

12.7 2022 Amendment to the PoCD Regarding Public Act 490 and Open Space

In the State of Connecticut, Public Act 490 (PA 490) and its related Statutes (CGS 7-131c and 12-107a to 12-107e) enable municipalities to reduce the tax assessment on land that is classified as Farmland, Forest Land or Open Space Land. Recognition of the Farmland and Forest Land Classifications is mandatory for all Connecticut municipalities. Acceptance of the Open Space Classification of PA 490 is left to the discretion of individual towns and requires the completion of certain actions to formalize participation. Neither the reduced tax assessment nor the classification of Open Space afforded by PA 490 is permanent; rather, there is a minimum enrollment period of 10 years during which the designated parcel must remain undeveloped or risk substantial financial penalties. Enrollment runs with the owner, not with the land; therefore, with each change of ownership the classification must be sought again by any new owner.

The first step in the process to adopt the PA 490 Open Space Classification is for the Planning and Zoning Commission to recommend land within the Town for preservation as Open Space within the Town's Plan of Conservation and Development. This amendment to the PoCD is intended to fulfill that requirement.

In considering the areas of Thompson which may be most appropriate for Open Space tax assessment, it is necessary to take into account documentation from June of 1979 which supports the Town's intention at that time to adopt the Open Space Classification. Meeting minutes from the 18 June 1979 meeting of the Thompson Planning Commission¹ show the following:

"Discussion of lot size and minimum area for open space, when less than twenty-five acres are involved.

In order to prevent forced sale of land the commission adopts as part of their plan of development for the town a statement which declares those tracts in excess of a given acreage and unbuilt on or undeveloped to be critical to the preservation of the environment in the town. This action will enable those landowners who are not eligible for either the farm or forest use assessment, to be eligible for a lower assessment on their land.

Motion made by Bruce Seger, seconded by Donald Hayes to set the minimum area for open space in the Town of Thompson at 3 acres.

Motion carried."

While PA 490 is not specifically referenced in the minutes, the language is sufficiently similar to that of CGS 12-107 to indicate that the intention of the Planning Commission was to adopt the Open Space Classification for Thompson; however, the additional requirements for adoption do not appear to have followed. The proper order of action, following approval by the Commission, is for the Board of Selectmen to approve the areas recommended for open space by the Commission; then an Open Space Assessment Ordinance must be written and approved by the Town Meeting. As of January 2022, no such Ordinance is found in any of the Town's records. There is some question as to whether the Statutes at the time required the approval of the BoS and the adoption of the Ordinance, therefore the Assessor has allowed past enrollees to continue

¹ At the time, the Planning Commission and Zoning Commission were separate bodies in the Town of Thompson.

their participation in the program. In order to offer enrollment to new applicants going forward, the Town must take steps to be in compliance with the current statutory requirements.

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Taking all of the above information into account, the Planning and Zoning Commission for the Town of Thompson therefore makes the following recommendation to the Board of Selectmen:

In order to reduce the financial pressure to sell land and to incentivize the preservation of open space within the Town of Thompson, the Planning and Zoning Commission recommends the adoption of the Open Space Classification of PA 490, with the following criteria:

- Land in all zoning districts of Thompson is eligible for consideration.
- The minimum area eligible for classification as Open Space shall be 3 acres of vacant or undeveloped land.
- In cases where a parcel includes developed portions, the 3 acre minimum shall be land in excess of any developed portion. The developed portion shall be calculated, at a minimum, as the area of a single building lot within the given zoning district.
- Open Space shall not include areas kept as lawn grasses; or those which include paved, graveled or graded parking areas; septic fields and reserve areas; and/or swimming pools or tennis courts. Fenced-in areas shall not be eligible for assessment as open space, except as described below.
- In the Town of Thompson, the following land types shall be eligible for the Open Space Classification:
 - Forested land which is not otherwise eligible for the Forest Land Classification (e.g. parcels less than 25 acres, or parcels which are not certified by a State Forester)
 - Land which is being farmed for personal use (e.g. pastureland, apiaries, or other homestead agriculture). If the land being farmed for personal use includes fenced-in areas related to the agricultural use, then those areas shall be eligible for Open Space Classification.
 - Areas being kept as managed meadows, which may require occasional maintenance mowing or clearing of invasive species for conservation purposes.
 - Areas which include historic stone walls, which shall not be considered "fenced-in."
- Land set aside under the Open Space requirements for a Subdivision or a Conservation Subdivision shall not be eligible for enrollment in PZ 490. Such land is to be preserved permanently as Open Space, as described in the Subdivision Regulations of the Town of Thompson.

Comment [P1]: Switched the order of these bullet points. Normally I would not lead with the exclusions, but in this case it seemed to make the intent of bullet points 4 & 5 clearer.

Comment [P2]: Some commenters wanted to eliminate bullet point 4 (the exclusions). If the Agriculture Commission votes to do so, it can be deleted from this text; however, I would recommend against striking that language for the following reasons:

1. As the Assessor stated, an applicant whose parcels included these uses would be denied. Stating it up front clarifies the expectations.
2. Although it is possible to delete reference to the exclusions in the PoCD, when the Ordinance is eventually drafted a more thorough description of what is and is not eligible will be written. It would be good practice to make this summary of the recommendations consistent with the eventual text of the ordinance.

Comment [P3]: The amended text shown for bullet points 4 & 5 incorporates suggestions received at the 9 Feb meeting.

Deleted: In Thompson, Open Space may include areas which are kept as forest land, apiaries or farming for personal use, if those areas do not already qualify for either the Farmland or Forest Land Classifications of PA 490.