



# Town of Simsbury

933 HOPMEADOW STREET ~ SIMSBURY, CONNECTICUT 06070

## TOWN OF SIMSBURY

### Criteria and Guidelines for Acquisition of Open Space *Adopted by the Board of Selectmen on November 22, 2021*

#### 1. Purpose

The Town of Simsbury prioritizes preserving critical lands and open space as a public good and a policy priority. Open space is considered land which is protected from development and preserved in the current state. Goals are 1) to preserve, enhance and expand the natural lands, water resources, and agricultural lands of Simsbury to ensure healthy and safe environment that serves and educates the community; and 2) to steward these ecosystems, farms, clean waters, scenic views, and historic sites for the benefit of all members of current and future generations. The 2017 Plan of Conservation and Development provided an inventory of existing areas considered to be open space.

Connecticut General Statute (CGS) provides the Town guidance for criteria which should be considered when purchasing land for open space purposes. **CGS § 12-107b** defines open space purchased pursuant to **CGS § 7-131c** as:

*“...any area of land, including forest land, land designated as wetland under section 22a-30 and not excluding farm land, the preservation or restriction of the use of which would (1) maintain and enhance the conservation of natural or scenic resources, (2) protect natural streams or water supply, (3) promote conservation of soils, wetlands, beaches or tidal marshes, (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (5) enhance public recreation opportunities, (6) preserve historic sites or (7) promote orderly urban or suburban development”*

The State's Plan of Conservation and Development Plan lists several types of land with open space characteristics suitable for preservation. It categorizes three levels of conservation priority and describes land in each. **Table 1** lists its definitional criteria:

## **Table 1:**

<b><u>Level 1: Existing Open Space</u></b>	<b><u>Level 2: Preservation Areas</u></b>	<b><u>Level 3: Conservation Areas</u></b>
<ul style="list-style-type: none"><li>• Parks, forests and select spaces</li><li>• Major preserves owned by quasi-public entities</li><li>• Class I water supply lands owned by the state or utilities</li></ul>	<ul style="list-style-type: none"><li>• Class I water supply lands not owned by the state or utilities</li><li>• Floodways and wave hazard areas</li><li>• Inland wetland soils</li><li>• Tidal wetlands</li><li>• Areas designated open space on local plans</li><li>• Existing water bodies</li><li>• Agriculture lands for which the state holds the development rights</li></ul>	<ul style="list-style-type: none"><li>• Class II water supply lands</li><li>• Level A aquifer protection areas and some level B areas)</li><li>• 100-year flood fringe areas</li><li>• Scenic and recreation river corridors</li><li>• Significant sand and gravel resources</li><li>• Prime agricultural lands</li><li>• Historic areas</li><li>• Trap rock ridges</li><li>• Greenways and scenic areas</li><li>• Conservation easements</li><li>• Potential major outdoor recreation areas</li></ul>

## **2. State Programs Encouraging Open Space**

Several programs and policies encourage state and municipal open space preservation and conservation in Connecticut.

### ***I. The Recreation and Natural Heritage Trust Program***

The Recreation and Natural Heritage Trust Program, established in 1986, authorizes the DEP to acquire open space lands outright or in cooperation with municipalities, conservation organizations, or other parties (CGS § 23-73-80). It is the DEP's largest land acquisition program. The lands must represent the state ecological diversity for recreation, scientific, education, culture, and esthetic purposes as well as land of unusual natural interest. To date DEP has acquired over 11,411 acres and 387 acres of easements under the program at a cost of approximately \$53 million. PA 98-157 made several changes to the program. Most importantly it authorizes the bonds for the program to be issued semiannually rather than requiring issuing bonds for each parcel (a time consuming and expensive process).

### ***II. The Protected Open Space and Watershed Land Acquisition Grant Program***

PA 98-157 establishes a new open space program called the Protected Open Space and Watershed Land Acquisition Grant Program. The program helps (1) municipalities and nonprofit land organizations acquire land or permanent interests in it, (2) water companies acquire land that protects drinking water supplies, and (3) distressed municipalities and targeted investment communities restore or protect open space land they already own. The act sets land eligibility criteria and future use restrictions and requires all land purchased through the program to have a conservation easement in favor of the state or its designee. Land acquired under the program must generally be protective of wildlife habitat, prime natural landscapes, fishing and recreation opportunities, water resources, or other important ecological or agricultural resources. The land must not be used for commercial or recreational purposes requiring intensive development.

III. ***The Farmland Preservation Program***

The Farmland Preservation Program, established in 1978, authorizes the Department of Agriculture (DOA) to purchase the development rights of existing farms (CGS § 22a-26aa). Purchasing the development rights allows the state to prevent nonagricultural development on the land and to preserve the pastures, woods, and open areas for the benefit of future generations while leaving the operation and management of the land to the owner. The DOA has acquired 169 farms consisting of 25,408 acres.

IV. ***The 490 Program***

The 490 Program, established by PA 63-490, is an agricultural land and open space conservation program that allows municipalities and property owners to designate certain lands as farm, forest, or open space and reduce the taxes on the land according to valuation guidelines set by DOA. The program recognizes that it is in the public interest “to encourage the preservation of farm land, forest land, and open space...to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state... [and] to prevent the forced conversion of farm land, forest land and open space land to more intensive uses as the result of economic pressures caused by...property taxation...”(CGS §12-107a).

V. ***Farms, Fruit Orchards, and Vineyards***

Municipalities may, with the approval of their legislative bodies, and boards of finance, abate up to 50% of the property taxes on certain farms and vineyards maintained as a business (CGS § 12-81m). The following types of properties are eligible (1) dairy, vegetable, nursery farms, and tobacco; (2) fruit orchards; and (3) farms using nontraditional farming methods.

VI. ***Greenways***

The Greenways program, established in 1995, allows the DEP to make grants of up to \$5,000 to towns or organizations (up to a total of \$50,000 per year) to plan, design, and implement greenway projects (CGS § 23-100). The money cannot be used to acquire the land, but the projects are eligible for other state funds and federal Intermodal Surface Transportation Efficiency Act funds.

VII. ***Land Acquisition Funds***

A municipality may establish a land acquisition fund and deposit up to 2 mils of its property tax assessment into the fund (CGS § 7-131r). The fund may be used to acquire land for open space, recreation, or housing.

VIII. ***The Forest Legacy Program***

The Forest Legacy Program, established in 1990, is a cooperative federal program administered by the DOA that provides federal matching funds to acquire forestlands or development rights for acreage that may be threatened by conversion to non-forest uses.

IX. ***Cluster Development and Transferable Development Rights***

Local planning and development controls can significantly contribute to open space preservation. Cluster development and transferable development rights (TDR) are important zoning powers that give municipalities planning flexibility to achieve important environmental and public health goals (like open space, wetlands, and historical preservation,

sanitary sewerage planning, and ground water protection) while facilitating development within the development density of conventional zoning requirements.

Cluster development is a method of subdivision planning that clusters the dwellings and structures in one area of the subdivision and leaves the rest of the area undeveloped. It allows the developer to preserve the most vulnerable or critical area of the parcel and to build on the portion best suited for dwellings; it also can be used to minimize the portion of the parcel that will be cleared and minimize the area of impervious surfaces. By law at least one-third of the land in a cluster development must remain as open space to be used exclusively for recreational, conservation and agricultural purposes, although municipalities may require more than one-third on any particular development (CGS § 8-18).

TDR systems allow owners in designated preservation areas to sell the rights to their forgone development to owners in designated development areas who want to exceed regular zoning limits. Municipalities may singly or jointly establish a TDR system and adopt special zoning regulations for properties in the system (CGS § 8-2, 2e, and 2f).

### **3. Objectives in Preserving Open Space**

One of the goals in the 2017 Plan of Conservation and Development was to maintain an appropriate balance between the use of land and the conservation of natural resources. When the Town of Simsbury is considering acquiring a property for open space purposes (in no particular order) the following will be considered:

- Protection of surface water quality
- Enhance connection to existing open spaces
- Create trail linkages between isolated open spaces
- Enhance wildlife corridors between open space parcels
- Protect critical habitat, importance placed on areas which provide habitat to endangered or threatened species as defined on Connecticut Natural Resource Database and/or federally recognized species
- Protect public drinking water (aquifers or reservoirs)
- Protect natural drainage pattern and manage storm water
- Protect lands of social or cultural importance
- Provide sites for active recreation
- Provide sites for passive recreation
- Protect the municipality's unique natural features that help define a community's character
- Preserve prime agricultural lands/soils
- Preservation of areas of core forests
- Prevention against term soil erosion
- Promote and preserve old and old-growth forests