

## **SECTION 5: Inventory of Lands of Conservation and Recreation Interest**

Norton has a moderate amount of land dedicated to open space and recreation scattered throughout the town. Open space land is represented in a wide variety of places. They are the ball fields, public meeting places, conservation properties, areas of historic interest, scenic areas, water supply lands, farmlands, parks and wildlife habitat areas. The OSRP attempts to link many of these parcels to create open space networks by designating stream valleys, wetlands, and other environmentally sensitive areas, as well as, upland areas for potential future open space use. Linkages make open space accessible to residential areas, water bodies, village centers, and historical resources. Open space preservation is important if the town is to retain its character and avoid excessive urbanization. Open space also serves a vital role as buffer between land uses, for flood control, and as habitats for desirable plants and wildlife.

Protected land includes:

- a. Any land that is specifically designated for conservation purposes under MGL Chapter 40, Section 8C (Conservation Commission Act), contains a conservation restriction under MGL Chapter 184, Sections 31-33, designated for conservation or recreation purposes purchased with LAND grant funds (or former Self Help or Urban Self Help Grant funds funding under MGL Chapter 132A, Sections 2B and the implementing regulations 301CMR7.00).
- b. State-owned wildlife habitat land around the Canoe River, water department land held for aquifer protection and recreation land is protected under Article 97 of the Amendments to the Constitution. All municipally-owned land committed to conservation purposes or parks dedicated under MGL Chapter 45, Sections 3 and 14, are also protected under Article 97.
- c. The majority of land acquired using the aforementioned laws and funding sources consists of municipal and government land holdings and is referred to as "public open space land" in this document. There are private landowners, like land trusts, whose land is also permanently protected and open to the public. This land is referred to as "private open space land" in this document. Land owned by the Land Preservation Society of Norton is protected with deed language specifically stating the purpose of the protection. Property owned by the Land Preservation Society is also protected by their mission statement which states that any land owned at the dissolution of the land trust is to be given to another entity whose mission is preservation of open space.

Sometimes the term "conservation" land is used when residents are looking for information about wetlands. This is a very common mistake. Conservation land is land that is owned or managed by the Conservation Commission while wetlands describe the physical and biological characteristics of land regulated under the Massachusetts Wetland Protection Act. While some wetlands might be protected as conservation land, not all conservation land contains wetlands. When purchasing property, it is prudent to conduct due diligence and research the property at the Town Hall, particularly if the real estate agent or the seller mentions "conservation" land or wetland.

Items in *italics* are included in the Glossary found in Section 12.

The distinction between active and passive recreation (defined below) has not always been clear to the public or local officials, but it is very important when dealing with land under the management of the Conservation Commission or under the management of the Recreation Commission. By law, only passive recreation is allowed on land owned or managed by the Conservation Commission.

**Passive Outdoor Recreation**, per the MA Division of Conservation Service's (DCS) recently revised definition (per 301 CMR 5.00), is any outdoor activity that occurs in a natural setting with minimum disturbance of the natural and cultural resources, and that is consistent with quiet enjoyment of the land including, but not limited to, hiking, nature study, outdoor education, cross country skiing, snowshoeing, horseback riding, trail bicycling, hunting, fishing, picnicking, canoeing, ice-skating, community gardening in existing fields, swimming in a natural water body with minimal site development, or informal sports activities on an open natural field. For the purposes of eligibility and reimbursement under these regulations snowmobiling may be considered passive outdoor recreation if the municipality determines that it is compatible with other activities. Facilities necessary to support passive recreation with a minimum of disturbance to the natural and cultural resources, such as natural surface trails and wood roads, and appropriately-scaled parking areas, bathrooms, and nature centers, are considered consistent with passive outdoor recreation. Passive outdoor recreation areas may also be managed for sustainable forestry and farming, including community farms and forests.

The definition of **Active Outdoor Recreation** has also been revised by DCS (per 301 CMR 5.00) to include any outdoor recreation that occurs in parks and requires significant alteration of the natural landscape to provide playground or active sports facilities, such as: tennis, basketball or other court sports; ballfields; swimming pools or spray pads; paved bike or walking trails; golf courses; marinas; enclosed dog parks; boat rentals; concession stands; community gardens; outdoor skating rinks; bathroom buildings; bleachers or stands, or; other developed facilities needed for active outdoor recreation.

A conservation restriction is a deed restriction that permanently protects property as open space. Landowners can donate a conservation restriction to the Conservation Commission; sometimes the development rights can be sold to the Conservation Commission instead. The DCS, acting on behalf of the Executive Office of Environmental Affairs (EEA), approves the language of the restriction and the owner records the conservation restriction at the Registry of Deeds with the property. Even if the property changes hands the restriction will remain in place. A number of land owners place conservation restrictions on their property to ensure that their family's land will remain in its natural state even after they have passed.

In June of 2004, and again in 2010, The Open Space Committee, elaborated on a system of prioritizing land that was created by the Land Acquisition Committee. They subsequently developed a ranking system that is used to evaluate land the town may wish to acquire for open space purposes. These criteria, listed below, were reviewed again upon publication of NHESP's BioMap 2, in 2012. This evaluation criteria is consistent with land protection proposals currently reviewed by the Conservation Commission.

### Ranking criteria for all property

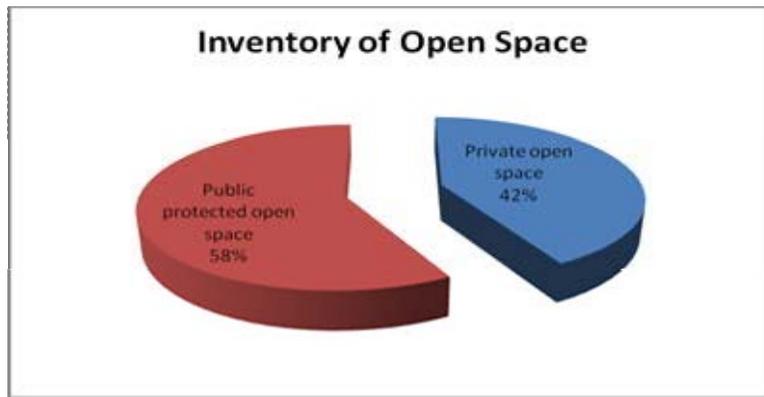
The ten criteria used to determine whether or not the town may wish to pursue any land, including Chapter 61 lands, for acquisition, are as follows:

- a. The property is abutting other permanently protected or town-owned land;
- b. The land is within the water protection district (zone I or II);
- c. The land is greater than 10 acres;
- d. It contains rare species habitat/core habitat as identified in the BioMap 2;
- e. It contains wetland or floodplain;
- f. The land is located within any of Norton's three Areas of Critical Environmental Concern;
- g. The land could provide access for boating, canoeing, fishing or access to a major water body or river;
- h. It contains historical, cultural or archaeological significance;
- i. The land is listed specifically within the current Open Space and Recreation Plan;  
or
- J. The land is actively used for agricultural purposes.

The property will be evaluated and receive one point for each of the ten criteria listed above. If the property meets a minimum of three of the criteria, it will be ranked as a Consideration. If the property meets a minimum of six of the 10 criteria, it will be ranked as a Priority. Finally, if the property meets greater than six of the 10 criteria, it will be ranked Highest Priority. The ranking is simply a tool for determining acquisition. A parcel may only be ranked as a consideration but contain other attributes that would warrant a purchase despite a relatively low ranking. The ranking system is used to provide a qualitative value to the property and to avoid any appearance that town officials or committee members are only acquiring friends' or a family members' property. It is a method of looking objectively at the benefits of adding a parcel of land to the open space inventory.

### **Inventory of Open Space Land**

The 2008 changes to the requirements for the Open Space and Recreation Plan have changed Section 5 dramatically. Instead of viewing the protected land and unprotected open space land, the new requirements lump protected and unprotected land together by their status of being private or public. The focus seems to have shifted to listing the private land that may not be protected or open to the public rather than an inventory or what is actually available and *usable* by the public. Communities are now running the risk of listing all private land as open space land by the new description of this section and can lose sight of the actual purpose of listing land in the OSRP in the first place. We cannot reasonably be expected to list all private land holdings in an aquifer protection area or identify all private land within a rare species habitat that could change every 2-4 years when the maps change. For the purposes of this section, open space land means land that is permanently protected by Article 97, deed restriction, private land trust charter, Chapter 61 lands, and private or public land that is open to the general public specifically for recreation purposes.



Summary of permanently protected land	2017 acres
Permanently protected private open space (CRs, NHS)	663.70
Permanently protected public open space	3782.20
Total permanently protected acres in Norton	4455.90
<b>Total acres in Norton</b>	<b>18724.0</b>
<b>Percentage of Norton as open space</b>	<b>23.80%</b>

Norton currently has approximately 24% of its land in permanently protected open space. **(An inventory of all Conservation Commission and Town controlled lands in open space appear in Appendix D).**

### Private Open Space Land

Private open space land is land owned by private individuals or companies that promote recreational activities and allow access by the general public or as in the case of conservation restrictions, is privately owned and permanently protected but may not allow access by the general public. This land is open to the public but may require a membership or a fee to use the property or participate in programs. There are no protections from the sale or change in land use of the property. One of the goals for the town or the land trust could be to approach these landowners and make arrangements so that the town or the land trust has an opportunity to purchase the property before it can be sold for development. Private protected open space includes all land owned by most local golf courses and private land with conservation restricted land. Private unprotected open space land includes the Girl Scouts Southeastern Massachusetts, Attleboro YMCA-Camp Finberg, Wheaton College, Winslow Farm, farms where residents board and ride horses, and land enrolled in the Chapter 61 Program

Changes in how open space land is determined with the revision to the Open Space and Recreation Plan Guidelines has consequently changed the values of Norton's OSRP. Increases in open space are due in part to new acquisitions through fee simple or conservation restriction and due to a different method of evaluation of land (i.e. including private land

as open space like the Reed and White land). The increase in Chapter land belies the general trend of the sale of agricultural land for residential development. The major change was the inclusion of the Bay Road cranberry bogs in the Chapter program.

### **Description of Parcels: Private Protected Open Space Norton Historical Society Parcels**

Great Woods Trails. Existing trails within the Great Woods area extend from the Conservation property known as the Leo G. Yelle Conservation Area on Freeman Street through the Norton Historical Society property up to the Great Woods Retirement Community on Mansfield Ave. Trails can be accessed from either direction and are marked with trail markers.

School House. The former school house is now the meeting room and museum for the Norton Historical Society. It is the location of the annual meeting of the Society and the Land Preservation Society of Norton. The school house also houses such artifacts as the historic mailboxes from Norton Post Office. **(An inventory of all Privately Held, protected open space, is included in Appendix D).**

### **Description of Parcels: Private Unprotected Open Space Other Private Land**

#### Girls Scouts Land (Edith Read Girl Scout Center)

Edith Read Girl Scout Center is located on North Worcester Street in Norton, MA. The camp is operated by the Girl Scout Council of Southeastern Massachusetts. The camp consists of 44 wooded acres which run along the Wading River. The main camp includes a lodge, two tent units and a three-sided shelter unit; across the river from this is another tent unit, a playing field and an Adventure Trail. Swimming is available during the summer in the river and a nature trail provides venues for nature study. Camp Edith Read was closed in 2015. In 2017, the Conservation Commission submitted a LAND grant to purchase the land for passive recreation.

#### Attleboro YMCA Land (Camp Finberg)

Camp Finberg is an 80-acre site located on North Main Street in Norton, MA and has been operated since 1957 by the Attleboro YMCA as an outdoor summer program. The camp consists of a variety of activities and sports such as hiking, swimming, challenges/obstacles course, leadership and counselor training, basketball, soccer, gymnastics, arts/crafts, golf and other specialty camps. Information about Camp Finberg can be found at [www.attleboroymca.org/campfinberg](http://www.attleboroymca.org/campfinberg)

#### Tournament Players Club (TPC) of Boston

The Tournament Players Golf Course is located off Rt. 140 on Arnold Palmer Blvd. The TPC is built on land known as the Great Woods. The course, a par 72 golf course that stretches 7,488 yards, was designed by Arnold Palmer. This championship layout is a gentle rolling property with mature trees and numerous wetlands. The club is private with corporate and single memberships. The Deutschebank U.S. Championship has in the past been hosted over the Labor Day Weekend, drawing crowds to watch the top professionals play. Information can be found at [www.tcp.com/boston](http://www.tcp.com/boston) .

### Norton Country Club

Norton Country Club, open to the public, is a challenging 18-hole golf course dotted by 58 bunkers that fluctuates from tight and tree-lined to holes resembling Scottish links layout. The course features water and wetland areas. The course was originally opened in 1955, but was completely redone in 1988 when it was expanded to 18 holes. Information can be found at [www.nortoncountryclub.com](http://www.nortoncountryclub.com).

### MGA Links Mamantapett

The former Wading River Public Golf Course located on Rt. 123 was transformed in 2003 under new management to become the MGA Links Mamantapett. This 29-acre, 2,248-yard par 3 course is popular with the beginner golfer and the seasoned golfer alike. The First Tee Program provides membership and golf instruction for junior golfers age 17 and under. Golf skills, as well as life skills, such as integrity, confidence, respect, perseverance, honesty, and sportsmanship are taught. The name MGA Links Mamantapett was chosen by the Massachusetts Golf Association in April 2003 in order to recognize and preserve the local history of Norton, namely the ancient name for the Wading River. This name was ascribed to the ancient Algonquin language for the Wading River in the present Town of Norton. The Wading River is adjacent to and runs parallel to hole #10. Information can be found at [www.mgalinksgolf.com](http://www.mgalinksgolf.com).

### Wheaton College Lands

Wheaton College owns 475 acres total, approximately 350-400 of which is open space consisting of woodlands and fields. Wheaton has four distinct athletic fields: Clark Athletic Field and Sidell Stadium on the north side of East Main Street (Route 123), Keefe Athletic Field and Elm Athletic Field on the main campus as well as two other recreational areas or fields that are available for pickup games. Wheaton has two athletic facilities: Clark Center and Haas Athletic Center. The Haas Center includes an indoor track, tennis courts, a basketball court, and a pool. The remaining open space is woodlands with some walking trails, located predominantly behind the Haas Center. There is a vernal pool in the wooded area that is used for study by the college's Science Department. **(An inventory of all Privately Held, unprotected open space, is included in Appendix D).**

## Chapter Land (Agricultural, Forestry and Recreational Land)

Like most towns in southeastern Massachusetts, Norton had numerous farms historically. Many of these farms were established on poor soil, such as those in the Great Woods. The best farmland was along West Main Street and along Oak Street to the west, and along Newland Street near the Mansfield line and along East Main Street east of the Canoe River. At one time virtually all the land was farmed or divided into woodlots that could be worked when swamp land was frozen. Generally, they were typical nineteenth-century mixed farms, with livestock pasture and crops, even in the center of town, where two bank barns still exist (Nos. 11 and 12 Mansfield Ave) and others have been moved or torn down. The ubiquitous stone fences in wooded areas mark the formerly cleared pastureland.

Norton's only Community Supported Agriculture (CSA) operation, known as Second Nature Farm, is a 3-acre farm located on Crane Street and run by Adam and Jill Tedeschi. The 3-acres dedicated to the CSA are leased to them by the owners of Crane Farm. Second Nature Farm's mission is "to provide the local community with fresh fruit that are produced in a sustainable manner and without pesticides or chemical fertilizers" (Second Nature Farm website [www.secondnaturefarm.com](http://www.secondnaturefarm.com)).

To encourage private landowners to keep their land forested or in an agricultural use, the Commonwealth of Massachusetts passed Chapters 61, 61A and 61B of the General Laws. The Chapter 61 Programs are designed to keep forest and agricultural land under productive management. The owner must submit Department of Conservation and Recreation (DCR) approved management plans and a management certificate to the town assessor's office for a new tax classification to be considered eligible for the program. The town places a lien on the property at the Registry of Deeds. This lien is notice to all purchasers that the property is subject to the provision of Chapter 61. The landowner receives a tax benefit for productively using the property for agricultural purposes but there are penalties associated with removing land from classification under any of the Chapters 61 programs. If the land is removed from the program, the town has 120 days to **exercise the right of first refusal (ROFR)** to purchase the land. This right may be assigned to a non-profit conservation organization.

The right of first refusal can be a complicated tool for towns to use. Identifying the land's potential for open space and then holding a special town meeting to raise the funds can be extremely hectic and in some cases, just not feasible.

### Parcel ranking system:

When the town is offered the right of first refusal, the property will be evaluated based upon the 10 criteria previously discussed in this section ("*Ranking Criteria for All Property*"). If the property meets a minimum of three of the criteria, it will be ranked as a Consideration. If the property meets a minimum of six of the 10 criteria, it will be ranked as a Priority. Finally, if the property meets greater than six of the 10 criteria, it will be ranked Highest Priority. These criteria will also be used by the Open Space Committee for any property that the Board of Selectmen request be evaluated. The tables below have a column dedicated to the parcel's ranking for protection potential.

The three different Chapter 61 classifications and the inventory of each type of Chapter land in Norton are described below:

Mass. General Law Chapter 61

*Forest Assessment Act.* The Forest Assessment Act provides reduced real estate taxes to participants who devote land (10 or more adjacent acres) to the production of forest products. Chapter 61 classifications run for ten-year periods. An owner who wishes to sell land classified under Chapter 61 for a different use during the first ten years of certification must repay all back taxes to the town plus interest (minus payments made for the 8% yield tax.) The assessment of land classified under Chapter 61 is reduced by 95%.

Mass. General Law Chapter 61A

*Farmland Assessment Act (FA) & Agricultural Preservation Restriction Act (APR).* The (FA) provides for assessing and taxing of actively farmed land on its farm use value rather than its potential development value. The APR compensates landowners for placing a permanent restriction on their land prohibiting any non-farm development. The farmer retains all property rights of ownership, including the right to lease, sell or will the land. Chapter 61A is most commonly applied to agricultural or horticultural land but can be used for the forested portions of a farm, provided a management plan is approved by the Mass. Department of Conservation and Recreation (DCR). To qualify for Chapter 61A, a farm owner must have five or more contiguous acres being used for agricultural or horticultural purposes. This land must produce annual gross sales of not less than \$500.00. For each additional acre over five, the minimum produce value is \$5.00. There is no product value for woodlands and wetlands, for which the added value is \$.50 per acre. Property under Chapter 61A is assessed at rates which vary for different agricultural uses. Generally, classification will result in a reduction of 80% in assessed value.

Mass. General Law Chapter 61B

*Open Space/Recreation Land Act.* The Open Space/Recreation Act provides reduced real estate taxes assessments to participants who devote land (over 5 acres) to the protection of wildlife habitat, resource preservation or passive recreation. Chapter 61B is intended for land designated for recreational use. To qualify for Chapter 61B, a landowner must own five or more contiguous acres. The land must be retained in a natural state to preserve wildlife and natural resources, must be devoted primarily to recreational use, and must provide a public benefit. Recreational uses include hiking, camping, observing and studying nature, golfing, hunting and skiing. The assessed valuation of Chapter 61B land is reduced by 75%. A written management plan is not required, but approval by local assessors is required.

Norton Chapter 61B Inventory:

In the 2005-2010 OSRP 218.48 acres of land in Norton were enrolled in the recreational program. A total of 26 acres were removed from the program. In the past 5 years 13.7 acres were added on Guy Street, Northeast Golf Properties added another 1.07 acres to their existing acreage and 16.2 acres were added on Rear Village Way. A total of 300 acres were added to the Chapter 61B program. Currently, there are 268.84 acres of land within the Chapter 61 Program in Norton.

Generally, despite the removal of property from the Chapter 61 Programs in the last five years, the town did see a fairly constant preservation of properties whether by exercising the right of first refusal by the town to purchase the land or by additional land being enrolled in the programs. The main reason for withdrawal of a property from the Chapter 61 Programs is for sale as residential development. The main reason owners withdraw from the program appears to be the low return on cranberries and/or high taxes on the property even with the tax incentive. **(An inventory of all Chapter 61 Lands appear in Appendix D).**

Norton officials are currently developing a ROFR process to ensure that all departments are notified of a change of use or sale and can comment to the Selectmen prior to their decision to exercise the right of first refusal. This Memorandum of Understanding should be completed in 2017 or early 2018.