

The Highland Communities Initiative (HCI) is a program of The Trustees of Reservations that promotes land conservation and community preservation in rural western Massachusetts.

HCI encourages local efforts to conserve the natural and cultural landscapes of the Highlands region by providing municipal boards, land trusts, community leaders, and others concerned about the future of the Highlands with the information and tools they need to be effective advocates for conservation and community preservation.



A PROGRAM OF THE TRUSTEES OF RESERVATIONS

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# Land Conservation Options

AN INTRODUCTION FOR  
LANDOWNERS IN THE HIGHLANDS  
OF WESTERN MASSACHUSETTS



## Protecting the Land You Love

If you are a landowner concerned about the future of our landscape, this booklet is for you. Whether by purchase, gift, or inheritance, you own a part of this landscape. It may be land that you cherish and that you want to leave for your children and future generations to enjoy as you have.

First, the bad news: *Unless you take positive action to protect your land, the odds are strongly in favor of its eventual development.* A tide of mostly unplanned development is washing over Massachusetts. Even in our rural western towns, our landscape is being fragmented as new houses pop up on roadsides and hilltops every day. Some of this change is inevitable and even beneficial, as our communities need to grow and evolve. But some of this change—the development of a favorite farm, loss of a treasured view, or “No Trespassing” signs tacked up beside a popular trail or swimming hole—is changing what we love about these hills.

The good news is: *You can take steps to protect your land,* for the good of your family and your community. Tens of thousands of acres in western Massachusetts, including many of the conservation jewels of our landscape, are protected today because private landowners like you made decisions to preserve them.

This booklet will introduce you to the options you have as a private landowner to protect your property, and point you in the direction of additional information and advice.

## PETTICOAT HILL RESERVATION

In 1905, Martha Nash donated this 60-acre property in South Williamsburg to The Trustees of Reservations in memory of her husband.



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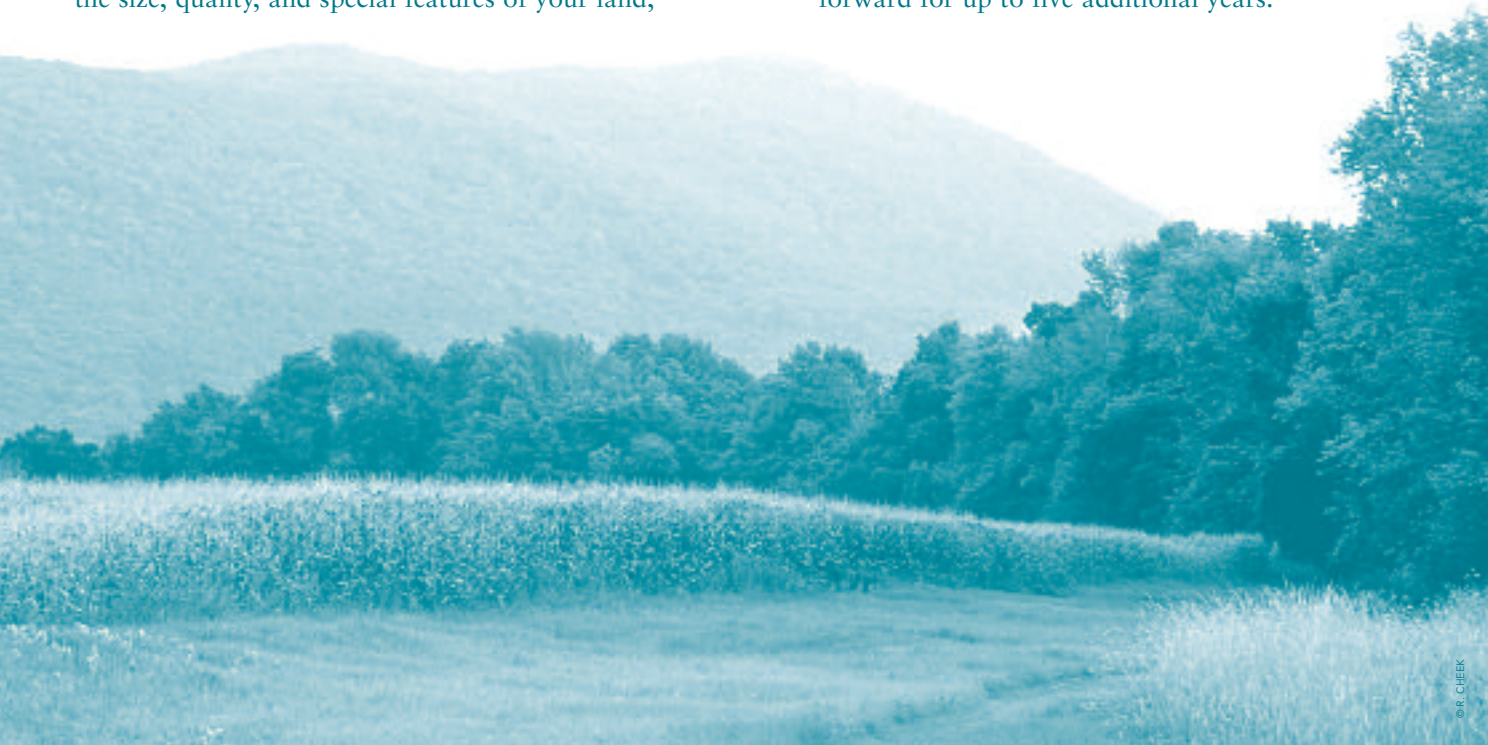
## Gifts of Land

One of the best ways to protect land permanently is to donate it to a private, non-profit conservation organization (commonly called a **land trust**) or a public conservation agency. If you want to permanently protect your land and make it available for others to enjoy, and you want to be free of the burdens of ownership and management, this is often your best choice.

Choosing the right organization or agency to own and care for your land is an important decision. How do you want the land used? What organizations and agencies have management philosophies similar to your own? Is it important to you that the forest be actively managed, or set aside as wild? Do you want the land open to hikers? To hunters? To snowmobilers? Depending on the size, quality, and special features of your land,

one or more of the land trusts and agencies listed at the back of this booklet might be interested in accepting a gift of your land and the responsibility of caring for it.

Donating land for conservation brings with it certain tax benefits. You are no longer responsible for paying property taxes on the land. The value of the property is removed from your estate, potentially reducing your estate tax burden. You avoid capital gains taxes that would be due if the land were sold. Finally, the value of the land, when given to a qualified non-profit land trust or public agency, may be claimed as a charitable contribution on your federal income tax return. Tax rules limit how much you can claim in any given year, but unused portions of the gift may be carried forward for up to five additional years.



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## CHUCKLEBROOK FARM

In 2001, the owners of Chucklebrook Farm and the Hilltown Land Trust worked with the state Agricultural Preservation Restriction program to protect this working farm in Worthington.



© HILLTOWN LAND TRUST

## Gifts of Conservation Restrictions

Landowners who wish to protect their land permanently without giving up ownership may choose to donate a conservation restriction on their property. A conservation restriction, or CR for short, is a legal agreement that extinguishes certain development rights in the property forever, and gives a non-profit land trust or public conservation agency the right and responsibility to monitor the property and defend the terms of the CR.

With a CR, the land itself remains in private hands and on the tax rolls, and may be sold, bequeathed, or given to any party the owner chooses. The CR goes on record at the Registry of Deeds and becomes a permanent part of the property's title, binding all future owners of the land. The public has no right to use the property unless that right is specifically granted in the CR.

Conservation restrictions have become very popular conservation tools in recent years. Today, more than 2,300 CRs protect more than

50,000 acres throughout Massachusetts. They are particularly useful for owners who cherish the natural qualities of their land and would like to ensure its preservation, but who wish to keep the land in the family or may need to sell it in the future.

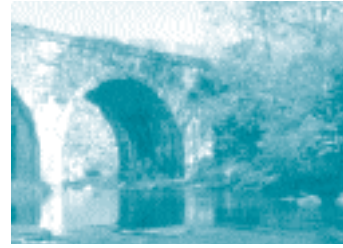
Landowners who donate CRs are often eligible for a federal income tax deduction. The amount of the charitable contribution is determined by a qualified professional appraiser hired by the donor, and is calculated as the amount by which the CR has lowered the fair market value of the property. CR gifts may provide estate and property tax benefits as well.

Related to CRs, agricultural preservation restrictions (or APRs) are designed specifically for the preservation of agricultural land. The Commonwealth has an active program of buying APRs on farmland, but APRs may also be given to conservation organizations, towns, and others.



## KEYSTONE ARCH RAILROAD BRIDGE

On land protected by the Massachusetts Division of Fisheries and Wildlife, this rare dry-laid bridge in Chester is open to hikers.



© B. WARREN

## Sales, Bargain Sales, and Conservation Buyers

If you'd like to conserve your land but can't afford to give it away or donate a conservation restriction, what options do you have?

Though funds are limited, some state agencies and conservation organizations do purchase land and restrictions. State agencies have the largest acquisition budgets, but on occasion some towns and nonprofits also purchase property. Because funding at all levels is so limited, purchases are usually restricted to properties of the highest priority—lands of high resource value often near or adjacent to existing holdings.

Sometimes a landowner is able and willing to sell property for less than the fair market value to assist in its protection. This is known as a “bargain sale.” A bargain sale often makes a purchase more feasible or attractive for an agency or land trust. Bargain sales can also offer significant tax advantages to the seller. When the land is sold to a conservation organization or public

agency, the landowner may claim the difference between the sale price and the fair market value as a charitable contribution on his or her federal income tax return.

Sometimes the party that is most able to purchase and conserve the land, at full or reduced value, is not a public agency or land trust, but another conservation-minded private buyer. Land trusts may be able to help in locating such buyers and in structuring the transaction to ensure that the land becomes permanently protected by a conservation restriction.

## Bequests and Partial Interests

While an outright donation of land or a CR may be the most straightforward approach to protecting your land, sometimes it helps to defer



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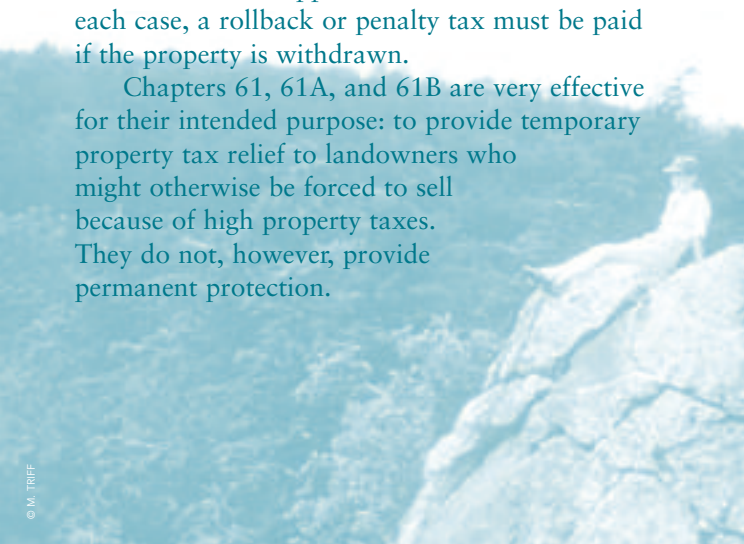
some or all of the gift for personal or tax reasons. One common method is to donate land or a conservation restriction upon your death through your will. Under other circumstances, it may be beneficial to donate the land in stages, through gifts of separate parcels or gifts of undivided (percentage) interests, or to donate the land but reserve the right to use it during your lifetime. These are options you may wish to explore with the proposed recipient and your legal and tax advisors.

## Current Use Taxation Programs: Chapters 61, 61A, and 61B

These chapters of the Massachusetts General Laws grant temporary property tax relief to landowners who are willing to keep their land open for a minimum period of years. The three chapters address three different land uses: forestland actively managed for timber (Chapter 61); actively used agricultural land (61A), and recreational and other open space lands (61B).

In each case, a landowner who enrolls at least the minimum number of acres in a program receives a property tax break. In return, the landowner agrees to use and maintain the land as required by the program. The programs differ in the size of the tax break, qualifications for enrollment and use, the length of the enrollment period, and how often re-application must be made. In each case, a rollback or penalty tax must be paid if the property is withdrawn.

Chapters 61, 61A, and 61B are very effective for their intended purpose: to provide temporary property tax relief to landowners who might otherwise be forced to sell because of high property taxes. They do not, however, provide permanent protection.



## For More Information

### **Obtain a copy of *Land Conservation Options: A Guide for Massachusetts Landowners*:**

a 38-page booklet published by The Trustees of Reservations and Essex County Greenbelt Association, which discusses these topics in greater depth. Highlands landowners may request a free copy by contacting the Highland Communities Initiative (see back cover); additional copies are \$5 each, including shipping and handling.

### **Contact a non-profit land trust or public conservation agency working in your area:**

#### LAND TRUSTS ACTIVE IN PART OF THE REGION

Berkshire Natural Resources Council, 20 Bank Row, Pittsfield, MA 01202, 413-499-0596, [www.bnrc.net](http://www.bnrc.net) (Berkshire County)

Franklin Land Trust, P.O. Box 216, Ashfield, MA 01330, 413-628-4696, [www.franklinlandtrust.org](http://www.franklinlandtrust.org) (Franklin County)

Hilltown Land Trust, P.O. Box 251, Chesterfield, MA 01012, 413-584-4957, 413-268-7572, [www.hilltownlandtrust.org](http://www.hilltownlandtrust.org) (Hampshire County and Chester)

Valley Land Fund, P.O. Box 522, Hadley, MA 01035, 413-256-4045 (Franklin, Hampshire and Hampden Counties)

Winding River Land Conservancy, P.O. Box 1836, Westfield, MA 01086, 413-562-1386 (western Hampden County)

#### TOWN-WIDE LAND TRUSTS

Becket Land Trust, P.O. Box 44, Becket, MA 01223

Monterey Preservation Land Trust, P.O. Box 504, Monterey, MA 01245

New Marlborough Land Trust, P.O. Box 275, Southfield, MA 01259

#### LAND TRUSTS ACTIVE THROUGHOUT THE REGION

Massachusetts Audubon Society, 208 South Great Road, Lincoln, MA 01773, 781-259-9500, [www.massaudubon.org](http://www.massaudubon.org)

New England Forestry Foundation, 1 East Maine St., Orange, MA 01364, 978-544-3332, [www.newenglandforestry.org](http://www.newenglandforestry.org)

The Nature Conservancy, 205 Portland St., Ste. 400, Boston, MA 02114-1708, 617-227-7017, <http://nature.org>

The Trustees of Reservations, 193 High St., Holyoke, MA 01040, 413-532-1631, [www.thetrustees.org](http://www.thetrustees.org)

#### STATE CONSERVATION AGENCIES

Agricultural Preservation Restriction (APR) Program, Massachusetts Dept. of Agricultural Resources, 251 Causeway Street, Ste. 500, Boston, MA 02114-2151, 617-626-1720, [www.mass.gov/agr/landuse/APR/](http://www.mass.gov/agr/landuse/APR/)

Division of Conservation Services, 136 Damon Road, Northampton, MA 01060, 413-586-8706, [www.mass.gov/dcr/](http://www.mass.gov/dcr/)

Division of Fisheries and Wildlife, 400 Hubbard Avenue, Pittsfield, MA 01201, 413-447-9789, [www.mass.gov/dfwele/dfw](http://www.mass.gov/dfwele/dfw)