



## PROCEDURE FOR CHAPTER 61, 61A, 61B RIGHT OF FIRST REFUSALS

Within 120 of receiving notice to withdraw from Ch 61, 61A or 61B, the Goshen Select Board:

1. Act to exercise its option to purchase the property by meeting a bona fide purchase offer or at full and fair market value;
  2. Assign its right to a non-profit conservation organization or the Commonwealth or any of its political subdivisions; or
  3. Notify the property owner that it does not intend to exercise its right of first refusal.
  4. Default option: Failure to act within 120 days of the notice constitutes a defacto decision to not exercise the right of first refusal.
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### **Procedure for handling MGL. Chapter 61, 61A, or 61B Right of First Refusal Requests**

When the Select Board receives a notice to withdraw from Ch 61, 61A, or 61B, it shall:

1. Check to make sure the notice is proper and complete; (See reverse side for notice requirements).
2. Acknowledge to landowner (or attorney) receipt of notice, marking the start of the 120 day period for the town to exercise its Right of First Refusal or transfer it to a conservation organization;
3. Forward notice to the Planning Board, Conservation Commission, Board of Assessors, Open Space Committee and the Historic Commission. (school board or PTA, water board?)
4. Set an agenda item at a specific meeting date to receive comments from the above boards on the right of first refusal opportunity. If towns boards do not provide feedback by or at the meeting date, it will be assumed that they do not wish to move forward with the Right of First Refusal.
5. Based on responses of Boards, Committees, and other interested parties, determine need for a public meeting to discuss right of first refusal option and to seek further input. If the Select Board is considering assigning the Right of First Refusal to a land trust, the Select Board must schedule a public hearing with proper notice before making that decision.
6. Select Board ultimately makes decision to exercise the right of first refusal, assign the right to a qualified land trust or decline to exercise the right and notifies the landowner accordingly.

## REQUIREMENTS FOR NOTICE BY PROPERTY OWNER

The 120-day right of first refusal time period begins with a notice of the landowner's intent to sell or convert a parcel for commercial, industrial, or residential use. This notice must be sent by certified mail or hand delivered to the Select Board, in addition to the Planning Board, Board of Assessors, and Conservation Commission, and to the State Forester. The notice must include the following:

1. A statement of intent to sell or convert,
2. A statement of proposed use of the land,
3. The location and acreage of the land as shown on the assessors' map,
4. The name, address, and telephone of the landowner,
5. In the case of an intent to sell, a certified copy of an executed purchase and sale agreement specifying the purchase price and all terms and conditions of the proposed sale, which is limited only to the property classified under the Chapter, and must be a bona fide offer. A bona fide offer is defined as a good faith offer not dependent upon potential changes to current zoning or conditions or contingencies relating to the potential for, or the potential extent of, subdivision of the property for residential use or the potential for, or the potential extent of, development of the property for industrial or commercial use.
6. Any additional agreements or a statement of any additional consideration for any contiguous land under the same ownership, and not classified under the Chapter, but sold or to be sold contemporaneously with the proposed sale,
7. In the case of an intent to convert the land to another use, the landowner must also notify the town of the landowner's attorney, if any.

For more information about the Right of First Refusal process, refer to *Conservation and Land Use Planning under Massachusetts' Chapter 61 Laws: A Primer for Cities, Towns, and Conservation Organizations*. Second Revised edition, November 2007. Available at:  
[http://www.masswoods.net/images/stories/pdf/Mount\\_Grace\\_Ch61\\_Info.pdf](http://www.masswoods.net/images/stories/pdf/Mount_Grace_Ch61_Info.pdf)