

SECTION 5 – INVENTORY OF LANDS OF CONSERVATION AND RECREATION INTEREST

A. Introduction

The term “open space” generally refers to undeveloped or under-developed land or water areas that are managed primarily for preservation or recreation. For the purpose of this Plan, the term “protected open space” refers to land or water area that is permanently dedicated to conservation, recreation, environmental protection, or forestry and agricultural uses.

Protected open space serves several valuable functions. Depending on the type (e.g. forest, meadow, wetlands, farmland, etc.) open space can provide valuable habitat for both plant and wildlife, help replenish and protect aquifers, reduce and absorb storm water runoff, produce a sustainable source of a wide range of resources, and absorb and/or treat pollutants. Open space also offers numerous active and passive recreational opportunities and adds scenic views to the landscape. Open space can be owned by a municipality, a state or federal agency, a non-profit land protection organization, or a private landowner. However, there are different degrees of legal protection afforded to various parcels of land. Some publicly owned land is not protected while some privately owned land is protected. Land can be legally protected in the following ways:

- Private lands can be protected in perpetuity through deed restrictions, or conservation easements. These private lands are permanently protected if the deed is restricted by a Conservation Restriction, Agricultural Preservation Restriction, Historic Restriction, or Wetlands Restriction. Those restrictions running in perpetuity are protected under Article 97 of the Articles of Amendment to the State Constitution.
- Lands under special taxation programs, Chapter 61, 61A, or 61B, are actively managed by their owners for forestry, agricultural, horticultural, or recreational use. The community has the right of first refusal should the landowner decide to sell and change the use of the land, therefore, it is important to prioritize these lands and consider steps the community should take to permanently protect these properties.
- Lands acquired for watershed and aquifer protection are often permanently protected open space.
- Public recreation and conservation lands may be permanently protected open space (Article 97 land), provided that they have been dedicated to such uses as conservation or recreational use by deed. Municipal properties may be protected via the Town Meeting Vote.

It is critical for Foxborough to permanently protect its vulnerable open space properties. Open space improves the quality of life in a town by creating and enhancing public recreation areas, which encourage community interaction and by preserving scenic vistas and land with significant historic or cultural values, which promote a unique and identifiable community character. Furthermore, open space performs important environmental functions in a municipality. It conserves natural resources, protects water quality and quantity, reduces runoff, provides natural rainwater storage, diminishes the frequency and severity of flooding, improves air quality, and provides wildlife habitat.

In addition to enhancing quality of life, maintaining open space also has important economic benefits. To begin with, residential development increases the need for expensive town services and infrastructure. Studies have shown that there is a greater long-term cost to taxpayers when land is developed for residential housing than if the land was left as open space or as agricultural land. Furthermore, open space protects and enhances the taxable value of adjacent properties and can also attract business and investment. Research suggests that proximity to recreation and open space is the most important factor in choosing the location of a small business, while quality of life ranks as the third most important factor in choosing the location of a large business.

The following inventory includes existing open space and recreation properties in Foxborough that are legally protected lands, as well as lands that are essential for natural resource or recreation purposes that are not yet protected. Unprotected properties are vulnerable to adverse development and are therefore a priority for future acquisition or other protection measures. The inventory describes ownership, management agency, current use, condition, recreation potential, public access, type of public grant accepted, zoning, and degree of protection, for each parcel. The inventory is divided into two subsections, the first on Private Lands and the second on Public and Nonprofit Lands.

B. Publicly-Owned Open Space and Conservation Lands (Map 6C)

The major conservation areas in Foxborough are presented in Tables 12A (State, County) and 12B (Foxborough, permanently protected). These lists were derived primarily from the Foxborough Assessor's records. As shown in the tables, Foxborough has approximately 3,419 acres of protected open space owned in fee by governmental agencies and private, non-profit groups whose mission is primarily the acquisition and holding of conservation lands. This represents close to 25% of the Town's total area of 21 square miles (13,342 acres). Foxborough's Conservation Commission controls the largest portion (1,854 acres), followed by the Commonwealth of Massachusetts (828 acres), Foxborough's Water Department (332 acres), and Norfolk County (133 acres).

The Town owns 322 (+/-) acres of open space and 193 (+/-) acres of public recreation facilities, most of which are not permanently protected. In addition to the "in fee" lands listed above, approximately 200 acres of privately owned lands are protected from future development by conservation restrictions (CRs). With a CR, some or all of the development rights that are inherent to a parcel of land are separated from the ownership of the land itself and held by a governmental entity or an organization dedicated to protection of open space.

Conservation Restriction (CR) is the term used in the Massachusetts Conservation Restriction Act (G.L. Ch. 184, S31-33). CRs are designed to limit development of private land, usually permanently, through a voluntary, contractual agreement with the landowner. Typical provisions include prohibiting structures, excavating, paving, clear cutting and similar activities. Farming, forestry and public access may or may not be allowed. CRs differ widely in what they allow and what they prohibit, being hand tailored to the needs of the parties to the contract. CRs may be donated and result in an income tax deduction and a real estate tax reduction due to the reduced value of the remaining ownership rights to the property. The land may be bought and sold, but the CR remains with the land in perpetuity.

CRs benefit the Town and the landowner in several ways:

- A restriction should cost less money than outright acquisition; in fact, many restrictions are freely given because of the federal income and estate-tax advantages to the owner.
- The landowner retains the benefits of ownership and privacy.
- The land will be available to the owner for recreation, farming or other use as specified in the CR.
- The owner will maintain the land without on-going maintenance cost to the community.
- The owner is likely to pay less in real estate taxes.

C. Public and Private Recreation Facilities (Map 6B)

Table 13A lists publicly-owned recreation areas (approximately 193 acres) and facilities and Table 13B lists privately-owned recreation areas and facilities (approximately 174 acres). It should be noted that these figures may be overstated somewhat since school buildings occupy a significant portion of these "recreation" spaces.

D. Chapter 61, 61A and 61B Lands and Agricultural Preservation Restrictions (APR) (Map 6A)

Table 14 lists the Chapter 61, 61A, 61B and APR properties in Foxborough (in 2010), which total approximately 551 acres. Chapter 61, 61A, and 61B lands are privately owned properties used for forestry, agriculture and recreation purposes respectively (for additional details, see Section 4.D.4.c). There is only one APR in Town, located on West Street.

E. Other Lands of Conservation and/or Recreation Interest

The Open Space and Recreation Plan Committee maintains a list of other lands of conservation or recreation interest (Table 15). These are generally privately owned lands that provide scenic views, agriculture, wildlife habitat, or other contributions to the character of Foxborough.

It should be noted that it is not intended that the areas of Town and properties on this list are more important than other areas of Town or other properties. Rather, it is simply a non-exclusive list that indicates that these areas have several large parcels within them that have the potential to preserve Foxborough's character if many of them remain in their present state. This can be accomplished through the individual initiative of the landowners; the acquisition or donation of easements, conservation restrictions, or in fee title; limited development projects (e.g. creating and selling one or more building lots from a large parcel in order to finance the preservation of the remainder); or some combination thereof.