

BOARD OF COUNTY COMMISSIONERS
DOUGLAS COUNTY, WASHINGTON

Ordinance No. TLS 13-07-25B

Open Space Plan & Public)
Benefit Rating System)

LAND SERVICES

WHEREAS, the Department of Transportation & Land Services and the County Assessor's office have collaborated over the past few years to develop a system that will provide greater clarity and predictability to applications seeking open space classification for tax assessment purposes; and

WHEREAS, a public benefit rating system allowed by RCW Chapter 84.34 has been prepared to create a system that provides the clarity, predictability and certainty desired; and

WHEREAS, the proposal establishes a priority array of open space resources and assigns a numerical point value based on the priority ranking; and

WHEREAS, the Douglas County Planning Commission conducted a public hearing on July 10, 2013 and recommends adoption of the plan and rating system; and

WHEREAS, this Board conducted a public hearing on July 30, 2013; and

WHEREAS, this Board has found:

1. It is in the best interest of Douglas County to maintain, preserve, conserve, and otherwise continue adequate open space lands for agriculture and forestry, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.
2. RCW chapter 84.34 authorizes counties to set open space priorities and adopt an open space plan and Public Benefit Rating System (PBRS).
3. The open space plan must contain criteria for determining the eligibility of lands, the process for establishing a PBRS, and an assessed valuation schedule.
4. A PBRS is required to evaluate parcel(s) of land classified as open space for the purpose of determining its current use assessment.
5. The proposal contains the elements required by RCW Chapter 84.34.
6. A PBRS resolves uncertainties, in that property owners considering enrollment will be better informed as to the degree of benefit that could be derived.
7. A State Environmental Policy Act Determination of Non-significance has been entered into the record.

NOW, THEREFORE, be it resolved and ordained that a new chapter of the Douglas County Code is adopted as specified on the attached Exhibit A, that this new chapter constitutes the open space plan and the public benefit rating system authorized by

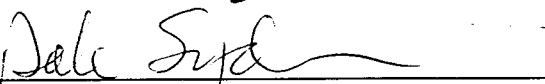
RCW Chapter 84.34, and that these amendments to the Douglas County Code shall be effective immediately.

ADOPTED AND ORDAINED this 30th day of July 2013.

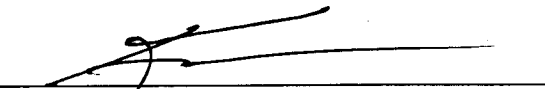
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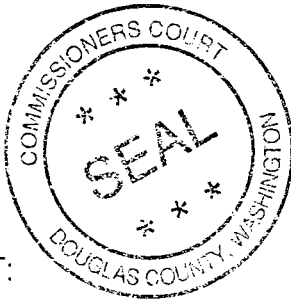
Steven D. Jenkins, Chair



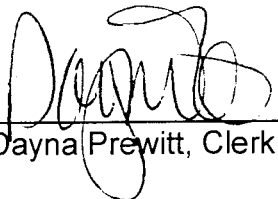
Dale Snyder, Vice Chair



Ken Stanton, Member



ATTEST:



Dayna Prewitt, Clerk of the Board

EXHIBIT A

Chapter 3.52

Douglas County Open Space Plan and Public Benefit Rating System

Sections:

- 3.52.010 Summary**
- 3.52.020 Purpose and Intent**
- 3.52.030 Operation of the County Public Benefit Rating System for Open Space Lands**
- 3.52.040 Assessed Valuation Schedule – Public Benefit Rating System for Open Space Land**
- 3.52.050 Basis of Assessment**
- 3.52.060 Ineligible Lands**
- 3.52.070 High Priority Open Space Resources**
- 3.52.080 Medium Priority Open Space Resources**
- 3.52.090 Low Priority Open Space Resources**
- 3.52.100 Bonus System**
- 3.52.110 Super Bonus Category – Current Use Value of Twenty-Five Percent (25%) of Assessed Market Value**
- 3.52.120 Farm and Agricultural Conservation Land**
- 3.52.130 Application Made to the County**
- 3.52.140 Application Fee**
- 3.52.150 Time to File**
- 3.52.160 Application Review**
- 3.52.170 Review Criteria**
- 3.52.180 Board Decision**
- 3.52.190 Unincorporated Lands**
- 3.52.200 Incorporated Lands**
- 3.52.210 Program Review**
- 3.52.220 Severability**

3.52.010 Summary

RCW chapter 84.34 provides an opportunity for landowners to apply for a reduction in property taxes for certain categories of open space, agricultural and timber lands. This tax reduction is based upon a Current Use Assessment (CUA) of the land rather than on the traditional fair market value system of "highest and best use".

- A. RCW chapter 84.34 authorizes counties to set open space priorities and adopt, after a public hearing, an open space plan and Public Benefit Rating System (PBRs). (RCW 84.34.055.) The open space plan must contain criteria for determining the eligibility of lands, the process for establishing a PBRs, and an assessed valuation schedule. A PBRs is required to evaluate parcel(s) of land classified as open space for the purpose of determining its CUA. This chapter, together with the various volumes of the county comprehensive plan, constitutes the open space plan and the public benefit rating system.
- B. Douglas County's PBRs establishes a priority ranking system for various open space resources, classifies them into high, medium, or low priority open space resource categories, and assigns a point value for each category and for any additional public benefit features. In accordance with RCW 84.34.055, the assessed valuation schedule shall be developed by the county assessor and shall be a percentage of market value based upon the public benefit rating system. The Douglas County PBRs assessed valuation schedule determines the percentage of tax reduction based upon the total number of points accumulated under its rating. The valuation schedule should work to reduce a property's tax assessment in direct relation to its merit for open space priorities. Applications for CUA open space would, after its adoption by the county, be rated and assessed according to the PBRs.
- C. The program will cause a modest tax shift from properties in the program to all other properties in the county. When a property enters the program and benefits from a reduced tax rate, the differential is shifted across all other properties in the same taxing district. County landowners effectively support the retention of the benefits recognized in the county's Public Benefit Rating System.

3.52.020 Purpose and Intent

- A. It is in the best interest of the county to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for agriculture and forestry, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens. Additionally, it is in the county's interest to provide incentives that encourage the retention of open space in compliance with Growth Management Act principles, and maintain buffers that are predominately comprised of native vegetation (RCW 84.34.055(b)).
- B. It is the intent of this chapter to implement RCW chapter 84.34, as amended, by establishing open space priorities, procedures, rules, and fees for the consideration of applications for Public Benefit Rating System assessed valuation

on “open space land” as defined in RCW 84.34.020(2) and “farm and agricultural conservation land” as defined in RCW 84.34.020(1)(c). The provisions of RCW chapter 84.34, and the regulations adopted pursuant thereto shall govern the matters not expressly covered in this chapter. It is not the intent of this chapter that open space classifications become the basis of land use zoning classifications.

3.52.030 Operation of the County Public Benefit Rating System for Open Space Lands

To be eligible for open space classification under the county's Public Benefit Rating System, property must contain one or more open space resource(s) listed below. These resources are defined in this chapter and ranked as high, medium or low priority open space resources. High priority open space resources receive five (5) points each, medium priority open space resources receive three (3) points each, and low priority open space resources receive one (1) point each. Properties can receive a maximum of thirty (30) points from no more than six (6) open space priority resources. In addition, bonus points and super bonus points may be awarded pursuant to this chapter and a property can achieve a maximum of forty-seven (47) points through the rating system and the bonus system. Portions of property may also qualify for open space designation. Refer to DCC 3.52.070, DCC 3.52.080, DCC 3.52.090 and DCC 3.52.100 for resource definitions and descriptions.

- A. **High priority open space resources** – five (5) points each:
 - 1. Type/Category 1 Wetlands;
 - 2. Type/Category 2 Wetlands within the Columbia River jurisdictional limits of the Douglas County Regional Shoreline Master Program;
 - 3. Natural Shoreline Environments;
 - 4. Privately Owned Trails and Corridors;
 - 5. Historic Landmarks/Archeological Sites.
- B. **Medium priority open space resources** - three (3) points each:
 - 1. Rural Conservancy and Urban Conservancy Shoreline Environments;
 - 2. Type/Category 2 Wetlands not within the Columbia River jurisdictional limits of the Douglas County Regional Shoreline Master Program;
 - 3. Urban Growth Area Open Space;
 - 4. Fish and wildlife habitat conservation areas.
- C. **Low priority open space resources** - one (1) point each:
 - 1. Type/Category 3 and Type/Category 4 Wetlands;
 - 2. Scenic Natural Resources, Viewpoints, and View Corridors;
 - 3. Flood Hazard Areas;

4. Geologically Hazardous Areas.
- D. **Bonus system.** Properties qualifying in the specific high, medium, or low priority open space resource categories may receive up to seventeen (17) bonus points if the following additional qualifications are met:
1. Enhanced surface water quality buffer – one (1), three (3), or five (5) points.
 2. Contiguous parcels under separate ownership – two (2) points.
 3. Conservation/historic/trail easement effective during the period of classification and market value reduction– five (5) points.
 4. Bonus public access points:
 - a. Unlimited public access – five (5) points.
 - b. Limited public access/sensitive area – three (3) points.
 - c. Public access to privately owned shorelands - five (5) points.
 - d. Limited public access - three (3) points.
- E. **Super bonus system.** Properties with at least one (1) high priority open space resource and which allow unlimited public access, or limited public access if due to resource sensitivity, and which convey to a land trust organization or similar entity a conservation, historic, or trail easement effective during the period of classification and market value reduction, or real property title, in a form approved by the county, shall be automatically eligible for current use value at twenty-five percent (25%) of assessed market value.

3.52.040 Assessed Valuation Schedule - Public Benefit Rating System for Open Space Land

The Public Benefit Rating System for open space land bases the level of assessed fair market value reduction on the total number of awarded points. The market value reduction establishes the current use value. This current use value will be expressed as a percentage of market value based on the public benefit rating of the property and the valuation schedule below:

Public Benefit Rating Points	Current Use Value
0-5 points	100% of assessed market value
6-11 points	85% of assessed market value
12-17 points	70% of assessed market value
18-23 points	55% of assessed market value
24 points and above	40% of assessed market value
Super Bonus (DCC 3.52.030(E))	25% of assessed market value

3.52.050 Basis of Assessment

In determining the market value reduction of a parcel comprised of property qualifying for a current use assessment as an open space priority resource with non-open space land areas, the open space current use value is applicable to only that portion of the parcel containing one (1) or more of the priority open space resources defined in this chapter, except in the case of public access. For each priority resource, the county will determine the appropriate land area that receives credit for a particular priority resource and accompanying tax reduction. Those portions of a parcel qualifying for a current use tax assessment may be assigned separate Assessor tax parcel numbers for tax purposes only and shall not be construed to be a division of land.

3.52.060 Ineligible Lands

The following parcels shall not be eligible for open space classification:

- A. Parcels less than five (5) acres in size unless otherwise specified herein.
- B. Parcels that do not contain at least one open space resource identified as high, medium, or low priority.
- C. Open space areas required by zoning or other land use regulation, unless the owner provides additional public benefit, such as general public access, resource restoration, or a native growth protection easement. Ineligible lands include open space areas dedicated under zoning or subdivision conditions or which are used to achieve maximum development potential under zoning.
- D. Buffer areas required as part of a development, subdivision, zoning, or other regulatory requirement are not eligible as a surface water quality buffer area priority open space resource, unless other conditions beyond those required by regulation are imposed.
- E. Parcels that are the subject of a notice of violation of the Douglas County Code and/or the Douglas County Regional Shoreline Master Program.

3.52.070 High Priority Open Space Resources

A. Type/Category 1 Wetlands

- 1. **Definition.** Parcels containing undisturbed/undeveloped areas five-thousand (5,000) square feet in size and greater within their boundaries that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and which are rated as a Type/Category 1 wetland.
- 2. **Sources.** A rating conducted by a qualified wetland biologist in accordance with DCC chapter 19.18B or Appendix H of the Douglas County Regional Shoreline Master program, as applicable, that confirms a Type/Category 1 wetland rating and the size of the area within that rating.
- 3. **Eligibility.** Wetlands with a Type/Category 1 rating under DCC 19.18B with:

- a. A minimum buffer area of one hundred-fifty (150) feet landward from the edge of the wetland; or
- b. Such amount of the minimum buffer as contained within the parcel.

B. Type/Category 2 Wetlands within the Columbia River jurisdictional limits of the Douglas County Regional Shoreline Master Program.

1. **Definition.** Parcels within the Columbia River shoreline as defined by the Douglas County Regional Shoreline Master Program containing undisturbed/undeveloped areas five-thousand (5,000) square feet in size and greater within their boundaries that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and which are rated as a Type/Category 2 wetland.
2. **Sources.** A rating conducted by a qualified wetland biologist in accordance with DCC chapter 19.18B or Appendix H of the Douglas County Regional Shoreline Master Program, as applicable, that confirms a Type/Category 2 wetland rating and the size of the area within that rating.
3. **Eligibility.** Wetlands with a Type/Category 2 rating under DCC 19.18B with:
 - a. A minimum buffer area of one hundred-fifty (150) feet landward from the edge of the wetland; or
 - b. Such amount of the minimum buffer as contained within the parcel.

C. "Natural" Shoreline Environment

1. **Definition.** A lake or river shoreline and its associated wetlands designated "natural" in the Douglas County Regional Shoreline Master Program containing both a Zone 1 aquatic habitat buffer and a Zone 2 high quality habitat conservation buffer in accordance with Appendix H of the Douglas County Regional Shoreline Master Program.
2. **Source.** Douglas County Regional Shoreline Master Program.
3. **Eligibility.** Eligible parcels are those identified as natural shoreline environments and their associated wetlands in the adopted Shoreline Master Program governing the area in which the shoreline is located. Eligible parcels will be those that require both a Zone 1 aquatic habitat buffer and the maximum Zone 2 high quality habitat conservation buffer as determined by a qualified wildlife biologist in accordance with Section 3.050(B)(6)(b) of Appendix H of the Douglas County Regional Shoreline Master Program. Eligible parcels must be adjacent to the water. To qualify there must be no structures or buildings within:
 - a. 200 feet upland from the ordinary high water mark (OHWM); or
 - b. 200 feet from the edge of an associated wetland boundary; or
 - c. 200 feet back from the edge of a bluff in a natural shoreline environment.

Eligibility for this resource category cannot overlap with the "Conservancy Shoreline Environment" category or other wetland categories of the Public Benefit Rating System.

D. Privately Owned Trails and Corridors

1. **Definition.** Privately owned trails and corridors that are publicly accessible and used for non-motorized transportation and for recreational activities such as hiking, biking, walking, horseback riding and jogging. The trails may vary in scale and surfacing and may also be used as a means of non-motorized transportation connecting one destination point to another. Streets, roads, and highways with widened shoulders or bike lanes are not included in this category.
2. **Source.** A non-motorized trail plan adopted by the board of commissioners; a trail plan approved by the county as a part of an overall development project.
3. **Eligibility.** Eligible parcels must be used as a public trail or corridor that remains in private ownership. Public access on the trail from a public road or public trail is required.

E. Historic Landmarks/Archaeological Sites

1. **Definition.** Land that constitutes or upon which is situated a historic landmark formally designated by the county or a local jurisdiction, including buildings, structures or sites of significance in the county's historic or prehistoric heritage, such as Native American settlements, trails, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites and landscapes, or traditional cultural properties and landscapes.
2. **Source.** County or other local lists or registers of historic places or landmarks and the state inventory of Archaeological Sites (Washington State Dept. of Archaeology and Historic Preservation) and the county historical society.
3. **Eligibility.** Eligible parcels must be listed on the county or other local list or register of historic places or landmarks for which there is local regulatory protection. Eligible parcels include contributing properties within designated historic districts. Improvements to the land are not eligible for other federal or state tax credits. Additionally, land that has been verified through an archaeological report prepared by a qualified archaeologist that contains archaeological resources. The county will review and make determinations on eligibility, in consultation with the Washington State Dept. of Archeology and Historic Preservation.

3.52.080 Medium Priority Open Space Resources

A. "Conservancy" Shoreline Environments

1. **Definition.** Lake and river shoreline and associated wetlands designated as "rural conservancy environment" or "urban conservancy environment" in the Douglas County Regional Shoreline Master Program containing both a Zone 1 aquatic habitat buffer and a Zone 2 high quality habitat conservation buffer in accordance with Appendix H of the Douglas County Regional Shoreline Master Program.
2. **Sources.** Douglas County Regional Shoreline Master Program.
3. **Eligibility.** Eligible parcels are those identified as either a rural conservancy or urban conservancy shoreline environment and their associated wetlands in the adopted Shoreline Master Program governing the area in which the shoreline is located. Eligible parcels will be lands which require both a Zone 1 aquatic habitat buffer and the maximum Zone 2 high quality habitat conservation buffer as determined by a qualified wildlife biologist in accordance with Section 3.050 B(6)(b) of Appendix H of the Douglas County Regional Shoreline Master Program.

Eligible parcels must be adjacent to the water. To qualify there must be no structures or buildings within 165 feet upland from the ordinary high water mark (OHWM); this area is within the Shoreline jurisdiction, and is based on the Shoreline Master Program; and there must be no structures within 165 feet from the edge of an associated wetland boundary. If there is a bluff, any buildings must be at least 165 feet back from the edge of the bluff in a "conservancy" shoreline environment. Eligibility under this resource category cannot overlap with the "Natural Shoreline Environment" category or other wetland categories of the PBRs.

B. Type/Category 2 Wetlands not within the Columbia River jurisdictional limits of the Douglas County Regional Shoreline Master Program

1. **Definition.** Parcels not within the Columbia River shoreline as defined by the Douglas County Regional Shoreline Master Program containing undisturbed/undeveloped areas twenty-thousand (20,000) square feet and greater within their boundaries that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and which are rated as a Type/Category 2 wetland.
2. **Sources.** A rating conducted by a qualified wetland biologist in accordance with DCC chapter 19.18B or Appendix H of the Douglas County Regional Shoreline Master Program, as applicable, that confirms a Type/Category 2 wetland rating and the size of the area within that rating.
3. **Eligibility.** Wetlands with a Type/Category 2 rating under DCC 19.18B or Appendix H of the Douglas County Regional Shoreline Master Program; with associated minimum wetland buffers as required by those provisions and as contained within the site.

C. Urban Growth Area Open Space

1. **Definition.** Five (5) or more acres of land, open to the public, and located within the boundaries of an urban growth area designated by the board of commissioners. For purposes of this definition, land shall be considered open to the public if it qualifies for receiving any points for public access under the public access section, DCC 3.52.100(D), of this chapter.
2. **Sources.** A comprehensive plan adopted by the county, a city or a town.
3. **Eligibility.** Eligible parcels are those meeting the definition above.

D. Fish and Wildlife Habitat Conservation Areas

1. **Definition.** Designated fish and wildlife habitat conservation areas regulated by the Douglas County Code outside of shoreline jurisdiction and wetlands, as defined by Douglas County Code, including: areas within a one thousand foot radius of a state or federal threatened, endangered, or sensitive species den, nesting, or breeding site, migration corridors or feeding areas of terrestrial species; and cliff, cave and talus slope habitats.
2. **Sources.** Initial indication may be provided by the information sources in DCC 19.18.040 or by written materials provided by a federal or state resource agency. A habitat boundary survey prepared in conformance with DCC 19.18C.035 shall be provided which confirms the presence of the fish and wildlife habitat conservation area regulated by Douglas County Code.
3. **Eligibility.** Parcels that contain one or more of the following shall be eligible under this provision:
 - a. Parcels that contain a federal or state listed threatened, endangered, or sensitive species den, nesting, or breeding site, migration corridors or feeding areas of terrestrial species.
 - b. Parcels that are encumbered by at least 50% of a fish and wildlife habitat conservation area, or where 50% of the parcel is encumbered by a fish and wildlife habitat conservation area defined above.

3.52.090 Low Priority Open Space Resources

A. Type/Category 3 or 4, Artificial Wetland

1. **Definition.** Parcels containing undisturbed/undeveloped areas one acre (43,560 square feet) in size and greater within their boundaries that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and which are rated as a Type/Category 3 or Type/Category 4 wetland.
2. **Sources.** A rating conducted by a qualified wetland biologist in accordance with DCC chapter 19.18B or Appendix H of the Douglas County Regional

Shoreline Master Program, as applicable, that confirms a Type/Category 3 or Type/Category 4 wetland rating.

3. **Eligibility.** Wetlands with a Type/Category 3 or Type/Category 4 rating under DCC 19.18B or Appendix H of the Douglas County Regional Shoreline Master Program, as applicable, with the associated minimum buffers required by those provisions and contained within the parcel.

B. Scenic Natural Resources, Viewpoints, and View Corridors

1. Definitions

- a. **Scenic Natural Resource:** Parcels of ten (10) or more acres in size with natural features that are visually significant to the aesthetic character of the county; or
- b. **Viewpoint:** Parcels that provide a view of an area which is visually significant to the aesthetic character of the county and which provides unlimited public access identified by a permanent sign readily visible from a road or other public right-of-way; or
- c. **View Corridor:** An area of adjoining parcels which individually may be less than one (1) acre but which, when combined, total at least one (1) acre and create a view corridor critical to maintaining a view of a scenic resource area or other visually significant area.

2. **Source.** None available.

3. Eligibility

- a. **Scenic Natural Resource:** Eligible parcels must be significant to the identity of the local area and be visible to a significant number of the general public from public rights-of-way. Such lands must be of sufficient size to substantially preserve the scenic resource value and must be at least ten (10) acres in size.
- b. **Viewpoint:** Eligible parcels must provide a view of a scenic natural resource in the county or other visually significant areas and must provide for unlimited public access.
- c. **View Corridor:** Eligible parcels must meet the definition of view corridor above.
- d. **Exclusion.** No parcels that have been subject to commercial logging or mineral extraction within twenty five (25) years of the date of the open space classification application are eligible under the Public Benefit Rating System.

C. Flood Hazard Areas

1. **Definition.** Parcels with land located within a regulatory floodplain subject to a one percent (1%) or greater chance of flooding in any given year. These

areas include, without limitation, streams, lakes, wetlands and significant drainage ways.

2. **Source.** Flood Damage Prevention Code, DCC chapter 15.48. Parcels with land subject to a one percent (1%) or greater chance of flooding in any given year are as listed and mapped by the Federal Emergency Management Agency and the National Flood Insurance Program with a zone designation in the "A" category.
3. **Eligibility.** Those parcels with more than fifty percent (50%) of their area located within a regulatory floodplain designated in an "A" category that is subject to a one percent (1%) or greater chance of flooding in any given year and on which there are no residential structures or critical facilities (DCC 15.48.020) in the regulatory floodplain.

D. **Geologic Hazard Area Buffers**

1. **Definition.** Parcels with land areas not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns due to their susceptibility to sliding or other slope failures, erosion, earthquake, or other geologic events.
2. **Sources.** Geologically Hazardous Areas Code, DCC chapter 19.18D; NRCS Soil Survey of Douglas County, Washington; United States Geological Survey; Washington State Department of Natural Resources; independent analysis certified by a licensed professional geologist or engineering geologist constituting "best available science" under the guidelines of WAC 365-195-900 through 925.
3. **Eligibility.** Those parcels with areas of undisturbed vegetation located within geologically hazardous areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to, the following:
 - a. Areas of historic failures, such as areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published as the United States Geological Survey or Department of Natural Resources division of geology and earth resources.
 - b. Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking;
 - c. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
 - d. Any area with a slope of forty-five percent or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by

averaging the inclination over at least ten feet of vertical relief.

Verification by a licensed professional geologist or engineering geologist shall be submitted that confirms that least fifty percent (50%) of the parcel is encumbered by the geologic hazard.

3.52.100 Bonus System

Additional point values may be applied for the following eligible lands:

A. Enhanced Surface Water Quality Buffer – One (1), three (3), or five (5) points

1. **Definition.** Parcels that contain an undisturbed zone of multi-tiered native vegetation adjacent to a lake, pond, river, stream or wetland that includes the buffer required by DCC Title 19 and/or the Douglas County Regional Shoreline Master Program, as applicable, together with an additional area of multi-tiered native vegetation that is at least fifty percent (50%) of the area of the required minimum buffer, that will contribute to the protection of water quality in a surface water body.
2. **Sources.** Evaluations conducted by a qualified wildlife biologist or wetland biologist, as applicable, in accordance with DCC chapters 19.18B and 19.18C, or Appendix H of the Douglas County Regional Shoreline Master Program.
3. **Eligibility.** Parcels qualifying under the "Surface Water Quality Buffer Area" would receive additional points through the provision of additional buffer which is preserved from clearing, grading and agricultural activities including livestock intrusion. Eligibility requires property use and access restrictions beyond those specified in the DCC Title 19, the Douglas County Regional Shoreline Master Program or other surface water protection regulations. The bonus points are awarded as follows:
 - a. One and a half (1-1/2) times additional buffer width beyond that required by regulation: one (1) point; or
 - b. Two (2) times additional buffer width beyond that required by regulation: three (3) points; or
 - c. Three (3) times additional buffer width beyond that required by regulation: five (5) points.

B. Contiguous Parcels under Separate Ownership - three (3) points

1. **Definition.** Contiguous parcels of land with the same open space resources are eligible for treatment as a single parcel if open space classification is sought under the same application. "Contiguous parcels" are defined as parcels abutting each other or abutting a publicly owned open space without any significant manmade barrier that materially restricts the free movement of wildlife or interferes with the visual continuity between the two (2) or more properties.

2. **Source.** Not applicable.
3. **Eligibility.** The total area of all parcels combined must equal or exceed any required minimum (rather than each parcel being required to meet such minimums). This contiguous parcel bonus must be accepted by all the applicants within the configuration under identical terms and conditions of access, easements, and restrictions. Individual parcels may be withdrawn from open space classification consistent with all applicable rules and regulations without affecting the continued eligibility of all other parcels accepted under the same application, provided that the combined area of the parcels remaining in open space classification must equal or exceed any minimum size requirement established in the PBRS and that access to the remaining parcels is not affected. Remaining parcels will be re-evaluated to determine eligibility for the contiguous parcel bonus. Contiguous parcels must meet the following conditions:
 - a. The application must include two (2) or more parcels. Only one application fee will be assessed; and
 - b. Each parcel included in the application must contain qualifying open space resources as defined by the Public Benefit Rating System; and
 - c. The owner(s) of parcels included in the application must agree to such terms and conditions for inclusion in the program that are consistent with the open space resource of the property;

C. Conservation/Historic Easement - five (5) points.

1. **Definition.** An easement, effective during the period of classification and market value reduction, that restricts further potential development, or other uses of a property, and which may include a requirement for native growth protection.
2. **Sources.** Not applicable.
3. **Eligibility.** Eligible parcels are those that qualify for any high, medium or low open space resource classification. The conservation/historic easement will be in a form, and with such conditions, as are acceptable to the county.

D. Public Access - zero (0) to five (5) points.

1. **Definition.** Access to classified open space lands by the general public is encouraged for all lands unless it is determined that such access would damage or endanger the resource. Property owners who allow access to the property, beyond that which is otherwise required by the open space resource category, should be afforded consideration in the level of tax reduction they receive depending on the level of access allowed and the conditions under which access is permitted.
2. **Source.** Not applicable.

3. **Eligibility.** Parcels shall be awarded additional points to the extent that such public access is available to the open space site, to a maximum of five (5) points. For open space resource categories which either contain public access requirements in the definition or eligibility criteria, no public access bonus points shall be awarded. The applicant shall specify the type of access that will be available in the application. Access points shall be awarded on the following scale:

a. **Unlimited Public Access** – five (5) points

Year-round access to the general public is allowed without special arrangement with the property owner.

b. **Limited Public Access/Sensitive Area** – three (3) points

Access may be reasonably limited due to the sensitive nature of the resource, as documented by a qualified professional, with access provided only to appropriate user groups. The access allowed must generally be for an educational, scientific, or research purpose and available through special arrangements with the owner.

c. **Privately Owned Shorelands Access** - five (5) points

Public access to shorelands and such portions of the upland property necessary to provide access to the ordinary high water mark. Eligibility for public access points requires that the property is able to provide public access to the shorelands from a public right-of-way. Entry points and uses may be posted so that it does not detract from the resource.

d. **Limited Public Access** - three (3) points

(i) Access to the public is allowed, with or without special arrangements with the property owner, for any period of more than six (6) months and less than the full calendar year.

(ii) Access is available to any and all of the general public during any period of the year upon special arrangements with the owner or upon the payment of a use fee that may not exceed twice the cost for members of the organization utilizing the facility.

e. **No Public Access** - zero (0) points

(i) No public access is allowed.

(ii) Members only access. Access is restricted at all times to members of the organization utilizing the facility.

f. **Signage**

For properties allowing public access and receiving access points under a) and d) above, signs which designate the properties as part of the Open Space Taxation Program and state the conditions of access shall

be posted. The signs, the cost of which shall be the responsibility of the landowner, shall be:

- (i) posted within ninety (90) days following enrollment in the program;
- (ii) purchased from or approved by Douglas County as official open space access signage;
- (iii) posted on the subject property's road frontage, or nearest public road as deemed appropriate by the Board; and
- (iv) maintained at the landowner's expense in good condition for as long as the property is enrolled in the program. Failure to maintain or replace removed, missing, or damaged signs by the property owner may jeopardize enrollment in the program.

g. Accessibility

For parcels allowing access and being considered for receiving access points under a) through d) above, no points will be allowed if the parcel is not reasonably accessible. Off-road parking may be required where necessary to provide safe vehicular or pedestrian access. The property owner may, at their own expense and without any deduction in the number of public access points awarded, limit access to the property to a reasonable number of locations through the use of fences, berms or other access barriers. Such physical barriers must be approved by the appropriate agency in advance, so as not to defeat the purpose of a resource category, for instance restricting wildlife in a wildlife corridor or construction of a visually incompatible fence near an historic resource.

h. Limitations on Access and Use

Reasonable limitations on access and use of properties may be imposed without a deduction in the number of public access bonus points a property receives. For example, prohibiting access before a reasonable time in the morning and after a reasonable time in the evening, prohibiting the use of any motorized or wheeled vehicles (except those required by disabled persons), prohibiting the use of the parcel for any kind of social gathering, prohibiting the consumption of any alcoholic beverages on the property, prohibiting the use of the property for picnics, etc. are all examples of reasonable limitations on the use of the parcel by the public which would likely not result in a reduction of points received by the property in the public access category. Allowances and restrictions must be included in such documents or easements that establish the property as eligible for current use taxation.

i. Hold Harmless Agreement

All owners of parcels enrolled in the program that grant public access to the parcel shall execute and record a hold harmless agreement, releasing Douglas County of any liability that may arise as a result of enrollment in the program. Such forms shall be provided by the Prosecuting Attorney.

3.52.110 Super Bonus Category – Current Use Value of Twenty-five Percent (25%) of Market Value

Properties with at least one (1) high priority open space resource and which allow unlimited public access, or limited public access if due to resource sensitivity, and which convey to a land trust organization or similar entity a conservation, historic, or trail easement effective during the period of classification and market value reduction, or real property title, in a form approved by the county, shall be automatically eligible for current use value at twenty-five percent (25%) of assessed market value.

3.52.120 Farm and Agricultural Conservation Land

Applications for designation as farm and agricultural conservation land under RCW 84.34.020(1)(c) shall be accompanied by a farm management plan, prepared by a qualified agronomist, that demonstrates how the property will be returned to a level-of production within five (5) years after designation as farm and agricultural conservation land that results in the land being reclassified as farm and agricultural land under RCW 84.34.020(2). The county assessor is authorized to remove land from designation as farm and agricultural conservation land five (5) years after designation by the board of commissioners, regardless of whether it is transferred to another designation. Land classified by the board of commissioners as farm and agricultural conservation land shall be eligible for an assessed fair market value reduction of fifty percent (50%).

3.52.130 Application Made to the County

An owner of open space land desiring assessed valuation under the Public Benefit Rating System shall make application to the board of commissioners by filing an application with the county department of transportation and land services (“department”). The application shall be upon forms supplied by the department and shall include such information necessary to properly classify an area of land under RCW chapter 84.34 with a notarized verification of the truth thereof. Applications will be reviewed for a determination of completeness in accordance with DCC 14.08.030. Potential applicants are encouraged to consult with the County Assessor and RCW Chapter 84.34, particularly RCW 84.34.070 (Withdrawal from Classification), RCW 84.34.080 (Change in Use), and RCW 84.34.108 (Removal of Classification).

3.52.140 Application Fee

Each application for current use open space taxation as defined in RCW 84.34.020 must include an application fee in the amount established by resolution of the board of commissioners.

3.52.150 Time to File

Applications shall be made by the last business day of the calendar year preceding the year in which such classification is to begin. Actual tax reduction will not be recognized until one year after the classification of the property has been made. RCW 84.34 exempts applications from the limitation on annual comprehensive plan amendment

cycles and are exempt for the procedural requirements of the State Environmental Policy Act (RCW chapter 43.21C).

3.52.160 Application Review

- A. The board of commissioners, upon recommendation of the Douglas County hearing examiner, shall take final action on applications under the Public Benefit Rating System.
- B. The review of a complete application filed under the provisions of this chapter requires at least one public hearing before the hearing examiner and one public meeting before the board of commissioners.
- C. At least ten days before the date of the first hearing examiner public hearing the department of transportation and land services ("department") shall issue public notice of the date, time, location and purpose of the hearing.
- D. At least ten days prior to the hearing the department shall issue a written staff report, integrating the results of the PBRS and a recommendation, if any, regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall mail a copy of the staff report and recommendation to the applicant or the applicant's designated representative and the hearing examiner. The department shall make available a copy of the staff report, subject to a reasonable charge, to other persons who request it; or, alternatively, make the application available on the county's internet website.
- E. At the conclusion of oral testimony at a public hearing the hearing examiner may establish the date and time at which the public record will close. The public record may be extended beyond the public hearing for the purpose of allowing written testimony to be submitted. The extension shall not exceed ten (10) working days after the conclusion of oral testimony. All recommendations of the examiner shall be rendered within ten (10) working days after the date the public record closes.
- F. Following the public hearing, the recommendation of the hearing examiner shall be forwarded to the board of county commissioners. Upon receiving the recommendation from the hearing examiner, the board of county commissioners shall set a public meeting to consider the proposal. The department shall issue public notice of the date, time, location and purpose of the public meeting.
- G. The board of county commissioners may, at the public meeting, either accept or reject the recommendation of the hearing examiner. The board of commissioners shall hold a public hearing to consider any changes to the recommendation of the hearing examiner. Notice of the hearing shall be provided in the same manner as DCC 3.52.160(2). The board of county commissioners may approve, approve with conditions, deny or remand the proposal back to the hearing examiner for further review after such public hearing.

3.52.170 Review Criteria

In considering whether an application made for open space current use taxation status should be approved or disapproved, pursuant to RCW 84.34.020 and this chapter, a determination shall be made as to whether or not preservation of the current use of the land, when balanced against the resulting revenue loss or tax shift from granting the application under the provisions of this chapter, will:

1. conserve or enhance natural, cultural or scenic resources;
2. protect streams, stream corridors, wetlands, natural shorelines, and aquifers;
3. protect soil resources and unique or critical wildlife and native plant habitat;
4. promote conservation principles by example or by offering educational opportunities;
5. enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries or other open spaces;
6. enhance recreation opportunities;
7. preserve historic and archeological sites;
8. preserve visual quality along highway, road, and street corridors or scenic vistas; and/or
9. affect any other factors relevant in weighing benefits to the general welfare or preserving the current use of the property as delineated in this chapter.

3.52.180 Board Decision

The board of commissioners shall evaluate an application under the Public Benefit Rating System established in this chapter. The board of commissioners shall approve the application, with or without terms and/or conditions, and set the public benefit rating for assessment, or deny the application. The final decision of the board of county commissioners shall be adopted by a resolution establishing findings, conclusions and conditions, if any. The following provisions apply to the action of the board of commissioners:

- A. The parcel(s) proposed for classification shall be rated according to the Public Benefit Rating System;
- B. The application may be approved with respect to only part of the land that is the subject of the application; and
- C. If any part of the application is denied or conditions attached, the applicant may withdraw the entire application by filing written notice with the county assessor within thirty (30) days of final action by the board of commissioners.

3.52.190 Unincorporated Lands

In all unincorporated areas, the board of commissioners shall act as the granting authority for applications for classification as open space land, and farm and agricultural conservation land.

3.52.200 Incorporated Lands

Applications for open space classification of land in an incorporated area shall be acted upon by a determining authority composed of the three (3) members of the board of commissioners and three (3) members of the legislative body of the city/town in which the land is located (RCW 84.34.037). Where the board of commissioners concurs with a recommendation of the city/town council members of the determining authority to approve or reject an application for open space classification, such council members' recommendation will be adopted as the decision of the determining authority.

3.52.210 Program Review

The county assessor and the department of transportation and land services shall review the Open Space Program at the inclusion of the first additional ten thousand (10,000) acres approved for open space classification after the adoption of this chapter or, after the first five (5) years after adoption of this chapter, whichever occurs sooner, and thereafter once every five (5) years. The county assessor and the department of transportation and land services shall make written recommendations to the board of commissioners on the following matters:

- A. The fundamental elements of the Public Benefit Rating System, including such elements as the assessed valuation schedule and the other PBRs procedures defined in this chapter, open space resource definitions, etc.; and
- B. The public benefit of the open space designated properties, the magnitude of the tax shift resulting from the designated properties and recommendations for expanding or restricting the program; and
- C. The overall administrative process, including such issues as staffing, outreach to prospective applicants, application form and application processing, monitoring, etc.

3.52.220 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or its application to other persons or circumstances is not affected.