

Town of Pomfret Ordinance:

Preservation of Open Space, Farm, Forest Land – “490”

The owner or owners of any undeveloped land (a) in excess of two (2) acres per tract and designated as open space for preservation by the Town’s Plan of Conservation and Development, or (b) used for farming purposes, e.g. hay or corn fields, farm pasture or crops, or (c) that is forest land in excess of twenty-five (25) acres, may make application pursuant to the authority conferred by Connecticut General Statutes 12-107c that such land be classified as open space, farm or forest land for tax purposes.

Eligible for Open Space:

Any parcel of **undeveloped** land in **excess** of two acres.

Example: House/building lot is 4 acres in RR zoning – minimum 2 acres for the house lot – remaining land is 2 acres. This is not in excess of 2 acres, so the two acres cannot be classified open space.

Example: House/building lot is 4.5 acres in RR zoning – minimum 2 acres for the house lot – remaining land is 2.5 acres. This is in excess of 2 acres, so the 2.5 acres can be classified as open space.

Example: Vacant/undeveloped parcel is 2.2 acres. Entire parcel can be classified open space as long as it remains undeveloped.

Example: Vacant/undeveloped parcel is .5 acres. Parcel cannot be classified as open space.

Eligible for Forestry:

Minimum of 25 acres with supporting documentation from Qualified Forester.

Eligible for Farmland:

Must meet Assessor’s determination of Farmland.

Filing Status:

Upon the sale or transfer of the property or a change in the use thereof, a new or amended application must be submitted during the statutory time period (**September 1 through October 31**).

How and When to Apply:

Persons wanting to classify land under the PA-490 must do so by application to the assessor in which the land is located. The application must be made on form M-29 “Application to the Assessor for Classification of Land as Farm Land,” M-39 “Application to the Assessor for Classification of Land as Forest Land” or M-30 “Application to the Assessor for Classification of Land as Open Space” prescribed by the Commissioner of the Department of Agriculture. **This form is available from the Assessor’s Office as well as the Town Website and from the Farm Bureau and must be filed during the statutory time period September 1 through October 31** (unless during a revaluation year which extends the filing time period to December 30).

Conveyance Tax:

Any land which has been classified by the record owner as open space land, pursuant to PA-490 if sold, shall be subject to a conveyance tax from the time the land was first classified as open space. The tax is ten percent (10%) if sold or use is changed in the first year of classification and decreases one percent per year each year until the ten year period is achieved. After ten years there is no conveyance tax. The rate of tax is applied to the **sales price of the land** in the case of a sale, and to the **market value of the land** as determined by the assessor in the case of a use change.

This is applied to portions of land pulled out of open space as well.

Certain transfers are exempted from the conveyance tax. These are:

- (a) transfer of land from eminent domain proceedings;
- (b) mortgage deeds;
- (c) deeds to or by the United States of America, state of Connecticut or any political subdivision or agency thereof;
- (d) straw man deeds and deeds which correct, modify, supplement or confirm a deed previously recorded;
- (e) deeds between husband and wife and parent and child when no consideration is received, except that a subsequent nonexempt transfer by the grantee in such cases shall be subject to the provisions of section 12-504a as it would be if the grantor were making such nonexempt transfer;
- (f) tax deeds;
- (g) deeds releasing any property which is a security for a debt or other obligation;
- (h) deeds of partition;
- (i) deeds made pursuant to a merger of a corporation;
- (j) deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the capital stock of such subsidiary;
- (k) property transferred as a result of death by devise or otherwise and in such transfer the date of acquisition or classification of the land shall be the date of acquisition or classification by the decedent;
- (l) deeds to any corporation, trust or other entity, of land to be held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, provided such corporation, trust or other entity has received a determination from the internal revenue service that contributions to it are deductible under applicable sections of the internal revenue code.
- (m) land subject to a covenant specifically set forth in the deed transferring title to such land, which covenant is enforceable by the Town of Pomfret, to refrain from selling or developing such land in a manner inconsistent with its classification as farm land, forest land, or open space for a period of not less than eight years from the date of transfer. If such covenant is violated the conveyance tax shall be applicable at the rate which would have been applicable at the date the deed containing said covenant was delivered. In addition, the Town of Pomfret or any taxpayer therein may commence an action to enforce such covenant.