

## **Current Use Rules and Regulations**

For convenience, we have broken down the Current Use Rules and Regulations into sections. Please scroll down the page to read the Section. The information contained within this page is an *overview* of Current Use rules and regulations, and does not contain all laws pertaining to Current Use. If your question(s) are not answered on this page, please refer to the contact information in Section 5.

### ***Section 1: Current Use Overview***

### ***Section 2: Placing Property into Current Use***

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#### **Section 1: Current Use Overview**

RSA 79-A was enacted on July 1, 1973. The purpose of this regulation is to implement a tax strategy enabling landowners to keep their open space lands undeveloped. Under Current Use, the land is assessed at its present use rather than at its highest potential use. This program has been in use by the Town of Sunapee since its inception, and currently has more than 210 properties receiving this classification.

Simply said, by submitting an application and other necessary documentation in order to place the Current Use classification on a property, you are agreeing not to develop the property; and should you develop it, you agree to the Town's placement of a contingent lien (penalty) against the fair market value of the portion of the property being developed. At this time, 50% of the Current Use penalties collected go to the Conservation Commission and 50% to the Town's General Fund.

#### **Section 2: Placing Property into Current Use**

- **Qualifications:** Any property that meets the following may potentially be placed in the Current Use program.
  1. 10 acres or more contiguous farm, forest, or unproductive land, or combination of these three types.
  2. Wetlands of any size. This land must meet the definition of wetlands as established by the Current Use Board.
  3. A Certified Tree Farm
  4. Farmland of any size that produces \$2,500.00 or more annual agricultural produce. An annual accounting of products is required under this category.
- **Application:** If you feel that your property qualifies for Current Use, you will need to provide the following to the Assessing Office.

1. Form A-10 Application for Current Use. You may find a copy of this form at the NH Department of Revenue Administration website, [www.nh.gov/revenue/](http://www.nh.gov/revenue/) or contact the Assessing office.
2. The filing fee, in accordance with CUB 302.02. This fee will be refunded if the application is withdrawn or denied. As of March 14, 2013 is \$16.46. A check for this amount, made payable to the Sullivan County Registry of Deeds, must be included with the application.
3. A map of each parcel going into Current Use. This information should agree with the Town's tax map. The map must show the following:
  - A. Entire parcel showing both the current use land and the non-current use land, adequately identified and oriented to establish its location. A copy of the tax map may be used for this requirement.
  - B. The overall boundaries including the frontage and computation of acreage for both current use land and non-current use land.
  - C. The interior boundaries of different current use classifications.
  - D. The acreage of land and forest type categories for which the applicant is seeking current use assessment.
  - E. The land classification within each category.
  - F. All portions of the land not to be classified under current use.
  - G. For farmland, if the property owner is going to require Assessing Officials to use the Soil Potential Index (SPI) in the assessment calculation, the property owner must supply the Soil Potential Index letter. (See RSA 79-A:5,1, CUB 301.08 and CUB 304.02 (d) & (e) for further details
  - H. For forest land under "Forest Land with Documented Stewardship" category, the property owner must submit the item listed under CUB 304.03 (j). In lieu of a forest stewardship plan, the property owner may submit a complete Form CU-12 Summary of Forest Stewardship Plan for Current Use Assessment.

A copy of the Town's tax map may be used for these purposes. If the information does not agree with the Town's tax map, the applicant should submit documentation, such as a survey, to prove that the information submitted on the map is correct.

The above information must be submitted to the Assessing Office no later than April 15<sup>th</sup>. The Assessing Office shall notify the property owner no later than July 1<sup>st</sup> of their decision to classify or of refusal to classify the parcel(s) of land. The notification shall be delivered to the applicant in person, or by mail.

By August 1<sup>st</sup>, the Assessing Officials shall file with the Sullivan County Registry of Deeds the notice of contingent lien describing all parcels of land classified under Current Use. The notice of contingent lien serves as notice to all interested parties that a lien on the land will be created if and when the land is changed to a non-qualifying use.

**Section 3: Assessed Values for Current Use**

- **Assessed Values:** Once the Town accepts a property into Current Use, an adjusted assessment value is placed on the land. These values are provided to the Town by the State of New Hampshire’s Current Use Board, and can change annually. The sales ratio also affects these assessments.

For 2012/2013, the Current Use Value ranges per acre are:

**Without Stewardship:**

<i>Forest Land – Pine</i>	\$ 125 - \$ 188
<i>Forest Land – Hardwood</i>	\$ 57 - \$ 85
<i>Forest Land – All Other</i>	\$ 47 - \$ 71
<i>Farmland without SPI</i>	\$ 25 - \$425 (if available, the SPI will be used to determine assessed value)
<i>Unproductive (Wetland)</i>	\$ 20

**With Stewardship:**

<i>Forest Land – Pine</i>	\$ 91 - \$ 137
<i>Forest Land – Hardwood</i>	\$ 31 - \$ 46
<i>Forest Land – All Other</i>	\$ 22 - \$ 34
<i>Farmland and Unproductive are assessed at the same rate as above.</i>	

The Assessor will determine how the property is assessed, based on these values. There are several factors that determine how the property falls into the assessment range, including site location, grade of soil, and accessibility.

- **Recreational Adjustment:** In addition, a property owner may also receive a Recreational Adjustment of 20%. In order for this additional 20% adjustment to be placed on the property, the property owner must allow certain recreational activities on his/her land. These activities are:  
~ Hunting ~ Skiing ~ Fishing ~ Snowshoeing ~ Hiking ~ Nature Observation ~

If you choose to apply for this further adjustment, you must open your land to public use at no charge for these activities, and you must agree not to post for these activities (except where detrimental to a specific agricultural or forest crop) without approval of the local Assessing Officials. You may prohibit trespass upon your property for all other activities.

**Section 4: Removing Property from Current Use and Penalties**

- **Disqualification:** Land will be removed from Current Use when it no longer meets the requirements of RSA 79-A:7. These reasons can include:
  1. When a parcel of land is sold or transferred to another owner and no longer meets the minimum acreage requirements;
  2. Obtaining a building permit to erect a structure;
  3. Removal of topsoil, or other; such as gravel operations;

4. When land no longer produces \$2,500.00 gross annual income.  
(Other reasons can apply; these are the most common ones.)

Land can only be removed from Current Use for the reasons described in RSA 79-A:7 III, IV and V; and CUB 307.01. Otherwise, the land remains in Current Use. **There are no buy-out options.**

When the land is removed from Current Use, a contingent lien is placed on the property, until such time the lien is released.

**NOTE:** Subdivision does not necessarily remove a property from Current Use. If the ownership of all subdivided parcels does not change and the parcels still meet the 10-acre contiguous land requirement, the property will remain in Current Use until such time that the parcel in question no longer qualifies. The Current Use penalty will only be assessed on that portion of land that does not qualify, unless the remaining acreage does not meet the requirements.

- **Penalties for removing land from Current Use (Land Use Change Tax):** If a property no longer meets the requirements of the Current Use Program, the Town shall assess a penalty (Land Use Change Tax) in accordance with RSA 79-A:7. The penalty shall be ten percent (10%) of the Fair Market Value, at the time of change, as determined by the Assessor, at highest and best use. (Also see CUB 308.01). This change in assessment will occur on April 1<sup>st</sup> of the following tax year, however, the penalty will be assessed at the time of change.

In order to determine Fair Market Value (FMV) at time of change, the Assessor will review land sales for the Town, and make a determination based on those sales. Factors can include size of lot and what land will be used for as well as other considerations.

Once a FMV assessment has been determined, a Current Use Release Form (Form A-5) will be generated by the Assessing Office and given to the Board of Selectmen for approval of values and penalty amount. Upon approval of the Board of Selectmen of these amounts, a bill will be sent to the property owner of record, and a contingent lien is placed on the property. The property owner will have 30 days in which to pay the penalty. If the amount is not paid in that time, interest will begin to accrue on the 31<sup>st</sup> day. The contingent lien remains on the property until the penalty is paid.

Any property owner who disagrees with the assessment of the Land Use Change Tax has the same rights of appeal as for property taxes pursuant to New Hampshire State Law. The property owner must apply in writing to the Assessor within two (2) months of the date of notice of tax, for an abatement of the tax. If the Assessor refuses or neglects to abate the tax, the property owner may apply for abatement to either the Board of Tax and Land Appeals or to Superior Court, but not both. This appeal must be filed within eight (8) months of the notice of tax.

## **Section 5: Other Information**

### **Other rules you should be aware of:**

- Buildings of any type are not allowed on Current Use land.
- Your application may be withdrawn, provided that the Town has not recorded your application with the registry of Deeds.
- If more than one parcel is required to meet the 10-acre requirement, both must be contiguous (or *abut*) each other. Streets, roadways, and power lines are excluded.
- Town boundaries do not disqualify parcels provided that the basic requirements are met.
- Land can be sold or subdivided without penalty as long as it still meets the criteria.
- You may change the category under which your land is assessed providing that you inform the Assessing Office prior to April 1<sup>st</sup> for the upcoming tax year. An updated map may be required at the time of change.

Although we have tried to answer most questions regarding Current Use in this publication, we may not have been successful. Please call the Assessing Office at (603) 763-2212 with any further questions.

The following are other sources of information regarding the Current Use program.

- New Hampshire Department of Revenue Administration website:  
[http://www.nh.gov/revenue/munc\\_prop/propertyappraisal.htm](http://www.nh.gov/revenue/munc_prop/propertyappraisal.htm) under the section “Current Use”. Applications and other forms are available on their website, or you may contact them directly at (603) 230-5950.
- University of New Hampshire Cooperative Extension – Sullivan County, 24 Main Street, Newport, NH 03773, Phone 863-9200 or via their website:  
<http://www.extension.unh.edu>
- Current Use Board via the Department of Revenue Administration at (603) 230-5950.
- Current Use Criteria Booklet is available, listing all rules and regulations, via the following methods:

**Hard copy:** NH State Library, Reference and Information Bureau, 20 Park Street, Concord NH 03301. Phone (603)271-2239. A fee will be charged for this method.

**On disk:** Send a self-addressed, stamped envelope and a blank disk to:  
Community Services Division, Department of Revenue Administration, 109 Pleasant Street, Concord NH 03301. Please specify format to be used. There is no charge for this method.

**Online:** The NH Department of Revenue Administration website @ no charge.

[http://www.nh.gov/revenue/munc\\_prop/propertyappraisal.htm](http://www.nh.gov/revenue/munc_prop/propertyappraisal.htm)

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