

Current Use Overview (RSA 79-A & Cub , Chapters 100 to 300)

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-V-79-A.htm>

http://gencourt.state.nh.us/rules/state_agencies/cub100-300.html

Purpose – (RSA 79-A1)

“It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources. It is further declared to be in the public interest to prevent the loss of open space due to property taxation at values incompatible with open space usage. Open space land imposes few if any costs on local government and is therefore an economic benefit to its citizens. The means for encouraging preservation of open space authorized by this chapter is the assessment of land value for property taxation on the basis of current use. It is the intent of this chapter to encourage but not to require management practices on open space lands under current use assessment.”

Requirements (Cub 304.01)

“Open space land shall consist of:

- (1) A tract of farm land, forest land or unproductive land totaling 10 or more acres;
- (2) A tract of any combination of farm land, forest land or unproductive land, which totals 10 or more acres;
- (3) A tract of undeveloped land of any size, actively devoted to the growing of agricultural or horticultural crops with an annual gross income from the sale of crops normally produced thereon totaling at least \$2,500, in accordance with Cub 304.16 and Cub 304.17, below;
- (4) A certified tree farm of any size; or
- (5) A tract of unimproved wetland of any size.”

Assessment of Open Space Land (RSA 79-A:5)

Open space land, classified under RSA 79-A, shall be assessed at Current Use values established by the Current Use Board. (<https://www.revenue.nh.gov/current-use/documents/cyr-assmt-ranges.pdf>)

How to Apply (RSA 79-A:5 – Cub 302.01)

- An application (PDF) (<https://www.revenue.nh.gov/forms/2017/documents/a-10-2016.pdf>) to place land in current use must be submitted by or before April 15th to your municipality, at a cost of \$35 to cover the recording at the registry of deeds.
- A map (Cub 309.01) clearly delineating both the land to be in current use and the land to be out of current use, and the current use land classification (farm, forest, etc) must accompany the application.
- The municipality must notify the landowner by July 1, or 15 days after July 1 if the landowner was prevented by accident, mistake, or misfortune (“I forgot” does not count) from applying by April 15th.
- No application will be accepted after the tax rate has been set in the municipality for that year.
- The lien must be recorded at the registry of deeds by August 1st.

Recreation Adjustment (Cub 305.03)

A further 20% reduction on the current use land assessment will be applied for a recreational adjustment. The following must be allowed:

- Fishing
- Hiking
- Hunting
- Nature observation (unless its detrimental to a crop)
- Skiing
- Snowshoeing

Per Cub 305.03, “Land which has been granted an additional 20% reduction for recreation use pursuant to Cub 309.01 shall not be posted to prohibit activities described under RSA 79-A:4, II, unless such posting has been approved by the local assessing officials.”

Selling Land

As long as the requirements of Current Use continue to be met, the Current Use lien transfers to the new owner when land is sold. In addition, when land is subdivided the Land Use Change Tax is not triggered, as long as the parcels are contiguous and ten acres or more in size or fit one of the other criteria such as unimproved wetlands. Once

recorded, the Current Use lien cannot be removed at the request of the owner or a subsequent owner.

Land Use Change Tax (RSA 79-A:7)

“Land which has been classified as open space land and assessed at current use values ... shall be subject to a land use change tax when it is changed to a use which does not qualify for current use assessment. Notwithstanding the provisions of RSA 75:1, the tax shall be at the rate of 10 percent of the full and true value determined without regard to the current use value of the land ... Notwithstanding the provisions of RSA 76:2, such assessed value shall be determined as of the actual date of the change in land use if such date is not April 1. This tax shall be in addition to the annual real estate tax imposed upon the property, and shall be due and payable upon the change in land use.”

Change in Use (Cub 307.01)

“(a) Assessing officials shall assess the use change tax on the owner or responsible party at the time of change by completing Form A-5, “Land Use Change Tax”, as described in Cub 309.02.

(b) Land under current use classification shall be considered changed, and the land use change tax imposed pursuant to Cub 308.03, when a change contrary to the requirements of the category under which the land is classified takes place.

(c) Such change shall be deemed to occur when:

(1) The parcel of land is sold or transferred to another owner and no longer meets the minimum acreage requirements described in the category in which the land is classified except when:

a. The parcel of land is less than the minimum acreage, but is contiguous to and has identical ownership as the land owned by the purchaser; and

b. The purchaser advises the local assessing officials, in writing within 60 days from the date of the sale, of an intent to file for current use on the entire tract; or

(2) Development occurs which changes the condition of the land so as to disqualify it from open space assessment.

(d) If the purchaser in (c)(1)b., above, does not file Form A-10, “Application for Current Use”, on or before the next April 15, the land use change tax shall be imposed as of the date on which the sale or change in use occurred.

(e) An adjoining property owner who constructs a right-of-way road pursuant to RSA 79-A:7 VI, (e), on a parcel of current use land shall be subject to the land use change tax.”

Additional Information

For any questions, contact the assessor’s office at 603-497-8990 x 813.