Definitions of Public Access in Zoning Ordinances Statewide and Beyond

- According to "***A Glossary of Zoning, Development and Planning Terms***," APA Report #491/492, "Public Access" is a means of physical approach to and along the shoreline available to the general public. This may also include visual approaches and public right-of-ways.

- The **General Law of Massachusetts** states the following related to "recreational use" of lands in the state: "Land not less than five acres in area shall be deemed to be recreational land if it is retained in substantially a natural, wild, or open condition or in a landscaped or pasture condition or in a managed forest condition under a certified forest management plan approved by and subject to procedures established by the state forester in such a manner as to allow to a significant extent the preservation of wildlife and other natural resources, including but not limited to, ground or surface water resources, clean air, vegetation, rare or endangered species, geologic features, high quality soils, and scenic resources. Land not less than five acres in area shall also be deemed to be recreational land which is devoted primarily to recreational use and which does not materially interfere with the environmental benefits which are derived from said land, and is available to the general public or to members of a non-profit organization including a corporation organized under chapter one hundred and eighty. For the purpose of this chapter, the term 'recreational use' shall be limited to the following: hiking, camping, nature study and observation, boating, golfing, non-commercial youth soccer, horseback riding, hunting, fishing, skiing, swimming, picnicking, private non-commercial flying, including hang gliding, archery, target shooting and commercial horseback riding and equine boarding. Such recreational use shall not include horse racing, dog racing, or any sport normally undertaken in a stadium, gymnasium or similar structure." (The General Law of Massachusetts: Part I. Administration of the Government; Title IX. Taxation; Chapter 61B. Classification and Taxation of Recreational Land; Chapter 61B: Section 1. Recreational land and uses)
  - Where related to public right of ways, Massachusetts states the following:
    - "If the boundaries of a public way are known or can be made certain by records or monuments, no length of possession, or occupancy of land within the limits thereof, by the owner or occupant of adjoining land shall give him any title thereto, unless it has been acquired prior to May twenty-sixth, nineteen hundred and seventeen, and any fences, buildings or other obstructions encroaching upon such way shall, upon written notice from the county commissioners or board or officer having authority over ways in towns, be forthwith removed by the owner or occupant of adjoining land, and if not so removed said commissioners, board or officer may cause the same to be removed upon said adjoining land." (The General Law of Massachusetts: Part I. Administration of the Government; Title XIV. Public Ways and Works; Chapter 86. Boundaries of Highways and Other Public Places, and Encroachments Thereon; Chapter 86: Section 3. Encroachment on Public Ways)
    - "Any person may remove gates, rails, bars or fences which are upon or across a public or private way legally laid out, unless they have been placed there to prevent the spread of disease dangerous to the public health, or unless they have been erected or continued by the license of the county commissioners or of the selectmen or road commissioners or of the person for whose use such private way was laid out. A person aggrieved by such removal may apply to the county commissioners, selectmen or road commissioners, respectively, and if upon examination it appears that such gates, rails, bars or fences were erected or continued by such license, they shall order them replaced." (The General Law of Massachusetts: Part I. Administration of the Government; Title XIV. Public Ways and Works; Chapter 86. Boundaries of Highways and Other Public Places, and Encroachments Thereon;

Chapter 86: Section 5. Removal of Gates, Rails, Bars, or Fences Upon or Across Ways)

- "Upon petition of ten citizens of the commonwealth that in their opinion public necessity requires a right of way for public access to any great pond within the commonwealth, the department and the attorney general or a representative designated by him sitting jointly shall hold a public hearing and receive such evidence thereon as may be presented to them. The joint board may make such additional investigation as it deems desirable and if it appears to said board that such a right of way exists it shall present a petition to the land court for registration of the easement. If it appears that no right of way exists it shall submit a report, together with recommendations thereon, to the general court on or before January first of the following year. This section shall not apply to any body of water used as a source of water supply by the commonwealth or by any town or district, or water company, nor shall it affect the right of the commonwealth or any town or district or water company to the use and control of the waters of any such pond for the purposes of a water supply, nor shall it affect or diminish any existing right to the use of the water of any such pond for mercantile or manufacturing purposes." (The General Law of Massachusetts: Part I. Administration of the Government; Title XIV. Public Ways and Works; Chapter 91. Waterways; Chapter 91: Section 18A. Public Access to Great Ponds; Petition)

- The "**Urban Coastal Greenways (UCG) Policy**" for the Metro Narragansett Bay Region of Rhode Island (Cranston, East Providence, Pawtucket, and Providence) "offers a mechanism to redevelop the urban waterfront of the area to integrate expanded public access along and to the shoreline, economic development, and management, protection, and restoration of valuable coastal habitats. The UCG policy is intended to provide a permitting option that clarifies and streamlines the regulatory process for urban coastal development and creates greater flexibility in meeting the Coastal Resources Management Council requirements. The new policy establishes specific standards regarding overall vegetation of the site, management of stormwater runoff using Low Impact Development (LID) techniques, and public access. An '**Urban Coastal Greenway**' is a land area located with the Metro Bay Region and adjacent to a coastal (shoreline) feature on a development site; is, or will be, appropriately vegetated to provide native plant communities and/or sustainable landscapes which serve as a natural transition zone between the coast and adjacent upland development; provides public access adjacent to the shoreline; and is established and managed to protect aquatic, wetland, shoreline, and terrestrial environments from man-made disturbances and coastal flood hazards, while allowing for coastal economic development."
  - Residential zone requirements in the UCG Policy offer two options. **Option 1**: Applicants (developers) may follow existing coastal buffer and setback regulations in the **Rhode Island Coastal Resources Management Program** (RICRMP)
  - **Option 2**: the UCG width may be reduced through **compensation**. The standard UCG width may be reduced through a number of detailed alternatives (http://www.crmc.ri.gov/regulations/programs/UCG10oct06.pdf) to a compact width in return for site or coastal resource enhancements, such as improved public access or habitat conservation and preservation.
  - "It is the responsibility of RICRM Council to ensure the availability of public access points for coastal recreation" (UCG Policy 120.3b)
  - UCG Policy 120.4: "The RICRMC encourages the incorporation of public access on new developments in Section 335 of the RICRMP."
  - "Projects on municipal or state-owned land may be considered compliant with relevant UCG requirements when the sole purpose of the project is to provide public access or other public amenities (e.g., ball fields, parks, playgrounds, public boat ramps or boating facilities, etc.)"

- Public Access: "It is the RICRMC's preference that applicants provide alongshore and arterial public access pathways within the development site, as described in UCG Section 150.5. Public access shall always be required:
  - 1. where the proposed project impacts upon public trust resources;
  - 2. on sites that have existing public access areas; and
  - 3. on CRMC-designated rights of way (ROW) or previous easements granted under RICRMP Section 335."
- "Public access may not be required for development activities subject to United States Coast Guard Maritime Security (MARSEC) jurisdiction."
- UCG Policy 150.3: General Standards for Urban Coastal Greenways: "The boundaries of the Urban Coastal Greenway easements shall be marked on all plans used for planning, permitting, and during construction. Additionally, the public access path and other public amenities (e.g., overlook, canoe or kayak launch, etc,) must be clearly delineated on site plans submitted for review to the RICRMC."
- ****UCG Policy 150.5: Public Access Standards for all Urban Coastal Greenways****: "Wherever public access is provided, the following public access standards shall be met:
  - (a) The public access component shall be located within the UCG identified for the project. In certain cases, the RICRMC may allow the public access component to be located within the construction setback or other portion of the site as conditions may require. Applicants, however, must ensure that the UCG primary public access path on their development site connects with any existing UCG public access path on adjacent parcels.
  - (b) The applicant's engineer must certify that public access paths and associated elements shall be compliant, where applicable, with the most recent version of the Americans with Disabilities Act (ADA) Standards for Accessible Design (See: http://www.usdoj.gov/crt/ada/stdspdf.htm).
  - (c) The Council prefers that all new multi-residential, commercial, and mixed-use developments provide primary (alongshore) public access within the Urban Coastal Greenway. These **primary public access pathways** shall be a minimum of eight (8) feet in width to accommodate pedestrians but may be wider if designed to accommodate both pedestrian and bicycle access. Projects must design the UCG pathway to provide an extension of adjacent existing pedestrian or bicycle pathways, if consistent with a municipal or state pedestrian or bike path access plan.
  - (d) All public access pathways should be constructed of a pervious surface. In those cases where pathways are constructed of impervious materials for bicycle access or to be consistent with existing adjacent impervious surface paths (ex. Waterplace Park), the project must include stormwater treatments to minimize stormwater runoff, as described in the *Urban Coastal Greenway Design Manual*. Public access paths shall be designed to have a relatively flat profile and cross section to prevent stormwater runoff from eroding the path surface or adjacent soils. When paths are located directly adjacent to the coastal feature, they should be angled slightly to cause stormwater runoff to flow inland for treatment (e.g., bioretention area), rather than toward the coastal feature.
  - (e) Each parcel with a UCG shall include at least one secondary (arterial or perpendicular) access path leading to the linear UCG public access path, unless adjoining parcels share a **secondary public access path** as described in UCG Section 150.5(g).
    - 1. The access path must emanate from a public place. The secondary access path should be a minimum of eight (8) feet in width to accommodate pedestrian traffic, but may be up to twenty (20) feet in width when emergency vehicle access is necessary. In the latter case, the pathways must

be capable of supporting emergency and maintenance vehicles. Urban Coastal Greenways Policy Effective Date - November 2, 2006 23

- 2. The secondary access path shall connect sidewalk traffic with the alongshore UCG path, and may be a meandering path, as long as erosion is minimized. All public access pathways shall be recorded within the land evidence records and shall run with the land. The limited liability provision stated in RICRMP Section 335 shall apply to these public access pathways.

- (f) Each Urban Coastal Greenway must include adequate provisions for emergency vehicle access paths from the nearest street to the shoreline. These vehicular paths shall be constructed of a permeable surface capable of supporting emergency vehicles.
- (g) Each project must provide at least one secondary public pedestrian or vehicular access pathway per 500 linear feet of shoreline. Adjoining parcels may share secondary pedestrian or vehicular access paths on their shared boundary, where applicable. The RICRMC may waive the 500-foot secondary pathway standard if the applicant provides ten (10) percent more public parking spaces than required in section 150.5(h), below, and can demonstrate that there is adequate available secondary public access.
- (h) In order to facilitate public access to the shoreline, each development with a UCG shall include a minimum of two (2) public parking spaces adjacent to an access point or incorporated within a project, and an additional space per 100 linear feet of shoreline (where "linear" refers to the shortest distance between lot boundaries) within the parcel. The placement of the public parking spaces shall be decided in consultation with the RICRMC and the municipality of jurisdiction. In cases where the project is directly adjacent to public parking, (defined as on-street parking and off-street parking available to the general public), such spaces may be included for purposes of satisfying the public parking requirements of this section
- (i) Acknowledgement of Existing Public Access: The CRMC may allow reduced public access requirements within lots containing preexisting public access, provided there is no net loss of access and the following standards are met:
  - (1) Where existing public access pathways and **public roads** occur between the coastal feature and the development parcel(s), the primary (alongshore) public access and construction setback requirements may be waived.
  - (2) Where public roads are immediately adjacent to the sides of the development perpendicular to the coastal feature, these public roads may count toward the Urban Coastal Greenway secondary public access requirements. The road(s) must be usable for pedestrian and/or emergency vehicle access, as appropriate."

- **Warren, RI** defines public access in terms of '**Waterfront Overlay Districts**', the purpose of which is "to establish and maintain a zoning district of mixed uses characterized by architectural and design standards consistent with traditional New England maritime centers, with sidewalks; pedestrian-friendly access; storefront windows allowing window shopping; walkways, bicycle paths; off-street parking dispersed into small, landscaped lots; trees; and access and visual right of ways to waterfront"
  - "The overlay district is designed to ensure waterfront development that is orderly and harmonious, including site and architectural design, which is compatible with traditional New England maritime centers, and the surrounding area, safe and convenient provisions of automobile and pedestrian access and circulation, landscaping and appropriate signage and light.

- o Buildings in the Waterfront Overlay District should be planned to promote opportunities for walking and bicycling as well as private motor vehicles and public transportation."

A Waterfront Development Plan for the Town of Warren, Rhode Island defines by name and clearly posts at the site each public and undeclared right-of-way to the water. The plan also lists the public parking lots downtown and names existing sites offering public access that need physical improvements.

- **Buchner/Krupski/Austin vs. Mark Gronlund and the Department of Environmental Protection** – Leesburg, Florida, September 27, 2002
    - **Issue**: whether Department of Environmental Protection (DEP), should grant the application of Mark Gronlund to modify his Standard General Environmental Resource Permit for water ski jump and slalom courses on Lake Blanchester in Lake County, Florida, to increase the size of the jump course and combine it with a new slalom course, so that buoys are shared by the two courses, and to add gate alignment buoys to the existing slalom course
    - **Decision**: Gronlund's permit modification was granted without a showing of ownership or control of the lake bottom. Gronlund was found to have provided the necessary reasonable assurances after consideration of the pertinent enforcement matters and Gronlund's efforts to resolve them. The DEP was told to enter a final order granting the application for modification of Standard General Environmental Resource Permit, No. 35-167439-001, with the additional condition that the permitted ski jump and slalom courses would be for personal use only and would not be used for a ski school or for organized ski tournaments.
        - It was decided that proposed modifications would not create a navigational hazard or interfere with public use of waters of the state (other than the obvious preemptive use of the waters of the courses while being skied). No riparian rights (as opposed to other property rights) would be infringed. No applicable statute or rule explicitly requires Gronlund to demonstrate ownership or control of the lake bottom on and over which he intends to place his proposed ski courses. Instead, Gronlund's permit conditions were explicit that the permit did not convey or create any property right, or any interest in real property, or authorize any entrances upon or activities on property which is not owned or controlled by Gronlund [Florida Administrative Code Rule 62-343.020(5)]

- **Tappahannock, VA** does not define public access in its zoning ordinances

- **King William County, VA** defines public access in its ordinances as it relates to street designations
    - "Landscaped buffers along existing and planned public roads: For all subdivisions developed in R-R and R-1 residential districts, a buffer shall be located along all public roads (not within subdivisions) existing on the date of final subdivision approval and all roads designated on the major thoroughfare plan on which the subdivision fronts, to a minimum depth of 50 feet."
    - "Right of access. Anyone who subdivides land shall provide right of access to public streets of sufficient width to meet the minimum requirements of the Virginia Department of Transportation. No land shall be reserved, held or controlled for the purpose of prohibiting access to streets and roads unless owned, held or controlled exclusively by the county or an agency of the state or federal government."
    - "Public streets. All streets intended to be public in a proposed subdivision shall be designed and constructed in accordance with subdivision street standards published by the Virginia Department of Transportation. Streets so designed and constructed shall be recommended by the county for inclusion in the state highway system."

- **King and Queen County, VA** defines public access in its ordinances as it relates to street designations
    - "Street, service drive*:* A public right-of-way generally but not necessarily parallel and contiguous to major highway, primarily designated to promote safety by eliminating unrestricted ingress and egress to the right-of-way by providing safe and orderly points of access to the highway and which may enter a public road."
    - "Street, minor*:* A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than 500 vehicles per day."
    - "Way, Pathway, Trail, Trace, Path, Branch: A dead-end right-of-way generally less than 1,000 feet long. A minor street that changes direction or begins and ends on the same thoroughfare that is generally a private but sometimes public road."

- **Gloucester County, VA**. Public access is defined in terms of highway corridor overlay districts:
    - Sec. 6A-4: "The purpose of this section is to regulate vehicular and non-vehicular access to developments subject to this article. The intent of such regulation is to maintain or improve the level of service of roads; to minimize the number of access points to roads; to promote the sharing of access and the ability of travel between sites; to ensure that development is of a scale proportionate to the capacity of existing and proposed transportation facilities; to provide pedestrian circulation networks among residential, commercial, and recreational areas; and to enhance safety and convenience for the public. Toward those ends, Virginia Department of Transportation standards shall be seen as minimum standards; in some cases, this ordinance will require standards more stringent than those prescribed by VDOT."
    - "Pedestrian Access: Pedestrian walkways shall be incorporated into each project in such a fashion as to minimize conflicts with vehicular traffic. Pedestrian circulation systems shall be extended to adjacent parcels and shall connect uses within individual projects. Pedestrian walkways shall be shown on site plans."

- **Hampton, VA** defines public access as it pertains to "public swimming", "blocking access to the waterway", and regulating activities conducted by the public on a public bridge or a public beach (although a "public beach" is not defined). Examples:
    - Sec. 7-2. "Designating and marking of swimming areas. The city manager is hereby authorized to designate areas for public swimming and to mark such areas with buoys or other markers. Such markers shall be colored bright orange or yellow in accordance with the international uniform markers and shall be placed offshore and not more than one hundred (100) yards from the mean low-water mark."
    - Sec. 7-14. "Sanctions for violations; fines, seizure; removal of watercraft blocking access to the waterway; Abandoned Boat Act. 'If any unoccupied watercraft is found by the chief of police, or his designee, to be anchored or moored so that any portion of the watercraft is at any time less than seventy-five (75) feet from the berthing place of another watercraft and blocking its access to the waterway or to its berth, permission to anchor shall be considered revoked and the chief of police, or his designee, shall post a one hundred dollar ($100.00) infraction notice upon the unoccupied watercraft. The chief of police, or his designee, shall then ascertain when the blocked watercraft actually needs to exercise its right to access. If able to assist in providing sufficient access at that time by shifting the lay of the blocking watercraft while it remains at anchor, the chief of police, or his designee, shall do so and shall have the option to continue to do so on up to five (5) successive days, upon each of which the chief of police, or his designee, shall post an additional infraction notice…'"

- **Chesapeake, VA**. Public access is defined as it pertains to development:
    - § 19-705. "Street and pedestrian access. Clearly defined street and pedestrian access, in readily usable condition, must be provided by the subdivider or developer to the public sites and open space areas for use by homeowners and the public. Access, other than by a paved street, shall be depicted on the recorded final subdivision plat or on the final site plan and shall serve as an access route for so long as the open space or recreational area is available for public or neighborhood use." (Ord. No. 02-O-122, 10-15-02)

    - § 19-706. Dedication, preservation and maintenance.
        - A. "The land provided under this section may be dedicated to the city, subject to acceptance of such land by the city, for maintenance and operation or may be preserved by other means approved by the parks and recreation director and city attorney, provided that such alternative means shall provide comparable assurance that the land will be available and usable for open space and related recreational purposes. Dedication of the land to the city shall be free and clear of all liens and encumbrances and shall be accomplished by recordation of a plat or deed, approved and signed by an authorized agent of the city.
        - B. Dedication of required open space and recreational areas shall be accomplished prior to or simultaneously with final subdivision plat or final site plan approval. However, in cases where the subdivision or development is to occur in phases and the approved open space or recreational area is not located in the first phase of such subdivision or development, the directors of public works and parks and recreation may jointly agree to defer the dedication of the open space until such time that no more than 50% of the total number of lots shown on the approved preliminary subdivision plan have been recorded or, in the case of multifamily housing, no more than 50% of the total number of dwelling units shown on the approved preliminary site plan have been issued building permits. Such deferral shall be conditional on 1) the subdivider or developer provides the city with a suitable bond or letter of credit to assure the dedication, said bond or letter of credit to be in an amount equal to the fair market value of the approved open space or recreational area, as determined by the public works director or designee, and 2) the subdivider or developer provides the city with adequate access to the approved open space or recreational area, suitable for use by emergency vehicles, as determined by the public works director or designee. Unless a deferral is granted, no building permit shall be issued for any structure or residential unit within the subdivision or development until such dedication is complete, with the exception of building permits for model homes in accordance with section 13-1505.B of this ordinance. Where dedication is deferred, no building permit shall be issued for more than 50% of the lots shown on the approved preliminary subdivision plan or for more that 50% of the dwelling units shown on the approved preliminary site plan until such dedication is complete.
        - C. **Proposals for conveyance of the land to a private entity shall be reviewed by the parks and recreation director and approved by the approval agent for the preliminary subdivision plan or preliminary site plan. Such proposal shall make sufficient provision to ensure the continued maintenance of the property and the right of public access to it.**
        - D. **The subdivider or developer shall ensure that the land dedicated as open space or recreational area meets all development criteria for the zoning district in which the property is located**. The subdivider or developer shall improve such land with drainage, utilities (including payment of pro rata), access, curb and gutter and other public improvements applicable to subdivisions and

developments under chapter 70 of the subdivision ordinance and article 18 of this ordinance. All bonding provisions in chapters66 and 70 of the City Code shall apply to open space dedications. Notwithstanding anything to the contrary in this ordinance, landscaping shall consist of twenty percent (20%) tree canopy coverage, calculated in accordance with section 19-600. The type and location of the large canopy trees shall be shown on a landscape plan approved by the city arborist. The twenty percent (20%) canopy coverage may be accomplished by preservation or new plantings, however, the city arborist may in any case require trees along the perimeter of the open space and shall further require that all dead and dying trees be removed before the land is dedicated as open space." (Ord. No. 02-O-122, 10-15-02)

- § 19-708. Improvement of property; payment in lieu of improvement.
  - A. "The subdivider or developer shall improve the property provided under section 19-700 in accordance with a plan approved by the parks and recreation director. The plan shall ensure that the property can be viably used and enjoyed as a public open space and recreational amenity. All improvements shown on the approved plan shall be completed by the time that fifty percent (50%) of the lots in a subdivision are created by the recordation of one or more approved final subdivision plats or the development has received final site plan approval. In lieu of such improvement, the subdivider or developer may opt to provide payment to the city of five hundred dollars ($500.00) per dwelling unit planned for the subdivision or development. All such fees shall be used at the discretion of the parks and recreation director for the purpose of the development or improvement of neighborhood, community and district parks for the subdivision or development, as described in the parks and recreation plan adopted by city council on October 15, 1991, as amended. Such payment shall be provided by the time of final subdivision plat or site plan approval for all subdivisions and developments with the exception of multifamily developments and group housing for the elderly, for which required payments shall be made prior to the issuance of any building permit for construction associated with the development.
  - B. In cases where the subdivider or developer installs private improvements for the use of the residents of a subdivision, multi-family complex, planned unit development project or group housing for the elderly facility, a reduced fee in lieu of public open space and improvements shall be assessed, as provided in section 19-709.B." (Ord. No. 02-O-122, 10-15-02; Ord. No. 03-O-003, 1-21-03)

- § 19-709. Payment in lieu of providing open space and recreational area.
  - A. "Where the parks and recreation director determines that the subdivision or development is not amenable to beneficial development of open space and related recreational areas the subdivider or developer, in lieu of providing the required open space and related recreation area, including improvements thereto, shall provide to the city a payment of one thousand ($1,000.00) dollars per dwelling unit planned for the subdivision or development. All such fees shall be used at the discretion of the parks and recreation director for the purpose of developing or improving neighborhood, community and district parks serving such subdivision or development, as described in the parks and recreation plan adopted by city council on October 15, 1991, as amended. Such payment shall be provided by the time of final subdivision plat or site plan approval for all developments with the exception of multifamily and group housing for the

elderly developments, for which required payments shall be made prior to the issuance of any building permit for construction associated with the development. No lot size reduction shall be made in such subdivisions and developments.

- B. In cases where the subdivider or developer devotes privately owned land for the use of the residents of a subdivision, multi-family complex, planned unit development project or group housing for the elderly facility, a reduced fee in lieu of public open space and improvements in the total amount of two-hundred fifty dollars ($250.00) per dwelling unit or lot shall be assessed if each of the following criteria are met:
  - 1. Land within the subdivision or development is permanently set aside for a private park and/or recreational facility.
  - 2. The amount of land set aside is equal to the percentages required in section 19-702 above, excluding wetlands; land submerged under nontidal waters, up to the normal watermark; and land within an open drainage ditch, measured from top of bank to top of bank. This calculation shall be in addition to open space required for cluster and planned unit developments and shall also be in addition to any open space proffered in a conditional rezoning.
  - 3. The land meets all development and subdivision regulations and is accessible to all residents of the subdivision or development.
  - 4. The land is improved with recreational amenities, the value of which shall equal or exceed the sum of five hundred dollars ($500.00) per dwelling unit, as verified by the director of parks and recreation on the basis of a detailed description of the improvements and the purchase price for each such improvement. Such information shall be provided for the city as part of the preliminary and final subdivision and site plan review process.
  - 5. The improvements meet or exceed national safety standards, as determined by the director of parks and recreation.
  - 6. The subdivider or developer provides assurances of the perpetual maintenance of the land and improvements.
  - 7. The location of the private park and/or recreational facility is shown on the approved preliminary and final subdivision and site plans and on approved subdivision plats.
  - 8. The improvements are fully installed and the private park open for use:
    - i) Prior to the issuance of certificates of occupancy for more than seventy-five (75%) of all dwelling units or lots shown on the approved final site plan or approved final subdivision plan, or
    - ii) At such time that a homeowner's association or property owner's association accepts dedication of the private park and improvements, whichever is the first to occur." (Ord. No. 02-O-122, 10-15-02; Ord. No. 03-O-003, 1-21-03)

- § 19-710. Conveyance of dedicated open space and recreation areas.
  - "Upon determination by the parks and recreation director that any park, open space, or recreational area dedicated to the city under this section, or any portion thereof, no longer serves the purposes for which it was dedicated, the parks and

recreation director may recommend to the city manager that it be sold or disposed of, in whole or in part, as surplus property. No such park, open space, or recreational area, or portion thereof, shall be conveyed without city council approval after a public hearing advertised in accordance with the requirements in section 15.2-1813 of the Code of Virginia, 1950, as amended. No such park, open space, or recreational area, or portion thereof, shall be sold if needed to meet open space requirements in a planned unit development or cluster development, or if dedicated to satisfy a proffer or stipulation, unless or until the requirement is amended to allow the conveyance. Where portions of a lot are to be sold or conveyed, an approved subdivision plat shall be recorded prior to the conveyance in accordance with chapter 70 of the city code. All costs associated with the subdivision shall be the responsibility of the grantee." (Ord. No. 02-O-122, 10-15-02)

- **Manassas County, VA**. Public access is not defined; rather, "Public place" is mentioned, as it pertains to offenses against peace and order
    - "'Public Place' means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies, and corridors of hotels, and any highway, street, lane, park, or place of public resort or amusement. "Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests" (Code of Virginia, §§ 10.1-1414)

- **Chesterfield County, VA**. Access is defined in terms of nonresidential or mixed-use development only
    - "The purpose and intent of this division is to regulate nonresidential or mixed-use developments in order to maintain or improve the level of service of roads; to minimize the number of access points to roads; to promote the sharing of access and the ability of travel between sites; to ensure that development is of a scale proportionate to the capacity of existing and proposed transportation facilities; to ensure that appropriate traffic mitigation measures are provided; to provide pedestrian circulation networks among residential, commercial, and recreational areas; and to enhance safety and convenience for the public. To these ends, implementation of an approved transportation systems management plan is encouraged."