



AGRICULTURAL PRESERVATION RESTRICTION (APR) — PROTECTING FARMLANDS SINCE 1980 —

APR APPLICATION PROCESS

Applications Accepted Year Round!

GOAL	Protect Farmland
ELIGIBILITY	<ul style="list-style-type: none">▪ Be at least five (5) acres in size▪ Be actively devoted to commercial agriculture for two immediately preceding tax years▪ Produce at least \$500 in gross sales per year for the first 5 and \$5 for each additional acre▪ Have suitable, productive land for agricultural use based on soil classification, physical land features, and location near other farms
CONTACT	<p>Get in touch with APR staff for information and an application.</p> <p>Eastern Massachusetts/ Hampshire Ron Hall 413.726.2002 Ronald.Hall@mass.gov Hampden/Berkshire Barbara Hopson 413.726.2003 Barbara.Hopson@mass.gov Franklin/Worcester Michele Padula 617.626.1758 Michele.Padula@mass.gov</p>
TIMELINE	<p>Contact APR staff early to get started - as soon as you start considering applying for an APR</p> <p>YEARS 1-2 ▪ Application due ▪ Application evaluated and if approved offer made to landowner ▪ Project review and funding process ▪ Due diligence (title, survey) before project is completed</p> <p>YEAR 3 ▪ Closing</p> <p>FUTURE ▪ Stewardship assistance and monitoring to ensure compliance with terms of the APR</p>



APR PROCESS OVERVIEW

Sample Timeline
for an application
submitted in June

YEAR 1

- Pre-application planning

June

- Submit application

July

- Farm visit

July-August

- Application review

September

- ALPC meeting for vote of interest

September-November

- Start appraisal & title process

December

- MDAR offer made to landowner

January

- Offer accepted

February

- MDAR Application to NRCS

YEAR 2

March-August

- NRCS results
- P&S agreement

September-October

(Maybe in Spring)

- Results of municipal funding if applicable

October

- ALPC meeting for final vote

October-June

- Survey work: assignment, review, approval

YEAR 3

August to Closing

- Receive APR documents, schedule & review baseline document, hear of NRCS approval, get appraisal update, sign & record documents, receive check

If you would like to protect your farmland, read the **APR Program Guide** to learn about APR eligibility, the application process, the financials, and the APR program requirements. APR staff and land trust staff are happy to assist you. Applications are accepted year round. The APR process may take two or three years, so contact them when you first consider farmland protection.

Checklist

Here's what you will need to do:

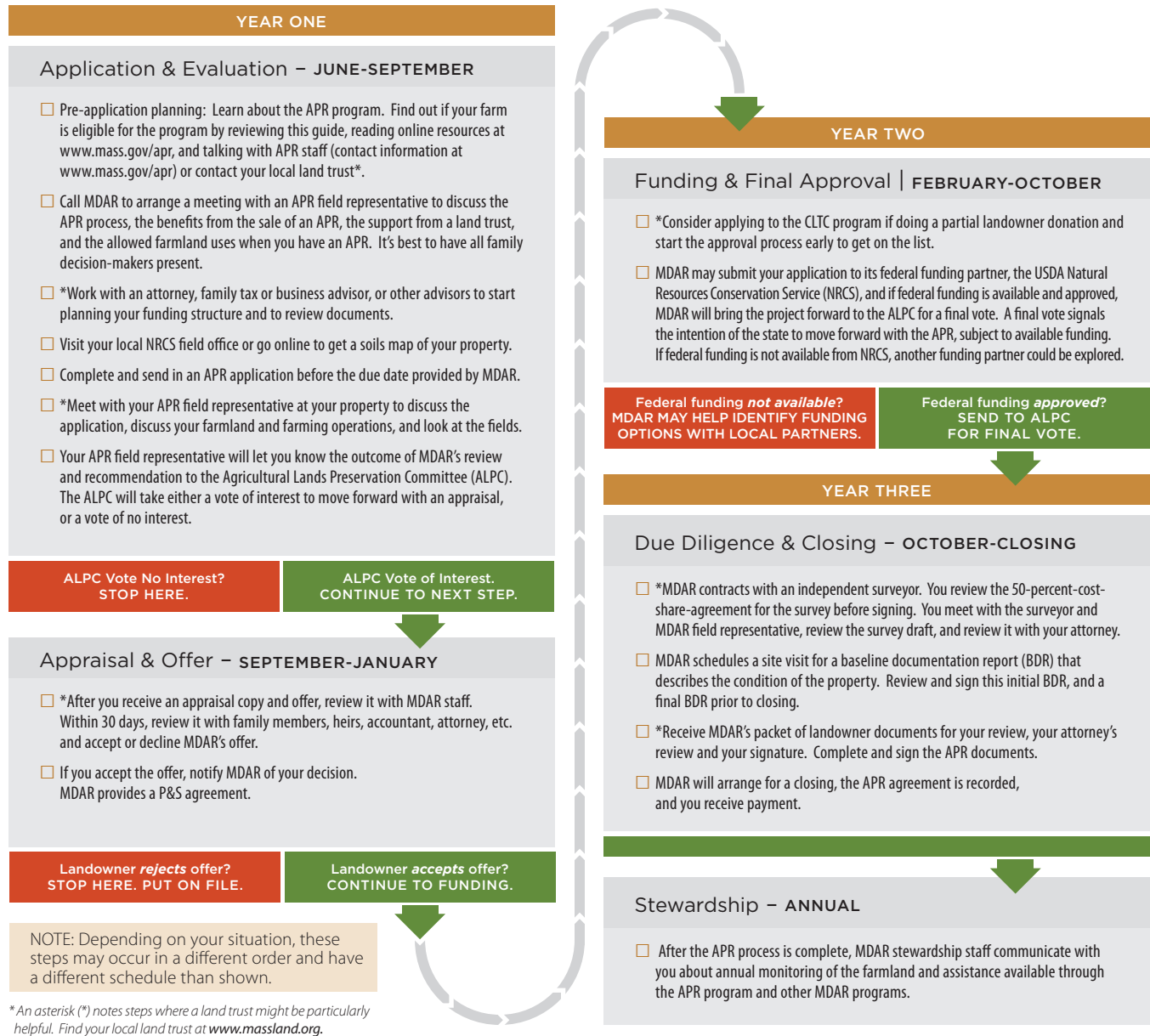
- ☐ Learn about the APR program. Find out if your farm is eligible for the program by reviewing this guide, reading online resources at www.mass.gov/apr, and talking with APR staff (contact information at www.mass.gov/apr) or contact your local land trust*.
- ☐ Call MDAR to arrange a meeting with an APR field representative to discuss the APR process, the benefits from the sale of an APR, the support from a land trust, and the allowed farmland uses when you have an APR. It's best to have all family decision-makers present.
- ☐ *Work with an attorney, family tax or business advisor, or other advisors to start planning your funding structure and to review documents.
- ☐ Visit your local NRCS field office or go online to the Web Soil Survey to get a soils map of your property.
- ☐ *Complete and send in an APR application before the due date provided by MDAR.
- ☐ *Meet with your APR field representative at your property to discuss the application, discuss your farmland and farming operations, and look at the fields.
- ☐ Your APR field representative will let you know the outcome of MDAR's review and recommendation to the Agricultural Lands Preservation Committee (ALPC). The ALPC will take either a vote of interest to move forward with an appraisal, or a vote of no interest.
- ☐ *After you receive an appraisal copy and offer, review it with MDAR staff. Within 30 days, review it with family members, heirs, accountant, attorney, etc. and accept or decline MDAR's offer.
- ☐ If you accept the offer, notify MDAR of your decision. MDAR provides a P&S agreement.
- ☐ *Consider applying to the CLTC program if doing a partial landowner donation and start the approval process early to get on the list.
- ☐ MDAR may submit your application to its federal funding partner, the USDA Natural Resources Conservation Service (NRCS), and if federal funding is available and approved, MDAR will bring the project forward to the ALPC for a final vote. A final vote signals the intention of the state to move forward with the APR, subject to available funding. If federal funding is not available from NRCS, another funding partner could be explored.
- ☐ *MDAR contracts with an independent surveyor. You review the 50-percent-cost-share-agreement for the survey before signing. You meet with the surveyor and MDAR field representative, review the survey draft, and review it with your attorney.
- ☐ MDAR schedules a site visit for a baseline documentation report (BDR) that describes the condition of the property. Review and sign this initial BDR, and a final BDR prior to closing.
- ☐ *Receive MDAR's packet of landowner documents for your review, your attorney's review and your signature. Complete and sign the APR documents.
- ☐ MDAR will arrange for a closing, the APR agreement is recorded, and you receive payment.
- ☐ After the APR process is complete, MDAR stewardship staff communicate with you about ongoing monitoring of the farmland and assistance available through the APR program and other MDAR programs.

NOTE: Depending on your situation, these steps may occur in a different order and have a different schedule than shown.

An asterisk () notes steps where a land trust might be particularly helpful. Find your local land trust at www.massland.org.

FLOW CHART & TIMELINE

APR Program Process



APPLICATION TIMELINE CONSIDERATIONS

The time required to secure funding affects the amount of time needed for the APR process. For example, an application with MDAR and local contributions may take several months. On the other hand, an application with more complex funding - from MDAR, NRCS, a land trust, a municipality, a landowner donation, and other donations - may take two or three years. Each application is unique. Speak with APR staff about options for your circumstances.

CLTC TAX CREDIT INFORMATION

Commonwealth Conservation Land Tax Credit (CLTC)

The Executive Office of Energy & Environmental Affairs (EEA) is pleased to announce the availability of tax credits of up to \$75,000 for a donation of conservation land. The Conservation Land Tax Credit program recognizes and rewards landowners who donate a real property interest either outright, or through a Conservation Restriction or Agricultural Preservation Restriction. The donation must permanently protect an important natural resource such as forest land that is in the public's interest. The program is funded for up to \$2 million a year so there is often a waiting list.

All donors must apply to and be certified by EEA prior to the donation. The land must have sufficient natural resources in the public interest and the instrument used must perpetually protect the land.

The donor(s) are provided a tax credit of 50% of the donation value, up to the \$75,000 maximum. Donors do not have to reside in the Commonwealth of Massachusetts to qualify.

TYPES OF LAND IDEAL FOR THIS TAX CREDIT

Land that may qualify as Certified Land may include the following:

- Drinking water supplies
- Wildlife habitats and biological diversity
- Agricultural and forestry production
- Recreational opportunities
- Land holding scenic and cultural values

WHAT EXACTLY IS A TAX CREDIT?

As an example; If you qualify for a \$75,000 tax credit and you have a \$2,000 state tax liability in the same calendar year; the tax credit would reduce your taxes to \$0 for that year. After you file your taxes, you would receive a check back for the remaining \$73,000.

PROCESS

The application for the CLTC is a three part process. With several approvals along the way to help make sure that a landowner is not subjected to unnecessary expenses before knowing if their donation will even qualify for the tax credit.

- Part I is the review of the proposed documents and focused on the quality of the donation for an initial determination of eligibility.
- If the first part results in a determination of eligibility, Part II requires the applicant to provide EEA with an appraisal of the Certified Land to be donated and a statement of how much of that will be the gift. EEA will then issue the applicant a notice to proceed.
- Part III requires the applicant to complete the donation through a closing and send in things like a title exam and copies of recorded documents.

SELECTION CRITERIA

EEA will evaluate what percentage of the proposed donation is known to be on critical environmental landscape maps. Such as Biomap 2, prime soils for agriculture or forestry, prime forest or drinking water protection zones. Based upon that evaluation, properties determined to be of sufficient natural resource values are selected to continue to part II.

Further Information Questions can be directed to Tom Anderson (thomas.anderson@state.ma.us) at (617) 626-1013.

SOURCE: <https://www.mass.gov/service-details/commonwealth-conservation-land-tax-credit-cltc>

INCLUSION/EXCLUSION WORKSHEET

When applying for an APR, it is important to consider what to include or exclude on the APR property. Here's a worksheet with a broad list of considerations for discussion with family, MDAR staff, land trust staff and others. MDAR APR field representatives are happy to discuss your options and assist you to help you meet your goals and needs.

BUILDINGS & STRUCTURES	ALLOWED OR NOT ALLOWED	INCLUSION		EXCLUSION		COMMENTS
		PROS	CONS	PROS	CONS	
<i>Example: Barn</i>		Adds to farm business success.	Future use must be consistent with the APR. Non-agricultural uses need a special permit.	It can be developed as part of a non-farming use in the future without the need for a special permit.	Could be separated from the farming operation in future years if sold separately from the APR, which could impact the farm business if the barn is an active part of the farm business.	
BARN/SHED						
<i>Animals, Equipment, Feed, Hay, Tools, Farm Vehicles</i>						
FOOD PROCESSING						
<i>Preservation, Refrigeration, Storage, Wash, Pack</i>						
HOUSING: TEMPORARY						
<i>Camp, Tent, Tiny House, Yurt</i>						
RETAIL						
<i>Farmstand without Utilities Farmstand with Utilities Brewery, Restaurant, Cafe</i>						
WATER						
<i>Well, Pond, Septic System, Irrigation, Drainage</i>						
OTHER						
<i>Energy Installation, Solar, Wind, Geothermal, Other</i>						

Other Considerations: If you exclude property for dwellings/construction make sure it's a legal size lot for local Planning Board approval and that if zoning requirements change only lots officially approved and signed by the Planning Board will be grandfathered. No boundary lines can go through structures. Buildings/Land impact farm viability. Set backs from buildings and boundaries for zoning may be required which may impact land that needs to be excluded from the APR. Impervious surfaces may be a maximum of 2% of the land.

APR FREQUENTLY ASKED QUESTIONS

QUESTION

Why do APR agreements differ from one farm to the next?

ANSWER

APR agreements have changed since they were first written in 1980 because times have changed, MDAR and landowners have learned from past experience, and there are changing requirements from various funding sources. The APR agreement that a landowner signs is what guides the use on that landowner's property, so each landowner should look to their own APR agreement for guidance.

QUESTION

Why are there different uses allowed on different APR farms?

ANSWER

- (A) APR agreements from different eras allow some different things.
- (B) The soils and natural resources on each farm guide whether different kinds of uses are appropriate.
- (C) Different farmers and owners want to pursue different things and what each farming operation can support is different.

Different era APR agreements have different minimum terms which MDAR and the landowner agreed to

before signing the APR agreement at the time, so landowners need to look at their own APR agreement for what is permitted. Some uses are also determined by the soil or agricultural resources, which can vary by farm, so the combination of all those aspects makes each farm and its circumstances unique. For example, there would be a difference in proposing to put a barn on non-productive land and proposing to put one in the middle of a field of prime agricultural soils.

Additionally, there are different categories of uses, depending on the APR agreement. Some uses are allowed "by right" which means without having to consult or request permission from MDAR, and others require approval or a special permit. Where consultation or approval is required, most APR agreements provide criteria for MDAR to use in reviewing the request to determine whether or not the use should be permitted.

Most APR agreements also guide how MDAR determines whether something can be allowed, based on its impact on the property's agricultural resources and based on that MDAR can 1) approve, 2) deny approval, or 3) grant approval only if certain conditions are met. Landowners can choose to move forward or not if they are amenable to the conditions. If the landowner does not agree with the conditions or the decision, the landowner can appeal the conditions or the decision to the Agricultural Lands Preservation Committee.

It is also important to note that some APR farming operations may include land or structures that are not part of the APR, so uses on non-APR land would not be bound by the APR agreement.

QUESTION

Can we install solar power to reduce our energy cost?

ANSWER

Installing solar on roofs is allowed and does not require permission since it will not impact agricultural soil resources one way or another, but ground-mounted solar needs approval to ensure that agricultural soils will not be negatively impacted. For more details see MDAR's APR Renewable Energy Policy at www.mass.gov/APR and click on "APR Program Details".

QUESTION

Why can't a farmer just do what s/he wants on APR land?

ANSWER

When a farmer applies to the APR program to protect their farmland forever for farming, they go through a legal process to clearly say how the land will be protected, so it is clear for everyone at the time MDAR purchases the APR and it limits the likelihood of misunderstandings in the future.

APR FREQUENTLY ASKED QUESTIONS

Farmers decide what parts of their farm they want to protect and not protect right from the beginning, and then they and all future owners are legally bound by that agreement. The APR program is buying the agricultural preservation restriction to ensure that the property remains in agricultural use in the future. That is a public benefit that public funds can be used to achieve. If a landowner could do anything they wanted with the land after the APR was purchased, the public benefit would not be there and there would be no value or a lot less value for the farmer to get paid.

To go into more specifics, the APR program is a competitive program where landowners voluntarily apply to see if their farmland will qualify to enable them to access the value in that land without having to sell the land itself. This allows the farmer to get the equity out of their land while still being able to continue farming it.

Each landowner and MDAR agree to and sign an agreement with terms that guide what happens on the land. The value that the landowner gets paid is determined by an appraisal based on the terms of that APR agreement.

A professional appraiser determines that APR's value through a detailed market analysis of what real estate sales say someone would pay for the land without the APR and then what someone would pay for it once the agricultural restriction is in place. If MDAR then allowed uses on the APR

that were not permitted, MDAR would have paid for something that it did not receive.

If a landowner does not want to restrict what they can do with their land they can choose to not apply to the APR program, and if they apply but don't agree with the appraised value they do not have to complete the sale.

QUESTION

Is it OK if I renovate my barn a little so I can have weddings on my APR land? I need the income. A neighbor said she thinks weddings might be possible in the barn and she's interested in renting it.

ANSWER

Look at your APR agreement and survey to see where the APR boundary is. See if the barn is part of the APR. If it is, you may (since some early APRs would not require approval) need to contact MDAR staff about getting an approval or special permit. Speak with MDAR staff about your circumstances to find out what other resources – technical assistance and funding – may be useful and available.

