



CONSERVATION RESTRICTION LANDOWNER HANDBOOK



DIVISION OF STATE PARKS AND RECREATION





↑ Towering oak tree.
Photo by Jennifer Howard.

Cover photo: Stream flowing through woodlands and shrub wetlands in autumn. *Photo by Bill Byrne.*

Thank you for being a steward of land where the Massachusetts Department of Conservation and Recreation (DCR) holds a restriction.

We greatly appreciate partnering with you to permanently conserve your property in Massachusetts. Statewide, DCR manages over 450,000 acres of land for conservation and recreation purposes to benefit the public. These lands include a wide range of important resource areas, protect critical drinking water supplies, and help to mitigate the impacts of climate change. They also offer opportunities for people to get outside and enjoy nature.

DCR's Land Protection and Stewardship Program is divided into two focus areas that align with DCR's two land management divisions: the Division of State Parks and Recreation and the Division of Water Supply Protection. The focus areas reflect DCR's multi-purpose land protection goals and allow the agency to strategically target and protect properties most suitable for stewardship by the Division of State Parks and Recreation and the Division of Water Supply Protection.

In broad terms, the two focus areas include:

State Parks and Recreation: Staff focus on acquiring land to protect significant natural and cultural resources, provide diverse recreational opportunities and protect the integrity of DCR's system of forests, parks and reservations; and

Water Supply Protection: Staff focus on acquiring land to protect the watersheds and source waters that provide forest-filtered drinking water for 3 million residents in 51 communities within metropolitan Boston.

DCR's Land Protection and Stewardship Program conserves land in both focus areas by owning it outright and by placing restrictions on privately-owned property to limit future development and protect significant natural resources. Restrictions allow landowners to retain ownership rights to their land while agreeing to manage their land in a manner that preserves the identified resource values. Depending on the focus area, either DCR's Division of State Parks and Recreation or the Division of Water Supply Protection holds the Restriction and, in partnership with the landowner, is responsible for ensuring the restricted land is protected forever.

Your Restriction falls within the oversight of DCR's Division of State Parks and Recreation which holds over 350 Restrictions on over 40,000 acres.

DCR is committed to its stewardship responsibilities that come with conserving these lands and working with landowners like you, to help you thoughtfully manage your property to protect our valued, diverse resources for the benefit of current and future generations.

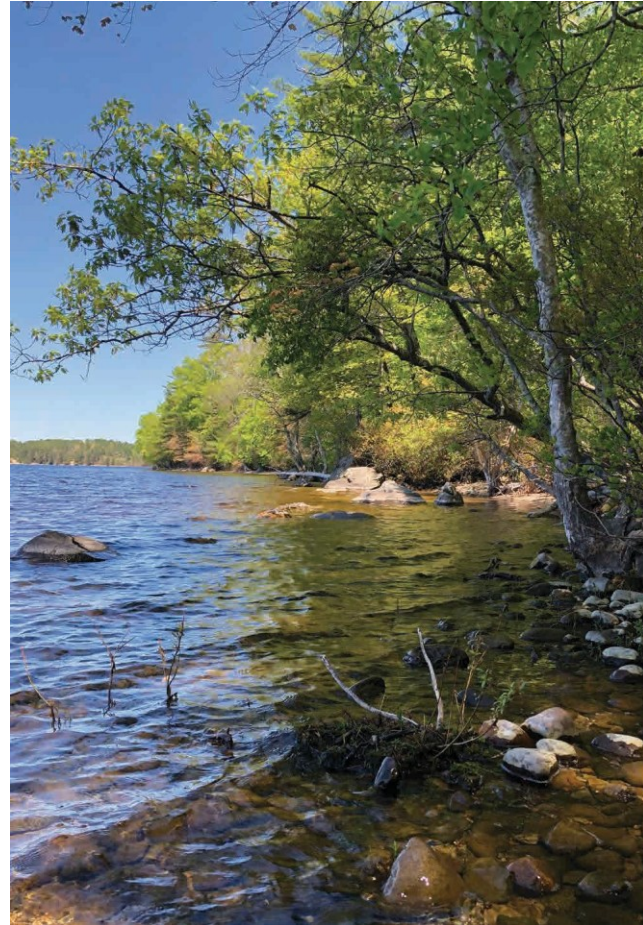
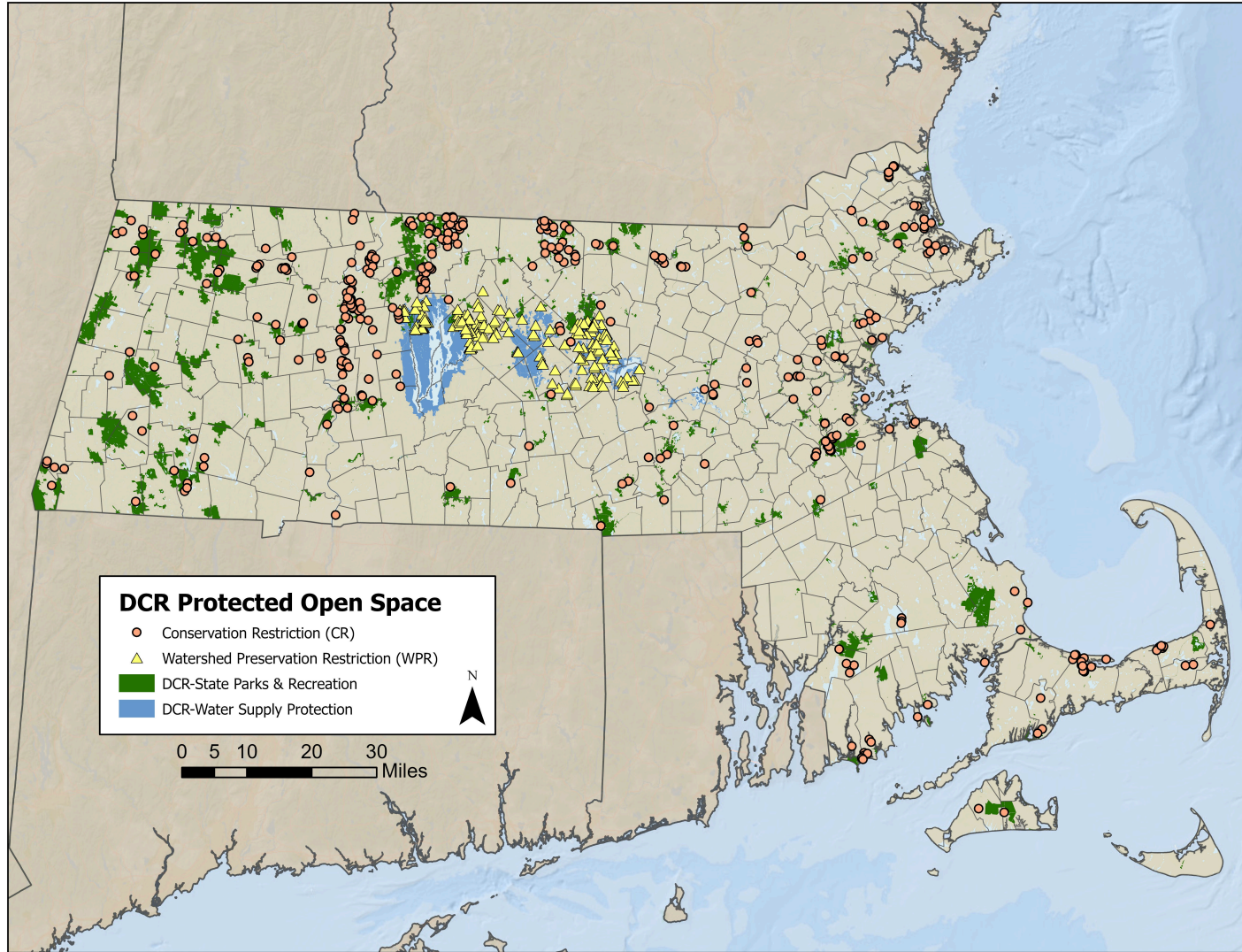
For More Information

About the Division of State Parks and Recreation, visit this [website](#)

About the Division of Water Supply Protection, visit this [website](#)

→ DCR protected properties provide exciting opportunities for people to view wildlife, such as this yellow-throated vireo.
Photo by Kevin Barnes.





↑ Protected naturally vegetated shorelines help to maintain water quality and promote healthy ecosystems.
Photo by Felicia Bakaj.

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▲ Open fields, such as those on this protected hilltop, can offer extraordinary views while also providing excellent habitat for wildlife, such as grassland birds and pollinators. *Photo by Felicia Bakaj.*

Introduction

As stewardship partners, DCR trusts that you, the landowner, know your property best, but also understands that caring for a conserved property can be a complicated undertaking. DCR has prepared this landowner handbook to:

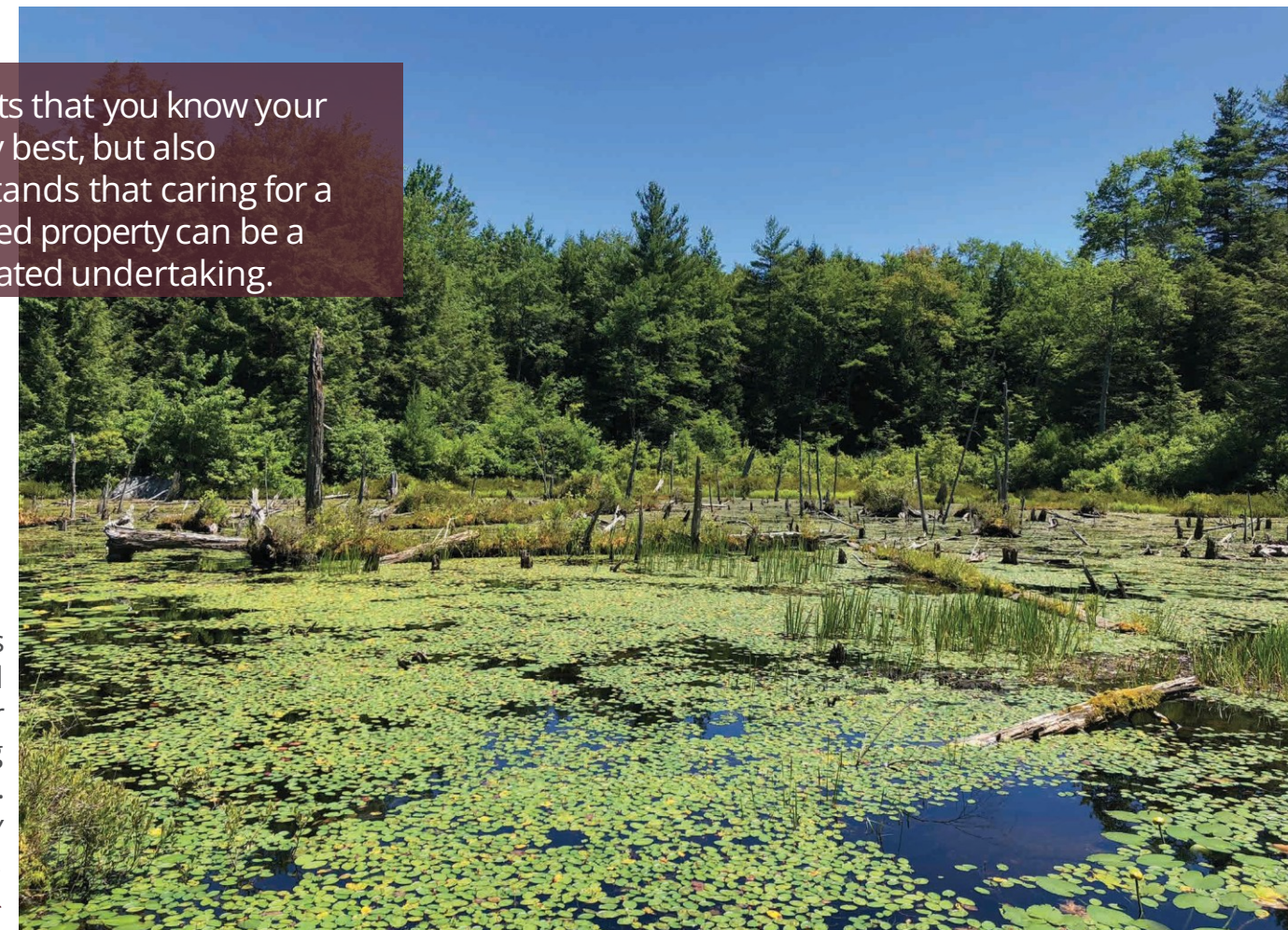
- Help answer questions you may have about your Restriction;
- Help you understand your rights and responsibilities as the owner of a conserved property;
- Outline what to expect from DCR stewardship staff and our responsibilities as the Restriction holder of your conserved property;
- Outline the assistance available from DCR to help you steward your property's unique features in compliance with the terms of your Restriction.

We hope you find this overview helpful in understanding your obligations as a Restriction landowner, and we always welcome your questions, concerns and feedback.

DCR trusts that you know your property best, but also understands that caring for a conserved property can be a complicated undertaking.

Your CR protects many natural features on your land, including water resources.

Photo by Felicia Bakaj.



What Is a Restriction?

A Restriction (sometimes known as an Easement in other states) is a permanent legal agreement that protects the important natural resources and conservation values of a property. Protecting these resources (e.g., water quality, working forests, scenic value, historic and cultural resources, and wildlife habitat) benefits not only the private landowner, but the public as well. A Restriction agreement is executed between a landowner (Grantor) and a qualified holding organization (Grantee) and allows the landowner to continue to own and use their land but restricts actions that would harm the conservation value of the land.

Many Restrictions also provide public access to the land for compatible outdoor recreation. A Restriction is a permanent interest in property, recorded at the Registry of Deeds, and represents a legally binding agreement that ensures the land is protected through all subsequent changes in property ownership. The Restriction holder is authorized to monitor the property and ensure compliance with the terms of the Restriction, activities which are often referred to as stewardship.



↑ Trees regenerating in a forest opening.
Photo by Sasha Auer.

Restrictions protect land by limiting certain uses to protect the conservation value of natural, cultural, or recreational resources or watershed protection. Because every property is distinct and individual landowners have different goals for the conservation of their property, each Restriction contains unique terms which reflect a balance between protecting the land and its resources and the personal objectives of the landowner granting the Restriction. In Massachusetts, the four types of Restrictions that state agencies hold on conservation land are described in Sections 31-33 of Chapter 184 of the General Laws of the Commonwealth of Massachusetts.

These four types are based on the primary purposes of protecting the land and are defined as:

Agricultural Preservation Restriction (APR):

A Restriction retaining land or water areas predominately in their agricultural farming or forest use.

Conservation Restriction (CR):

A Restriction retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming or forest use. A CR may require the owner to allow public recreational use.

Preservation Restriction (PR or HPR):

A Restriction preserving a structure or site historically significant for its architecture, archeology or associations.

Watershed Preservation Restriction (WPR):

A Restriction designed to permanently protect the water resource values of a property by defining conditions that promote water quality and ensure a future water supply for the Commonwealth.

Cultural resources such as stone walls, foundations, and the historic root cellar pictured here, may also be protected by your Restriction.
Photo by Felicia Bakaj.



(DCR), Division of State Parks and Recreation largely holds CRs; however, DCR State Parks does hold some WPRs, APRs, and HPRs as well. Division of State Parks and Recreation Restrictions can be found in nearly every county in the Commonwealth, from the Berkshires to the Cape and Islands, and they vary from half-acre fields, to 1,000+ acre forests. Each Restriction held by the Division of State Parks and Recreation is unique, but most prohibit development with the goal of keeping the Massachusetts landscape open, natural and connected, available to sustainable resource management, and accessible for the enjoyment of all.

Article 97: Protecting Land Forever

All Restrictions held by Massachusetts Executive Office of Energy and Environmental Affairs (EEA) state agencies are protected by Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts. The intent of Article 97 is for land to be protected forever.

“The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose.

The general court shall have the power to enact legislation necessary or expedient to protect such rights.

In the furtherance of the foregoing powers, the general court shall have the power to provide for the taking, upon payment of just compensation therefore, or for the acquisition by purchase or otherwise, of lands and easements or such other interests therein as may be deemed necessary to accomplish these purposes.

Lands and easements taken or acquired for such purposes shall not be used for other purposes or otherwise disposed of except by laws enacted by a two thirds vote, taken by yeas and nays, of each branch of the general court.”

What Is a Baseline Documentation Report?

A baseline documentation report (BDR) must be prepared for every new Restriction to document the physical conditions of the property at the time it is protected. The BDR contains detailed narratives, maps and photos to describe the conditions of property features that are protected or affected by the terms of the Restriction. These include current land uses and improvements as well as Restriction purposes such as protecting ecological, scenic and/or historic resources. The specifics of each BDR are dependent upon the purpose of conserving the land based on the land’s inherent natural and cultural resources. The BDR also addresses activities a landowner is allowed to conduct on the property and limitations required to protect the property. Restriction stewardship staff use the BDR as a reference during regular monitoring visits to identify changes to the property (human-made or natural) and to ensure that the terms of the Restriction are upheld in perpetuity.



↑ A trail meanders through a fern carpeted woodland along an intermittent stream. *Photo by Sasha Auer.*

Restriction stewardship staff use the BDR as a reference during regular monitoring visits to identify changes to the property.

The BDR must be reviewed and acknowledged by both the landowner granting the Restriction (Grantor) and holder of the Restriction (Grantee). We recommend retaining these materials so that they can be referenced in the future to help ensure any changes made on the property are consistent with the Restriction’s terms.



A patchwork of protected forested landscapes. *Photo by Jennifer Howard.*



Regular Monitoring Visits

After a Restriction has been recorded, the holder of the Restriction has a right to enter the property for purposes of monitoring the property to determine compliance with the terms of the Restriction so that the property's conservation values are protected. To exercise this right, we regularly visit your property to walk the land and look for any natural or human-made changes. Staff will notify you prior to our visit and you are welcome, but not required, to accompany us on the walk. Stewardship staff will document each monitoring visit using maps, photographs and a written description to maintain a record of the conditions of the property over time.

In addition to ensuring compliance with the terms of your Restriction, monitoring also helps us to build and maintain positive working relationships with you by providing an opportunity to meet in person and answer any questions you might have about the Restriction and your plans for your land. However, we understand that it may not always be possible for Restriction landowners to meet during our monitoring visits. We are also available to answer questions you have at other times throughout the year either in-person, over the phone, or via email.

Successful Restriction stewardship is an ongoing commitment which depends on open communication between you and stewardship staff. To ensure timely communication, please notify us of any changes to your contact information, as well as your preferred method for our staff to reach you (email, cell phone or home phone).



↑ Stewardship staff monitoring a property in the Berkshires. *Photo by Bob Wernerehl.*

Restriction Boundaries

While some Restrictions cover an entire parcel, others protect only a portion of the property and the boundary between the restricted and unrestricted land may not be obvious. Knowing the location of your Restriction boundaries is an essential element in fulfilling our mutual obligation to protect your property's conservation values.

Each Restriction document includes a legal description of the restricted area, and many have a boundary survey completed and recorded at the time the Restriction is established. When properties are surveyed, professional surveyors often mark the corners and other points along a boundary with permanent monuments (e.g., iron pins, stone bounds). For those protected properties with no survey, we rely on other information such as: recorded surveys of abutting properties, municipal parcel map data, deed descriptions, compass, GPS and field evidence to help identify Restriction boundaries. Where no survey exists, or where an existing survey and other information is not adequate to define a Restriction boundary, hiring a professional land surveyor may be necessary to protect your property from external threats of trespass and third-party encroachments.



↑ Boundaries marked with unobtrusive but visible signs are mutually beneficial to the landowner, monitors, and abutters.

Photo by Mark Kresge.

As a complement to a property boundary survey, posting your boundaries helps to facilitate our regular monitoring and informs abutters and others that your property is protected by a permanent Restriction. Clearly marked boundaries are mutually beneficial to the landowner, monitors, and abutters and walking portions of the boundary and noting their condition is a routine part of monitoring visits. We recommend marking trees at the property edges with blazes, paint, flagging, or boundary signs.

DCR has boundary signs available to landowners indicating the land is protected by a Restriction (see below for details). Whichever method you choose, the boundary markings should be regularly checked and replaced when necessary.

DCR Division of State Parks and Recreation works with landowners to post signage along Restriction boundaries. Several varieties of signs are available for landowners including two versions of Restriction boundary signs; one that reads "Conservation Restriction Boundary" and the other which adds "Private Land." If public access is permitted on your Restriction, signs are also available to place where trails enter your property to notify members of the public that they are entering onto private land where recreational use is permitted. Depending on resources, staff may be able to sign your boundaries. Please contact us if you would like to discuss boundary signing options.



↑ Many stone walls, characteristic of the New England landscape, serve as effective boundary markers.
Photo by Felicia Bakaj.



A uniquely shaped snag stands in a forest in the Berkshires. *Photo by Sasha Auer.*



Managing Your Land

Every Restriction document both prohibits some activities and allows others. The activities that are allowed are often called reserved rights or permitted uses. Every Restriction is unique and it is important for you to be familiar with the details of your document.

We strongly encourage you to review the prohibited activities and permitted use sections of your Restriction document carefully and contact us with any questions. Understanding the rights and responsibilities of you, the landowner, and the holder of the Restriction is the foundation of good stewardship. A phone call or email from you before you conduct activities on your land, whether or not specifically required by the Restriction, can help clarify and prevent any unpermitted activities from occurring on your restricted land. Please contact us at any time to ask questions and/or schedule a site visit.

For some land management activities, your Restriction may require you to notify the state agency holding your Restriction before you proceed with any work. Written approval from the holder prior to conducting an activity is often required as well.

This affords stewardship staff an opportunity to review plans and ensure that the intended use is designed and carried out in a way that is consistent with the terms of the Restriction. Your Restriction may outline the process to follow for notification or to request approval. In general, notifications and requests for permission should be submitted in writing to the state agency holding your Restriction and any co-holder(s) of the Restriction (if applicable).

To aid us in issuing a timely approval, please be sure to provide sufficient detail of the nature, scope, design, location and timetable for your project, which could include photographs, drawings and maps. If we find that the requested activity is inconsistent with the terms of your Restriction, approval will not be granted. However, we strive for a sense of partnership with you, the landowner, in land management objectives and activities. As such, we will work with you to determine if there is a way to meet your land management goals while ensuring the protection of conservation values identified in the Restriction.

We strive for a sense of partnership with you in land management objectives and activities.



Carefully planning and executing management activities, such as haying fields, can be beneficial to landowners while simultaneously ensuring ecological and wildlife impacts are minimized. *Photo by Christine Berry.*



↑ Properly managed forests can provide habitat for a variety of wildlife including ruffed grouse which is seen here foraging in a patch of wild sarsaparilla.
Photo by Sasha Auer.

Landowner & Land Management Resources

Forest Resource Plans

The Mass DCR Service Forestry Program helps landowners make educated decisions about their woodlots and protects valuable forest resources through fair and consistent application of environmental regulations. The program provides technical expertise and services that help to uphold the conservation purposes of your Restricted land.

Forest Management Plans (FMP) and Forest Stewardship Plans (FSP) are prepared by a licensed private consulting forester and are valid for 10 years. The forester takes into account your management goals and the resources on your property. A report is produced with a narrative describing your land, maps of the property, and a list of recommended forestry management practices. An FMP focuses on the timber resources on the property; whereas an FSP considers all of the resources on the property including: soil and water quality, wildlife and fish habitat, and outdoor recreation.

Many Restrictions require a current FMP or FSP approved by the Service Forestry Program and/or the Restriction holder prior to initiating forest management on your restricted property. Some Restrictions require that there is always a current approved FSP, regardless of whether you are planning active forestry.

All proposed forest harvesting (except for non-commercial use of the landowner under a threshold identified in the Restriction, such as for firewood for personal use) requires a Forest Cutting Plan (FCP) approved by Service Forestry and/or the Restriction holder. FCPs are valid for 2 years and contain information about the type of cutting being proposed, and the volume of products to be harvested. The FCP also details Best Management Practices to be used during harvest operations for stream and wetland crossings, harvesting in wetlands, and the protection of other resources, such as significant cultural features or rare species habitat.

Whether or not your Restriction requires an FMP or FSP, we encourage you to explore obtaining one for your property. Preparing a plan helps you better understand your land, promotes sustainable forestry,



↑ Landowners retain many rights to manage their restricted lands, including the right to conduct approved forestry operations.
Photo by Bill Byrne.

and may enable you to enroll in the Chapter 61 Program (MA Ch. 61 [or Ch. 61A] Current Use Tax Program) which provides tax breaks to landowners based on the current use of the land as forest or farmland.

For More Information

About obtaining an FSP, FMP, or FCP, visit the Service Forestry [website](#). Financial assistance is often available for landowners to fund at least part of the costs of obtaining these plans.

Conservation Plans

A Conservation Plan (also called a Farm Plan), is a tool to help a landowner better manage the natural resources on their farm. These plans are prepared by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) in cooperation with your local Soil Conservation District. A NRCS technical expert will meet with you to evaluate the soil, water, air, plant and animal resources on your property and offer several alternatives to address the resource conditions. The alternatives you decide to use are recorded in your Conservation Plan.

Many Restrictions, especially those that allow farming or agriculture, require a current Conservation Plan for the property. Even if your Restriction does not require it, we encourage you to explore the option. Obtaining a Conservation Plan does not cost anything, and, depending on the practices recommended, NRCS staff can often help you obtain cost-share funding to implement the recommended practices as well.

For More information

About obtaining a Conservation Plan, visit the NRCS [website](#) about Conservation Planning
Or call your local [Service Center](#)



↑ Agricultural activities on CRs, such as grazing livestock or growing crops, may require a Farm Plan.
Photo by Sasha Auer.

Ecological and Archeological Resource Impact Review

Many Restrictions protect land with rare or endangered habitats and/or species, or important cultural or archeological resources. As a result, activities that take place on Restrictions may require review by additional state agencies such as MassWildlife's Natural Heritage and Endangered Species Program (NHESP) or the Massachusetts Historical Commission (MHC).

If you have any questions about whether your property contains rare or endangered species, contact MassWildlife's Natural Heritage and Endangered Species Program. The NHESP is responsible for the conservation and protection of hundreds of species that are not hunted, fished, trapped, or commercially harvested in the state, as well as the protection of the natural communities that make up their habitats.

The Massachusetts Historical Commission is responsible for reviewing projects for impacts to historic and archaeological properties. This process ensures the protection of historical features and landscapes, archaeological sites from unauthorized digging, and unmarked burials. For state agency held Restrictions, any project that requires Restriction holder permission must be reviewed by MHC in compliance with Massachusetts General Laws Chapter 9, sections 26-27C.

DCR Best Management Practices

DCR has developed a series of Best Management Practices (BMPs) in response to frequently recurring issues identified through DCR's Resource Management Planning process, technical assistance inquiries, and observations made in the field. These BMPs may be useful to landowners and include guidance for trail restoration and maintenance, invasive plant management, and complying with local and state regulations.



↑ Restriction stewardship staff visit your property regularly.
Photo by Sasha Auer.

For More information

On MHC's review processes and program please visit this [website](#).

On the Natural Heritage and Endangered Species Program please visit this [website](#).

On DCR's Best Management Practices please visit this [website](#).

Public Access

Since DCR has a dual mission of conservation and recreation, it strives to allow public access on land where it holds a Restriction where appropriate and consistent with the conservation purposes of the Restriction. Most of DCR Division of State Parks and Recreation Restrictions grant the general public rights to access the restricted property for compatible outdoor recreational uses. If public access rights are granted, the Restriction typically defines for what purposes and where access is granted. Access may be granted throughout the entire property, only in a section of the property, or only on a trail corridor. If public access is granted by the Restriction it is often for passive recreational uses such as hiking, nature study, hunting, cross-country skiing, mountain biking, horseback riding, or other similar uses. In general, motorized vehicle use is not permitted for recreational purposes. You should refer to your Restriction for specifics on the types of recreational uses that are permitted, usually outlined

in a section called “Reserved Rights” or “Permitted Uses,” and whether the general public has the right to recreate on your land, usually outlined in a section called “Access.”

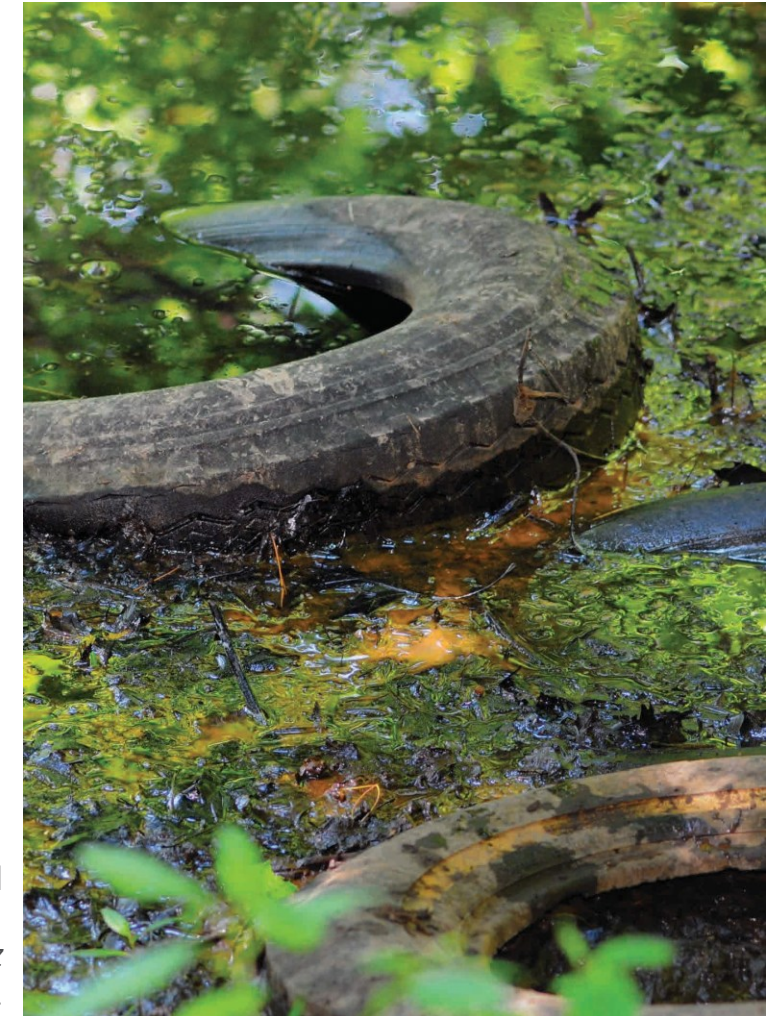


↑ Nature enthusiasts enjoying a hike on protected land.
Photo by Shaun Provencher.

Unauthorized Use Of Your Land

Although your land has a Restriction on it, you are still the owner. As the landowner, you are responsible for ensuring that all activities on your land, whether undertaken by you or others, are consistent with the Restriction. As such, any trespassing (transient use by strangers) or encroachments (neighbors using your land as though it is theirs) on your land is still your responsibility to resolve. Restriction stewardship staff provides an extra set of eyes on your property when we conduct our regular monitoring visits, and we will let you know if we see any evidence of trespassing or encroachment. If these uses of the property are inconsistent with the terms of the Restriction, the restriction requires you, the landowner, to address and resolve them. If they are not inconsistent with the terms of the Restriction, it is your choice whether to address them.

→ Tires in polluted wetlands.
Photo by Liz Newlands.



Changes In Ownership: Selling Your Land

As with any property, while land under a Restriction will change hands over time, the Restriction is permanent. If you are selling your land, we ask that you notify your realtor and all potential buyers and lessees about the Restriction on your property. It is important that your realtor and the prospective new owners of your property understand the significance of the Restriction: the reason(s) it exists, the landowner's responsibilities, the specific prohibited and allowed uses, and our monitoring protocol. If a potential buyer has questions about the Restriction on your property, please connect them with our stewardship staff to answer their questions.



An indigo bunting sings from the branch of an ash tree.
Photo by Sasha Auer.

Many Restrictions require that you notify the Restriction holder before any conveyance, and that the transfer deed includes the book and page numbers of the recorded Restriction. Please check your Restriction for specific requirements. We urge you to notify us as it helps ensure that we will be able to:

- Help answer questions you may have about your Restriction;
- Prevent incompatible uses from taking place because of a misunderstanding;
- Acquaint the new landowners with stewardship staff.

We also ask that you let us know if you plan to transfer legal ownership within your own family, to a real estate trust or a limited liability corporation, as we need to maintain records of the correct legal ownership of Restriction properties.

Anatomy of a Restriction

Many Restrictions follow a similar format and contain the general sections outlined below. Please consult your Restriction for property specific details and feel free to ask stewardship staff if you have any questions.

Granting Paragraph

- Identifies the GRANTOR and GRANTEE (and if applicable, any co-holding organization);
- Cites the Massachusetts enabling statute for Restrictions (MA General Laws, Ch. 184, Sections 31-33);
- Includes basic information regarding location and acreage of the restricted property, the deed reference to Restriction grantor's legal title, a survey plan, a reference to other relevant documents, and typically a reference to a detailed Exhibit at the end of the document that defines a legal description of the Restriction premises.

Purposes Section

- Identifies the purposes and public benefits of the Restriction and defines the conservation values on the property;
- In lieu of a purpose section, older Restrictions (1970's to mid-1980's) simply state their intent of ensuring "the



↑ Fern and moss covered hemlock forest floor.
Photo by Felicia Bakaj.

While many Restrictions follow a similar format, each Restriction contains unique terms.

premises will be retained in their natural, scenic and open condition for conservation purposes and for the protection of natural environment systems."

Prohibited Uses

- Identifies activities that are not allowed on the land in order to protect conservation values.

Permitted Uses

- Names and describes reserved rights (allowed activities) that are exceptions to the previously listed prohibitions;
- Identifies reserved rights which require prior written notice before undertaking and/or written approval.

Notice and Approval

- Explains the process and timeline for exercising your reserved rights (permitted activities) when prior written notice and/or written approval by DCR is required;
- Identifies the minimum number of days before beginning certain activities for which you have to provide the Restriction holder with a written notice or request for approval.

Access

- Grants stewardship staff the right to enter the property to inspect compliance with the terms of the Restriction, which includes the right for the Restriction holder to enter the property without express permission to uphold their obligations to monitor and enforce the Restriction's terms, when necessary;
- Addresses whether the general public has been granted the right to access the Restriction property, and for what purposes and where access is granted. Public access may also be addressed in the permitted use section.

Further Paragraphs and Execution Pages

- Consists of legal explanations generally not as important for day-to-day understanding of your Restriction, but contain important legal language necessary to make the Restriction valid and enforceable;

- Defines issues surrounding the grantee's legal remedies to enforce the Restriction, acts beyond the grantor's control, the perpetual duration of the Restriction, and requirements surrounding subsequent transfer of the property, among others;
- Includes signature pages executing, accepting, and approving the grant of the Restriction, with official notarized signatures by the grantor(s) and grantee.

Restriction Exhibits

- Contains the legal description(s) of the property subject to the Restriction, which usually includes some or all of the legal deed description of the parcel, reference to the Restriction grantor's title to the property, and may include a sketch map or surveys (or references to recorded surveys) depicting the protected premises;
- Defines areas excluded from the Restriction, special use areas, or building envelopes, if they exist.



A fiddlehead prepares to unfurl its fronds.
 Photo by Sasha Auer.
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Restriction Stewardship Staff

Executive Office of Energy and Environmental Affairs (EEA) Restriction Staff appreciates the careful stewardship by landowners of the diverse and unique places across the state where we hold Restrictions. Staff are available to answer questions from landowners about their protected land or their Restrictions.

Contact Information

Conservation Restriction Stewardship Program
 136 Damon Road
 Northampton, MA 01060
 conservationrestriction.dcr@mass.gov

Mature forest canopy in early fall foliage.
 Photo by Jennifer Howard.



dcr
Massachusetts



Mass.gov/DCR

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