

How to Sell Your APR

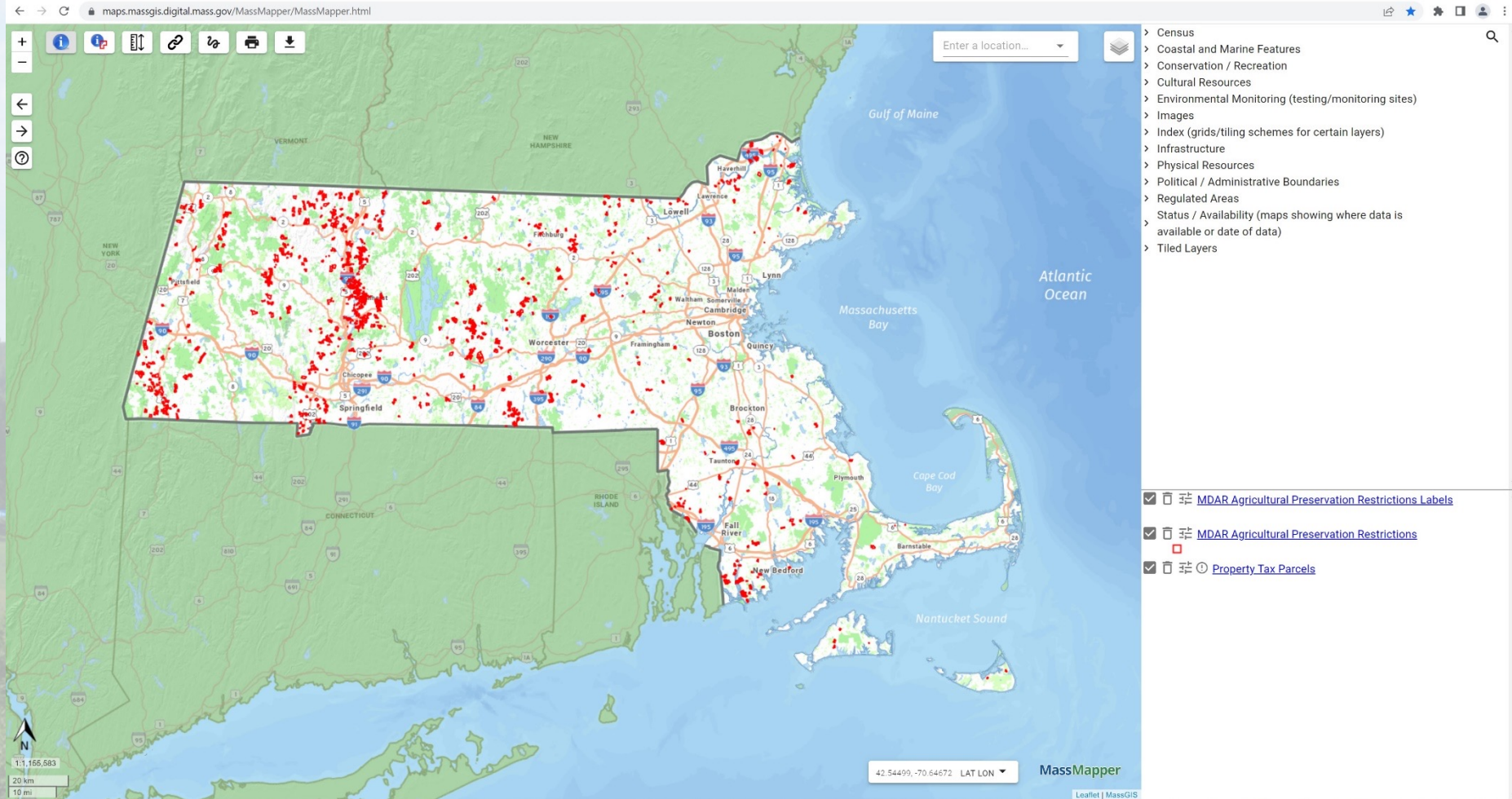
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Is my land protected by an APR?



<https://maps.massgis.digital.mass.gov/MassMapper/MassMapper.html>

Types of APR's

An Evolving History

- 1) 1981 to 1985- APR's do not have transfer requirements
 - Can be sold to anyone for any price
 - MDAR has no jurisdiction over sale

- 2) 1986 to first half of 1994- APR's include a **Right of First Refusal (ROFR)**

- MDAR has right to purchase (and assign)
- No limit on price

- 3) Second half of 1994 to Present-APR's include an **Option to Purchase at Ag. Value (OPAV)**

- MDAR has right to purchase (and assign)
- Sold at Agricultural Value

APR Seller Requirements

No Transfer Language

- No Requirements

Right of First Refusal

- Notice of Intent to Sell
- Executed P&S Agreement

Option to Purchase at Ag. Value

- Notice of Intent to Sell
- Executed P&S Agreement
- Price Determination
- Underlying Deed (Sometimes)
- Pre-Sale Conference (Sometimes)

How Much Can I Sell My APR For?

No Language

- No Limitation

ROFR

- No Limitation

OPAV

- Fair Market Agricultural Value= Combination of Ag. Land, Ag. Business and Ag. Dwelling Value

How Much Is My APR Worth?

Agricultural
Appraisal

- More detailed approach
- Price
- Takes Time

Inflation
Calculation

- Less detailed
- No Cost
- Minimal Time

Who Can I Sell To? (ROFR/OPAV)

Farmer

- an individual, corporation, LLC, or partnership that: (a) owns and operates a farm business; or (b) is employed full time on a Farm for a minimum of two years.
- Must submit supporting documentation
- Must submit Farm Business Plan*

Beginning Farmer

- an individual or entity who has less than two years experience managing or owning a Farm.
- Must submit Farm Business Plan
- Must submit Financial Plan

What Scenarios Are Exempt from Process?

- In-Family Transfers
(Check APR Document)
- Transfer by Will
- Transfer from one Partner to another



How Long Does it Take to Review?

Check the APR Document for Timeline!

Once required documents submitted, up to:

ROFR

16 Days

60 Days

OPAV

16 Days

60 Days

120 Days

Potential Outcomes

Once required documents submitted:

Waives

- Waiver Document Provided
- Sale Proceeds

Exercises

- Statements of Interest
- If multiple qualified applicants, seller chooses

Neither Waives or Exercises

- Sale Proceeds

- Seller can withdraw at any point up to exercising
- Seller can appeal to ALPC

Transfer Statistics

- 42-Year Program
- 12 Exercised (~1%)
- 4 Assigned
- Sometimes there are no bids, sometimes there are title issues, timing issues, etc.



Resources Available

- Copy of APR Document
- Land Survey
- List of Appraisers
- Appraisal Guidelines
- Farm Business Plan Template
- CPI (Inflation) Formula Guidance

330 CMR 22: APR Program

- Govern all APR's
- Outlines Transfer Procedures
- APR Document Takes Precedent

330 CMR: DEPARTMENT OF AGRICULTURAL RESOURCES

330 CMR 22.00: AGRICULTURAL PRESERVATION RESTRICTION PROGRAM

Section

22.01: Scope and Purpose
 22.02: Definitions
 22.03: Composition and Meetings of the Agricultural Lands Preservation Committee
 22.04: Eligibility of Agricultural Preservation Restriction Program
 22.05: Application Procedures
 22.06: Agricultural Preservation Restriction Program Application Processing and Closing Procedures
 22.07: Criteria Applicable in Evaluation of Projects
 22.08: Agricultural Preservation Restriction
 22.09: Departmental Approvals
 22.10: Transfer or Sale of an APR Parcel
 22.11: Agricultural Preservation Restriction Parcel Violations
 22.12: Release of an Agricultural Preservation Restriction
 22.13: Adjudicatory Hearings
 22.14: Policies and Guidelines

22.01: Scope and Purpose

The scope of 330 CMR 22.00 is to implement the terms of M.G.L. c. 20, §§ 23 through 26; and M.G.L. c. 184, §§ 31 and 32. The purpose of 330 CMR 22.00 is to provide guidance and clarification for present and future APR Parcel Owners regarding their rights and responsibilities and the Department's responsibilities under St. 1977, c. 780, in conjunction with the direction and guidance provided in Department policy statements, guidelines, and other informational sources referenced in 330 CMR 22.14; to encourage sound soil management practices in accordance with generally accepted agricultural practices; and to regulate activities and uses that may be detrimental to the retention of the land for agricultural use in perpetuity.

22.02: Definitions

As used in 330 CMR 22.00 the following words shall have the following meanings, unless the applicable Agricultural Preservation Restriction provides a different definition, in which case the definition in the Agricultural Preservation Restriction controls:

Adjudicatory Hearing means an informal hearing under M.G.L. c. 30A where parties may present evidence on issues of fact, and argument on issues of law and fact prior to the ALPC issuing a written final decision.

Agricultural Lands Preservation Committee (ALPC) means a committee in the Department of Agricultural Resources whose membership, powers, duties, and statutory grant of authority are set forth in M.G.L. c. 20, §§ 23 and 24.

Agricultural Preservation Restriction (APR) means a perpetual restriction to retain land or water areas predominately in their agricultural, farming, or forest use, and forbids or limits certain property development rights and uses.

Agriculture means the uses of land enumerated in M.G.L. c. 61A, §§ 1 and 2.

Applicant means the record owner(s) of land who submit an Application for a Project.



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