

Conservation Restrictions

A Guide for Landowners





Joan Chasan

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Welcome!

Congratulations on becoming the owner of a property protected by a Conservation Restriction (CR). As a CR landowner, you have joined a remarkable group of people who help to protect the wildlife, natural resources, and scenic character of our communities.

Your management of this property is the key to protecting its ecological values for future generations. Sudbury Valley Trustees (SVT) is honored to partner with you in the effort to protect the natural resources of your property.

Who is SVT?

SVT is an accredited land trust that works to protect natural areas and farmland for wildlife and people in the 36 communities that surround the Sudbury, Assabet, and Concord Rivers.

We created this booklet to give you an overview of CRs and to offer guidance on how you can exercise your reserved rights while protecting the conservation values of your land.

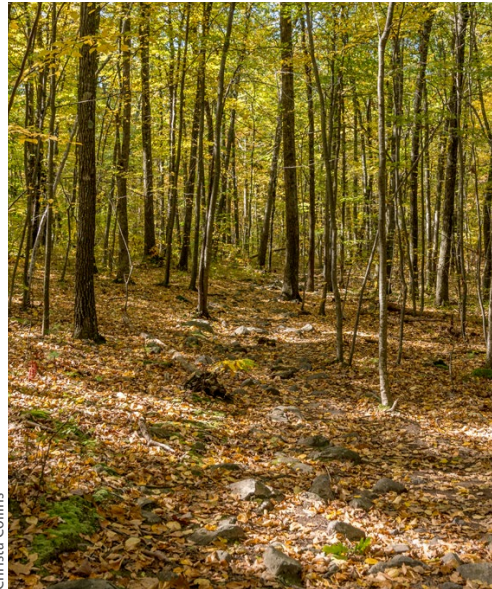
We welcome your feedback and look forward to working with you!

Contacting SVT

If you have any questions, please feel free to call or email us. You should also notify us if you decide to exercise any of your reserved rights that are subject to the notification clause in your CR document (see page 9).

Sudbury Valley Trustees
18 Wolbach Road
Sudbury, MA 01776

Phone: 978-443-5588
Email: CR@svtweb.org
Web: www.svtweb.org



Christa Collins

I. What is a Conservation Restriction?

A Conservation Restriction (CR) is a voluntary, permanent legal agreement entered into by a landowner and a qualified conservation organization (such as SVT) or a government entity (such as a local conservation commission or a state agency).

Once a landowner places a CR on a piece of land, the agreement becomes attached to the property and passes to all future owners. It ensures the land remains protected forever.

In Massachusetts, the terms of a CR must be approved by both local and state authorities. CRs are recorded at the Registry of Deeds.

CRs prohibit specified activities (such as development or brush clearing) in order to protect the important natural resources, or conservation values, of a property. Protecting these resources (e.g., water quality, farmland, or wildlife habitat) benefits not only the private landowner but also the public.

The landowner continues to own and use the land, and can sell it to others, as long as the use and sale comply with the terms spelled out in the CR.



Raj Das



SVT Staff

CRs are not unique to privately owned properties. To ensure our conservation lands remain protected forever, SVT and other land trusts and municipalities often place CRs on the properties we own. For instance, SVT granted to the Trustees of Reservations a CR on Wolbach Farm, the site of our headquarters. The CR protects nearly 53 acres of forest, wetlands, and meadow habitat.

The terms of the CR may permit a variety of activities, such as agriculture, approved timber harvests, trails for public or private use, and wildlife habitat improvement. Every CR is different, which is why it is imperative for CR landowners to understand their individual documents.

SVT's Stewardship staff can answer your questions about your CR, and we can explain how your property fits into the broader protection and land management of the surrounding area.



Joan Chason



Ellen Wintzer

Frequently Asked Questions

Does a CR give the public access?

Not necessarily. Some CRs limit public use to specific trail easements, while others do not permit public access at all. It depends on the intent of the original CR Grantor and whether public funds were used to protect the property. Your CR document will have information on public access (usually in an “access” clause).

Does a CR restrict the landowners’ ability to sell or bequeath the property in the future?

No. Landowners can sell or bequeath protected property; however, a CR runs with the land and will bind future owners to the same standard. *You are required to inform us if ownership of the protected property changes.*

Can a CR be amended or removed?

Rarely. There are specific requirements set by the Commonwealth of Massachusetts and by SVT to amend a CR. The most important of these is that there must be no net loss in conservation value. An amendment is not common and is time-consuming and costly, as multiple SVT boards must approve it, as must the municipality and the Commonwealth. Removal of a CR from a property is extremely rare.

Can a landowner do habitat improvement or restoration work on a protected property?

Yes! There are many projects, large and small, that can provide added habitat benefit to your property. Please speak with SVT staff for more information.



Joan Chasan

II. Understanding Your CR

No two CRs are the same. Although contemporary CRs in Massachusetts all follow the same basic template, each one has unique clauses based on the wishes of the CR Grantor and the nature of the negotiations.* Some CRs allow for activities the Grantors think they may want to pursue in the future, such as farming or creation of public trails.

While the allowed uses of the property can vary, most contemporary CRs have a consistent format with these sections:

- granting paragraph,
- purposes for protecting the property,
- prohibited acts and uses,
- reserved rights of the property owner,
- notice and approval,
- access, and
- changes in ownership.



The following pages discuss each of these in more detail, as these are the components that have the greatest impact on day-to-day operations.

The information describes the basic components of a CR and provides general examples of language used in a CR. These are examples only.

Please note that the specific language, terms, and content of your individual CR are what apply to your property.

We strongly advise that you review your entire CR, not just the sections presented here, with your attorney.

*Older CRs did not follow a standard template and will vary more than those granted more recently.

Granting and Purpose

The Granting Paragraph and the Purpose Section provide information about the parties to the agreement and the reason the land is worthy of conservation.

Granting Paragraph

- Identifies the Grantor (landowner who entered into the CR) and the Grantee (SVT or another qualified organization; there might also be a co-holding organization).
- Cites the Massachusetts enabling statute for CRs (MA General Laws, Ch. 184, Sections 31–33).
- Provides basic information on the property: location, acreage, deed reference to CR Grantor's legal title, survey plan, etc.



Kristin O'Brien

Purpose Section

This section explains why the property was protected (and often justifies the intent of allowed uses and acts) and may include:

- wildlife habitat,
- water quality,
- rare species habitat,
- agriculture,
- forestry,
- public benefit, and
- scenic views.

Prohibited Acts and Uses

The Prohibited Acts and Uses section essentially prohibits any act or use of the property that is inconsistent with the purposes of the CR and that would be highly disruptive to the property.

In general, a CR will prohibit almost everything but will then grant certain rights back in the Reserved Rights section.

Prohibited Acts and Uses may include the following (this list is not comprehensive; be sure to review your own CR):

- constructing, placing, or allowing to remain any temporary or permanent building, tennis court, landing strip, swimming pool, etc.;
- mining, excavating, dredging, or removing mineral resources or natural deposits;
- placing, filling, storing, or dumping soil, grass clippings, compost, yard debris, trash, junk, or chemical waste;
- activities detrimental to drainage, flood control, and water conservation;
- cutting, removing, or destroying vegetation;
- motorized vehicles;
- disturbing or removing historical resources (e.g., stone walls);
- commercial recreational, business, or industrial use; and
- all other activity or use of the premises that is inconsistent with the purpose of the CR.



Ashley Davies

Reserved Rights

The Reserved Rights section of your CR is one of the most important sections to review as you make plans for your property. It states allowed activities for your property and includes exceptions to the Prohibited Acts and Uses section of your CR. You should read the two sections together to fully understand the intent and impact of your CR.

Where the Prohibited Acts and Uses section essentially prohibits all disruptive activities, the Reserved Rights section “gives back” specific acts or uses that override those prohibitions.

For instance, when a CR allows for agriculture, the reserved rights could allow the owner to disturb soil to plant crops, install fencing, build a barn, or install irrigation. When a CR covers a forested lot, the reserved rights may permit the owner to harvest trees for firewood or habitat improvement through a professional forestry plan.

Reserved rights are highly specific to each CR. They were designed based on the intended future uses of the property in a way that would support the purposes of the CR and protect the most sensitive ecological areas.

When reading the reserved rights in your CR, please take note of activities that require you to provide notice to SVT or to obtain SVT approval.



SVT Staff

Notice and Approval

The Notice and Approval section in your CR details how to submit a written notice to SVT when notification is required for a project you want to undertake. **The section will also specify how far in advance of your proposed start date the notice should be sent.** Depending on your CR, this is typically either 30 or 60 days before you start your project.

Please note: If your request requires approval from SVT, we have our own time frame in which to respond. Please be sure to account for this when determining how far in advance you must send your notice. Until you receive approval, no work can begin for the proposed activity.

The acts and uses that require notice and approval will be stated in the reserved rights section of your CR.

All written notices should be sent to (unless otherwise stated in your CR):

Sudbury Valley Trustees
ATTN: CR Manager
18 Wolbach Road
Sudbury, MA 01776

or emailed to the SVT Stewardship staff at CR@svtweb.org

This notice and approval process does not replace other permits the activity may require. **Please be sure to attain all necessary permits** from the Building Department, Conservation Commission, Board of Health, etc.



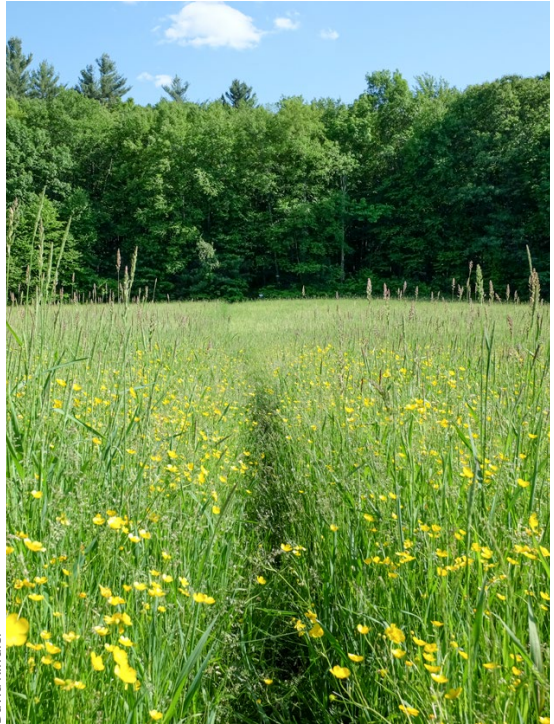
David Blohm

Access

The Access section of your CR gives SVT the right to enter the property to monitor it for both landowner and third-party compliance with the terms of the CR.

We try to give landowners two weeks' notice of visits, and we will be reasonably flexible to schedule visits around your availability; however, this is not always possible, particularly when there is a violation that needs to be addressed.

The Access section also addresses whether your CR allows access to the general public. Public access is often granted through a predetermined trail easement, thereby limiting the areas the public may access.



David Kindler

Change in Ownership

Landowners can sell or bequeath protected property; however a CR runs with the land and will bind future owners to the same standard. **You are required to inform SVT if you are no longer the owner of the protected property.**

III. SVT and You: CR Partners

Since our founding in 1953, we have protected over 5,000 acres through CRs or as reservations (properties we own). As of 2019, CRs make up a little more than half of our protected area with 2,841 acres across 84 properties.

SVT is charged with the legal responsibility of upholding the terms of the CRs we hold. We are accredited through the Land Trust Alliance, a national group that requires land trusts to maintain the highest standard of ethics in land acquisition, protection, and stewardship.

To track property conditions and prevent violations on the CRs that SVT holds, we:

- **create baseline documentation reports** that summarize the condition of a property at the time a CR is put in place,
- **visit each property** at least once per year,
- **assist property owners** in understanding their CRs,
- **review project requests** submitted by landowners (including for habitat management), and
- **work with the landowner** to resolve any violation (whether by the landowner or a third party).

We value opportunities to discuss your land with you and help you understand, steward, and enhance the natural values of your property.

We enjoy walking the property with you, sharing information and perspective, and thinking about how we can work together to enhance the conservation of the area.



SVT Staff

Baseline Documentation



SVT Staff

The SVT staff prepares a **baseline documentation report** (or “baseline”) for every new CR to document the physical conditions of the property at the time it is protected.

The baseline includes **photos and descriptions of features** that are protected or affected by the terms of the CR. The baseline lists **current**

land uses and improvements (e.g., existing structures, roads, or trails) as well as the **purpose of the CR**, such as protecting ecological, scenic, or historic resources. The specificity of each baseline depends on the details of the CR’s purposes and the landowner’s reserved rights. (See Section II for more information.)

A copy of the baseline is given to each current and subsequent CR landowner. **If you do not have a copy of your CR baseline, please contact the SVT Stewardship staff.**

SVT’s Stewardship staff refers to the baseline during our property visits so we can identify changes to the property (manmade or natural) and assure both SVT and the landowner that the terms of the CR are being upheld.

As landowners exercise their reserved rights and changes occur on the land, SVT will record descriptions and photos in our permanent records to create a continuous record of the protected property.

We will share updated baselines with the current landowner. As a best management practice, we recommend that you keep the baseline where it can be easily referenced to ensure any future changes made on the property are consistent with the CR’s terms.

Property Visits

When SVT holds a CR, **we are legally responsible for ensuring the property's conservation values are protected forever.** To meet this obligation, we will **visit your property regularly** (at least once per year) and keep a record of any changes to the land or uses (including photographs, if necessary).

In addition to ensuring that the terms of the CR are being followed, annual visits help us build and maintain working relationships with you and other CR landowners. They give us an opportunity to meet in person, share information (and great stories) about the property and its natural resources, and answer any questions you have about your reserved rights or proposed changes to your protected property.

We will always contact you before each visit. We look forward to touring the property with you, so we will do our best to find a mutually convenient time to monitor your property. Scheduling conflicts may prevent us from meeting every year, but we welcome the opportunity whenever possible. **If we are unable to connect with you after repeated attempts, we must still visit the property to fulfill our obligation as the CR holder.**

Successful CR stewardship is an ongoing commitment that thrives on open communication between landowners and SVT's Stewardship staff. **To ensure timely communication,** please notify us of any changes to your contact information as well as the preferred method to reach you (e.g., email, cellphone, or home phone).



SVT Staff

Marking CR Boundaries

Some CRs cover an entire property, others cover a portion, and some permit “designated use” areas (such as building envelopes or public trail easements). Knowing the location of your boundaries is essential for us to fulfill our mutual obligation to protect your property’s conservation values.

By posting signs on your boundaries, you can help facilitate our annual monitoring visits and also inform abutters and others where the protected property begins. The signs could be posted along a public trail, at an area where a neighbor has easy access to your property, or at any location that seems susceptible to encroachment or violation.

Posting signs is entirely optional, but it is a good proactive measure. As Robert Frost wrote, “good fences make good neighbors.”

It would also be good practice for you to **clearly mark building envelopes and designated use areas** and maintain those markings over time. If not maintained, the boundary markings can easily be lost, which could lead to a structure being built in the wrong location and creating a violation of the CR.

Contact SVT for boundary marking signs.



Dan Stimson

Handling CR Violations and Enforcement

A key component of SVT's CR enforcement policy is maintaining open communication and healthy working relationships with our CR landowners, especially when a violation occurs.

Rarely are violations intentional.

More often than not, they result from confusion or lack of awareness

about the terms of the CR. We encourage you to review the terms of your CR carefully; we will gladly answer any questions you have. **Together we can prevent costly CR violations as well as irreparable damage to your property's conservation values.**

If a violation does occur, SVT is obligated to work toward resolving it in order to meet our responsibilities as the CR holder. We will schedule a site visit to review the issue with the landowner and determine the nature, extent, and significance of the violation.

While many violations are minor, others can be more serious and directly impact the CR's purposes and values. Examples include clear-cutting a

protected forest habitat to open a new view and building a structure in the wrong spot. **It's much better to discuss your plans with us in advance!**

Working in partnership with our CR landowners, our goal is to always avoid violations. But when they occur, we must take them seriously and take steps to remediate the damage.



Kristin O'Brien



Kristin O'Brien

Amending a CR

Because CRs are designed to be permanent, **modifying or revoking their terms is rarely permitted**. SVT can provide guidance on the limited conditions under which a CR may be amended.

Such situations include:

- clarifying or strengthening the CR's language,
- adding acreage under the CR's protection, and
- correcting what both parties agree is an error.

In Massachusetts, a CR amendment must go through the same approval process as a new CR, meaning that both the landowner and the CR holder must agree to the changes, and then the local municipality and the state government must grant approval.

Massachusetts law and SVT's policies both specify that a CR amendment will be considered and approved only when it will not result in any diminishment in protection of the CR's purpose and conservation values. Therefore, an amendment must result in a neutral or, ideally, an improvement to the CR's conservation values (a net conservation gain).

The amendment process is very time intensive, and any request by a landowner to amend a CR will require payment to cover associated costs (e.g., appraisal fees, land surveying fees, and recording fees).



Mark Levinson

IV. Managing Your Land

Through your own stewardship, you can do a tremendous amount to enhance the wildlife habitat and conservation values of your property. A CR might permit a variety of projects, from a small wildflower garden to large-scale timber management.

At SVT, we enjoy helping landowners steward their properties, and we are delighted to make our expertise available to you.

Stewardship projects could include:

- establishing a wildflower garden or meadow to benefit pollinating insects and birds,
- letting peripheral lawn areas grow into meadows to encourage nesting by birds that depend on grassland habitat,
- installing bluebird and wood duck boxes,
- managing your woodlands for wildlife habitat and firewood production by using a forest-management plan and working with a licensed forester; your forester may even be able to help you get financial assistance from the Commonwealth for habitat improvement projects,
- removing or controlling invasive species,
- planting native species, and
- improving trails and wetlands crossings.

These projects need to fit within the terms of your CR, and we are happy to help you figure out if they do.

Our 36-community area hosts a wide range of habitat types, including wetlands, forests, meadows, and sandy pine barrens. The best way to manage your property is to first understand what habitat type(s) are present.



Mark Levinson



Russ Place

Wetlands and Rivers

Wetlands and rivers are protected under the Massachusetts Wetlands Protection Act and the Rivers Protection Act, both of which have been further expanded by local town bylaws.

Massachusetts has more than 48,000 acres of wetlands and approximately 4,230 miles of rivers, and many communities have created additional protected buffer zones around these sensitive areas. Protecting and enhancing wetlands is essential to water quality, flood mitigation, and wildlife habitat.

Any work you would like to do in or near a wetland needs to be approved by your local Conservation Commission as well as by SVT.

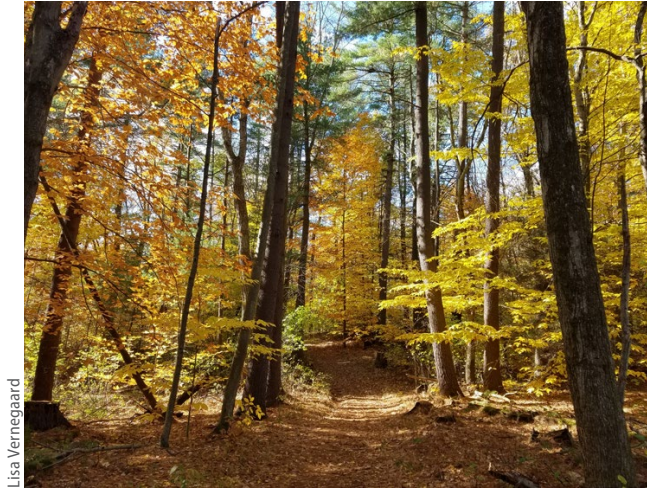
Potential projects could include invasive plant removal, native plantings, and other projects that would enhance habitat quality or the functionality of the wetland.



Rej Das

Forests

More than 60% of Massachusetts is forested, but most of our trees are of a similar age. European settlers cleared the land for agriculture, and it remained cleared until around 100 years ago, when agriculture in the region died out and new trees established themselves in abandoned fields. While we have diverse tree species, we have limited young and old forest habitat, which are essential for certain wildlife, particularly birds.



Lisa Vernegaard

Some CRs permit the landowner to create a forestry plan to improve habitat for birds or other wildlife, and the costs can be offset by the sale of lumber or state funding programs. The state has created 11 forestry districts, each with a dedicated Service Forester who can help landowners understand their options by providing a woodland assessment and by reviewing funding programs. **Numerous programs are available that can help you enact a forestry plan that will achieve your financial and conservation goals.**

Another useful tool is www.masswoods.org, a UMass Amherst website dedicated to assisting landowners in making informed land management decisions.

SVT staff will gladly assist you through this entire process. Remember, any work that is proposed must be in compliance with your CR.

Meadows and Grasslands

Meadows and grasslands provide essential habitats for the birds and insects that pollinate our plants and crops.

Open areas smaller than 10 acres provide food and refuge for many species, including pollinators and migrating birds. Some field-nesting species, however, prefer a minimum of 10 acres of open habitat to nest.

Such large open areas are rare in Massachusetts because of development and because past farmland has been overtaken by forests. As a result, scientists consider field-nesting bird species—such as bobolinks, upland sandpipers, and eastern meadowlarks—to be imperiled.

If permitted by your CR, you can manage your fields to provide good habitat for native wildlife. Field management is similar for small and large fields, as both require mowing to prevent woody plants from becoming established. **To promote bird and pollinator habitat, mowing should be completed before May 15 or after August 15.** (If you have flowering plants that are in bloom in mid-August, please delay mowing until later in the fall.)

If you would like to improve your fields for birds, Mass Audubon has created several booklets on bird habitat management, including “Best Management Practices for Nesting Grassland Birds.” **Several grant programs support field habitat restoration for birds**, including the MassWildlife Habitat Management Grant Program.



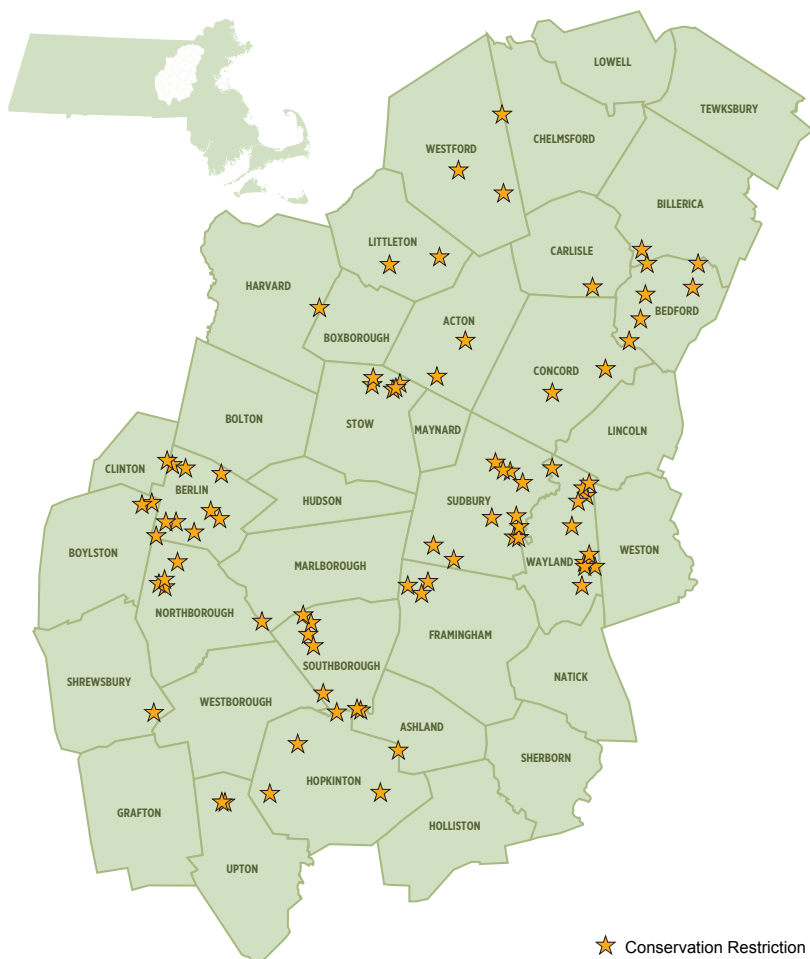
Sandy Gotlib

Conclusion

Your property is just one of the great CRs that SVT holds in our region. The map below shows the locations of the CRs we hold as of 2019. We are glad to be able to work with such wonderful landowners—a group that grows larger with each passing year.

We hope you found this booklet helpful and have been able to find the information you need in your CR document. Please let us know whenever you have a question.

We will be in touch soon to schedule one of our regular visits. Hopefully, you will be able to join us!





**Working with you to protect and manage
natural areas, farmlands, and forests.**

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