

TABLE OF CONTENTS

Agricultural Lands Preservation

Repealed 22-26gg- 1

Definitions 22-26gg- 1a

Application 22-26gg- 2

Probability of sale for non-agricultural use 22-26gg- 3

Repealed 22-26gg- 4

Repealed 22-26gg-4a—22-26gg- 4b

Scoring values 22-26gg- 4c

Acquisition cost 22-26gg- 5

Notification 22-26gg- 6

Filing of acceptance 22-26gg- 7

Application for building 22-26gg- 8

Basic requirements for joint acquisition of development rights to agricultural lands 22-26gg- 9

Application procedure for applying to the department of agriculture for approval of joint acquisition of development rights 22-26gg-10

Evaluations of applications by the commissioner. 22-26gg-11

Schedule of contributions 22-26gg-12

Appraisals 22-26gg-13

Agreement for joint purchase 22-26gg-14

Negotiations with the applicant 22-26gg-15

Conveyance of development rights 22-26gg-16

Enforcement of restrictions 22-26gg-17

Determination of acreage amounts of arable land including prime and important farmland present at the time of purchase of development rights and adjustments due to construction of residences and farm buildings made after the sale of development rights to the state 22-26gg-18

Owners’s responsibility to notify the commissioner of activities affecting restricted land 22-26gg-19

Agricultural Lands Preservation

Sec. 22-26gg-1.

Repealed, August 21, 1991.

Sec. 22-26gg-1a. Definitions

Any words, terms or phrases used in these regulations shall have the meanings assigned to them in this Section and Chapter 422a of the Connecticut General Statutes.

(a) **Applicant** means the fee simple owner of agricultural land or a person or entity lawfully empowered to exercise the rights of the fee simple owner.

(b) **Project** means an application considered for the joint purchase of development rights by the department of agriculture and a municipality.

(c) **Agricultural Land Preservation Fund** means a fund established by vote of a municipal legislative body for the purpose of purchasing development rights to agricultural lands.

(d) **Important farmland soils** means soils defined by the United States Department of Agriculture as being of statewide importance for production of food, feed, fiber, and forage crops.

(e) **Municipal farmland preservation plan** means a plan developed by or for a municipality approved by the legislative body of the municipality that provides qualitative and quantitative information on agricultural lands within the municipality containing goals and methods for preserving all or portions of such agricultural lands.

(f) **Area occupied by a residence** means single family residential dwellings and any associated on-site septic disposal system, potable well, and any area required for a residential driveway. The total area occupied by a residence shall be the sum of the land areas directly beneath the dwelling, the area occupied by any associated septic disposal system and the areas of land physically between the dwelling, septic disposal system and potable well, the area of the residential driveway, and any non-commercial structures associated with the residence.

(g) **Farm roads** means unpaved lanes used for access to interior portions of restricted lands by farm machinery for agricultural planting, maintenance and harvesting operations.

(h) **Residential driveways** means unpaved or paved accesses from public roads to a residential structure located on restricted agricultural lands.

(Effective August 21, 1991)

Sec. 22-26gg-2. Application

Any fee simple owner of agricultural land in the state who wishes to apply for consideration to enter into agreement with the State of Connecticut for the purchase of the development rights of such agricultural land shall do so on a form provided by the commissioner.

(Effective September 21, 1979)

Sec. 22-26gg-3. Probability of sale for non-agricultural use

The commissioner, in considering the probability that an applicant's land will be sold for non-agricultural use, shall request certain information from the owner thereof by use of a questionnaire to be furnished by the commissioner seeking information including but not limited to the following: The probability of non-agricultural development of the property, current productivity and proper continuation thereof, percentage of land owned and used for agricultural purposes, water management of land and nature of location of the land.

(Effective September 21, 1979)

Sec. 22-26gg-4.

Repealed, December 5, 1980.

Sec. 22-26gg-4a.

Repealed March 26, 1984.

Sec. 22-26gg-4b.

Repealed, August 21, 1991.

Sec. 22-26gg-4c. Scoring values

The Commissioner of Agriculture shall use the following scoring values when considering applications for inclusion in the agricultural lands preservation program. A minimal total score of 65 points from subsections (a) to (e), inclusive, of this section, is required for consideration by the Commissioner.

(a) PROBABILITY OF NON-AGRICULTURAL DEVELOPMENT AND FLOOD HAZARD MITIGATION (maximum 10 points)

- (1) Estate settlement or planning 10 points
- (2) Active negotiations to sell property 5 points
- (3) Significant flood storage area in flood plain 10 points

(b) CURRENT PRODUCTIVITY FROM OFFERED LAND AND LIKELIHOOD OF CONTINUED PRODUCTIVITY (maximum 40 points)

Total cropland offered (check one)

- 0 – 4 acres 0 pts.
- 5 – 15 acres 4 pts.
- 16 – 25 acres 8 pts.
- 26 – 50 acres 12 pts.
- 51 – 75 acres 16 pts.
- more than 75 acres 20 pts.

Crop yields per acre as determined by comparison of subject with state averages (check one)

$$(\% = \frac{\text{farm yield for commodity}}{\text{state average yield for commodity}})$$

- 33% or less 0 pts.
- 34 – 66% 4 pts.
- 66 – 84% 6 pts.
- 85% or more 10 pts.

(c) SUITABILITY OF OFFERED LAND FOR AGRICULTURE (maximum 40 points)

Quantity of land offered that are classified as prime and important farmland soils (check one)

- less than 30 acres 0 pts.
- 30 – 50 acres 5 pts.
- 50 – 75 acres 10 pts.
- 75 – 100 acres 15 pts.
- more than 100 acres 20 pts.

Percentage of cropland in application that contains prime and important farmland soils (check one)

- 20% or less 0 pts.
- 21 – 40% 5 pts.
- 41 – 60% 10 pts.
- 61 – 80% 15 pts.
- 81% or more 20 pts.

(d) PRESERVATION OF AGRICULTURAL POTENTIAL OF STATE (maximum points 20)

Method of marketing the commodities produced on the subject (check one)

Regular contract or cooperative	10 pts.
Regional market or delivery route	8 pts.
Farmers market or consumer picking	6 pts.
Lease of land to an agricultural producer	4 pts.
Active farmland within a two mile radius (check one)	
200 acres or less	0 pts.
201 – 300 acres	2 pts.
301 – 500 acres	4 pts.
501 – 800 acres	6 pts.
801 – 1000 acres	8 pts.
more than 1000 acres	10 pts.

Agricultural support services available to subject within a 30 mile radius (machinery, horticultural and livestock) (check one).

Good-All Available	5 pts.
Fair-Some Available	3 pts.
Poor-None Available	0 pts.

(e) NEGATIVE FACTORS INFLUENCING PRESERVATION (subtract points from total of all the categories above) Maximum negative points 10.

Surrounding properties intensively developed	10 pts.
Costs of development rights estimated to be in excess of \$10,000/acre (Effective August 21, 1991)	5 pts.

Sec. 22-26gg-5. Acquisition cost

Agricultural lands which, based on the evaluation provided for in section 4 of these regulations, are designated for further consideration shall be evaluated with regard to the cost of acquiring such land. Such evaluation shall be based on independent appraisals obtained, reviewed and approved by the department of environmental protection.

(Effective September 21, 1979)

Sec. 22-26gg-6. Notification

When the commissioner rejects an application, he shall notify the applicant by certified mail, return receipt requested. When the commissioner decides to make an offer to acquire certain agricultural lands, he shall pursue negotiations for said acquisition. If the landowner accepts the terms of the commissioner’s offer, the landowner shall evidence his acceptance by the signing of an acceptance letter provided by the commissioner.

(Effective September 21, 1979)

Sec. 22-26gg-7. Filing of acceptance

Whenever the commissioner acquires development rights to agricultural land, the instrument of conveyance shall be filed in the land records in the town wherein the land is located. In addition to filing notice in the office of the secretary of the state, as required by statute, the commissioner may also file notice with the appropriate zoning and planning officers and building inspectors of the town wherein the land is located.

(Effective September 21, 1979)

Sec. 22-26gg-8. Application for building

Any owner of land to which the state holds development rights shall notify the commissioner of any proposed construction on such land. Such notification shall be made on a form provided by the commissioner.

(Effective September 21, 1979)

Sec. 22-26gg-9. Basic requirements for joint acquisition of development rights to agricultural lands

(a) In order for a municipality to become eligible to submit a project to the commissioner, the municipality must have the following:

(1) A policy in support of farmland preservation. Such policy may take any one of the following forms:

(A) A policy statement in the plan of development which supports farming or farmland preservation.

(B) An open space plan which designates farmland for preservation purposes.

(C) A municipal farmland preservation plan.

(2) An agricultural land preservation fund.

(3) An applicant who has voluntarily offered to sell development rights to the municipality.

(4) A committee or an agent designated by the municipality with the authority to negotiate to purchase development rights.

A municipality must provide the Commissioner with the aforesaid policy statement or plan, and documentation showing how the requirements listed above have been met.

(b) Applicant for Joint Acquisition.

Applicants must voluntarily apply to the Department of Agriculture for the sale of development rights. The minimum qualification of agricultural lands included in the application shall be:

(1) thirty acres of prime and/or important farmland soils.

(2) a minimum of total gross value of annual agricultural crop productions of \$10,000, excluding livestock sales, forestry production and land lease revenues.

(Effective August 21, 1991)

Sec. 22-26gg-10. Application procedure for applying to the department of agriculture for approval of joint acquisition of development rights

(a) Applicants must voluntarily offer the sale of development rights.

(b) Upon receipt by the Department of an application for land which is in an eligible municipality, the department may initiate joint purchase of development rights projects with the eligible municipality.

(c) The municipality may solicit applications for the purpose of joint acquisition of development rights.

(d) The application shall be on a form provided by the Commissioner and contain the following:

(1) name of owner and acreage and location of property,

(2) original notice of offer to voluntarily sell development rights signed by the applicant(s),

(3) copies of local assessor map of property offered and deed references in local land records,

(4) soils map of the applicant property prepared by the Soil Conservation Service, USDA,

(5) description of agricultural operation including commodities produced and acreages planted, and

(6) identification and recommendation for preservation of the applicants agricultural lands in the municipal farmland preservation plan, or municipal plan of development or open space plan.

(Effective August 21, 1991)

Sec. 22-26gg-11. Evaluations of applications by the commissioner

(a) The Commissioner shall evaluate projects pursuant to the state purchase of development rights program, including issuing notices to the Departments of Environmental Protection, Economic Development, Transportation and the Office of Policy and Management, as set forth in Section 22-26cc of the C.G.S.

(b) Projects approved for action shall be appraised to determine development rights values.

(c) Projects rejected shall be ineligible for joint development rights purchase. The Commissioner shall notify the municipality of projects which have been rejected. Such notifications shall include reasons for rejection.

(Effective August 21, 1991)

Sec. 22-26gg-12. Schedule of contributions

(a) Schedule of the state’s contribution for projects initiated by municipalities shall be as follows:

Acreage of active agricultural land within three mile radius of project, excluding project

State’s contribution

1,000 acres or more	75% of value or \$600,000, whichever is less
800 – 999 acres	65% of value or \$500,000, whichever is less
600 – 799 acres	55% of value or \$400,000, whichever is less
400 – 599 acres	45% of value or \$300,000, whichever is less
200 – 399 acres	25% of value or \$200,000, whichever is less
0 – 199 acres	10% of value or \$100,000, whichever is less

(b) The Commissioner shall set aside an amount from the available funds as projects are approved and the value of development rights for such projects have been determined by appraisals.

(c) The total of municipal and state payments to applicants cannot exceed the value of development rights as determined by property appraisals done for the project on behalf of the Commissioner.

(Effective August 21, 1991)

Sec. 22-26gg-13. Appraisals

(a) The value of development rights for project acreages shall be determined by one or more appraisals. Appraisals shall be performed by appraisers licensed by the State of Connecticut Department of Consumer Protection. No appraisals shall be performed at the department’s expense unless the appraiser is approved by the Commissioner as someone qualified to determine the value of development rights to farmland.

(b) Municipalities, at their own expense, may have projects appraised prior to review by the Commissioner.

(c) Applicants, at their own expense, may have their project appraised by one or more appraisers prior to review by the Commissioner, or performed in addition to appraisals obtained by the municipality or the Department of Agriculture. Such appraisals shall not be acceptable to the Commissioner unless performed as mentioned in subsection (a) of this section. Such appraisals shall be considered by the Commissioner and the municipality in determining development rights values.

(d) Final determination of value of the property shall be determined by the Commissioner of Agriculture.

(Effective August 21, 1991)

Sec. 22-26gg-14. Agreement for joint purchase

(a) The Commissioner and the municipality shall enter into an agreement with each other prior to the joint purchase of development rights, once the value of the development rights has been determined. Such agreements shall specify the following:

(1) Maximum contribution for joint purchase of development rights to be made by the state,

(2) Maximum contribution for joint purchase of development rights to be made by the municipality,

(3) The commitment of the municipality to place its contribution to jointly purchase development rights in an escrow account until such time development rights are conveyed to the state and municipality or until such time it is determined that development rights cannot be conveyed from the applicant,

(4) That the contribution from the state is dependent upon approval of the State Properties Review Board and the State Bond Commission,

(5) That the state shall pay the reasonable closing and survey costs involved with the conveyance of development rights,

(6) The representative of the municipality authorized to negotiate with the project applicant for purchase of development rights,

(7) The owner of the subject property and closing date and acquisition price,

(8) A procedure for the adjustment of price based on A-2 survey acreage adjustment, and

(9) That the agreement shall be subject to the approval of the Office of the Attorney General.

(b) Agreements are to be signed by the Commissioner and the municipality's chief elected officer, treasurer, and chairman of the municipal body or commission, if any, responsible for farmland preservation planning.

(Effective August 21, 1991)

Sec. 22-26gg-15. Negotiations with the applicant

(a) The Commissioner, or his designee, shall be the chief negotiator for the purchase of development rights for the project.

(b) Only the municipality's designated negotiator shall be involved in negotiations with the seller in addition to the Commissioner or his designee.

(c) Contracts for purchase of development rights shall be on a form provided by the Commissioner. Such contracts shall include:

(1) state's contribution,

(2) municipality's contribution,

(3) any requirements that must be met before conveyance of development rights may take place,

(4) Commissioner's signature,

- (5) Municipality's negotiator's signature,
 - (6) Closing date, identification of parties and acquisition price, and
 - (7) A provision that the contract shall be subject to the approval by the Office of Policy and Management and the Office of the Attorney General.
- (d) The purchase offer agreement may be withdrawn anytime prior to acceptance by the applicant. Purchase agreements may be revised and resubmitted if both the Commissioner and the town's negotiator agree.
- (Effective August 21, 1991)

Sec. 22-26gg-16. Conveyance of development rights

- (a) At time of purchase, the applicant shall give, on a form provided by the State, a warranty deed conveying marketable title in and to the development rights of the property, naming the state and the municipalities as grantees. Obtaining necessary land surveys, title certificate, and any title insurance shall be the responsibility of the Commissioner.
- (b) Deeds shall be recorded in the land records of the municipality. Surveys shall be placed on file in said municipality.
- (Effective August 21, 1991)

Sec. 22-26gg-17. Enforcement of restrictions

- (a) The Commissioner and the municipality shall cooperate in the monitoring of the development rights restrictions placed on a project. The restriction shall be enforced by the Commissioner of Agriculture.
- (b) On site inspections of the project for compliance of restrictions shall be done by the Commissioner or his agent. The designated agent of the municipality shall be notified prior to on site inspections and may accompany the Commissioner or his agent during such inspection.
- (Effective August 21, 1991)

Sec. 22-26gg-18. Determination of acreage amounts of arable land including prime and important farmland present at the time of purchase of development rights and adjustments due to construction of residences and farm buildings made after the sale of development rights to the state

- (a) The Commissioner shall determine the acreage or arable lands and prime and important farmland soils present at the time of purchase of development rights by the State. Aerial photographs, property surveys, soil surveys, and on-site inspections may be used to determine acreages. The Commissioner shall notify the owner of the acreage determination prior to purchase.
- (Effective August 21, 1991)

Sec. 22-26gg-19. Owner's responsibility to notify the commissioner of activities affecting restricted land

- (a) Owners shall notify the Commissioner in writing no less than 90 days prior to commencing any of the following activities on land on which development rights have been conveyed to the State of Connecticut, pursuant to Chapter 422a of the Connecticut General Statutes:
- (1) Construction of farm buildings, or additions to existing farm buildings,
 - (2) Construction of residences, or additions to existing residences for persons directly incidental to the farm operation,
 - (3) Gravel excavation for uses incidental to the farm operation. Gravel excavation incidental to the farm operation means removal of sand and gravel material from one location on the farm for use on another location on the farm for either construction

or repair of farm roads; and/or bedding material for livestock; and/or as building materials for permitted construction of new farm buildings or residences or repair to existing farm buildings. The active borrow area of all gravel excavations cannot disturb more than five percent of the total acreage of prime farmland soils present when development rights were purchased by the State of Connecticut,

(4) Sale of restricted land. If restricted land is to be sold, the owner shall notify, in writing, the Commissioner of such impending sale not more than ninety days before transfer of title to the land and shall provide him with the name and address of the prospective buyer, and

(5) Lease of the farm in its entirety, or any portion hereof. The owner shall provide the Commissioner with the terms and duration of the lease and address of the lessee.

(b) Nothing herein shall expand the rights of the owner of restricted land by development rights beyond the extent provided by in Connecticut General Statutes Section 22-26cc and the deed of conveyance of development rights.

(Effective August 21, 1991)