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## Exercising Municipal Rights – Chapter 61, 61A, or 61B

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This document shall serve as a guide for municipal staff, boards, and residents of the Town of Acushnet, outlining general steps to be followed when landowners in town intend to convert or sell their Chapter 61, 61A, or 61B land. To verify exact rights and responsibilities under this program, consult Chapters 61, 61A, and 61B of the Massachusetts General Laws or a land use attorney, and town counsel.

### **NOTIFICATION REQUIREMENTS:**

The landowner provides a "Notice of Intent," by certified mail, to the Board of Selectmen, Board of Assessors, Planning Board, Conservation Commission, and State Forester (c/o Commissioner of DCR) to sell or convert classified land; this notification should include:

- Cover letter notifying Board of Selectmen of intent to sell or convert the land, specifying proposed use of the land;
- Contact information of the landowner;
- If Intent to Sell, a certified copy of the executed purchase and sales agreement specifying purchase price and all terms and conditions of the 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 notification is mailed to all appropriate parties, as shown by the certified mail receipt, begins the 120-day period for the Town to consider whether to exercise its first right-of-refusal option or assign this right to a conservation organization. If the notification from the landowner is deficient, as determined by town counsel, the Town has 30 days in which to give the landowner notice thereof, in which case the landowner must then resubmit his/her notification, re-starting the 120-day period.

### **TOWN RESPONSE:**

1. Board of Selectmen – Sends written acknowledgment of receipt of the notice to the landowner (or attorney) with the date received.
2. Town Administrator – Notifies all town boards, departments, and commissions within ten days that notification has been received, with the date that began the 120-day first refusal option process.
3. Town Boards/Commissions – Each board or commission shall bring to the attention of its members the notification as received from the Town Administrator. If a board, department, or commission has an interest in acquiring the property through the Town's right of first refusal they shall notify the Board of Selectmen, within 40 days, of their interest and their reasons, and purpose. The board or committee shall also



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submit the wording of a town meeting article and shall identify a possible source of funding to acquire the property in question. Note: Responses and recommendations are due at the conclusion of the 40 day period. It will be assumed that any entity not submitting a response by this time does not wish to recommend that the town exercises its right of first refusal.

4. Board of Selectmen – Following receipt of the committee, department, or board document(s), they shall decide whether or not to schedule a public hearing regarding the Town exercising its right of first refusal. (Note – the Town cannot exercise its right of first refusal without a public hearing.) If the Board of Selectmen decides to have a public hearing, it is advisable that it take place by the halfway point in the 120-day period - or as soon thereafter as possible – so that issues such as associated contracts and identification of funding shall be resolved before the 120 days expire.
5. Board of Selectmen - Within the 120-day timeframe, makes the decision to do one of the following:
  - (a) Exercise the first refusal option;
  - (b) Assign the first refusal option to a qualified nonprofit conservation organization or agency;
  - (c) Decline to exercise the first refusal option.

### Requirements for each option:

If (a) – The Town must hold a public hearing, giving public notice in accordance with the open meeting law, before the option may be exercised. If the Board of Selectmen then decides to exercise the option, it 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 Board of Selectmen must execute and record a “Notice of Assignment,” stating the name and address of the organization or agency which is expected to exercise the option 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 land trust or agency then records a conservation restriction.

If (c) – The Board of Selectmen must sign and deliver a Notice of Non-Exercise, containing the name of the owner of record and a description of the premises adequate for



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identification, to the landowner, sending it by certified mail to the landowner's address on the Notice of Intent.

***Note:** If neither the Notice of Exercise nor the 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.*

**Policy submitted for first reading at the regular meeting of the Board of Selectmen on: February 21, 2017 and the second reading on March 6, 2017**

**Policy adopted by the Board of Selectmen at the regular meeting of the Board of Selectmen on March 6, 2017.**