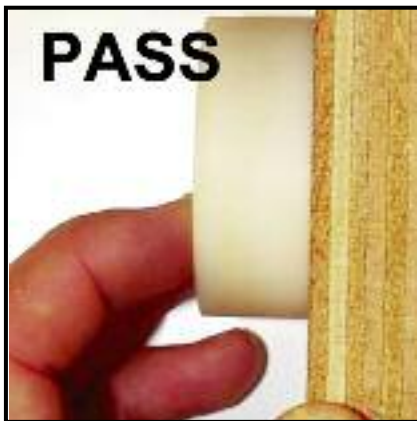


Figure B11. Determining whether a projection is a protrusion

B.2.2 Projections on suspended members of swing assemblies

Given the potential for impact incidents, projections on swings can be extremely hazardous. A special test gauge (see Figure B2) and procedure are recommended. When tested, no bolts or components in the potential impact region on suspended members should extend through the hole beyond the face of the gauge.

B.2.2.1 Test procedure

- Step 1: Hold the gauge (Figure B2) vertically with the axis through the hole parallel to the swing's path of travel.
- Step 2: Place the gauge over any projections that are exposed during the swing's path of travel.
- Step 3: Visually determine if the projection penetrates through the hole and beyond the face of the gauge.

Pass: A projection that does not extend beyond the face of the gauge passes.

Fail: A projection that extends beyond the face of the gauge is considered a hazardous protrusion and should be eliminated.

B.2.3 Projections on slides

To minimize the likelihood of clothing entanglement on slides, projections that (1) fit within any one of the three gauges shown in Figure B1 and (2) have a major axis that projects away from the slide bed should not have projections greater than 1/8 inch perpendicular to the plane of the surrounding surface (Figure B12).

B.2.3.1 Test procedure

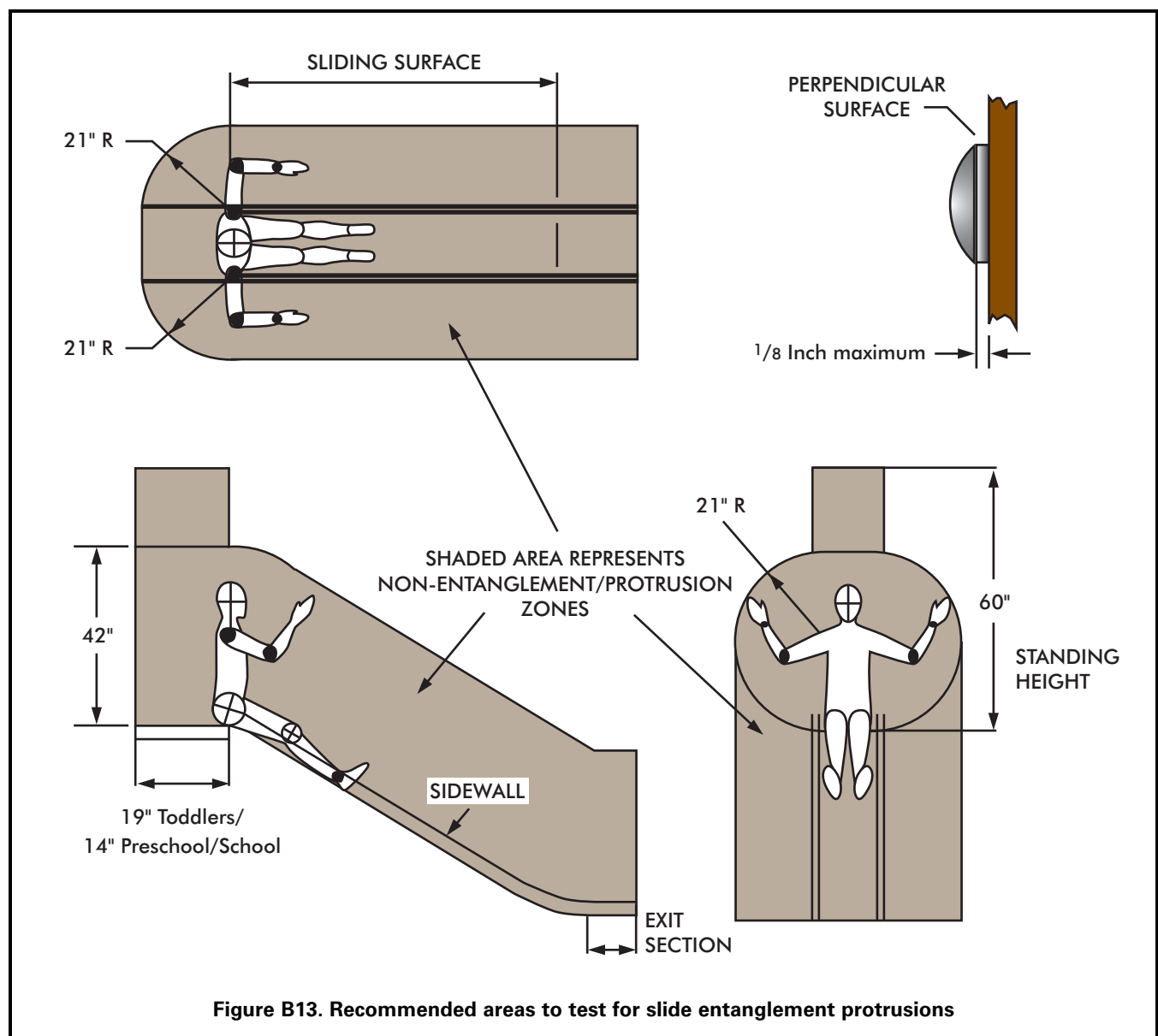
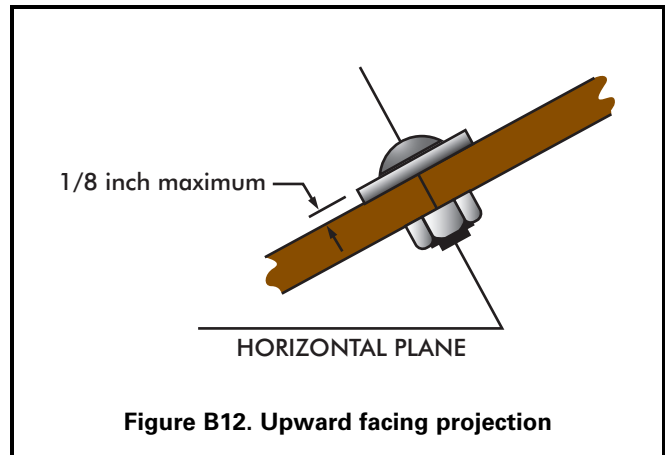
- Step 1: Identify all projections within the shaded area shown in Figure B13.
- Step 2: Determine which, if any, fit inside the projection test gauges (Figure B1).
- Step 3: Place the swing and slide projection gauge (Figure B2) next to the projection to check the height of the projection.

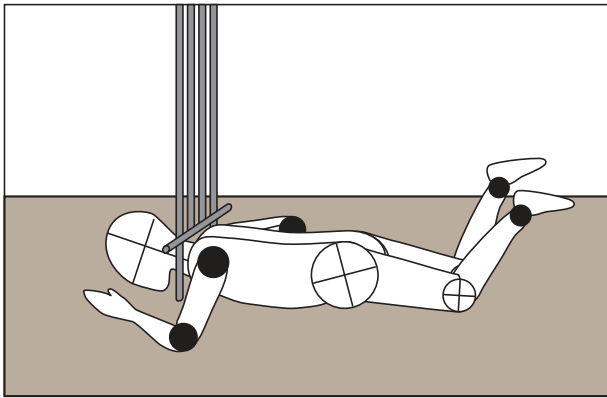
Step 4: Visually determine if the projection extends beyond the face of the slide projection gauge.

Pass: A projection that does not extend beyond the face of the gauge passes.

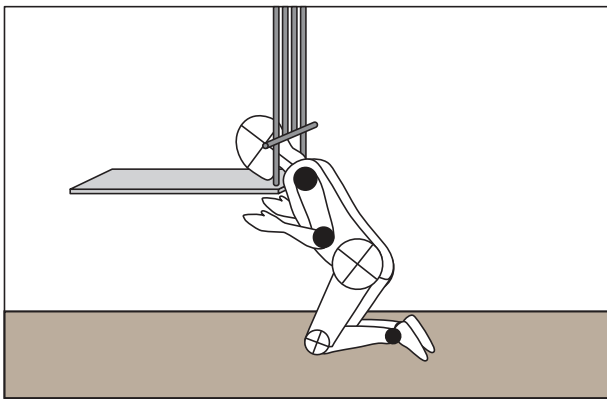
Fail: A projection that extends beyond the face of the gauge is considered a hazardous protrusion and should be eliminated.

NOTE: This test procedure is not applicable to the underside of a slide chute. For a slide chute with a circular cross section, the portion of the underside not subject to this projection recommendation is shown in Figure 18. The general recommendations for projections in §B.2.1 are applicable to the underside of the slide.

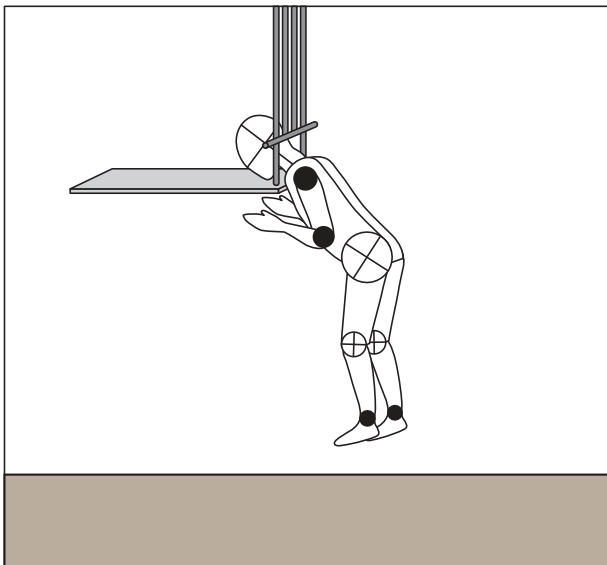




Ground-bounded: Not subject to entrapment recommendations.



Low entrapment



High entrapment

Figure B14. Examples of completely bounded openings

B.2.4 Entrapment

B.2.4.1 General

Any completely-bounded opening (Figure B14) that is not bounded by the ground may be a potential head entrapment hazard. Even those openings which are low enough to permit a child's feet to touch the ground present a risk of strangulation to an entrapped child, because younger children may not have the necessary intellectual ability and motor skills to withdraw their heads, especially if scared or panicked. An opening may present an entrapment hazard if the distance between any interior opposing surfaces is greater than 3.5 inches and less than 9 inches. If one dimension of an opening is within this potentially hazardous range, all dimensions of the opening should be considered together to fully evaluate the possibility of entrapment. The most appropriate method to determine whether an opening is hazardous is to test it using the following fixtures, methods, and performance criteria.

These recommendations apply to all playground equipment, i.e., toddler, preschool-age, and school-age children. Fixed equipment as well as moving equipment (in its stationary position) should be tested for entrapment hazards. There are two special cases for which separate procedures are given: (1) completely-bounded openings where depth of penetration is a critical issue (see Figure B15) and (2) openings formed by flexible climbing components.

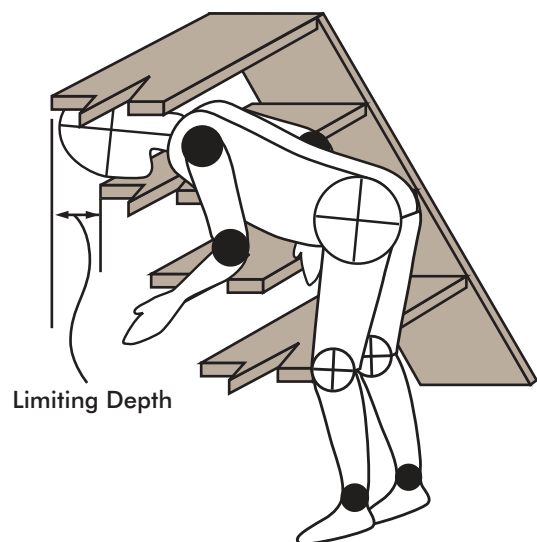


Figure B15. Completely bounded opening with limited depth

B.2.5 Test fixtures

Two templates are required to determine if completely bounded openings in rigid structures present an entrapment hazard. These templates can easily be fabricated from cardboard, plywood, or sheet metal.

B.2.5.1 Small torso template

The dimensions (see Figure B3 and Figure B4) of this template are based on the size of the torso of the smallest user at risk (5th percentile 6-month-old child for Figure B3 and 2-year-old child for Figure B4). If an opening is too small to admit the template, it is also too small to permit feet first entry by a child. Because children's heads are larger than their torsos, an opening that does not admit the small torso template will also prevent head first entry into an opening by a child.

B.2.5.2 Large head template

The dimensions (see Figure B5) of this template are based on the largest dimension on the head of the largest child at risk (95th percentile 5-year-old child). If an opening is large enough to permit free passage of the template, it is large enough to permit free passage of the head of the largest child at risk in any orientation. Openings large enough to permit free passage of the large head template will not entrap the chest of the largest child at risk.

B.2.5.3 Completely bounded openings with unlimited depth

B.2.5.3.1 Test procedure

- Step 1: Select the appropriate small torso template based on the intended users of the playground (Figure B3 for toddler playgrounds, Figure B4 for preschool- and school-age playgrounds).
- Step 2: Identify all completely bounded openings.
- Step 3: Attempt to place the small torso template in the opening with the plane of the template parallel to the plane of the opening. While keeping it parallel to the plane of the opening, the template should be rotated to its most adverse orientation (i.e., major axis of template oriented parallel to the major axis of the opening.)

- Step 4: Determine if the small torso template can freely pass through the opening.

No: **Pass.** Stop

Yes: Continue



- Step 5: Place the large head template in the opening, again with the plane of the template parallel to the plane of the opening, and try to insert it through the opening.

Pass: The large head template can be freely inserted through the opening

Fail: The opening admits the small torso template but does not admit the large head template.



B.2.5.4 Completely bounded openings with limited depth of penetration

The configuration of some openings may be such that the depth of penetration is a critical issue for determining the entrapment potential. For example, consider a vertical wall or some other barrier behind a step ladder. The entrapment potential depends not only on the dimensions of the opening between adjacent steps but also on the horizontal space between the lower boundary of the opening and the barrier. A child may enter the opening between adjacent steps feet first and may proceed to pass through the space between the rear of the lower step and the barrier and become entrapped when the child's head is unable to pass through either of these two openings. In effect, there are openings in two different planes, and each has the potential for head entrapment and should be tested.

Figure B16 illustrates these two planes for a step ladder as well as for a generic opening. Plane A is the plane of the completely bounded opening in question, and Plane B is the plane of the opening encompassing the horizontal space between the lower boundary of the opening in Plane A and the barrier that should also be tested for entrapment hazards.

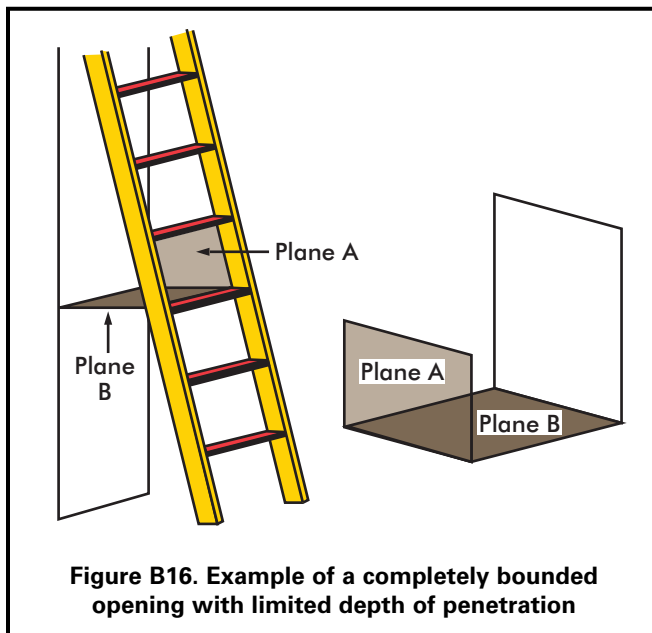


Figure B16. Example of a completely bounded opening with limited depth of penetration

B.2.5.4.1 Test procedure

Step 1: Select the appropriate small torso template based on the intended users of the playground (Figure B3 for toddler playgrounds, Figure B4 for preschool-age and school-age playgrounds).

Step 2: Identify all completely bounded openings with limited depth of penetration.

Step 3: Place the small torso template in the opening in Plane A with its plane parallel to Plane A; rotate the template to its most adverse orientation with respect to the opening while keeping it parallel to Plane A.

Step 4: Determine if the opening in Plane A admits the small torso template in any orientation when rotated about its own axis.

No: Pass. The opening is small enough to prevent either head first or feet first entry by the smallest user at risk and is not an entrapment hazard.

Yes: Continue.

Step 5: Place the small torso template in the opening in Plane B with its plane parallel to Plane B; rotate the template to its most adverse orientation with respect to the opening while keeping it parallel to Plane B.

Step 6: Determine if the opening in Plane B admits the small torso template.

No: Pass. The depth of penetration into the opening in Plane A is insufficient to result in entrapment of the smallest user at risk.

Yes: Continue.

Step 7: Place the large head template (Figure B5) in the opening in Plane A with its plane parallel to Plane A. Determine if the opening in Plane A admits the large head template.

No: Fail. A child, whose torso can enter the opening in Plane A as well as the opening in Plane B, may become entrapped by the head in the opening in Plane A.

Yes: Continue.

Step 8: With the plane of the large head template parallel to the opening in Plane B, determine if the opening in Plane B admits the large head template.

No: Fail. The largest user at risk cannot exit the opening in Plane B.

Yes: Pass. The openings in Plane A and Plane B do not pose an entrapment risk.

B.2.5.5 Flexible openings

Climbing components such as flexible nets are also a special case for the entrapment tests because the size and shape of openings on this equipment can be altered when force is applied, either intentionally or simply when a child climbs on or falls through the openings. Children are then potentially at risk of entrapment in these distorted openings.

The procedure for determining conformance to the entrapment recommendations for flexible openings requires two three-dimensional test probes which are illustrated in Figure B6, Figure B7, and Figure B8 are applied to an opening in a flexible component with a force of up to 50 pounds.

B.2.5.5.1 Test procedure

- Step 1: Select the appropriate small torso template based on the intended users of the playground (Figure B3 for toddler playgrounds, Figure B4 for preschool-age and school-age playgrounds).
- Step 2: Identify all completely bounded openings with flexible sides.
- Step 3: Place the small torso probes (Figures B6 and B7) in the opening, tapered end first, with the plane of its base parallel to the plane of the opening.
- Step 4: Rotate the probe to its most adverse orientation (major axis of probe parallel to major axis of opening) while keeping the base parallel to the plane of the opening.
- Step 5: Determine if the probe can be pushed or pulled completely through the opening by a force no greater than 30 pounds on toddler playgrounds or 50 pounds on preschool-age and school-age playgrounds.

No: Pass. Stop

Yes: Continue.



Step 6: Place the large head probe (Figure B8) in the opening with the plane of its base parallel to the plane of the opening.

Step 7: Determine if the large head probe can be pushed or pulled completely through the opening by a force no greater than 30 pounds on toddler playgrounds or 50 pounds on preschool-age and school-age playgrounds.

Yes: Pass. Stop.



No: Fail.



B.2.5.6 Partially bound openings

A partially bound opening is any opening which has at least one side or portion open, such as a U- or V-shaped opening. These openings can still pose an entrapment hazard by allowing the neck to enter but not allowing the head to slip out. A partially bound opening can be any part of the playground equipment where a child could get his or her neck caught, so it includes not only two- or three-sided openings, but also areas of large openings (large enough for the head template to enter) that have the characteristics that can entrap a child's neck. Several examples outlines of this situation are shown in the figures below. Openings that have an outline similar to these figures are often found when two parts of a playground meet, for example, the top of a slide and the side of a guardrail.

Identifying partially bound openings varies depending on the age range of the playground. Openings that should be tested include any opening where:

For toddlers:

- The perimeter of the opening is not closed
- The lowest leg of the opening is tilted upward (i.e. above horizontal) or 45 degrees below horizontal.

For preschool- and school-age:

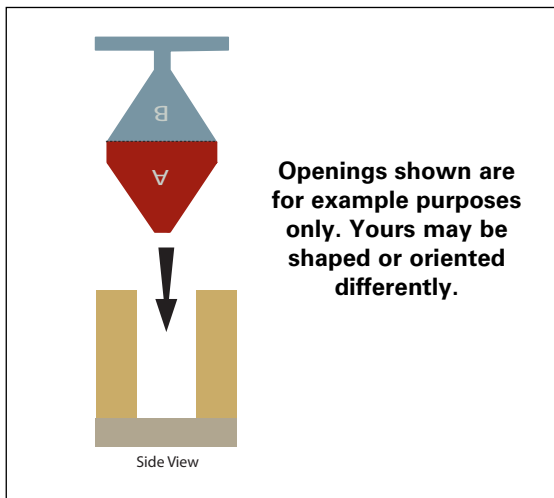
- The perimeter of the opening is not closed
- The lowest leg of the opening is tilted upward (i.e. above horizontal)



Examples of partially bound openings. Note, these examples are intended to illustrate the principle of partially bound openings and may or may not require testing.

B.2.5.6.1 Test procedure

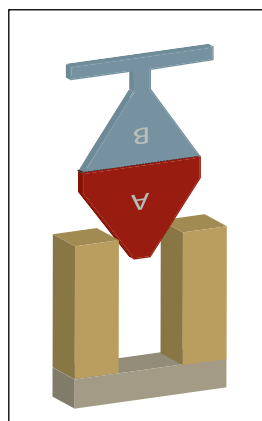
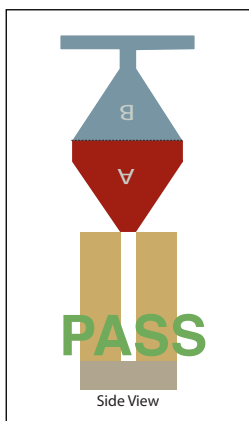
- Step 1: Select the appropriate Partially Bound Template based on the intended users of the playground (Figure B10 for toddler playgrounds, Figure B9 for preschool and school-age playground).
- Step 2: Identify partially bound openings.
- Step 3: Align the template so that the face of the template is parallel to the plane of the opening and the narrow tip of the A section is pointing toward the opening.



- Step 4: Insert the A portion of the template into the opening following the centerline of the opening.
- Step 5: Once inserted as far as possible, determine if there is simultaneous contact between the sides of the opening and both of the top corners at the narrow tip of section A.

Yes: Pass. Stop

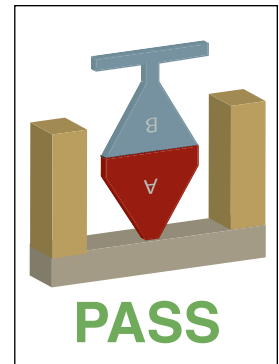
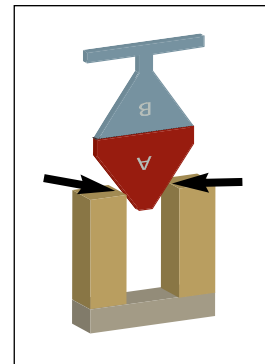
No: continue



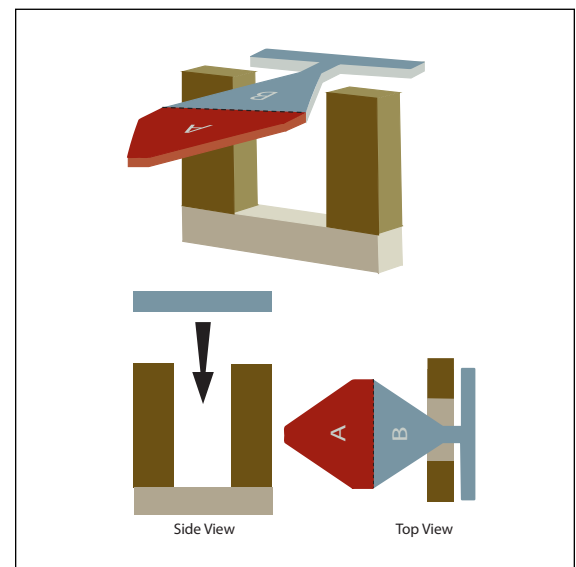
- Step 6: While still inserted as far as possible, determine if there is simultaneous contact between both of the angled sides of section A and the sides of the opening.

Yes: Note the points on the sides of opening where contact was made and continue

No: Pass. The narrow tip should be resting on the lower boundary of the opening with no contact with the sides of the opening. Stop



- Step 7: Remove the template and turn the template so that the face of the template is perpendicular to the opening.
- Step 8: Following the plane of the opening, insert the B portion of the template into the opening so that the narrow part of the B portion is between the sides of the opening.

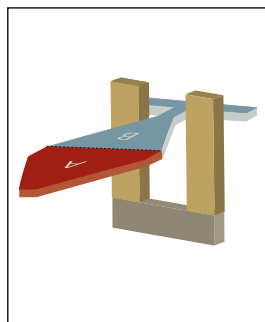
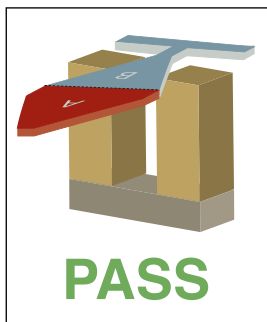


Step 9: Once inserted as far as possible, determine if the B portion is completely past the points where contact was made on the sides of the opening with the A portion.

No: Pass. Stop

Yes: Toddlers:
Fail. Stop

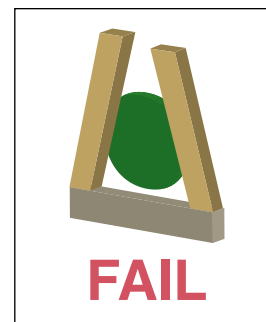
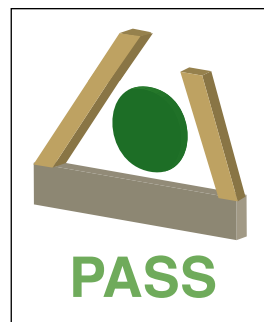
Preschool and
School-age:
Continue



Step 11: Determine if the Large Head Template passes freely through the larger opening.

Yes: Pass

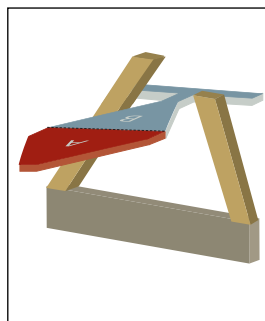
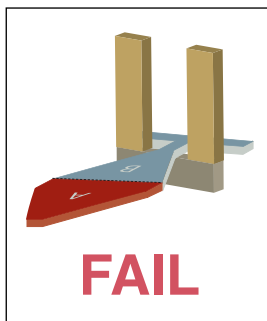
No: Fail



Step 10: Determine if the B portion can reach a point where the opening increases in size.

No: Fail. Stop

Yes: continue





THANK YOU