

Becket

“Relegating conservation to government is like relegating virtue to the Sabbath. Turns over to professionals what should be the daily work of amateurs.”

Aldo Leopold, 1935



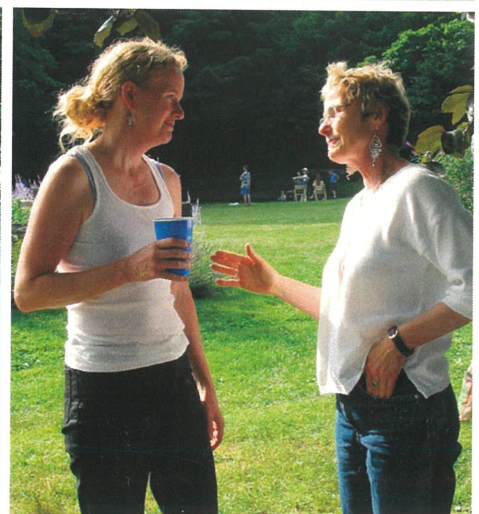
UMass Amherst Outreach UMass  
Extension



HIGHLAND  
COMMUNITIES  
INITIATIVE

## Connecting for Conservation

A Neighbor's Guide to Land Conservation





#### AUTHORS



UMassAmherst Outreach **UMass**  
**Extension**

Paul Catanzaro  
UMass Amherst



Wendy Sweetser,  
Highland Communities Initiative

#### ACKNOWLEDGMENTS

Aldo Leopold knew in 1935 that ultimately it is not a sweeping regulatory change or government program, but the "daily work of amateurs" (town boards, local land trusts, watershed associations, trail groups, community leaders, and interested citizens) that will decide the future of our communities. Thank you interested community members; your work is making the difference!

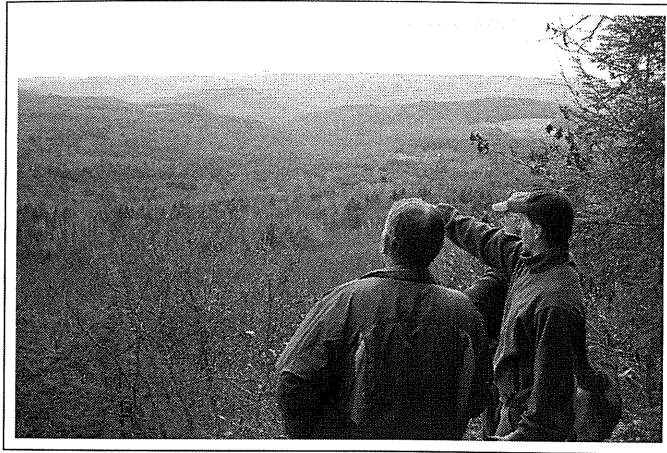
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**Cover Photo Credits:** The Trustees of Reservations, Susan Campbell

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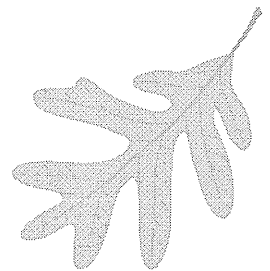


## Introduction

For many Highland residents, maintaining their town's rural character and healthy natural resources is a top priority. An effective strategy to reach this goal is land protection. However, towns are often natural resource rich and cash poor. In addition, overworked volunteer town boards and well-intentioned community members are often not sure how to go about starting a land protection project. Too often this can lead to inaction and missed opportunities.

*Often, the most valuable thing a community member can do is let a landowner know that land conservation is an option and connect them to a conservation organization working locally who can help.*

**Despite a town's lack of money, it is possible to protect land!** Community members can play a critical role in facilitating land protection in their towns. In fact, the most valuable role of all—serving as a trusted, local source of knowledge for both landowners and conservation organizations or agencies—can only be played by a community member. Better than anyone else, community members understand how information is communicated in their town, recognize the needs and concerns of their community, and know which local individuals to contact. This guide is meant to help citizens use their role as local sources of information to increase local land





# Connecting for Conservation: A Neighbor's Guide to Land Conservation

This guide was developed to give town leaders and citizens the information necessary to recognize conservation opportunities and provide information to landowners, find and contact a conservation partner, and explore funding options with the conservation partner.

*Determining a land's particular value(s) can also help steer a town or landowner to specific conservation organizations and funding programs for assistance.*

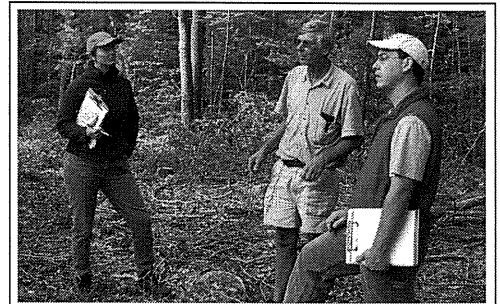
**1. Recognize Conservation Opportunities.** The most common land conservation opportunity is talking to landowners who are deciding the future ownership and use of their land before it goes on the market. Community members can play a critical, on-the-ground role by being aware of the land protection opportunities that arise (e.g., land coming up for sale or an elderly landowner without any heirs), informing the landowner that they have conservation options (e.g., conservation restriction, limited development), and putting them in contact with a conservation partner. This is a reactive approach.

A proactive approach would be informally talking with neighbors, friends, and landowners in areas of town that the town determines to be important. Educating landowners about their options for protecting land (see page 18) can help them make an informed decision that is right for their family. Creating a friendly relationship can also lay the foundation for a successful project since information is often better received from trusted friends or neighbors than from strangers.

**2. Find and Contact a Conservation Partner.** In most cases, it is unlikely that a Highland town will be able to purchase land; therefore it is critical to identify likely conservation partners that may have resources to bring to the project. **Determining a land's particular value(s) can also help steer a town or landowner to specific conservation organizations and funding programs for assistance.** Prioritizing land can also help towns protect important community values and weigh the use of very scarce financial resources (e.g., CPA funds, town appropriations).

Table 1 lists four (4) objective primary values for which land is commonly protected: public water supply, wildlife and biodiversity, endangered species [upland and aquatic], and working farms and forests. For each of these primary values, there are criteria and a map to evaluate the priority (high, medium, or low) of a parcel of land. Table 2 lists four (4) supporting values that are more subjective—recreation, scenic landscapes, historic and cultural resources, and community character—and suggests criteria for prioritization based on these values. If a piece of land is of medium or high priority for any of the primary values, **Table 1 identifies likely conservation partners and funding programs.** Some land may be of high or medium priority for multiple values. Contact infor-

*It is important to make interested landowners aware of all their options.*



mation is provided for the conservation partners on pages 16-17. A Conservation Project Worksheet is also provided on page 6 to assist in working through Tables 1 and 2, noting values of high and medium priority as well as conservation partners and possible grants.

Alternatively, it is possible to find a conservation partner by determining which conservation organizations are working in the same area as the parcel of interest. Map 5, in the "Conservation Focus Area" section of this guide, is a map of permanently protected open space in your town. Each parcel of protected land is labeled with the conservation organization that owns the land or holds the conservation restriction on it. Simply determining the conservation organization with land closest to the parcel of interest is another way to identify a likely conservation partner.

**After you determine the likely conservation partner(s), pick up the phone.**

*When you see a land conservation opportunity, pick up the phone.*

**3. Pick up the phone:** Talk to the landowner deciding the future of their land and let them know there are people working locally to help them learn about their conservation options. Recommend a conservation partner(s) and provide contact information. In addition, make contact with the organization yourself to help get the process started. When contacting a conservation organization, you can ask to speak to the staff person who handles land protection projects. Communicate why you think the property is of interest (e.g., it is an endangered species habitat, it is important agricultural land). **However, don't get too distracted about finding the perfect fit.** Typically, conservation organizations work together. If the organization's goals don't match the property, they will refer the landowner or you to a conservation organization that may be a better fit, or pass the information along themselves. **The important step is to make the call to get the process started.** Time may be a critical factor, especially if it is a Chapter 61 right of first refusal situation.

If you are working with a landowner who does not have high or medium priority land for any of the primary values, that doesn't mean there still aren't options. Make your best guess about the most appropriate conservation partner (e.g., an organization with a mission similar to the landowner's goals, the organization with land in closest proximity), and put them in touch with each other.

**4. Explore Funding Options with the Conservation Partner.** Partnering may also entail working with neighbors and other interested residents to show local support for the conservation project. Local support can take different forms. Town boards such as the select board or planning board can show their support for a project by officially endorsing it at a public meeting. In circumstances where there are local matching funds available from the town (e.g., Community Preservation Act funds) or private contributors, the local financial support can make the project significantly more appealing and manageable for a land conservation organization. Depending on the priority of the land (e.g., drinking water supply), the town may choose to raise money itself.

**Chapter 61 Programs.** Included in this guide is a description of the Chapter 61 Right of First Refusal and a suggested process for notifying the appropriate people and boards when the town has the opportunity to exercise the right. It is important for the town to know that it can transfer the right of first refusal to a partner conservation organization or to a willing state agency. The description of the Chapter 61 program reflects the changes made to the programs as of March 22, 2007.



# Primary and Supporting Conservation Values Tables

CONSERVATION PROJECT WORKSHEET



## Conservation Priorities – Primary Values (Table 1)

**Primary Values:** These values can be determined in an objective way and by themselves can be enough to attract project funding.

Primary Land Value	High Priority	Medium Priority	Low Priority	Conservation Partners	Programs	Page Number
Public Water Supply	Parcel is entirely within a public water supply	Parcel is partially within a public water supply	Parcel is not in a public water supply	<ul style="list-style-type: none"><li>• Your town or other town with PWS in your town</li><li>• Trust for Public Land</li></ul>	<ul style="list-style-type: none"><li>• Town Bond</li><li>• Drinking Water Supply Protection Program</li><li>• Land and Water Conservation Fund</li></ul>	Page 7
Wildlife/Biodiversity	<b>Top 10% CAPS</b> priority sites - Land in dark green (Forest), dark brown (non-forested upland), or dark blue (water)	<b>Top Third CAPS</b> priority sites - Land in medium green(forest), medium brown (non-forest upland), medium blue (water)	<b>Top Half CAPS</b> priority sites - Land in Light Green (forest), light brown (non-forest upland), light blue (water)	<ul style="list-style-type: none"><li>• MA Fish and Game</li><li>• Mass Audubon</li><li>• The Nature Conservancy</li><li>• Berkshire Natural Resources Council</li><li>• Winding River</li></ul>	<ul style="list-style-type: none"><li>• Conservation Partnership Grant Program</li><li>• Federal Land and Water Conservation Fund</li><li>• Massachusetts Local Acquisitions for Natural Diversity (LAND) Program</li></ul>	Page 8
Endangered Species	Land falls into a BioMap or Living Waters <b>Core</b> area or has a certified vernal pool	Land falls into a BioMap or Living Waters <b>Supporting Landscape</b>	Land <b>does not</b> fall into A BioMap core or Supporting Landscape	<ul style="list-style-type: none"><li>• MA Fish and Game</li><li>• The Nature Conservancy</li><li>• Mass Audubon</li><li>• Berkshire Natural Resources Council</li><li>• Winding River</li></ul>	<ul style="list-style-type: none"><li>• Conservation Partnership Grant Program</li><li>• Federal Land and Water Conservation Fund</li><li>• Massachusetts Local Acquisitions for Natural Diversity (LAND) Program</li></ul>	Page 9
Working Farms & Forests	<b>Farms:</b> Soils are prime for agriculture and or have active agricultural operations <b>Forests:</b> Prime forest soils or Property greater than 150 acres	<b>Farms:</b> Soils of statewide importance, local importance or unique soils, agricultural operation within the last 25 years <b>Forest:</b> Greater than 100 acres	Land contains mostly soils not suitable for traditional agriculture or too small for forestry management	<ul style="list-style-type: none"><li>• Franklin Land Trust</li><li>• Hilltown Land Trust</li><li>• American Farmland Trust</li><li>• MA Dept. of Ag. Resources</li><li>• New England Forestry Foundation</li><li>• Berkshire Natural Resources Council</li><li>• Winding River</li></ul>	<ul style="list-style-type: none"><li>• Agricultural Preservation Restriction</li><li>• Forest Legacy</li></ul>	Page 10





## Conservation Priorities – Supporting Values (Table 2)

**Supporting Values:** These values tend to be more subjective and are best discussed and defined at the town level. These values, which will rarely be the sole or primary purpose for protecting a piece of land, are important considerations when combined with the primary values. The presence of a secondary value can also be a great opportunity to pull in additional partners, such as the local historic commission or recreation clubs.

Supporting Land Value	High Priority	Medium Priority	Low Priority	Conservation Partners	Programs	Page Number
<b>Recreation</b>	Land has recreational value of regional significance because of its location, proximity, size, or physical features.	Land is primarily of value as a local recreational resource.	Land holds no public access potential, little recreational value, or is very common	<ul style="list-style-type: none"><li>MA Dept. of Con. &amp; Rec.</li><li>Appalachian Mtn. Club</li><li>The Trustees of Reservations</li><li>Fish and Game</li></ul>	<ul style="list-style-type: none"><li>Rec. Trail Program</li><li>Massachusetts Local Acquisitions for Natural Diversity (LAND) Program</li></ul>	Page 11
<b>Scenic Landscapes</b>	Contains extraordinary scenic features of regional or statewide renown.	Contains scenic features of primary value to the town and the town's ability to maintain its local rural character.	Land has no outstanding scenic features.	<ul style="list-style-type: none"><li>MA Dept. of Con. &amp; Rec.</li><li>The Trustees of Reservations</li><li>Franklin Land Trust</li></ul>	<ul style="list-style-type: none"><li>Massachusetts Local Acquisitions for Natural Diversity (LAND) Program</li></ul>	Page 12
<b>Historic/Cultural</b>	Identified as a priority by the national historic registry, Mass Historic, or eligible for one of these designations, determined by local historic commission.	Land has a resource of local significance	Land has no outstanding historic or cultural resources	<ul style="list-style-type: none"><li>MA Historical Commission</li><li>The Trustees of Reservations</li></ul>		Page 13
<b>Community Character</b>	Land is critical to character and way of life in the community	Land is important to segments of the community	Land is most important to the immediate neighbors	<ul style="list-style-type: none"><li>Community</li><li>Individuals</li><li>Local clubs or organizations</li></ul>	<ul style="list-style-type: none"><li>Massachusetts Local Acquisitions for Natural Diversity (LAND) Program</li></ul>	Page 14



# Conservation Project Worksheet

Landowner Name \_\_\_\_\_

Address \_\_\_\_\_

Town \_\_\_\_\_

Phone Number \_\_\_\_\_

E-mail (if appropriate) \_\_\_\_\_

Property Location (if different than address) \_\_\_\_\_

Town \_\_\_\_\_

Acres \_\_\_\_\_

Parcel Number (if known) \_\_\_\_\_

Ch 61/A/B ROFR? \_\_\_\_\_

**Primary Land Values (circle which applies)**

**Description**

Public Water Supply	High	Medium	Low	
Wildlife	High	Medium	Low	
Endangered Species	High	Medium	Low	
Working Forests/Farms	High	Medium	Low	

**Supporting Land Values (circle which applies)**

**Description**

Recreation	High	Medium	Low	
Scenic	High	Medium	Low	
Cultural/Historic	High	Medium	Low	
Community Character	High	Medium	Low	

Potential Grant Programs \_\_\_\_\_

Local Contact (person or committee) \_\_\_\_\_

Local Partners (boards, clubs, or people) \_\_\_\_\_

Comments \_\_\_\_\_



## Circle the most likely conservation partners for this land

When contacting a conservation partner, ask to speak to the staff person that handles land protection projects.

### Local Land Trusts

#### Berkshire Natural Resources Council

20 Bank Row  
Pittsfield, MA 01201  
Phone: (413) 499-0596  
Fax: (413) 499-3924  
Email: tames@bnrc.net  
Web: www.bnrc.net

#### Winding River Land Trust

Post Office Box 1836  
Westfield, Massachusetts 01086-1836  
Telephone & Fax: (413) 562-1386  
Email: wriver@exit3.com  
Web: www.windingriverlandconservancy.org

#### American Farmland Trust

1 Short Street, Suite 2  
Northampton, MA 01060  
Phone: (413) 586-4593, ext. 29  
Web: http://www.farmland.org

#### Hilltown Land Trust

P.O. Box 171  
Huntington, MA 01050  
Phone: (413) 268-8374  
E-mail: wil.hastings@gmail.com  
Web: http://hilltown-land-trust.org

#### Franklin Land Trust

P.O. Box 450  
Shelburne Falls, MA 01370  
Phone: (413) 625-9151 or (413) 625-9152  
Fax: (413) 625-9153 Email: rkhubbard@verizon.net Web:  
http://www.franklinlandtrust.org/

#### Mass Audubon

208 South Great Road  
Lincoln, MA 01773  
Phone: 781-259-9500 Phone: 800-AUDUBON  
Web: http://www.massaudubon.org

#### New England Forestry Foundation

PO Box 1346  
Littleton, MA 01460  
Phone: (978) 952-6856  
Web: http://www.newenglandforestry.org/

#### The Nature Conservancy

25 Main Street, Suite 214  
Northampton, MA 01060  
Phone: (413) 584-2532  
E-mail: markelle\_smith@tnc.org  
Web: http://www.nature.org/wherewework/northamerica/states/  
massachusetts/preserves/

#### The Trustees of Reservations (The Trustees)

Mission House  
P.O. Box 792, 1 Sergeant Street  
Stockbridge, MA 01262-0792  
Phone: (413) 298-3239 x3000 E-mail: lalexander@ttor.org  
Web: http://www.thetrustees.org

#### Trust for Public Land

1 Short Street, Suite 9  
Northampton, MA 01060  
Phone: (413) 584-6686 Fax: (413) 585-6687  
Email: clem.clay@tpl.org  
Web: http://www.tpl.org

### Local Public Conservation Organizations

#### Appalachian Mountain Club

5 Joy Street  
Boston, MA 02108  
(617) 523-6580  
hclish@outdoors.org

#### MA Department of Agricultural Resources (MA DAR)

101 University Drive  
Amherst, MA 01002  
Phone: (413) 548-1900 Fax: (413) 548-1901  
Web: http://www.Mass.gov/AGR

#### MA Dept. of Conservation and Recreation (MA DCR)

136 Damon Rd.  
Northampton, MA 01060  
Phone: 413 586-8706 ext. 12  
Web: http://www.mass.gov/dcr/

#### MA Fish and Game

Western Wildlife District/Division of Fisheries & Wildlife  
400 Hubbard Avenue  
Pittsfield, MA 01201  
Phone: (413) 447-9789 Fax: (413) 442-0047  
Web: http://www.mass.gov/dfwele/dfw/dfw\_toc.htm



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# Primary Values

DESCRIPTIONS AND CONSERVATION PARTNERS



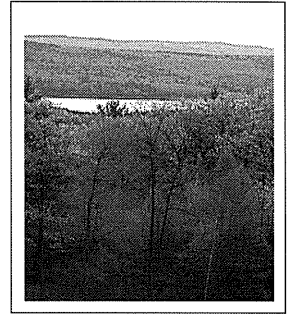
These values can be determined in an objective way and  
can attract project funding.



## Public Water Supply

A safe public water supply is a matter of public health. Clean water is one of the most important products produced by the forests of Massachusetts and perhaps the one we most take for granted.

Forests are a very efficient solar-powered natural water filter. The cleanest water is produced by areas where water is slowed down by vegetation and filtered through the soil. Forests contain multiple layers of trees, shrubs, and plant cover (e.g., ferns, mosses, etc.) to slow rainfall and snowmelt. Water flows rapidly into forest soils that are protected by a layer of leaves, needles, and other organic material.



*Buying land to protect water quality is a sound public health and fiscal decision.*

As land is developed and taken out of forest use, we lose the benefit of having those forests clean our water. It also increases the likelihood that the water is picking up pollutants from other land uses (e.g., houses, parking lots, roads, etc.) as it flows toward wells and reservoirs. Noticeable changes in water quality develop in areas once approximately one-third of a watershed is converted from forests to other land uses. Once water quality is compromised, it is necessary to filter and chemically treat drinking water to meet EPA standards. This is much more costly than avoiding the problem by conserving land.

Land falling within a public water supply area should be considered very seriously for protection or acquisition by the town in order to secure a safe and healthy future for residents. Money spent now in the protection of land for public water supply will pay out many times over in the avoidance of water treatment costs. Buying land to protect water quality is a sound public health and fiscal decision.

### Definitions

**The Zone II** . The Zone II is the land area that contributes water to a well. The well's water supply is replenished when precipitation or stormwater percolates through the soil and reaches the water table. A Zone II delineation is required by DEP for all new wells yielding >100,000 gallons of water per day (gpd) and for existing wells increasing water withdrawals by >1,000,000 gpd. The Zone II is the area on which a community should focus its protection efforts.

### Interim Wellhead Protection Areas

**Large Wells** (>100,000 gpd). The Interim Wellhead Protection Area (IWPA) is used as the protection area only until the Zone II is approved. All public drinking water wells without a Zone II have an IWPA.

**Small Wells** (<100,000 gpd). The IWPA ranges from 400 feet to a half mile and is proportional to the well's pumping rate. For small wells, the IWPA is the designated wellhead recharge area that should be protected.

*Source of information: Water Quality – Map 1*

**High Priority** Parcel is entirely within a public water supply.

**Medium Priority** Parcel is partially within a public water supply.

**Low Priority** Parcel is not in a public water supply.

### Conservation Partners:

*Towns that depend on land in your town for their drinking water*  
*The Trust for Public Land*

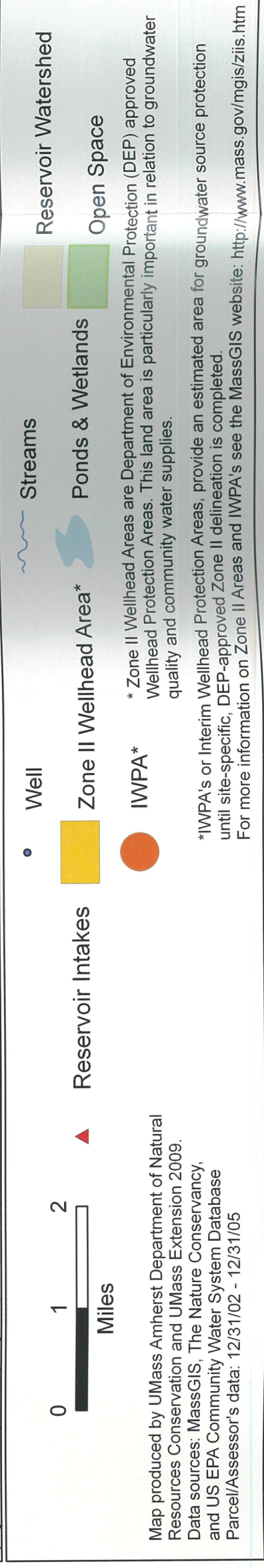
### Funding Programs:

*Raising funds through town bond*  
*Drinking Water Supply Protection Grant Program*  
*Land and Water Conservation Fund*



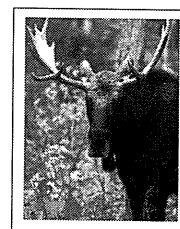


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## Wildlife and Biodiversity



The UMass Conservation Assessment and Prioritization System (CAPS) is a computer modeling approach to prioritizing land for conservation based on the assessment of ecological integrity for various natural communities (e.g., deciduous forest, grassland, shrub swamp, first-order stream) within an area. The CAPS model defines *ecological integrity* as the ability of an area to support biodiversity, and the ecosystem processes necessary to sustain biodiversity, over the long term. The CAPS approach assumes that by conserving intact, ecologically defined natural communities of high integrity, we can conserve most species and ecological processes. The modeling process results in a final “index of ecological integrity” that can be used alone or in combination with other approaches, such as BioMap and Living Waters, to identify and prioritize land for conservation. The maps in this report show those areas representing 50 percent of the landscape with the highest wildlife habitat and biodiversity value. Forests (green); non-forested uplands (brown); and wetlands, streams, and open water (blue) are all rated to determine the highest quality habitats within the western Massachusetts region (west of the Connecticut River). Higher ranking areas tend to be those that are large, intact, and connected to other natural areas. The darker the color on the maps, the higher the value of ecological integrity.

*Source of Information:* Conservation Assessment Prioritization System—Map 2 or visit <http://masscaps.org/>. CAPS analysis run June 2008

<b>High Priority</b>	Land in a dark green (forest), dark brown (non-forested upland), or dark blue (water), top 10 percent of priority sites
<b>Medium Priority</b>	Land in a medium green (forest), medium brown (non-forested upland), or medium blue (water), top 10–30 percent
<b>Low Priority</b>	Land in a light green (forest), light brown (non-forested upland), or light blue (water), top 40–50 percent

### Conservation Partners:

*Mass Wildlife*  
*Mass Audubon*  
*The Nature Conservancy*  
*Berkshire Natural Resources Council*  
*Winding River*

### Funding Programs:

*Conservation Partnership Grant Program*  
*Land and Water Conservation Fund*  
*Forest Legacy Program*  
*Massachusetts Local Acquisitions for Natural Diversity (LAND) Program*





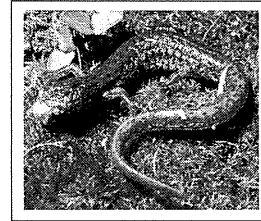
Data sources: MassGIS, The Nature Conservancy, UMass Landscape Ecology Program/July 2008  
Parcel/Assessor's data: 12/31/02 - 12/31/05

\*Includes grasslands, shrublands, cliffs, and exposed or wooded steep slopes



## Endangered Species Protection

Maintaining the full range of plants and animals that live in our towns is a part of maintaining healthy functioning ecosystems. The BioMap project done by Mass Wildlife's Endangered Species Program identifies areas of known occurrences of species that are threatened, endangered, or of special concern in upland areas. The project also delineates the land around the core habitats that is necessary to maintain the integrity of the core habitat. These areas are referred to as Supporting Natural Landscapes. Likewise, the Endangered Species Program prepared a companion map for aquatic habitats called Living Waters in which core aquatic habitats and their related supporting landscapes are included.



*Source of Information:* Wildlife and Biodiversity—Map 3 or visit:  
<http://www.mass.gov/dfwele/dfw/nhesp/nhbiomap.htm>

<b>High Priority</b>	Land falls within a BioMap or Living Waters Core Habitat
<b>Medium Priority</b>	Land falls within a Supporting Natural Landscape of BioMap habitat or Living Waters Core Habitat
<b>Low Priority</b>	Land does not fall within a BioMap or Living Waters Core Habitat or Supporting Natural Landscape

### Conservation Partners:

*MA Fish and Game*  
*The Nature Conservancy*  
*Mass Audubon*  
*Berkshire Natural Resources Council*  
*Winding River*

### Funding Programs:

*Conservation Partnership Grant Program*  
*Federal Land and Water Conservation Fund*  
*Forest Legacy Program*  
*Massachusetts Local Acquisitions for Natural Diversity (LAND) Program*



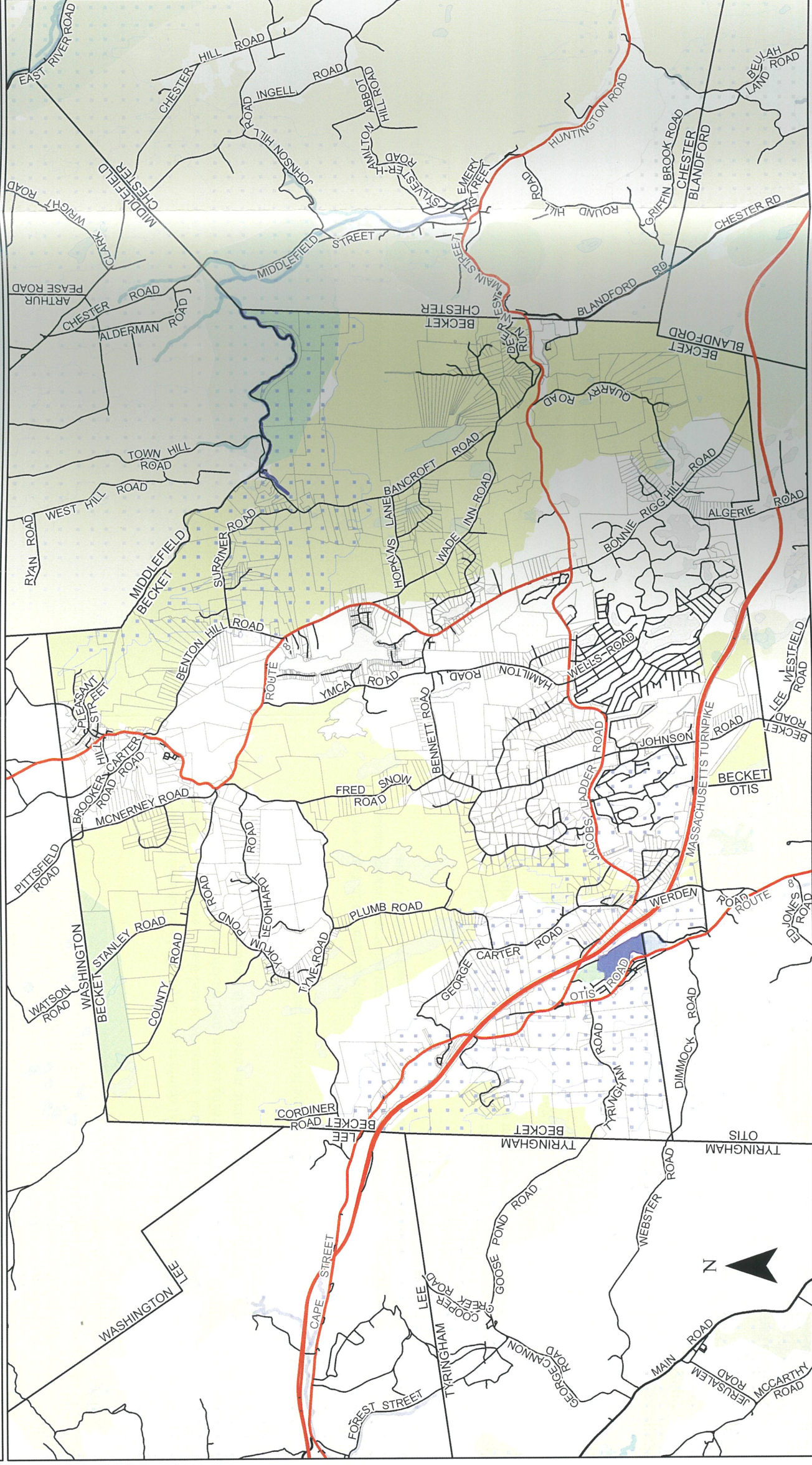




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## Map 3 Endangered Species Becket, MA



0 0.5 1  
Miles

Ponds

NHESP Living Waters Core Habitats

NHESP Living Waters Critical Supporting Watershed

NHESP BioMap Core Habitat

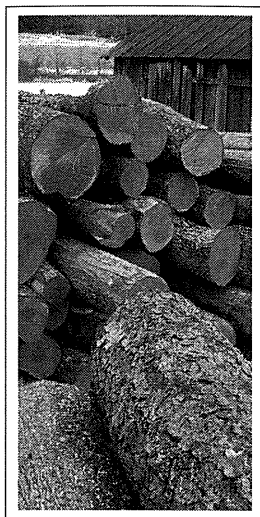
NHESP BioMap Supporting Natural Landscape

Map produced by UMass Amherst Department of Natural Resources Conservation and Umass Extension 2009  
Data sources: MassGIS, The Nature Conservancy, Natural Heritage & Endangered Species Program (NHESP)  
Parcel/Assessor's data: 12/31/02 - 12/31/05



## Working Farms and Forests

Maintaining viable agriculture and forestry—or the land on which to practice them in the future—provides communities with a local food source, traditions, wood products, and economic development. In addition to the tangible products these areas provide, they also offer many other public benefits, including community character, wildlife habitat, and clean water. Priority is given to high productivity agricultural soils and existing operations in agriculture and high productivity forest soils in large parcels.



### Agricultural Soils Definitions

**Prime Soils.** Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods.

**Unique Soils.** Unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops.

**Soils of Statewide Importance.** This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food. Generally, soils of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops.

### Forest Soil Definitions

**Prime Forest Soils.** This is land that has been rated as being very productive (categorized by MassGIS as Prime 1) for growing timber based on a high site index for red oak or white pine.

*Sources of Information:* Working Farm and Forest Soils—Map 4, Local Agricultural Commissions, soils map from the Natural Resources Conservation Service online soil survey mapping <http://websoilsurvey.nrcs.usda.gov/app/>, the American Farmland Trust, or MassGIS—Prime Soils layer.

<b>High Priority</b>	Soils are prime for agriculture or have active agricultural operations or prime forest soils or land >150 acres
<b>Medium Priority</b>	Soils of agricultural operation within the past 25 years or land >100 acres
<b>Low Priority</b>	Soils not suitable for agriculture or too small for forestry management

#### **Farm Conservation Partners:**

*Hilltown Land Trust*  
*Massachusetts Department of Agricultural Resources*  
*Berkshire Nat. Resources Council*  
*Winding River*

#### **Funding Programs:**

*Agricultural Preservation Restriction*  
*Forest Legacy*

#### **Forest Conservation Partners:**

*New England Forestry Foundation*  
*Hilltown Land Trust*  
*Berkshire Nat. Resources Council*  
*Winding River*

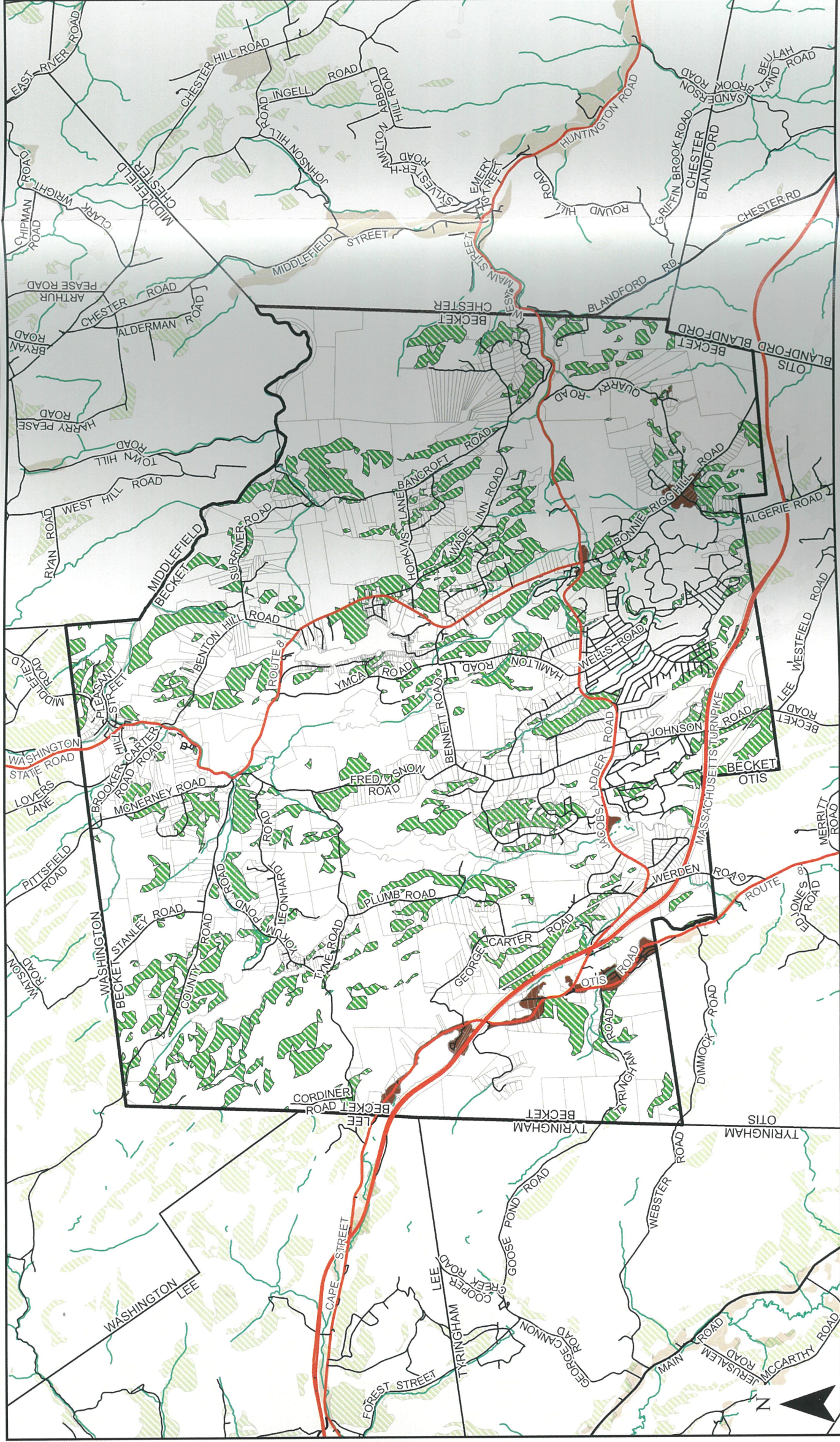




HIGHLAND  
COMMUNITIES  
INITIATIVE



## Map 4 Working Farms & Forests Becket, MA



0 0.5 1  
Miles

- PRIME FOREST SOILS
- PRIME FARMLAND
- FARMLAND of STATEWIDE & UNIQUE IMPORTANCE

Map produced by UMass Amherst Department of Natural Resources Conservation and Umass Extension 2009  
Data sources: MassGIS, The Nature Conservancy, Natural Resources Conservation Service (NRCS)  
Parcel/Assessor's data: 12/31/02 - 12/31/05



## Supporting Values

### DESCRIPTIONS AND CONSERVATION PARTNERS



These values tend to be more subjective and are best discussed at the town level. These values will rarely be the sole or primary purpose for protecting a piece of land, but are important considerations and can supplement primary values.

The presence of a secondary value can also be a great opportunity to pull in additional partners, such as the local historic commission.





## Recreation

Recreation, in all of its many forms, is one of the values community members enjoy most. Recreational opportunities for all ages and interests increase the quality of life in our communities.

*Source of information:* MA Department of Conservation and Recreation Greenways and Trails Program or town Open Space and Recreation Plan

### Priority

The following are important recreational attributes: offers public access, has potential as a multi-use recreational resource, and provides greater access to an existing recreational resource.

In addition to the above:

- |                        |  |
|------------------------|--|
| <b>High Priority</b>   | Recreational resources of regional significance (e.g., provides a critical link to an existing trail network, protects or incorporates outstanding resources into an existing greenway, is used by people other than the town residents, connects two or more communities) |
| <b>Medium Priority</b> | Recreational resources that are primarily of local significance (e.g., local trail, swimming area, ball field)   |
| <b>Low Priority</b>    | Land that holds no public access potential, has little recreational value, or is very common   |

### Regional Conservation Partners:

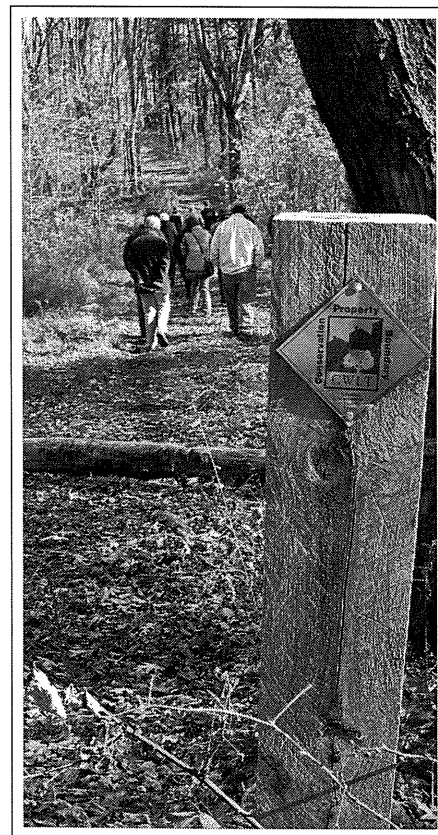
*Massachusetts Department of Conservation and Recreation*  
*Appalachian Mountain Club*  
*The Trustees of Reservations*  
*Berkshire Natural Resources Council*

### Local Conservation Partners:

*Local users (hikers, snowmobilers, horseback riders)*  
*Clubs (Snowmobile, Rod and Gun, Birding)*  
*Snowmobile Association of Massachusetts*

### Funding Programs:

*Conservation Partnership Grant Program*  
*Recreational Trails Program*  
*Massachusetts Local Acquisitions for Natural Diversity (LAND) Program*  
*Appalachian Mountain Club Small Grants*  
*Massachusetts Parkland Acquisitions and Renovations for Communities (PARC) Program*



## Scenic Landscapes

Scenic landscapes provide intangible benefits that are derived from the human experience of viewing natural beauty. While there are wide interpretations of what is “scenic,” there are particular features that citizens may agree should be preserved to maintain the special qualities or character of the town. These vary from natural resources, such as views of surrounding hills or bodies of water, to human-created landscapes, such as farmland, picturesque villages, covered bridges, or streets lined with mature trees. When prioritizing scenic land, the surrounding landscape clearly needs to be taken into consideration, as land that varies from the more ordinary or common landscapes adds to the visual enjoyment and experience of a particular place.

*Source of information:* Town Open Space and Recreation Plan or the Department of Conservation and Recreation (formerly Department of Environmental Management) completed a “Massachusetts Landscape Inventory,” which can help provide guidance on identifying areas of statewide or regional significance.

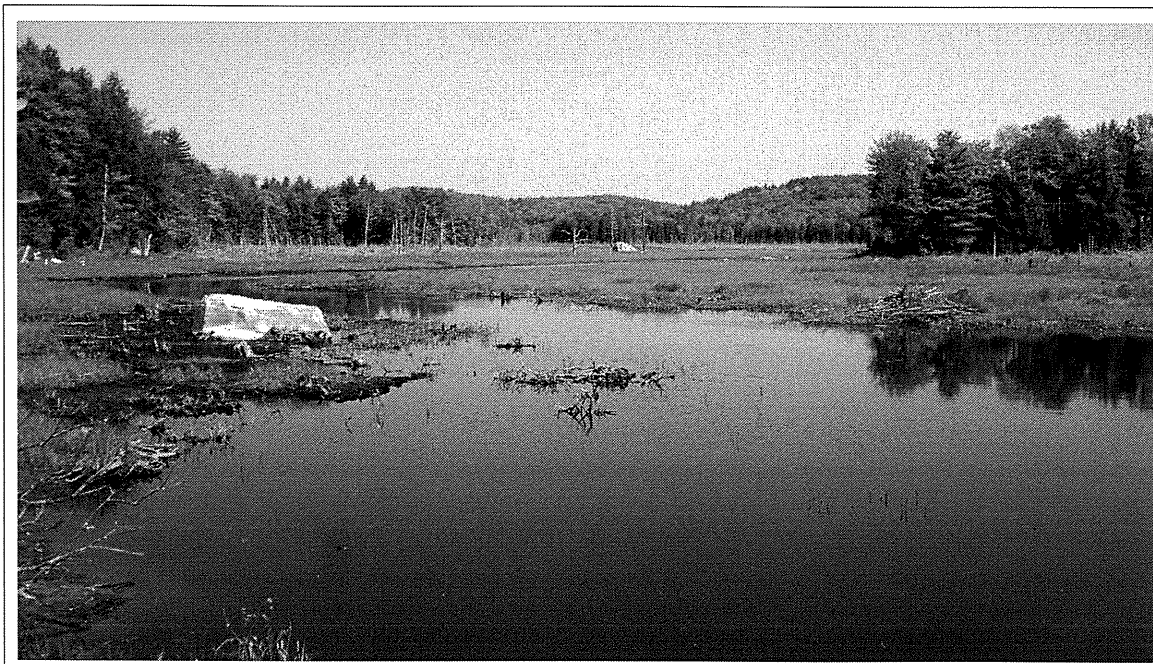
- |                        |   |
|------------------------|---|
| <b>High Priority</b>   | Land contains extraordinary scenic features of regional or statewide renown, such as expansive vistas, mountaintops, waterfalls, cascades, striking bedrock outcroppings, or other significant geological formations or features. |
| <b>Medium Priority</b> | Land contains scenic features of primary value to the town’s rural character (farmland, views of surrounding hills, tree-lined streets), or land is unmarred by incongruous development or human impacts.                         |
| <b>Low Priority</b>    | Land has no outstanding scenic features.  |

**Conservation Partners:**

*MA Department of Conservation and Recreation*

*The Trustees of Reservations*

*Berkshire Natural Resources Council*



## Cultural and Historic Resources

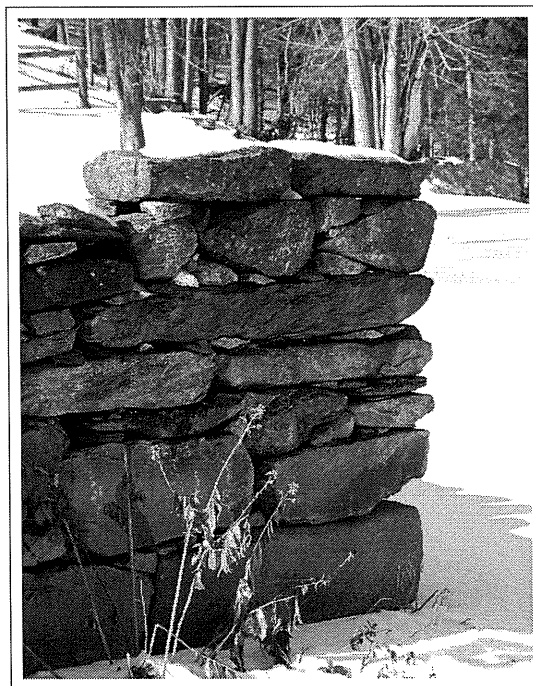
Our landscapes have a long history of human use. The remains of this human use provide a link to our past and an educational opportunity. Our long history of use provides a diversity of cultural resources, including Native American encampments, houses, barns, foundations, stone walls, cemeteries, logging camps, sugar houses, examples of period architecture, and sites associated with historically significant people.

*Source of information:* Town historic commission, Massachusetts Historical Commission, Preservation Massachusetts

- High Priority** Land is identified as a priority by the National Register of Historic Places or Massachusetts Historical Commission, or is eligible for one of these designations as determined by the local historic commission.
- Medium Priority** Land is of local significance (e.g., history of the town).
- Low Priority** Land has no outstanding historic or cultural resources.

**Conservation Partners:**

*Massachusetts Historical Commission*  
*The Trustees of Reservations*





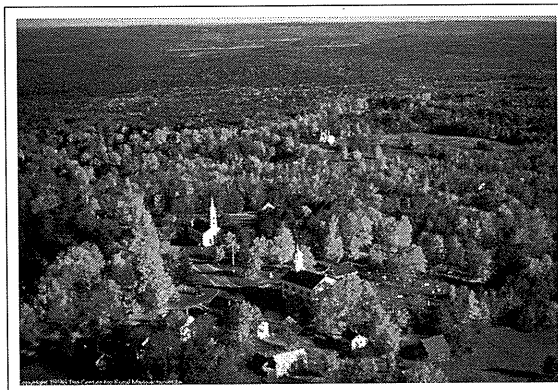
## Community Character

*Just because a piece of land is not noted on any of the values as high priority does not mean that it is not an important piece of land to the community.*

It is important to note that not all the important land in your town can be mapped using an objective, scientific analysis. Some land in a town is special simply because it is important to the community. Just because a piece of land is not noted on any of the values as high priority does not mean that it is not an important piece of land to the community.

An excellent example of this is the town center parcel in Ashfield, Massachusetts. The annual Ashfield Fall Festival has been held on this parcel for years. When the parcel was in danger of being sold, the community voted to buy the land.

Some special places may be obvious, such as Ashfield's town center. Others may have been identified in your town's Open Space and Recreation Plan or Community Development Plan. If not, this may provide an opportunity to begin a conversation about the special places in town that people feel strongly about preserving as a part of the character or way of life in the town.



Abutters and neighbors are often the most concerned when a piece of land goes up for sale. Even if land doesn't rate as a high priority on any of the other values, it can still provide significant value to a neighborhood, such as privacy, scenery, or neighborhood character. If it is important enough to the neighborhood, it is up to the neighbors to protect it.

An excellent example of this is the Potash Brook Coalition in Williamsburg, Massachusetts. A piece of land was on the market for the development of a multi-house subdivision. The neighbors recognized the value of the land to their quality of life and decided to protect the land by forming a coalition and buying the land themselves.

*Source of information:* Town Open Space and Recreation Plan, neighbors

**High Priority** Land is critical to the character and way of life in the community.

**Medium Priority** Land is important to segments of the community.

**Low Priority** Land is most important to the immediate neighbors.

### Conservation Partners:

*Town, community members, clubs, organizations, and neighbors*

# Conservation Focus Areas

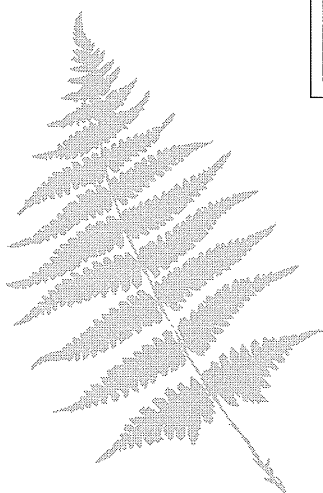


## Conservation Focus Areas

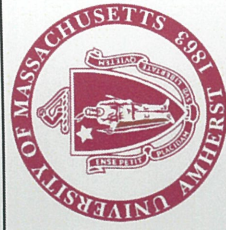
*Land that is near, is adjacent to, or connects other protected land will most likely be of interest to the organization or agency that owns the land or holds the conservation restriction on it.*

Many land conservation organizations seem exactly alike at first glance, but their missions and land management styles can vary greatly. To use limited resources effectively, conservation organizations will often identify areas or communities of particular interest that advance their mission to concentrate their limited time and resources. Land that falls within a conservation organization's focus area will typically be of great interest to that organization. Therefore, when trying to decide which organization to direct a land conservation opportunity, it can be helpful to identify which conservation organization(s) have a focus area in your town. **Land that is near, is adjacent to, or connects other protected land will most likely be of interest to the organization or agency that owns the land or holds the conservation restriction on it.** If you are aware of a land conservation opportunity, you can use the information contained in the permanently protected open space map (Map 5) on the following page to identify conservation partners who own land or conservation restrictions near the land conservation opportunity. Even if the nearby conservation organization isn't the best fit, conservation organizations communicate often and will steer potential projects to the most appropriate organization. The most important step is to encourage a landowner to contact any nearby conservation organization or contact them yourself.

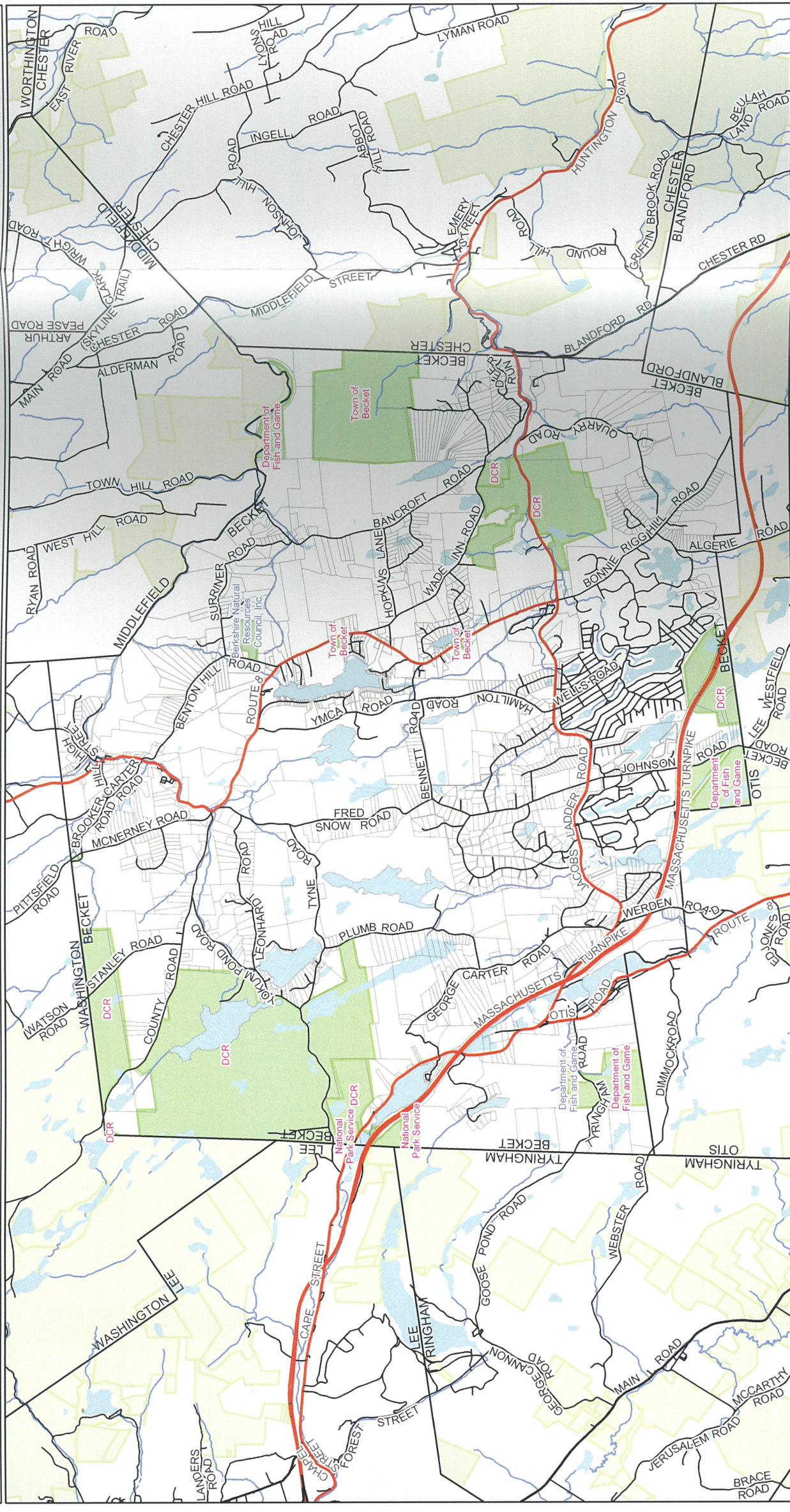
*Source of information:* Permanently Protected Open Space—Map 5 created from MassGIS: <http://www.mass.gov/mgis/>.







Map 5 Permanently Protected Open Spaces  
Becket, MA



Map produced by UMass Amherst Department of Natural Resources Conservation and UMass Extension 2009  
Data sources: MassGIS, The Nature Conservancy  
Parcel/Assessor's data: 12/31/02 - 12/31/05

0 0.5 1  
Miles

Owner In Fee  
Holder of Permanent Conservation Restriction

Streams  
Ponds & Wetlands  
Open Space Protected in Perpetuity





# Conservation Partner Contacts



## Conservation Partner Contacts

There are both public and private organizations that protect land.

Public conservation work is conducted by **state and federal environmental agencies** that conserve land as a part of their mission. Private conservation organizations are typically called **land trusts**. A land trust is a nonprofit, nongovernmental organization that helps interested landowners and communities find ways to protect land of high value from over-development through a variety of estate-planning and land protection tools.

Each organization has its own mission that guides its interests in a piece of land based on the values it provides. It is critical to recognize that **these organizations work together**. Therefore don't worry about finding the exact match between a conservation organization and a piece of land. Instead **take your best guess, pick up the phone, and call one of them**. If it is not the right organization, the staff can help you find the best fit.

*Landowners should be encouraged to work with an organization that shares their values and vision for the land.*

### Local Public Conservation Organizations Offices

#### **Appalachian Mountain Club**

Heather Clish  
5 Joy Street  
Boston, MA 02108  
(617) 523-6580  
hclish@outdoors.org

#### **MA Department of Agricultural Resources (MA DAR)**

101 University Drive  
Amherst, MA 01002  
Phone: (413) 548-1900 Fax: (413) 548-1901  
Web: <http://www.Mass.gov/AGR>

#### **MA Department of Conservation and Recreation (MA DCR)**

Jennifer Soper  
136 Damon Rd.  
Northampton, MA 01060  
Phone: (413) 586-8706, ext. 12  
Web: <http://www.mass.gov/dcr/>

#### **MA Fish and Game**

Peter Milanesi  
Western Wildlife District-Division of Fisheries and Wildlife  
400 Hubbard Avenue  
Pittsfield, MA 01201  
Phone: (413) 447-9789 Email: [pete.milanesi@state.ma.us](mailto:pete.milanesi@state.ma.us)  
Web: <http://masswildlife.org>



**Local Land Trusts Offices**

Land trusts come in different sizes—local, regional, and statewide. Some do only land protection, while some do a combination of land protection, education, and land management.

**Local Land Trust**—typically accepts donated land and works with larger partners to find resources

**Hilltown Land Trust**

Wil Hastings  
P.O. Box 251  
Chesterfield, MA 01012  
Phone: (413)268-8374 E-mail: wil.hastings@gmail.com  
Web: <http://hilltown-land-trust.org>

**Regional Trusts Offices****Berkshire Natural Resources Council**

Narain Schroeder  
20 Bank Row  
Pittsfield, MA 01201  
Phone: (413) 499-0596 Fax: (413) 499-3924  
Email: tames@bnrc.net  
Web: [www.bnrc.net](http://www.bnrc.net)

**Franklin Land Trust**

Rich Hubbard  
P.O. Box 450, Shelburne Falls, MA 01370  
Phone: (413)625-9151 or (413)625-9152  
Fax: (413)625-9153  
E-mail: rkhubbard@verizon.net  
Web: <http://www.franklinlandtrust.org/>

**Statewide Land Trusts and Conservation Organizations****American Farmland Trust**

1 Short Street, Suite 2  
Northampton, MA 01060  
Phone: (413)586-4593, ext. 29  
Web: <http://www.farmland.org>

**Mass Audubon**

Charlie Wynn  
208 South Great Road  
Lincoln, MA 01773  
Phone: (781)259-9500  
Phone: (800)AUDUBON  
Web: <http://www.massaudubon.org>

**New England Forestry Foundation**

Whit Beals  
P.O. Box 1346  
Littleton, MA 01460  
Phone: (978)952-6856  
Web: <http://www.newenglandforestry.org/>

**The Nature Conservancy (TNC)**

Markelle Smith  
19 Main Street, Chester, MA 01011  
Phone: (413)354-7790  
E-mail: markelle\_smith@tnc.org  
Web: <http://www.nature.org/wherewework/northamerica/states/massachusetts/preserves/>

**The Trustees of Reservations  
(The Trustees)**

Lee Alexander  
Mission House  
P.O. Box 792  
1 Sergeant Street  
Stockbridge, MA 01262-0792  
Phone: (413)298-3239 x3000  
E-mail: lalexander@ttor.org  
Web: <http://www.thetrustees.org>

**The Trust for Public Land (TPL)**

Clem Clay, Director  
Connecticut River Program  
1 Short Street, Suite 9  
Northampton, MA 01060  
Phone: (413) 584-6686  
Fax: (413) 585-6687  
Email: clem.clay@tpl.org  
Web: <http://www.tpl.org>

# Partnering





## Speaking with a Landowner

In general, when you have the opportunity to speak with landowners:

- let landowners know they have options in addition to selling or subdividing the land;
- direct landowners to a conservation partner;
- don't raise landowners' expectations; and
- BE PATIENT.

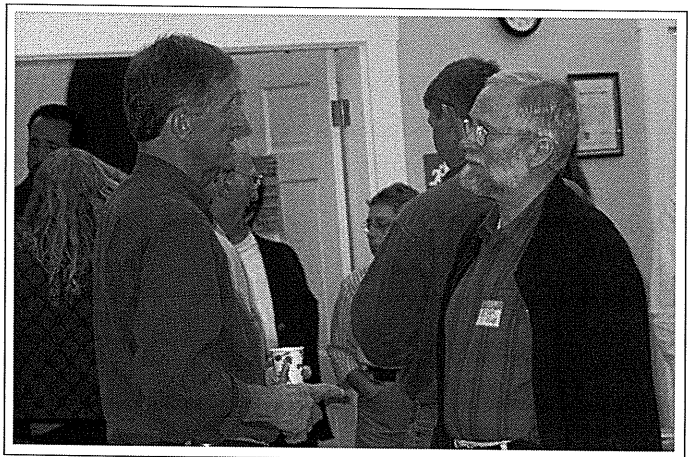
There is no science to approaching and getting to know landowners. Although one-on-one discussions initiated by a trusted friend often bring about the best results, there are other steps that can lead to successful outcomes. Often these other steps involve getting landowners involved in the process of thinking and talking about their land with others in the same situation. This could occur through formal workshops, informal conversations, or events such as hikes. These events don't have to be directly related to land protection either. Often issues relevant to landownership such as wildlife, recreation, land management, or natural history can be an important first step in initiating contact and discussion with a landowner.

*With the help of friends and neighbors, landowners can tap in to a local network of knowledgeable people and make an informed decision.*

When speaking with a landowner, encourage them to investigate all their options. Let them know that there are people working locally who can help them learn about their conservation options. There are also some excellent resources that can help the landowner and their family make a decision that is right for them (see Suggested Landowner Resources section on page 20). **Don't raise their expectations by discussing dollar values.** The location of their land, the significance of the values it provides, and the landowner's personal financial situation are some of the factors that determine the land protection tools that best fit the situation. If conservation specialists cannot meet a landowner's financial expectations, it may be difficult to proceed with a successful project.

Do not pressure a landowner. A decision to protect land is based on many factors—personal, financial, social, and family. It is a permanent decision that can be difficult for people to make. After all, we are all trying to do what's best for ourselves and our families. **Be patient, it can take years for a land conservation project to develop!**

Most landowners don't often think about selling or subdividing their land. It is usually only when circumstances change that a decision about the future of their land must be made. Whether it is passing on a property to family members, selling land to relocate, or receiving an offer by a developer to buy the land, in most cases landowners are not suddenly prepared to make an informed decision. One of the most valuable things you can do is to make yourself available to provide information and contacts when landowners are ready to think about land conservation.



## Land Protection Tools

There are a number of ways to permanently protect land. It isn't necessary to fully understand all these tools because there are a number of conservation professionals who will guide a landowner through these choices. Simply conveying the breadth of choices and options available to landowners and putting them into contact with a conservation professional are extremely valuable services. Below are a few of the common approaches to protecting land.

### Fee Simple Donation or Sale

A fee simple donation is the transfer of a property by deeding it directly to a land trust or government agency for conservation without accepting any money for the property. Tax benefits may be available to the donor.

In rare cases, owners whose properties have significant ecological, historic, or cultural value may be paid for their land.

*The Conservation Restriction allows land to stay in private ownership while protecting the natural and scenic features of the property by restricting selected uses, such as development or mining.*

### Conservation Restriction (CR) Donation or Sale

Every piece of land has the right to multiple uses, dependent on local zoning and building regulations, such as adding a shed, digging a well, or building a house. It is possible to restrict or prohibit some of these uses while maintaining the others.

A conservation restriction (CR) is a legally binding covenant between a landowner and an organization such as a land trust or state agency. **The CR allows land to stay in private ownership while protecting the natural and scenic features of the property by restricting selected uses, such as development or mining.** A conservation restriction can cover all or part of a property. CRs are permanent and remain in effect when the land is sold or inherited. Landowners often choose a conservation organization to work with based on their shared values and work together to craft a document that is both flexible and permanent.

### Bargain Sale

A bargain sale is the sale of a property to a qualified tax-exempt organization, such as a land trust or government agency, for less than the fair market value. A bargain sale can provide a tax benefit to the property owner as a charitable contribution, which is based on the difference between the appraised value and the actual sale price of the property.

### Conservation-Based Development

Conservation-based development permanently protects a portion of a property, while converting another portion to development. Conservation-based development results in the protection of the most significant areas of the property and the ability to generate monies for the landowner. This approach may also afford tax benefits if a CR is donated to protect the high value areas.

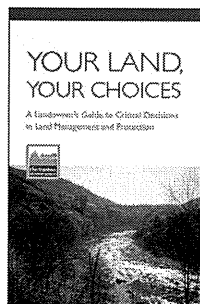
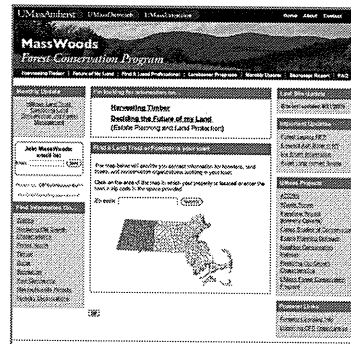
## Suggested Landowner Resources

### Land Conservation Options

This document describes conservation techniques in great detail and can help landowners learn more about their conservation choices. It is available for downloading on the library page of [www.highlandcommunities.org](http://www.highlandcommunities.org).

### MassWoods (<http://masswoods.net>)

MassWoods is the Web site for UMass Extension's Forest Conservation Program. The site contains a contact map listing land trusts active in each town, information on land conservation tools, "Cases of Conservation" (case studies of how landowners from across the state have protected their land), and information on forests and forest decisions.



### Your Land, Your Choices: A Landowner's Guide to Critical Decisions in Land Management and Protection

This booklet describes two of the most important choices landowners in the Highlands face: to cut or leave their trees, and to sell or protect their land. It also contains information about organizations and programs that are available to assist landowners, and includes case studies of two local families' decisions. It is available for downloading on the library page of [www.highlandcommunities.org](http://www.highlandcommunities.org).



# Funding Programs



## Funding Programs

### **Agricultural Preservation Program**

*Purpose:* To offer a nondevelopment alternative to farmers and other owners for their “prime” and “state important” or “unique” agricultural land. The program offers farmers the difference between the “fair market value” and the “fair market agricultural value” of their farmland in exchange for a permanent deed restriction that precludes any use of the property that will have a negative impact on its agricultural viability.

#### *Eligibility*

- Farm must be at least 5 acres in size.
- Land has to have been actively devoted to agriculture for the two immediately preceding tax years.
- At least \$500 in gross sales per year for 5 acres plus \$5 for each additional acre or 50 cents per each additional acre of woodland and/or wetland.

#### *Criteria*

- Suitability or productivity of land for agricultural use
- Degree of threat to the continuation of agriculture on the land due to circumstances such as development pressure
- Degree to which the land is economically viable now and in the foreseeable future for agricultural purposes

*Contact:* Ronald Hall, (617)626-1704, [ronald.hall@state.ma.us](mailto:ronald.hall@state.ma.us)

*Web site:* <http://www.mass.gov/agr/landuse/APR/index.htm>

### **Conservation Partnership Grant Program**

*Purpose:* To assist nonprofit corporations (e.g., land trusts and conservation organizations) in acquiring land and interests (Conservation Restrictions) in lands suitable for conservation or recreation

*Eligibility:* A nonprofit corporation

*Awards:* Maximum grant of \$45,000. Typically, applications are announced in May, applications are due in September, decisions are made in November. Projects must be completed the following June.

*Contact:* Celia Riechel, (617) 626-1187, [celia.riechel@state.ma.us](mailto:celia.riechel@state.ma.us)

*Web site:* <http://www.mass.gov/envir/dcs/conservation/default.htm>



### **Drinking Water Supply Protection Program**

*Purpose:* To protect key parcels of land believed critical to the protection of current and future water supplies (surface and underground)

*Eligibility:* Municipalities and other water supply entities recognized by state law

*Awards:* \$500,000 cap or 50 percent of total project cost. Reimbursement program—municipality must outlay full expense. Towns can partner with conservation organization (e.g., Trust for Public Land). Typically, applications are announced in May, applications are due in September, decisions are made in November. Projects must be completed the following June.

*Contact:* Catherine Sarafinas, (617)556-1070

### **Federal Land and Water Conservation Fund (P.L. 88-578)**

*Purpose:* To provide up to 50 percent of the total project cost for the acquisition, development, and renovation of park, recreation, or conservation areas

*Eligibility:* Municipal conservation commissions, park departments, and certain agencies within the Executive Office of Environmental Affairs

*Criteria:* Access by the general public is required.

*Contact:* Melissa Cryan, (617)626-1171, melissa.cryan@state.ma.us

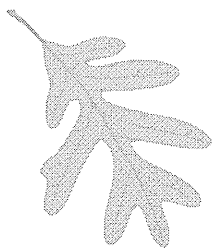
*Web site:* <http://www.mass.gov/envir/dcs/landwater/default.htm>

### **Forest Legacy Program**

*Purpose:* To identify and help protect environmentally important forests from conversion to non-forest uses. The main tool used for protecting these important forests is conservation easements. The federal government may fund up to 75 percent of program costs, with at least 25 percent coming from private, state, or local sources. It is a partnership between participating states and the USDA Forest Service.

*Contact:* Mike Fleming, (978)368-0126, ext. 114, mike.fleming@state.ma.us

*Web site:* <http://www.mass.gov/dcr/stewardship/forestry/other/index.htm>



### **Recreational Trails Program**

*Purpose:* To provide funding for a variety of trail protection, construction, and stewardship projects throughout Massachusetts. This national program makes funds available to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses.

*Eligibility:* Municipalities, nonprofit groups, and regional and state agencies. These are 80-20 challenge grants (grant pays 80 percent and must have 20 percent match—labor, money, materials).

*Contact:* Paul Jahnige, (413)586-8706, ext. 20, Paul.Jahnige@state.ma.us

*Web site:* <http://www.mass.gov/dcr/stewardship/greenway/regionalGrants.htm>

### **Massachusetts Local Acquisitions for Natural Diversity (LAND) Program (formerly Self-Help)**

*Purpose:* The LAND program was established in 1961 to assist municipal conservation commissions acquiring land for natural resource and passive outdoor recreation purposes. Lands acquired may include wildlife; habitat; trails; unique natural, historic, or cultural resources; water resources; forest; and farmland. Compatible passive outdoor recreational uses such as hiking, fishing, hunting, cross-country skiing, bird observation, and the like are encouraged.

*Eligibility:* Municipalities must have a current Open Space and Recreation Plan to apply, and the land must be open to the general public.

*Award:* Maximum grant of \$500,000. Typically, applications are announced in May, applications are due in September, decisions are made in November. Projects must be completed the following June.

*Contact:* Celia Riechel, (617) 626-1187, celia.riechel@state.ma.us

*Web site:* <http://www.mass.gov/envir/dcs/selfhelp/default.htm>

### **Massachusetts Parkland Acquisitions and Renovations for Communities (PARC) Program**

The PARC Program was established in 1977 to assist cities and towns in acquiring and developing land for park and outdoor recreation purposes. Any town with a population of 35,000 or more year-round residents, or any city regardless of size, that has an authorized park/recreation commission is eligible to participate in the program. Communities that do not meet the population criteria listed above may still qualify under the “small town,” “regional,” or “statewide” project provisions of the program.

Only projects that are to be developed for suitable outdoor recreation purposes, whether active or passive in nature, shall be considered for funding. Grants are available for the acquisition of land, and the construction, restoration, or rehabilitation of land for park and outdoor recreation purposes such as swimming pools, zoos, athletic playing fields, playgrounds, and game courts. Access by the general public is required.

*Contact:* Melissa Cryan, (617)626-1171, melissa.cryan@state.ma.us

*Web site:* <http://www.mass.gov/envir/dcs/urban/default.htm>



## Chapter 61



## Chapter 61 Programs

To encourage landowners to keep their land in active production or as open space, the Commonwealth passed the Chapter 61, 61A, and 61B laws. Each law provides a means to assess land at its current use (forests, agriculture, or recreation) as opposed to its development value. The Chapter 61 program information below reflects the changes made to the programs as of March 22, 2007.

**Ch. 61:** Assessment based on long-term management of woodlands

**Ch. 61A:** Assessment based on agricultural and horticultural use

**Ch. 61B:** Assessment based on land in natural, wild, open, or landscaped use; or an approved recreational use, including commercial horseback riding and boarding

### Town's Right of First Refusal

Landowners entering one of the Chapter 61 programs (61, 61A, or 61B) agree to maintain the use of the land in a way consistent with their chosen program. Once the land is enrolled in one of these programs, the municipality has the right of first refusal on the land. A town may also transfer the right of first refusal to an eligible conservation organization. The right of first refusal applies:

- When a landowner intends to sell the land for a use other than their chosen use, the town has the option to meet a bona fide purchase and sales agreement.
- When a landowner intends to change use of the land, but not to sell to a new owner, the town has the option to purchase the land at full and fair market value determined by an impartial appraisal.
- If a landowner withdraws from the program and changes the use within 12 months, the town may exercise its right of first refusal.

*The town's ability to transfer its right of first refusal provides an opportunity to work with a conservation organization on a local project.*

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The town does **NOT** have the right of first refusal when:

- The change of use is for the construction of a residence for an immediate family member.
- A landowner chooses to withdraw from a program, but keeps the land in its chosen use for a period of five years.
- A landowner chooses to switch to a different program.

### Right of First Refusal Timeline

- The "clock begins ticking" when a landowner who intends to change a property's land use **notifies the select board in writing.**
- The town has 120 days from the time of written notification to declare its intent to exercise its right or to transfer the right to a conservation organization.
- After the town decides to exercise or transfer the right, the town or conservation organization has 90 days to complete the purchase of land.



### Right of First Refusal Process

Many towns assume that their budgets are too tight to exercise the right of first refusal, and thus routinely turn down these opportunities without discussing it with other town boards or conservation partners. For open space committees, conservation commissions, planning boards, agricultural commissions, or any other board that is interested in protecting important parcels of land, communicating with the select board is the most effective way of ensuring that these opportunities are not lost. Often the town won't have the resources to purchase the land, but conservation organizations may be interested and able to take swift action to protect the land. This guide can help towns identify likely conservation partners.



Towns vary greatly in their levels of communication, so some towns may want to consider establishing a formal protocol for signing off on the right of first refusal options (see example page 26).

Monitoring the minutes of select board meetings may be another way of learning about rights of first refusals as they are presented. Town administrators and board secretaries may also be important resources who generally attend many meetings of various boards.

### Model Town Procedure for Exercising the Right of First Refusal on Chapter 61 Lands

**Select Board:** Landowners send notification of their intent to change the land use of their property, marking the start of the 120-day period for the town to exercise its right of first refusal (ROFR) or transfer it to a conservation organization. Acknowledge to landowner (or attorney) receipt of notice.

Information expected from landowner includes a cover letter notifying the select board of their intent to change the land use, copy of a Purchase & Sale agreement, and survey (map if survey is unavailable) of the land and the location of the proposed change of land use. The assessor's office will be asked to provide copies of the current tax map and assessments.

**Town Administrator:** Forward information received from landowner to town committees listed below, including the ROFR point person who can be from any of the boards listed below. Request the committees to respond by a specific date (e.g., in 60 days) with a recommendation for the select board on right of first refusal.

- Conservation commission
- Planning board
- Open space committee
- Board of assessors
- Agricultural commission (if active)

**ROFR Point Person:** Simultaneously to town board notification, fill out conservation project worksheet (page 6) and notify the most appropriate conservation partner(s).

*ROFR Point Person (Optional):* Other interested parties to whom notice of a ROFR request could be sent:

- Historical society • Abutting landowners • Any other interested committees or parties

*Select Board:* Set as an agenda item at a specific meeting date, the discussion of the ROFR opportunity. At this meeting, the select board could receive comments from interested parties and review comments from town boards. If town boards do not provide feedback by this time, it will be assumed that they do not wish to move forward with the ROFR.

*Select Board:* Based on responses of boards, committees, abutters, and other interested parties, determine need for a public meeting to discuss ROFR and to seek further input. If the select board is considering passing the ROFR to a land trust, the select board must schedule a public hearing with proper notice before making that decision.

The select board ultimately makes the decision to exercise the ROFR, pass the right to a qualified land trust, or decline to exercise the right, and notifies the landowner accordingly.

#### **Ch. 61 Information**

##### **MassWoods (<http://masswoods.net>)**

MassWoods is the Web site for UMass Extension's Forest Conservation Program. The site contains information on the Ch. 61 programs and frequently asked questions.

##### **Mount Grace Land Conservation Trust**

Conservation and Land Use Planning under Massachusetts' Chapter 61 Laws: A Primer for Cities, Towns, and Conservation Organizations. Contact Mount Grace for a copy: (978)248-2043 or [landtrust@mountgrace.org](mailto:landtrust@mountgrace.org). You may also download a PDF at: [http://www.masswoods.net/images/stories/pdf/Mount\\_Grace\\_Ch61\\_Info.pdf](http://www.masswoods.net/images/stories/pdf/Mount_Grace_Ch61_Info.pdf)

*For list of properties enrolled in the Ch. 61 programs, contact your local assessor or the forestry clerk at the MA DCR at (413)545-5752.*