

Town of Grafton
Inventory of Article 97 Land
May 22, 2023

“Article 97” land — mainly open space, conservation, recreation, and park land — enjoys special protection and cannot be sold or repurposed with just a Town Meeting vote. Herein we explain Article 97 and its consequences for Town-owned land, for those who may not be familiar with Article 97, and list all Town-owned parcels that are known to be protected by Article 97.

Article 97

Adopted by the voters in November 1972, Article 97 of Amendments to the Massachusetts Constitution protects public lands acquired for a broadly defined list of natural resources purposes. Of particular note is a requirement for a two-thirds roll call vote of each house of the state legislature in order to dispose of or change the use of land protected by Article 97.

The key portions of Article 97 are:

The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose.

...

Lands and easements taken or acquired for such purposes shall not be used for other purposes or otherwise disposed of except by laws enacted by a two thirds vote, taken by yeas and nays, of each branch of the general court.

Article 97 Policy

In support of the purposes of Article 97, the Executive Office of Environmental Affairs (EOEA) adopted the *EOEA Article 97 Land Disposition Policy* (February 19, 1998). The policy requires the following conditions to be satisfied for EOEA to approve any disposition of Article 97 land:

1. all other options to avoid the Article 97 disposition have been explored and no feasible and substantially equivalent alternatives exist (monetary considerations notwithstanding).
2. the disposition of the subject parcel and its proposed use do not destroy or threaten a unique or significant resource (e.g., significant habitat, rare or unusual terrain, or areas of significant public recreation), as determined by EOEA and its agencies;

3. as part of the disposition, real estate of equal or greater fair market value or value in use of proposed use, whichever is greater, and significantly greater resource value as determined by EOEA and its agencies, are granted to the disposing agency or its designee, so that the mission and legal mandate of EOEA and its agencies and the constitutional rights of the citizens of Massachusetts are protected and enhanced;
4. the minimum acreage necessary for the proposed use is proposed for disposition and, to the maximum extent possible, the resources of the parcel proposed for disposition continue to be protected;
5. the disposition serves an Article 97 purpose or another public purpose without detracting from the mission, plans, policies and mandates of EOEA and its appropriate department or division; and
6. the disposition of a parcel is not contrary to the express wishes of the person(s) who donated or sold the parcel or interests therein to the Commonwealth.

In brief, the objective is to avoid disposition of Article 97 land as much as possible, minimize it where necessary, and ensure no net loss by replacing the land with new Article 97 land of equivalent value and purpose.

As applied to land owned by a municipality, the policy must be followed in order for the municipality to be eligible for grants offered by EOEA or its agencies (e.g., grants typically used by the Town to acquire land: LAND [formerly Self-Help], LWCF). The policy requires, for disposition of Article 97 land, a municipality to:

1. obtain a unanimous vote of the municipal Conservation Commission that the Article 97 land is surplus to municipal, conservation and open space needs;
2. obtain a unanimous vote of the municipal Park Commission if the land proposed for disposition is parkland;
3. obtain a two-thirds Town Meeting or City Council vote in support of the disposition;
4. obtain two-thirds vote of the legislature in support of the disposition, as required under the state constitution;
5. comply with all requirements of the Self-Help, Urban Self-Help, Land and Water Conservation Fund, and any other applicable funding sources; and
6. comply with EOEA Article 97 Land Disposition Policy [note: the municipality must also file an Environmental Notification Form with EOEA's MEPA office].

How Does Land Become Protected by Article 97?

A parcel of land becomes protected under Article 97 in any of the following ways:

1. A deed or town meeting vote (1) explicitly states that the parcel is to be subject to Article 97, (2) explicitly states the purpose for which the parcel was acquired, and that purpose is an Article 97 purpose, or (3) places the parcel under Conservation Commission control. The Article 97 purposes we find in deeds and votes for

Grafton's land inventory are open space, conservation, recreation, public park, and water supply protection. Two caveats apply here:

- A. If the stated purpose includes a non-Article 97 purpose along with an Article 97 purpose, the parcel does not enjoy Article 97 protection (Land Court in *Mirkovic v. Guercio*, 2017).
- B. A town meeting vote that requires further action (e.g., the execution of a deed) to effectuate its purpose does not invoke Article 97 without that additional action being taken (SJC in *Selectmen of Hanson v. Lindsay*, 2005).
2. A restriction (e.g., Conservation Restriction, Agricultural Preservation Restriction, public park easement) that limits the use of the parcel to an Article 97 purpose
3. A funding agreement that requires the land to be permanently dedicated to an Article 97 purpose (SJC in *Smith v. City of Westfield*, 2017).
4. The Town Common is a public park by virtue of the definition in G.L. c.45 §1.
5. Ownership by the Town or a water district of land in Zone 1 of a public water supply well, when it clearly implies that the purpose of the land is water supply protection.
6. Management of a public park or playground by the Recreation Commission.
7. Designation as a park and use by public as a park.

Items 5, 6, and 7 follow from the principle articulated by the SJC in *Westfield*, that there must be a “clear and unequivocal intent to dedicate the land permanently” to an Article 97 purpose and the public must have accepted that purpose by actually using the land in a manner consistent with that purpose.

Inventory

In the inventory table that follows, each parcel of Town-owned Article 97 land is listed, and under each parcel is a list of one or more of the aforementioned actions or conditions that invokes Article 97 protection for that parcel. Where an action appears in a document recorded at the Worcester District Registry of Deeds, the date of recording and book/page or certificate reference are shown.

The data is current as of May 22, 2023, based on the following sources:

- Previous Article 97 inventory, dated July 14, 2021
- Worcester District Registry of Deeds, documents recorded through May 22, 2023
- Grafton assessor's data for FY22, downloaded from MassGIS, dated November 28, 2022
- Town Meeting votes through May 8, 2023

Inventory of Article 97 Land in Grafton	
Site	Article 97 Basis
14 Sunset Ln	
	Special town meeting vote (1987-09-23 article 3 [not recorded]) places under ConCom control
22 Vincent Rd Rear	
	Annual town meeting vote (1990-05-16 article 34 recorded 1990-07-26 book/page 12911/39) places under ConCom control
29 Pleasant St	
	Annual town meeting vote (1974-03-20 article 61 [not recorded]) dedicates to Article 97 purpose: conservation
	Deed (1972-12-20 recorded 1974-06-24 book/page 5522/263) dedicates to Article 97 purpose: conservation
95 North St	
	Annual town meeting vote (2020-06-20 article 21 recorded 2020-10-19 book/page 63533/267) places under ConCom control
	Deed (2020-09-17 recorded 2020-10-19 book/page 63533/269) places under ConCom control
Adams Crossing Open Space [22 Robin Dr]	
	Annual town meeting vote (2007-05-14 article 58 [not recorded]) dedicates to Article 97 purpose: open space
Airport Park [8 Bedford Dr]	
	Annual town meeting vote (1958-03-08 article 33 recorded 1958-08-20 book/page 3963/232) dedicates to Article 97 purpose: recreation
	Annual town meeting vote (1961-03-11 article 42 recorded 1961-12-29 book/page 4253/22) dedicates to Article 97 purpose: recreation
	Deed (1958-08-01 recorded 1958-08-20 book/page 3963/232) dedicates to Article 97 purpose: recreation
Airport Road Conservation Land [4 Airport Rd]	
	Annual town meeting vote (1964-03-07 article 19 recorded 1964-07-07 book/page 4479/44) places under ConCom control
Barbara Jean Open Space Area [60 Barbara Jean St Rear]	
	Annual town meeting vote (1983-05-09 article 31 recorded 1987-10-28 book/page 10899/47) dedicates to Article 97 purpose: open space
Brigham Hill Wildlife Area [42 N Brigham Hill Rd]	
	CR to Town of Grafton Conservation Commission (1990-03-14 recorded 1990-06-18 book/page 12843/15)

Inventory of Article 97 Land in Grafton	
Site	Article 97 Basis
Brookmeadow Park [377 Providence Rd]	
	Recreation easement to Town of Grafton (2008-10-30 recorded 2009-06-18 book/page 44438/350) dedicates to Article 97 purpose: recreation
Brookmeadow Village Conservation Area [2 Taft Mill Rd, 3 Brookmeadow Ln, 30 Taft Mill Rd, 1 Taft Mill Rd]	
	Deed (2012-07-25 recorded 2012-09-26 book/page 49680/134) places under ConCom control
Cider Mill Pond Conservation Area [30 Stowe Rd]	
	Annual town meeting vote (1974-03-18 article 50 recorded 1974-07-22 book/page 5544/250) places under ConCom control
	Deed (1974-04-05 recorded 1974-07-22 book/page 5544/250) places under ConCom control
Countryside Rd Play Area [62 Countryside Rd]	
	Special town meeting vote (1977-01-31 article 6 recorded 1987-10-28 book/page 10899/57) dedicates to Article 97 purpose: recreation
Crosby Rd Landfill (closed & capped) [21 Crosby Rd]	
	Annual town meeting vote (1995-05-08 article 31 [not recorded]) explicitly invokes Article 97
Ekblaw Landing [111 Worcester St]	
	Deed (2003-05-06 recorded 2003-09-09 book/page 31569/165) dedicates to Article 97 purpose: recreation
Fieldstone Farms Open Space [20 Wheeler Rd, 40 Meadow Ln, 56 Meadow Ln, 60 Meadow Ln]	
	CR to Town of Grafton Conservation Commission (1995-03-15 recorded 1995-04-10 book/page 16976/38)
Fisher Park [115 Ferry St]	
	Recreation Commission management
Fisherville Pond Access [73 Sunrise Ave]	
	Annual town meeting vote (1980-05-19 article 55 recorded 1988-02-11 book/page 11125/258) dedicates to Article 97 purpose: open space
Fitzpatrick Road Parcel [43 Fitzpatrick Rd]	
	Annual town meeting vote (1987-05-11 article 31 recorded 1988-02-19 book/page 11136/253) places under ConCom control
	Deed (1988-02-03 recorded 1988-02-19 book/page 11136/253) places under ConCom control

Inventory of Article 97 Land in Grafton	
Site	Article 97 Basis
Flint Pond Conservation Area [80 Creeper Hill Rd]	
	Deed (1965-11-06 recorded 1965-11-18 book/page 4620/456) places under ConCom control
Follette St Well [21 Follette St]	
	Water district ownership of easement
Grafton Town Forest [12 Chestnut St, 51 Upton St]	
	Annual town meeting vote (1958-03-15 article 48 [not recorded]) dedicates to Article 97 purpose: forest
Greany Land [39 Snow Rd]	
	Annual town meeting vote (1990-10-15 article 19 recorded 1990-11-19 book/page 13107/150) places under ConCom control
	Deed (1990-10-03 recorded 1990-11-19 book/page 13107/150) places under ConCom control
Great Meadow Gateway [120 Merriam Rd]	
	CR to Grafton Land Trust (2020-08-17 recorded 2020-08-27 book/page 63117/205)
	Annual town meeting vote (2015-05-11 article 30 [not recorded]) places under ConCom control
Hassanamesit Woods [13 Salisbury St, 140 Old Upton Rd Rear, 7 Salisbury St]	
	CR to DCR - Division of State Parks and Recreation (2004-06-30 recorded 2004-07-21 book/page 34174/3)
	HPR to Massachusetts Historical Commission (2004-07-20 recorded 2004-07-21 book/page 34174/20)
	Deed (2004-07-21 recorded 2004-07-21 book/page 34174/33) places under ConCom control
Hennessey Conservation Area Access [46 Adams Rd]	
	Annual town meeting vote (2021-06-05 article 36 [not recorded]) places under ConCom control
Hennessey Conservation Area [60 Adams Rd]	
	Annual town meeting vote (2000-05-15 article 43 [not recorded]) places under ConCom control
	Deed (2003-12-02 recorded 2003-12-04 book/page 32383/106) places under ConCom control
	Funding: Land and Water Conservation Fund ([date unavailable] recorded 2004-01-02 book/page 32580/207)

Inventory of Article 97 Land in Grafton	
Site	Article 97 Basis
Heritage Meadows Open Space [1 Saunders Dr]	
	Annual town meeting vote (2004-05-10 article 65 recorded 2006-04-24 book/page 38812/302) dedicates to Article 97 purpose: open space
	Deed (2006-03-03 recorded 2006-04-24 book/page 38812/302) dedicates to Article 97 purpose: open space
Hillside Estates Open Space [1 Christopher Dr, 10 Christopher Dr]	
	Annual town meeting vote (2003-10-20 article 32 recorded 2004-02-12 book/page 32824/139) dedicates to Article 97 purpose: open space
House Rock Conservation Area [71 Barbara Jean St]	
	Annual town meeting vote (1983-05-09 article 32 recorded 1987-10-28 book/page 10899/47) dedicates to Article 97 purpose: open space
Hubbard Field Conservation Area [63 Creeper Hill Rd]	
	Annual town meeting vote (2002-05-13 article 26 [not recorded]) places under ConCom control
	Deed (2002-09-17 recorded 2002-10-18 book/page 27793/214) places under ConCom control
Keith Hill Forest [77 Keith Hill Rd]	
	Annual town meeting vote (1962-03-10 article 38 [not recorded]) dedicates to Article 97 purpose: forest
Lake Ripple Dam & John Wilson Memorial Boat Ramp [46 Brigham Hill Rd]	
	Annual town meeting vote (1966-03-12 article 21 recorded 1967-06-21 book/page 4763/456) places under ConCom control
Maplevale Estates Conservation Area [4 Poplar St, 1 Aspen Ave, 64 Aspen Ave Rear, 2 Lilac Ln, 1 Poplar St]	
	Deed (2006-03-31 recorded 2007-05-17 book/page 41165/300) places under ConCom control
Mazza Farms Conservation Area [247 Upton St Rear]	
	CR to Grafton Land Trust (2005-11-01 recorded 2005-12-07 book/page 37972/140)
Merriam Road Conservation Area [99 Merriam Rd]	
	Deed (1987-10-21 recorded 1987-11-17 book/page 10947/356) places under ConCom control
	Special town meeting vote (1987-09-23 article 22 [not recorded]) places under ConCom control

Inventory of Article 97 Land in Grafton	
Site	Article 97 Basis
Mill Villages Park [61 Main St]	
	Annual town meeting vote (2010-05-10 article 39 [not recorded]) dedicates to Article 97 purpose: public park
	Public park easement to Town of Grafton (2010-12-16 recorded 2011-09-28 book/page 47887/138) dedicates to Article 97 purpose: public park
Miscoe Brook Conservation Area [94 George Hill Rd Rear]	
	Deed (1981-10-20 recorded 1981-10-29 book/page 7351/141) places under ConCom control
Miscoe Farms Open Space [1 Putnam Ln Side, 2 Putnam Ln Side]	
	Deed (2008-05-22 recorded 2008-06-05 book/page 42930/250) dedicates to Article 97 purpose: open space
Nelson Park [43 Shrewsbury St]	
	Deed (1935-04-06 recorded 1935-08-13 book/page 2646/287) dedicates to Article 97 purpose: public park
Nelson Park [6 Prentice St]	
	Deed (1935-04-06 recorded 1935-08-13 book/page 2646/287) dedicates to Article 97 purpose: public park
Norcross Park [18 North St]	
	Recreation Commission management
North Grafton Estates Conservation Area [162 Old Westboro Rd]	
	Deed (2010-11-04 recorded 2011-02-22 book/page 47111/207) places under ConCom control
Oak Ridge Estates Open Space [3 Sean Mikeal Way]	
	Annual town meeting vote (2004-05-10 article 64 recorded 2006-05-24 book/page 39028/278) dedicates to Article 97 purpose: open space
	Deed (2006-03-30 recorded 2006-05-24 book/page 39028/278) dedicates to Article 97 purpose: open space
Pell Farm CR [20 Soap Hill Rd]	
	CR to Town of Grafton Conservation Commission (2009-02-27 recorded 2009-02-27 book/page 43869/110)

Inventory of Article 97 Land in Grafton	
Site	Article 97 Basis
Pell Farm Conservation Area [67 George Hill Rd, 8 Soap Hill Rd]	
	CR to Grafton Land Trust (2013-04-02 recorded 2014-03-13 book/page 52115/167)
	Annual town meeting vote (2008-10-20 article 24 recorded 2009-02-27 book/page 43869/104) places under ConCom control
	Deed (2009-02-27 recorded 2009-02-27 book/page 43869/130) explicitly invokes Article 97
	Funding: Local Acquisitions for Natural Diversity ([date unavailable] recorded 2009-02-27 book/page 43869/130)
Perry Hill Park [3 Perry St]	
	Special town meeting vote (1975-09-30 article 7 [not recorded]) dedicates to Article 97 purpose: recreation
Peters Estates Open Space [12 Peters Way]	
	Deed (2013-03-15 recorded 2013-11-08 book/page 51726/91) places under ConCom control
Power Line Road Play Area [15 Powerline Dr]	
	Annual town meeting vote (1980-05-19 article 42 recorded 1988-02-11 book/page 11125/258) dedicates to Article 97 purpose: recreation
Quinsigamond River Access [49 Sunrise Ave Rear]	
	Annual town meeting vote (1980-05-19 article 56 recorded 1988-02-11 book/page 11125/258) dedicates to Article 97 purpose: open space
Quinsigamond River CR [29 Pullard Rd]	
	CR to Town of Grafton Conservation Commission (2014-09-09 recorded 2014-09-10 book/page 52781/150)
Riverglen Estates Conservation Area [8 Joys Rd]	
	Annual town meeting vote (1990-05-16 article 42 recorded 1990-07-26 book/page 12911/35) places under ConCom control
Riverview Park [176 Providence Rd]	
	Recreation Commission management
Rosewood Estates Open Space [40 Deernolm St]	
	Deed (1998-11-25 recorded 1998-11-30 book/page 20723/276) places under ConCom control
Screech Owl Acres CR [196 Brigham Hill Rd]	
	CR to Town of Grafton Conservation Commission (1996-08-07 recorded 1996-09-06 book/page 18227/339)

Inventory of Article 97 Land in Grafton	
Site	Article 97 Basis
Silver Lake Conservation Area II [173 Upton Street, 175 Upton Street]	
	Annual town meeting vote (2022-10-17 article 8 recorded 2023-03-16 book/page 68920/350) dedicates to Article 97 purpose: open space & recreation
Silver Lake Conservation Area [163 Upton Street, 165 Upton Street, 171 Upton Street, 2 Stowe Road,]	
	CR to Grafton Land Trust (2020-04-07 recorded 2020-07-01 book/page 62710/309)
	Special town meeting vote (2019-05-13 article 12 recorded 2019-08-07 book/page 60845/182) dedicates to Article 97 purpose: recreation
Silver Lake and Beach [245 Upton St]	
	Annual town meeting vote (1977-05-09 article 28 [not recorded]) places under ConCom control
	Deed (1977-09-23 recorded 1978-02-16 certificate #9231) places under ConCom control
	Funding: State Self-Help ([date unavailable] recorded 1978-06-21 certificate #9231)
Southfield Crossing Open Space [10 Southfield Court]	
	Annual town meeting vote (2006-05-08 article 22 recorded 2006-06-23 book/page 39227/343) dedicates to Article 97 purpose: open space
	Deed (2006-04-01 recorded 2006-06-23 book/page 39227/343) dedicates to Article 97 purpose: open space
Suzanne Terrace Play Area [11 Suzanne Terrace, 13 Suzanne Terrace]	
	Special town meeting vote (1978-02-13 article 1 recorded 1987-10-28 book/page 10899/53) dedicates to Article 97 purpose: recreation
Taft-Parker-Prescott Land [240 Upton St]	
	Deed (1963-11-19 recorded 1963-12-06 book/page 4427/397) places under ConCom control
The Great Meadow Conservation Area [12 George Hill Rd]	
	Special town meeting vote (1986-10-28 article 8 recorded 1986-12-03 book/page 10018/110) places under ConCom control
The Great Meadow Conservation Area [155 Upton St Rear]	
	Annual town meeting vote (2004-10-18 article 37 [not recorded]) places under ConCom control
Town Forest (SW corner of Millbury St & Hudson Ave) [53 Millbury St]	
	Special town meeting vote (1960-06-29 article 3 [not recorded]) dedicates to Article 97 purpose: forest
Webber/Greene CR [71 East St Rear]	
	CR to Grafton Land Trust (2002-12-03 recorded 2002-12-23 book/page 28497/242)

Inventory of Article 97 Land in Grafton	
Site	Article 97 Basis
Whitney Park [5 Mill St]	
	Designation and use as public park
Woodland Hills Estates Open Space [22 Greany Dr Rear]	
	Annual town meeting vote (1996-10-21 article 17 [not recorded]) dedicates to Article 97 purpose: open space
Woodland Hills Estates Open Space [24 Greany Dr]	
	Annual town meeting vote (1996-10-21 article 17 [not recorded]) dedicates to Article 97 purpose: open space