

"New Chapter"

Chapter 2.114

***CURRENT USE ASSESSMENT
ADMINISTRATIVE PROCEDURES***

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Cross-reference: RCW 34.04, 84.33, and 84.34; WAC 458.30, Chapter 19D.170 PCC

2.114.010 Purpose.

Chapter 84.34 Revised Code of Washington (RCW), provides an opportunity for certain categories of open space lands, agricultural lands, and timber lands to have the tax structure based upon the *current use* rather than on the traditional fair market value system of *highest and best use*. This alternative taxation method is referred to as the Current Use Assessment (CUA) Program. The purpose of these regulations is to provide the mechanism for property owners to apply and participate in Pierce County's Current Use Assessment Program.

2.114.020 Applicability.

The rules and regulations set forth in this Chapter shall govern the procedure used by Pierce County in the processing of all productive farm and agricultural land, timber land, and open space land current use assessment applications.

2.114.030 Definitions.

- A. **"Assessor"** means the Pierce County Assessor-Treasurer or appointed designee.
- B. **"Archaeologic Sites"** means geographical locations, including those lands that are submerged and submersible and the bed of the sea that contain archeological objects, that comprise the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products. Archeological sites may contain prehistoric, historic archeological resources or both. Confidentiality of locations may be required of archeological sites.

1. Land primarily devoted to the current production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and which has significance for agricultural production; or
2. Land that has been traditionally in or is still capable of production of the above as demonstrated by sales receipts, income tax statements, or other materials which the Department accepts as proof that farming once occurred on the property and the property could be returned to highly productive commercial agriculture, conservation plans, and farm plans, which includes a water protection plan, that shall be reviewed and approved by the conservation district prior to granting.

D. **"Aquifer Recharge Areas"** means land areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of groundwater resources or contribute to the replenishment of groundwater.

E. **"Contiguous"** means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, shall also be considered contiguous.

F. **"Critical Salmon Habitat"** means:

1. The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of the Federal Endangered Species Act, on which are found those physical or biological features:
 - a. Essential to the conservation of the species; and
 - b. Which may require special management considerations or protection; and
2. Specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of the Federal Endangered Species Act, upon a determination by the national Secretary of the Interior and/or Commerce that such areas are essential for the conservation of the species.

G. **"Current"** or **"Currently"** means as of the date on which property is to be listed and valued by the Assessor.

H. **"Department"** means the Pierce County Planning and Land Services Department.

I. **"Director"** means the Director of the Pierce County Planning and Land Services Department or appointed designee.

J. **"Fish and Wildlife Habitat Areas"** means those areas identified as being of critical importance to 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; commercial and recreational shellfish areas; kelp and eelgrass beds; herring and smelt spawning areas; naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat; state natural area preserves and natural resource conservation areas.

K. **"Flood Hazard Areas"** means land in a floodplain within Pierce County subject to a 0.2 percent or greater chance of flooding in any given year (500-year floodplain).

L. **"Granting Authority"** means the appropriate designated agency, department, or official who acts on an application for classification under the current use assessment program.

M. **"Historic Landmark Sites"** means locations strongly associated with significant prehistoric or historic events or patterns of events and well documented through scholarly research. Historic landmark sites may include archeological sites.

N. **"Improvements"** means any changes to raw land which may add to value, including, but not limited to, grading, engineering, roads, utilities, drainage, planting, primary buildings and accessory structures, and construction of facilities.

O. **"Lakes"** means all freshwater impoundments 20 acres or greater in size and their undeveloped shoreline areas.

P. **"Landslide Hazard Areas (Steep Slopes)"** means areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

Q. **"Legislative Authority"** means the Pierce County Council or appointed designee.

R. **"Marine Waters"** means Puget Sound and its associated undeveloped shoreline areas.

S. **"Owner"** means the party or parties having the fee interest in land, except where land is subject to real estate contract "owner" shall mean the contract vendee.

Exhibit "A" **"Private Open Space Passive Recreation Areas"** means open space areas where public use and access is desired and improvements will enhance public accessibility to the natural resources available at the site. County open space parks as found in the County's Capital Facilities Plan Element of the Comprehensive Plan are included.

- U. **"Private Parks and Private Golf Courses with Developed Facilities"** means a private park or golf course designed for organized activities and sports, although individual and family activities are also encouraged.
- V. **"Private Trails and Corridors"** means private trails and corridors that are 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 destination point to another. Potentially, trails may include areas providing linkages between trails, abandoned rail lines, utility corridors, vacant rights-of-way, and road endings.
- W. **"Privately Owned and Operated Recreational Facilities"** means profit or non-profit recreation which is open for recreational sporting activities.
- X. **"Productive Farm and Agricultural Land"** means those lands which meet the definition in RCW 84.34.020(2).
- Y. **"Scenic Corridors"** means an area of adjoining parcels which individually may be less than one acre but which, when combined, total at least one acre and create a view corridor critical to maintaining a view of a scenic resource visible from a federally- or state-designated scenic highway which is visually significant to the aesthetic character of the County.
- Z. **"Scenic View Point"** means property adjacent to a federally- or state-designated scenic highway or other officially designated view point 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 the road. View points may be officially designated by the State of Washington, Pierce County, or a City or Town.
- AA. **"Seismic Hazard Areas"** means those areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.
- AB. **"Streams"** means a flow of water conveyed in a channel or course either continuously or intermittently, and the water's associated buffer.
- AC. **"Timber Land"** 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 forest crops for commercial purposes. This definition is restricted to the land only.
- AD. **"Volcanic Hazard Areas"** means those areas subject to pyroclastic flows, lava flows, and inundation by debris flows, mudflows, or related flooding resulting from geologic or volcanic events on Mount Rainier.
- AE. **"Wetlands, Estuaries, and Tidal Marshes"** means areas that are inundated or saturated by surface or groundwater at a frequency sufficient to support vegetation typically adapted for life in saturated soil conditions, and associated buffer areas. Wetlands generally include swamps, marshes, bogs, and similar areas.
- AF. **"Wooded Areas"** means a lot over one acre in size in the urban area or over five acres in size in a rural area with a minimum width of 300 feet on which is found a mature stand of coniferous or deciduous trees and native plant understory. The wooded area must serve a demonstrated functional purpose in climate, noise, light, habitat, or pollution control.

2.114.040 Productive Farm and Agricultural Land Current Use Assessment.

- A. **Purpose.** The purpose of this Section is to establish a mechanism to encourage retention of productive farm and agricultural lands by providing a tax incentive to retain such properties in a farm an agricultural based use.
- B. **Applicability.** The provisions of this Section shall apply to those lands which qualify under RCW 84.34.020(2).

1. Applications for productive farm and agricultural land current use assessment shall be made on forms prepared by the State Department of Revenue and supplied by the Assessor's Office. Forms shall also contain a statement of the potential tax liability involved when such land ceases to be designated as productive farm and agricultural land.
2. Applications shall be filed with the Assessor's Office no later than the last working day of the year preceding the year classification would begin.
3. Complete applications shall contain the required information necessary to determine classification of land under this Section
4. The application shall also include a notarized signature of the property owner verifying that all such information provided is a true statement of fact.
5. If an application for classification is denied, a reapplication covering the same parcel of land or a portion thereof, may not be submitted to the Assessor for one year following the date the initial application was received.

D. Review.

1. The Assessor shall review applications for productive farm and agricultural land current use assessment for compliance with applicable laws including but not limited to Chapters 84.33 and 84.34 RCW and Chapter 458-30 WAC and shall render a decision no later than April 30 of the year following application.
2. The Assessor shall consider the relevant zoning, and if the zoning prohibits the farm and agricultural activity for which classification is being sought, deny the application.
3. The Assessor shall retain a copy of all applications.

E. Determination of Current Use Value. The Assessor shall determine the amount of tax reduction applied to productive farm and agricultural land current use assessment applications in accordance with the provisions set forth in RCW 84.33 and 84.34 and WAC 458.30.

F. Approval. Within 10 days following approval of an application, the Assessor shall submit notification of such approval to the Pierce County Auditor for recording as provided for in the public recording of State tax liens on real property.

G. Denial. The Assessor shall notify the owner in writing of the extent to which the application is denied.

H. Appeals. An owner who received notice that his or her application has been denied may appeal such decision to the Pierce County Board of Equalization. The appeal shall be filed in accordance with RCW 84.40.038 within 30 days after the mailing of the notice of denial.

I. Notation. For all lands approved under the farm and agricultural land current use assessment program, the Assessor shall make a notation each year on the assessment list and the tax roll of the assessed value of such land for the use classified in addition to the assessed value of such land were it not classified.

J. Reclassification to Open Space Current Use Assessment.

1. Land that was previously classified under this Section, which no longer meets the criteria set forth in RCW 84.34.020(2) and Chapter 458-30 WAC, may be reclassified under the provisions of Section 2.114.060 provided that the land has not been irrevocably devoted to a use inconsistent with agricultural uses and has a high potential for returning to commercial agriculture.
2. Applications for such reclassification shall follow the provisions set forth in Section 2.114.060.
3. Land which has been approved for reclassification under Section 2.114.060 shall not be considered a withdrawal from classification under the provisions of Chapter 84.34 RCW and Chapter 458-30 WAC.

2.114.050 Timber Land Current Use Assessment.

A. Purpose. The purpose of this Section is to establish a mechanism to encourage forestry and restocking and reforestation of such forests by providing a tax incentive to retain such properties in a forestry based use.

B. Applicability. The provisions of this Section shall apply to those lands which qualify under Chapter 84.33 RCW and RCW 84.34.020(3).

1. Applications for timber land current use assessment shall be made upon forms prepared by the State Department of Revenue and supplied by the Assessor's Office. Forms shall also contain a statement of the potential tax liability involved when such land ceases to be designated as timber land.
2. Applications shall be filed with the Department no later than the last working day of the year preceding the year classification would begin.
3. Complete applications shall contain the required information necessary to determine classification of land under this Section including all information set forth in RCW 84.34.041(1), and a timber management plan which shall include, at a minimum, the following:
 - a. A goal and objectives statement;
 - b. An aerial photo or an equivalent showing property lines, access roads, etc.;
 - c. A photo overlay or map delineating forest types according to management types;
 - d. Soil productivity information;
 - e. A summary of stand treatments planned; and
 - f. An outline of how environmental concerns will be addressed.
4. The application shall also include a notarized signature of the property owner verifying that all such information provided is a true statement of fact.
5. If an application for classification is denied, a reapplication covering the same parcel of land or a portion thereof, may not be submitted to the Department for one year following the date the initial application was received.

D. Public Hearing.

1. The Department shall set a date for a public hearing before the Pierce County Planning Commission after all requests for additional information, if applicable, have been satisfied.
2. The Department shall transmit a report to the Planning Commission in accordance with Planning Commission Rules of Operation.
3. The Department shall publish notification of the public hearing date and time in the official County newspaper and mail notification to the applicant and any other individual requesting notification at least 10 days prior to the scheduled hearing.
4. An application may be amended or modified at the prescribed public hearing without further legal notice, provided any such change or modification does not alter the original boundary in such a manner as to include either additional or different land or propose a use substantially different from that set forth in the legal notice. When changes or modifications which exceed the scope of the legal notice are proposed at the public hearing, no action shall be taken until additional legal notice for those changes or modifications is provided.

E. Planning Commission's Authority.

1. The Planning Commission shall conduct all public hearings in accordance with Chapter 2.78 PCC.
2. The Planning Commission shall review all requests for timber land current use assessment, the Departmental report, any comments received, and applicable County regulations or policies and may inspect the property prior to rendering a recommendation to the County Council.
3. The Planning Commission may recommend approval, approval in part, approval of the application with conditions, or denial of the application.
4. The Planning Commission shall forward its recommendation, along with applicable staff reports and findings of fact, to the County Council for final action.

F. Decision Criteria for Timber Land Current Use Assessment Applications.

In determining whether an application made for timber land current use assessment should be approved or disapproved, the Planning Commission and County Council may consider:

1. Whether the land contains a stand of timber as defined in Chapter 76.09 RCW and applicable rules, except under the following circumstances:
 - a. The land has been recently harvested or supports a growth of brush or noncommercial type timber and the application includes a plan for restocking within three years or a longer period necessitated by unavailability of seed or seedlings;
 - b. If applicable, the applicant or owner has complied with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection,

Exhibit "A" to Ordinance No. 21446 continued
insec and 08-14-16 continued
or applicable rules under Title 76 RCW;

- 1 c. The land abuts a body of salt water and lies between the line of ordinary high tide and a
2 line paralleling the ordinary high tide line and two hundred feet horizontally landward
3 from the high tide line.
- 4 2. The zoning of the parcel(s) of land at the time when the application for classification is
5 filed.
- 6 3. The revenue impact that will result from granting the application.
- 7 4. Any other factors relevant in weighing benefits to the general welfare of the current use of
8 such land.
- 9 **G. Determination of Current Use Value.** The Assessor shall determine the current use value
10 applied to timber land current use assessment applications in accordance with the provisions set
11 forth in Chapters 84.33 and 84.34 RCW, Chapter 458-30 WAC, and any other applicable laws.
- 12 **H. Approval.**
 - 13 1. The County Council may approve all of the land or only part of the land identified in the
14 application for timber land current use assessment.
 - 15 2. The County Council shall immediately notify the owner, Department, parties of record, and
16 Assessor of approval.
- 17 **I. Preparation, Signatures, and Recording of Agreement.**
 - 18 1. Within five calendar days after the effective date of Council's action, the Department shall
19 prepare and the County Executive shall sign three copies of a timber land agreement and
20 forward the agreement to the applicant. The agreement shall be delivered by certified mail,
21 return receipt requested.
 - 22 2. The applicant shall indicate acceptance by signing and returning two copies of the
23 agreement to the Department within 25 days after receipt thereof. If the two signed copies
24 of the agreement are not received by the Department within 30 days of mailing to the
25 applicant, the agreement shall be considered rejected and no further action shall be taken.
The Assessor, Council, and County Executive shall be notified of the rejection and no
further action shall be taken.
 - 26 3. Within 10 days of receipt of the applicant's signed copies of the timber land agreement, the
27 Department shall obtain the signature of the County Executive and shall submit notification
28 of such approval to the Pierce County Auditor for recording as provided for in the public
recording of State tax liens on real property. No agreement may be recorded without the
signature of the County Executive and payment of appropriate advertising fees to the
County. Once recorded, the file shall be forwarded to the Assessor's office.
- 1 **J. Denial.**
 - 2 1. The County Council shall deny any application which does not meet the criteria identified in
3 Subsection F. above.
 - 4 2. The County Council shall immediately notify the owner in writing of the basis of denial. If
5 the County Council denies part of the application the applicant may withdraw the entire
6 application.
- 7 **K. Time Period for Final Decision.** The final decision for approval or disapproval of an
8 application for timber land current use assessment shall be no more than six months from the
9 date of the Department's acceptance of a complete application.
- 10 **L. Appeals.** The County Council's final approval or denial, in whole or in part, of a timber land
11 current use assessment application shall be appealable to a court of competent jurisdiction
12 pursuant to RCW 84.34.041(5).
- 13 **M. Notation.** For all lands granted approval under the timber land current use assessment
14 program, the Assessor shall document current use and market values on the assessment and tax
15 rolls.

2.114.060 Current Use Assessment Open Space Land and the Public Benefit Rating System.

- 1 **A. Purpose.** The purpose of the public benefit rating system is to correlate community values for
2 the preservation of open space to a value reduction given to applicants in the open space land
3 current use assessment program. The public benefit rating system establishes a priority ranking
4 system for various open space resources; groups these resources into high, medium, and low
5 point categories; sets forth criteria for determining eligibility of proposed resource lands; and

Exhibit "A" on the point values against a value reduction table. Optional bonus categories have also been provided which grant extra points for other conditions expressed by the community as valuable to the program such as public access, linkage of open space, conservation easements, and preservation of open space within urban areas.

B. **Applicability.** The public benefit rating system only applies to those properties that qualify under the open space land classification in the current use assessment program. The system does not apply to current use assessment applications for commercial agricultural and forest land properties which qualify under Chapter 84.33 RCW (timber and forest lands), RCW 84.34.020(2) and RCW 84.34.065 (farm and agricultural lands).

C. **Application Filing.**

1. Applications for open space land current use assessment shall be made upon a form prepared and supplied by the Department. Forms shall also contain a statement of the potential tax liability involved when such land ceases to be designated as open space.
2. Applications shall be filed with the Department no later than the last working day of the year preceding the year classification would begin.
3. Complete applications shall contain the required information necessary to determine classification of land under this Section and shall include a notarized signature of the property owner verifying that all such information provided is a true statement of fact. If necessary, the Department may request the applicant to provide additional information to determine program eligibility or point ranking.
4. If an application for classification is denied, a reapplication covering the same parcel of land or a portion thereof, may not be submitted to the Department for one year following the date the initial application was received.

D. **Public Benefit Rating System Program Eligibility.**

1. Each property described in an application for open space land classification shall be evaluated for the presence of open space priority resources and bonus categories listed in Appendix A, Table 2.114-1.
2. A minimum of three priority resource points are necessary to qualify under the program. This would be one high priority resource for five points or one medium resource for three points or three low priority resource types for three points. No greater than 15 priority resource points are allowed. Refer to Subsection I. for detailed eligibility criteria, data sources, and examples.
3. A maximum of 25 points are allowed.
4. Bonus categories and points are offered for proposals which grant public access, have lands which are located within an urban designation, dedicate a conservation or historic easement, or provide linkage of open space parcels. Additional eligibility criteria for bonus categories is set forth in Subsection K.
5. If a priority resource category definition or eligibility criteria includes a component set forth in a bonus category, then points from that bonus category are automatically factored into the proposal, i.e., trails would automatically qualify for five public access points.
6. Qualification for a priority resource category is determined based on the definitions and eligibility criteria and is not limited by referenced data sources and examples.

E. **Verification of Open Space Priority Resources.**

1. The presence or occurrence of a proposed open space resource will be verified by the department or County agency responsible for the administration of the public benefit rating system. Said department or agency may, from time to time, call upon another County department or agency with appropriate expertise to aid in the verification process. The provisions set forth in Section 2.114.030 and Subsections 2.114.060 I. and K. shall be used in the verification process.
2. Alternatively, the existence of the proposed open space resource may be verified by an expert recognized by the County in the particular resource being reviewed.

F. **Management of the Open Space Resource.**

1. As a condition of approval, the property owner shall agree to maintain the open space resource(s) in the same or better condition than existed at the time the approval was granted.
2. Any activities engaged in by the property owner which reduces the value of the land as open space is prohibited; e.g. the cutting of trees, clearing of brush, blocking of views.

Exhibit "A" to ~~Ordinance 2014-05~~ ~~Ordinance 2014-05~~ may be granted when such activities are deemed as necessary by the Department to protect public health, safety, and welfare or are the result of an act of nature (floods, storm etc.).

3. Violations of any provisions of the open space agreement shall constitute a change of use and be subject to RCW 84.34.080 and 84.34.108.

G. Re-evaluation and Administrative Amendments to Previously Approved Open Space Land Current Use Assessment Applications.

1. The Department shall have the authority to grant administrative amendments to previously approved open space land current use assessment applications. Administrative amendments are strictly limited to inclusion of bonus category points for the Designated Urban Lands category identified in 2.114.060 K.3.
2. By December 31, the applicant shall submit a letter to the Department which outlines the request for a re-evaluation of points and includes documentation which supports the requested change (e.g. land use amendment indicating shift of the property to an urban designation).
3. By June 1, the Department shall notify the property owner of the final decision to approve or deny the request for amendment. If approved by June 1, the correlating value reduction, if applicable, shall become effective the following calendar year.
5. As provided in RCW 84.34.037(3) and 84.34.55(3), property that is enrolled in the County's open space land current use assessment program as of the date of adoption of the public benefit rating system will be re-evaluated. Such re-evaluations will be performed in conjunction with the physical inspection cycle as funds become available or when the property is sold, whichever comes first.

H. Public Benefit Rating System Point System. See Table 2.114-1 Public Benefit Rating System in Appendix A.

I. Description of Resource Categories: Eligibility Criteria, Data Sources, and Examples.

1. High Priority Resources.

a. Critical Salmon Habitat.

- (1) Eligibility Criteria. Properties and associated lands identified in a adopted Federal, State or local program intended to enhance or preserve critical salmon habitat.
- (2) Data Sources. Adopted Federal, State or local program documents intended to enhance or preserve critical salmon habitat.
- (3) Examples. River and basin maps for the White and Puyallup River systems and South Prairie Creek system.

b. Fish and Wildlife Habitat Areas.

(1) Eligibility Criteria.

- (a) Areas which have a primary association with federally or state listed endangered, threatened, or sensitive species of fish or wildlife (specified in 50 CFR 17.11, 50 CFR 17.12, WAC 232-12-011, and WAC 232-12-014) and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Endangered, threatened, or sensitive species found in Pierce County as of March 1997 are set forth in Title 18E PCC.
- (b) Habitats and species of local importance, including the following:
 - i. Areas with which State-listed monitor or candidate species or federally listed candidate species have a primary association, as specified in Washington Department of Wildlife Policies 4802 and 4803, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Candidate and monitored species found in Pierce County as of March 1997 are set forth in Title 18E, PCC.
 - ii. Documented habitat areas or outstanding potential habitat areas for endangered, threatened, sensitive, candidate, or monitor species. These areas include specific habitat types which are infrequent in occurrence in Pierce County and may provide specific habitats with which endangered, threatened, sensitive, candidate, or monitor species have a primary association, such as breeding habitat, winter range, and movement corridors. These areas include the following: oak woodlands, prairies,

e. **Wetlands, Estuaries, and Tidal Marshes.**

- (1) Eligibility Criteria.
 - (a) Wetlands;
 - (b) Buffer areas for wetlands as required by Pierce County Critical Area regulations (Title 18E PCC);
 - (c) Unimproved areas contiguous with required wetland buffer areas extending up to 200 feet landward from the edge of the wetland; and
 - (d) Areas that qualify for buffer averaging under Pierce County Wetland Management Regulations (Title 18E PCC).
- (2) Data Sources.
 - (a) Pierce County Wetland Inventory Maps;
 - (b) National Wetland Inventory Maps; and
 - (c) Priority Habitats and Species Program and Priority Habitat Species Maps, Washington Department of Fish and Wildlife.
- (3) Examples. Swamps, marshes, bogs, estuaries, tidal marshes.

f. **Wooded Areas.**

- (1) Eligibility Criteria.
 - (a) Wooded areas over one acre in size meeting the definition in 2.114.030 AF. and which:
 - i. provide public access;
 - ii. serve as a buffer between urban and rural areas;
 - iii. provide a separation between communities;
 - iv. provide a buffer between developed areas and adjacent designated parks, designated wildlife preserves, designated nature reserves, critical areas (as defined by Title 18E PCC), or designated historic sites; or
 - v. provide a linkage or corridor between other designated open space areas.
- (2) Data Sources. Wooded Areas Map
- (3) Examples. Large forested area adjacent to Spanaway Loop Road.

2. **Medium Priority Resources.**

a. **Agricultural Lands.**

- (1) Eligibility Criteria. Agricultural Lands are those lands meeting any of the following criteria:
 - (a) Lands which are on prime or unique soils as identified in the data sources; or
 - (b) Lands which are primarily devoted to the production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and which have significance for agricultural production.
 - (c) Lands that have traditionally been in or are still capable of production of the above as demonstrated by sales receipts, income tax statements, or other materials which the Department accepts as proof that farming once occurred on the property and the property could be returned to highly productive commercial agriculture, conservation plans, and farm plan which includes a water protection plan that shall be reviewed and approved by the conservation district prior to granting.
- (2) Data Sources.
 - (a) United States Department of Agriculture (USDA), Soil Conservation Service. February, 1979, Soil Survey of Pierce County Area, Washington.
 - (b) USDA, Soil Conservation Service, June, 1981, Important Farmlands of Pierce County, Washington.
 - (c) Lands that have been traditionally in or are still capable of production of the above as demonstrated by: sales receipts, income tax statements or other materials which the Department accepts as proof that farming once occurred on the property and the property could be returned to highly productive commercial agriculture; conservation plans; and farm plans, which include a

Exhibit "A" to Ordinance No. ~~2021-156~~ (complan), that shall be reviewed and approved by the conservation district prior to granting.

(3) Examples. Lands utilized for crop production in the Puyallup River valley.

b. **Aquifer Recharge Areas.**

(1) Eligibility Criteria. Areas which contain both of the following:

- (a) Areas within the Clover/Chambers Creek Aquifer basin boundary and areas within the boundaries of the two highest D.R.A.S.T.I.C. zones (rated 180 and above) in the Map of Groundwater Pollution Potential; and
- (b) Other high or medium priority resources as defined by this Section.

(2) Data Sources.

- (a) Clover/Chambers Creek Basin Ground Water Management Program and D.R.A.S.T.I.C. index as identified by the National Water Well Association in the Map of Groundwater Pollution Potential; and
- (b) Pierce County Critical Areas Atlas, Aquifer Recharge Area-D.R.A.S.T.I.C. Zones and Clover/Chambers Creek Basin Maps.

(3) Examples. Oak woodland area overlying the aquifer in Parkland/Spanaway area.

c. **Flood Hazard Areas.**

(1) Eligibility Criteria. Those areas located within a 100-year floodplain or 500-year floodplain as identified on the FEMA FIRM Maps.

(2) Data Sources. Flood Insurance Study for Pierce County, dated August 19, 1987, or as amended, with accompanying Flood Insurance Rate (FIRM) Maps prepared by the Federal Emergency Management Agency (FEMA).

(3) Examples. Portions of the Puyallup River valley.

d. **Lakes.**

(1) Eligibility Criteria. Undeveloped shoreline areas adjacent to lakes (as defined by Pierce County Shoreline Master Program) associated with lakes.

(2) Data Sources. Pierce County Shoreline Master Program.

(3) Examples. Crescent Lake, Lake Tapps, and Ohop Lake.

e. **Private Open Space Passive Recreation Areas.**

(1) Eligibility Criteria. Public access in the open space from a public road is required.

(2) Data Sources. Hearing Examiner preliminary and final approvals as found in the hearing case file on file with the Department.

(3) Examples. In the "Lakeland planned residential community, UP9-70" if the required 71 acres of open space, park and trails are accessible to the public (condition 72, page 51, decision dated February 23, 1993).

- (1) Eligibility Criteria.
 - (a) An FAA designated recreational air field shall be considered a park allowing access when the general public is allowed access onto a portion of the site that is developed and maintained for organized activities and sports or passive recreational activities such as walking on a trail, observing wildlife, and picnicking; and
 - (b) A fishing, hunting or gun club shall be considered a park allowing access when the general public is allowed access onto a portion of the site that is developed and maintained for organized activities and sports or passive recreational activities such as walking on a trail, observing wildlife, and picnicking.
 - (c) Golf courses, driving ranges, etc. are not eligible under this Subsection; refer to Subsection 2.114.060 I.1.d
- (2) Data Sources. Verification of membership requirements, business licenses, covenants, etc.
- (3) Examples. Recreational air field, fishing, hunting or gun clubs.

g. **Private Trails and Corridors.**

- (1) Eligibility Criteria.
 - (a) Public access on the trail from a public road is required.
 - (b) A linear corridor of open space which often provides passive recreational and non-motorized transportation opportunities and which serve as a buffer between developments and varying land uses, or creates a sense of visual relief from dense urban landscapes.
- (2) Data Sources. Hearing Examiner preliminary and final approvals as found in the hearing case file on file with the Department, Pierce County Non-motorized Transportation Plan, and the Pierce County Open Space/Greenbelts Map.
- (3) Examples. In the "Lakeland planned residential community, UP9-70" if the required 71 acres of open space, park and trails are accessible to the public (condition 72, page 51, decision dated February 23, 1993).

3. **Low Priority Resources.**

a. **Archaeologic Sites.**

- (1) Eligibility Criteria. Archaeologic sites as recorded by the Washington State Office of Archaeology and Historic Preservation.
- (2) Data Sources. Confidential data obtained from Pierce County Planning and Land Services and the Washington State Office of Archaeology and Historic Preservation.
- (3) Examples. Prehistoric and historic Native American Indian or aboriginal burials, campsites, dwellings, and habitation sites, including rock shelters and caves.

b. **Historic Landmark Sites.**

- (1) Eligibility Criteria. Historic sites listed or nominated and eligible for listing in the following:
 - (a) National Register of Historic Places;
 - (b) Washington Heritage Register; and
 - (c) Pierce County Register of Historic Places.
- (2) Data Sources.
 - (a) National Register of Historic Places;
 - (b) Washington Heritage Register; and
 - (c) Pierce County Register of Historic Places
- (3) Examples. Village sites, trails, battlefields, or ceremonial sites.

c. **Landslide Hazard Areas (Steep Slopes).**

- (1) Eligibility Criteria. Landslide hazard areas are those areas meeting any of the following criteria:
 - (a) Areas of historic failures, including areas of unstable old and recent landslides;
 - (b) Areas with all three of the following characteristics:
 - i. Slopes steeper than 15%;
 - ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

- (1) Eligibility Criteria. Areas which possess one of the two following characteristics:
 - (a) Alluvial surficial geologic unit; or
 - (b) Recessional outwash surficial geologic unit overlain by Barneston, Everett, Neilton, Pilchuck, or Spanaway soils.
- (2) Data Sources.
 - (a) Pierce County Critical Areas Atlas - Seismic Hazard Areas Map;
 - (b) Groundwater Occurrence and Stratigraphy of Unconsolidated Deposits, Central Pierce County, Washington, Water Supply Bulletin Number 22, Plates One and Two, and Water Resources and Geology of the Kitsap Peninsula and Certain Adjacent Islands, Water Supply Bulletin Number 18, Plate One, U.S. Department of the Interior, Geological Survey, Water Resources Division;
 - (c) Soil Survey of Pierce County Area, Washington, United States Dept. of Agriculture, Soil Conservation Service; and
 - (d) Soil Survey of Snoqualmie Pass Area, Parts of King and Pierce Counties, Washington, United States Department of Agriculture, Soil Conservation Service, December 1992.
- (3) Examples. Lands within the Puyallup River valley.

g. **Volcanic Hazard Areas.**

- (1) Eligibility Criteria. Those areas that have been historically inundated by a Case I, Case II, or Case III debris flow or are located in other drainages expected to be inundated by a future Case I, Case II, or Case III debris flow.
- (2) Data Sources.
 - (a) Pierce County Critical Areas Atlas - Volcanic Hazard Areas Map; and
 - (b) Map Showing Debris Flows and Debris Avalanches at Mount Rainier, Washington--Historical and Potential Future Inundation Areas, Investigations Atlas HA-729, U.S. Dept. of Interior, Geologic Survey, 1995.
- (3) Examples. Portions of the Puyallup, Carbon, White, and Nisqually River valleys.

J. **Public Access.**

1. Access to the County's open space lands by the general public is required unless it is determined that such public access would damage or endanger a sensitive resource, or the Planning Commission determines that public access to a given site is unreasonable, unsafe, or inappropriate due to unique circumstances.
2. Resource categories which are sensitive and may require limited or restricted access include fish and wildlife habitat areas, critical salmon habitat, streams, wetlands, estuaries, tidal marshes, lakes, marine areas.
3. The Planning Commission shall determine whether public access is appropriate for sensitive resource categories. If the Planning Commission determines that limited, restricted or no access is warranted then bonus category points for public access will be granted.
4. Public access is mandatory for those resource categories which either contain public access requirements in the definition or eligibility criteria. These resource categories will automatically be granted bonus category points for public access.
5. If public access points are requested for non-sensitive resource categories, or when public access is mandatory as part of the eligibility criteria, a sign indicating public access is available at the site shall be required. The open space land current use assessment application material shall contain detailed information on signage size, lettering, placement etc.
6. A property owner may request that general public access be limited to the hours between sunrise and sunset or request that signage stipulate other provisions to protect general health, safety and welfare such as but not limited to *no guns, no dogs, and no fires*.
7. The County Council shall make the final determination on the appropriateness of such requests, the appropriate method of informing the public, and so stipulate in an agreement that runs with the land.

Exhibit "A" Bonus Category Criteria. The following bonus categories are not mandatory and are at the option of the applicant unless specifically defined and listed in the eligibility criteria for a priority resource category:

1. **Public Access.** See Section 2.114.060 J. for public access requirements. Bonus category points will be awarded for all open space applications that include mandatory public access authorized by 2.114.060 J.
2. **Conservation/Historic Preservation Easements.**
 - a. A conservation easement is a restriction in perpetuity on the use of property. It is a recorded deed restriction, or covenant, and the enforcement of the restriction is most often given to a Land Trust or a government agency. A conservation easement will prevent future real estate development, industrial or commercial use. The easement may allow continued current uses, including, for example, residential and recreational use, agriculture, forestry, or ranching. However, most often a conservation easement restricts both the current as well as the future uses of the land to some important conservation quality of the land, such as habitat, open space, or scenic views.
 - b. A conservation easement or restrictive covenant must be recorded against the deed as a part of the final agreement with the land owner.
3. **Designated Urban Lands.**
 - a. Properties which are located within the Urban Growth Area (UGA) or Comprehensive Urban Growth Area (CUGA) as designated by the Pierce County Comprehensive Plan Generalized Proposed Land Use Plan.
 - b. Properties located within the municipal boundaries of an incorporated city or town.
4. **Provides Linkage of Open Space Parcels.**
 - a. The subject property abuts another parcel which currently provides a high or medium priority resource and when both are left undeveloped create a corridor.
 - b. The subject parcel must abut a parcel of land which is already in the current use assessment program or is subject to a conservation easement or restrictive covenant as such is defined above.
5. **Super Bonus.**
 - a. The subject property must accumulate five or more priority resource points to be eligible for this bonus; and
 - b. Public access is subject to the provisions set forth in Section 2.114.060 J. above; and
 - c. A conservation easement or restrictive covenant must be recorded against the deed as a part of the final agreement with the land owner.

L. **Value Reduction and Open Space Land Current Use Assessment Valuation Schedule.**

1. Properties enrolled in the current use assessment program for open space land have the assessed value of their land set at the "current use" value based upon the public benefit rating system rather than the fair market value of "highest and best use" of the land.
2. The current use assessment value will be expressed as a percentage of market value based upon the public benefit of the property as determined by the total points scored through the public benefit rating system. See Table 2.114-2, Tax Reduction and Valuation Schedule, in Appendix B.
3. Total point values are rounded-down on any point differential to determine percent reduction, e.g. five points would equal a 20 percent reduction.
4. Points calculated under this program shall be applied to the entire parcel described in the application materials submitted for consideration; except any area which contains improvements to the land, as determined by the Assessor, shall be excluded from the calculated area and shall be subject to standard assessment practices of the Assessor.
5. In the case of commercial recreational facilities, such as golf courses, ball fields, and sports complexes, the current use classification would apply to the raw land only.
6. Property which does not have a tax parcel number assigned by the Assessor-Treasurer, or for which any value is carried in adjoining properties which have parcel numbers, shall not be granted open space classification and rating.

M. **Public Hearing.**

1. The Department shall set a date for a public hearing before the Pierce County Planning Commission after all requests for additional information, if applicable, have been satisfied.

Exhibit "A" to Ord. 2018-08 shall be transmitted to the Department of Planning and Community Development in accordance with the Department's Rules of Operation.

3. The Department shall publish notification of the public hearing date and time in the official County newspaper and mail notification to the applicant, established land use advisory commissions, and any other individual requesting notification at least 10 days prior to the scheduled hearing.
4. If public access bonus points are requested by the applicant, written notice shall be mailed to the latest recorded real property owners, as shown by the records of the Assessor, within at least three hundred feet of the property boundaries of the site under consideration. The notice shall be mailed at least ten days prior to the published hearing date. In those instances where public access bonus points are requested for the first time during the course of the hearing before the Planning Commission, then said case shall be continued until written notice is given to real property owners residing within at least 300 hundred feet of the property boundaries of the applicable site under consideration. The notice shall be mailed at least ten days prior to the continued hearing date.
5. An application may be amended or modified at the prescribed public hearing without further legal notice, provided any such change or modification does not alter the original boundary in such a manner as to include either additional or different land nor propose a use substantially different from that set forth in the legal notice. When changes or modifications which exceed the scope of the legal notice are proposed at the public hearing, no action shall be taken until additional legal notice is provided.

N. Planning Commission's Authority.

1. The Planning Commission shall conduct all public hearings in accordance with Chapter 2.78 PCC.
2. The Planning Commission shall review all requests for open space land current use assessment, the Departmental report, any comments received, and applicable County regulations or policies and may inspect the property prior to rendering a recommendation to the County Council.
3. The Planning Commission may recommend approval, approval in part, approval of the application with conditions (e.g., signage), or denial of the application.
4. The Planning Commission shall forward their recommendation, along with applicable staff reports and findings of fact, to the County Council for final action.

O. Decision Criteria for Open Space Land Current Use Assessment Applications. In

determining whether an application for open space land current use assessment should be approved or disapproved the Planning Commission and County Council may consider:

1. The resulting revenue loss or tax shift;
2. Whether the application meets the criteria set forth in this Section;
3. Whether granting the application will preserve land previously classified under RCW 84.34.020(2) or will preserve land with a potential for returning to commercial agriculture;
4. The zoning of the parcel(s) of land at the time when the application for classification is filed;
5. The existence of any mining claim or mining lease on the land, and if so whether it will seriously interfere with the considerations stated in Subsection O.2. above. If a mining claim or mining lease is obtained after the land is classified, the same determination must be made in deciding if serious interference will occur;
6. That public access, if applicable to the application, is reasonable, safe, and/or appropriate to the subject property; and
7. Any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property.

P. Approval.

1. The County Council may approve all of the land or only part of the land identified in the application for open space land current use assessment.
2. The County Council shall immediately notify the owner, Department, parties of record, and Assessor of approval.

Q. Preparation, Signatures, and Recording of Agreement.

1. Within five calendar days after the effective date of Council's action, the Department shall prepare and the County Executive shall sign three copies of an open space agreement and

Exhibit "A" to Ordinance No. 2011-051 to the applicant. The agreement shall be delivered by certified mail, return receipt requested.

2. The applicant shall indicate acceptance by signing and returning two copies of the agreement to the Department within 25 days after receipt thereof. If the two signed copies of the agreement are not received by the Department within 30 days of mailing to the applicant, the agreement shall be considered rejected and no further action shall be taken. The Assessor, Council, and County Executive shall be notified of the rejection and no further action shall be taken.
 3. Within 10 days of receipt of the applicant's signed copies of the open space agreement, the Department shall obtain the signature of the County Executive and shall submit notification of such approval to the Pierce County Auditor for recording as provided for in the public recording of State tax liens on real property. No agreement may be recorded without the signature of the County Executive and payment of appropriate advertising fees to the County. Once recorded, the file shall be forwarded to the Assessor's office.
- R. **Denial.** The County Council may deny the application in whole or in part if the decision criteria of this Section has not been met. The County Council shall immediately notify the owner in writing of the basis for denial. If the County Council denies part of the application the applicant may withdraw the entire application.
- S. **Time Period for Final Decision.** The final decision for approval or disapproval of an application for open space land current use assessment shall be no more than six months from the date of a complete application.
- T. **Appeals.** The County Council's final approval or denial, in whole or in part, of an open space current use assessment application shall be appealable to a court of competent jurisdiction pursuant to RCW 84.34.037(5).
- U. **Notation.** For all lands granted approval under the open space land current use assessment program, the Assessor shall make a notation each year on the assessment list and the tax roll of the assessed value of such land for the use classified in addition to the assessed value of such land were it not classified.

2.114.070 Fees.

- A. **Filing Fees.** Applications shall be accompanied by a processing fee of \$250.00 for open space land and timber land applications (of which \$100.00 shall be allocated to the Assessor's Office and \$150.00 shall be allocated to PALS), and \$250.00 for productive farm and agricultural land applications (which shall be allocated to the Assessor's Office).
- B. **Advertising Fees.** The costs incurred by the County for advertising the final public hearing for each open space land and timber land application shall be billed to the applicant. Such costs shall be paid to the County prior to recording the agreement with the Pierce County Auditor

2.114.080 Reclassification of Existing Open Space Land Current Use Assessment Program Participants Upon Adoption of a Public Benefit Rating System.

- A. Upon adoption of a public benefit rating system, the Department shall re-rate the existing open space land current use assessment program participants according to the public benefit rating system in determining whether an application should be approved or disapproved. Re-rating of all existing program participants shall be performed in conjunction with the physical inspection cycle as funds become available or when the property is sold, whichever comes first.
- B. The process for re-rating existing open space land current use assessment program participants under the public benefit rating system shall be conducted in accordance with the provisions for processing a new application for open space land current use assessment, except filing fees shall be waived.
- C. Properties which do not qualify under the public benefit rating system and whose owners choose not to be removed shall not be removed from the open space land current use assessment program, but shall be rated according to the open space land current use assessment valuation schedule.
- D. Owners of properties 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

Exhibit "A" Current Use Assessment Program without payment of penalties, back taxes, and interest upon request of the owner, within 30 days of notification of value under the public benefit rating system.

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2 **2.114.090 Multiple Jurisdictions.**

3 A. **Incorporated Jurisdictions.**

- 4 1. An owner of land who desires a current use classification for open space land or timber land
5 and whose land is in an incorporated area within Pierce County shall apply with the
6 Department.
7 2. The Department shall send copies of such application to the respective town or city
8 administrative authority within 10 days of receipt.
9 3. Within 10 days of receipt of the applicant's signed copies of the open space agreement, the
10 Department shall obtain the signature of the County Executive and shall submit notification
11 of such approval to the Pierce County Auditor for recording as provided for in the public
12 recording of State tax liens on real property. No agreement may be recorded without the
13 signature of the County Executive. Once recorded, the file shall be forwarded to the
14 Assessor's office.

- 15 B. **Multiple Counties.** If the land described in an application for classification under this program
16 is located in more than one county, the owner shall file a separate application with each
17 granting authority.

18 **2.114.100 Requests for Compensating Tax Estimates.**

19 When an owner of open space land, timber land, or productive farm and agricultural land files a
20 "Request for Withdrawal from Classification" or directs removal of classification, the Assessor's office
21 will supply the owner with the proper information pursuant to RCW 84.34, without charge. When an
22 owner of open space land, timber land, or productive farm and agricultural land requests estimated tax
23 information prior to filing for withdrawal from classification or prior to action requiring removal of
24 classification, the request shall be made on a form provided by the Assessor's Office and shall be
25 accompanied by a \$50.00 research fee, to be paid by the applicant.

26 **2.114.110 Authority to Require Additional Information.**

27 The Assessor may require owners of land classified under the current use assessment program to
28 submit pertinent data regarding the use of the land, productivity of typical crops, and such similar
information pertinent to continued classification and appraisal of the land.

2.114.120 Withdrawal from Classification Under the Current Use Assessment Program.

Applications for withdrawal from classification under the current use assessment program shall be
conducted in accordance with RCW 84.34 and WAC 458.30.

2.114.130 Change in Use.

When land which has been approved under the current use assessment program is applied to some
other use the provisions of Chapter 84.34 RCW and Chapter 458-30 WAC shall apply. Any change
of use or request to alter the points applied under the Public Benefit Rating System set forth in
Section 2.114.060 PCC which results in the need to re-review a parcel's status under the current use
assessment program will require the filing of a new application and payment of the filing fee.

2.114.140 Extensions and Payment of Additional Tax, Penalties, and Interest.

Extensions and payment of additional tax, penalties, and interest shall be conducted in accordance
with Chapter 84.34 RCW and Chapter 458-30 WAC.

2.114.150 Removal of Classification Under the Current Use Assessment Program.

Removal of any or all portions of land classified under the current use assessment program shall be
subject to the provisions in Chapter 84.34 RCW and Chapter 458-30 WAC.

2.114.160 Advisory Committee.

The Council shall appoint a five-member Committee representing the active farming community
within Pierce County to serve in an advisory capacity to the Assessor in implementing assessment
guidelines as established by the Department of Revenue for the assessment of open space lands, farms

~~and agricultural lands, and other lands classified~~ pursuant to Chapter 84.34 RCW. The Committee shall serve without payment for the periods established by the Council which shall be consistent with any applicable State law and shall meet with the Assessor for the purposes set forth herein.

2.114.160 Agreements May be Abrogated by the Legislature.

Agreements made pursuant to this Chapter are not considered to be a contract between the owner and any other party and can be abrogated at any time by the County Council, in which event no additional tax or penalty shall be imposed.

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TABLE 2.114-1 PUBLIC BENEFIT RATING SYSTEM		
	Categories	Point System
Priority Resource	<u>High Priority</u> <ul style="list-style-type: none"> • Critical Salmon Habitat • Fish & Wildlife Habitat Areas • Marine Waters • Streams • Wetlands, Estuaries, and Tidal-Marshes • Wooded Areas 	5 points each
	<u>Medium Priority</u> <ul style="list-style-type: none"> • Agricultural Lands • Aquifer Recharge Areas • Flood Hazard Areas • Lakes • Private Open Space Passive Recreation • Privately Owned and Operated Recreational Facilities • Private Trails & Corridors 	3 points each
	<u>Low Priority</u> <ul style="list-style-type: none"> • Archaeological Sites • Historic Landmark Sites • Landslide Hazard Areas (Steep Slopes) • Private Parks and Private Golf Courses with Developed Facilities • Scenic View Points and Corridors • Seismic Hazard Areas • Volcanic Hazard Areas 	1 point each
Bonus	Public Access Granted	5 points
	Conservation/Historic Easement Granted in Perpetuity (forever)	10 points
	Site Within a Designated Urban Growth Area (UGA) or the Comprehensive Urban Growth Area (CUGA)	5 points
	Site is Adjacent to (abuts) or Creates Linkage With Another Open Space Parcel	5 points
Super Bonus	Properties with at least five priority resource points and which allow a degree of public access appropriate to the sensitivity of the resource(s) and which provide a qualifying conservation or historic easement in perpetuity.	25 points

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TABLE 2.114-2 VALUE REDUCTION AND CURRENT USE ASSESSMENT VALUATION SCHEDULE TABLE			
True and Fair Market Value	Percent Value Reduction	Current Use Assessment	Point System
100%	0%	100%	0 - 2 points
100%	20%	80%	3 points
100%	30%	70%	6 points
100%	40%	60%	9 points
100%	50%	50%	12 points
100%	60%	40%	15 points
100%	70%	30%	18 points
100%	80%	20%	20 points
100%	90%	10%	25 points or more