

Conservation Restrictions (CRs): Frequently-Asked Questions

What is a CR?

Landowners who wish to protect their land permanently without giving up ownership may choose to place a Conservation Restriction on their property.

A conservation restriction, or CR for short, is a voluntary legal agreement entered into between a landowner (the "grantor") and a qualified conservation organization, such as Massachusetts Audubon, Carlisle Conservation Foundation (CCF), or a government entity, such as the Town of Carlisle (the "grantee"). Under the terms of a CR, the grantor relinquishes certain development rights to the property forever, and gives the grantee the right and responsibility to monitor the property and defend the terms of the CR. (In most other states, the CR is known as a "conservation easement.")

Under the CR, the land may be sold, bequeathed, or given to any party the owner chooses. The CR goes on record at the Registry of Deeds and becomes a permanent part of the property's title, binding all future owners of the land. The public has no right to use the property unless the right is specifically granted in the CR.

What is a 'grantee' and why is this necessary?

The owner of any property "owns" certain rights to use and enjoy the property. The owner may also give up some of those rights, either temporarily (e.g., if you rent out your house for a year, you give up the right to occupy and use it) or permanently (e.g., if you grant an easement to the electric company to run its lines through your land). Those rights don't just disappear; they are transferred to someone else. In a CR, the landowner gives up specific development rights. Those rights must be held by someone -- known as the "grantee" or "holder." Under Massachusetts law, grantees must be either a municipality or a qualified conservation organization.

Can a CR be removed?

A CR cannot be removed. It is intended specifically to protect the land in perpetuity, and extends to all subsequent owners of the property.

Why are CRs put in place by landowners?

Landowners typically put CRs on their land for two reasons. First: they wish to see the land protected over time, and second: they would like to benefit from the tax advantages associated with CRs. When land is being passed on from one generation to another, estate taxes can occasionally force the sale of the land in order to satisfy the tax burden. A CR can provide substantial estate tax relief, allowing the family to avoid selling the land.

What are the tax benefits of a CR?

Landowners who donate CRs are often eligible for a federal and state income tax deductions. The amount of the charitable contribution is determined by a professional appraiser hired by the donor, and is calculated as the amount by which the CR has lowered the fair market value of the property. CR gifts may provide estate and property tax benefits as well. The Commonwealth of Massachusetts and U.S. Governments encourage CR's where there is a clear public benefit to protecting the specific parcel. Congress has renewed the enhanced tax incentive for conservation easements (restrictions). The bill was passed in December of 2010 and the incentive will be in effect through December 31, 2011 and be retroactive to January 1, 2010.

Does a CR mean that the public has access to my land?

The public has no right to access or use the property unless that right is specifically granted in the CR. Each CR is very detailed in this regard. CRs granted to protect a trail obviously allow access, but may restrict such access to foot traffic only -- walking, snow shoeing and cross-country skiing. Others may also permit horseback riding and cycling. CRs protecting vistas or wildlife habitat may prohibit all public access.

I want to do some work on my property, and I want to make sure I'm not violating the terms of the CR. Whom should I contact?

You should contact Sylvia Willard, the Carlisle Conservation Commission Administrator, at (978) 369-0336, or visit her at the Town Hall. She can also provide a copy of the CR that impacts your property. You can also obtain a copy of your CR online from the Middlesex North Registry of Deeds (www.lowelldeeds.com).

How common are conservation restrictions?

They are very common. In the decade between 1990 and 2000, the amount of land in the United States protected by local and regional land trusts through CRs increased more than fivefold to 2.6 million acres, and then doubled again in the next five years, according to the Land Trust Alliance (www.lta.org). In Massachusetts, more than 1000 CRs have been established in the past 24 years. Here in Carlisle, there are currently nearly 60 CRs protecting over 620 acres. Conservation restrictions are now used to protect all types of land, including coastlines; farm and ranch land; historical or cultural landscapes; scenic views; streams and rivers; trails; forested land; open space; meadows; wetlands; wildlife areas; and working forests.

I know someone else who may want to grant a CR on their property. How do they get started?

It's best to start by calling Sylvia Willard at the Carlisle Conservation Commission for basic information about CRs. Conservation organizations that hold CRs in Carlisle may also provide assistance. These include the Carlisle Conservation Foundation (<http://ccf.unchi.org>), the New England Forestry Foundation (www.neforestry.org), and The Trustees of Reservations (www.thetrustees.org). On-line resources can be found at the Land Trust Alliance (www.lta.org) and at the Commonwealth of Massachusetts, Division of Conservation Services (<http://www.mass.gov/envir/dcs/pdf/restrictions.pdf>).

The Conservation Restriction Advisory Committee (CRAC) will be happy to meet with any Carlisle landowner and help them understand the legal steps necessary to draft the CR and have it approved by the Town boards and State Executive Office of Energy and Environmental Affairs (EOEEA) and finally recording it at the Registry of Deeds.

What is CRAC?

CRAC is the Carlisle Conservation Restriction Advisory Committee. The committee was formed to assist landowners in understanding and protecting their CRs and is responsible for monitoring all CRs which have been granted to the Town of Carlisle. Members are appointed by the Selectmen, and the committee also advises the Conservation Commission in matters pertaining to conservation restrictions.

CRAC inspections

Periodically, the committee visits each CR to make sure that its terms are being respected. The committee notifies the landowner before these visits and sends the owner a copy of its report after the visit. These inspections also serve the purpose of making new land owners with CR's on their recently purchased property aware of their responsibilities concerning the terms of the CR.

The current members of the Committee are John Keating (chair), Jenifer Bush, Wayne Davis, Elisabeth Carpenter, Ken Harte & Marc Lamere.