



CLARK COUNTY
WASHINGTON

proud past, promising future

**Linda Franklin,
Assessor**

**Department of
Assessment and GIS**

Open Space Land General Information

Program Summary

Under the Open Space Taxation Act of 1970 (Chapter 84.34 RCW), Clark County oversees a special tax deferral program for property owners of qualifying open space lands. Properties eligible for this program are taxed based on their current use, rather than their "highest and best" – or market value – use (e.g., residential, commercial or industrial development).

The purpose of this program is to provide property tax relief for property owners as well as to encourage adequate open space land for the future.



Requirements for Open Space Land Classification

Open Space Land is legislated by Clark County under Chapter 3.08 of the County Code. Chapter 3.08 declares that 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 resources and the scenic beauty for the economic and social well-being of the county and its citizens.

Under the provisions of the Open Space Plan, there are five qualifying criteria. Applicants for Open Space must meet one of the following:

Conservation and Enhancement of Natural Resources

Conservation and enhancement of natural resources is limited to the following:

- 1) Mineral Deposits, 20 acres and larger, not currently being excavated and of economic significance; or
- 2) Archaeological Sites (may be less than five acres), registered with the State of Washington and protected. These archaeological sites may require public access.

Stream Protection

Stream protection requires a minimum of ten acres (eleven acres is required if there is a home site) and are limited to the following:

- 1) Areas of significant springs delineated by the Washington State Department of Natural Resources; or
- 2) Tracts adjacent to or straddling major streams, designated shorelines of the state or identified in the County's Shoreline Master Program.

Stream protection may require public access.

Soil Conservation

Soil conservation requires a minimum of ten acres (eleven acres is required if there is a home site) and are limited to the following:

- 1) Tracts containing ten or more acres of Class I or Class II soils, as identified by the Soil Conservation Service, and at least 80% of the tract must be in the production of food or fiber.
- 2) Tracts where a major portion is incorporated in the Comprehensive Park Greenway Program. Public access may be required.

Enhancement of Recreational Opportunities

Enhancement of recreational opportunities requires a minimum of ten acres (eleven acres is required if there is a home site) and is limited to the following:

1. Public airstrips
2. Private airstrips with certain public facilities
3. Ballfields
4. Non-public owned parks and lakes designated in the Clark County Shoreline Management Master Program (requires public access and must remain open and available for public use)

Historic Sites

Preservation of historic sites will be limited to those historic sites and land containing structures of historic significance as long as they are listed on local, state, or national historic registers and protected as such.

Historic sites may be less than five acres, depending on the significance of the site. Additionally, public access may be required as terms of the Open Space Agreement.

Determination of Current Use Land Value

For the Open Space Land classification, the land value is determined by the soil classification.

Washington State Department of Natural Resources maps identify soil classifications throughout the county.

Application Process

Where to Apply

An application packet may be obtained in person from the Assessor's office – located on the second floor of the Public Service Center, 1300 Franklin, Vancouver – or by phone at (360) 397-2391.

Application Fees

An application fee of \$150 per application and an inspection fee of \$375 must be paid to the Clark County Treasurer's office. A copy of the receipt(s) must be submitted to the Assessor's office along with the application.

Application Requirements

ALL owners of the land requesting classification must sign the application.

An application for classification as open space land must be submitted along with any relevant documentation supporting classification.

Applications received on or before December 31st will be processed during the next calendar year for the following year's taxes (e.g., 2007 application year, 2008 inspection year, 2009 classification reflected on taxes).

Review Process

A physical inspection of the property will be performed to determine that the property is

qualified, and being used for the purpose(s) stated on the application.

Following the physical inspection, two public hearings will be held. The first is with the Clark County Planning Commission. They review the findings of the field inspection along with the submitted information. After review, the Planning Commission passes its recommendation on to the second public hearing held with the Clark County Commissioners.

The County Commissioners approve, in whole or in part, or deny the application for classification as Open Space Land.

Following the hearing with the Commissioners, four identical Agreements will be mailed to the applicant(s) by the Clark County Department of Community Development. The applicant(s) sign each of the Agreements and return three to the Clark County Assessor's Office.

The Assessor will record the signed Agreement with the Clark County Auditor for the purpose of having a public recording of the tax lien (for back tax purposes) on the property.

Appealing an Application Denial

The owner(s) may appeal the Commissioner's denial of an application, in whole or in part, to Clark County's Superior Court.

Criteria for Classification Continues to Apply after Classification Has Been Granted

Once a property has been classified as Open Space Land, the classification continues without a need for renewal until classified activity ceases or there is a change in use of the land. However, the owner(s) of classified land must continue to meet the criteria established for the approved classification.

State law requires the Assessor to audit these programs. Periodically, physical inspections of the property will be conducted. Owner(s) will be asked to submit information necessary

to determine continued qualification for the program in which their properties are enrolled.

Transfer of Land Between Classifications

Open Space Land may not be transferred (reclassified) into any other program. If it no longer qualifies to continue in its current classification, it must be removed.

Request to Withdraw Classified Land

If an owner wishes to withdraw all or a portion of their property from the current use classification at the end of the ten year commitment period, a notice must be filed prior to the eighth year, of the initial ten year classification period, to avoid an additional 20% penalty. Upon receiving the request for withdrawal, the Assessor will, when the two-year period has elapsed, automatically withdraw the land from classification and calculate the additional tax and interest due.

If a portion of the property is removed from classification, the remaining portion must continue to meet the revised criteria of the new classified size. For example, reducing the number of classified Open Space Land acres from ten to nine after building a house will result in the remaining acreage being removed from the program as it no longer meets the minimum acreage requirement.

Withdrawal of Classification Due to Change in Use

Current Use classification will be removed, and additional taxes, interest and penalties will be imposed, upon the occurrence of any of the following:

Notification by property owner of a change in use is required

An owner who has change or intends on changing the use of classified land must notify the Clark County Assessor within sixty days of the change in use.

Assessor determination that a change in use has occurred

Should the Assessor determine that a change in use has occurred, the Assessor may remove the classification, and give notice to the property owner within thirty days, explaining the reasons for removal.

Sale or transfer of the property and the buyer does not wish to continue classification

Additional taxes, interest and penalties apply if the buyer does not wish to have the property remain classified. These additional taxes, interests and penalties must be collected before a conveyance is recorded. **The Assessor's office requires additional time to process these removals.**

Lien of Taxes

Additional tax, applicable interest, and penalty imposed due to withdrawal from a current use program become a lien against the property at the time of removal. The lien has priority over any other encumbrance on the land. A tax lien may be foreclosed upon in the same manner as delinquent real property taxes.

Continuance of Classified Land

If a buyer wishes to continue in the Open Space Land classification, the buyer must complete several forms. A continuance packet may be obtained from the Clark County Assessor's Office.

The buyer may request to continue in the Open Space Land classification by signing the

Notice of Continuance on the Real Estate Excise Tax Affidavit, completing an Intent to Continue Current Use Classification form and completing a Notice of Continuance form. **All buyers must sign the required forms.**

When this information is provided to the Assessor's office, it will be reviewed to verify the property meets the requirements provided under the law. We also review any property the seller may continue to own and verify it is able to remain classified.

When Removal of Land from a Program Classification is not Subject to Additional Taxes, Interest or Penalties

The additional tax, applicable interest, and penalty will not be imposed if the removal from classification results solely from:

- a) Transfer to a government entity in exchange for other land located within the state of Washington;
- b) Land taken through the exercise of the power of eminent domain, or sold or transferred in anticipation of the exercise of such power, and notification was received in writing or by other official action;
- c) A natural disaster changes the use of the property;
- d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;
- e) Transfer of land to a church when the land would qualify for exemptions granted thereto;
- f) Acquisition of property interests by state agencies or agencies or organizations qualified by law;

- g) Removal of land classified as farm and agricultural land on which housing for employees and/or principal place of residence is sited;
- h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;
- i) The creation, sale, or transfer of forestry riparian easements;
- j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian Open Space Program;
- k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under chapter 84.33 RCW, or classified under this chapter continuously since 1993;
- l) The sale or transfer of land after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under chapter 84.33 RCW, or classified under this chapter continuously since 1993 and the sale or transfer takes place within two years of the death of the owner.

In certain circumstances, a 20% penalty is also imposed. This is a statutory penalty written in the Open Space Taxation Act.

The taxes, interest and penalties become due 30 days following notification to the owner, and are subject to additional interest of 1% per month after the due date.

Prepared Estimates

The Assessor's office provides all information necessary for the owner to complete the calculation.

Upon request, the Assessor's office will calculate the amount of additional taxes, interest and penalties. **The Assessor's office requires additional time to process these requests.**

Application Process

Application packets for Open Space classification are available from the Clark County Assessor's Office.

Applications are accepted from January 1st through December 31st of each calendar year.

Following submission of the application, the Assessor's office reviews the information submitted and may contact you for additional information if necessary.

The timeline for properties approved for classification is as follows:

- 2007 – Application & Review Year
- 2008 – Field Inspection, Planning Commission and Clark County Commissioner Hearings & Notification Year
- 2009 – First year changes are reflected on taxes owing

Estimation for Back Taxes

How to calculate additional tax, interest and penalties

Taxes equal the difference between the actual tax paid under the Open Space Land classification and the tax at true and fair market value for the current year and the last seven years, plus interest at 1% per month.

For additional information, please contact:

Sherry Daubert
Current Use Specialist
(360) 397-2092, Extension 4613

Available 8:00 – 5:00 Mon, Tues, Thurs, Friday and 9:00 – 5:00 on

Wednesday