

YOUR LAND, YOUR CHOICES

A Landowner's Guide to Critical Decisions
in Land Management and Protection

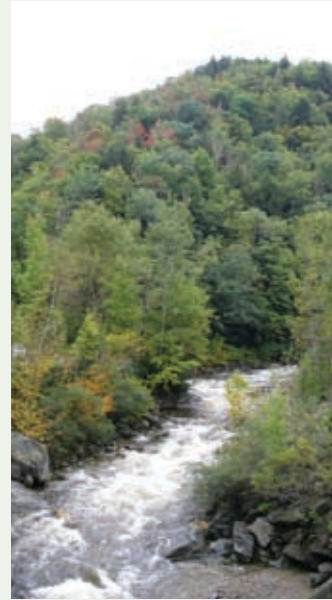




Simply owning your land and keeping it in a natural state maintains the region's forests and rural character of your community.

FORESTS MAKE THE HIGHLANDS REGION of western Massachusetts what it is – an area known for its beauty and rural character. Each acre owned by you and the 14,700 other Highlands woodland landowners fit together like pieces in a puzzle. By simply owning land and keeping it in its natural condition, you provide countless benefits to your community and all of Massachusetts. This patchwork of private, family-forests creates one of the largest areas of contiguous forest in southern New England, providing clean water, spectacular recreational opportunities, and invaluable habitat for wildlife.

Many landowners don't think about their woods on a day-to-day basis, except to enjoy the privacy, scenery, and tranquil environment to live in and raise a family. However, at some point you and your family will be faced with important decisions regarding the management and future of your land. This pamphlet contains resources to help inform those decisions.



To Cut or Not to Cut

Something may trigger a need to make a decision about managing your woodlands. This decision may come in the form of a logger knocking on the door asking to purchase your timber, or it may come from a need for income. The first step to making an informed decision is to learn about your options.

Your woods may already fulfill your goals as they are and you may decide not to manage your woods. If you choose not to manage your woods, you will still maintain your full range of management options for

the future. Your forested land will continue to shelter animals, supply clean water, and provide a beautiful setting for you and your neighbors. Simply owning your land and keeping it in a natural state maintains the quality of the region's forests and rural character of your community.

Even if you take no steps to manage your woods, they will continue to grow and change. The landscape surrounding your land also constantly changes as landowners around you make independent decisions about managing their land.

Some landowners look for ways other than timber harvesting to work their land. Forest-based enterprises such as maple sugaring, understory crop cultivation, and harvesting gourmet mushrooms are other ways to be active in your woods and perhaps gain income from them. These activities can be done as a part of or separate from other forms of forest management.

Deciding to Manage Your Woods

Some landowners may be interested in pursuing the active management of their woods, which typically involves harvesting trees to enhance the benefits their woods provide or to create new ones. As a landowner, you may decide to harvest and sell timber only a few times in your life. The average landowner does not know the current value of timber, options for selling it, or the roles various professionals play. What follows are some recommended steps for making an informed decision about this option.



Timber Harvest Case Study

Tom and Jane McHale own 57 acres in the Highlands that Tom grew up on. A logger approached the McHales and offered \$17,000 for all of their trees 12" and larger. Money was tight for them, so the offer came as a pleasant surprise. However, the McHale's were concerned about the well-being of their land, and they were interested in passing the land on to their children in good condition.

Tom and Jane contacted their local service forester and set up a time to take a walk to find out if the price was fair. The service forester recommended working with a licensed forester who could plan a sale to meet their goals and then put the timber out to bid to timber harvesters to determine the value of the timber on the open market.

Tom and Jane hired a licensed forester, who marked half as many trees to be cut and left the most valuable trees standing with greater growing space for the future. The timber was put out to bid. The winning bid was \$48,850, significantly more than the first offer.





The patchwork of private, family-forests makes the Highlands one of the largest contiguous forests in southern New England.

Step 1. Define your objectives

Your goals for your family and your land should determine how you manage your woods. Landowners make decisions based on a combination of factors including their financial needs, ecological interests, aesthetic values, and recreational hobbies. Since you will be faced with the outcome of your decisions for years to come, be sure all of these factors are considered.

Every timber harvest is different and impacts your land in a different way. Your objectives will guide the type of trees to be harvested, and in what numbers, to achieve your immediate goals. The trees that remain will shape the composition and ecology of your woods, and will determine what benefits your woods provide in the future.

Talking with a Service Forester is an excellent first step to determine your objectives and options. Service Foresters are employed by the state and can provide free technical assistance, education, and a walk-through consultation on your land. To find a service forester, visit www.masswoods.net.

The Always Changing Landscape

In Massachusetts, more than three quarters of all wooded land is owned by individuals like you. These woods provide timber and other forest products as well as clean water, scenic views, wildlife habitat, recreational opportunities and community character.

Forty acres of forest and fields are lost to development each day. Gradually, the extensive development taking place in the eastern part of the state is spreading into western Massachusetts and the Highlands. While some development is necessary and beneficial, the amount, pace, and location of development has the potential to forever alter our region's future. The decisions that landowners make today will ultimately determine the future of the Highlands region.



Step 2. Choose a Private Licensed Forester

A forester is a licensed professional with academic training and experience in forest and wildlife ecology, economics, legal issues, and the growing and harvesting of forest products. Private Foresters assist landowners in managing their woods, including setting up timber sales, writing management plans, finding boundaries, and improving wildlife habitat. There are two types of private foresters:

1. **Consulting Foresters**, who generally work independently or in small firms and are paid directly by the landowner; and
2. **Industrial Foresters** who are employed by a sawmill or other wood-using industry.

Selecting a forester to work with is like choosing any other professional. A good starting point is to ask friends and neighbors about their experiences with a licensed forester. You can ask for references and visit some of their past work. Your investment of time in finding a reputable licensed forester is a critical step in achieving your goals. A forester can help you determine your range of management options and find a responsible timber harvester, or logger, to cut your trees and skid them to the road. To find a private forester working in your town, visit www.masswoods.net.

Step 3. Investigate Your Harvesting Options

You will likely have several harvesting options that your forester can explain in detail for you. You may also consider programs offered by the state to assist landowners in achieving their goals (see page 10).



Typically, most foresters are well versed with the various programs and can help you make a decision that is right for you.

As you consider your harvesting options, remember that your land is a part of a larger landscape. Well planned harvesting that examines the surrounding landscape can enhance the benefits to both the landowner and the neighboring land, for example, by connecting or expanding the local trail system. You also may be able to create certain types of habitat that may be under-represented in the area. Timber management can also help the local economy by providing a local source of timber for builders and artisans.

Step 4. Know Your Rights and Responsibilities

The decisions involved in timber harvesting can be fairly complex. Below are a few important points to consider before harvesting timber. A licensed forester will be of great help in addressing these considerations.

- **Know what your timber is worth!** Many factors affect the value of your timber, including its species, size, quality, the harvest site, and an accurate accounting of the volume. How you sell your wood also impacts the income you receive. There are two ways timber values are typically decided:

1. **Negotiated Price:** You can negotiate the price yourself or hire a licensed forester to represent you. Recognize that if you choose to negotiate the value of your timber yourself, you will be negotiating with someone who has an in-depth knowledge of timber prices and negotiates in the marketplace everyday.



Well planned harvesting examines the surrounding landscape and can enhance the benefits to landowners and the neighboring land, by connecting the local trail system.



2. **Competitive Bid:** In a competitive bid, your forester marks trees to be cut and estimates their volume and value. A timber showing is organized so multiple bidders, typically loggers and sawmills, can visit your land, assess the timber, evaluate the difficulty of the logging job, and make bids. A study done in Massachusetts showed that on average, the difference between the lowest and highest bid price is over 100%. A competitive bid will determine the value of your timber in the open market and can give you the highest return, especially for high-quality timber.

- You are legally responsible for making sure the harvest meets all relevant local and state laws. You will need a clear understanding of pertinent laws or should work with a forester who represents your interests.
- A strong contract that represents your interests is a critical part of making sure your goals and legal obligations are met. Working with a forester that represents you is the best way of ensuring your interests are protected in a contract.
- Require a performance bond as assurance that contract provisions will be met. Should the contract not be fulfilled, you will have the means to address remaining problems, such as hiring a bulldozer to smooth ruts or grade the roads.

Resources for Forest Management

For extensive information and links to resources about woodlands and their management, see the University of Massachusetts Forest Conservation Program's MassWoods web site at www.masswoods.net.

Visit www.MassAcorn.net for more information on your land, watershed, and community within the Highlands region, including interactive maps, photos and other special information for the region. The site also features "ask an expert," and the ability to chat with other landowners.

To find out about local forest-based enterprises, contact the The Massachusetts Woodlands Institute for a copy of **Profiles From Working Woodlands: Exploring Forest-based Enterprises in Western Massachusetts** at 413.397.8800 or visit them online at www.masswoodlandsinstitute.org.

Landowner Organizatons

Massachusetts Woodlands Cooperative is a forest-landowner management, processing, and marketing cooperative organized by and on behalf of forest landowners in western Massachusetts. For more information, contact them at 413.397.8800 or online at www.masswoodlands.coop.

The Massachusetts Forest Landowners Association educates and advocates for the interests of forest landowners in Massachusetts, the conservation and stewardship of Massachusetts trees and forests, and the health of a sustainable forest-based economy. You can find them at 413.549.5900 or www.massforests.org.



Forest-based enterprises such as harvesting gourmet mushrooms offer another way to be active in your woods and gain income from them.

Forest Landowners Programs:

The following programs can help landowners manage their forested land.

Chapter 61

Current Use Programs and Management Plans

Enrollment in Chapter 61, 61A, or 61B allows landowners to reduce their taxes in exchange for a commitment to continue certain uses and may require a forest management plan. A forest management plan is an effective way to learn about your range of options, and how to achieve them step-by-step. The plans include a map and detailed inventory of your land's trees, wetlands, and topography, as well as management recommendations for the resources that currently exist and the values you want to enhance.

Ch 61 – Long term active forestry, 10+ acres, management plan required

Ch 61A – Agriculture, 5+ acres, management plan may be required

Ch 61B – Open space and passive management, with the option of active forestry, 5+ acres, management plan may be required.

Contact your local service forester for more information about Ch 61 and 61A, and your local assessors for Ch 61B, or visit www.masswoods.net.

Forest Stewardship Program

This non-regulatory program of the Department of Conservation and Recreation provides education and outreach to landowners on the benefits of good stewardship on private forest land. The program focuses on integrating ecosystem values through a Forest Stewardship Management Plan, which is prepared by a consulting forester to reflect the landowners' values and vision. Landowners, associations, municipalities, and nonprofits that own up to 1,000 acres may enroll. Cost sharing is sometimes available for the creation of a Plan, which can be the first step to enrolling in other forestry programs and receiving further cost share.

For more information about the Forest Stewardship Program, contact the Department of Conservation and Recreation at 413.545.5752, or online at www.mass.gov/dcr/stewardship/forestry/service/steward.htm.

Mass Wildlife's Landowner Incentive Program

MassWildlife's competitive grant program provides financial and technical assistance to private landowners to create or enhance wildlife habitat for species-at-risk. Individuals, land trusts, municipalities, and groups of private landowners are eligible to receive funding.

For more information contact MassWildlife, at 508.389.6387, or online at www.mass.gov/dfwele/dfw/habitat/grants/lip/lip_home.htm.

The Natural Resources Conservation Service's EQIP and WHIP Programs

The Environmental Quality Incentives Program (EQIP) helps farmers and forest landowners address water quality, water conservation, invasive species control, and many other natural resource concerns. **The Wildlife Habitat Incentives Program (WHIP)** provides assistance to landowners who want to improve fish and wildlife habitat or restore natural ecosystems on their land. For more information, contact the NRCS at 413.253.4350 or www.ma.nrcs.usda.gov.

Program availability and funding can fluctuate. For the most current information, visit www.masswoods.net





To Sell or to Save

You own a part of the Highlands landscape. At some point, you may need to consider whether to sell some or all of your land, obtain income from it, or explore ways to reduce the tax burden of the land so that you may continue to own it. It may be land that you cherish and that you want to leave for your children and future generations to enjoy as you have. The bad news is that unless you take action to protect your land, the odds are strongly in favor of its eventual development. But you can take steps to protect your land, for the good of your family and your community. Talking with your children about their plans and desires for the land, and writing an estate plan with an accountant or lawyer are critical steps to making sure that your land remains as you intend.

Land Protection and Taxes

Donating land or interests in land, including conservation restrictions, can result in a reduction in property taxes as well as estate, state and federal income tax benefits. If you are interested in realizing a tax benefit as part of a conservation transaction, consult your tax advisor or attorney for guidance.




Land Protection Tools

Protecting your land ensures that it will remain in its natural state forever. People protect land for many diverse reasons – to maintain the scenic character of their community, to protect wildlife habitat or historic structures, or to provide recreational opportunities that will be enjoyed by future generations.

Every landowner's needs and interests are different, and there are a range of land conservation tools that can be tailored to your individual circumstances. The best way to determine what is best for you and your land is to talk with a representative from a land trust.

Conservation Restrictions

A conservation restriction (or CR, also known as a conservation easement outside of Massachusetts) is a legal agreement that extinguishes the development rights of the land forever, but does not alter the ownership of the land. This agreement is



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Conservation Case Study

Shirley Winer owns 180 acres of forest land and flood plain along the Kinne Brook in Chester, Massachusetts. Upon learning that her land is important habitat for endangered species, Shirley held a family meeting to discuss the future of the land. Shirley saw placing a conservation restriction on her land as a way to ensure that it would be kept in its natural state no matter what turns life might bring.

The terms of the restriction were chosen to fit the specific needs and interests of the Winer family. Shirley has horses, so keeping livestock and using the land for agriculture is permitted, as is managing the land for timber and firewood. However, uses and activities that would threaten the wildlife habitat, such as residential development, are forbidden. Shirley donated the conservation restriction to the Hilltown Land Trust, who will ensure that the conditions of the restriction are enforced forever.



all future owners. It is enforced by the organization that holds the CR, typically a state or federal conservation agency or a private nonprofit organization such as a land trust.


Conservation restrictions are appealing to some landowners because they are lasting, long-term agreements that can be crafted with a high degree of flexibility. The exact terms included in a CR can be tailored to the individual qualities of a particular piece of land, and to the needs and interests of the landowners. CRs may provide for timber management, wildlife improvements, trail creation, and agricultural use. After a CR is executed, the taxable value of the land may decrease significantly, possibly making it easier to pass the land on to the next generation. Public access is not required when CR's are placed on the land and while a CR restricts land from being developed, parcels of land may be excluded and set aside for future building lots. In rare cases, it may be possible to sell a CR to a conservation entity if there are significant ecological, aesthetic, or cultural features on your land.

Farmland can be protected through a special type of CR, called an Agricultural Preservation Restriction (APR). The Commonwealth of Massachusetts has an active program in which they pay farmers to extinguish the development rights on their farms, but APR's can also be donated to or purchased by conservation organizations and towns.

Donating or Selling Land

Another way to permanently protect land is to donate it to a conservation organization or agency that will care for the land in the future. This option relieves you of the tax burdens and management responsibility of owning land. Choosing the conservation organization or government agency that will own your land is an important consideration in this decision making process, as management priorities and objectives may vary from organization to organization.

It may be possible to sell your land to a conservation entity if there are significant ecological, aesthetic, or cultural features on your land.



Conservation restrictions are appealing to some landowners because they are lasting, long-term agreements that can be crafted with a high degree of flexibility, and the land remains in private ownership.



Bargain Sale

In a bargain sale, the landowner sells their land at a price below its fair market value. The difference between the appraised market value and the sale price to a qualified nonprofit or a governmental agency is considered a tax-deductible charitable contribution.

Bequest

A donation of land or a conservation restriction through your will is another way of ensuring your land's permanent protection and reducing your estate tax burden.

Limited Development

Limited development is an option that protects the majority of the land while a small portion is sold for development. In limited developments, the areas with the greatest conservation value are protected through one of the tools described above, while other less sensitive parcels are developed.

Resources for Land Protection


If you are interested in learning more about protecting your land, contact a local land trust or conservation organization. To find a land trust that works in your town and learn more about planning for the future of your land, including case studies of families who have protected their own land, visit www.masswoods.net and www.massland.org.

In addition, a variety of professionals can help you make decisions about the future of your land.

- Land Protection Specialists work for non-profit and government conservation organizations and assist landowners in achieving their land protection goals.
- Lawyers can play an important supporting and advisory role for landowners with conservation goals. There are lawyers who specialize in conservation, land use, and tax and/or estate planning law.
- Appraisers generate appraisals that provide information on land values. Be sure to work with an appraiser who has experience in valuing land for conservation projects. Appraisers are required to be involved in projects in which a landowner is seeking federal tax benefits.



Since 80% of the Highlands region is owned by private individuals and families, the cumulative effects of your independent decisions will determine our region's quality of life, wildlife habitat, water quality, and community character.



Making an informed decision about your land is the most significant thing you can do to meet both your family's and community's needs.

- Tax Advisors are familiar with land conservation tax issues.
- Land Trusts are private, nonprofit, non-governmental organizations that work with individuals and communities to protect land using a variety of estate planning and land protection tools.

For more information about land conservation, or a copy of **Land Conservation Options: A Guide for Massachusetts Landowners** (2001), contact The Trustees of Reservations' Highland Communities Initiative at 413.268.8219. To download copies of the brochure, visit www.highlandcommunities.org.

For further information about bequests and estate planning, order a copy of **Estate Planning Benefits of Conservation Easements and Bargain Sales on Managed Family Woodlands** from the New England Forestry Foundation at 32 Foster Street, PO Box 1346, Littleton, MA 01460, or call 978.952.6856, or online at www.newenglandforestry.org.

For more information about the Agricultural Preservation Restriction Program, contact the Department of Agricultural Resources at 617.626.1720 or visit www.mass.gov/agr/landuse/APR.

For a list of land trusts, attorneys, and appraisers active statewide, visit www.massland.org/pages/resources/serviceproviders.html.

It's Your Choice

Everyday, landowners make individual decisions about their land. Since 80 per cent of the Highlands region is owned by private individuals and families, the collective effects of these independent decisions will determine our region's quality of life, wildlife habitat, water quality, and community character. Making an informed decision about your land is the most significant thing you can do to meet both your family's and community's needs. Contact HCI or any of the organizations or resources listed in this booklet for more information that will help you make these critical decisions.

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THE HIGHLAND COMMUNITIES INITIATIVE

A program of The Trustees of Reservations, the Highland Communities Initiative is a group of neighbors and volunteers working to enhance the quality of life and rural character of our communities. HCI connects people and provides them with the information and support they need to preserve the special natural and cultural landscapes of the Highlands region.



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