

Current Use Program
Chapter 61, 61A, and 61B
Basic Overview

MIYARES & HARRINGTON LLP

CURRENT USE PROGRAM



GENERAL OVERVIEW

- Three Programs
- Withdrawal Penalties:
 - Conveyance Tax
 - Rollback Tax
 - Right of First Refusal
- Opportunities for the Community



THREE PROGRAMS

Forestland – Ch. 61



Agricultural Land – Ch. 61A

Open Space – Ch. 61B





CHAPTER 61 FORESTRY

	Forestry Program
Acreage	10 acres in active forest management
Requirements	
Tax reduction	
Application	
Renewal	
Public Access	



CHAPTER 61 FORESTRY

	Forestry Program
Acreage	10 acres in active forest management
Requirements	10 year Forest Management Plan – approved by DCR
Tax reduction	
Application	
Renewal	
Public Access	



CHAPTER 61 FORESTRY

	Forestry Program
Acreage	10 acres in active forest management
Requirements	10 year Forest Management Plan – approved by DCR
Tax reduction	Market value of forest products land is capable of producing, set annually by the Farm Land Advisory Committee
Application	
Renewal	
Public Access	



CHAPTER 61 FORESTRY

	Forestry Program
Acreage	10 acres in active forest management
Requirements	10 year Forest Management Plan – approved by DCR
Tax reduction	Market value of forest products land is capable of producing, set annually by the Farm Land Advisory Committee
Application	July 1 – Forest Plan to State Oct 1 – Application to Assessors
Renewal	
Public Access	



CHAPTER 61 FORESTRY

	Forestry Program
Acreage	10 acres in active forest management
Requirements	10 year Forest Management Plan – approved by DCR
Tax reduction	Market value of forest products land is capable of producing, set annually by the Farm Land Advisory Committee
Application	July 1 – Forest Plan to State Oct 1 – Application to Assessors
Renewal	Reapply every 10 years with new 10-year forest management plan
Public Access	



CHAPTER 61 FORESTRY

	Forestry Program
Acreage	10 acres in active forest management
Requirements	10 year Forest Management Plan – approved by DCR
Tax reduction	Market value of forest products land is capable of producing, set annually by the Farm Land Advisory Committee
Application	July 1 – Forest Plan to State Oct 1 – Application to Assessors
Renewal	Reapply every 10 years with new 10-year forest management plan
Public Access	May excluded the public



CHAPTER 61A: AGRICULTURE

	Agriculture and Horticultural
Acreage	5 Acres Two years in agricultural use
Requirements	
Tax reduction	
Application	
Renewal	
Public Access	



CHAPTER 61A: AGRICULTURE

Agriculture and Horticultural

Acreage	5 Acres Two years in agricultural use
Requirements	\$500 in annual sales, including forest products If productive forestland, approved 10-year FMP
Tax reduction	
Application	
Renewal	
Public Access	



CHAPTER 61A: AGRICULTURE

Agriculture and Horticultural

Acreage	5 Acres Two years in agricultural use
Requirements	\$500 in annual sales, including forest products If productive forestland, approved 10-year FMP
Tax reduction	Market value of farm products land is capable of producing, set annually by Farm Land Advisory Committee
Application	
Renewal	
Public Access	



CHAPTER 61A: AGRICULTURE

Agriculture and Horticultural

Acreage	5 Acres Two years in agricultural use
Requirements	\$500 in annual sales, including forest products If productive forestland, approved 10-year FMP
Tax reduction	Market value of farm products land is capable of producing, set annually by Farm Land Advisory Committee
Application	Oct 1 – Apply 30 days after the first tax bills are mailed for the FY
Renewal	
Public Access	



CHAPTER 61A: AGRICULTURE

	Agriculture and Horticultural
Acreage	5 Acres Two years in agricultural use
Requirements	\$500 in annual sales, including forest products If productive forestland, approved 10-year FMP
Tax reduction	Market value of farm products land is capable of producing, set annually by Farm Land Advisory Committee
Application	Oct 1 – Apply 30 days after the actual tax bills are mailed for the FY
Renewal	Reapply <u>annually!</u>
Public Access	



CHAPTER 61A: AGRICULTURE

	Agriculture and Horticultural
Acreage	5 Acres Two years in agricultural use
Requirements	\$500 in annual sales, including forest products If productive forestland, approved 10-year FMP
Tax reduction	Market value of farm products land is capable of producing, set annually by Farm Land Advisory Committee
Application	Oct 1 – Apply 30 days after the actual tax bills are mailed for the FY
Renewal	Reapply <u>annually!</u>
Public Access	May excluded the public



CHAPTER 61B: OPEN SPACE

	Open Space
Acreage	5 Acres
Requirements	
Tax reduction	
Application	
Renewal	
Public Access	



CHAPTER 61B: OPEN SPACE

	Open Space
Acreage	5 Acres
Requirements	Mostly natural, wild or open or used for an approved recreation If managing forestland, 10-year forest management plan approved by DCR
Tax reduction	
Application	
Renewal	
Public Access	



CHAPTER 61B: OPEN SPACE

	Open Space
Acreage	5 Acres
Requirements	Mostly natural, wild or open or used for an approved recreation If managing forestland, 10-year forest management plan approved by DCR
Tax reduction	75% reduction of assessed value (class II, open space)
Application	
Renewal	
Public Access	



CHAPTER 61B: OPEN SPACE

	Open Space
Acreage	5 Acres
Requirements	Mostly natural, wild or open or used for an approved recreation If managing forestland, 10-year forest management plan approved by DCR
Tax reduction	75% reduction of assessed value (class II, open space)
Application	Oct 1 – Apply 30 days after the actual tax bills are mailed for the FY
Renewal	
Public Access	



CHAPTER 61B: OPEN SPACE

	Open Space
Acreage	5 Acres
Requirements	Mostly natural, wild or open or used for an approved recreation If managing forestland, 10-year forest management plan approved by DCR
Tax reduction	75% reduction of assessed value (class II, open space)
Application	Oct 1 – Apply 30 days after the actual tax bills are mailed for the FY
Renewal	Reapply <u>annually!</u>
Public Access	



CHAPTER 61B: OPEN SPACE

	Open Space
Acreage	5 Acres
Requirements	Mostly natural, wild or open or used for an approved recreation If managing forestland, 10-year forest management plan approved by DCR
Tax reduction	75% reduction of assessed value (class II, open space)
Application	Oct 1 – Apply 30 days after the actual tax bills are mailed for the FY
Renewal	Reapply <u>annually!</u>
Public Access	May excluded the public under “natural, wild or open” category Must allow public under recreation category, unless held by a nonprofit with paying members

WITHDRAWAL PENALTIES

Conveyance

- 61/61A:
 - Sold for NC use within a period of 10 years from acquisition, or uninterrupted date if current user
 - 10%, 9%, 8% of sale, etc..
 - Converted to NC use within 10 years of acquisition
 - Fair market value
- 61B:
 - Sold for or converted to NC within a period of 10 years from date of first classified
 - 10% first five years, 5% second five years
 - Fair market value

Whichever is greater!

Roll-Back

- Converted to NC use while enrolled or within 5 years of enrollment.
 - Assed when the land use changes
- Difference between property tax under c.59 and assed value, plus 5% interest
- 61A pre-FY2007: Do not have to pay interest

RIGHT OF FIRST REFUSAL

Triggered

- Intends to sell or convert the land for a residential, commercial or industrial use while enrolled or within one year of withdrawal.

Not Triggered

- Changes to a different Current Use Program.
- Construction of a residence for an immediate family member or employees (full time).
- Withdraw, but land remains in agricultural, forestry, or recreational use for a period of 1 year since last taxed.
- Sells the property to landowner who agrees to maintain the land use - affidavit required.

RIGHT OF FIRST REFUSAL NOTICE

Intent to Sell

- Statement of Intent and proposed use of land
- Location and acreage
- Map
- Landowner contact info
- Certified copy of a **bona fide** purchase and sale agreement
- Any agreements for any contiguous land

Intent to Convert

- Statement of Intent and proposed use of land
- Location and acreage
- Map
- Landowner contact info

BONA FIDE PURCHASE AND SALE AGREEMENT



- “[A] bona fide offer to purchase shall mean a good faith offer not dependent upon potential **changes to current zoning** or conditions or contingencies relating to the potential for, or the potential extent of, subdivision of **the property for residential use or the potential for, or the potential extent of development of the property for industrial or commercial use**, made by a party unaffiliated with the landowner for a fixed consideration payable upon delivery of the deed.”

INTENT TO SELL PROCESS

THIS PROCESS MOVES FAST
210 DAYS TO CLOSE!

Notice

- Within 30 days, must notify landowner if deficient.

Board of Selectmen Decision

- Within 120 days from receipt of notice.

Closing

- Within 90 days of the date that the landowner returns the P&S to the Town.
- May be extended if landowner agrees.

INTENT TO CONVERT

Notice

Within 30 days, must notify if deficient.

Appraisal

30 days of notice: Town hires independent appraiser.

60 days of notice: Landowner may hire independent appraiser.

90 days of notice: If still disagreement, third appraiser, paid for by both parties – shall be the final price.

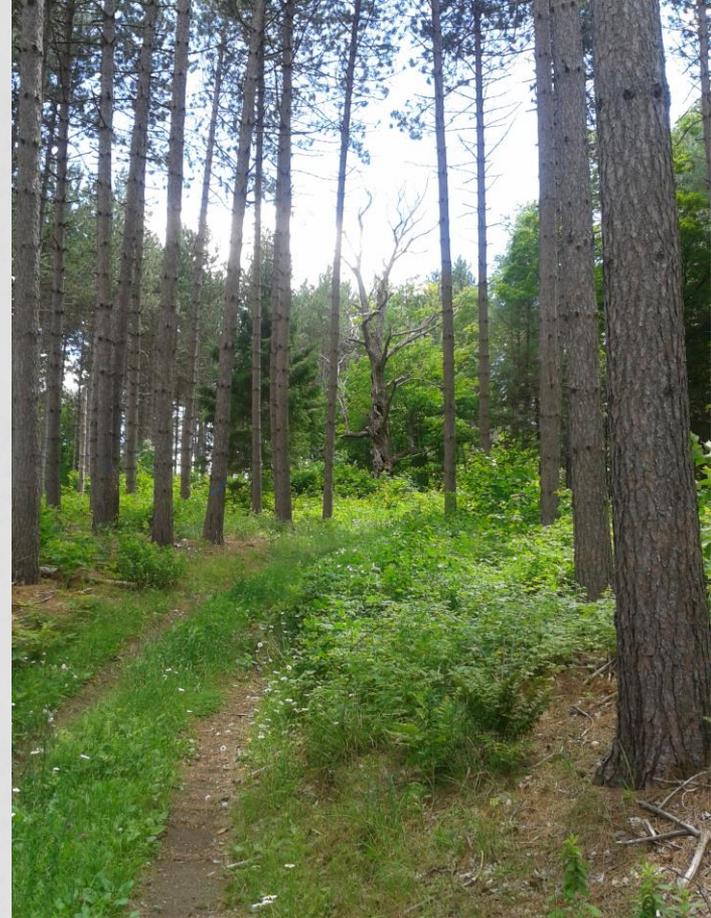
Acquisition

Decision: Upon agreement of consideration, Town has 120 days to exercise ROFR.

Closing: Within 90 days of the date that the landowner returns the P&S to the Town. May be extended if landowner agrees.

ASSIGNMENT TO A NONPROFIT

- May assign option to a non-profit.
- No less than 70 percent must be maintained for chapter purposes.
- Short time period – team with nonprofit as holding company or help with acquisition of funds.



CURRENT USE POLICY

- Immediately review notice of intent.
- Consult with other Town departments.
- Open Space Plan required to specifically consider parcels enrolled in program.
- Notify local land trusts.
 - Land trust may be willing to purchase property after assignment and hold property until Town Meeting vote.

QUESTIONS?

