



POLICY No.: L-16

DATE ADOPTED: SEPTEMBER 15, 2010

## **TOWN OF WEST BOYLSTON BOARD OF SELECTMEN POLICY**

### **Town of West Boylston Procedure for Exercising First Refusal Option on Chapter 61, 61A or 61B Land**

**Purpose:** The Board of Selectmen and Town Administrator agree to establish standards procedures to serve as a guide for municipal staff, boards, and residents of the Town of West Boylston outlining general steps to be followed when landowners in town intend to convert or sell their Chapter 61, 61A or 61B land. In order to verify exact rights and responsibilities under this program, please consult Chapters 61, 61A, and 61B of the Massachusetts General Laws, a land use attorney, or Town Counsel.

**Policy:** Town of West Boylston Procedure for Exercising First Refusal Option on Chapter 61, 61A or 61B Land

#### **LANDOWNER NOTIFICATION REQUIREMENTS:**

Landowner must notify Select Board, Board of Assessors, Planning Board, Conservation Commission, and State Forester (c/o Commissioner of DCR) of intent to sell or convert classified land, which should include:

- Cover letter notifying Select Board 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 mailed to 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 then resubmit his/her Notice of Intent, re-starting the 120-day period.

#### **TOWN RESPONSE:**

1. Select Board - Sends written acknowledgement of receipt of notice to landowner (or attorney) with date received and asks Assessors office for copies of the current tax maps and assessments for the property as well as contact information for abutting landowners.
2. Town Administrator – **Notify all town boards and abutting landowners as soon as possible (within at most 10 days)** that information has been received with date that begins the 120-day first refusal option process. Forward information received from landowner to the following committees, requesting a response to the Select Board on how to respond to the Notice within 30 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 Implementation Committee
  - Board of Assessors
  - Agricultural Commission
  - WB Land Trust Committee
  - Historical Commission

3. Open Space Implementation Committee – Notify the most appropriate conservation organizations of first refusal option process 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 that comments are due by this date, and if comments are not received by this time, it will be assumed that they do not wish to move forward with the first refusal option.
5. Select Board – Based on responses of boards, committees, abutters, and other interested parties, determine need for a public hearing to discuss first refusal option and seek further input. If the Select Board is considering exercising the option, or assigning the first refusal option to a land trust, the select board must hold a public hearing with proper notice before making that decision.
6. Select Board - 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 option may be exercised.** If the Select Board then 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 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 parties then work out the agreement and consummate it. The land trust or agency then records a conservation restriction.

If c) – The Select Board 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 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.