

# Open Space Taxation Act

FEBRUARY 2010

The information and instructions in this publication are to be used when applying for assessment on the basis of current use under the "open space laws," chapter 84.34 RCW and chapter 458-30 WAC.



## What is the Open Space Taxation Act?

The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

## Lands qualifying for current use classification

The law provides three classifications:

### Open space land

### Farm and agricultural land

### Timber land

## Open space land is defined as any of the following:

1. Any land area zoned for open space by a comprehensive official land use plan adopted by any city or county.
  - a. Conserve and enhance natural or scenic resources.
  - b. Protect streams or water supply.
  - c. Promote conservation of soils, wetlands, beaches or tidal marshes. (As a condition of granting open space classification, the legislative body may not require public access on land classified for the purpose of promoting conservation of wetlands.)
  - d. Enhance the value to the public of neighbouring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.
  - e. Enhance recreation opportunities.
  - f. Preserve historic sites.
  - g. Preserve visual quality along highway, road, and street corridors or scenic vistas.
  - h. Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative authority granting the open space classification.
3. Any land meeting the definition of "farm and agricultural conservation land," which means either:
  - a. Land previously classified under farm and agriculture classification that no longer meets the criteria and is reclassified under open space land; or
  - b. "Traditional farmland," not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.



### Farm and agricultural land is defined as any of the following:

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
  - a. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes.
  - b. Enrolled in the federal conservation reserve program (CRP) or its successor administered by the United States Department of Agriculture.
2. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has produced a gross income equivalent to:
  - a. Prior to January 1, 1993, \$100 or more per acre per year for three of the five calendar years preceding the date of application for classification.
  - b. On or after January 1, 1993, \$200 or more per acre per year for three of the five calendar years preceding the date of application for classification.
3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
  - a. Seven years and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
  - b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
4. For parcels of land five acres or more but less than 20 acres, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.
5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
  - a. Prior to January 1, 1993, \$1,000 or more per year for three of the five calendar years preceding the date of application for classification.
  - b. On or after January 1, 1993, \$1,500 or more per year for three of the five calendar years preceding the date of application for classification.
6. "Farm and agricultural land" also includes any of the following:
  - a. Incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.
  - b. Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.
  - c. Any non-contiguous parcel one to five acres, that is an integral part of the farming operations.
  - d. Land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes and provided that the classified parcel is 20 or more acres.
  - e. Land that is used primarily for equestrian-related activities including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to minimum income requirements.

### Timber land is defined as the following:

Any parcel of land five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than 10 percent of the land may be used for such incidental uses.

It also includes the land which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

### Who may apply?

An owner or contract purchaser may apply for current use assessment under the open space law. However, all owners or contract purchasers must sign the application for classification, and any resulting agreement.

### When may I apply?

Applications may be made for classification at any time during the year from January 1 through December 31. Current use valuation assessment begins on January 1 in the year following the year the application was filed.

### Where do I get the application?

Application forms are available from the county assessor's office or by visiting the Department of Revenue's web site at [dor.wa.gov](http://dor.wa.gov).

### Where do I file the application?

An application for open space classification is filed with the county legislative authority.

An application for farm and agricultural land classification is filed with the assessor of the county where the property is located.

An application for timber land classification is filed with the county legislative authority. Timber land applications require that a timber management plan also be filed.

### Is there an application fee?

The city or county legislative authority may, at their discretion, establish a processing fee to accompany each application. This fee must be in an amount that reasonably covers the processing costs of the application.

### What happens after I file my application for open space classification?

Applications for classification or reclassification as "open space land" are made to the appropriate agency or official called the "granting authority." If the land is located in the county's unincorporated area, the county legislative authority is the granting authority on the application. If the land is located within a city or town, the application is acted upon by a joint county/city legislative authority consisting of three members of the county legislative authority and three members of the city legislative authority.

If a comprehensive plan has been adopted by any city or county and zoned accordingly, an application for classification or reclassification is acted upon in the same manner in which an amendment to the comprehensive plan is processed. If there is no comprehensive land use plan, a public hearing on the application will be conducted, but a notice announcing the hearing must be published at least 10 days prior to the hearing.

The granting authority either approves or rejects the application in whole or in part within six months of receiving the application. In determining whether an application made for classification or reclassification should be approved or denied, the granting authority may consider the benefits to the general welfare of preserving the current use of the property.

They may require that certain conditions be met including but not limited to the granting of easements.

If the application is approved, in whole or in part, the granting authority will, within five days of the approval date, send an Open Space Taxation Agreement to the applicant for signature showing the land classification and conditions imposed. The applicant may accept or reject the agreement. If the applicant accepts, he or she must sign and return the agreement to the granting authority within 25 days after the mailing of the agreement.

The approval or denial of the application for classification or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

Current use valuation will begin on January 1 of the year following the year the application was filed. The criteria for classification continue to apply after classification has been granted.



## How does a public benefit rating system work?

If the county legislative authority has established a public benefit rating system (PBRs) for the open space classification, the criteria contained within the rating system govern the eligibility of the lands described in each application filed for that classification and the current use valuation of that land.

When a county creates a PBRs, all classified open space land will be rated under the new system. A parcel that no longer qualifies for classification will not be removed from classification, but will be rated according to the PBRs. Within 30 days after receiving notification of the new value established by the PBRs, the owner may request removal of classification of the parcel without imposition of additional tax, interest, or penalty.

## What happens after I file my application for farm and agricultural land classification?

The assessor will act on each application for classification or reclassification of farm and agricultural land with due regard to all relevant evidence, and may approve the application in whole or in part. Upon application for classification or reclassification, the assessor may require applicants to provide data regarding the use of such land, including the productivity of typical crops, sales receipts, federal income tax returns, other related income and expense data, and any other information relevant to the application.

The application will be considered approved unless the assessor notifies the applicant in writing prior to May 1 of the year following the year the application was made.

The assessor submits the notice of approval to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

## What is an “advisory committee”?

The county legislative authority must appoint a five member committee representing the active farming community within the county. This committee will serve in an advisory capacity to the assessor in implementing assessment guidelines as established by the Department of Revenue for the assessment of open space, farm and agricultural lands, and timber lands.

## How do I appeal a denial of my farm and agricultural land application?

The owner may appeal the assessor’s denial to the board of equalization in the county where the property is located. The appeal must be filed with the board on or before July 1 of the year of the determination or within 30 days after the mailing of the notice of denial, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

## What happens after I file my application for timber land classification?

Applications for current use timber land classification or reclassification are made to the county legislative authority. A timber management plan is required at the time of application or when a sale or transfer of timber land occurs and a notice of continuance is signed.

The application is acted upon after a public hearing in a manner similar to open space land classification within six months of receiving the application.

Approval or denial of an application is a legislative determination and is reviewable only for arbitrary and capricious action. Appeal can be made only to the superior court of the county where the application was filed.

The application form requires information about forest management, restocking, fire protection, insect and disease control, weed control, and any other summary of experience and activity that supports the growth and harvest of timber for commercial purposes.



### **Are there additional requirements once the application for classification or reclassification has been approved?**

The owner of classified land must continue to meet the criteria established for classification, or the assessor may remove the land from the current use classification.

After giving the owner written notice and an opportunity to be heard, the assessor may determine that all or a portion of the land no longer meets the criteria for classification.

### **How is the value of classified land determined?**

The assessor is required to maintain two values for each parcel that is classified. The first is the value that would be placed on the land if it was not classified. This is commonly referred to as the "fair market value." The second is the current use land value based on its present use, not potential use, as classified by the granting authority.

Open space land located within a county that has adopted a public benefit rating system will be valued according to the criteria of the rating system.

In the absence of a rating system, the valuation will be no less than the lowest per acre value of farm and agricultural land in the county.

In determining the current use value of farm and agricultural land, the assessor considers the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years. This earning or productive capacity is the "net cash rental" and is capitalized by a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

Timber land is valued according to a schedule prepared by the Department of Revenue for the Timber Tax law, chapter 84.33 RCW.

### **When are taxes due on classified lands?**

Land which is classified as open space, farm and agricultural, or timber land is assessed at its current use value and placed on the assessment rolls in the year following the year of application. Taxes on classified land are due and payable in the year following the year the land was valued at its current use and placed on the assessment rolls.

### **How long does the classification last?**

When land is classified as open space, farm and agricultural, or timber land, it must remain under such classification and not be applied to any other use for at least 10 years from the date of classification unless reclassified into another current use classification. The land continues in current use classification after the 10-year period until a request for withdrawal is made by the owner, the use of land no longer complies, or the ownership has changed and the new owner has not signed a Notice of Continuance. The notice of removal is recorded with the county auditor in the same manner as the recording of state tax liens on real property. Additional tax, interest, and penalties will apply if an early withdrawal from classification is requested by the owner. Additional tax, interest, and penalties will apply if the land is removed by the assessor for failure to meet continuing qualifications or the Notice of Continuance is not signed when land is sold or transferred.



### **How do I withdraw from classification?**

If intending to withdraw all or a portion of the land from classification after 10 years, the owner must give the county assessor two years prior notice. This notice can be filed after the eighth assessment year of the initial 10-year classification period. If a portion of a parcel is removed from classification, the remaining portion must meet the requirements of original classification unless the remaining parcel has different income criteria.

### **What happens after I file a request to withdraw?**

Upon receipt of a request for withdrawal, the assessor notifies the granting authority that originally approved the classification, and, when two years have elapsed, the assessor withdraws the land from classification. The land withdrawn from classification is subject to an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on that land had it not been classified. The additional tax is payable for the last seven years, plus interest at the same rate as charged on delinquent property taxes.

### **What happens if the classified land is sold or transferred?**

When classified land is sold or transferred, the seller or transferor becomes liable at the time of sale for the additional tax, interest, and penalty unless the new owner(s) signs the Notice of Continuance which is attached to or shown on the real estate excise tax affidavit. The county auditor cannot accept an instrument of conveyance on any classified land unless the Notice of Continuance has been signed or the additional tax, interest, and penalty has been paid. The assessor determines if the land qualifies for continued classification.

### **What if I want to change the use of my classified property?**

An owner changing the use of land from a classified use must notify the county assessor within 60 days of this action. The assessor will remove the land from classified status and impose an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on that land had it not been classified. The additional tax is payable for the last seven years, plus interest at the same rate as charged on delinquent property taxes, plus a penalty of 20 percent of the total amount.

### **How are taxes assessed if my property is classified for only part of a year?**

Assessed valuation before and after removal of classification will be listed and allocated according to that part of the year to which each assessed valuation applies.

### **If the assessor removes my land from classification, may I appeal?**

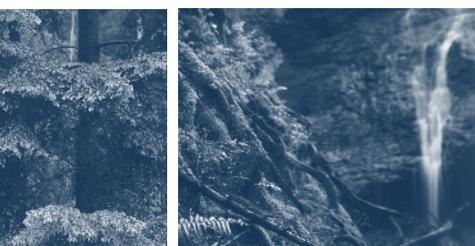
Within 30 days after the land is removed from classification, the assessor must notify the owner in writing explaining the reasons for removal. The owner may file an appeal of the removal from classification to the county board of equalization on or before July 1 of the year of the determination, or within 30 days of the date the notice was mailed by the assessor, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

### **Upon removal from classification, what taxes are due?**

At the time the land is removed from classification, it becomes subject to any additional tax, applicable interest, and penalty that are due and payable to the county treasurer within 30 days after the owner is notified.

### **What if the additional taxes are not paid?**

Any additional tax, applicable interest, and penalty become a lien on the land at the time the land is removed from classification. This lien has priority over any other encumbrance on the land. Such a lien may be foreclosed upon expiration of the same period after delinquency in the same manner as delinquent real property taxes.



### **What is done with the additional tax, interest, and penalty I pay on classified land?**

Upon collection, the additional tax is distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The applicable interest and penalties are distributed to the county's current expense fund.

### **Under what circumstances can my property be removed from classification without additional tax, interest, and penalty?**

The additional tax, applicable interest, and penalty are not imposed if the removal from classification results solely from one of these actions:

1. Land is transferred to a government entity in exchange for other land located within the state of Washington.
2. Land is taken through the exercise of the power of eminent domain, or land is sold or transferred to an entity having the power of eminent domain after receiving notification in writing or by other official action that they anticipated such action.
3. Land use changes because of a natural disaster.
4. The present use of the land is disallowed because of an official action by an agency of the state, county, or city.
5. Land is transferred to a church that qualifies for an exemption under RCW 84.36.020.
6. Property interests are acquired by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for conservation purposes.
7. Removal of land classified as farm and agricultural land on which housing for employees and/or principal place of residence is sited.
8. Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.
9. The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120.
10. The creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040.
11. The sale or transfer of land within two years after the death of an owner who held at least a 50 percent interest in the land if the land has been assessed and valued as designated forest land under chapter 84.33 RCW, or classified under chapter 84.34 RCW continuously since 1993.
12. Removal of land because it was classified in error, by the granting authority, through no fault of the owner.

### **How do I change the classification of my property?**

Land may be reclassified, upon request by the owner, subject to all applicable qualifications for each classification, without additional tax, interest, and penalty for the following:

1. Land classified as farm and agricultural land may be reclassified to timber land; timber land may be reclassified to farm and agricultural land.
2. Land classified as either farm and agricultural land or timber land under chapter 84.34 RCW, or forest land under chapter 84.33 RCW may be reclassified to open space land.
3. Land classified as farm and agricultural land or timber land may be reclassified to forest land under chapter 84.33 RCW.
4. Land previously classified as farm and agricultural land may be reclassified to open space land as "farm and agricultural conservation land" and subsequently be reclassified back to farm and agricultural land.

Applications for reclassification are acted upon in the same manner as approvals for initial classification. The county assessor approves all applications for farm and agricultural classifications and reclassifications. The granting authority approves all land classifications or reclassifications for timber land and open space land. Land less than 20 acres being reclassified into farm and agricultural land classifications from open space "farm and agricultural conservation land," timber land, or forest land may have the income requirements deferred for a period of up to five years from the date of the reclassification.

### **Is supporting information required to change classifications?**

The assessor may require the owner of classified land to submit data regarding the use of the land, productivity of typical crops, income and expense data, and similar information regarding continued eligibility.

### **Laws and Rules**

It is helpful to read the complete laws, Revised Code of Washington, chapter 84.33 and 84.34 (RCW) and rules, Washington Administrative Code, chapter 458-30 (WAC) to understand requirements of the classifications and the tax liabilities incurred.

### **Need More Information?**

Requirements and the manner for making the application for current use is available at the county assessor's office.

#### **For general information contact:**

- **Department of Revenue,  
Property Tax Division**  
P. O. Box 47471  
Olympia, Washington 98504-7471  
(360) 570-5900
- **Web site [dor.wa.gov](http://dor.wa.gov)**
- **Telephone Information Center**  
**1-800-647-7706**
- To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715.
- Teletype (TTY) users please call 1-800-451-7985.

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF KITTITAS STATE OF WASHINGTON

RESOLUTION NO 2002-99

AMENDING RESOLUTION 94-25 OPEN SPACE AND TIMBERLAND CRITERIA

**WHEREAS:** Kittitas County adopted Resolution 94-25 on February 22, 1994 to establish standards and policies for open space and timberland classification for tax purposes; and

**WHEREAS:** The current adopted criteria prohibits all lands located within subdivisions from being eligible for Open Space or Timberland Classification even if the land would otherwise meet the criteria for such classification; and

**WHEREAS:** Cluster subdivision and other subdivisions that would create and preserve open space as part of their condition of approval should be promoted and encouraged through the tax relief incentives available under the open space classification system.

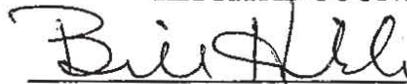
**NOW, THEREFORE, BE IT RESOLVED** That the Kittitas County Board of County Commissioners after having reviewed the current adopted standards and considering the testimony presented, hereby amend requirement (2) on page 5 of Resolution 94-25 as follows:

**Delete:** (2) Lands within platted subdivisions shall not be eligible for Open Space or Timberland Classification.

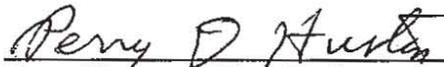
**Add:** (2) Within platted subdivisions, only those parcels that prohibit residential structures shall be eligible for Open Space or Timberland Classification.

DATED THIS 8th day of October, 2002

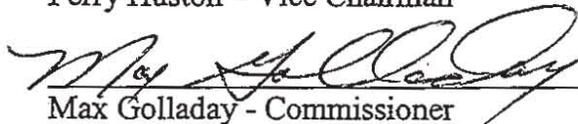
BOARD OF COUNTY COMMISSIONERS  
KITTITAS COUNTY, WASHINGTON



Bill Hinkle - Chairman



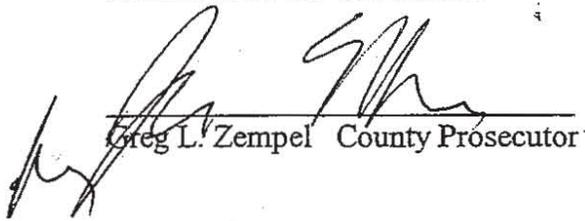
Perry Huston - Vice Chairman



Max Golladay - Commissioner



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Greg L. Zempel County Prosecutor

1 BOARD OF KITTITAS COUNTY COMMISSIONERS

2 RESOLUTION NO. 94-25

3 APPLICATION STANDARDS AND POLICIES FOR  
4 OPEN SPACE AND TIMBERLAND CLASSIFICATION  
5 PURSUANT TO THE OPEN SPACE/TIMBERLAND  
6 TAXATION ACT OF 1970

7 WHEREAS, the 43rd Washington State Legislature adopted in  
8 1970 Chapter 84.34 RCW, an act for the purpose of maintaining,  
9 preserving, conserving and otherwise continuing in existence  
10 adequate open space lands for the production of food, fiber  
11 and forest crops and to assure the use and enjoyment of  
12 natural resources and scenic beauty for the economic and  
13 social well-being of the State and it's citizens; and,

14 WHEREAS, the Legislature further declared that  
15 "assessment practices must be so designed as to permit  
16 continued availability to open space lands for these  
17 purposes"; and,

18 WHEREAS, contrary to popular notion, The Open Space  
19 Taxation Act is not intended as a mechanism to subsidize an  
20 individual or industry with their taxes, but, rather, the law  
21 is intended to preserve the open space for the welfare and  
22 benefit of the general public with tax relief as an attractive  
23 incentive;

24 WHEREAS, the review of applications for Open Space or  
Timberland classification, therefore, is focused on  
demonstrated public benefit; and,

WHEREAS, the Kittitas County Board of Commissioners did  
adopt standards and policies for open space and timberland  
classification in Resolution 93-138 and a review of the  
subject and said Resolution now requires some slight  
amendments to Resolution 93-138.

NOW, THEREFORE, BE IT HEREBY RESOLVED as follows:

RESOLUTION NO. \_\_\_\_\_  
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1. OPEN SPACE LAND IS DEFINED AS:

A. Any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or

B. Any land area, the preservation of which in its present use would

(1) conserve and enhance natural or scenic resources, or

(2) protect streams or water supply, or

(3) promote conservation of soils, wetlands, beaches or tidal marshes, or

(4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or

(5) enhance recreation opportunities, or

(6) preserve historic sites, or

(7) preserve visual quality along highway, road, and street corridors or scenic vistas, or

(8) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting open space classification.

C. Any land meeting the definition of farm and agricultural conservation land under RCW 84.34.020(4)(8).

2. THE CRITERIA FOR OPEN SPACE LAND CLASSIFICATION ARE AS FOLLOWS:

A. Conservation - Applications for Open Space classification based on conservation or enhancement of natural resources must meet at least one of the following:

(1) Geologically significant rock formations that may be appropriate for educational study.

- 1 (2) Archeological sites that are registered with  
2 the State of Washington and protected.  
3 (3) Game preserves and nesting grounds as agreed  
4 by the State of Washington Department of  
Wildlife. (Public access may be controlled.  
Hunting and fishing may be denied.)

5 B. Stream Protection - Applications for Open Space  
6 classification based on protection of streams and  
7 water supplies will meet at least one of the  
8 following:

- 9 (1) Preservation or protection of major drainage  
10 ways (major drainage ways being defined as the  
11 areas where feeder streams intersect with  
12 major streams) flowing directly into streams  
13 of 20 C.F.S. or more.  
14 (2) Tracts continuous to or straddling major  
15 streams flowing at a rate of 20 C.F.S. or  
16 more.  
17 (3) Significant aquifer recharge areas and areas  
18 of significant springs identified as water  
19 resources.

20 C. Soil Conservation - Applications for Open Space  
21 classification based on promotion of the  
22 conservation of soil, control or erosion, wet lands  
23 or marshes will be restricted to at least one of  
24 the following:

- (1) Tracts with 25% or greater slope on at least  
50% of the tracts or where there is physical  
evidence of erosion.  
(a) Applications for this category shall be  
accompanied with a conservation plan  
prepared by the Soil Conservation Service  
including implementation program for the  
plan. (Failure to implement the plan in  
a timely manner will be cause for removal  
from the Open Space category and subject  
to penalties under RCW 84.34.)  
(2) Tracts within the 100 year flood plain.

1 (3) Tracts where commercial development would  
2 destroy the natural cover and could result in  
3 erosion, loss of natural habitat and such  
4 action would result in damage to adjacent  
5 property.

6 3. TIMBERLAND IS DEFINED AS FOLLOWS:

7 A parcel of land five acres or more in size or contiguous  
8 parcels of land which, when taken together, are five or  
9 more acres in size, devoted primarily to the commercial  
10 growth and harvest of forest crops, but does not include  
11 land listed on the assessment roll as classified or  
12 designated forest land according to RCW 84.33, and does  
13 not include the land on which non-forest crops or any  
14 improvements to the land are sited.

15 4. THE CRITERIA FOR TIMBERLAND IS AS FOLLOWS:

- 16 (1) Tracts containing any commercial forest trees  
17 species which will produce a merchantable stand of  
18 timber on a particular site. (Christmas trees and  
19 ornamentals are excluded.)
- 20 (2) Tracts on which trees are distributed over the  
21 acreage with a crown covering of at least one-third  
22 of the area. Seedlings must be established with  
23 the required minimums as established by the  
24 Department of Natural Resources for the area.
- (3) If the tract does not meet categories 2 and 3  
above, then the owner must include the time period  
involved and the stocking plan or a commitment to  
the Forest Practices Act minimum standards.  
(Failure of the applicant to perform to the  
approved timber management plan shall cause the  
property to be removed from this classification and  
subject to penalties under RCW 84.34.)

BE IT FURTHER RESOLVED that the application of the OPEN  
SPACE AND TIMBERLAND CLASSIFICATION POLICY shall be subject to  
the following requirements:

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- (1). The established fee for Open space or Timberland Classification is \$300.
- (2) Lands within platted subdivisions shall not be eligible for Open Space or Timberland Classification.
- (3) An effective noxious weed eradication program shall be implemented on all Open Space and Timberland classified tracts.
- (4) Lands not expressly eligible or ineligible for Open Space or Timberland Classification under the guidelines established by this Resolution will be evaluated carefully and not allowed eligibility unless the applicant clearly demonstrates a significant public benefit from the granting of Open space or Timberland Classification.
- (5) Lands in Open Space and Timberland Classification may be open to public use on such conditions as may reasonably be required by the granting authority.
- (6) If application is denied it shall not be acceptable for resubmission for at least one year.
- (7) Failure of applicant to fulfill the conditions outlined in the change of classification shall constitute a default in the contract resulting in the applicant's removal from the classification and shall result in imposition of penalties outlined in RCW 84.34.

BE IT FURTHER RESOLVED that the Kittitas County Assessor is hereby instructed to make and apply any checklists and

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application forms necessary to implement this Resolution.

ADOPTED this 22<sup>nd</sup> day of February, 1994.

BOARD OF KITTITAS COUNTY  
COMMISSIONERS

Donald E. Sorenson  
Donald E. Sorenson, Chairperson

Mary Seubert  
Mary Seubert, Vice Chairperson

Ray Owens  
Ray Owens, Commissioner

ATTEST:

Anita J. Kazee  
Anita J. Kazee  
Clerk of the Board

APPROVED AS TO FORM

David A. Pitts  
David A. Pitts  
Prosecuting Attorney



RCW 84.34.020  
Definitions.

**\*\*\* CHANGE IN 2010 \*\*\* (SEE 1597-S2.SL) \*\*\***

As used in this chapter, unless a different meaning is required by the context:

(1) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or

(iii) Other similar commercial activities as may be established by rule;

(b)(i) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:

(A) One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(B) On or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) For the purposes of (b)(i) of this subsection, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs;

(c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:

(i) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter.

Parcels of land described in (b)(i)(A) and (c)(i) of this subsection shall, upon any transfer of the property excluding a transfer to a surviving spouse, be subject to the limits of (b)(i)(B) and (c)(ii) of this subsection;

(d) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which meet one of the following criteria:

(i) Has produced a gross income from agricultural uses equivalent to two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) Has standing crops with an expectation of harvest within seven years, except as provided in (d)(iii) of this subsection, and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year. For the purposes of this subsection (2)(d)(ii), "standing crop" means Christmas trees,

vineyards, fruit trees, or other perennial crops that: (A) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (B) typically do not produce harvestable quantities in the initial years after planting; or

(iii) Has a standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year;

(e) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands";

(f) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes; or

(g) Any land that is used primarily for equestrian related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meet the requirements of (a), (b), or (c) of this subsection.

(3) "Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

(4) "Current" or "currently" means as of the date on which property is to be listed and valued by the assessor.

(5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" shall mean the contract vendee.

(6) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, shall be considered contiguous.

(7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.

(8) "Farm and agricultural conservation land" means either:

(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

[2009 c 513 § 1; 2009 c 255 § 1; 2005 c 57 § 1; 2004 c 217 § 1; 2002 c 315 § 1; 2001 c 249 § 12; 1998 c 320 § 7; 1997 c 429 § 31; 1992 c 69 § 4; 1988 c 253 § 3; 1983 c 3 § 227; 1973 1st ex.s. c 212 § 2; 1970 ex.s. c 87 § 2.]

Notes:

**Reviser's note:** This section was amended by 2009 c 255 § 1 and by 2009 c 513 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose -- 2004 c 217 § 1:** "The purpose of the amendatory language in section 1 of this act is to clarify the timber land definition as it relates to tax issues. The language does not affect land use policy or law." [2004 c 217 § 2.]

**Severability -- 1997 c 429:** See note following RCW 36.70A.3201.

RCW 84.34.041

Application for current use classification — Forms — Public hearing — Approval or denial.

An application for current use classification or reclassification under RCW 84.34.020(3) shall be made to the county legislative authority.

(1) The application shall be made upon forms prepared by the department of revenue and supplied by the granting authority and shall include the following elements that constitute a timber management plan:

- (a) A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;
- (b) The date or dates of acquisition of the land;
- (c) A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;
- (d) Whether there is a forest management plan for the land;
- (e) If so, the nature and extent of implementation of the plan;
- (f) Whether the land is used for grazing;
- (g) Whether the land has been subdivided or a plat filed with respect to the land;
- (h) Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;
- (i) Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;
- (j) Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;
- (k) A summary of the past experience and activity of the applicant in growing and harvesting timber;
- (l) A summary of current and continuing activity of the applicant in growing and harvesting timber;
- (m) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

(2) An application made for classification of land under RCW 84.34.020(3) shall be acted upon after a public hearing and after notice of the hearing is given by one publication in a newspaper of general circulation in the area at least ten days before the hearing. Application for classification of land in an incorporated area shall be acted upon by: (a) A granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located in a meeting where members may be physically absent but participating through telephonic connection; or (b) separate affirmative acts by both the county and city legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications.

(3) The granting authority shall act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:

- (a) The land does not contain a stand of timber as defined in chapter 76.09 RCW and applicable rules, except this reason shall not alone be sufficient to deny the application (i) if the land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or the longer period necessitated by unavailability of seed or seedlings, or (ii) if only isolated areas within the land do not meet minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions;
- (b) The applicant, with respect to the land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;
- (c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line.

(4) The timber management plan must be filed with the county legislative authority either: (a) When an application for classification under this chapter is submitted; (b) when a sale or transfer of timber land occurs and a notice of continuance is signed; or (c) within sixty days of the date the application for reclassification under this chapter or from designated forest land is received. The application for reclassification shall be accepted, but shall not be processed until the timber management plan

is received. If the timber management plan is not received within sixty days of the date the application for reclassification is received, the application for reclassification shall be denied.

If circumstances require it, the county assessor may allow in writing an extension of time for submitting a timber management plan when an application for classification or reclassification or notice of continuance is filed. When the assessor approves an extension of time for filing the timber management plan, the county legislative authority may delay processing an application until the timber management plan is received. If the timber management plan is not received by the date set by the assessor, the application or the notice of continuance shall be denied.

The granting authority may approve the application with respect to only part of the land that is described in the application, and if any part of the application is denied, the applicant may withdraw the entire application. The granting authority, in approving in part or whole an application for land classified pursuant to RCW 84.34.020(3), may also require that certain conditions be met.

Granting or denial of an application for current use classification is a legislative determination and shall be reviewable only for arbitrary and capricious actions. The granting authority may not require the granting of easements for land classified pursuant to RCW 84.34.020(3).

The granting authority shall approve or disapprove an application made under this section within six months following the date the application is received.

[2009 c 350 § 14; 2002 c 315 § 2; 1992 c 69 § 20.]

Originally Published June 8, 2010 – Reissued April 8, 2011

## Land Containing Historical Sites Classified as Open Space Land

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<b>Topic</b>	Processing open space applications for parcels containing a historical site and valuing the parcel if it includes a building.
<b>Purpose</b>	<p>This <i>Special Notice</i> is in response to inquiries regarding the methods used by county legislative authorities and assessors when:</p> <ol style="list-style-type: none"><li>1. Processing open space applications, as outlined in RCW 84.34.037, for parcels that contain a historical site.</li><li>2. Valuing the parcel if it includes a building.</li></ol>
<b>Processing open space applications for parcels that contain historical sites</b>	<p>The open space classification provides a reduction in the assessed value of land used for conservation purposes, including land used to preserve historic sites. Applications submitted for the open space classification are processed by the county legislative authority as authorized in RCW 84.34.037. When reviewing an open space application for land that contains a historical site, the county legislative authority can only extend the approval to the land and not to any building or the land under any building, unless the underlying land area is designated as open space in a comprehensive land use plan and zoned accordingly.</p> <p>Unlike the farm and agricultural land classification, the open space classification, as outlined in chapter 84.34 RCW, does not generally provide a reduction in assessed value for land under buildings. However, a comprehensive land use plan may designate land area as open space, even if that land contains a building.</p>
<b>Valuing the parcel if it includes a building</b>	<p>If an open space application for a parcel containing a historical site is approved and the parcel includes a building, the assessor must value the building at its true and fair value. Land that is approved as open space will receive a reduction in assessed value. The assessed value for this land would either be based on the percentage reduction given under the Public Benefit Rating System (if the county has adopted one) or no less than the minimum per acre value of classified farm and agricultural land in the county (if the county has not adopted a Public Benefit Rating System). [RCW 84.34.060]</p>
<b>For more information</b>	<p>If you have questions or need additional information about this <i>Special Notice</i>, please contact the Property Tax Division at (360) 534-1400. ♦</p>

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