

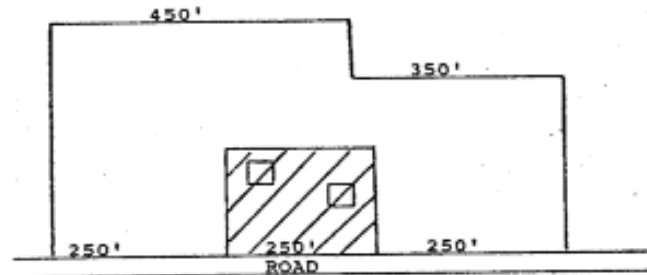
CURRENT USE HANDBOOK

I. APPLICATION PROCEDURES

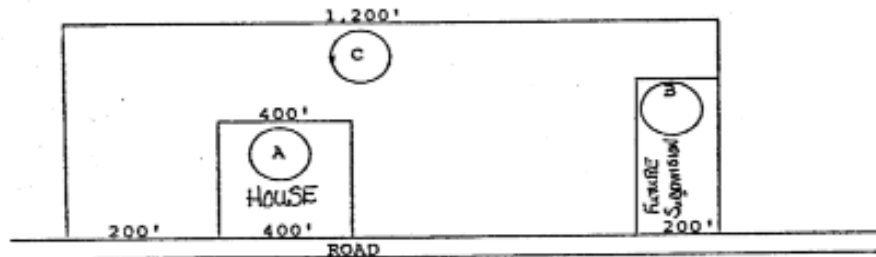
A. Landowner's Responsibilities.

- (1) To apply for current use assessment, the landowner must complete Form A-10, Current Use Application and submit it to the local assessing officials by April 15th. (see RSA 79-A:5, II). The application is available from the local assessing officials or the Dept. of Revenue Administration, 45 Chenell Drive, Concord, NH 03301. See Cub 102 for more information regarding the application.
 - (2) The landowner must submit the following with the application:
 - (a) The filing fee in accordance with Cub 302.02. The filing fee will be refunded if the application is denied or withdrawn.
 - (b) A map of each parcel of property going into current use. The map need not be a survey map, and may be as simple as the examples shown on page 23. However, the map must include the following information:
 - A drawing of the entire parcel showing both the current use land and non-current use land, adequately identified and oriented to establish its location;
 - The overall boundaries including the frontage and computation of acreage for both current use land and non-current use land;
 - The interior boundaries of different current use classifications;
 - The acreage of land and forest type categories for which the applicant is seeking current use assessment;
 - The land classification within each category; and
 - All portions of the land not to be classified under current use.
- Note: The acreage, frontage, and other information provided on the applicant's map should agree with the municipality's tax map. (A copy of the town's tax map may be used). If the information does not agree, the landowner should provide documentation such as a deed or survey, to prove that the information on the map submitted is correct.
- (3) For farmland, if the landowner is going to require the assessing officials to use the Soil Potential Index in the assessment calculation, the landowner must supply the Soil Potential Index. See RSA 79-A:5,I, Cub 301.08 and Cub 304.02(d) & (e) for further details.
 - (4) For forest land which is under the "Forest Land with Documented Stewardship" category, the landowner must submit the items listed under Cub 304.03 (j). In lieu of a forest stewardship plan, the landowner may submit a complete Form CU-12 "Summary of Forest Stewardship Plan for Current Use Assessment."
 - (5) An applicant may withdraw the application in the same year in which it was submitted, provided the municipality has not recorded the application with the County Register of Deeds per Cub 302.03.

CURRENT USE: 45.9 ACRES
 (1)(2)(3) - 12 ACRES HARDWOOD
 WETLAND - 6 ACRES
 27.9 ACRES WHITE PINE



LAND NOT IN CURRENT USE = 1.4 ACRES
LAND IN CURRENT USE = 10.7 ACRES
FARMLAND



A = 3.7 ACRES B = 2.8 ACRES C = 15.6 ACRES
FOREST LAND--WHITE PINE

(1) The assessing officials shall notify the applicant no later than July 1st, or within 15 days if the application is filed after July 1st, of their decision to classify or refusal to classify that parcel of land. The notification shall be delivered to the applicant in person, or by mailing such notification to his last and usual place of abode (RSA 79-A:5, III). The pink copy of the application form shall be returned to the landowner for the purpose of this notification (Cub 302.04 (2)(c)).

- C. **Contingent Lien.** The notice of contingent lien serves as a 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.

II. LAND CLASSIFICATIONS

A. FARM LAND

- (1) Soil Potential Index. The Soil Potential Index (SPI) is a tool to be used by the assessing officials to determine where in the farm land range of values a specific property should be assessed.

The landowner must provide the SPI to the assessing officials in order for the assessors to apply it. Otherwise, the assessing officials may use their own discretion when assigning a valuation within the farm land assessment range.

The SPI may be obtained from the county conservation district offices. If the county conservation district office is unable to immediately provide the SPI for a particular parcel of land, they will provide a letter to the landowner stating that the SPI will be forthcoming. The landowner should give this letter to the assessing officials as notification that an SPI will be provided for this land. When the landowner receives the SPI, he should forward it to the assessing officials so it may be applied in the farm land assessment calculation. Once the land owner has provided the SPI, the assessing officials will apply the SPI to the assessment calculation until such time as a revised SPI is provided. Cub 304.02(e) provides the formula for assessing farm land. Assuming an SPI of .60, the formula would calculate as follows:

High end of farm land range	\$425
Low end of farm land range	-25
Difference	400
Sample SPI of .60	x.60
Subtotal	240
Low end of range added back	+25
Per acre assessed value	\$265

- (2) Agricultural Buildings. The assessing officials shall apply Cub 303.02, the definition of building lot, when determining how much land must be left out of current use or removed from current use due to the presence of a building for agricultural purposes. The assessing officials must determine:
 - (a) How much land is actually taken up by the building (the footprint of the building),
AND
 - (b) How much contiguous land around the building is groomed, maintained or needed to support the building.

B. FOREST LAND

- (1) Assessment Ranges. Forest land has 3 classifications of land: White Pine, Hardwood and All Other. Each of the 3 classifications has 2 ranges of values: one range which reflects the cost of stewardship, and one range which does not reflect the cost of stewardship.

If forest land is to be assessed within the ranges under "Forest Land with Documented Stewardship," then the landowner must provide documentation supporting the assessment within this range. This documentation is listed under Cub 304.03(j). If the forest land is to be assessed within the ranges not reflecting the cost of stewardship, then the documentation listed under Cub 304.03(j) is not necessary. Note: After an original application for current use has been approved, local assessing officials may require the landowner to justify assessments within the "Forest Land with Documented Stewardship" category at intervals of 5 years or more. Form CU-12, summarizing the contents of the forest stewardship plan, may be submitted at such time in lieu of the forest stewardship plan.

- (2) Assessment Within the Range. Each of the forest land classifications has a per acre range of value. Not all forest land should be assessed at the high end of the range,

nor at the low end. Factors which influence the value of forest land include the location of the land, the accessibility of the forest products and the severity of the terrain. Under the definition of "current use value" (RSA 79-A:2,V), the assessor is required to determine the valuation in accordance with the "class, grade, type and location of the land." Cub 304.03 provides definitions of these terms, as well as a definition of "site quality." Under Cub 304.03 (k), the assessor must consider all these factors when determining where, within the forest land range of values, a particular parcel of land falls. In the case of Town of Marlow, the Board of Tax and Land Appeals specifically addressed the requirement that municipal officials consider these characteristics to justify the assessment within the forestland ranges. In their decision, the BTLA suggested several methods to justify these assessments including the use of a simple matrix or the use of county soil and topographical maps.

If a landowner is dissatisfied with the assessor's determination and wishes to challenge the forest land assessment, Cub 304.03 (l) provides 2 methods of providing additional information to the assessors to support their challenge. If the landowner is still dissatisfied with their assessment, then the property tax appeal procedures under RSA 76:16, 76:16-a, 76:16-d, II and 76:17 should be followed. These procedures are described under Appeal Procedures.

- (3) Clear Cutting. Under Cub 304.03(d), forest land that has been subjected to clear cutting still qualifies as forest land.

C. UNPRODUCTIVE LAND

- (1) Assessment. Unproductive land is land which does not meet the definition of forest land or farm land. Unproductive land is "incapable of producing agricultural or forest products due to poor soil or site characteristics, or the location of which renders it inaccessible or impractical to harvest agricultural or forest products." Wetland is included in the unproductive land classification.
- (2) Reclassification. Per Cub 305.02(a), land classified as unproductive land must be reclassified to forest and/or farm land if the land becomes accessible or practical to harvest.

III. OTHER ASSESSMENT ISSUES

- A. Buildings in Current Use. Per RSA 79-A:5,I buildings, appurtenances, or other improvements on current use land shall not be assessed at current use values. Appurtenances and improvements include driveways, groomed areas, wells, septic systems and utility lines for the landowner's own use (See cub 303.05). Buildings, appurtenances and other improvements shall be assessed at ad valorem value under RSA 75:1.
- B. Equalization of Current Use Land. Per RSA 79-A:5,I an equalization ratio must be applied to all farm, forest and unproductive land assessments. Even if a municipality's equalization ratio is greater than 100% (115% for example), then the current use assessment must be multiplied by that ratio.
- C. Gravel Pits. The removal of topsoil, gravel or minerals is prohibited on land in current use; such activity would constitute a change in land use and would subject the land to the land use change tax (see RSA 79-A:7,IV(b)). The only exceptions to this rule are:
 - (1) Removal of topsoil in the process of harvesting a sod farm crop in amounts which would not deplete the topsoil,
 - (2) Removal of gravel and other material for construction and maintenance of roads and land for agricultural or forestry purposes within the qualifying property of the owner, or with the approval of local authorities, to other qualifying property of the owner.

- D. Posting of Current Use Land. Land assessed under current use may be posted. Receiving current use assessment does not require a landowner to open the property to public use.
- E. 20% Recreational Adjustment. If a landowner decides not to post, and opens the property to public use without an entrance fee for 12 months a year, the land is entitled to a 20% reduction in the current use assessment of those acres opened to public recreational use. To receive the 20% recreation adjustment, the landowner must allow all of the following activities:
- Hunting
 - Skiing
 - Fishing
 - Snowshoeing
 - Hiking
 - Nature Observation

If any of these activities are detrimental to a specific agricultural or forest crop, then that activity may be prohibited. If the 20% recreational adjustment has been granted, then posting to prohibit any activity listed above requires approval of the local assessing officials. See Cub 305.03 for further explanation.

The landowner may prohibit trespass upon his property for all other activities, including use of mechanized and off-highway vehicles (such as snowmobiles and three-wheelers), camping, cutting down trees, etc. Posting land to prohibit these activities will not affect the 20% recreation adjustment.

- F. Zoning Requirements. For all classifications of current use land, the dimensions of a building lot shall not be governed by any local zoning or planning ordinances. For example, an 11 acre parcel of forest land in a municipality which requires a minimum of 2 acres for a building lot, may still qualify for current use assessment. If the building lot, as defined under Cub 303.02, occupies $\frac{1}{2}$ an acre, then $10\frac{1}{2}$ acres would qualify for current use assessment regardless of the 2 acre zoning requirement.

IV. THE LAND USE CHANGE TAX

- A. Rate. The land use change tax rate is "10% of the full and true value" of the land that no longer qualifies for current use per RSA 79-A:7. The 10% land use change tax is not based upon the amount of taxes saved over the years in which the property was in current use. As with all ad valorem assessments, "full and true value" may or may NOT be the same as the selling price of the property.

The "full and true value" of the land is based on the highest and best use of the land as of the date the actual physical change was begun, as long as the requirements of RSA 79-A:7 V (a) are met. Otherwise, the local assessing officials may wait and base the land use change tax upon the land's full and true value at a later time after the requirements of RSA 79-A:7 V (a) have been met, regardless of the date of the actual physical change.

- B. Assessment. Land may only be removed from current use for the reasons described in RSA 79-A:7 III, IV and V and Cub 307.01. Otherwise, land remains in current use. There are no buy-out options.
- C. Amount of Land to be Taxed. When a parcel of land is being developed, only the amount of land that has been physically changed shall be removed from current use as long as the landowner retains enough land to meet the current use minimum acreage requirements under Cub 304.01.
- D. Land Use Change Tax Bill. The land use change tax bill shall be assessed and mailed within 12 months of the date the local assessing officials are either notified by the landowner of a change in use or they discover through some other means that a change in use has occurred.

The assessment of the land use change tax creates a lien per RSA 79-A:7 II (e) upon the landowner's property and is subject to statutory collection proceedings against real estate as prescribed in RSA 80. Therefore, it is imperative that the land use change tax be paid in full even if the landowner intends to request an abatement of the tax. The tax is due 30 days from the date the bill was mailed. Interest of 18% per annum shall be due on any tax not paid within the 30 day period.

Upon payment of the land use change tax, the bill is forwarded to the County Registry of Deeds for recording. This recording releases the contingent lien placed upon the property when the current use application was recorded. The landowner is responsible for the recording fee as prescribed by RSA 478:17 in addition to the land use change tax.

- E. Appeal Procedures . Any landowner who disagrees with the assessment of the land use change tax has the same rights of appeal as for real property taxes pursuant to RSA 76:16, 76:16-a, 76:16-d,II and 76:17. The landowner must apply in writing to the assessors within 2 months of the date of notice of the tax, for an abatement of the tax. If the assessors refuse or neglect to abate the tax, the landowner may apply for an abatement to either the NH Board of Tax and Land Appeals or to the County Superior Court. This appeal must be filed within 8 months of the notice of the tax.

For forms or further information concerning appeal of the land use change tax, contact the Department of Revenue Administration, 45 Chenell Drive, Concord, NH, 03301, (603) 271-2687.