

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF ISLAND COUNTY, WASHINGTON

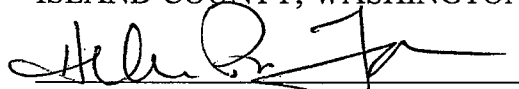
IN THE MATTER OF ADOPTING  
AMENDMENTS TO CHAPTER 3.40  
ICC TO REVALUE ALL LAND  
CLASSIFIED AS OPEN SPACE IN  
THE CURRENT USE PROGRAM  
UNDER THE PUBLIC BENEFIT  
RATING SYSTEM TO COMPLY  
WITH STATE LAW

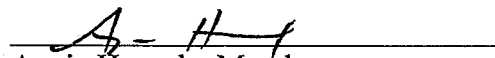
ORDINANCE NO. C-48-10

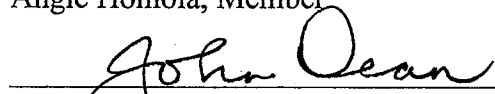
The Board of County Commissioners has reviewed the attached proposed Ordinance this  
10 day of MAY, 2010 and sets it for public hearing on the 14  
day of JUNE, 2010 at 10:20 A.m.

BOARD OF COUNTY COMMISSIONERS  
ISLAND COUNTY, WASHINGTON

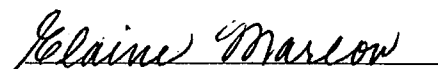


  
Helen Price Johnson, Chair

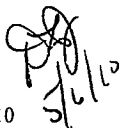
  
Angie Homola, Member

  
John Dean, Member

ATTEST:

  
Elaine Marlow  
Clerk of the Board

5/6/10



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING  
AMENDMENTS TO CHAPTER 3.40  
ICC TO REVALUE ALL LAND  
CLASSIFIED AS OPEN SPACE IN  
THE CURRENT USE PROGRAM  
UNDER THE PUBLIC BENEFIT  
RATING SYSTEM TO COMPLY WITH  
STATE LAW

ORDINANCE NO. C-48 -10

WHEREAS, in 1970 the State Legislature created the Open Space Taxation Act (Chapter 84.34 RCW) to implement current use assessment programs that protect open space; and

WHEREAS, in 1985, the State Legislature adopted an amendment to the Open Space Taxation Act that allows counties to create a Public Benefit Rating System ("PBRs"); and

WHEREAS, on September 28, 1998, Island County adopted Ordinance C-93-98 that created Island County's PBRs and provided that open space property that had been previously approved for current use assessment prior to the adoption of the PBRs would be reassessed under the PBRs at no cost to the landowner; and

WHEREAS, Island County did not subsequently rate and value open space properties that had been previously approved for current use assessment prior to the adoption of the PBRs and, therefore, those properties were never provided a reassessed value so the property owners retained their current use tax rate; and

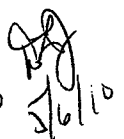
WHEREAS, in 2004 the Washington State Department of Revenue ("DOR") issued a written opinion to the Island County Assessor stating that all parcels previously classified as open space must be reclassified according to the PBRs; and

WHEREAS, on January 9, 2006, Island County adopted Ordinance C-143-05 that amended Chapter 3.40 ICC to allow properties previously valued as open space lands to not be required to be rated and valued under the Island County PBRs; and

WHEREAS, in June of 2009, DOR provided a 2009 Review of the Current Use Program in Island County whereby the DOR identified that the Assessor is required to value all land classified as open space in the Current Use Program under the county's existing PBRs; and

WHEREAS, to comply with state law, Chapter 3.40 ICC should be amended to establish a revaluation process; and

5/6/10



WHEREAS, under the revaluation process, the Planning Commission or other designated agent of the Board of Island County Commissioners ("BICC") should assign a recommended number of priority rating points to all land classified as open space using the adopted PBRs which shall be forwarded to the BICC for approval; and

WHEREAS, upon BICC approval, such rating information should be sent to the Assessor who will determine the new assessed value of the classified open space land based on the number of priority rating points assigned and the adopted assessed valuation schedule; and

WHEREAS, thereafter, the Assessor shall notify all owners of such land of the newly assessed value of their land in the manner provided in RCW 84.40.045 and within thirty (30) days of receipt of the notice of the new assessed value, the owner may request that the parcel of land be removed from the open space classification without payment of additional tax, interest, or penalty; and

WHEREAS, on January 10, 2010 the Island County Planning Commission recommended adoption of changes to Chapter 3.40 ICC as part of the Commission's recommendations for CPA 280/09 Ebey's Landing Design Review & Public Benefit Rating System (PBRs) Amendments; and

WHEREAS, the Board of County Commissioners finds that changes to the recommendation of the Planning Commission are necessary in order to adopt some of the changes to Chapter 3.40 ICC before consideration of the remainder of the recommended changes within the Ebey's Landing Design Review & Public Benefit Rating System (PBRs) Amendments; and

WHEREAS, pursuant to WAC 197-11-800(6)(c) the Planning Director has determined that the subject amendments to Chapter 3.40 ICC are exempt from SEPA requirements; and

WHEREAS, the proposed amendments to Chapter 3.40 ICC were sent to the State Department of Commerce on April 23, 2010, requesting expedited state agency review; and

WHEREAS, ICC 16.26.020(F) permits the adoption of Development Regulations or amendments thereto, which implement the Comprehensive Plan for which no amendment to the Comprehensive Plan is required before adoption of the amendment, outside of the annual review procedures; NOW, THEREFORE,

IT IS HEREBY ORDAINED that amendments to sections of Chapter 3.40 ICC, attached hereto as Exhibit "A," and the Findings of Fact and Statement Setting Forth Factors Considered, attached hereto as Exhibit "B," are adopted. Material lined through on Exhibit "A" is deleted and material underlined is added.

  
5/6/10  
5/6/2010

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010 following public hearing.

BOARD OF COUNTY COMMISSIONERS  
ISLAND COUNTY, WASHINGTON

\_\_\_\_\_  
Helen Price Johnson, Chair

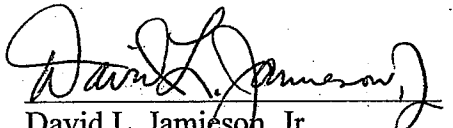
\_\_\_\_\_  
Angie Homola, Member

\_\_\_\_\_  
John Dean, Member

ATTEST:

\_\_\_\_\_  
Elaine Marlow  
Clerk of the Board

APPROVED AS TO FORM: *as to pages bearing my initials*

  
\_\_\_\_\_  
David L. Jamieson, Jr.  
Deputy Prosecuting Attorney and  
Island County Code Reviser

  
5/6/2010

**EXHIBIT "A"**  
**Revisions to Chapter 3.40 ICC**  
**Island County Public Benefit Open Space Rating System**

**3.40.020 Purpose and Intent**

- A. It is in the best interest of the County to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the County and its citizens. Additionally, it is in the County's interest to provide incentives that encourage the retention of open space in compliance with Growth Management Act principles.
- B. It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules, and fees for the consideration of applications for Public Benefit Rating System assessed valuation on "open space land" as defined in RCW 84.34.020. The provisions of RCW Chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter. ~~It is not the intent of this chapter that open space classifications become the basis of land use zoning classifications, or that owners of open space property that has been previously approved for current use assessment prior to the adoption of the Public Benefit Rating System be adversely affected.~~

**3.40.030 Operation of the County Public Benefit Rating System for Open Space Lands**

**Rating system.** To be eligible for open space classification under the County's Public Benefit Rating System, property must contain one or more open space resource listed below. These resources are defined in this chapter and ranked as high, medium or low priority open space resources. High priority open space resources receive five (5) points each, medium priority open space resources receive three (3) points each, and low priority open space resources receive one (1) point each. Properties can receive a maximum of thirty (30) points from no more than six (6) open space priority resources. In addition, bonus points and super bonus points may be awarded pursuant to this chapter and a property can achieve a maximum of fifty-seven (57) points through the rating system and the bonus system. Portions of property may also qualify for open space designation.

- A. **High priority open space resources** – five (5) points each:
1. Resource and Rural Agricultural Lands
  2. Rural Forest Lands/Woodlots
  3. Privately Owned Trails and Corridors

  
5/6/10  
5/6/2010

4. Natural Shoreline Environments
5. Significant Fish & Wildlife Habitat Conservation Areas, Special Plant Sites, and Category "A" or "B" Wetlands
6. Historic Landmarks/Archeological Sites
7. Private Lands Within Designated National Reserves
8. Active or Passive Recreation Area

.....

**3.40.080 Application Fee**

Each application for current use open space taxation as defined in RCW 84.34.020; must include an application fee, ~~of three hundred dollars (\$300)~~ as established in the most current Island County Permit Fee Schedule.

.....

**3.40.180 Transfer of Lands between Certain Current Use Taxation Classifications**

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

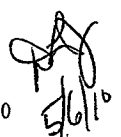
- A. Reclassification between farm and agricultural lands and timber lands;
- B. Reclassification of farm and agricultural lands or timber lands to open space lands;
- C. Reclassification of farm and agricultural lands or timber lands to forest land classified under RCW 84.33; and
- D. Reclassification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

~~A thirty dollar (\$30)~~ An application fee must be paid at the time that the application for transfer is submitted, as established by the most current Island County Permit Fee Schedule for Reclassification. If the type of transfer is not listed above it is considered to be a new application for which the applicable fees will be applied.

.....

**3.40.230 Review of Previously Approved Open Space Applications**

~~Open space property that has been previously approved for current use assessment prior to the adoption of the Public Benefit Rating System will retain its current use assessment status unless the landowner is found to be out of compliance with the open space requirements of Chapter 84.30 RCW, or the landowner requests reclassification under the Public Benefit Rating System.~~



If a request for reclassification is made, the property will be reassessed under the Public Benefit Rating System at no cost to the landowner, pursuant to the procedures outlined in this chapter. Until the reassessment is completed, previously approved open space property will retain its current tax rate. Within thirty (30) days of receipt of this notice of new assessed value, the owner may request that the parcel(s) of land be removed from the Public Benefit Rating System classification without additional tax, interest, or penalty.

- A. Upon adoption of a Public Benefit Rating System, the Planning Department shall re-rate the existing open space land current use assessment program parcels according to the Public Benefit Rating System in determining whether to recommend that an application be approved or denied. Re-rating of all existing program parcels shall be performed in conjunction with the Assessor's physical inspection cycle, as resources become available, or when the property is sold or transferred, whichever comes first.
- B. The process for re-rating existing open space land current use assessment program parcels under the Public Benefit Rating System shall be conducted in accordance with the provisions for processing a new application for the Public Benefit Rating System.
- C. Property which does not qualify under the Public Benefit Rating System and whose owner chooses not to remove the property from the open space land current use assessment program shall be rated according to the Public Benefit Rating System [RCW 84.34.037(3)].
- 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 current use assessment program, without payment of penalties, back taxes, and interest, upon request of the owner, within 30 days of notification of their newly determined value under the Public Benefit Rating System.

....

**3.40.250 High Priority Open Space Resources**

....

**H. Active or Passive Recreation Area**

- 1. **Definition.** Property which is currently devoted to providing active or passive non-motorized recreation use or which complements or substitutes for government facilities. The facility must be open to the public and charging a use fee no higher than the fee charged by a like public facility and the facility must provide recreation or other services to youth, senior citizens, the handicapped, or similar groups.
- 2. **Source.** Determination by Island County Parks or by an appropriate parks department of incorporated cities or towns.
- 3. **Eligibility.** An eligible site is that identified by an appropriate parks department as meeting the definition of an Active or Passive Recreation Area.

Eligible examples include:

- a) Sports fields on private property that are open to the public;

- b) Golf courses open to public with fees comparable to local public golf courses and which adhere to Best Management Practices. Annual monitoring reports are required;
- c) A community garden; and
- d) Other recreational uses determined to be consistent with the definition of Active or Passive Recreation Areas as determined by the Island County Parks Department.


Ineligible examples include:

- e) Properties with public trails: These are covered under the Privately Owned Trails resource;
- f) Recreational vehicle park portions of sites and related improvements to the land, including parking;
- g) Golf courses which do not adhere to Best Management Practices or charge a fee not comparable to public golf courses; and
- h) Indoor recreation centers, gambling establishments, arcades, fun centers, etc.

## EXHIBIT "B"

### Findings of Fact and Statement Setting Forth Factors Considered

1. The January 10, 2010 recommendation to the Board of County Commissioners from the Island County Planning Commission for CPA 280/09 Ebey's Landing Design Review & Public Benefit Rating System (PBRs) Amendments includes proposed amendments to the standards that govern development and alterations to property within the Ebey's Landing Historic Reserve, as well as changes to the criteria established within the PBRs current use tax program.
2. The proposed regulation changes are contained in Chapter 17.04 ICC, Ebey's Landing National Historic Reserve, and Chapter 3.40 ICC, Island County Public Benefit Open Space Rating System.
3. The Chapter 3.40 ICC proposed changes consist of two components: (1) changes mandated by state law to re-value all land currently classified as open space in the Current Use Program under the county's existing PBRs; and (2) changes relating to Historic Landmarks/Archeological Sites, properties with approved Rural Stewardship Plans, and properties with conservation/historic/trail easements in perpetuity.
4. It is necessary to promptly make the changes to the PBRs required by state law before consideration is complete on the remainder of the combined recommendations on CPA 280/09 Ebey's Landing Design Review & Public Benefit Rating System (PBRs) Amendments.
5. Based upon the foregoing, the recommended changes to Chapter 3.40 ICC, Island County Public Benefit Open Space Rating System, set forth in Exhibit "A" to this ordinance are being adopted separately from consideration for adoption of the remainder of the proposed changes to Chapter 3.40 ICC relating to Historic Landmarks/Archeological Sites, properties with approved Rural Stewardship Plans, and properties with conservation/historic/trail easements in perpetuity.

  
5/6/2010 5/6/10