



# SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250

(360) 378-2354 | (360) 378-2116

dcd@sanjuanco.com | www.sanjuanco.com

## STAFF REPORT

<b>REPORT DATE:</b>	February 5, 2020
<b>TO:</b>	San Juan County Planning Commission
<b>THROUGH:</b>	Linda Kuller <i>LK</i>
<b>FROM:</b>	Bill Shanks, Current Use/DFL Administrator Julie Thompson, Planner IV
<b>SUBJECT:</b>	Current Use & DFL Programs
<b>FOR MEETING OF:</b>	February 21, 2020

**ISSUE:** What are the Current Use and Designated Forest Land Programs available in the County and what is the criteria to qualify for one?

**BACKGROUND:** There are four current use programs available to the citizens of San Juan County. They are the designated forest land program; current use farm and agriculture; current use farm and agriculture conservation land; and current use open space. The Planning Commission has expressed interest in obtaining further information about the available current use and designated forest land programs through the following questions:

1. What current use programs are available?
2. What is the criteria to qualify for one?
3. How long to the tax benefits last?
4. What are the benefits of being in one of these programs?
5. How many properties or what is the total acreage in these various programs?
6. How is that participation distributed across the Islands?
7. What is the value of the tax breaks?
8. Are there any trends in the number of approvals for the programs?
9. Does the County promote current use applications?

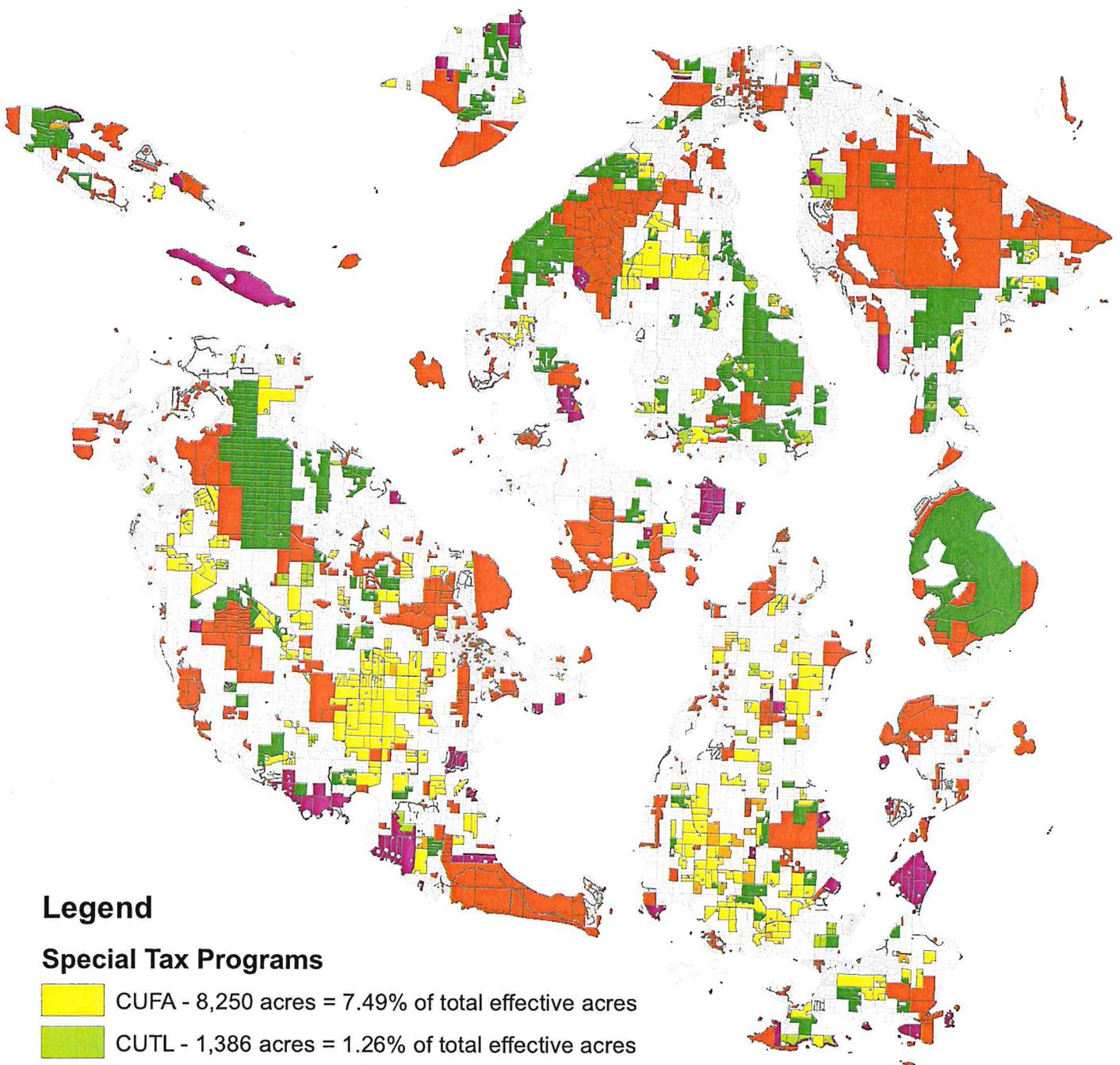
### ATTACHMENTS:

1. San Juan County Special Tax Programs map
2. Washington State Department of Revenue Open Space Taxation Act fact sheet
3. Washington State Department of Revenue Designated Forest Land fact sheet
4. San Juan County Application & Instructions for "Current Use Open Space"
5. Public Benefit Rating System Worksheet
6. San Juan County Instructions for Current Use "Farm & Ag Conservation Land"



# San Juan County Special Tax Programs

Total Effective Acreage in San Juan County = 110,125 acres



## Legend

### Special Tax Programs

- CUFA - 8,250 acres = 7.49% of total effective acres
- CUTL - 1,386 acres = 1.26% of total effective acres
- DFL - 12,646 acres = 11.48% of total effective acres
- OSFC - 487 acres = 0.44% of total effective acres
- OSOS - 3,417 acres = 3.10% of total effective acres

### Tax Exempt Parcels

- EXEMPT - 25,689 acres = 23.33% of total effective acres



# Open Space Taxation Act

JULY 2017

The information and instructions in this publication are to be used when applying for assessment on the basis of current use under the "open space laws," chapter 84.34 RCW and chapter 458-30 WAC.



## What is the Open Space Taxation Act?

The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state 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 scenic beauty for the economic and social well-being of the state and its citizens.

## Lands qualifying for current use classification

The law provides three classifications:

### Open space land

### Farm and agricultural land

### Timber land

## Open space land is defined as any of the following:

1. Any land area zoned for open space by a comprehensive official land use plan adopted by any city or county.
2. Any land area in which the preservation in its present use would:
  - a. Conserve and enhance natural or scenic resources.
  - b. Protect streams or water supply.
  - c. Promote conservation of soils, wetlands, beaches or tidal marshes. (As a condition of granting open space classification, the legislative body may not require public access on land classified for the purpose of promoting conservation of wetlands.)
  - d. Enhance the value to the public of neighbouring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.
  - e. Enhance recreation opportunities.
  - f. Preserve historic sites.
  - g. Preserve visual quality along highway, road, and street corridors or scenic vistas.
  - h. 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 authority granting the open space classification.
3. Any land meeting the definition of "farm and agricultural conservation land," which means either:
  - a. Land previously classified under the farm and agricultural classification that no longer meets the criteria and is reclassified under open space land; or
  - b. "Traditional farmland," not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.



### **Farm and agricultural land is defined as any of the following:**

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
  - a. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes.
  - b. Enrolled in the federal conservation reserve program (CRP) or its successor administered by the United States Department of Agriculture.
  - c. Other commercial agricultural activities established under chapter 458-30 WAC.
2. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has produced a gross income equivalent to:
  - a. Prior to January 1, 1993, \$100 or more per acre per year for three of the five calendar years preceding the date of application for classification.
  - b. On or after January 1, 1993, \$200 or more per acre per year for three of the five calendar years preceding the date of application for classification.
3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
  - a. Seven years and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
  - b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
4. For parcels of land five acres or more but less than 20 acres, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.
5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
  - a. Prior to January 1, 1993, \$1,000 or more per year for three of the five calendar years preceding the date of application for classification.
  - b. On or after January 1, 1993, \$1,500 or more per year for three of the five calendar years preceding the date of application for classification.
6. "Farm and agricultural land" also includes any of the following:
  - a. Incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.
  - b. Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.
  - c. Any non-contiguous parcel one to five acres, that is an integral part of the farming operations.
  - d. Land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes, the housing or residence is on or contiguous to the classified land, and the classified land is 20 or more acres.
  - e. Land that is used primarily for equestrian-related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to minimum gross income requirements.
  - f. Land that is primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not. For additional criteria regarding this use, please refer to RCW 84.34.020(2)(h).

### **Timber land is defined as the following:**

Any parcel of land 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. Timber land 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 10 percent of the land may be used for such incidental uses.

It also includes the land which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

The timber land classification may be unavailable in some counties. As a result of the passage of Senate Bill 6180 in 2014, counties have the option to merge their timber land classification into their designated forest land program under chapter 84.33 RCW. To determine whether your county offers the timber land classification, you may contact the county assessor or visit the Department of Revenue's website at: [www.dor.wa.gov](http://www.dor.wa.gov).

### **Who may apply?**

An owner or contract vendee may apply for current use assessment. However, all owners or contract vendees must sign the application for classification, and any resulting agreement.

### **When may I apply?**

Applications may be made for classification at any time during the year from January 1 through December 31. If approved, current use assessment will begin on January 1 following the year the application was submitted.

### **Where do I get the application?**

Application forms for the farm and agricultural land classification are available from the county assessor's office. Application forms for the open space and timber land classifications are available from either the county assessor's office or by contacting the county legislative authority.

### **Where do I file the application?**

**An application for open space classification** is filed with the county legislative authority.

**An application for farm and agricultural land classification** is filed with the county assessor.

**An application for timber land classification** is filed with the county legislative authority. Timber land applications require that a timber management plan also be filed.

### **Is there an application fee?**

The city or county legislative authority may, at their discretion, establish a processing fee to accompany each application. This fee must be in an amount that reasonably covers the processing costs of the application.

### **What happens after I file my application for open space classification?**

Applications for classification or reclassification as "open space land" are made to the appropriate agency or official called the "granting authority." If the land is located in the county's unincorporated area, the county legislative authority is the granting authority on the application. If the land is located within an incorporated area of the county, the application is acted upon by both the county and city legislative authorities.

If the application is subject to a comprehensive plan that has been adopted by any city or county it will be processed in the same manner in which an amendment to the comprehensive plan is processed. If the application is not subject to a comprehensive land use plan, a public hearing on the application will be conducted, but a notice announcing the hearing must be published at least 10 days prior to the hearing.

The granting authority must approve or reject the application within six months of receiving the application. In determining whether an application made for classification or reclassification should be approved or denied, the granting authority may consider the benefits to the general welfare of preserving the current use of the property.



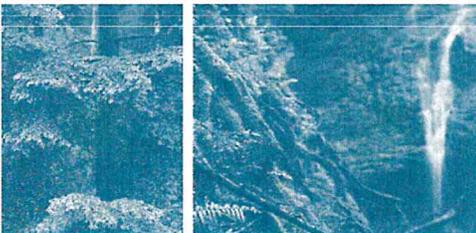
They may require that certain conditions be met including but not limited to the granting of easements.

If the application is approved, the granting authority will, within five calendar days of the approval date, send an agreement to the applicant for signature showing the land classification and conditions imposed. The applicant may accept or reject the agreement. If the applicant accepts, he or she must sign and return the agreement to the granting authority within 30 days after receipt.

The approval or denial of the application for classification or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.



### How does a public benefit rating system work?

If the county legislative authority has established a public benefit rating system (PBRs) for the open space classification, the criteria contained within the rating system governs the eligibility and valuation of the land subject to the application.

When a county creates or amends a PBRs, all classified open space land will be rated under the new PBRs. Land that no longer qualifies for classification will not be removed from classification, but will be rated according to the PBRs. Within 30 days of receiving notification of the new assessed value established by the PBRs, the owner may request removal of classification of the land without imposition of additional tax, interest, and penalty.

### What happens after I file my application for farm and agricultural land classification?

Upon application for classification or reclassification, the assessor may require applicants to provide data regarding the use of the land, including, but not limited to, the productivity of typical crops, sales receipts, federal income tax returns, other related income and expense data, and any other information relevant to the application.

The application will be considered approved unless the assessor notifies the applicant in writing prior to May 1 of the year after the application was submitted. The criteria for classification continue to apply after classification has been granted.

### What is an “advisory committee”?

The county legislative authority must appoint a five member committee representing the active farming community within the county. This committee will 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, farm and agricultural lands, and timber lands.

### How do I appeal a denial of my farm and agricultural land application?

The owner may appeal the assessor’s denial to the board of equalization in the county where the land is located. The appeal must be filed with the board on or before July 1 of the year of the determination or within 30 days after the mailing of the notice of denial, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

### What happens after I file my application for timber land classification?

Applications for timber land classification or reclassification are made to the county legislative authority. A timber management plan is required at the time of application or when a sale or transfer of timber land occurs and a notice of continuance is signed.

The application form requests information about forest management, restocking, fire protection, insect and disease control, weed control, and any other summary of experience and activity that supports the growth and harvest of timber for commercial purposes.

The application is acted upon in a manner similar to open space land applications and within six months of receiving the application.

Approval or denial of a timber land application is a legislative determination and is reviewable only for arbitrary and capricious action. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

### How is the value of classified land determined?

The assessor is required to maintain two values for each parcel that is classified. The first is the value that would be placed on the land if it was not classified. This is commonly referred to as the "fair market value." The second is the current use land value based on its current use, not highest and best use, as classified by the granting authority.

Open space land located within a county that has adopted a public benefit rating system will be valued according to the criteria of the rating system.

In the absence of a rating system, the per acre value can be no less than the lowest per acre value of classified farm and agricultural land in the county.

In determining the current use value of farm and agricultural land, the assessor considers the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years. This earning or productive capacity is the "net cash rental" and is capitalized by a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

Timber land is valued according to a schedule prepared by the Department of Revenue according to chapter 84.33 RCW. The Department of Revenue annually adjusts and certifies timber land values to be used by county assessors in preparing assessment rolls. The assessors assign the timber land values to the property based upon land grades and operability classes.

### When are taxes due on classified lands?

Land classified as open space, farm and agricultural, or timber land is assessed at its current use value and placed on the assessment rolls the year after the application was submitted. Taxes on classified land are due and payable the year after the current use value was placed on the assessment rolls.

### How long does the classification last?

The land continues in its classification until a request for removal is made by the owner, the use of land no longer complies, a sale or transfer to an owner that causes land to be exempt from property taxes, or the ownership has changed and the new owner has not signed a Notice of Continuance. The notice of removal is recorded with the county auditor in the same manner as the recording of state tax liens on real property. Additional tax, interest, and penalties will apply if the land is removed and the removal does not meet one of the exceptions listed in RCW 84.34.108(6).

### How do I withdraw from classification?

If intending to withdraw all or a portion of the land from classification after 10 years of classification, the owner must complete a withdrawal form with the county assessor.

If a portion of the land is removed from classification, the remaining portion must meet the requirements of original classification unless the remaining land has different income or investment criteria.



### What happens after I file a request to withdraw?

Upon receipt of a request for withdrawal, the assessor notifies the granting authority that originally approved the classification, and, the assessor withdraws the land from classification. The land withdrawn from classification is subject to seven years of additional tax and interest, but not a 20 percent penalty.

### What happens if the classified land is sold or transferred?

When classified land is sold or transferred, the seller or transferor becomes liable at the time of sale for the additional tax, interest, and penalty unless the new owner(s) signs the Notice of Continuance which is attached to or shown on the real estate excise tax affidavit. The county auditor cannot accept an instrument of conveyance on any classified land unless the Notice of Continuance has been signed or the additional tax, interest, and penalty has been paid. The assessor determines if the land qualifies for continued classification

### What if I want to change the use of my classified property?

An owner changing the use of land from a classified use must notify the county assessor within 60 days of this action. The assessor will remove the land from classified status and impose an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on the land had it not been classified. The additional tax is payable for the last seven tax years, plus interest at the same rate as charged on delinquent property taxes, plus a penalty of 20 percent of the total amount.

### If the assessor removes my land from classification, may I appeal?

Yes, the owner may file an appeal of the removal from classification to the county board of equalization on or before July 1 of the year of the determination, or within 30 days of the date the notice was mailed by the assessor, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

### Upon removal from classification, what taxes are due?

At the time the land is removed from classification, any taxes owing from January 1 of the removal year through the removal date, and any additional tax, applicable interest, and penalty owing are due and payable to the county treasurer within 30 days of the owner being notified.

### What if the additional taxes are not paid?

Any additional tax, applicable interest, and penalty become a lien on the land at the time the land is removed from classification. This lien has priority over any other encumbrance on the land. Such a lien may be foreclosed upon expiration of the same period after delinquency in the same manner as delinquent real property taxes. If unpaid, interest is charged on the total amount due at the same rate that is applied by law to delinquent property taxes. Interest accrues from the date of the delinquency until the date the total amount is paid in full.

### What is done with the additional tax, interest, and penalty paid when land is removed from classification?

Upon collection, the additional tax is distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The applicable interest and penalties are distributed to the county's current expense fund.



## How do I change the classification of my property?

Land may be reclassified, upon request by the owner, subject to all applicable qualifications for each classification, without additional tax, interest, and penalty for the following:

1. Land classified as farm and agricultural land may be reclassified to timber land; timber land may be reclassified to farm and agricultural land.
2. Land classified as either farm and agricultural land or timber land under chapter 84.34 RCW, or forest land under chapter 84.33 RCW may be reclassified to open space land.
3. Land classified as farm and agricultural land or timber land may be reclassified to forest land under chapter 84.33 RCW.
4. Land previously classified as farm and agricultural land may be reclassified to open space land as "farm and agricultural conservation land" and subsequently be reclassified back to farm and agricultural land.

Applications for reclassification are acted upon in the same manner as approvals for initial classification. The county assessor approves all applications for farm and agricultural classifications and reclassifications. The county legislative authority (and in some cases, the city legislative authority) approves all land classifications or reclassifications for timber land and open space land, including farm and agricultural conservation land.

## Is supporting information required to change classifications?

The assessor may require an owner of classified land to submit data regarding the use of the land, productivity of typical crops, income and expense data, and similar information regarding continued eligibility.

## Laws and Rules

It is helpful to read the complete laws, Revised Code of Washington, chapters 84.33 and 84.34 (RCW) and rules, Washington Administrative Code, chapter 458-30 (WAC) to understand requirements of the classifications and the tax liabilities incurred.

## Need More Information?

Requirements for making application for current use classification are available at the county assessor's office or by contacting the county legislative authority.

### For general information contact:

- **Department of Revenue, Property Tax Division**  
P. O. Box 47471  
Olympia, Washington 98504-7471  
(360) 534-1400
- Website [dor.wa.gov](http://dor.wa.gov)
- **Telephone Information Center**  
1-800-647-7706
- For tax assistance or to request this document in an alternate format, visit <http://dor.wa.gov> or call 1-800-647-7706. Teletype (TTY) users may use the Washington Relay Service by calling 711.



<http://dor.wa.gov>



# Designated Forest Land

MAY 2014

Washington State encourages sound forestry practices so that present and future generations can enjoy the many benefits they provide. In addition to scenic and recreational spaces, healthy forests provide:

- **An enhanced water supply.**
- **Reduced soil erosion, storm and flood damage.**
- **Habitat for wild game.**
- **Employment opportunities.**
- **Raw materials for products.**

As a way to encourage commercial forestry in Washington State, landowners may choose to have their land designated as forest land. This designation often results in a lower assessed value and lower taxes. Specific requirements must be met to qualify for this designation.

## Requirements for Designated Forest Land

To request your land be designated as forest land, the following requirements apply:

- The land must be used primarily for growing and harvesting timber.
- The land must consist of a single parcel of 5 or more acres; or multiple, contiguous parcels totalling 5 or more acres. Residential home sites are not included in the 5 acre minimum.
- Designated forest land may include land used for incidental uses that are compatible with growing and harvesting timber, but no more than ten percent of the land may be used for such incidental uses.
- If the land has appurtenances necessary for the production, preparation, or sale of the timber products, that land may also be included.
- You must comply with forest practice laws and regulations.
- Application must be made to the county assessor.

## Application for Designated Forest Land

You can get an application for Designated Forest Land from your local assessor's office. In some counties, an application fee may also apply. The application requires the following information:

- A legal description of, or assessor's parcel numbers for, all land you want designated as forest land.
- The date or dates of acquisition of the land.
- A brief description of the timber on the land, or if the timber has been harvested, your plan for restocking.
- If one exists, a copy of the timber management plan for the land, prepared by a trained forester or any other person with adequate knowledge of timber management practices.
- If a timber management plan exists, an explanation of the extent to which the management plan has been implemented.
- Whether the land is used for grazing.
- Whether the land has been subdivided or a plat has been filed with respect to the land.
- Whether the land is managed in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW.



- Whether the land is subject to forest fire protection assessments under RCW 76.04.610.
- Whether the land is subject to a lease, option, or other right that permits it to be used for any purpose other than growing and harvesting timber.
- A summary of your past and current experience growing and harvesting timber.
- A statement that you are aware of the potential tax liability involved when the land is no longer designated as forest land.
- An affirmation that the statements contained in the application are true and that the land described in the application meets the definition of forest land in RCW 84.33.035.
- A description and/or map showing what areas of the land are used for incidental uses compatible with the definition of forest land in RCW 84.33.035.

The assessor may also require an applicant to provide a timber management plan when an application for classification or reclassification into designated forest land is submitted. For additional information on timber management plans, please refer to the Guidelines for Timber Management Plans publication or visit [www.foresttax.dor.wa.gov](http://www.foresttax.dor.wa.gov)

Submit your completed application to the assessor's office by December 31.

If approved, designated status begins January 1 the year after you apply. If the assessor does not notify you as to whether your application was approved or denied prior to July 1 of the year after you apply, the application is automatically approved. If denied, you may appeal the denial to the county board of equalization.

### Valuation of Designated Forest Land

The Department of Revenue annually adjusts and certifies forest land values to be used by county assessors in preparing assessment rolls. The assessors assign the forest land values to the property based upon land grades and operability classes. The timber on Designated Forest Land is exempt from real property taxes but is subject to timber excise tax under chapter 84.33 RCW. For additional information on timber excise tax, please refer to the [Timber Excise Tax publication](#) or visit [www.foresttax.dor.wa.gov](http://www.foresttax.dor.wa.gov)

### Removal from Designated Forest Land

Land may be removed from designation if:

- You choose to remove the land and you notify the assessor in writing.
- You sell or transfer the land to an ownership that makes the land exempt from ad valorem taxation.
- You sell or transfer the land to a new owner that does not sign a notice of forest land continuance.
- Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:
  1. The land is no longer primarily devoted to and used for growing and harvesting timber.
  2. You did not comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW.
  3. Restocking the land has not occurred to the extent or within the time specified in your designation application.

### Compensating Tax

Upon removal, you will be required to pay compensating tax unless the removal meets one of the exceptions outlined in RCW 84.33.140(13) or (14). The amount of compensating tax is the difference between the last Designated Forest Land value and the new assessed value of the land. This amount is then multiplied by the last levy rate extended against the land and multiplied by the number of years the land was designated as forest land, not to exceed nine. Compensating taxes will also be due on the land from January 1 of the year the designation is removed up to the removal date.



## Reclassification of Designated Forest Land

You may request the land to be reclassified (subject to all applicable qualifications for each classification) to the Current Use Program outlined in chapter 84.34 RCW, without paying the compensating tax. The Current Use Program offers three classifications:

- Open Space Land
- Farm and Agricultural Land
- Timber Land

For more information on these classifications, please refer to the *Open Space Taxation Act* publication.

## Appeals

You may appeal the denial of your application for initial classification or reclassification as Designated Forest Land to the county board of equalization. You may also appeal any removals from designation as well as the new assessed value used to calculate the compensating tax.

## Need More Information?

Please contact either your local assessor's office or the Property Tax Division at (360) 534-1400

### Department of Revenue Taxpayer Assistance

- **Call our Telephone Information Center 1-800-647-7706**
- To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715.
- Teletype (TTY) users please call (360) 705-6718.







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135 Rhone Street, PO Box 947, Friday Harbor, WA 98250

Attachment 4

(360) 378-2354 | (360) 378-2116

dcd@sanjuanco.com | www.sanjuanco.com

### APPLICATION & INSTRUCTIONS FOR "CURRENT USE OPEN SPACE" UNDER SJCC 16.50

(Do not use this form for "Current Use Farm and Agricultural Conservation Land.")

A complete application includes all of the following documents:

- 1) Department of Revenue "Application for Classification as Open Space for Current Use under Chapter 84.34 RCW" (Form: REV 64 0021e(w) (6/11/12)) available at <http://dor.wa.gov/docs/forms/proptx/forms/appforclassopenspacelndtmbrasses.doc> and the Open Space Agreement at <http://www.dor.wa.gov/docs/forms/proptx/forms/openspacetaxagrmt.doc>;
- 2) A FULL legal description, *as a separate attachment* (obtained from a title company or from a document recorded at the Auditor's Office ;
- 3) "Open Space Classification Questionnaire" ;
- 4) The "Property Profile Sheet" ;
- 5) A site plan which clearly shows dimensions of the existing developed areas of the property, proposed improvements, as well as any future homesites to be excluded from this application. The site plan should also note the location of items mentioned in the "Questionnaire." Provide information on the existence of noxious weeds on this property and a plan for their control.
- 6) A statement whether the property is currently enrolled in another "current use" tax program.

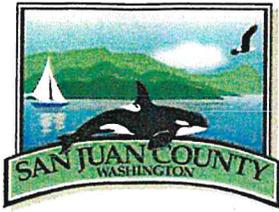
Where there are existing buildings on the site, at least one acre around structures and residential structures themselves will be taxed at fair market value. You will still pay full taxes on that land and on residential structures.

The "Open Space Classification Questionnaire" is used to evaluate a property's eligibility for approval as "current use open space." One application fee will be charged if there are multiple contiguous parcels in the same ownership. However, each parcel will be scored separately on the basis of the resources actually located on that individual property. Use a separate "Questionnaire" for each parcel.

When filling out the "Questionnaire", clearly describe the resources present, providing written explanations, photos, maps and any other documentation to support your application.

Early in the process, the Open Space Advisory Team will visit the site using the "Public Benefit Rating System Worksheet" to score the resources and determine the amount of tax abatement per parcel. After the property is scored, Staff will present that information in a report to the Planning Commission. The Planning Commission will make a *recommendation* to the County Council, who will take final action on the request.

Once the County Council has acted, documents (the Resolution, the "Property Profile Sheet" and the "Current Use Open Space Agreement for the Current Use Taxation Program") will be drafted for your signature, then presented to the San Juan County Council for their final signature. After Council signature, those documents will be recorded with the San Juan County Auditor. The "Property Profile Sheet" will also be published online, in public schools, and in public libraries.



## SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250

(360) 378-2354 | (360) 378-2116

dcd@sanjuanco.com | www.sanjuanco.com

### OPEN SPACE CLASSIFICATION QUESTIONNAIRE

#### RESOURCE POINTS

##### **A. NATURAL AND SCENIC RESOURCES**

1. **DEFINITION:** Conserves and enhances natural and scenic resources such as natural shorelines, vistas and sanctuary lands providing habitat for flora and fauna.
2. **RESOURCES PRESENT:**
  - a.  "Natural" designation under the Comprehensive Plan or Shoreline Master Program
  - b.  Views open for public enjoyment
  - c.  Undeveloped shoreline
  - d.  Significant wildlife area that provides habitat for numerous species of flora and fauna (identified as such by the State Department of Ecology, Wildlife, or Fisheries, by the University of Washington Friday Harbor Labs, or by San Juan County)
  - e.  "Terrestrial Ecosystem" (recognized by the State Department of Natural Resources Planning Department) as having state significance or determined to be eligible for the above programs by a qualified professional and substantiated by the Department of Natural Resources)
3. **DEVELOPMENT RESTRICTIONS:** No further development is allowed.
4. **PUBLIC ACCESS:** Limited to activities which will not threaten or destroy the resource.

Describe or document resources/features present:

##### **B. WATER RESOURCES**

1. **DEFINITION:** Protects functional watersheds, streams, stream corridors, and supporting wetlands.
2. **RESOURCES PRESENT:**
  - a.  Lands within a priority watershed that contribute to overall water quality (as shown on San Juan County Shoreline Master Program Designated Environments Map, or recognized in San Juan County Watershed Ranking report.
  - b.  Fresh water such as wetlands, lakes, stream/stream corridors
  - c.  Salt water such as tidal marshes, estuaries and shorelines
3. **DEVELOPMENT RESTRICTIONS:** No subdivision is allowed. No additional construction is allowed.
4. **PUBLIC ACCESS:** Limited to activities which will not threaten or destroy the resource.

Describe or document resources/features present:

### **C. FRAGILE RESOURCES**

1. **DEFINITION:** Resources which are fragile and therefore more susceptible to degradation/loss, include unique or critical wildlife and native plant habitat (species and their habitat that are classified "endangered", "threatened," "sensitive" or "monitor"), delicate geological features such as feeder bluffs and accretion shoreforms and other fragile and unique areas crucial to the ecological balance of the island environments.
2. **RESOURCES PRESENT:**
  - a.  Special animal sites (designated by State Department of Fish & Wildlife as having state significance, species and their habitat that are classified as "endangered," "threatened," "sensitive" or otherwise "listed" species under the State Department of Wildlife Nongame Program, other species that may be locally rare or otherwise deemed of importance to San Juan County, or determined to be eligible for the above programs by a qualified professional and substantiated by the affected agency).
  - b.  Special plant sites (designated by State Department of Natural Resources Natural Heritage Program as having state significance, other species that may be locally rare or otherwise deemed of importance to San Juan County, or determined to be eligible for the above programs by a qualified professional and substantiated by the applicable agency).
  - c.  Hazard prone sites such a ravines, steep slopes, slide prone areas, flood hazard areas, established natural drainages (identified as such by the Coastal Zone Atlas of Washington, FEMA Flood Hazard Boundary Maps, State or County data bases, or by a qualified professional)
  - d.  Geological/geomorphological features such as fossils, waterfalls, unique works of glaciation, or accretion shoreforms such as spits, points, and barrier berms (documented by Washington Interagency Committee for Outdoor Recreation inventory, by State or local data bases, or by a qualified professional.)
3. **DEVELOPMENT RESTRICTIONS:** No development in sensitive ecosystems, or near endangered /threatened species habitat. Otherwise, residential development in species habitat subject to limitations imposed by state and federal guidelines/recommendations. Residential development limited to one residence. Commercial development prohibited.
4. **PUBLIC ACCESS:** In areas sensitive to human disturbance, limited to educational opportunities and wildlife study. Less sensitive areas, such as accretion beaches, etc. may be open to public. Recreational use as deemed appropriate for the resource.

Describe or document resources/ features present:

### **D. LAND ABUTTING PROPERTY OF PUBLIC VALUE**

1. **DEFINITION:** Enhances the value to the public of abutting or neighboring parks, forests, wildlife preserves, natural reservations or sanctuaries, or other open space.
2. **RESOURCES PRESENT:**
  - a.  Lands adjacent to federal, state or other publicly owned properties; or lands held in trust for the public benefit by a duly authorized organization, such as a land preservation trust; or other lands classified under open space designation.

3. **DEVELOPMENT RESTRICTIONS:** No subdivision is allowed. No commercial development is allowed. Residential development is limited to one residence.
4. **PUBLIC ACCESS:** "Group access" or "access with notification" is required to obtain points in this section. (Note that this part of the code uses slightly different language for the types of access, and refers to "limited or general public access". For the sake of consistency, the terms of SJCC 16.50.275 will be used. "Group access" is what is meant by "limited"; "Access with notification" is what is meant by "general public access.")

Describe or document status of adjacent land:

#### **E. COMPATIBLE RECREATIONAL USE AREAS**

1. **DEFINITION:** Enhance recreational opportunities by opening access to beaches, rural open spaces and other areas for compatible recreational uses.
2. **RESOURCES PRESENT:**
  - Provides opportunities for recreational enjoyment compatible with the resource, such as hiking, biking, boating, fishing, picnicking and nature study.
3. **DEVELOPMENT RESTRICTIONS:** No subdivision and no further development of the land is allowed. Construction is limited to facilities for passive recreation, as submitted with the application materials.
4. **PUBLIC ACCESS:** "Access with notification" is required to obtain points in this section.

Describe compatible recreational use opportunities:

#### **F. HISTORIC SITES**

1. **DEFINITION:** Archaeological sites, cultural areas, historic farms, historic buildings and improvements of local historical/cultural significance.
2. **RESOURCES PRESENT:**
  - a.  Archaeological sites (documented by the Washington State Office of Archaeology and Historic Preservation, by San Juan County or identified by a qualified professional and substantiated by the applicable agency)
  - b.  Historical sites: buildings, property, informative markers, interpretive trails, and/or literature. Historical buildings and properties must be documented and recognized by federal, state or local registers or historical societies. Interpretive information or trails must provide information about a documented historical site, building or event.
  - c.  Improvements of local historical/ cultural significance that enhance the resource (provision of an interpretive area, for example)
3. **DEVELOPMENT RESTRICTIONS:** Development is restricted to preserve the integrity of the archaeological, historic, cultural or historic farm resource.
4. **PUBLIC ACCESS:** When it will not endanger the feature being preserved, "access with notification" (general access) is required to obtain points in this section.

Describe or document resources/ features present:

**G. OPEN SPACE WITHIN COMMUNITIES**

1. DEFINITIONS: Retains in its natural state tracts of land not less than one acre situated in an urban area and open to public use.
2. RESOURCES PRESENT:
  - Within an "Urban" designation or similar designation or district in a Subarea Plan
3. DEVELOPMENT RESTRICTIONS: As appropriate for the resources.
4. PUBLIC ACCESS: "Access with notification" is required to obtain points in this section.

Describe designation and relationship to surrounding land uses:

**PUBLIC ACCESS**

**A. LEVEL OF ACCESS**

1. DEFINITION/PURPOSE: Provide public access to land classified as open space.
2. In order to obtain *any* points for public access, the property must have scored at least 20 points in the "Resource" section above.
3. The extent of public access provided will be clearly defined in the Open Space Taxation Agreement, if the property is accepted for classification. Properties awarded points for public access will be included in a booklet available to the general public.
4. Describe how the site can be reached. Include a map and any restrictions or easements that burden the property. Please provide directions and contact information for arranging visits.

**Type of public access** (Check one.)

1. **No access**

2. **Group access:** The groups to which you offer access must be appropriate to the features of the property. When groups want to visit the site they must seek advance permission from the landowner. If this application is approved, the county will notify these groups that access to the property is available. A minimum of five San Juan County based groups are required (San Juan County public and private schools must be one of the groups.)

List groups to be allowed access, including name of group, contact information and mailing address:

- 1)
- 2)
- 3)
- 4)
- 5)

3. **Access with notification:** The general public may contact the landowner asking permission to visit the site. Access cannot be denied if the request is compatible with the open space agreement and would not endanger open space resources.

**4. Unlimited access:** The general public may visit the site without advance notice or permission from the landowner. Use of the property shall be limited to passive recreation which is compatible with the open space agreement.

**LEVEL OF RESOURCE PROTECTION**

**DEFINITION/PURPOSE:** Maintain the integrity of open space resources by encouraging landowners to classify large tracts of land as open space, by protecting resources in perpetuity with a conservation easement or other appropriate instrument, and by reducing the density associated with the parcel.

- 1. Conservation easement** - Provide an easement which protects open space resources in perpetuity, limits development to the less sensitive areas of the site, and restricts development and other activities which would impact the open space resources. A conservation easement on part of the property will not receive the full score but may receive points proportional to the area covered by the easement. Is there a conservation easement on this property? \_\_\_\_\_
- 2. Density reduction** - To receive points, density units must be reduced in perpetuity. Excluding certain areas from construction or development does not reduce the density of a property. How many density units have been eliminated? \_\_\_\_\_
- 3. Parcel size** – Points awarded are for the size of one single parcel, not the sum of all parcels owned. What size is this parcel? \_\_\_\_\_

I have read this and testify that the above responses are true and complete to the best of my knowledge.

Signature of Applicant(s): \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Owner(s): \_\_\_\_\_ Date: \_\_\_\_\_  
*(If different from applicant)*

**Public Benefit Rating System Worksheet**

For Administrative Use Only

Property Owner: \_\_\_\_\_ Island: \_\_\_\_\_

Tax Parcel Number: \_\_\_\_\_

**A. RESOURCES**

Value/Condition of Resource	X Priority Multiplier	= Score
3- high	3- high	
2- medium	2- medium	
1- low	1- low	

	<u>Value</u>	<u>Multiplier</u>	<u>Score</u>
<b>1. Natural and Scenic Resources</b>			
a. Natural Designation (1-3 points)	_____	2	_____
b. Visual Quality of Site (.5 pts per resource multiplied by 1 for property visible from access roads or waterways, 2 for collector roads, or 3 for major or minor arterial roads or ferry routes)			
Pasture	_____	1, 2, or 3	_____
Steep slopes	_____	1, 2, or 3	_____
Forest	_____	1, 2, or 3	_____
Wetland/shoreline	_____	1, 2, or 3	_____
Compatible development	_____	1, 2, or 3	_____
No visible development	_____	1, 2, or 3	_____
c. Significant Wildlife Habitat		3	_____

<b>2. Water Resources (1-3 points)</b>			
a. Priority Watershed	_____	3	_____
b. Fresh Water	_____	3	_____
c. Saltwater	_____	3	_____

Restrictions: If points are awarded in the Water Resources section, restrictions must be recorded prohibiting subdivision and additional construction.

<b>3. Fragile Resources</b>			
a. Special Animal Sites (3pts)	_____	3	_____
b. Special Plant Sites (3pts)	_____	3	_____
c. Hazard-Prone Sites (3pts)	_____	1	_____
d. Geological/Geomorph (1-3pts)	_____	2	_____

Restrictions: If points are awarded in the Fragile Resources section, restrictions must be recorded limiting residential development to one residence and prohibiting commercial development.

**4. Land Abutting Property of Public Value (Maximum of 6 points)**

Public Access	_____	0, 1, 1.5, or 2	_____
Size of Property	_____	0, 1, 1.5, or 2	_____
Variety & Quality of Resources	_____	0, 1, 1.5, or 2	_____

Restrictions: If points are awarded in the Lands Abutting Property of Public Value section, restrictions must be recorded prohibiting subdivision and commercial development.

Access: To be awarded any points in the Lands Abutting Property of Public Value section, either "Group Access" or "Access with Notification" must be offered.

**5. Compatible Recreational Use Areas (Maximum 9 points)**

Public Access	_____	0, 1, 2, or 3	_____
Variety of Activities	_____	0, 1, 2, or 3	_____
Variety & Quality of Resources	_____	0, 1, 2, or 3	_____

Restrictions: If points are awarded in the Compatible Recreational Use Areas section, restrictions must be recorded prohibiting subdivision and further development of the land. Construction must be limited to facilities desirable for passive recreational needs, as requested at the time of application for open space.

Access: To be awarded any points in the Compatible Recreational Use Areas section "Access with Notification" must be offered.

**6. Historic Sites (1-3 points)**

a. Archaeological	_____	3	_____
b. Historic Buildings	_____	3	_____
c. Historic Farms	_____	3	_____

Restrictions: Development should be restricted as necessary to preserve the integrity of archaeological, historic, cultural and historic farm resources.

Access: General access available when such access will not endanger the feature being preserved.

**7. Open Space within Communities (3pts)** \_\_\_\_\_ 1 \_\_\_\_\_

Access: To be awarded any points in the Open Space within Communities section "Access with Notification" must be offered.

**SUBTOTAL RESOURCE POINTS** \_\_\_\_\_

**LESS ALL POINTS GREATER THAN 40** \_\_\_\_\_

**TOTAL RESOURCE POINTS (Maximum of 40 points)** \_\_\_\_\_

**B. LEVEL OF PUBLIC ACCESS**

(The property must have scored at least 20 Resource points before any Public Access points are awarded.)

**1. Group Access (1-10 points possible)**

	High (2.5pts)	Medium (1.5pts)	Low (1pt)	None (0pt)
Accessibility				
Type of Groups				
Restrictions				
Resource Variety				
Total				

**2. Access with Notification (11-20 points possible)**

	High (6.6pts)	Medium (5.6pts)	Low (4.6pts)	None (0pts)
Accessibility				
Restrictions				
Resource Variety				
Total				

**3. Unlimited (21-30 points possible)**

	High (10pts)	Medium (9pts)	Low (8pts)	None (0pts)
Accessibility				
Restrictions				
Resource Variety				
Total				

**TOTAL PUBLIC ACCESS POINTS** \_\_\_\_\_

**C. LEVEL OF PROTECTION**

**1. Conservation Easement Bonus-** Increase by 20% the total points calculated for resources (see resource categories) protected by a conservation easement. A conservation easement on part of the property will not receive the full score, but may receive points proportional to the area covered by the easement.

Total Resource points \_\_\_\_\_ x (.20) = \_\_\_\_\_

**2. Density Reduction-** Density units reduced by a conservation easement. Excluding certain areas from construction or development does not reduce the density of a property.

<u>Number of Density Units Reduced</u>	<u>Points Awarded</u>	<u>Score</u>
1-2 units	3	_____
3-4 units	6	_____
5-7 units	9	_____
8-10 units	12	_____
11+ units	15	_____

**3. Parcel Size**

0-5 acres	.5	_____
>5-19 acres	1	_____
>19-49 acres	2	_____
>49-99 acres	3	_____
>100+ acres	4	_____

**TOTAL LEVEL OF PROTECTION POINTS** \_\_\_\_\_

**C. PUBLIC BENEFIT RATING CALCULATION**

An application must score at least 30 points to qualify for entering the "Current Use Open Space" program. The maximum score that can be used for tax abatement is 70 points. Any points over 70 do not count.

**Resource Points** \_\_\_\_\_

**Public Access Points** \_\_\_\_\_

**Level of Protection Points** \_\_\_\_\_

**TOTAL SCORE** \_\_\_\_\_



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### INSTRUCTIONS FOR CURRENT USE "FARM & AG CONSERVATION LAND" UNDER SJCC 16.50.265

The objective of the "farm and agricultural conservation land" component of the open space program is to provide a temporary, maximum 10-year relief period for properties that have been commercially farmed, but cannot currently meet the requirements of the "current use farm and ag" program (administered by the Assessor), thereby preserving suitable land not currently used for agriculture, for commercial agriculture in the future. The intention is that farm and agricultural conservation land either be returned to active farming under RCW 84.34.020(2) within 10 years or be permanently protected as an open space resource by a conservation easement prohibiting development inconsistent with agricultural uses.

#### A complete application includes all of the following documents:

- 1) Department of Revenue "Application for Classification as Open Space for Current Use under Chapter 84.34 RCW" (Form: REV 64 0021e(w) (6/11/12)) available at <http://dor.wa.gov/docs/forms/proptx/forms/appforclassopenspacelndtmbrasses.doc> and the Open Space Agreement at <http://www.dor.wa.gov/docs/forms/proptx/forms/openspacetaxagrmt.doc>;
- 2) A FULL legal description, *as a separate attachment* (obtained from a title company or from a document recorded at the Auditor's Office
- 3) A written soils description. The soils must be listed as a "prime" or "other important" agricultural soil in the most recent San Juan County Soil Survey available at: <http://soildatamart.nrcs.usda.gov/manuscripts/wa055/0/SanJuanWA.pdf>;
- 4) Soils map, showing the boundaries of the property;
- 5) A map of the property showing improvements and areas to be maintained as farm land;
- 6) Conservation easement. If you do not plan to return the land to commercial agricultural use within 10 years, and if you want to remain in this tax abatement program, the land must then be covered by a conservation easement which addresses the goals of this section (provide a copy.)
- 7) Narrative, including the following:
  - a. The historical use of the property for farming;
  - b. A description of existing vegetation including the presence of noxious weeds;
  - c. A schedule of measures that are and will be used to accomplish the goals and purposes of this chapter, including a commitment to prevent the encroachment of noxious plant species onto the open space land; and the objectives of this section of the County code;
  - d. The measures to be taken to maintain the agricultural character of the open space lands, such as maintenance of existing fences, farm buildings and periodic mowing of pastures and hayfields.

If your property meets all the requirements it will be granted either 30 points (between 5-19.99 acres) or 35 points (20 acres or larger). The points are the percentage by which the fair market value will be reduced. Residential buildings and land around them will still be taxed at fair market value. The taxes you pay on the agricultural land will then be based on 65% or 70% of the fair market value. This abatement will apply only to property that can be returned to commercial agriculture, not to wooded areas or residential development.

After the property is scored, Staff will present that information in a report to the Planning Commission. The Planning Commission will make a recommendation to the County Council, who take final action on the request. If approved by the County Council, the Resolution and the "Current Use Open Space Agreement for the Current Use Taxation Program" will be drafted for your signature, then presented to the San Juan County Council for their final signature. After Council signature, those documents will be recorded with the San Juan County Auditor.

#### **Excerpts from San Juan County Code 16.50 "Open Space Program"**

##### **16.50.265 Farm and agricultural conservation land.**

**A. Objectives.** The objective of the farm and agricultural conservation land component of the open space program is to preserve suitable land that is not currently used for agriculture, so that it is available for commercial agriculture in the future. The intention is that farm and agricultural conservation land either be returned to active farming under RCW 84.34.020(2) within 10 years or be permanently protected as an open space resource by a conservation easement prohibiting development inconsistent with agricultural uses.

**B. To be eligible for public benefit points** under this subsection a property must meet all of the following criteria:

1. Properties must meet the definition of "farm and agricultural conservation land" as defined in RCW 84.34.020(8);
2. Properties must be "subdividable," that is, the area of each subject property must be equal to or greater than two times the maximum residential density of the underlying zoning district. This requirement does not apply to property designated as "resource land" in the Comprehensive Plan; and
3. Applications must be accompanied by a statement of intent, which includes all interim measures that will be followed to protect and manage the land in a manner that allows resumption of commercial agricultural use. The statement shall provide the following information:
  - a. The tax parcel number of the subject property;
  - b. The size of the subject property;
  - c. The historical use of the property for farming;
  - d. A nontechnical soils description and a listing as a prime or other important agricultural soil as assigned in the most recent San Juan County Soil Survey, published online by the Natural Resources Conservation Service and available online at:  
<http://soildatamart.nrcs.usda.gov/manuscripts/wa055/0/SanJuanWA.pdf>;
  - e. A map of the property showing improvements and areas to be maintained as farm land under this program;
  - f. A description of existing vegetation including the presence of noxious weeds;
  - g. A copy of the published soils map showing the boundaries of the subject property;

- h. A schedule of measures that are and will be used to accomplish the goals and purposes of this chapter, including a commitment to prevent the encroachment of noxious plant species onto the open space land; and the objectives of this section of the County code;
- i. The measures to be taken to maintain the agricultural character of the open space lands, such as maintenance of existing fences, farm buildings and periodic mowing of pastures and hayfields.

**C. Public Benefit Rating Points.**

- 1. Public benefit rating points for farm and agricultural conservation lands shall be awarded based on soil classifications and parcel size. Additional points are available under SJCC 16.50.275(B)(4) and (5).
- 2. Properties that have soils identified as prime farmland or important farmland in the Soil Survey of San Juan County published by the Natural Resources Conservation Service shall be awarded points based on parcel size in accordance with the following table:

**Resource Value Points Table for Farm and Agricultural Conservation Lands**

Size of Property Subject to Open Space	Points Awarded
5 – 19.99 Acres	30 points
≥ 20 Acres	35 points

- 3. The property size shall be calculated based on the amount of land available for agriculture. Land developed with structures, except for agricultural structures, shall not be included in the calculation of parcel size. Up to 20 percent of the land can be devoted to incidental use compatible with agriculture. (Ord. 4-2011 § 5)

**B. Total Public Benefit Rating Points.**

- 1. Total points are the sum of the points for resource values plus any additional points for public access awarded under SJCC 16.50.275 and resource protection points awarded under SJCC 16.50.280.
- 2. Notwithstanding the above, the total points for farm and agricultural conservation land shall be the total of points awarded for resource values under SJCC 16.50.265 and public access points awarded under SJCC 16.50.275.
- 3. A minimum of 30 points is necessary to qualify for open space classification. No more than 40 points shall be granted for the total of the resource points, and no more than a total of 70 points shall be granted for any one application.

**C. Applicants shall identify the location and area, in square feet, of all existing and proposed improvements.** This shall include all areas of the site which are not a part of the natural environment, such as structures, pools, tennis courts, decks, paved areas, gardens and lawns. The open space agreement shall limit improvements to those originally identified by the applicant. Any improvements not contemplated at the time of application and requested at a later date shall be reviewed by the administrator for compliance with the open space agreement (refer to SJCC 16.50.570). Improvements and the land beneath and surrounding the improvements shall be assessed at fair market value.

**D. The County Council shall not approve any application for open space classification when, at the time of application, the landowner has failed to satisfy any judgment the County has obtained against the landowner, or where there is a violation of any state law or County ordinance on the property. (Ord. 4-2011 § 9; Ord. 5-1998)**

