

Town of Williamsburg

Guidelines for Exercising First Refusal Option on Chapter 61, 61A or 61B land

This document is intended to serve as a guide for municipal staff, boards, and residents of the town of Williamsburg, by providing a clear and consistent process to be followed when landowners in town intend to convert their Chapter 61, 61A or 61B land or sell it with intended conversion to a different use. The procedure helps ensure all relevant town entities are notified and have the opportunity to provide input to the Select Board, enabling the Board to make a fully informed decision on behalf of the Town. To verify exact rights and responsibilities under this program, please consult Chapters 61, 61A, and 61B of the Massachusetts General Laws as well as Town Counsel.

NOTIFICATION REQUIREMENTS:

Landowner must notify Select Board of intent to sell or convert land designated under Chapter 61, which should include:

- Letter indicating Notice of Intent to sell or convert the land, specifying proposed use of the land.
- Contact information for landowner
- If Intent to Sell, copy of the Purchase and Sales agreement specifying purchase price and all terms and conditions of proposed sale, and any additional agreements.
- Survey of land (or map if survey is unavailable)
- Location and acreage of land, shown on a map drawn at the same scale as the assessors' map

The day after this letter is received by all appropriate parties, as shown by certified mail receipt, begins the 120-day period for the town to consider whether to exercise its first refusal option or transfer this right to a conservation organization. If the notification from the landowner is deficient, the town has 30 days in which to give the landowner notice thereof, in which case the landowner must correct the deficiency then resubmit his/her Notice of Intent, restarting the 120-day period. Often, Towns will be asked to waive the 120-day option period. Town officials should not sign any requested waiver unless and until the following internal procedures have been completed.

TOWN RESPONSE:

1. Select Board - If the Notice is deemed incomplete (does not include all required material), the Select Board sends a written notice of deficiency to landowner (or attorney) within 30 days of receipt. The 120-day period for the Town to exercise its right shall not commence until a complete Notice has been received by the Town.

If the Notice is deemed complete, the Select Board shall acknowledge receipt to the landowner, confirming the start date of the 120-day period (day after the complete Notice was received).

Select Board can forward any Notice to Town Counsel for conformation that it is complete.

2. Town Administrator – Notify all town boards and abutting landowners as soon as possible (within 7 business days) that information has been received with the date that begins the 120-day first refusal option period. Forward information received from landowner to the following committees, requesting a

response to the Select Board on how to respond to the Notice within 14 days or by the Select Board meeting at which the first refusal option will be discussed, whichever is sooner.

- Conservation Commission
- Planning Board
- Open Space Committee
- Board of Assessors
- Water and Sewer Commission
- Agricultural Commission
- Woodland Trails Committee
- Historical Commission

3. Open Space Committee –Notify the most appropriate conservation organizations/ agencies of first refusal option, timeframe, and provide any other pertinent property information from the landowner or Assessors office.

4. Select Board – Schedule discussion of first refusal option opportunity for earliest possible Select Board meeting date. Notify boards and all interested parties of date comments are due. Once comments have been received, schedule a public hearing to discuss first refusal option, including the possibility of assignment to a nonprofit conservation organization or state conservation agency. **Before the Select Board may exercise or assign the option, it must hold a public hearing with proper public notice in accordance with open meeting law.** It is recommended that even if the town chooses not to exercise the option that a public hearing be held.

Within the 120-day timeframe, the Town may do one of the following:

- a) Exercise the first refusal option by executing a purchase and sale agreement with the landowner on the terms as presented in the Notice (if a sale) or based on the appraised value (if a conversion).
- b) Assign the first refusal option to a qualified nonprofit conservation organization or state conservation agency
- c) Decline to exercise the first refusal option

If a) –If the Select Board decides to exercise the option, they must record a Notice of Exercise, containing the name of the owner of record and a description of the premises adequate for identification, and send notice to the landowner by certified mail, accompanied by a proposed purchase and sale agreement to be consummated in 90 days or fewer.

If b) – Following a public hearing, the Select Board must execute and record a Notice of Assignment, stating the name and address of the organization or agency to whom the option has been assigned and the terms and conditions of the assignment. If the land trust or agency elects to exercise the option, it must send notice to the landowner by certified mail, and record its Notice of Exercise, containing the name of the owner of record and a description of the premises adequate for identification, plus propose a purchase and sale agreement to be consummated within 90 days. The parties then work out the agreement and consummate it. The land trust or agency then records a conservation restriction on at least 70% of the land.

If c) – The Town could choose to sign and deliver a Notice of Non-Exercise, containing the name of the owner of record and a description of the premises adequate for identification, to the landowner, sending it by certified mail to the Landowner’s address on the Notice of Intent. But no waiver of the Town’s right of first refusal should be executed until this Chapter 61 protocol has been completed. Alternatively, the town could just let the deadline expire.

Notes:

If neither a Notice of Exercise nor a Notice of Assignment is recorded within the 120-day period, the Town's option expires and the landowner is free to sell, but only upon the original terms spelled out in the purchase and sale agreement that accompanied his/her original Notice of Intent.