



Conservation Options for Private Landowners

What You Can Do to Help Protect the Nature of Massachusetts

The Need for Conservation

Massachusetts is blessed with a rich and varied landscape. Our hills, river valleys, forests, and coastal regions provide clean water, productive farmland, scenic vistas, and an impressive diversity of wildlife. Our natural resources have sustained generations of Massachusetts residents and are part of the legacy we hope to leave to our children.

But today the nature of Massachusetts is at risk. Every day development is causing the loss or degradation of woodlands, working farms and wildlife habitat. While as a society we need places to live and work, important natural areas are being sacrificed to poorly planned growth. One statistic is particularly compelling: in the last fifty years, Massachusetts' population has increased just 35%, while the developed area of the state has grown 200%.

The impact on our wildlife is profound and growing. Habitat loss, fragmentation, and the spread of invasive species – all related to our enormous appetite for land – threaten the future of our wildlife and our quality of life. Climate change is placing greater stresses on wildlife with every passing year. Today one of every five native species of plants and animals in Massachusetts is listed as rare or endangered. Many wildlife populations are declining. These trends will only accelerate as unchecked development continues.



The survival of our wildlife depends on the three million acres remaining in Massachusetts that are currently undeveloped but not permanently protected. The decisions landowners make about this land in the next twenty years will have a profound and long-lasting effect on the Massachusetts our children and grandchildren will inherit, and on the wildlife that share this landscape with us.

You as a landowner have the ability to influence that outcome. If you have read this far, chances are that you cherish the forests and fields you own, and the land has benefited from your wise stewardship. You may worry about what will happen to it in the future. Looking ahead, a decision to permanently protect your land, its habitat and the wildlife it supports, may be one of the best gifts you can leave to future generations.

The good news is that there are a variety of alternatives to help accomplish your goals, many sources of information and advice, and tax incentives and other types of financial assistance available. Mass Audubon has been working with landowners for more than a century to help them achieve their vision of a landscape permanently protected for wildlife and people. Many other organizations and public agencies also stand ready to help.



Pleasant Valley Wildlife Sanctuary. Photo by: Rene Laubach

**If you want to learn more about how to protect your land,
this guide will help you get started.**

Some Basic Questions

As a landowner interested in exploring permanent protection for your land, you have a number of options. To help you decide which make the most sense for you, try answering these four questions:

1. Do you want your land to be owned and managed by a conservation organization or public conservation agency and enjoyed by the public? Or do you want to keep it in private hands but know that it will always remain undeveloped, regardless of ownership?
2. Can you consider a donation of your property for conservation, or do you need to receive at least some financial compensation?
3. Would you like to see the property conserved soon, say in the next few years, or at a later date, such as upon your death?
4. Have you identified a particular non-profit organization or public conservation agency that you would like to work with to achieve your goals?

The answers to these questions will guide your choices and help you determine which is the most productive route for you to explore. Several of the most common options are described below, but there are additional variations and combinations that can be designed to help you meet your specific conservation objectives.

Gifts of Land

An outright gift of your property for conservation may be the simplest and best way to protect it. A gift of land can ensure that the property will remain forever undeveloped and in conservation use, while freeing you of the responsibilities of ownership and management, including property taxes.

You may donate your property to either a nonprofit land conservation organization such as Mass Audubon or a public conservation agency, such as a town conservation commission or state parks agency. You may already have one in mind; if not, the resources at the end of this brochure can help you locate candidates. Your decision will depend on several considerations:

How will the organization use and manage the property? Do they do a good job with the land they already own? Are they willing and able to take responsibility for stewardship of the property?

The process of making a gift is fairly straightforward, once you've located and reached agreement with the recipient. A deed will need to be drawn up, and the recipient will review your title and the condition of the land. A survey may be necessary if one doesn't already exist.

Donors of land can claim the value of a properly made gift as a charitable contribution on their federal income tax return. The IRS has certain limitations on how much of a deduction a taxpayer can claim in any given year, but unused portions of the gift can be carried forward for up to five additional years. An appraisal will be necessary if your gift has a value of \$5,000 or more.



Judy and Dudley Williams of Plainfield have generously donated land and conservation restrictions to Mass Audubon totaling 347 permanently protected acres.



Part of the Williams' gift to Mass Audubon, this pond is now permanently protected.

In some cases, landowners choose to make a gift of land now, but reserve the right to use the property during their lifetime – this is known as a **reserved life estate**. Such landowners retain their traditional, private use of the property, along with the responsibilities of management and property taxes, but have the assurance that upon their deaths, ownership will automatically pass to a conservation organization.

Gifts of Conservation Restrictions

If you want to keep your land (and someday leave it to your heirs or sell it), but want to know that, regardless of ownership, the land will stay open and undeveloped forever, then a **conservation restriction** may be the right choice. A conservation restriction is a voluntary legal agreement between a landowner and a conservation organization that forever limits development of a property, and gives to the organization the responsibility to monitor the property and enforce and defend the terms of the agreement.

Conservation restrictions are placed on record at the county registry of deeds and bind all future owners of the land. The land itself remains in private hands and on the tax rolls, and can be given, sold or left to anyone the owner chooses, but future owners will be bound by the terms of the agreement. The public has no right of access to the property unless the owner specifically grants it.

Conservation restrictions have become very popular tools for land conservation in recent years, and for good reason. For the owner who wishes to keep land in the family but ensure its preservation, a conservation restriction is the perfect tool. Conservation restrictions can be tailored to reflect the particular qualities of the land and the specific objectives of the landowner and recipient organization. A conservation restriction may, for instance, allow continued farming or forest management by the landowner, or a small amount of carefully sited, additional development. Since 1969, when the legislature first authorized the creation of conservation restrictions, more than 100,000 acres across the state have been protected in this way.

As with gifts of land, donors of properly drafted conservation restrictions are eligible to claim a charitable contribution on their federal income tax return. The amount of the gift is determined by professional appraisal, and is generally the amount by which the conservation restriction has reduced the value of the property. The IRS imposes rules on how much can be deducted in any given year, but unused portions of the deduction can be carried forward for 5–15 years, depending on the circumstances. Donors may realize significant estate and property tax savings as well.

A special class of conservation restrictions, called Agricultural Preservation Restrictions or APRs, is designed to protect working farms. In 1977 Massachusetts launched the first statewide program in the country to protect farms through the purchase of APRs, and since then more than 60,000 acres of farmland have been protected. Like conservation restrictions, APRs can also be given to or purchased by other conservation organizations.

Mass Audubon holds nearly 100 conservation restrictions across the state, protecting more than 4,500 acres of land. These restrictions are tailored to reflect the special qualities of the land and the individual circumstances of landowners, protecting critical habitat while often allowing such traditional land uses as agriculture, forestry, and hunting.



The Barn Owl, one of twenty-eight native bird species listed as rare, requires grassy habitats for foraging, including fresh and salt marshes and agricultural fields.

Sales and Bargain Sales

Many landowners cannot afford to make a gift of land or a conservation restriction, but would nonetheless like to see their property permanently preserved. Though conservation organizations have limited funds for purchases, you should not hesitate to inquire.

Many landowners take advantage of tax provisions that allow for a **bargain or charitable sale** of their property for conservation. A sale for less than the property's full fair market value compensates the landowner with a combination of cash and tax deductions, and makes the purchase more affordable for the conservation organization. Sellers involved in such transactions are eligible for a federal income tax deduction reflecting the size of the discount. The combination of a tax deduction, reduced capital gain, and other considerations (such as avoidance of real estate commissions) can make a bargain sale surprisingly competitive with a sale at fair market value, particularly for owners of highly appreciated property or those in high income brackets.



The Eastern Box Turtle is a native Massachusetts species now listed as rare. This turtle will live in a variety of habitat – including dry and moist woodlands, brushy fields, bogs, and stream banks.

Looking Ahead: Estate Planning and Bequests

What if you're not ready to make an irrevocable commitment, but want to know that if something should happen to you, your land will be protected? Or perhaps you want to protect your land, but need to retain its value as financial security if it is needed to meet future medical expenses or other unexpected costs.

In these cases, a gift of land or conservation restriction **by will** is a good option. Land and conservation restriction gifts by will can also be smart tax planning: though they don't provide an income tax deduction, they do remove the value of the property from your taxable estate, thereby reducing any inheritance taxes owed by your heirs. New tax provisions now provide even greater estate tax benefits for gifts of conservation restrictions.



Professor Alfred Chandler Jr. generously donated this land, part of the North Shore's Great Marsh, to Mass Audubon through his will.

Other Alternatives

If a straightforward gift or sale of land or a conservation restriction isn't possible, there may be alternatives. When a landowner needs to sell at a price higher than a conservation organization can afford, one option is for both parties to look for a **conservation buyer**. These are private individuals who are seeking an opportunity to purchase a special piece of land and are willing to conserve some or all of the land permanently through imposition of a conservation restriction.

Another alternative in these circumstances is to consider whether development of one part of the land makes it feasible to conserve the more environmentally sensitive portion, a method known as **limited development**. Many landowners, working with conservation organizations, have chosen to sell a portion of their land for development and to conserve the remainder, when the only financially practical alternative was to see the entire property developed.

Often the best solution for a particular landowner is a tailored combination of various options. Many land conservation practitioners, like the land protection specialists at Mass Audubon, are experienced in working with landowners facing a wide variety of situations and challenges. Ask one or more for suggestions that might address your particular circumstances.

For More Information, Call Mass Audubon...

Talk to one of our Land Protection Specialists. We are happy to discuss options with you by phone or in person, confidentially and without obligation. Contact us at 781-259-2155, or land@massaudubon.org, or 208 South Great Road, Lincoln, MA 01773. If we can't help, we'll try to refer you to someone who can. Or start by visiting our website at www.massaudubon.org/land.

Ask us for more detailed written literature. *Land Conservation Options*, a 38-page booklet published by The Trustees of Reservations and Essex County Greenbelt Association, discusses these and other topics in greater detail, and is available from Mass Audubon for \$5. We also have fact sheets and other written materials on a variety of topics that can be provided at no charge.

Inquire about other land trusts in your area. Massachusetts has more than 100 active land trusts working at the state, regional and local level. To learn which ones are active in your region, ask us, or go to the website of the Massachusetts Land Trust Coalition (www.massland.org), which has links to many.

Mass Audubon's land protection efforts protect critical habitat for native species and provide many quality of life benefits, including the protection of clean drinking water and locally grown food, and places for people to experience and reflect upon the wonders of nature. Mass Audubon works to protect the nature of Massachusetts for people and wildlife. Together with more than 100,000 members, we care for over 34,000 acres of conservation land, provide educational programs for 200,000 children and adults annually, and advocate for sound environmental policies at the local, state, and federal levels. Mass Audubon's mission and actions have expanded since our beginning in 1896 when our founders set out to stop the slaughter of birds for use on women's fashions. Today we are the largest conservation organization in New England. Our statewide network of 45 wildlife sanctuaries welcomes visitors of all ages and serves as the base for our conservation, education, and advocacy work. To support these important efforts, call 800-AUDUBON (283-8266) or visit www.massaudubon.org.