

Mohawk Trail Woodlands Partnership
Draft Conservation Restriction Summary

May 7, 2015

Introduction: A conservation restriction (CR) is a legally binding document that extinguishes some rights on a parcel of land while reserving other rights. The permitted and prohibited rights are negotiated based on the features of the land and the wishes of the landowner. Existing houses and future building lots can be excluded from the CR. Once it is recorded at the registry of deeds, the CR runs with the land forever, and its conditions are enforced by the holder of the CR, which may be the state, local land trust, the town and local land trust jointly, or the town. If funding becomes available from the US Forest Service through the Mohawk Trail Woodlands Partnership, landowners would be paid the difference between the “fair market value” of their land (which is its development value) and its “restricted value” (its value once it has been conserved) for their CR. With a CR in place, land is typically valued at its agricultural or forestry potential and can be passed on or sold. The landowner continues to pay property taxes, generally at the Chapter 61 rate. Landowners would only participate in the sale of a CR on a voluntary basis.

The fundamental purpose of a CR is to permanently protect the natural, scenic and open condition of a property by prohibiting any activities that may negatively alter the landscape and the biological function of its component systems and species, while allowing those activities that enhance the natural, scenic and open condition of a property. The following list includes activities and management practices that are allowed or encouraged on land protected by a CR:

- Forestry and farming; sustainable management of the forestry and agricultural resources, emphasizing long-term, professional stewardship of these resources in a manner that minimizes negative impacts on conservation values such as water quality, wildlife habitat and biological diversity.
- Hunting, fishing and passive recreation;
- Conservation of biological diversity, forests, agricultural lands, wetlands, soils, natural watercourses, ponds, water supplies and wildlife;

The rights supported for the Mohawk Trail Woodlands Partnership Conservation Restriction are below.

Specific Allowed Uses of the Landowner

Unless specifically restricted or prohibited within the Conservation Restriction document, the landowner retains the right to conduct the following activities:

***Reserved rights will vary and are dependent on the parcel size, composition of habitats, natural resources present and location of activities and their impact on the conservation values.*

1. **Forestry.** Long term forest management activities including cultivation and harvesting of timber and non-timber forest products including tree cutting, maple sugaring, agro-forestry, wildlife habitat improvement, water quality management, recreational management, soil conservation, and other forestry-related activities, provided that:
 - a. generally accepted “Best Management Practices”, are followed, as outlined in the 2013 Massachusetts Forestry Best Management Practices Manual by Paul Cantanzaro, Jennifer Fish, and David Kittredge, (or successor document), as well as the recommended guidelines pursuant to the Massachusetts Forest Cutting Practices Act;

- b. an **approved** Massachusetts Forest Stewardship Plan is prepared by a Massachusetts licensed forester;
 - c. an approved Cutting Plan is completed all for proposed cutting/harvesting of trees exceeding 25,000 board feet or 50 cords of wood in any rolling 12 month period for use by the owner on the Premises or at his or her primary residence, pursuant to the Massachusetts Forest Cutting Practices Act; and
 - d. Temporary forestry related structures for forestry related uses including but not limited to a portable saw mill, firewood processor, shelters for equipment, and permanent forestry structures with review and approval by CR holder.
2. **Agriculture.** Commercial and noncommercial agriculture, including storage and use of any equipment and temporary structures reasonably necessary to conduct such activities; animal husbandry operations; cultivation of existing fields, and installation of fences; and with the prior written **approval** of the holder of the CR, the creation or expansion of new fields and meadows for such purposes, provided that:
 - a. Agricultural activities are conducted within the areas that not more than the majority of the acreage being conserved in the CR.
 - b. Agricultural activities shall be described in an **approved** USDA Natural Resource Conservation Service Farm Management Plan.
 - c. Lawful use of pesticides, herbicides, manure and fertilizers shall be permitted to the extent necessary to conduct permitted agricultural and forestry activities.
3. **Recreation.** Commercial or noncommercial passive recreational and educational activities such as hiking, camping, canoeing and non-motorized boating, snowshoeing, bicycling, cross-country skiing, hunting, trapping, fishing, bird watching, nature study, and other like recreational and educational activities, and motorized outdoor recreational activities limited to snowmobiling on existing trails and woods roads, which do not materially alter the landscape, and do not degrade environmental quality. For commercial recreation a recreation plan and envelope for activities.
4. **Improvements.** The maintenance and use of existing unpaved trails, fences, bridges, culverts, gates and stone walls (collectively “improvements”) on the Premises, substantially in their present condition. The construction, relocation, replacement or repair of improvements reasonably necessary in conducting permitted activities on the Premises.
5. **Existing & New Ways.** The maintenance, use or discontinuance of existing woods roads and the construction, relocation, replacement, repair or discontinuance of new unpaved woods roads for forestry or agricultural purposes with a travel surface not to exceed twenty (20) feet in width.
6. **Vegetation control.** Trimming, maintaining or replacing trees, shrubs or other plantings in accordance with established horticultural and silvicultural practices, removing diseased or insect damaged trees or vegetation, controlling or eliminating invasive plant species, or removing hazards to private property or public or private health or safety, and cutting, mowing, or replacing grasses in accordance with established landscaping practices.
7. **Signs.** Posting of signs that identify the property owner and the nature of permitted uses.

8. **Motorized vehicles.** Use of motorized vehicles for emergency personnel, agriculture, forestry activities and other reserved rights as described.
9. **Archaeological investigations.** Conducting archaeological investigations in accordance with MA Historic Commission guidelines.
10. **Privacy & Public Access.** The landowners retain the right to prohibit or regulate access to and use of the Premises by the public, including the right to prohibit hunting, fishing and trapping, and including the right to exclude the public, **except in** areas agreed upon and defined in Exhibits/maps where such areas will be open to the public for passive recreational activities such as hiking, fishing and hunting. With notice to the town or land trust (Grantees), these areas can be closed temporarily during timber harvest operations, after natural disasters or other such occurrences which may create unsafe access to the property. These areas will be re-opened when management activities or other activities to restore the land have been completed or made safe.

*Other allowed uses requiring **approval** from the CR holder can include the construction of ponds, wells, and excavation of gravel/soil for use on the property for reserved rights.*

General Restrictions

Unless specifically allowed above, the general restrictions below must be followed to protect the conservation values of the land.

1. No temporary or permanent structures (such as cell towers, wind mills, tennis courts, landing strips, houses, mobile homes, swimming pools, asphalt or concrete pavement) except as permitted above;
2. No excavating soil, loam, peat, gravel, sand, rock, except as permitted above;
3. No storing or dumping soil, trash, vehicle bodies or parts, storage tanks, etc;
4. No stockpiling or use of hazardous substances;
5. No residential, commercial, institutional, or industrial uses and no motorized or vehicular use, except as permitted above;
6. No division or subdivision of the Premises, except as permitted above.