



General Assembly

February Session, 2002

Raised Bill No. 563

LCO No. 2300

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING OPEN SPACE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 8-25 of the general statutes, as
2 amended by public act 01-52, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2002*):

4 (a) No subdivision of land shall be made until a plan for such
5 subdivision has been approved by the commission. Any person, firm
6 or corporation making any subdivision of land without the approval of
7 the commission shall be fined not more than five hundred dollars for
8 each lot sold or offered for sale or so subdivided. Any plan for
9 subdivision shall, upon approval, or when taken as approved by
10 reason of the failure of the commission to act, be filed or recorded by
11 the applicant in the office of the town clerk within ninety days of the
12 expiration of the appeal period under section 8-8, as amended, or in
13 the case of an appeal, within ninety days of the termination of such
14 appeal by dismissal, withdrawal or judgment in favor of the applicant
15 but, if it is a plan for subdivision wholly or partially within a district, it
16 shall be filed in the offices of both the district clerk and the town clerk,
17 and any plan not so filed or recorded within the prescribed time shall

18 become null and void, except that the commission may extend the time
19 for such filing for two additional periods of ninety days and the plan
20 shall remain valid until the expiration of such extended time. All such
21 plans shall be delivered to the applicant for filing or recording not
22 more than thirty days after the time for taking an appeal from the
23 action of the commission has elapsed or not more than thirty days after
24 the date that plans modified in accordance with the commission's
25 approval and that comply with section 7-31 are delivered to the
26 commission, whichever is later, and in the event of an appeal, not more
27 than thirty days after the termination of such appeal by dismissal,
28 withdrawal or judgment in favor of the applicant or not more than
29 thirty days after the date that plans modified in accordance with the
30 commission's approval and that comply with section 7-31 are delivered
31 to the commission, whichever is later. No such plan shall be recorded
32 or filed by the town clerk or district clerk or other officer authorized to
33 record or file plans until its approval has been endorsed thereon by the
34 chairman or secretary of the commission, and the filing or recording of
35 a subdivision plan without such approval shall be void. Before
36 exercising the powers granted in this section, the commission shall
37 adopt regulations covering the subdivision of land. No such
38 regulations shall become effective until after a public hearing, notice of
39 the time, place and purpose of which shall be given by publication in a
40 newspaper of general circulation in the municipality at least twice, at
41 intervals of not less than two days, the first not more than fifteen days
42 nor less than ten days, and the last not less than two days prior to the
43 date of such hearing. Such regulations shall provide that the land to be
44 subdivided shall be of such character that it can be used for building
45 purposes without danger to health or the public safety, that proper
46 provision shall be made for water, sewerage and drainage, including
47 the upgrading of any downstream ditch, culvert or other drainage
48 structure which, through the introduction of additional drainage due
49 to such subdivision, becomes undersized and creates the potential for
50 flooding on a state highway, and, in areas contiguous to brooks, rivers
51 or other bodies of water subject to flooding, including tidal flooding,

52 that proper provision shall be made for protective flood control
53 measures and that the proposed streets are in harmony with existing
54 or proposed principal thoroughfares shown in the plan of conservation
55 and development as described in section 8-23, as amended, especially
56 in regard to safe intersections with such thoroughfares, and so
57 arranged and of such width, as to provide an adequate and convenient
58 system for present and prospective traffic needs. Such regulations shall
59 also provide that the commission may require the provision of open
60 spaces, parks and playgrounds when, and in places, deemed proper by
61 the planning commission, which open spaces, parks and playgrounds
62 shall be shown on the subdivision plan. Such regulations may, with
63 the approval of the commission, authorize the [applicant] developer at
64 the time of subdivision approval to pay a fee to the municipality or
65 pay a fee to the municipality and transfer land to the municipality in
66 lieu of any requirement to provide open spaces. Such payment or
67 combination of payment and the fair market value of land transferred
68 shall be equal to not more than ten per cent of the fair market value of
69 the land to be subdivided [prior to] after the approval of the
70 subdivision. The fair market value shall be determined by an appraiser
71 jointly selected by the commission and the applicant. A fraction of
72 such payment the numerator of which is one and the denominator of
73 which is the number of approved parcels in the subdivision shall be
74 made at the time of the sale of each approved parcel of land in the
75 subdivision and placed in a fund in accordance with the provisions of
76 section 8-25b. The open space requirements of this section shall not
77 apply if the transfer of all land in a subdivision of less than five parcels
78 is to a parent, child, brother, sister, grandparent, grandchild, aunt,
79 uncle or first cousin for no consideration, or if the subdivision is to
80 contain affordable housing, as defined in section 8-39a, equal to twenty
81 per cent or more of the total housing to be constructed in such
82 subdivision. Such regulations, on and after July 1, 1985, shall provide
83 that proper provision be made for soil erosion and sediment control
84 pursuant to section 22a-329. Such regulations shall not impose
85 conditions and requirements on manufactured homes having as their

86 narrowest dimension twenty-two feet or more and built in accordance
87 with federal manufactured home construction and safety standards or
88 on lots containing such manufactured homes which are substantially
89 different from conditions and requirements imposed on single-family
90 dwellings and lots containing single-family dwellings. Such
91 regulations shall not impose conditions and requirements on
92 developments to be occupied by manufactured homes having as their
93 narrowest dimension twenty-two feet or more and built in accordance
94 with federal manufactured home construction and safety standards
95 which are substantially different from conditions and requirements
96 imposed on multifamily dwellings, lots containing multifamily
97 dwellings, cluster developments or planned unit developments. The
98 commission may also prescribe the extent to which and the manner in
99 which streets shall be graded and improved and public utilities and
100 services provided and, in lieu of the completion of such work and
101 installations previous to the final approval of a plan, the commission
102 may accept a bond in an amount and with surety and conditions
103 satisfactory to it securing to the municipality the actual construction,
104 maintenance and installation of such improvements and utilities
105 within a period specified in the bond. Such regulations may provide,
106 in lieu of the completion of the work and installations above referred
107 to, previous to the final approval of a plan, for an assessment or other
108 method whereby the municipality is put in an assured position to do
109 such work and make such installations at the expense of the owners of
110 the property within the subdivision. Such regulations may provide
111 that in lieu of either the completion of the work or the furnishing of a
112 bond as provided in this section, the commission may authorize the
113 filing of a plan with a conditional approval endorsed thereon. Such
114 approval shall be conditioned on (1) the actual construction,
115 maintenance and installation of any improvements or utilities
116 prescribed by the commission, or (2) the provision of a bond as
117 provided in this section. Upon the occurrence of either of such events,
118 the commission shall cause a final approval to be endorsed thereon in
119 the manner provided by this section. Any such conditional approval

120 shall lapse five years from the date it is granted, provided the
121 applicant may apply for and the commission may, in its discretion,
122 grant a renewal of such conditional approval for an additional period
123 of five years at the end of any five-year period, except that the
124 commission may, by regulation, provide for a shorter period of
125 conditional approval or renewal of such approval. Any person, firm or
126 corporation who, prior to such final approval, sells or offers for sale
127 any lot subdivided pursuant to a conditional approval shall be fined
128 not more than five hundred dollars for each lot sold or offered for sale.

129 Sec. 2. Section 12-107e of the general statutes, as amended by section
130 118 of public act 01-195, is repealed and the following is substituted in
131 lieu thereof (*Effective October 1, 2002*):

132 (a) The planning commission of any municipality in preparing a
133 plan of development for such municipality may designate upon such
134 plan areas which it recommends for preservation as areas of open
135 space land, provided such designation is approved by a majority vote
136 of the legislative body of such municipality. Land included in any area
137 so designated upon such plan as finally adopted may be classified as
138 open space land for purposes of property taxation or payments in lieu
139 thereof if there has been no change in the use of such area which has
140 adversely affected its essential character as an area of open space land
141 between the date of the adoption of such plan and the date of such
142 classification. The planning commission of any municipality may alter
143 such designation once every ten years in order to reflect a change in
144 land use.

145 (b) An owner of land included in any area designated as open space
146 land upon any plan as finally adopted may apply for its classification
147 as open space land on any grand list of a municipality by filing a
148 written application for such classification with the assessor thereof not
149 earlier than thirty days before or later than thirty days after the
150 assessment date, provided in a year in which a revaluation of all real
151 property in accordance with section 12-62 becomes effective such

152 application may be filed not later than ninety days after such
153 assessment date. The assessor shall determine whether there has been
154 any change in the area designated as an area of open space land upon
155 the plan of development which adversely affects its essential character
156 as an area of open space land and, if the assessor determines that there
157 has been no such change, said assessor shall classify such land as open
158 space land and include it as such on the grand list. An application for
159 classification of land as open space land shall be made upon a form
160 prescribed by the Commissioner of Agriculture and shall set forth a
161 description of the land, a general description of the use to which it is
162 being put, a statement of the potential liability for tax under the
163 provisions of section 12-504a to 12-504e, inclusive, and such other
164 information as the assessor may require to aid in determining whether
165 such land qualifies for such classification.

166 (c) Any land classified as open space pursuant to subsection (b) of
167 this section shall not be sold while so assessed unless the municipality
168 in which such land is located has been notified of intent to sell. For a
169 period of one hundred twenty days subsequent to such notification,
170 said municipality shall have a first refusal option to meet a bona fide
171 offer to purchase said land. After a public hearing, said municipality
172 may assign such option to a nonprofit conservation organization under
173 such terms and conditions as the chief elected official or board of
174 selectmen of such municipality deem appropriate. Such assignment
175 shall be for the purpose of continuing the open space use of the
176 property. The owner of any such land shall send notice of intent to sell
177 via certified mail to the chief elected official of the municipality in
178 addition to the city council, board of selectmen, board of assessors,
179 planning board and conservation commission of the municipality. Said
180 option period shall run from the day following the latest date of
181 deposit of any such notices in the United States mails. No sale of such
182 land shall be consummated unless and until either said option period
183 shall have expired or the landowner shall have been notified, in
184 writing, by the chief elected official of the municipality or the board of
185 selectmen that said option will not be exercised. Such option may be

186 exercised only by written notice signed by the chief elected official or
187 board of selectmen of the municipality, mailed to the landowner by
188 certified mail at such address as may be specified in the landowner's
189 notice of intention to sell and recorded with the registry of deeds,
190 within the option period. If the option has been assigned to a nonprofit
191 conservation organization, as provided in this section, said written
192 notice shall state the name and address of such organization and the
193 terms and conditions of such assignment.

194 [(c)] (d) Failure to file an application for classification of land as
195 open space land within the time limit prescribed in subsection (b) of
196 this section and in the manner and form prescribed in subsection (b) of
197 this section shall be considered a waiver of the right to such
198 classification on such assessment list.

199 [(d)] (e) Any person aggrieved by the denial by an assessor of any
200 application for the classification of land as open space land shall have
201 the same rights and remedies for appeal and relief as are provided in
202 the general statutes for taxpayers claiming to be aggrieved by the
203 doings of assessors or boards of assessment appeals.

204 Sec. 3. Subsection (a) of section 12-504a of the general statutes is
205 repealed and the following is substituted in lieu thereof (*Effective*
206 *October 1, 2002*):

207 (a) Any land which has been classified by the record owner thereof
208 as open space land pursuant to section 12-107e, as amended, if sold by
209 him within a period of ten years from the time he first caused such
210 land to be so classified, shall be subject to a conveyance tax applicable
211 to the total sales price of such land, which tax shall be in addition to
212 the tax imposed under sections 12-494 to 12-504, inclusive. Said
213 conveyance tax shall be at the following rate: (1) Ten per cent of said
214 total sales price if sold within the first year following the date of such
215 classification; (2) nine per cent if sold within the second year following
216 the date of such classification; (3) eight per cent if sold within the third
217 year following the date of such classification; (4) seven per cent if sold

218 within the fourth year following the date of such classification; (5) six
219 per cent if sold within the fifth year following the date of such
220 classification; (6) five per cent if sold within the sixth year following
221 the date of such classification; (7) four per cent if sold within the
222 seventh year following the date of such classification; (8) three per cent
223 if sold within the eighth year following the date of such classification;
224 (9) two per cent if sold within the ninth year following the date of such
225 classification; and (10) one per cent if sold within the tenth year
226 following the date of such classification. No conveyance tax shall be
227 imposed on such record owner by the provisions of sections 12-504a to
228 12-504f, inclusive, following the end of the tenth year after the date of
229 such classification by such record owner. No conveyance tax shall be
230 imposed on such record owner by the provisions of sections 12-504a to
231 12-504f, inclusive, upon the sale of such property to the municipality
232 pursuant to the provisions of section 2 of this act. Notwithstanding any
233 other provision of the general statutes, any moneys collected by a
234 municipality pursuant to this subsection shall be used for the purchase
235 of open space within such municipality.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>

Statement of Purpose:

To increase incentives for the creation of open space while allowing municipalities to alter development plans concerning open space and have the right of first refusal for open space that comes up for sale.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]