

**ORDINANCE ESTABLISHING THE HARWINTON OPEN SPACE,
RECREATIONAL AND AGRICULTURAL LAND FUND**

SECTION 1. AUTHORIZATION.

This Ordinance is adopted pursuant to Connecticut General Statutes, §§ 8-25, 8-25b, as amended, to promote the preservation of open space or the acquisition of additional land for open space or for recreational or agricultural purposes, as recommended in the Plan of Development and Conservation, as revised, adopted by the Harwinton Planning Commission pursuant to Connecticut General Statutes, §8-23, as amended.

SECTION 2. FUND ESTABLISHED.

There is established as a permanent municipal reserve fund of the Town of Harwinton the "Harwinton Open Space, Recreational and Agricultural Land Fund" (the "Fund") which shall be governed in accordance with the provisions of this Ordinance and the Connecticut General Statutes, as amended.

SECTION 3. PURPOSE.

The purpose of the Fund shall be to solicit, receive, accumulate, hold, invest and appropriate (a) budgetary appropriations, (b) public and private charitable contributions, (c) state and federal grant funds, and (d) "payments in lieu of open space" received from subdivision applicants pursuant to such subdivision regulation amendments as may be adopted by the Harwinton Planning Commission, for the purpose of preserving open space or acquiring additional land for open space or for recreational or agricultural purposes.

SECTION 4. PAYMENT IN LIEU OF OPEN SPACE.

(a) As used in this Ordinance, the term "payment in lieu of open space" shall mean a fee paid to the municipality in lieu of (or in combination with) any requirement to provide open space within a subdivision, pursuant to subdivision regulation amendments which may be adopted by the Harwinton Planning Commission. Such fee shall not exceed ten percent (10%) of the fair market value of the land to be subdivided prior to approval of the subdivision, as determined by an appraiser jointly selected by the Planning Commission and the applicant, and shall be reduced by the appraised value of any land dedicated or donated "in kind," as determined in the sole discretion of the Planning Commission, acting pursuant to the subdivision regulations.

(b) A fraction of the payment, the numerator of which is one and the denominator of which is the number of approved parcels in the subdivision, shall be made at the time of sale of each approved parcel of land in the subdivision and deposited in the fund.

(c) The payment in lieu of open space shall not apply if the transfer of all land in a subdivision of less than five (5) parcels is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration, or if the subdivision is to contain affordable housing, as defined in Connecticut General Statutes, §8-39a, equal to twenty percent (20%) or more of the total housing constructed in the subdivision.

SECTION 5. MANAGEMENT OF THE FUND.

The Fund shall be managed by the Town Treasurer, subject to the oversight of the Board of Selectmen and Board of Finance, and subject to the advice and recommendations of the Planning Commission, Conservation Commission, and Recreation Commission. The monies in the Fund shall be appropriated by the Board of Finance and town meeting in accordance with the budgetary procedure prescribed for municipal appropriations, capital and nonrecurring funds under Connecticut General Statutes, §7-131b through §7-131u, Chapters 106 and 108, as amended.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect fifteen (15) days after publication of a summary of its provisions in accordance with Connecticut General Statutes, §7-157(b).

ADOPTED AT TOWN MEETING HELD: November 30, 2004
PUBLISHED IN THE: Republican-American on December 2, 2004.
EFFECTIVE DATE: December 17, 2004.
HARWINTON TOWN RECORDS: VOLUME 7, PAGES 137 - 138