

This Notice was scheduled to be in the Shelton-Mason County Journal  
on June 7, 2018, but failed to be printed.

## PLANNING ADVISORY COMMISSION AGENDA

June 18, 2018 - 6:00 p.m.  
Mason County Building 1 - Commission Chambers  
411 N. 5<sup>th</sup> Street, Shelton, WA 98584

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1. **6:00pm - Call to Order**
    - a. Roll Call
    - b. Approval of Meeting Summary(s) – May 21, 2018
    - c. Approval of Changes to Agenda by Commissioners or Staff (if any)
    - d. Conflict of Interest Inquiry
    - e. Next Meeting Date – July 16, 2018
    - f. Committee/Staff Updates
    - g. Other Business
  
  2. **6:15pm – Public Comment** on topics associated with the mission of the Planning Commission for which a public hearing is not being held. Please limit comments to 3 minutes.
  
  3. **6:30pm – Briefing-PAC Summaries (Minutes).**
  
  4. **6:35pm – Continued Public Hearing: Public Benefit Rating System**
    - Staff Presentation/Brief
    - Questions for Staff
    - Public Testimony
    - Commissioner Deliberation
    - Commissioner Vote

What is the Planning Commission?

The Mason County Planning Commission is a citizen advisory commission that is appointed by and advisory to the Mason County Commission on the preparation and amendment of land use plans and implementing ordinances such as zoning.

- The actions tonight are not final decisions; they are Commission recommendations to the Board of County Commissioners who must ultimately make the final decision. If you have any questions or suggestions on ways the Planning Commission can serve you better, please contact the Planning Office at 360-427-9670

**Americans with Disabilities Act (ADA) accommodations will be provided upon request, with reasonable, adequate notice.**

*Agendas are subject to change, please contact the Planning Office for the most recent version. The agenda was last printed on 6/8/2018 10:41 AM*

# DRAFT

## Chapter 3.25 – Mason County Public Benefit Rating System

### Sections:

- 3.25.010 - Purpose and intent.
- 3.25.020 - Definitions.
- 3.25.030 - Operation of the county public benefit rating system.
- 3.25.035 - Eligibility of high, medium and low priority public benefit resources.
- 3.25.040 - Ineligible lands.
- 3.25.050 - Assessed valuation schedule—Public benefit rating system.
- 3.25.060 – Outreach to Eligible Landowners
- 3.25.070 - Basis of assessment.
- 3.25.080 - Application to the county under the public benefit rating system.
- 3.25.090 - Application fees.
- 3.25.100 - Time to file.
- 3.25.110 - Application review.
- 3.25.120 - Board decision.
- 3.25.130 - Unincorporated lands.
- 3.25.140 - Incorporated lands.
- 3.25.150 - Monitoring for compliance.
- 3.25.160 - Removal of land classification by county assessor.
- 3.25.170 - When removal of land is not subject to additional tax, interest, and penalties.
- 3.25.180 - Transfer of lands between certain current use taxation classifications.
- 3.25.190 - Owner may request withdrawal from classification.
- 3.25.200 - Action on withdrawal from classification.
- 3.25.210 - Owner to notify assessor of change in use in classification.
- 3.25.220 - Sale of open space classified land.
- 3.25.230 - Review of previously approved open space applications.
- 3.25.240 – Duties of the Planning Commission.
- 3.25.250 - Severability.

### What is a Public Benefit Rating System?

This is a new Chapter of the Mason County Code that would establish a Public Benefit Rating System to determine the appropriate level of tax relief for open space parcels throughout the County.

The current process for evaluating Open Space in Mason County consists only of determining whether a parcel of land meets the minimum qualifications of the program and if so, provides the **same amount of tax relief to all qualifying parcels**, regardless of the quality or quantity of benefits being provided to the public. A PBRS provides a way of extending tax relief that is representative of the corresponding benefits the land provides.

3.25.010 - 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) 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.

3.25.020 - 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) "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.
- (7) "Rural Lands" means those areas outside of the designated Resource Lands and Urban Growth Areas.
- ~~(8) "Timberland" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timberland means the land only and does not include a residential homesite. The term includes land used for incidental uses that are~~

~~compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.~~

~~(89) "Urban Areas" are those designated in Urban Growth areas around the incorporated area of Shelton and the two unincorporated areas of Allyn and Belfair as well as those areas defined as Limited Areas of More Intense Rural Developments (LAMRIDs) consistent with RCW 36.70A.~~

### 3.25.030 - 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 ~~one (1)~~six (6) or more open space resources points listed below as defined in MCC Section 3.25.035 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 ~~five-ten (510)~~ points each, medium priority open space resources receive ~~three-six (36)~~ points each, and low priority open space resources receive ~~one-two (12)~~ 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. ~~Significant fish and wildlife habitat conservation areas, a~~quifer protection areas;
5. ~~s~~Special plant or ecological sites, and wetlands as defined in MCC 8.52.110 and ~~surveyed delineated~~ by a licensed wetland biologist;
6. Historic landmarks/archeological sites;
7. Private lands within designated ~~national reserves~~federal lands (Olympic National Park or Olympic National Forest);

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

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

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

1. Exempt and artificial wetlands;
2. Other shoreline environments.

D. 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, 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 State or County Conservation Agency will be considered on a case by case basis.

**How does this criteria get applied?**

The property owner applies to Mason County to receive tax relief for their property under the Open Space Tax Act. Mason County uses this criteria to review and score each application.

The information from this type of a review process can also be quantified to share with the public about the benefits they are receiving. More detail about each category of open space eligible for tax relieve is included in Section 3.25.035...

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

A. High priority open space 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 and the facility must provide recreation or other services to youth, senior citizens, disabled, or similar groups. An eligible site is then identified by an appropriate parks department as meeting the definition of an active or passive recreation area.

a. Ineligible examples include:

- (1) Properties with public or private trails: These are covered under the privately owned trails resource;
- (2) Recreational vehicle park portions of sites and related improvements to the land, including parking;
- (3) Indoor recreation centers, gambling establishments, arcades, fun centers, etc.

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 "natural" in the Shoreline Management Master Program for the county. ~~Eligible lands are those identified as natural shoreline environments and their associated wetlands in the adopted shoreline master plan governing the area in which the shoreline is located. Eligible land must be adjacent to the water. To qualify there must be no structures or buildings within 200 feet upland 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; this area is within the shoreline jurisdiction, and is based on the Shoreline Master Program; and there must be no structures within 200 feet from the edge of an associated wetland boundary. If there is a bluff, any buildings must be at least 200 feet back from the edge of the 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.~~

4. **Significant fish and wildlife habitat conservation areas, aquifer recharge areas, species and habitats of local importance, wetlands and special plant sites.**

**Commented [KR1]:** This section needs to be re-worked a bit to align with current regulations and definitions.

a. 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; streams; commercial and recreational shellfish areas; kelp and eelgrass beds; herring and smelt spawning areas; state natural area preserves, and state natural resource conservation; or

b. Aquifer recharge areas means the undisturbed area beyond that required by an applicable regulation that has a plant community in which native plants are dominant adjacent to a groundwater-bearing geologic formation or formations that contain enough saturated permeable material to yield significant quantities of water to wells or springs consistent with WAC 173-100 and MCC 8.52. Eligible sites are those where the buffer is at least fifty percent wider than the buffer required by any applicable regulation and longer than twenty (20) feet. The quality of the buffer area must be preserved from clearing and intrusion by domestic animals and protected from grazing or the use by livestock;

c. Species and habitats of local importance means areas containing vascular plant species as identified and listed in the Natural Heritage Program as being either endangered, threatened, or sensitive and areas identified in the Natural Heritage Program as high quality ecosystems and consistent with MCC 8.52. Eligible sites include:

- (1) The species or habitat is native to the county;
  - (2) Locally declining populations that are in danger of extirpation;
  - (3) Sensitivity to habitat manipulation; and
  - (4) Commercial, game, other special value.
- (5) A habitat management plan shall be submitted which identifies the area to be protected and appropriate mitigation, management and/or protection strategies that will be employed.
- (6) Streams, provided that the stream buffer is at least twice the size of that required under MCC 8.52. Buffer averaging shall not be used;
- (7) Commercial and recreational shellfish areas, provided that the fish and wildlife habitat conservation area buffer is at least twice the size of that required under MCC 8.52. Buffer averaging shall not be used;

d. Kelp and eelgrass beds; herring and smelt spawning areas, provided that the fish and wildlife habitat conservation area buffer is at least twice the size of that required under MCC 8.52. Buffer averaging shall not be used;

e. State natural area preserves and natural resource conservation areas;

f. Sites listed in the Natural Heritage Database as containing endangered, threatened, or sensitive vascular plant species or high quality ecosystems, or which are verified by an expert in the field as containing the same plants or communities and which are acceptable by the state agency for addition to the database. A habitat management plan shall be submitted which identifies the area to be protected and appropriate mitigation, management and/or protection strategies that will be employed.

g. Wetlands means wetlands as defined by MCC 8.52.110.

h. Special plant sites means sites where preservation, restoration or enhancement of native plant communities is maintained subject to an approved management plan. Eligible sites have a primary association with federally- or state-listed endangered, threatened, or sensitive species of fish or wildlife, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. A habitat management plan shall be submitted which identifies the area to be protected and appropriate mitigation, management and/or protection strategies that will be employed.

Items a. through h. listed above require protection through easements, or voluntary buffers in those cases where buffers are not established through MCC 8.52 and, in certain cases, shall require preparation and submittal of a biological site assessment or habitat management plan. The BSA or HMP 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.

5. **Historic landmarks/archaeological sites** means lands which constitute 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. Eligible properties 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 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. The county will review and make determinations on eligibility.

6. **Private lands within designated National Reserves or long term commercial forests** means officially designated areas under private ownership located within National Reserves or long term commercial forests that remain undeveloped and are maintained to protect the landscape of the reserve. Eligible lands are privately owned parcels five (5) acres or greater in size, that remain undeveloped and are maintained to protect the landscape of the reserve.

B. Medium priority open space resources,

1. **"Conservancy" shoreline environment** means marine and lake shoreline and associated wetlands designated as "conservancy environment" in an adopted shoreline management master plan. ~~To qualify there must be no structures or buildings 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. Conservancy shoreline areas are intended to preserve their existing character. The area must consist of native vegetation. Eligible sites must be identified as "conservancy shoreline environment" in an adopted shoreline master plan. The property must not be in another shoreline category of the PBRS. The area to be considered eligible is a maximum of 200 feet upland from the ordinary high water mark, within the 100-year floodplain, or the edge of the associated wetland, whichever is greater. To qualify there must be no structures or buildings within 150 feet upland from the ordinary high water mark (OHWM); this area is within the shoreline jurisdiction, and is based on the shoreline master plan; and there must be no structures within 150 feet from the edge of an associated wetland. If there is a bluff, any buildings must be at least 150 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.~~

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 or contains features which otherwise qualifies as a historic landmark or archaeological site. 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 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.

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 growth area open space** means five (5) or more acres of land, open to the public, and located within the boundaries of an urban growth area designated by the county. 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 of this open space taxation program.

3.25.040 - Ineligible lands.

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

- A. Properties less than one (1) acre in size unless otherwise specified herein.
- B. Properties that do not contain an open space resource identified as either 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 additional 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. Properties with outstanding code violations as tracked and reported by the county.

**Commented [KR2]:** Does the property need to be at least 1 acre, or the qualified portions for tax relief need to be at least 1 acre? Staff recommendation is to require properties (tax parcel) to be at least one acre and the "portion" to be at 10,000 square feet.

**Commented [KR3]:** Consider something like "an additional 10 percent buffer" or an additional square footage amount (10,000 sq. ft.)

**What does this section do?**

This section lays out several circumstances where property would be ineligible to receive tax relief for open space – less than 1 acre, no eligible benefits, required buffers, properties with code violations.

3.25.050 - 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 points)	100% of assessed value
(6 – 9 points)	80% of assessed value



(10 - 19 points)	60% of assessed value
(20 – 29 points)	40% of assessed value
30+ points	20% of assessed value
30+ points and public access	10% of assessed value

**What does this section do?**

This table shows how much tax relief a property owner will get based on the score their property received from applying the criteria in Section 3.25.030. For example, a score of 22 points gets 40% of assessed value.

~~3.25.060 – Outreach to Eligible Landowners~~

~~The Planning Department, in cooperation with other open space technical assistance providers, shall undertake an outreach effort to actively encourage participation by eligible landowners in obtaining open space classification under the Mason County Public Benefit Rating System, with emphasis on public recreation access, farm and agricultural conservation lands, rural stewardship, aquifer protection areas, trails and recreational corridors, natural shoreline environments, and historic and cultural preservation. This outreach must include, among other elements, communication with community groups, civic organizations, volunteer associations, and similar organizations to:~~

- ~~A. highlight the benefits of the program;~~
- ~~B. seek participation by qualifying landowners;~~
- ~~C. seek communications with local media outlets; and~~
- ~~D. Seek participation in workshops by stakeholders.~~

**Commented [KR4]:** Outreach can certainly be given by the Planning Department in cooperation with the Assessor's office. However, requiring such action would necessitate staff time that is not currently available. Staff recommends removing all together or replacing "shall" with "should" and "must" with "could"

**What does this section do?**

This section required Mason County Planning to educate people about the tax relief opportunity and the Public Benefit Rating System.

3.25.070 - 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 ~~particular priority~~ priority resource and accompanying tax reduction.

**What does this section do?**

This section applies when a property owner has a house or other improvement on the property, for example. It gives Mason County the authority to determine how much open space is eligible to receive tax relief. To make this determination, we will use GIS data and parcel mapping coupled with detail provided by the property owner.

3.25.080 - 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 Board of County Commissioners by filing an application with the County ~~Planning Department~~ 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.

**How does the application process work?**

This section and several sections following it outline application process, fees, application period, etc...for property owners in Mason County to get tax relief for open space. If a property owner is currently participating in the program, they will not be removed. However, the amount of tax relief received may be change based on the score.

3.25.090 - 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.

**Commented [KR5]:** Staff will confirm with Assessor's office the language in B and C of this section.

3.25.100 - Time to file.

Applications shall be made to Mason County by December 31 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.

3.25.110 - 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 or not~~ 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.

#### 3.25.120 - 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.

#### 3.25.130 - 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.

#### 3.25.140 - 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.

#### **Who makes the final decision?**

This section outlines how the decision to grant tax relief for open space that gives the public a benefit will be made. In Mason County, the Board of County Commissioners will approve the tax relief for property owners. In the Shelton Urban Growth Area, the Board of County Commissioners and the City Council members will decide.

3.25.150 - 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 reevaluate the property under the PBRS.
- B. ~~The~~ Planning Department shall monitor the property to determine the continuing compliance with ~~all of all~~ the conditions under which open space classification was granted and the current uses of the property. 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.

**Commented [KR6]:** Staff will coordinate with Assessor's to rewrite this section for clarity given Section A above.

3.25.160 - 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 Hearings Examiner consistent with MCC 15.11.020.

3.25.170 - 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, such that the land would qualify for a property tax exemption;
- G. Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 ~~for the purpose of~~ 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.

**What if things change and the property is no longer open space?**

These sections establish a process for Mason County to monitor open space properties receiving the tax relief by getting updated information from property owners annually and removing properties that change status. Owners are also required to notify the County if the use of the property changes.

3.25.180 - 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 3.25.090 of this chapter. If the type of transfer is not listed in this section, it ~~is considered to be~~ a new application for which the applicable fees will be applied.

3.25.190 - Owner may request withdrawal from classification.

- A. After eight (8) years of the initial ten-year period has passed, the landowner may request that all or part of his/her land be withdrawn from the classification. The landowner must submit the request to withdraw classification to the assessor at least two (2) years prior to the date upon which it is to be removed from the current use assessment classification. The request to withdraw classification may be revoked at any time until the land is withdrawn from 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.

3.25.200 - 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.

**What do these sections do?**

These sections establish a process for the property owner to withdraw from the open space classification of his/her property. It is designed to encourage those property owners interested in preserving the open space value of their property. So, it requires a two (2) year notice and it is available to property owners who have had the open space classification for at least eight (8) years.

3.25.210 - 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.

3.25.220 - 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.

**What if open space property is sold?**

Again, the property owner receiving the tax relief is responsible for notifying Mason County if the status of the property changes. If open space property is sold, the seller must pay any additional taxes, interest or penalties associated with the property and change in classification. However, if the buyer formally agrees to continue to keep the property classified as open space, this does not apply.

3.25.230 - 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]).

**Commented [KR7]:** This will need to be discussed with the BOCC to determine staff availability. Currently, the Planning department does not have the resources to evaluate over 300 existing properties (especially without the ability to collect fees). Staff may recommend phasing the existing properties over a set period.

**What does this section do?**

This section outlines a process for property owners currently receiving tax relief for open space to have their property assessed under the new Public Benefit Rating System. Existing open space properties cannot be removed, but their tax relief amount may change. This section also gives property owners an opportunity to withdraw their property without paying any penalties.

3.25.240 – Duties of the Planning Commission.

The Planning Commission shall review participation in the public benefit rating system when the first additional 300 acres have been approved for open space classification under the county's current use assessment program or, after the first two (2) years after adoption of this chapter, whichever occurs sooner, 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 such as the assessed valuation schedule and the other PBRS procedures defined in this chapter, open space resource definitions, etc.; and
- B. The overall administrative process, including such issues as staffing, outreach to prospective applicants, application form and application 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.

**What does this section do?**

This section establishes the role of the Planning Commission as reviewing the Public Benefit Rating System every two years and reporting to the Board of County Commission along with any recommendations for improvements.

3.25.250 - 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.