

Current Use is a favorable property tax program that encourages landowners to keep land undeveloped, but it does not permanently restrict use of the land or protect it from future development.

enter into an Option Agreement with the land trust to sell the land or conservation easement. Under an option, you and the buyer/land trust agree on a specific sale price and terms, and the buyer is given a specific amount of time in which it may exercise its exclusive right to purchase the land or conservation easement. Until the option expires, you cannot sell the land or conservation easement to another buyer. This technique gives the land trust the confidence that you will sell to them once the land trust is in a position to purchase, and it gives the land trust time to raise funds for the purchase.

5. Right of First Refusal

You may grant a right of first refusal to a land trust that might wish to purchase your land at some point in the future. This technique gives the land trust the

opportunity to purchase the property at its appraised value when you are ready to sell or to match any legitimate offer that you might receive from another potential purchaser of your property, in which case you must then sell to the land trust. It's useful if you're not yet ready to sell or if the land trust doesn't currently have the funds to purchase. As with an Option Agreement, there is often an expiration date for the right of first refusal.

E. Property Tax Programs

1. NH Current Use Assessment Program

Current Use Assessment, authorized by **NH RSA 79-A**,³ is a property tax program that provides an opportunity for owners of undeveloped land to lower their property taxes. Current Use does not provide permanent protection. Under this program, parcels of field, farm, forest and wetland of 10 acres or more, and smaller parcels meeting certain other criteria, may qualify for reduced property tax assessment based on preset, per-acre values reflecting the "current" undeveloped uses of the land. This favorable property tax program encourages landowners to keep land undeveloped, but it does not permanently restrict use of the land or protect it from future development.

Landowners apply for Current Use Assessment through their local selectmen or tax assessor. Once enrolled in Current Use, a property remains in Current Use through any changes in ownership until the parcel no longer qualifies for Current Use Assessment because it is either developed (change in land use, adding structures) or



One in a herd of cows on the 15-acre conservation easement donated to the Forest Society by Mary Jane Morse Greenwood, abutting the 457-acre Morse Preserve.
Photo Credit: Forest Society



A fort built by children on the Allen Family Forest, which is used as an outdoor laboratory and classroom by the Marlborough School. Photo credit: Emily Hague

no longer meets the minimum acreage. When a land use change occurs, the current landowner pays a “land use change tax” equal to 10 percent of the fair market value of that portion of the property on which the use has changed. Property in Current Use may be developed at any time (triggering the land use change tax and removal from the Current Use program), after which there are no restrictions on land use.

While the Current Use program offers landowners a financial incentive to keep land undeveloped, it only establishes temporary protection for the land, and it does not offer income tax or estate tax advantages to the landowner.

2. NH Conservation Restriction Assessment Program

The Conservation Restriction Assessment program is a parallel program to Current

Use. Authorized by **NH RSA 79-B**,⁴ this program requires municipal officials to assess your qualifying, easement-protected land at reduced values based on the specific restrictions of the easement and guided by the same per-acre values as used for Current Use. This alternative program can provide an important additional tax incentive for landowners to conserve small but significant conservation tracts, for example, a small parcel with extensive undeveloped shoreline. You can get an application, instructions, and rules for this program from the NH Department of Revenue Administration (including online).

ENDNOTES

1. <http://gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XLVIII-477.htm>
2. <https://www.doj.nh.gov/charitable-trusts/documents/conservation-easements-guidelines.pdf>
3. <http://gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-V-79-A.htm>
4. <http://gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-V-79-B.htm>

Land Conservation Options and

	LAND PROTECTION OPTIONS	DESCRIPTION	RESULTS	
FULL DONATION OF ...	Land	Donation of land	Land trust owns and manages the land.	
	Conservation easement	Donation of a conservation easement	You retain ownership of the property but agree to certain restrictions, such as giving up the right to develop parts of the land.	
	Land by will	Donation of land at the time of your death	The executor of your estate works with the land trust to convey the land to the land trust.	
	Conservation easement by will	Donation of a conservation easement at the time of your death	The executor of your estate works with the land trust to convey the conservation easement to the land trust.	
	Remainder interest in land with reserved life estate	Donation of your personal residence or farm now while retaining lifetime use rights for yourself and possibly others.	You continue to live on your land and cover the costs of property taxes, maintenance and insurance. The land trust assumes full ownership at the time of your death or release of interests by those with use rights.	
BARGAIN SALE OF...	Land	Sale of land for a price less than appraised value	You may claim a charitable contribution for an amount equal to the difference between the appraised value and the sale price.	
	Conservation easement	Sale of a conservation easement for a price less than appraised value.	You may claim a charitable contribution for an amount equal to the difference between the appraised value and the sale price.	
FULL VALUE SALE OF ...	Land	Sale of land for appraised value.	You receive payment for the appraised value of the land.	
	Conservation easement	Sale of a conservation easement for appraised value.	You receive payment for the appraised value of the conservation easement while continuing to own and use the land under the terms of the easement.	

* Property tax reductions would be available through the Conservation Restriction Assessment Program. See page 19 for more information.

Potential Financial Implications

FEDERAL INCOME TAX DEDUCTION AVAILABLE?	FEDERAL ESTATE TAX REDUCTION AVAILABLE?	PROPERTY TAX REDUCTION AVAILABLE?	CASH PAYMENT TO LANDOWNER	
Yes	Yes	Yes, you no longer have to pay property taxes.	No	FULL DONATION OF ...
Yes	Yes	Yes, but only if you are not already enrolled in Current Use.*	No	
No	Yes	Yes, you no longer have to pay property taxes.	No	
No	Yes	Yes, but only if you are not already enrolled in Current Use.*	No	
Yes	Yes	No	No	
Yes	Yes	Yes, you no longer have to pay property taxes.	Yes	BARGAIN SALE OF...
Yes	Yes	Yes, but only if you are not already enrolled in Current Use.*	Yes	
No	No	Yes, you no longer have to pay property taxes.	Yes	FULL VALUE SALE OF ...
No	Yes	Yes, but only if you are not already enrolled in Current Use.*	Yes	