

# TOWN OF GARDINER OPEN SPACE COMMISSION PROPOSAL FOR OPEN SPACE CONSERVATION PROGRAM

February 4, 2021

## **1. Introduction and Purpose**

The Town of Gardiner Open Space Planning and Finance Commission, known as the Open Space Commission (“GOSC”) was created through Local Law No. 3 of 2009, which adopted Chapter 165 of the Town of Gardiner Code. As stated at Section 165-3 of the Code, the GOSC’s role is to “advise and assist the Town Board in protecting undeveloped land and other natural and cultural resources as defined in the Open Space Plan.”

The GOSC proposes a land conservation program with the goal of acquiring selected parcels and conservation easements that will best protect the Town’s natural resources from the impact of over-development and the loss of natural habitats. This proposal recommends a streamlined conservation easement and land acquisition process with a clear set of rules. The GOSC’s goal will be to recommend parcels and conservation easements to the Town Board for the Town’s acquisition, and to set a priority to acquisitions over lands with the most significant environmental values, through either voluntary donations or transactions funded by grants or through conservation partners.

As the Town of Gardiner’s population continues to grow, it is imperative that the Town take steps to mitigate the loss of rural scenery, forests, grasslands, wildlife habitats, and to protect clean water and clean air by avoiding over-development.

The protection of valuable open space in our community improves the quality of life of residents and protects wildlife. This proposal, submitted by the GOSC, is intended to facilitate the acquisition of conservation easements over environmentally sensitive parcels by establishing a standardized approach that encourages applications, evaluates each eligible parcel’s attributes using available data, identifies funding opportunities, and recommends the acquisition of parcels or conservation easements over land that meets the program’s criteria and objectives.

In summary, this proposal proposes procedures for a land and conservation easement acquisition program, and seeks Town Board support.

## **2. Acquisition Priorities**

Prior to the adoption of the Town of Gardiner Open Space Plan, a group of local residents, facilitated by a planning professional contracted by the Town of Gardiner, met at a series of workshops and focus groups, to identify goals for the Town’s Open Space

Plan. The group identified criteria used to evaluate important areas, actions by which to achieve the goals of the plan, and techniques by which those actions might be accomplished.

As a result of that process, an Open Space Plan was developed and adopted in 2007. The Open Space Plan identifies priority conservation areas using a geographic information system (GIS) database that mapped the town's resources in categories that included natural systems (including aquifers, water resources and wildlife habitats), working landscapes and cultural and recreational resources. An extensive set of data went into each of the three inputs. The rating criteria were developed using the best available science and resource management assumptions.

Supplementing the GIS database and furthering the goals of the Open Space Plan, the Natural Resources Inventory (NRI) maps were created in the calendar year 2020, in part to enable the Town and the Gardiner Open Space Commission to identify conservation values of particular properties. The Open Space Commission intends to evaluate eligible parcels based on conservation values that fall within the following categories:

- Biological Diversity & Ecological Resources
- Water Resources
- Agriculture and Working Farms
- Scenic and Cultural Resources
- Recreational and public access
- Project Feasibility and Community Support
- Climate Resilience

It is the intention of the Open Space Commission that acquisition of conservation easements and land be accomplished only in cooperation with willing landowners. Establishment of conservation easements and gifts of land from landowners will serve over time to help permanently protect the natural resources, wildlife habitat, recreational opportunities, traditional landscapes and scenic treasures of the Town of Gardiner.

### **3. Application Process**

The GOSC will invite applications by landowners who wish to convey conservation easements or make land donations to the Town of Gardiner. The GOSC will administer this program and make recommendations to the Town Board regarding conservation easement and land acquisitions. To be eligible, projects must meet the following criteria:

- Must be in the Town of Gardiner
- The owner must be willing to convey the land, a conservation easement or other form of conveyance
- Land must have recognized conservation values

- The applicant must propose a donation of the land or a conservation easement or there must be identified funding available for a purchase.

The application process will comply with Chapter 165-7 of the Town of Gardiner Code, including these steps:

- The GOSC will create an application form and set deadlines for applications, as required by Section 165-7(2) of Town of Gardiner Code. See Attachment 1 for a draft copy of the application.
- All applications will be filed with the GOSC, by the due date(s), using the application form created for this purpose and supported by such additional information, maps and other documents as shall reasonably be required by the GOSC to insure compliance with Chapter 165. See Section 165-7(3).
- Site visits will be scheduled for the GOSC, and potential funding partners.
- The applications will be reviewed and analyzed by the GOSC based on project scoring criteria, and use of NRI maps. See Attachments 2 and 3 for a draft version of the two scoring criteria sheets, one for agricultural and one for non-agricultural properties. GOSC may make future adjustments to this criteria.
- Applicants will meet with the GOSC throughout the process to answer questions concerning the project.
- The GOSC will identify any potential funding partners, and research potential grant opportunities.
- The GOSC will transmit to the Town Board all the applications along with the OSC's recommendations and rankings. See Section 165-7(4).
- The Town Board may choose to hold a public hearing on any application. The Town of Gardiner Code states that the Town Board must hold a public hearing if it is to provide funding for an application. See Section 165-7(5).
- Referrals to the Planning and other boards shall be at the discretion of the Town Board. See Section 165-7(6).
- The Town Board will make a decision on whether it preliminarily approves the project, any conditions for approval, and will determine whether funding shall be made available for the acquisition.
- The Town Board will review and authorize any potential grant applications to fund the transaction.
- The Conservation Easement template adopted by the Town Board in August 2020 will be utilized for all conservation easement acquisitions (see Attachment 3 for template Conservation Easement).

- After all conditions are met for the acquisition, a final version of the Conservation Easement or deed will be presented to the Town Board for approval, to the extent necessary.

#### 4. Costs

Costs of acquiring conservation easements and land fall within three categories, including (1) purchase price to be paid to the landowner for the conveyance; (2) transactional costs incurred at the time of acquisition; and (3) costs for monitoring and enforcing the terms of conservation easements, or (4) the cost of maintaining or improving acquired land.

Purchase price: The Gardiner Open Space Commission proposes to encourage applications from landowners who are willing to donate either conservation easements or lands in fee, but will also consider acquisitions that are purchased with funds from New York State grants or with funds provided by partner organizations, such as Wallkill Valley Land Trust, Scenic Hudson, NYS Department of Agriculture and Markets, or others.

Acquisition costs. The allocation of costs will be evaluated on a case by case basis:

Town's legal fees	Amount unknown
Ulster County filing fees	Estimated \$50-\$150
Title search fees	Estimated \$100-\$1000
Baseline documentation (for easements)	Estimated \$2000-\$3500
Survey and marking boundaries	
Appraisal (paid by applicant, necessary if seeking tax deduction)	

#### Costs for Monitoring and Enforcing:

For conservation easement acquisitions, this cost is a fluid amount, calculated as a portion of the salary of the individual responsible for monitoring the easements. Monitoring responsibilities may require at least 4-5 hours per easement per year, including notifying the landowner of an annual monitoring visit, completing the monitoring visit, and maintaining documentation about the results of the monitoring visit.

Legal fees would be required if there were any enforcement measures required. Enforcements actions, however, should be rare, as most landowners will comply with the terms of the easement.

Costs for maintaining or improving acquired land:

There should be no expenses to the Town for maintaining or approving land, when the owner has conveyed a conservation easement. This is because the ownership of the land does not change. Since the Town is not a legal owner of the land, it would have no right or responsibility to maintain or improve the land.

If, rather than a conservation easement, the land is donated or conveyed to the Town, then the Town becomes the legal owner of the land. In this scenario, the Town would have legal rights to maintain or improve it, as the Town sees fit and subject to Deed restrictions. It is hypothetically possible that the Town would want to improve land to add recreational opportunities, for instance. Costs for maintaining or improving land that is conveyed to the Town must be evaluated on a case by case basis.

**5. Outreach and Education**

Outreach and education about the importance of open space protection will increase support for open space acquisition projects. Public support is important for the plan to be successful. The GOSC plans to schedule educational seminars to educate landowners about land gifts, conservation easements and the Town's open space acquisition plan. GOSC members and guest speakers will cover subjects such as: the benefits of donating land and conservation easements; grants available to finance the purchase of development rights; lands already preserved in Gardiner.

Annual open space events may also be scheduled to celebrate conservation achievements and to increase community participation.

Signage in front of properties that are preserved for open space may be valuable for developing awareness of land conservation efforts in the community and to increase the feeling of connection to the Town and its rural scenery.

**6. Other Conservation Tools**

Open space acquisition through conservation easements acquired by the Town of Gardiner or land donations, as proposed here, are only two of several conservation tools available to the Town and to landowners. By proposing the acquisition of conservation easements, or properties, the Open Space Commission does not discount the efficacy of other tools, which may include:

- Donating easements to willing land trusts;
- Restrictions that a private owner may incorporate in the Deed;
- Acquisition of trail easements for recreational purposes;
- Acquisition of parkland;
- Zoning restrictions;
- Conservation-oriented subdivisions.

## 7. **Approval of Town Board**

We request that the Town Board approve this Open Space Acquisition Proposal, the proposed application and scoring sheets, and that the GOSC be granted the ability to make additional and appropriate adjustments to the application and scoring sheets.

Submitted by the Gardiner Open Space Commission  
February \_\_, 2021