

Chapter Land

Presented by Kathleen Costello, MAA
Principal Assessor
Mattapoisett, MA

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 1st and an application must be submitted to the BOA by October 1st 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.
- **Mattapoisett has 158 parcels in CH61**

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 1st.
- The State Forester must notify the property owner and the BOA by March 1st 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 5⁰% 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 1st 5 acres, \$5.00 for each additional acre of productive land and .50 for Forest Land.
- Annual Application must be submitted by October 1st to the BOA.
- Mattapoisett has 37 parcels classified as CH 61A



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 1st 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.
- Mattapoisett has 80 parcels classified as CH 61B

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 Mattapoisett 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 1st 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 and I inspect if necessary
- BOA review and discuss application
- BOA vote approval and we send a notice to the owner

The Commonwealth of Massachusetts

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

Name of City or Town _____

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 <input type="checkbox"/> | Clean Air <input type="checkbox"/> | Vegetation <input type="checkbox"/> |
| Rare/Endangered Species <input type="checkbox"/> | Geologic Features <input type="checkbox"/> | Scenic Resources <input type="checkbox"/> |
| High Quality Soils <input type="checkbox"/> | Other (specify) _____ | Other (specify) _____ |

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

If yes, indicate for which recreational activity:

- | | | | |
|----------------------------------|--|---------------------------------------|--|
| Archery <input type="checkbox"/> | Picnicking <input type="checkbox"/> | Camping <input type="checkbox"/> | Nature Study & Observation <input type="checkbox"/> |
| Fishing <input type="checkbox"/> | Golfing <input type="checkbox"/> | Hang gliding <input type="checkbox"/> | Non-commercial Youth Soccer <input type="checkbox"/> |
| Hiking <input type="checkbox"/> | Target Shooting <input type="checkbox"/> | Hunting <input type="checkbox"/> | Private Non-commercial Flying <input type="checkbox"/> |
| Boating <input type="checkbox"/> | Skiing <input type="checkbox"/> | Swimming <input type="checkbox"/> | Horseback Riding <input type="checkbox"/> |
| | | | Commercial Horseback Riding & Equine Boarding <input type="checkbox"/> |

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 1st
- Property Owner's Acknowledgement of Rights and Obligations
- Forest Plan if necessary
- Income information
- If 1st time applicant -lien fee
- Affidavit if applicable
- Maps showing crops, pasture forests etc...used for inspections so we 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 and myself
- 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).



Chapter 61



Current Use Tax Assessment Programs

By Joe Perry Jr.

South District Service Forester

March 19th 2015

What is Current Use?

- Property is taxed based on current use instead of commercial value
- Purpose -
To encourage landowners to keep their land as open space



What is the purpose of the Chapter 61 current use programs?

There are three different Chapter 61 programs for you to choose from

- Chapter 61–Forestry
- Chapter 61A–Agriculture
- Chapter 61B–Open Space and Recreation

- All the programs aim to keep land undeveloped, and each program focuses on a different type of land use.
- You are allowed to change your enrollment from one Chapter 61 program to another without penalty once a year.
- It is recommended that you choose the program that best fits your current and desired future land use, as well as your financial needs.



Chapter 61 - Forest

- **Eligibility**
 - 10 or more acres
 - Land devoted to the growth of forest products
 - Timber, wood, Christmas trees, other forest growth or any other product produced by forest vegetation
- **Management plan**
 - requires a 10 year forest management plan approved by the State Forester
 - Some forestland that is not being managed for forest products may also be enrolled (typically no more than 25% of the total enrolled parcel).
 - This “accessory land” may include uses such as forested wetlands, power lines, and open/shrub land managed for wildlife habitat, so long as such uses are deemed by the state service forester to be compatible with forest production.
 - It may not include buildings, lawn, septic fields, or driveways that cannot be used for forest management.



Chapter 61A - Agriculture

- Eligibility
 - 5 or more acres
 - Actively devoted to agricultural or horticultural use
 - Annual gross sales \$500+
 - Plus a per acre value [0.50 for 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.
- horticultural use defined
 - Land shall be considered to be in horticultural use when primarily and directly used in raising fruits, vegetables,; **or when primarily and directly used in raising forest products under a certified forest management plan, approved by and subject to procedures established by the state forester, designed to improve the quantity and quality of a continuous crop for the purpose of selling these products in the regular course of business;...**



Chapter 61B - Recreation

- Eligibility
 - 5 or more acres
 - 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 or Recreation
 - Under Recreational use Public access is required.
 - Open Space use is land maintained in a substantially natural, wild, or open condition; land maintained in a landscaped or pasture condition; or managed forest under a certified 10-year forest management plan approved by and subject to the procedures established by the state forester. Public access is not required for this category of land use.



Foresters

and the Care of Your Land



- Services Provided by Foresters:
 - >Developing a forest management plan
 - >Selling Timber
 - >Conducting forest inventories and appraisals
 - >Timber Stand Improvement work
 - >Assisting with estate planning and taxation matters

What's in a Forest Management Plan?

- Landowner Information
- Landowner Objectives
- Forest Resources Described: Tree size and species
- Resource Areas: wetlands, streams, etc
- 10 year Management Recommendations
- Maps



Forest Stewardship Plan

Lien

- Once the classification is approved, the municipality records a lien on the property at the Registry of Deeds.
- This tax lien and notice informs all potential purchasers that the property is subject to the provisions of the Chapter 61 laws.

FY 2016 Tax Basis

Ch61 or Ch61A	Below Average	Average	Above Average
West Of Connecticut River	\$58	\$73	\$87
East Of Connecticut River	\$35	\$43	\$52

Assessors, at their discretion, may assign a property an “above average” or “below average” rating depending upon the productive capacity of the soils and other indicators of productivity.

Tax Basis for Chapter 61B

- 25% of assessed value
- Reduced by 75%



Roll-back Taxes

- Roll-back
 - Anytime (not just first 10 years)
 - Change of use (only that portion that changes use)
 - Difference between Ch59 and current use taxes
 - 5% simple interest
 - 5 year look back

Conveyance Tax

- If sold for other use

- First 10 years

- Based on sales price or land value

- Ch61 or Ch61A: Sliding scale 10% 1%

Ch61B: 10% 5%





Right of First Refusal

- Triggered by change of use
- Only on acreage that changes use
- 1 year look back period
- Town must meet bona fide offer or fair market value
- 120 day notice to town
- Does not apply for residence of family member

ANY QUESTIONS???

