

# Chapter Land

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# Chapter Land Background

- The Chapter Land Programs were designed to encourage the preservation & enhancements of the Commonwealths farmland and forests.
- G.L. Chapter 61 became Law in 1941. The Federal Government was already assisting farmers with subsidizing production and where the Federal Government stopped the states picked up the slack by creating laws that helped farmers through land valuation. We now have CH 61 (Forestry), CH 61A (Agricultural & Horticulture), added in 1973, and CH61B (Recreation) added in 1979.



## Chapter Land Background cont...

- These properties benefit from being “in Chapter” by a reduction in their property values and, consequently, the taxes.
- In exchange for the property tax benefits, the city/town is given the right to recover some of the benefits afforded the owner and an option to purchase the property, should it be sold or used for another purpose.





# M.G.L. Ch. 61, 61A and 61B

There are three different laws governing “chapter land” in Massachusetts.

- Ch. 61, Forestry
- Ch. 61A, Agriculture and Horticulture
- Ch. 61B, Recreation



# Chapter 61 Forestry Qualifications

- A parcel must consist of at least 10 Acres of land.
- It must have a Forest Management Plan.
- The Plan must be certified by a State Forester by July 1<sup>st</sup> and an application must be submitted to the BOA by October 1<sup>st</sup> before the Fiscal Year in which taxation as classified land is sought.



# Liens

- Once the Board of Assessors has approved the application a Forestry Lien must be recorded at the Registry of Deeds indicating that the parcel has been classified as Forest Land under Chapter 61.
- The owner must pay all fees charged by the Registry for recording or releasing of the lien.
- Liens are required for all 3 Chapter Classifications





# CH 61 Valuation

- Assessed at its Forest “use” value.
- Valuations published annually by the Farmland Valuation Advisory Commission. The FVAC has the task of developing standardized valuations for the different types of farming.
- Buildings, residences & other structures located on the land, do not qualify for classification and will be assessed at market value.



# CH 61 Appeals

- If the local BOA refuses to classify land that has been certified by the State Forester, the owner may file an appeal with the State Forester. Appeals must be filed by December 1<sup>st</sup>.
- The State Forester must notify the property owner and the BOA by March 1<sup>st</sup> following the appeal.
- If the State Forester believes that the property is not being managed according to the approved Forestry Management Plan, he has the authority to remove it from classification.





## Withdrawal from Chapter 61

- Conveyance Tax, imposed when sold for or converted to non-qualifying use within 10 years of acquisition.  
Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership)  
Only assessed if more than roll-back.
- Conveyance tax shall be assessed on only that portion of the land whose use has changed.



## Withdrawal from CH 61 cont.

- Roll-Back Tax is imposed upon a change to a non-qualifying use of the land. A non-qualifying use means...a use or condition that would not qualify under the definitions of either 61, 61A or 61B. Roll-Back recovery period is FIVE yrs.
- Roll-Back taxes due are computed by using the difference between the market taxable value and the CH 61 taxable value (with 5% interest).

# Chapter 61A Agricultural/Horticultural Qualifications

- A parcel must consist of at least 5 acres of land, be under the same ownership, “actively devoted” to A/H. An equal amount of contiguous Non-Productive land may also qualify for classification, but only up to 100% of productive land and must be necessary and incidental to harvesting the crop or raising the products.
- For the land to be considered “actively devoted” it must have been farmed for 2 fiscal years prior to the year of classification and must have produced a certain amount of sales.





## CH 61A Qualifications cont...

- Minimum Gross Sales requirement is \$500 for the 1<sup>st</sup> 5 acres, \$5.00 for each additional acre of productive land and .50 for Forest Land.
- Annual Application must be submitted by October 1<sup>st</sup> to the BOA.



# CH 61A Valuation

- Assessed at its Agricultural/Horticultural value.
- Values published annually by the Farmland Valuation Advisory Commission. The FVAC has the task of developing standardized valuations for the different types of farming.
- Buildings, residences & other structures located on the land, do not qualify for classification and will continue to be assessed a regular local property tax.



# CH 61A Appeals

- Land owner may appeal a determination to the BOA within 30 days of notice, then to the Appellate Tax Board within 30 days of notice of decision or 3 months of application, whichever is later.





# Withdrawal from Chapter 61A

- Conveyance Tax, imposed when sold for or converted to non-qualifying use within 10 years of acquisition. Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership) Only assessed if more than roll-back.
- Roll-Back Tax is imposed upon a change to a non-qualifying use of the land. A non-qualifying use means...a use or condition that would not qualify under the definitions of either 61, 61A or 61B. Roll-Back recovery period is FIVE yrs.
- Roll-Back taxes due are computed by using the difference between the market taxable value and the CH 61A taxable value (with 5% interest).



# Chapter 61B Qualifications

- A parcel must consist of 5 acres of land, under the same ownership, & the Condition can either be natural, wild, open or landscaped or the use is devoted to a recreational use as listed in the statute & available to the general public or to the members of a non-profit organization.
- Annual Application must be submitted by October 1<sup>st</sup> to the BOA.



# CH 61B Valuation

- Assessed at its Recreational “Use” Value, however assessed “use” value may not exceed 25% of the full and fair cash value.
- Buildings, residences & other structures located on the land, do not qualify for classification and will continue to be assessed a regular local property tax.





# CH61B Appeals

- Land owner may appeal a determination to the Board of Assessors within 60 days of notice, then to Appellate Tax Board within 30 days of notice of decision or 3 months of application, whichever is later.



# CH 61B Withdrawal

- Conveyance Tax, imposed when sold for or converted to non-qualifying use within 10 years of acquisition. Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership) Only assessed if more than roll-back.
- Roll-Back Tax is imposed upon a change to a non-qualifying use of the land. A non-qualifying use means...a use or condition that would not qualify under the definitions of either 61, 61A or 61B. Roll-Back recovery period is FIVE yrs.
- Roll-Back taxes due are computed by using the difference between the market taxable value and the CH 61B taxable value (with 5% interest).



How does Upton assess whether a property is “actively devoted” to farming for purposes of Chapter land designations?

- Via review of their applications, income provided and inspections
- Applications in by Oct 1<sup>st</sup> with the “Property Owners Acknowledgement of Rights and Obligations”
- Review application for completion. If not completed a letter is sent requesting any missing information.
- Previous year application is also reviewed for any differences.
- BOA (Board of Assessors) inspect if necessary
- BOA review and discuss application
- BOA vote approval and send a notice to the owner



The Commonwealth of Massachusetts

Name of City or Town \_\_\_\_\_

61	61A	61B
Assessors' Use only		
Date Received		
Application No.		

Fiscal Year \_\_\_\_\_ Application for  
Forest-- Agricultural or Horticultural -- Recreational Land Classification  
General Laws Chapter 61, §§ 1 & 2 – Chapter 61A, § 6 – Chapter 61B, § 3

**INSTRUCTIONS:** Complete all sections that apply. Please print or type.

**A. IDENTIFICATION.** Complete this section fully.

Name of Applicant(s): _____				
Mailing Address: _____				
No. Street		City/Town		Zip Code
Property Covered by Application:				
Location	Parcel Identification (Map-Block-Lot)	Deed Reference (Book & Page/Cert. No.)	Total Acres	Acres to be Classified

**B. TYPE OF CLASSIFICATION.** Check the classification you are seeking and provide the required information.

**FOREST** ☐ Attach State Forester's Certificate and Approved Forest Management Plan.

**AGRICULTURAL or HORTICULTURAL** ☐

1. Current use of land. List by classes established by the Farmland Valuation Advisory Commission, if applicable.

Land Use by Class	No. of Acres	Specific Use, Crops Grown
a. Vegetables, Tobacco, Sod and Nursery Cropland		
b. Dairy, Beef and Hay Cropland		
c. Orchards, Vineyards and Blueberries Cropland		
d. Cranberries		
e. Christmas Trees		
f. Productive Woodland (Attach copy of State Forester's Certificate and Approved Management Plan if initial application, or new/revised plan)		
g. Cropland Pasture, Permanent Pasture and Necessary and Related Land		
h. Contiguous Non-productive Land		
i. Other Agricultural or Horticultural (Specify)		

2. Statement of income in preceding year. Supporting documentation, including copies of your federal and state tax income returns, may be requested to verify your income.

a. Gross sales from agricultural or horticultural use.....\$ \_\_\_\_\_  
b. Amount received under MA or US Soil Conservation or Pollution Abatement Program.....\$ \_\_\_\_\_  
Total (Provide a detailed description of the source of the farm income listed above).....\$ \_\_\_\_\_

3. Previous use of land. Was the land valued, assessed and taxed as classified agricultural or horticultural land under c. 61A for the prior 2 fiscal years? Yes ☐ No ☐

If no, was the use of the land during the prior 2 fiscal years the same as the current use described above? Yes ☐ No ☐

If no, describe in detail the use of the land during the prior 2 fiscal years \_\_\_\_\_

If no, was your farm income during either of the prior 2 fiscal years less than the amount reported above?

Yes ☐ No ☐

If yes, list the income for the year \$ \_\_\_\_\_ Fiscal year \_\_\_\_\_

**RECREATIONAL** ☐ Land may qualify based on its condition or recreational use.

1. Is the land retained in substantially a natural, wild or open condition? Yes ☐ No ☐

Is the land in a landscaped or pasture condition or managed forest condition? Yes ☐ No ☐

If managed forest, attach copy of State Forester's Certificate and Approved Management Plan if initial application, or new/revised plan.

Does the land allow to a significant extent the preservation of wildlife and other natural resources? Yes ☐ No ☐

If yes, indicate which natural resources are preserved:

Ground Water/Surface Water ☐

Clean Air ☐

Vegetation ☐

Rare/Endangered Species ☐

Geologic Features ☐

Scenic Resources ☐

High Quality Soils ☐

Other (specify) \_\_\_\_\_

Other (specify) \_\_\_\_\_

2. Is the land used primarily for recreational use? Yes ☐ No ☐

If yes, indicate for which recreational activity:

Archery ☐

Picnicking ☐

Camping ☐

Nature Study & Observation ☐

Fishing ☐

Golfing ☐

Hang gliding ☐

Non-commercial Youth Soccer ☐

Hiking ☐

Target Shooting ☐

Hunting ☐

Private Non-commercial Flying ☐

Boating ☐

Skiing ☐

Swimming ☐

Horseback Riding ☐

Commercial Horseback Riding & Equine Boarding ☐

How often is the land used for recreational activities? \_\_\_\_\_

How many people use the land for those activities? \_\_\_\_\_

Is the land open to the general public? Yes ☐ No ☐

If no, to whom is its use restricted? \_\_\_\_\_

Is the land used for horse racing, dog racing or any sport normally undertaken in a stadium, gymnasium or similar structure? Yes ☐ No ☐

**C. LESSEE CERTIFICATION.** If any portion of property is leased, the following statement must be signed by each lessee.

I hereby certify that the property I lease is being used as described in this application and that I intend to use the property in that manner during the period to which the application applies.

Lessee

Date

**D. SIGNATURE.** All owners must sign here to complete the application.

This application has been prepared or examined by me. Under the pains and penalties of perjury, I declare that to the best of my knowledge and belief, it and all accompanying documents and statements are true, correct and complete. I also certify that I have signed and attached a Property Owner's Acknowledgement of Rights and Obligations under classified forest, agricultural or horticultural or recreational land programs, as part of this application.

Owner

Date

If signed by agent, attach copy of written authorization to sign on behalf of taxpayer.

**DISPOSITION OF APPLICATION (ASSESSORS' USE ONLY)**

Ownership <input type="checkbox"/>	All <input type="checkbox"/>	GRANTED	Date Voted/Denied _____
Min. Acres <input type="checkbox"/>	Part <input type="checkbox"/>		Date Notice Sent _____
Use/Condition <input type="checkbox"/>	Deemed <input type="checkbox"/>		Board of Assessors
Gross Sales <input type="checkbox"/>	All <input type="checkbox"/>	DENIED	_____
	Part <input type="checkbox"/>		_____
	Deemed <input type="checkbox"/>		Date _____



## Owners Acknowledgement of Rights & Obligations

- Each Chapter has it's own form
- Qualifications
- Applications
- Lien Annual Taxation
- Municipal Option to Purchase
- Penalty Tax Appeals & Abatements





# First Right of Refusal Option

- The city or town has an option to purchase any classified land whenever the owner plans to sell or convert it to a residential, commercial, or industrial use.
- For a period of 120 days after the day following the latest date of deposit in the United States mail of any notice which complies with this section, the city or town shall have, in the case of intended sale, a first refusal option to meet a bona fide offer to purchase the land.
- Original lien stays in place for 5 years after the sale



## Application Process: What is Required?

- Fully completed application by October 1<sup>st</sup>
- Property Owner's Acknowledgement of Rights and Obligations
- Forest Plan if necessary
- Income information
- If 1<sup>st</sup> time applicant -lien fee
- Affidavit if applicable
- Maps showing crops, pasture forests etc...used for inspections so the BOA know where everything is



## Review Process

- Applications, income provided & Forest Plan are reviewed by Assessors office for completion and accuracy
- Reviewed for any changes in classification, names or acreage
- Compared to last years application for any changes
- Site walk completed for every new applicant and random Chapter parcels by the Board of Assessors
- Confirm Lien is on File with correct names and acreage in Chapter...(Trusts changes need new lien etc...)





## How are Assessors made aware of changes in use or acreage?

- The Assessors Office can come across changes a variety of ways, via the application, an inspection, a permit, a neighbor etc...It doesn't happen often.
- An owner may opt to come out of 61A and go into 61B...allowed
- An owner may take a portion out of 61B and begin growing vegetables etc...(the acres transferred from 61B to 61A are taxed at full rate for 2 consecutive years – no penalty other than paying the regular tax)
- An owner may come out of Chapter 61A and/or B for 5 years in a row, **not change the use** and pay the regular tax. The 5 years of taxes at market is considered the rollback (penalty).