

DRAFT

Chapter 17.18 – Mason County Public Benefit Rating System

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17.18.010 - Purpose and intent.

- A. Purpose. It is in the best interest of the county 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, historic and cultural 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.
- B. Intent. It is the intent of this chapter to implement Revised Code of Washington (RCW), as amended, by establishing procedures, rules, and fees for the consideration of applications made by land owners for public benefit rating system assessed valuation on "open space land" as defined in RCW 84.34.020(1) and (8). The provisions of Chapter 84.34 RCW, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

17.18.020 - Definitions.

For the purposes of this chapter, unless otherwise required by the context, words and phrases shall have the following meaning:

- (1) "Assessor" means the Mason County assessor or his or her designated representative.
- (2) "Board" means the Board of County Commissioners of Mason County.

- (3) "County" means Mason County, state of Washington.
- (4) "Open space land" means any land area so designated by the Mason County comprehensive land use plan adopted by the County and zoned accordingly, or 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 any land meeting the definition of farm and agricultural conservation land in RCW 8.34.020(8).
- (5) "Planning Commission" means the Mason County Planning Advisory Commission.
- (6) "Planning Department" means the Mason County Planning Department under the Community Services Division.
- (7) "Public Benefit" means any activity or activities that accomplish a public purpose and/or provide for a community's social, economic, and cultural well-being, public health, and safety.
- (8) "Rural Lands" means those areas outside of the designated Resource Lands and Urban Growth Areas.
- (9) "Shoreline Environments" means those designated lands as defined in the Mason County Shoreline Master Program.
- ~~(10)~~ "Urban Areas" are those designated in Urban Growth areas around the incorporated area of Shelton and the two unincorporated areas of Allyn and Belfair.

17.18.030 - Operation of the county public benefit rating system.

To be eligible for open space classification under the county's public benefit rating system, property must contain six (6) or more open space resource points listed below as defined in Mason County Code (MCC) Section 17.18.035 of this Chapter. These resources are defined in this chapter and ranked as high, medium or low priority open space resources. High priority open space resources receive ten (10) points each, medium priority open space resources receive six (6) points each, and low priority open space resources receive two (2) points each. Properties can receive a maximum of thirty (30) points. Portions of property may also qualify for open space designation.

- A. **High priority open space resources.** Ten (10) points each:
 - 1. Public recreation area;
 - 2. Trail linkages and recreational corridors;
 - 3. Natural shoreline environments;
 - 4. Aquifer protection areas;
 - 5. Special plant or ecological sites,

~~6. Regulated wetlands;~~

7. Significant fish and wildlife habitat conservation areas;
8. Historic landmarks/archeological sites;
9. ~~Private lands within designated federal lands (Olympic National Park or Olympic National Forest); and~~
10. Farm and agricultural conservation lands.

B. **Medium priority open space resources.** Six (6) points each:

1. Conservancy shoreline environments;
2. Scenic natural resources, viewpoints, and view corridors;
3. Urban open space;
4. Rural open space.

C. **Low priority open space resources.** Two (2) point each:

1. Restored lands;
2. Other shoreline environments.

D. Properties with at least one (1) high priority open space resource, which allows unlimited public access, or limited public access if due to resource sensitivity, shall be automatically eligible for current use value at ten (10) percent of market value.

E. Special exceptions to this priority framework that do not violate state (RCW 84.34) law and that have the support of either the Washington State University Cooperative Extension Service, the Washington State Department of Natural Resources, the USDA, Natural Resource Conservation Service, Mason County Conservation District, or any other agency with knowledge or expertise regarding any open space reclassification or other current use application will be considered on a case by case basis.

F. Completed restoration projects pursuant to provisions of the County's Shoreline Master Program which specifically address one of the priority actions in MCC 17.50.260 (A)(8)(a.-m.) shall be automatically eligible for current use value at ten (10) percent market value. Property is eligible during the monitoring phase.

Commented [KR1]: BOCC split. Either leave in High category or move to Medium. PAC to discuss.

Commented [KR2]: BOCC split. Either move to Low category or remove altogether.

Commented [KR3]: Staff to add indemnity language after consultation with County Attorney per MV comment.

Commented [KR4]: Strike this section altogether. See 17.18.050 for properties receiving an additional 10% reduction when access allowed.

17.18.035 – Eligibility of high, medium and low priority public benefit resources.

A. High priority resources.

1. **Public recreation area** means property which is currently devoted to providing active or passive non-motorized recreation use or which complements or substitutes for government facilities. The facility must be open to the public and, if charging a use fee, that fee shall be no higher than the fee charged by a like public facility. In addition, the facility must be managed using best management practices for environmental sustainability. An eligible site is then identified by the planning department or its designee as meeting the definition of an active or passive recreation area.

2. **Trail linkages and recreational corridors** means privately owned trails and corridors that are publicly accessible and used for 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 (1) destination point to another. Streets, roads, and highways with widened shoulders or bike lanes are not included in this category. Eligible lands 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.

3. **Natural shoreline environment** means a marine, lake, or river shoreline and its "associated wetlands" designated as "natural" under the County's Shoreline Master Program. To qualify there must be no structures or buildings, including bulkheads from the ordinary high water mark (OHWM) to the established common-line plus 50-feet. To be eligible, this area shall be covered with native vegetation.

4. **Aquifer protection areas** means those areas as regulated under MCC 8.52.120 (Critical Aquifer Recharge Areas), which are determined to have an important recharging effect on aquifers used as a source for potable water, recharging salmon streams and/or vulnerable to contamination from recharge. To be eligible, this area shall remain undeveloped, free from the storage of materials, including parking, etc. and must have a plant community in which native plants are dominant. At least one acre of open space shall be designated as a critical aquifer recharge area.

5. **Special plant or ecological sites** means sites with naturally occurring concentrations of those plants defined as being monitor species and meeting the criteria for native plant communities by the Washington State Department of Natural Resources; or an old growth forest stand at least five (5) acres in size. An eligible site must be listed in the Natural Heritage Data Base or be identified by an expert acceptable to the department confirming that qualified species are present on the property.

~~6. **Regulated wetlands** means wetlands as defined by MCC 8.52.110 and shall be delineated and categorized by a qualified wetland professional. To be eligible, wetland buffers, including buffer averaging, shall have at least 10 percent greater buffer than required by MCC 8.52.110. Buffers shall be covered with native vegetation.~~

7. **Significant fish and wildlife habitat conservation areas** means areas identified as being of critical importance to the maintenance of fish and wildlife species including areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; and streams. To be eligible, this area shall be at least 10,000 square feet in size and protecting a critical area with at least 10 percent greater buffer than required by MCC 8.52 or MCC 17.50. Buffers shall be covered with native vegetation. The Planning Department may require preparation and submittal of a biological site assessment or habitat management plan that shall provide a description of the fish and wildlife habitat conservation area, the location of the protected features, the location of buffers and a description of efforts to protect the fish and wildlife habitat conservation area, or a description of restoration efforts in those instances where the critical area has been damaged.

8. **Historic landmarks/archaeological sites** means lands which constitute or upon which is situated a formally designated historic landmark, including buildings, structures or sites of significance in the county's historic or prehistoric heritage, such as Native American sacred sites and settlements, trails, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites and landscapes, or traditional cultural properties and landscapes. Eligible properties must be listed on the county, State or Federal register of historic places or landmarks for which there is regulatory protection. Eligible properties 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 may be eligible. The county will review and make determinations on eligibility.

9. **Private lands within federal lands** means officially designated areas under private ownership located within federal lands that remain undeveloped and are maintained to protect the landscape of the park or forest. Eligible lands are privately owned parcels dominated by native vegetation.

10. **Farm and agricultural conservation lands** means either: (a) Land that was previously classified under "farm and agricultural land" (84.34.020 (2) RCW) that no longer meets the criteria for that program and is reclassified as open space land under the criteria of the public benefit rating system; 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.

B. Medium priority resources.

1. **Conservancy shoreline environment** means a marine, lake or river shoreline and associated wetlands designated as "conservancy environment" under the County's shoreline master program. To qualify there must be no structures or buildings, including bulkheads from the ordinary high water mark (OHWM) to the established common-line plus 50-feet. To be eligible, this area shall be covered with native vegetation.

2. **Scenic natural resources, viewpoints, and view corridors** means areas of ten (10) or more acres of natural features which are visually significant to the aesthetic character of the county, contains features which otherwise qualifies as a historic landmark or archaeological site, or which includes significant wildlife gathering or nesting sites. No lands 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. Eligible sites must be significant to the identity of the local area and be visible to a significant number of the 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.

a. **Viewpoint** means property that provides 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. Eligible sites must provide a view of a scenic natural resource in the county or other visually significant areas and must provide for unlimited public access.

b. **View corridor** means 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.

3. **Urban open space** means land located within the boundaries of an urban growth area that has a plant community in which native plants are dominant and that under the applicable zoning is eligible for more intensive development or use. To be eligible as urban open space, the enrolling area must be at least one acre or be at least one-half acre if the area is protecting a critical area with at least 10 percent greater buffer than required by MCC 8.52 or MCC 17.50.

4. **Rural open space** means an area of five (5) or more contiguous acres that has a plant community in which native plants are dominant and that is located outside of the urban growth area as identified in the Mason County Future Land Use Map, except that an eligible site may include former open farmland, woodlots, scrublands or other lands that have been replanted with native vegetation.

Commented [KR5]: Low category or remove.

C. Low priority resources.

1. **Restored lands** means an area of at least one-half acre (21,780 square feet) of previously disturbed land that has been restored with native vegetation. To be eligible, restoration shall be determined as established and thriving native plant community. Disturbed lands include lands previously cleared and/or lands dominated by invasive plants and/or noxious weeds. ~~Additional points can be given for every one-half acre restored up to a total of five (5) acres (10 points).~~

Commented [KR6]: BOCC split. One acre minimum or 10 acre minimum? BOCC recommends moving to Medium for total of 6 points.

2. **Other shoreline environments** means a marine, lake or river shoreline and associated wetlands designated as "rural, residential or commercial environment" under the County's shoreline master program. To qualify there must be no structures or buildings, including bulkheads from the ordinary high water mark (OHWM) to the established common-line or standard buffer plus 50-feet. To be eligible, this area shall be covered with native vegetation.

17.18.040 - Ineligible lands.

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

- A. Properties less than one (1) acre or eligible areas less than one-quarter acre (10,890 square feet) in size unless otherwise specified herein.
- B. Properties that do not contain an open space resource identified as either high, medium, or low priority or meet the criteria under 17.18.030 E.
- C. Open space areas or buffers required by zoning, subdivision conditions, mitigation or other land use regulations, unless the owner provides additional public benefit as described in section 17.18.035.
- D. Commercial nurseries, arboretums or other maintained garden sites with native or nonnative plantings.
- E. Properties with outstanding code violations as tracked and reported by the county as an open enforcement case.
- F. Properties or portions of property that have been disturbed by clearing, grading, filling, or any other non-natural event.

17.18.050 - Assessed valuation schedule—Public benefit rating system.

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 – 5-9 points) | 100% of assessed value |
| (6 – 9 points) | 60% of assessed value |
| (10 - 19 points) | 40 50% of assessed value |

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| (20 – 29 points) | 30% of assessed value |
| 30+ points | 20% of assessed value |

Properties that allow public access shall receive an additional 10 percent reduction in assessed value.

17.18.070 - Basis of assessment.

In determining the market value reduction of a tax lot 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 lot containing one (1) or more of the priority open space resources defined in this chapter, except in the case of public access and parcels with an approved rural stewardship plan. For each priority resource, the county will determine the appropriate land area that receives credit for a priority resource and accompanying tax reduction.

17.18.080 - Application to the county under the public benefit rating system.

An owner of open space land desiring assessed valuation under the public benefit rating system shall make application to the Planning Department by filing an application with the county's Permit Assistance Center. The application shall be upon forms supplied by the county and shall include such information deemed reasonably necessary to properly classify an area of land under Chapter 84.34 RCW.

17.18.090 - Application fees.

- A. Each application for current use open space taxation as defined in RCW 84.34.020, must include an application fee as established in the most current Mason County Planning Permit Fee Schedule. Upon adoption, application fees shall be set at five hundred (500) dollars.
- B. If an application is filed to add farm and agricultural conservation land, forest stewardship land, resource restoration or rural stewardship land to a parcel that is already enrolled in the Public Benefit Rating System, no fee shall be charged for the application.
- C. In the case of all farm and agricultural land applications, whether the application is based on land within or outside of an incorporated area, the entire fee shall be collected and retained by the county. In the case of open space or timber land applications based on land in an incorporated area, where the city legislative authority has set no filing fee, the county fee shall govern, and the entire fee shall be collected and retained by the county. Where the city legislative authority has established a filing fee, the fee established consistent with Section A of this section shall be collected by the county from the applicant and the county shall pay the city one-half of the fee collected.

17.18.100 - Time to file.

Applications shall be made to Mason County by March 30 of the calendar year preceding the year in which such classification is to begin. Actual tax reduction will not be recognized until one (1) year after the classification of the property has been made.

17.18.110 - Application review.

- A. Applications under the public benefit rating system shall be reviewed by the county and approved directly by the Board of Mason County Commissioners. By Chapter 84.34 RCW such

applications are exempt from the comprehensive plan annual review amendment cycle and are SEPA exempt.

- B. In determining 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, the county shall consider whether 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; or
 8. 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.

17.18.120 - Board decision.

The Board of County Commissioners shall consider an application to the public benefit rating system as defined by RCW 84.34.037. They shall approve the application, with or without terms and/or conditions, and set the public benefit rating for assessment abatement, or deny the application. In so doing the following provisions will apply:

- A. They shall rate the land applying for classification according to the public benefit rating system;
- B. They may approve the application with respect to only part of the land that is the subject of the application;
- C. If any part of the application is denied or conditions attached the applicant may withdraw the entire application.

17.18.130 - Unincorporated lands.

In all unincorporated areas, the Board of County Commissioners shall act as the granting authority for applications for classification as open space land.

17.18.140 - 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 County Commissioners and three (3) members of the city legislative body in which the land is located (RCW 84.34.037). Where the county legislative body concurs with a recommendation of the city council to accept or reject an application for open space classification, such council's recommendation will be adopted as the decision of the determining authority.

17.18.150 - Monitoring for compliance.

- A. Monitoring of lands for continuing eligibility for current use assessment as open space lands shall include an affidavit, to be submitted annually by the landowner, of continuing compliance with the terms and conditions under which open space classification was granted and the current uses of the property. The requisite form and contents of the affidavit required for monitoring shall be described more fully in the county guidelines implementing this chapter. The failure of the owner to submit the affidavit of compliance shall be grounds for the county to remove and/or reevaluate the property under the PBRS.
- B. Where the Planning Department determines that the land is no longer being used for the purpose for which the classification was granted or there has been a change in use, it will report its findings within thirty (30) days to the county assessor.

17.18.160 - Removal of land classification by county assessor.

- A. Classified land may be removed from the public benefit rating system classification if it is no longer used for the purpose for which classification was granted or for any other classified use within the current use program. The assessor may determine, after giving the owner written notice and an opportunity to respond, that the land classified as open space is no longer primarily devoted to and used for the purposes for which it was granted classification.
- B. When land is removed from classification an additional tax, applicable interest, and penalties are due unless the removal meets one (1) of the exceptions listed in this chapter. The owner may appeal the removal of classification to the Hearing Examiner consistent with MCC 15.11.020.

17.18.170 - When removal of land is not subject to additional tax, interest, and penalties.

Removal of land is not subject to additional tax, interest, and penalties in the following instances:

- A. Land is transferred to a government entity in exchange for other land located in the State of Washington;
- B. Land is taken by power of eminent domain or transferred in anticipation of the exercise of such power;
- C. Land is sold or transferred within two (2) years of the death of the owner of at least fifty-percent interest in the land;
- D. A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of an act of the landowner which changes the use of such property;
- E. Official action by the state, county or city disallows the present use of such land;
- F. The land is transferred to a church or other non-profit organization, such that the land would qualify for a property tax exemption;
- G. Acquisition of property interests by agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for protecting, preserving, maintaining, improving, restoring, limiting the future use of, or otherwise conserving, selected open space land as defined in Chapter 84.34 RCW for public use and enjoyment.

17.18.180 - Transfer of lands between certain current use taxation classifications.

Land reclassified between the following current use assessment resource categories pursuant to RCW 84.34.070 are not considered withdrawals and are not subject to the additional tax interest and penalties:

- A. Reclassification between farm and agricultural lands and timber lands;

- B. Reclassification of farm and agricultural lands or timber lands to open space lands;
- C. Reclassification of farm and agricultural lands or timber lands to forest land classified under Chapter 84.33 RCW; and
- D. Reclassification from open space designated farm and agricultural conservation land under RCW 84.34.020(1)(c) to farm and agricultural land under RCW 84.34.020(2) if the land was previously classified as farm and agricultural land.

An application fee must be paid at the time the application is submitted consistent with Section 17.18.090 of this chapter. If the type of transfer is not listed in this section, it is a new application for which the applicable fees will be applied.

17.18.190 - Owner may request withdrawal from classification.

- A. After ten (10) years the landowner may request that all or part of his/her land be withdrawn from the classification.
- B. If a portion of a parcel is removed from classification the remaining portion must meet the same requirements, as did the entire parcel when the land was originally granted classification. Following withdrawal from classification, future valuation of such land as open space resource property under the public benefit rating system is contingent upon reapplication and approval under this chapter.

17.18.200 - Action on withdrawal from classification.

Upon receipt of a request for withdrawal, the assessor shall notify the legislative authority that originally approved the application, and after one (1) year from the date of the withdrawal request, the assessor shall withdraw the land from classification. The land which is removed shall be subject to a tax equal to the difference between the amount of tax paid under the open space classification and the tax at true and fair value for seven (7) years last past, plus the statutory interest rate charged on delinquent property taxes.

17.18.210 - Owner to notify assessor of change in use in classification.

If an owner changes the use of the classified land, the owner must notify the county assessor of the change within sixty (60) days. The assessor shall then impose an additional tax equal to the difference between the tax paid on current use value and the tax that would have been paid on that land had it not been so classified, payable for the seven (7) years last past, plus interest on this additional tax at the same rate as charged on delinquent property taxes, plus a penalty of twenty (20) percent of the total amount.

17.18.220 - Sale of open space classified land.

When classified open space land is sold, the seller or transferor becomes liable at the time of sale for the additional tax, interest, and penalty of all or a portion of classified lands, unless the new owner signs the notice of continuance which is attached to or shown on the excise tax affidavit.

17.18.230 - Review of previously approved open space applications.

- A. Upon adoption of a public benefit rating system, the Planning Department shall review and re-rate the existing open space land current use assessment program parcels according to the

public benefit rating system in determining whether to recommend that an application be approved or denied.

- B. Owners of property classified under the existing open space land current use assessment program shall be notified of their new assessed value in the same manner as provided in RCW 84.40.045. These lands may be removed from classification under the existing open space land assessment program, without payment of penalties, back taxes, and interest, upon request of the owner, within thirty (30) days of notification of their newly determined value under the public benefit rating system.
- C. Property which does not qualify under the public benefit rating system and whose owner chooses not to remove the property from the open space land current use assessment program shall be rated according to the public benefit rating system (RCW 84.34.037[3]).

17.18.240 – Duties of the Planning Commission.

The Planning Commission shall review participation in the public benefit rating system for open space classification under the county's current use assessment program after the first two (2) years of adoption and thereafter once every two (2) years. The planning commission shall make written recommendation to the Board of County Commissioners on the following matters:

- A. The fundamental elements of the public benefit rating system, including the assessed valuation schedule, open space resource definitions, and other procedures defined in this chapter, ; and
- B. The overall administrative process, including issues such as staffing, outreach to prospective applicants, application forms, processing, monitoring, etc.; and
- C. 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.

17.18.250 - Severability.

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