

Chapter 61 Programs

Massachusetts tax reduction programs



Photo credit: **Chapter 61 Programs**, published by UMass Extension and DCR by Tyler Van Fleet | Paul Catanzaro | David Kittredge

What are Chapter 61 programs?

Rising property values and taxes can make owning your land expensive! Chapter 61 programs give Massachusetts landowners an opportunity to reduce property taxes in exchange for NOT developing their land and instead retaining it in order to provide important public benefits like clean water, wildlife habitat, rural character, wood products, food, and outdoor recreation.

These benefits have a value!



Text: **Chapter 61 Programs**, published by UMass Extension and DCR by Tyler Van Fleet | Paul Catanzaro | David Kittredge

Photo: Andrew Solek in Southwick, MA

What are Chapter 61 Programs?

Land that is NOT in a Chapter 61 program is assessed under Chapter 59 for its “highest and best use,” which is considered to be its development value.

When you choose to keep your land in Chapter 59, you may find yourself paying property taxes based on your land’s development potential, even though *your undeveloped land uses fewer town services, such as emergency services and schools, than developed land uses.*

Because undeveloped land provides valuable public benefits and requires fewer costly town services, the Chapter 61 programs offer a property tax break for landowners willing to commit to keeping some or all of their land undeveloped for a specified period of time.

CHAPTER 61 VARIATIONS

- **Chapter 61** – Forestland
- **Chapter 61A** – Agriculture and Horticulture
- **Chapter 61B** – Recreation

You are allowed to change your enrollment from Chapter 61 program to another without penalty.

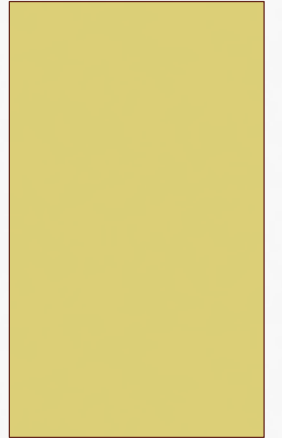


CHAPTER 61

FORESTRY PROGRAM



CURRENT USE TAX ASSESSMENT PROGRAMS



PURPOSE OF CHAPTER 61



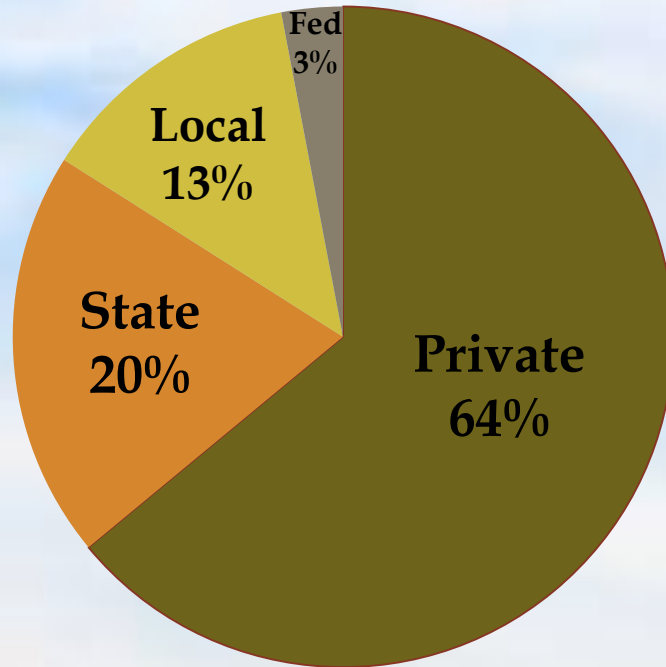
- A Current Use Tax Program
 - Reduces taxes on forested and agricultural land
- Rising property values and taxes make owning land more and more expensive
- Chapter 61 reduces taxes, making it more affordable to keep land undeveloped

“ Chapter 61 programs offer a property tax break for landowners willing to commit to keeping some or all of their land undeveloped for a specified period of time. ”

MUTUAL BENEFITS OF CHAPTER 61

- CH61 programs give Massachusetts landowners an opportunity to reduce taxes
- This makes it more feasible to keep land undeveloped
 - In exchange, public benefits from undeveloped land:
 - clean water
 - wildlife habitat
 - rural character & aesthetics
 - wood production
 - food
 - outdoor recreation
- Developed land and additional housing can put extra strain on schools, town departments/services, roadways, utilities, etc.

FOREST LAND OWNERSHIP IN MASSACHUSETTS



3.010 million acres of forest land
2.179 million NIPF acres
293,000 landowners

*As reported to USFS
JAN. 2020*

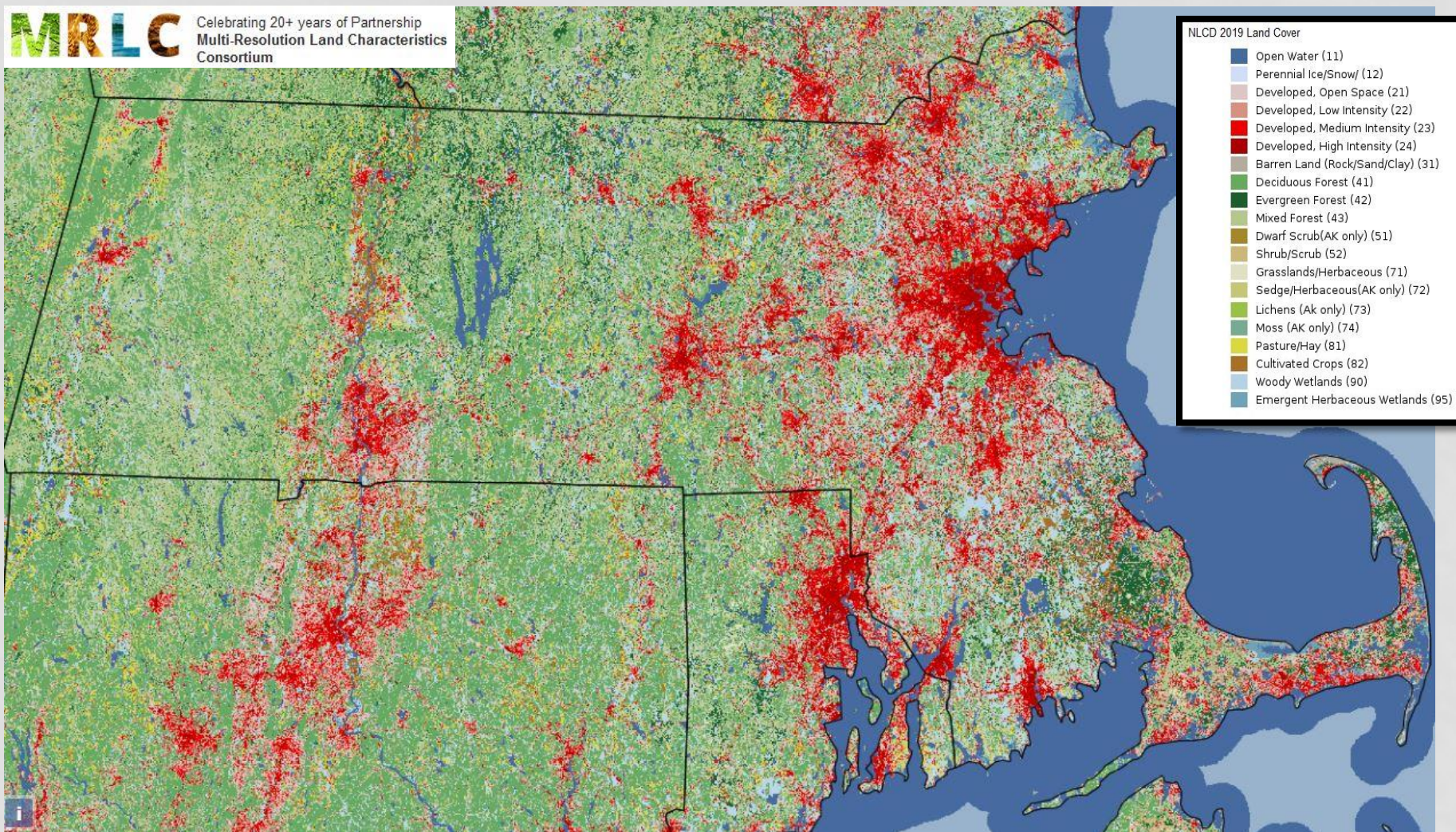
60% forest cover
11th most densely forested state
Oswalt, et al. (2019)



STATUS OF MA. FORESTS



Celebrating 20+ years of Partnership
Multi-Resolution Land Characteristics
Consortium



WHAT IS A CURRENT USE TAX PROGRAM?

- Property is taxed based on current USE instead of commercial value when enrolled in program
- If not enrolled, property is taxed at commercial value (under Chapter 59)
- **Purpose:**
To encourage landowners to keep their land as open space



CHAPTER 61 - FORESTLAND



- **Eligibility**

- 10 or more acres (exclude house lot and manicured areas)
- Land devoted to the growth of forest products
- Forest Products may include:
 - Timber, firewood, woodchips, Christmas trees, etc.

- **Management plan**

- Requires a 10-year forest management plan
 - Management plan lays out current forest conditions, desired future conditions, and a 10-year plan to get there. Written by MA Licensed Forester
 - Submit to DCR on or before June 30th
 - Grant or cost-share funding opportunities sometimes available

WHAT'S A FOREST MANAGEMENT PLAN?


A Plan Contains:

- Landowner and property information
- Forest resources described: tree size and species, forest density, soils, ground/shrub species, overall forest health, etc.
- Resource Areas: wetlands, streams, vernal pools, etc.
- 10-year management recommendations to meet landowner objectives
- Maps of property and surrounding area

dcrcr

FOREST MANAGEMENT PLAN

Submitted to: Massachusetts Department of Conservation and Recreation
For enrollment in CH61/61A/61B and/or Forest Stewardship Program



CH61

cert.

☒

CH61A

cert.

☐

CH61B

cert.

☐

STWSP

new

☒

C-S

EEA

☐

recert.

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Green Cert

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Conservation Rest.

☐

CR Holder

Case No.

Orig. Case No.

Owner ID

Add. Case No.

Date Rec'd

Ecoregion

Plan Period

Topo Name

Rare Spp. Hab.

River Basin

Plan Change:

to

OWNER, PROPERTY, and PREPARER INFORMATION

Property Owner(s) Joseph and Catherine Sample

Mailing Address 132 Maple Rd. Shutesbury, MA 01072

Phone (413) 555-1212

Property Location: Town(s) Shutesbury

Road(s) Maple Rd.

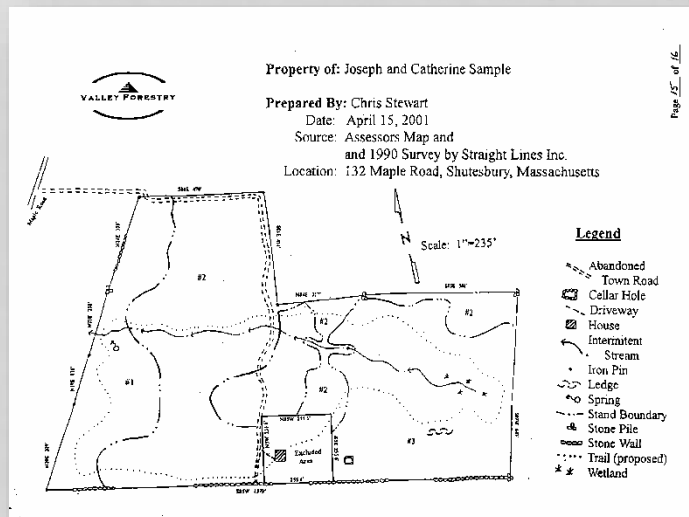
Plan Preparer Chris Stewart

Mass. Forester License # 001

Mailing Address 24 Big Wood Drive

Phone (413) 555-6778

Front Page



CH61 AND HARVESTING TIMBER

- If enrolled in Chapter 61, landowners must practice long-term forest management on their property
- Landowners must be actively engaged in forest management activities
- Management plan schedules what should be harvested and when
- Management plans are flexible, and may be adapted and amended for changing forest conditions



WHY DO LANDOWNERS USE THE CURRENT USE PROGRAM?



**Encourages
Open Space**



**Tax
Savings**



**Your Long-
Term
Intentions**



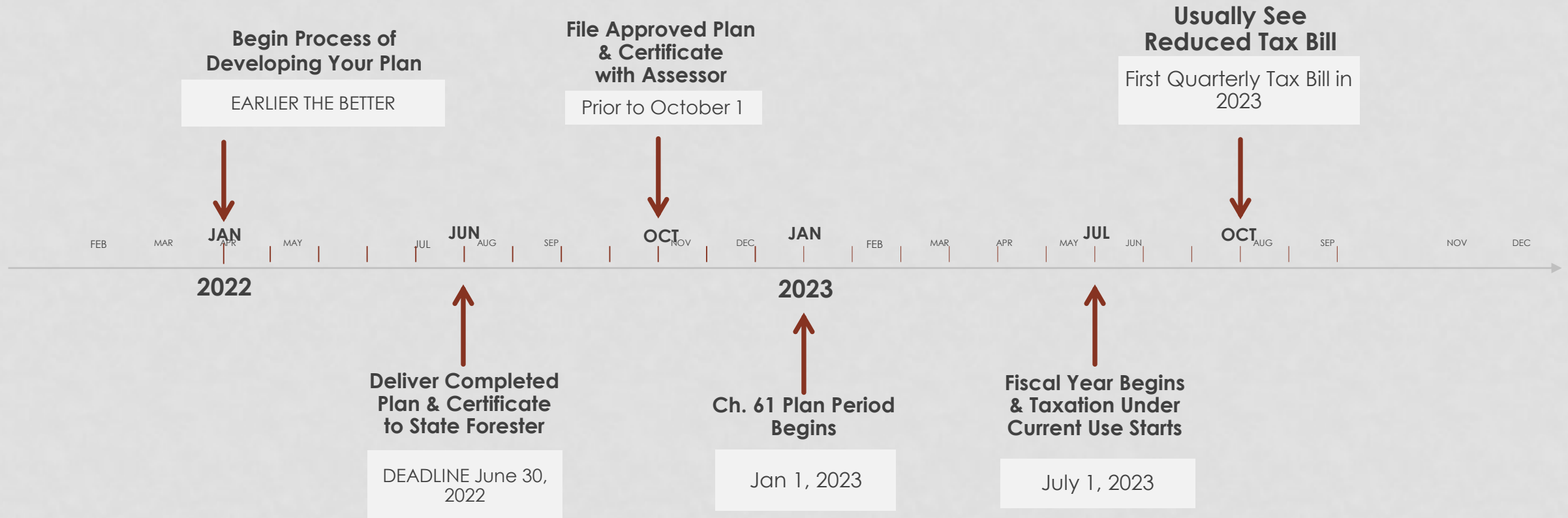
**Part of Estate
Planning
Process**



**“Only Way We
Could Keep
the Land”**

TIMELINE FOR FILING UNDER CHAPTER 61

Example of ten-year plan (Classification Period: 1-1-2023 to 12-31-2032)





MAKING INFORMED DECISIONS

*Advice for Landowners
Interested in Chapter 61*



- Take a woods walk with your State Service Forester to frame your ideas or to just learn more about your woods
- Decide whether the Chapter 61 and/or the Stewardship Programs are right for you
- Find a Massachusetts Licensed Forester to work for you
- Use a Massachusetts Licensed Forester to design a timber sale to meet all or most of your goals and to help you sell your trees



WEB RESOURCES:

www.Masswoods.org

MassWoods

- Ch. 61 Calculator, Find a Professional, Stumpage Prices, Planning

<https://www.mass.gov/service-details/service-forestry>

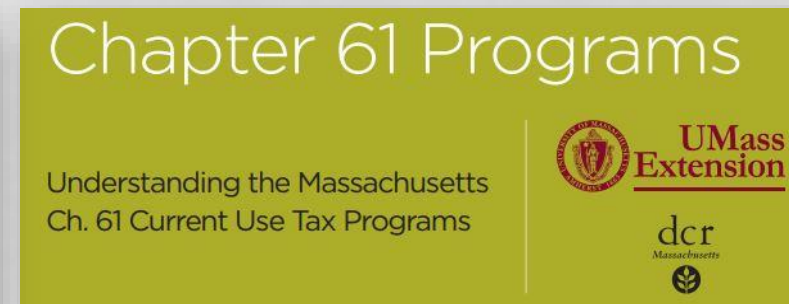
Service Forestry

- Regulations and Forms, Program Information, Ch.61 and Variations

<https://masswoods.org/sites/masswoods.net/files/Ch61-v2.pdf>

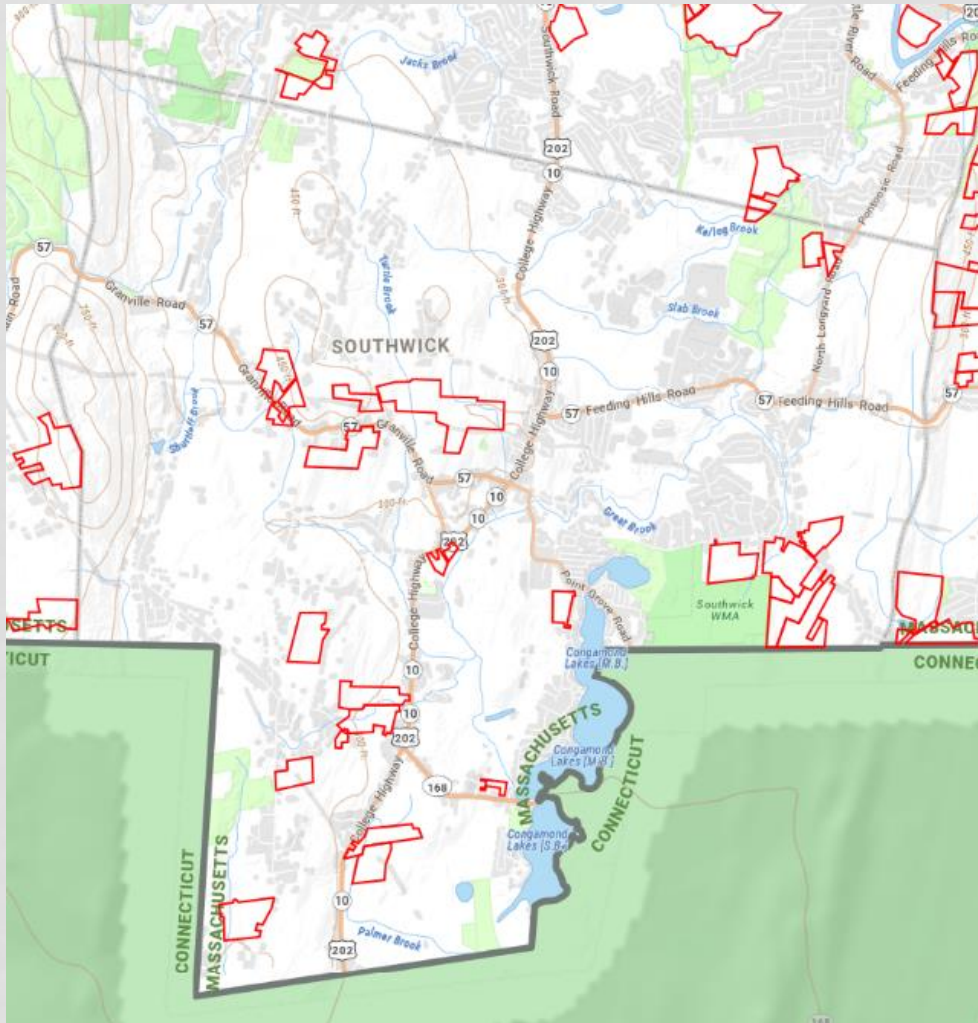
Chapter 61 Informational Pamphlet

- More details on the Chapter 61 Programs



Thank You!

CHAPTER 61A IN RELATION TO APR



- Ch 61a sections 1 and 2 are the Definitions APR uses to regulate APR activities
- Being an APR does not automatically enroll you into 61a Tax Program
- **You can do both 61a Tax Program and be an APR**

Chapter 61A – Agriculture

Chapter 61A (Ch. 61A) is for land growing agricultural or horticultural products, including fruits, vegetables, hay, ornamental shrubs, timber, animals, and maple syrup. Ch. 61A is a good fit for landowners engaged in agriculture on their land.

In addition to meeting the minimum acreage requirement, the landowner must demonstrate annual agricultural product sales of at least \$500 for the first 5 acres and \$5 for every additional productive agricultural acre or \$0.50 for every additional productive forestland acre.



Chapter 61A – Agriculture

The Ch. 61A program requires a minimum of 5 acres that has been in agricultural use for at least 2 years before applying. When landowners choose to enroll their land in a Ch. 61A program, they are responsible for the registry recording fees for lien or release forms.

Some or all of a landowner's eligible land may be placed in the program.

The landowner needs to exclude their residence, other structures, and any land occupied by a dwelling or regularly used for family living. The structures and excluded land continue to be taxed at the full assessment.

Land under farm buildings, such as barns and farm sheds, is considered land in agricultural use.

Chapter 61A – Agriculture

Forest products are considered a type of agricultural product, so a landowner may enroll managed forestland in Ch. 61A. A 10-year forest management plan is required for this productive forestland.

An equal amount of contiguous, nonproductive land may also qualify for enrollment in the program as “accessory land.” In other words, enrolled land may contain up to 50% nonagricultural land that is not in residential, industrial, or commercial use. Accessory land may include unmanaged, or “nonproductive,” forestland, which does not require a 10-year forest management plan.



Text: **Chapter 61 Programs**, Tyler Van Fleet | Paul Catanzaro | David Kitt
Photo: Coward's Farm, Southwick, MA

Chapter 61A – Agriculture

Tax reduction for Ch. 61A land

Rather than being assessed at its development value, land enrolled in Ch. 61A is assessed for its agricultural use. Agricultural assessment values are set annually by the Farmland Valuation Advisory Commission, a state-appointed commission, and are based on the estimated market value of agricultural products the land is capable of producing.

Productive forestland enrolled under the Ch. 61A program will have the same property taxes as forestland enrolled under the Ch. 61



Farmland Valuation Advisory Commission

Crop	Development Time Periods
Tobacco	Annual
Truck Garden, Vegetables, and Flowers	Annual
Strawberries	1 year
Asparagus	1 year
Cranberries	2 years
Grapes	3 years
Pears	5-6 years
Blueberries	5-6 years
Plums	5-6 years
Apples	6-7 years
Christmas Trees	8 years

Nursery Stock	Development Time Periods
Ground Cover	2 years
Deciduous Flowering Shrubs	2-3 years
Broadleaf Evergreen	3-4 years
Shade and Flowering Trees	4-5 years
Evergreens	7-10 years
Shade Trees	8-10 years

Chapter 61B – Open Space & Recreation

Chapter 61B - Open Space and Recreation (Ch. 61B) is for land in open space and/or recreation. Because there is no requirement for land enrolled in Ch. 61B to be managed or have a 10-year forest management plan, the Ch. 61B program is a good fit for landowners who take a passive approach to their land.

The Ch. 61B program requires a minimum of 5 acres in an eligible land use. Some or all of a landowner's eligible land may be placed in the program. The landowner needs to exclude their residence, other structures, and any land used in connection with those buildings. The structures and excluded land continue to be taxed at the full



Chapter 61B – Open Space & Recreation

In addition to meeting the minimum acreage requirement, land enrolled in Ch. 61B must fit into one of the following two land categories:

OPEN SPACE

Land maintained in a substantially natural, wild, or open condition; land maintained in a landscaped or pasture condition; or managed forest under an approved 10-year forest management plan. Public access is not required for this category of land use.

RECREATION

Land that is available for recreational purposes— so long as they do not significantly interfere with the environmental benefits of the land— which include hiking, camping, nature study and observation, boating, golfing, noncommercial youth soccer, horseback riding, hunting, fishing, skiing, swimming, picnicking, private noncommercial flying, hang gliding, archery and target shooting, and commercial horseback riding and equine boarding. It may not be used for horse racing, dog racing, or any sport normally undertaken in a stadium, gymnasium, or similar structure. Land under this category must be open either to the public or to members of a nonprofit organization, though the landowner may charge a fee for this

Chapter 61B – Open Space & Recreation

Tax reduction for Ch. 61B land

Rather than being assessed for its development value, Ch. 61B land is assessed at its recreational use value, which cannot be more than 25% of the fully assessed value of the land. In other words, the assessed value of the land is reduced by at least 75%.



Examples of Tax Reduction Rates

Town	Number of Enrolled Acres	Land Assessment	FY 2014 Tax Rate	Ch. 59 (no program)	Ch. 61B	Ch. 61/ 61A
Boxford	6.45	\$288,400	\$15.47	\$4,462	\$1,115	\$5*
Taunton	18.00	\$145,600	\$14.61 (Res) \$31.19 (Com)	\$2,127	\$532	\$13
Falmouth	9.46	\$289,300	\$8.15	\$2,358	\$589	\$4*
Southwick	24.00	\$93,700	\$17.06	\$1,599	\$400	\$26



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How is my Chapter 61 Tax Rate Calculated?

FVAC CHAPTER LAND RECOMMENDED VALUE: FISCAL YEAR 2022

Per Acre Range of Values

Chapter Land 61 and 61A Use Categories	Productivity Based on Dominate Soil Ratings			
	Use Code	Below Average	Average	Above Average
Cropland Harvested: Vegetables, Tobacco, Sod and Nursery	711, 712, 719	\$846	\$1,058	\$1,270
Cropland Harvested: Dairy, Beef and Hay; Tillable forage cropland, etc.	713	\$172	\$215	\$258
Cropland Harvested: Orchards, Vineyards, and Blueberries	714	\$846	\$1,058	\$1,270
Christmas Trees	602, 715	\$116	\$116	\$116
Nonproductive Land: Wetland, scrub land, rock land	720	\$52	\$52	\$52
Cropland pastured; Permanent pastured; Necessary and Related land—farm roads, ponds, etc.	716, 718	\$172	\$215	\$258
Productive Woodland; Land Use Categories – Chapter 61 Forest Land or 61A land with a Forest Management Plan West of the Connecticut River	601, 717	\$93	\$116	\$139
Productive Woodland; Land Use Categories – Chapter 61 Forest Land or 61A land with a Forest Management Plan East of the Connecticut River	601, 717	\$95	\$119	\$143

From
Mass.
Department
of Revenue

How is my Chapter 61 Tax Rate Calculated?

- **Cropland Harvested** – This land represents the highest use of land in the agricultural enterprise. All land from which a crop was harvested, or hay was cut, in the current year falls into this category. This includes the land in vegetables, sod, nurseries, orchards, vineyards, other perennial plantings, and greenhouses.
- **Dairy, Beef and Hay; Cropland Pastured, Other Cropland & Permanent Pasture** – Cropland used for pasture or grazing, or land considered as tillable but is elected to be fallow or in cover crops. It can and often is used to produce crops, but its maximum income may not be realized in a particular year. This category also includes land planted in crops, which were to be harvested after the census year, and land is typically not tillable, best suited for grazing or possibly part of an erosion control program, plus necessary and related lands.
- **Nonproductive Land** – The land on the farm which is nonproductive primarily due to slope, drainage capacity, soil type or topography.

From
Mass.
Department
of Revenue

What is Right of First Refusal?

The purpose of the Chapter 61 programs is to help keep land undeveloped. When a landowner chooses to convert enrolled land to another use, the municipality's first refusal option, known as the right of first refusal, is triggered.

If any land under Ch. 61, 61A, or 61B is intended to be converted to a non-chapter use (either sold OR retained in the same ownership) while enrolled, then the municipality has the option to match a bona fide offer to purchase the property at the price contained in the offer.

If the owner is not selling the property but is converting its use to a non-chapter use, the municipality still has an option to purchase the property at full market value as determined by an independent appraiser.

What is Right of First Refusal?

As the landowner, you must be aware of the Municipal Option to Purchase:

"I understand that the city or town has an option to purchase any classified land whenever I plan to sell it for, or convert it to, a residential, commercial or industrial use during a fiscal year it is classified, or within 1 full fiscal year after it is removed from classification. **I must notify by certified mail or hand delivery, the mayor and city council or the selectmen, assessors, planning board and conservation commission of the city or town of my intention to sell or convert the land to those uses and provide certain information regarding the intended sale or conversion.** If I plan to sell the land, the city or town has the right to match a bona fide offer to purchase it. If I plan to convert it, the city or town has the right to purchase it at its fair market value, which is to be determined by an impartial appraisal. The city or town may also assign its option to a non-profit, conservation organization, the Commonwealth or any of its political subdivisions. **I understand that I may not sell or convert the land until at least 120 days after I provide a notice that fully complies with the requirements of Chapter 61A or until I have been notified in writing that the option will not be exercised and the notice is recorded at the Registry of Deeds, whichever is earlier.**" – From Mass. Dept. of Revenue

What is Right of First Refusal?

The first refusal option is triggered

- **when the landowner intends to sell the land for a residential, commercial, or industrial use;**
- **when the landowner maintains ownership of their land and changes the land use to residential, commercial, or industrial use; or**
- **if the landowner withdraws from the program and changes the land use within 12 months or within one fiscal year of withdrawal.**

The first refusal option is NOT triggered if

- **the landowner chooses to switch to a different current-use program;**
- **the change of use is for the construction of a residence for an immediate family member;**
- **the landowner chooses to withdraw from a program, but keeps the land in agricultural, forestry, or recreational use for a period of one year from the time it was last taxed under the Chapter 61 program; or**
- **the landowner sells the property to a new owner who agrees to maintain the land use, "as verified through an affidavit.**

Withdrawing from Chapter 61 Programs

Withdrawal penalties

When a landowner enrolls in any one of the three Chapter 61 program, a lien is attached to the landowner's property to ensure that undeveloped land will continue to provide public benefits. This lien stays with the property when sold or transferred to another landowner. **No penalties apply as long as the land remains enrolled or eligible for enrollment in one of the three Chapter 61 programs.**

However, if the enrolled land is sold for or converted to a non-chapter use within 10 years from the date it is acquired or the earliest date of the uninterrupted chapter-use, then the landowner is responsible for either rollback taxes or conveyance taxes, whichever is greater.

Withdrawing from Chapter 61 Programs

NO PENALTIES when the classified land is being sold or converted to a residence for the owner; the owner's spouse, parent, grandparent, child, grandchild, brother or sister, or the surviving spouse of those relatives; or an employee working full-time in the use and care of the property for its classified use, no penalty tax is assessed.

Rollback Taxes – What are They?

Rollback taxes are the difference between what the property tax would have been at the full assessment, known as Ch. 59 taxes, and the tax paid under the Chapter 61 program you're enrolled in, plus 5% simple interest per year.

The rollback tax is calculated the same way for all three Chapter 61 programs.

The rollback tax is calculated for each year the landowner has been enrolled in the program, up to 5 years. After more than 5 years of enrollment, the rollback tax is calculated only for the 5 most recent years of enrollment.

Conveyance Taxes – What are They?

The intent of the conveyance tax is to discourage landowners from enrolling their land in a Chapter 61 program to save taxes before developing the land. If the land is sold for or converted to a non-chapter use within 10 years from the beginning of the fiscal year when it was first enrolled, this tax is due if it is greater than what the total rollback tax penalty would be.

After the first 10 years of enrollment, the conveyance tax no longer applies. The conveyance tax can also be avoided if the land is purchased by a new owner who states on a notarized affidavit their intention to keep the land in a use covered by any Ch. 61 program for at least 5 years after the purchase.

Thank You!

Jacob Macko

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