

Definition of Open Space for Purposes of CGS Section 23-8

This definition is designed to encompass all land currently used or acting as open space in Connecticut to help gauge progress towards the goal of holding 21% of the state's land area as open space as referenced in CGS Section 23-8 (b).

In order for land to be considered open space it must:

1. Meet one of the following:

- Be protected from development by a conservation restriction¹ held by a qualified conservation organization²
- Be owned in fee by a qualified conservation organization or water company

AND

2. Be restricted³, protected⁴ or used for one of the following purposes:

- To maintain or enhance the conservation of natural or scenic resources
- To protect natural streams or a water supply
- To promote healthy soils⁵
- To promote the conservation of wetlands, beaches or tidal marshes
- To enhance public outdoor recreation opportunities⁶
- To preserve historic property⁷ or agricultural lands

While this definition will help DEEP and its partners collect data on the open space land at a specific moment in time, we have to keep in mind that some of these lands may be vulnerable to conversion to another use. Conservation restrictions create the most permanent protection for open space land; all other open space land is vulnerable to conversion depending on existing law, the potential for changes to existing law, internal policies and existing legal protections. Below are vulnerability categories and some examples of the lands that fit these categories.

High Vulnerability - Properties with high vulnerability could easily be converted to another use. Examples include Municipal land that is used as open space but has no further protections and Class III land owned by Water Companies.

Low Vulnerability - Properties with low vulnerability would be difficult to convert to other uses because of existing laws, internal policies and existing restrictions. Examples include CT DEEP land, fee property owned by land trusts for conservation purposes, municipal land with state or federal grant restrictions and Class I and II land owned by water companies for the purpose of protecting drinking water sources.

Virtually No Vulnerability - Land of all types with a conservation restriction on it held by a qualified conservation organization.

Open Space Lands and Public Access - This definition of open space encompasses a wide variety of landscapes and properties, some of which are not open to the public for recreational use. All open space lands, whether open to the public or not, are critical assets that provide a wide range of ecosystem, economic and other public benefits. Understanding the distribution of diverse open space opportunities throughout our communities in Connecticut, including those accessible to people with disabilities, will help us recognize where disparities exist and ensure all residents have an opportunity to equitably enjoy all of the benefits that open space provides.

Private Lands with Some Public Benefit - There are private lands in Connecticut that provide some of the same public benefits as lands that fit the above definition, but these lands will not count towards the State's 21% goal. Specifically, land considered open space, forestland or farmland for tax purposes within the State's PA490 program and some homeowner's association set-asides provide some of the same ecosystem benefits as traditional open space land. However, in our analysis, it was determined that these lands would not count because the primary purpose of PA490 land is to align private taxes with the current use of the property and the public benefits are secondary. Similarly, homeowner's association set-asides are established primarily for developers to meet zoning regulations within towns. These lands typically do not have entities monitoring or managing them for open space purposes nor are they typically open for public access.

Future Protection of Open Space - DEEP will be using this definition to collect data on the distribution of open space lands in Connecticut. The data collected will be used to set goals for the next iteration of the Green Plan. As we use this new definition to understand current levels of open space in Connecticut, we need to also think of the future. Ensuring that vulnerable open space lands become more fully protected or that newly added open space lands are protected from the start will help ensure that future generations benefit from these critical assets. DEEP regularly updates the Green Plan to identify open space conservation priorities, and to focus state, federal, and private resources to ensure the best collective impact.

Definitions of Key Terms

1 Conservation Restriction - Reference CGS 47-42a - a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.

2 Qualified Conservation Organization - Reference IRC 170 (h) - In general, this includes Federal, State and Local government entities or public supported charities like land trusts.

3 Restricted Land - Land with conservation restrictions (see definition above) that make conversion to a use other than “open space” very difficult.

4 Protected Land - Land that has existing laws, grant restrictions or internal policies that limit its use and make conversion to a use other than “open space” less likely.

5 Healthy soils - Reference Connecticut Soil Health Initiative - CT RC&D & USDA NRCS - soils with the capacity to function as vital living ecosystems that sustain plants, animals and humans.

6 Public Outdoor Recreation opportunities - Reference CGS 52-557f(4) - includes, but is not limited to, any of the following or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, ice skating, sledding, hang gliding, sport parachuting, hot air ballooning, bicycling and viewing or enjoying historical, archaeological, scenic or scientific sites.

7 Historic Property - Reference CGS 7-147p - any individual building, structure, object or site that is significant in the history, architecture, archaeology and culture of the state, its political subdivisions or the nation and the real property used in connection therewith.