

## **LAND CONSERVATION STRATEGIES**

### **DONATIONS, RESTRICTION AND EASEMENTS**

1. Donating Land to the Conservation Commission Outright or fee ownership.

The Conservation Commission accepts donations of land both upland and wetlands which provide a benefit to the Town of Walpole for watershed and aquifer protection, wildlife protection, and passive recreational uses. Lands are also considered based on location specifically lands contiguous to existing conservation commission land and within corridors considered environmentally sensitive in the Open Space and Recreation Plan and the States Priority Habitat maps. Land must have access or an access easement.

If a land owner is interested in donating land to the Conservation Commission they should take the following steps:

- 1) Contact the Conservation Agent or Conservation Commission.
- 2) The Conservation Commission will conduct a preliminary review of the proposed donation to determine if the donation would benefit the Town.
- 3) If the Commission is in favor of the donation then the land owner may move forward with the following requirements:
  - a. Provide the Commission with documentation that the land is free and clear of all encumbrances;
  - b. Allow a site walk by the Conservation Agent;
  - c. Provide the Commission with a survey plan of land with meets and bounds;
  - d. Provide the Commission with a signed deed with signature pages for Conservation Commissioners and Board of Selectmen;
- 4) The Conservation Commission will then vote and sign the deed to accept the land under Article 97 of the Amendments to the Constitution for Public Land Protection;
- 5) The Deed then goes to the Board of Selectmen for a vote and signature to accept the land on behalf of the Town;

- 6) The deed and plan must be recorded at the Norfolk Registry of Deeds and the Town Clerk and the Conservation Commission;
- 7) Once the Town receives documentation of the recording the Assessors taxes the property of the tax role. Contact the Assessors office for specifics.

## 2. Donating Restrictions or Easements

A conservation restriction or easement is another method for protecting land without giving up ownership. Restrictions and easements may be either permanent or for a period of time and are difficult to release.

**Massachusetts Conservation Restrictions Ch 184 §§31-33** (CR's) approved by the Conservation Commission, Board of Selectmen and the Secretary of Environmental Affairs are considered permanent. The CR's are contractual agreements with the land owner and the Conservation Commission or a land trust to limit development rights (typically structures, excavation, paving, clear cutting, and similar activities to keep land permanently natural, open or scenic, or farming or forestry. CR's may vary depending on the there purpose.

### CR Benefits:

- Restriction should cost less money then outright acquisition; there are federal income and estate tax advantages to the owner;
- The landowner retains ownership;
- The land will remain available to owner for recreation, agriculture or other uses as specified;
- The owner will maintain land without on-going maintenance costs to the community;
- The owner is likely to pay less in real estate taxes;
- All CR approved by the State must have public benefit.

CR's should be reviewed by the Secretary of Environmental Affairs, then the Conservation Commission and the Board of Selectmen.

The Conservation restriction document should clearly state the restrictive uses and the allowed uses, boundaries, and the holder of the CR.

## USING RESTRICTIONS TO PROTECT YOUR LAND

- ◆ Private lands can be protected in perpetuity through deed restrictions or conservation easements (yet some easements only run for a period of 30 years and those lands are therefore not permanently protected open space).

Deed restrictions are written right into a deed and run with the owner of the property. A deed restriction should be drafted by a lawyer and then recorded at the Registry of Deeds.

A Conservation Easement is a document also commonly drafted by a lawyer

- ◆ Lands under special taxation programs, Chapter 61, 61A, or 61B, are actively managed by their owners for forestry, agricultural, horticultural, or recreational use. The community has the right of first refusal should the landowner decide to sell and change the use of the land, therefore, it is important to prioritize these lands and consider steps the community should take to permanently protect these properties.
- ◆ Lands acquired for watershed and aquifer protection are often permanently protected open space.
- ◆ Public recreation and conservation lands may be permanently protected open space, provided that they have been dedicated to such uses as conservation or recreational use by deed. Municipal properties may be protected via the Town Meeting or City Council vote to acquire them.
- ◆ Private, public, and non-profit conservation and recreation lands are protected under Article 97 of the Articles of Amendment to the State Constitution.