

WHATCOM COUNTY PROPERTY TAX REDUCTION PROGRAMS



Open Space Taxation Act—Chapter 84.34 RCW

In a nutshell, what are Whatcom County's property tax reduction programs all about?

In accordance with state law, all property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law (RCW 84.40.030).

In addition to many other types of property tax reduction programs, there are two state laws that allow an exception to property valuation at its 'highest and best use':

Designated Forest Land – Chapter 84.33 RCW [authorizes one tax classification]

Open Space Taxation Act – Chapter 84.34 RCW [authorizes three tax classifications & one sub-classification]

To summarize, the above listed property tax reduction laws were established by the Washington State Legislature to address a statewide concern that lands were being converted to uses inconsistent with commercial agriculture, commercial forestry, the preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, protection of soil and water resources, parks, forests, wildlife preserves, and recreational uses.

The above described tax laws give county assessors authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use (i.e. fair market value). Lands classified as Farm & Agricultural Land, Open Space Land, Farm & Agricultural Conservation Land, Timber Land, and Designated Forest Land may receive a reduced assessed value; thereby providing financial incentives to property owners to voluntarily conserve and preserve these lands.



Dairying — Classified Farm & Agricultural Land



Dairying — Classified Farm & Agricultural Land



Raspberries — Classified Farm & Agricultural Land



Forestry — Classified Timber Land



Open Space Land—Clark's Point Trail

1. Farm & Agricultural Land

All applications for Farm & Agricultural Land are made to the County Assessor's Office, including applications made on lands located in cities. The County Assessor is the granting authority who approves or denies all applications for Farm & Agricultural Land, and who monitors all applications for compliance with their eligibility requirements.

There is no minimum acreage to qualify.

Applications made to classify land 20 acres or more must demonstrate that the land is used for "commercial agricultural purposes".* Applications to classify land that consist of less than 20 acres must demonstrate that the land is devoted to commercial agricultural uses, and also must demonstrate that a certain amount of gross income is made from commercial agricultural uses:

New applications consisting of less than five acres must demonstrate an average gross income of \$1500.00 per year for three out of five years preceding the date of application.

New applications consisting of 5 acres or more but less than 20 acres are required to show an average gross income of \$200.00 per acre per year for three out of five years preceding the date of application: or have standing crops with an expectation of harvest within seven years, with 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; **** or**; have 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.

Note: 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, may also qualify [RCW 84.34.020 (2)(g)].

*Please see the back page of this document for definition of "Commercial Agricultural Purposes".

**"Standing crop" means Christmas trees, vineyards, fruit trees, or other perennial crops that are planted using agricultural methods normally used in the commercial production of that particular crop; and typically do not produce harvestable quantities in the initial years after planting.

*** Incorporated Areas:** Applications for Open Space Land, and its classification Farm & Agricultural Conservation Land, on lands located within a city are acted upon by a joint granting authority comprised of members from the respective city's council and the County Council.

2. Open Space Land

All applications for Open Space Land are received and processed by Planning & Development Services Department, and all applications on lands located within an unincorporated area are approved or denied by the County Council, acting in its role as the granting authority.*

There is no minimum acreage to qualify.

Applications for Open Space Land are evaluated with the Public Benefit Rating System. Applications scoring a Public Benefit Rating (PBR) of 45 points or more receive a staff recommendation of approval. Applications are first reviewed by the Planning Commission, and then after a Public Hearing and after considering the loss of revenue or shift in taxes relative to the benefit offered, the County Council approves or denies each application.

• **Farm & Agricultural Conservation Land is a sub-classification of Open Space Land.**

To qualify for Farm & Agricultural Conservation Land, the land must have been previously classified as Farm & Agricultural Land or have been used as "Traditional Farm Land", and although the evaluation criteria is slightly different, with an emphasis on the preservation of farm land, the application approval/denial process is identical to Open Space Land.

Public Access is required for all applications to classify as Open Space Land or Farm and Agricultural Conservation Land, but this requirement may be waived by the County Council when the purpose of classification is to protect wetlands or endangered species, or archaeological sites.

3. Timber Land

The **Timber Land** classification has been **terminated** by the Whatcom County Council under Ordinance No. 2014-055 (Effective Date: (11/8/14)). All lands formerly classified as timber land are now considered Designated Forest Land as provided in Chapter 84.33 RCW.

Background: During the 2014 legislative session, Senate Bill 6180 was passed by the Washington State Legislature which provides county legislative authorities with the option of merging the open space timber program with the designated forest land program. The new law became effective on June 12, 2014.

To merge the two programs a county legislative authority must enact an ordinance that:

- (a) terminates the timber land classification; and
- (b) Declares that the land that had been classified as timber land is designated forest land under Chapter 84.33 RCW.

Designated Forest Land—Chapter 84.33 RCW

1. Designated Forest Land

The County Assessor is the granting authority who approves or denies all applications for Designated Forest Land, and once approved, monitors all applications for compliance with eligibility requirements. Applications for designated forest land are made to the County Assessor's Office, including applications on lands located within a city.

To qualify, new applications must consist of a minimum of 5 acres devoted primarily to growing and harvesting timber. At any time the county assessor determines that the land ceases to qualify for assessment under the designated forest land classification, the land must be removed from the classification with a requirement that the seller pay compensating tax. The owner may apply to have the land reclassified under Chapter 84.34 RCW.

Notice of Continuance: At the time of sale or transfer in ownership of lands classified under chapters 84.33 & 84.34 RCW, unless the buyer signs a Notice of Continuance and agrees to use the land in accordance with the purpose of classification, the land will be removed from the classification and the seller must pay compensating tax, or additional tax and interest, and penalties (as applicable). The owner may apply to have the land reclassified.

"BACK TAXES": When land ceases to qualify or for any other reason is removed from any of the above described property tax classifications, and except in certain circumstances, the owner/seller will be required to pay additional tax or compensating tax, subject to interest, and penalties (as applicable).

Please see the back page of this document for more information about Whatcom County's Property Tax Reduction Programs

TERMINOLOGY

"Applicant" means the owner who submits an application for classification or reclassification of land under chapter 84.33 or 84.34 RCW.

"Application" means an application for classification or reclassification of land under chapter 84.33 or 84.34 RCW.

"Classified land" means a parcel(s) of land that has been approved by the appropriate granting authority for taxation under chapter 84.33 or 84.34 RCW.

"Reclassification" means when land classified under chapter 84.33 or 84.34 RCW is changed from one classification to a different classification established by chapter 84.34 RCW or into designated forest land as described in chapter 84.33 RCW.

"Current use value" means the taxable value of a parcel of land placed on the assessment rolls following its classification or reclassification under chapter 84.34 RCW.

"Granting authority" means the appropriate agency or official that acts on an application for classification or reclassification under chapter 84.33 or 84.34 RCW.

"Notice of continuance" is the notice signed when land classified under chapter 84.33 or 84.34 RCW is sold or transferred and the new owner requests that the classified use of the land remains classified under chapter 84.33 or 84.34 RCW.

"Removal" or "removed" is when land classified under chapter 84.33 or 84.34 RCW is removed from classification by the assessor because the owner requests removal, the new owner fails to sign the notice of continuance, the assessor does not approve continuance, or the land is no longer used for the purpose under which classification was granted.

"True and fair value -- Highest and best use": Unless specifically provided otherwise by statute, all property shall be valued on the basis of its highest and best use for assessment purposes. Highest and best use is the most profitable, likely use to which a property can be put. It is the use which will yield the highest return on the owner's investment. In some cases, land used for agricultural purposes may have the highest market value, and so in this regard may be considered the "highest and best use"; but when agricultural land is classified as Farm & Agricultural Land, the "current use value" of the land may in some cases be lower than the highest & best use value.

"Commercial agricultural purposes" means the use of land on a continuous and regular basis, prior to and subsequent to application for classification or reclassification, that demonstrates that the owner or lessee is engaged in and intends to obtain through lawful means, a monetary profit from cash income by producing an agricultural product.

Current Use Classification	What are the fees to apply to classify or reclassify?	What are the fees to file a Notice of Continuance?	Where can I apply?
Farm & Agricultural Land	\$200.00	-0-	Assessor's Office
Open Space Land	\$575.00	-0-	PDS
Farm & Agricultural Conservation Land	\$575.00	-0-	PDS
Timber Land (Terminated)	-	-	-
Designated Forest Land	No Application Fee (Recording fees apply)	-0-	Assessor's Office

Note: Fees are in accordance with the Whatcom County Unified Fee Schedule and are subject to change.

PUBLIC BENEFIT RATING SYSTEM (PBRS)

Frequently Asked Questions

The County's Open Space Policy & Criteria & Public Benefit Rating System states in part that the Whatcom County Planning Commission will consider in its recommendations to the County Council, the loss of revenue or shift in taxes that would occur if an application for Open Space Land or Farm & Agricultural Conservation Land were to be approved. (Whatcom County Ord. 95-040) Even if an application receives a score of 45 points or above, which correlates with a recommendation of approval, the County Council may still consider the loss of revenue or shift in taxes that would occur in making its decision to approve or deny an application.

Q. Why this discretion?

A. Instead of electing to adopt a PBRS that results in automatic approval or denial of an application solely on the basis of its score, the County Council has exercised its authority, in accordance with state law, to also consider each application in terms of its overall benefit relative to the monetary shift in taxes that would occur if the application were to be approved. This is to ensure that for each application, the overall benefit is considered relative to the tax burden being shifted onto other tax payers.

For example, if a property owner applies for classification as Open Space Land on 1000 acres that is located within an urban area, and it scores a Public Benefit Rating of 45 or above, because this land when assessed at its highest and best use (i.e. fair market value) results in a property value that is very high, the shift in taxes as a result of approving this application might be considered too great a burden on the other tax payers and not worth the benefit of preserving the land in its current use, (relative to the shift in taxes); and for these reasons the granting authority might decide to deny the application, or approve only part of the application.

Q. Who pays the taxes that are shifted?

A. Generally, when applications are approved for assessment at current use, other tax payers pay more; this is because when cumulative assessed property values go down, levy rates generally increase so that individual taxing districts may meet their budget goals; this "tax shift" also applies to those properties assessed at 'current use.'

Please Note: This is a very general explanation of the Public Benefit Rating System, and exceptions may apply.

RECLASSIFICATION



Generally, and in some cases, land may be eligible to reclassify from one property tax classification to another. Subject to application fees, and approval under applicable criteria, land currently classified under one classification may be approved to reclassify into another classification without having to pay back taxes, interest, or penalties, at time of reclassification. It should be noted that any time land is removed from any of the classifications listed below, the owner will be required to pay additional tax, or compensating tax, and interest and penalties, as applicable.

Designated Forest Land may reclassify as:

- ⇒ Farm & Agricultural Land
- ⇒ Open Space Land

Farm & Agricultural Land may reclassify as:

- ⇒ Open Space Land
- ⇒ Farm & Agricultural Conservation Land
- ⇒ Designated Forest Land

Timber Land

The Timber Land classification has been terminated under WC Ord. No. 2014-055. Lands formerly classified as timber land are Designated Forest Land (Effective Date: 11/8/2014)

Farm & Agricultural Conservation Land may reclassify as:

- ⇒ Farm & Agricultural Land, but only if the land has been previously classified as Farm & Agricultural Land

Farm & Agricultural Conservation Land that qualified on the basis of being traditional farmland may **NOT** reclassify.

Open Space Land may **NOT** reclassify.

FACTS & FIGURES

Classification	Total Acres Classified	% of Total County Acres (+/-)
Farm & Agricultural Land	106,178	7.7%
Open Space Land	1,769	0.128%
Farm & Agricultural Conservation Land	225	0.016%
Timber Land (Terminated)	-	-
Designated Forest Land	124,295	9.02%
Total County Acres		1,377,645



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Washington State Department of Revenue is the state agency charged with overseeing the provisions of property tax reduction programs that are authorized under Chapters 84.33 & 84.34 RCW.