

An ordinance repealing and replacing Chapter 27.08 of the Clallam County Code, Open Space

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

**Section 27.08.010, Purpose, is created to read as follows:**

This chapter constitutes Clallam County’s rules for implementation of Chapter 84.34 Revised Code of Washington (RCW); popularly known as the “Open Space Taxation Act.” This law was enacted by the Washington State Legislature in 1971 for the purpose of maintaining, preserving, conserving, and otherwise continuing in existence, adequate open space lands for the current or future production of food, fiber, and forest crops, and to assure the continued use and enjoyment of natural resources and scenic beauty for the economic welfare, social well-being, and quality of life for the County and its citizens.

(1) In accord with the intent of Chapter 84.34 RCW and the Clallam County Code (CCC) Title 31, the purpose of open space lands in Clallam County is to reduce development pressure in rural areas and to provide an incentive for landowners to identify, retain, conserve, restore, and enhance open space lands.

(2) Ensure that applications for the Open Space Classification shall be evaluated by Clallam County according to the public benefit.

**Section 27.08.020, Ineligible lands, is created to read as follows:**

(1) Parcels or portions of parcels less than 4 acres, except lands that meet the following criteria:  
(a) Farm and Agriculture Conservation land defined herein; or  
(b) Properties that diminish development right(s) with Conservation Easements in rural zoning areas; or  
(c) Properties that provide public access at no charge.

(2) Designated open space areas or critical areas and shoreline buffers required as part of an approval for zoning, land use, or subdivision requirements.

(3) Lands or portions thereof which charge a fee, require a membership or rental for such use, or that significantly alter the natural topography, hydrology, or the variety and distribution of existing native vegetation including but not limited to golf courses, campgrounds, RV parks.

(4) Property zoned industrial or commercial, including but not limited to RC, RV, GC, DPA, CEN, WRC, RNC, RLC, TC, UNC, URC, UC, M, or LI.

**Section 27.08.030, General requirements, is created to read as follows:**

(1) Amendments to approved open space land applications shall be processed the same as new open space land applications in accordance with this chapter.

(2) Periodic Inspections. Each application for classification and reclassification as open space land shall include authorization for the County Assessor to periodically enter and inspect the subject land, in order to determine if the subject land is in compliance with all terms and conditions of the current use classification. Parcels of land which have been approved for current use classification, but which are found to be in violation of any term or condition of its current use classification, shall be removed from the current use classification pursuant to Chapter 84.34 RCW and may be assessed additional tax, interest, and/or penalties.

(3) Periodic Audits. All approved applications are subject to periodic audits in which the parcel owner must show proof of conditions of prior approval within 60 days of receipt of said audit. Failure to respond shall be grounds for removal from the program.

(4) One-acre Homesite. When determining the eligibility of a parcel of land for the open space land that includes or proposes a residence, a minimum one-acre home site exclusion shall be required. The one-acre homesite exclusion applies for each existing or proposed residence on the property. The legislative authority can increase the homesite exclusion if land is not primarily devoted to the pertinent classification. This required home site exclusion may prevent eligibility for the open space land, but does not apply to lands that qualify as Historic Structures per CCC 27.08.050.

(5) Hold Harmless Agreements. All property owners of land approved for Open Space must execute a hold harmless agreement, freeing Clallam County of any liability which may arise as a result of approval. The Assessor's Office shall provide applicants with a hold harmless agreement as part of the application packet.

(6) Parcels seeking reclassification from Designated Forest Land or Open Space Agriculture must be in compliance with the classification it is currently receiving in order to be eligible for reclassification.

(7) Payment of Fees and Delinquent Property Taxes. A condition precedent to approval of any application pursuant to RCW 84.34 is a certification of non-delinquent property tax account issued by the Clallam County Treasurer. Also, the Board shall deny approval if the landowner has failed to satisfy any judgment the County has obtained against the landowners including but not limited to junk vehicles, critical area violations, and zoning code violations.

**Section 27.08.040, Administration, is created to read as follows:**

(1) The Clallam County Assessor and the Director of the Department of Community Development are vested with the responsibility to administer the provisions of this chapter, unless otherwise specified.

(2) Application forms and related materials shall be provided by, and returned with a fee, to the Assessor's Office. Application fees are non-refundable even if the application is denied.

(3) Clallam County adopts the ordinances codified in this chapter under the authority of Chapter 84.34 RCW as amended. The Board of Clallam County Commissioners is the legislative authority to approve or deny open space land and timber land applications reviewed under this chapter. Land proposed for enrollment must meet all requirements of this chapter and 84.34 RCW.

(4) Transfers of Classified Land. When classified land is transferred or otherwise legally conveyed, the seller or transferor becomes liable at the time of sale for the applicable tax, interest and penalty pursuant to RCW 84.34.108 of all or a portion of the classified land(s), unless the new owner signs the notice of continuance on file with the Assessor. The County Auditor shall not accept for recording an instrument of conveyance on any classified land unless the notice of continuance has been signed.

(5) Removal of Classified Land by Owner Request. Land Classified as Open Space under this code must be applied to the classified use and remain in its classified status for at least ten assessment years from the date of classification. During the eleventh or later assessment year of classification, the owner may request to have all or a portion of the land withdrawn from the Open Space Program. The additional tax and interest imposed by RCW 84.34.108(4) are due when land is withdrawn from classification if the land has been classified under chapter 84.34 RCW for a minimum of ten assessment years. The owner must submit a written request to withdraw classification to the assessor of the county in which the land is located. If the assessor gives written notice of removal as provided

in RCW 84.34.108(1)(d)(i) for all of a portion of the land prior to the owner providing the assessor with a request for withdrawal, then additional tax, interest, and penalty will be imposed.

(6) Removal of Classified Land by Assessor. The Assessor may determine, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land classified under this chapter no longer meets the criteria for approval. Within 30 days of determining the land no longer meets the criteria for classification, the Assessor must provide written notice and explanation of why the land no longer qualifies for current use classification. At the time the classified land is removed, the land is subject to additional taxes, interest, and penalties pursuant to RCW 84.34.108.

(7) Removal of Lands Which Adversely Affect Water Quality. The Assessor or their designee may determine, after receiving written notification from the Clallam County Department of Health, Clallam Conservation District, or other governmental organization that land classified under this chapter causes surface or ground water to fall below water quality standards listed in 173-200 WAC or 173-201 WAC, the Assessor may remove the classified land pursuant to CCC 27.08.030(6).

(8) When Removal Is Not Subject to Additional Tax. When land is approved under this chapter and is removed from Current Use Program, additional taxes, interest, and penalties will not be imposed if the removal qualifies for one of the following:

(a) Land is transferred to a government entity in exchange for other land located in the State of Washington;

(b) Land is taken by power of eminent domain or transferred in anticipation of the exercise of such power;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(e) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(f) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040; or

(g) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land classified under this chapter continuously since 1993.

**Section 27.08.050, Definitions, is created to read as follows:**

Those definitions set forth in RCW 84.34.020 as adopted and hereafter amended are hereby incorporated by reference and shall govern and control the application and interpretation of this chapter. Applicable definitions include, but are not limited to, the following:

(1) "Conservation easement" means a voluntary, legally enforceable land preservation agreement between a land owner and a municipality or a qualified land protection organization that sets permanent restrictions on the future use, thus protecting the lands natural attributes including but not limited to preservation of land areas for natural habitat used by fish, wildlife, plants or similar ecosystems, or the preservation of land for farm and agriculture purposes. Municipalities or qualified land protection organizations whose mission is to protect resources.

(2) "Farm and agricultural conservation land" means land that has been granted a conservation easement or that no longer meets the criteria for other taxed agricultural land classification and that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture per RCW 84.34.

(3) "Legislative authority" means the Board of Clallam County Commissioners, or its designee.

(4) "Native vegetation" means vegetation indigenous to the North Olympic Peninsula as found in Flora of the Pacific Northwest by Hitchcock and Cronquist, Univ. of Washington Press, 1972, as amended, Flora of the Olympic Peninsula by N. Buckingham and E. Shreiner, 1995, as amended.

(5) "Open space land" refers to the open space program in its entirety, and often referred to as the "current use" program regulated under this chapter and RCW 84.34

(6) "Parkland buffer" means an undeveloped parcel that has a minimum 200 feet of common property line with an existing County or State park, wildlife preserve, or sanctuary that has existing native vegetation or are planted with native vegetation. The 200 feet of common property line should remain free of fencing or any man-made implements that could impede wildlife movement.

(7) "Sensitive ecological resources" shall mean shorelines subject to the Shoreline Master Program or frequently flooded areas, streams, wetlands, aquatic and wildlife habitat conservation areas defined and regulated in CCC 27.12. Clallam County Comprehensive Plan Title 31, Clallam County Critical Areas Code Chapter 27.12, Washington Department of Fish and Wildlife Priority Habitats and Species List.

(8) "Undeveloped Land" for the purposes of this chapter, shall mean any tax parcel that has not undergone human-induced change, including, but not limited to, the construction of buildings or other structures, placement of manufactured homes or mobile homes, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, or other activities that substantially alter the natural topography, hydrology, or existing native vegetation.

**Section 27.08.060, Open space land public benefit qualifications, is created to read as follows:**

Properties which contain, abut (if applicable), or otherwise meet one or more of the following criteria shall be eligible for open space land public benefit rating and valued according to the Open Space Rating system: Reductions in assessed value will only apply to the specified area for the following public benefit resources unless specifically noted.

(1) Conservation Easement (at least one diminished development right). A property which has a conservation easement in perpetuity and diminishes at least one development right shall qualify for a reduction. The applicant must submit documentation of the conservation easement that clearly demonstrates diminishment of at least one development right including a map that shows the area the conservation easement applies to. Reductions in assessed value for perpetual conservation easements shall apply only to that portion of a subject property that is conserved by the conservation easement and has at least one diminished development right. For example, a 10 acre parcel zoned R5 with a conservation easement that covers 7 of the 10 acres will receive a reduction in tax valuation for the portion of the property that would have been available for development prior to the conservation easement.

(2) Lot Combination. Adjacent parcels under a single ownership that are combined in accordance with Chapter 29.43 CCC, Boundary Line Adjustments and Lot Combination may qualify for a reduction under this program. The area of the resulting parcel created through the lot combination process must be at least two (2) times the maximum residential density of the underlying zoning district to qualify for the benefit. The landowner shall initiate and receive final approval of the lot combination prior to the application in the Current Use Program. The landowner shall provide at the time of Current Use Program application documentation of approval and completion of the lot combination. The parcel created through the lot combination process must result in at least one diminished development right and may contain one single-family residence. Lot combination under this section shall not create a

“split zone” parcel. In the event a rezone is required, the lowest density zoning shall prevail and the rezone must have received final approval prior to the submittal of the open space application. Tax benefit reductions for lot combinations shall apply to that percentage of the subject property which would otherwise be available for development prior to the lot combination. For example, two five acre parcels that are zoned Rural Low (R5, CCC 33.10.020) are combined, pursuant to 29.43 CCC. One of the five acre parcels contains a single family home. Following approval under this section, reductions in tax valuation would apply to one 5 acre parcel or the area that would have been available for development prior to approval of the lot combination.

(3) Conservation Easement (No diminished development right). A property which has a conservation easement in perpetuity and the stated purpose must be enhanced protection of a sensitive ecological resource or preservation of farm and agriculture lands. Tax benefit reductions for perpetual conservation easements shall apply only to that portion of a subject property that is conserved by the easement.

(4) Development Pressure/Zoning. To be eligible for a reduction the subject property must be large enough to be legally subdividable and the area at least two (2) times the maximum residential density of the underlying zoning district.

(5) Farm and Agricultural Land. The intent of this category is to encourage the conservation of agricultural lands for future commercial agriculture use while allowing the farm to lay fallow until such time as agricultural practices occur on the property. The property must meet the definition above and either be subdividable or at least 4 acres or zoned Agriculture Retention (CCC 33.07.010). The applicant shall submit a statement of intent which includes the following:

(i) The size of the subject property and the size of the area to be preserved for future commercial agriculture production;

(ii) Location of fences or other measures taken to protect Critical Areas regulated under 27.12 from grazing or other necessary farming operations; and

(iii) A signed agreement stating the landowner agrees to enroll in and qualify for Farm and Agriculture land pursuant to RCW 84.34.020 and this chapter within 7 years following approval under this section. This agreement will be recorded with the Notice of Approval if accepted into the Open Space program. If property is not returned to commercial agricultural production, the property will be subject to removal from Current Use Program and applicable back taxes, interest, and penalties pursuant to 27.08.030(6).

(6) Restoration or Enhancement of Sensitive Ecological Resources. Eligible lands are those properties that provide documentation from a qualified Clallam County Consultant, Federal, or State Agency that verifies the existence, location, extent, method of restoration or enhancement, expected outcome of restoration or enhancement, and implementation schedule. The restored/enhanced resource shall be maintained and documentation of continued success of the project when requested. Failure to provide documentation of project completion shall be grounds for removal.

(7) Rare or Unique Plant Communities. Eligible lands shall provide documentation and mapping by an approved Clallam County consultant of the rare and unique plant community on file with the Washington State Natural Heritage Program and provide a plan how the applicant intends to protect the plants. Photo documentation may also be required at the discretion of the legislative authority to insure the protection of this resource.

(8) Parkland Buffers. Eligible lands are those undeveloped lands that contain native vegetation with a common property line of 200 feet with existing County, State, or Federal park, wildlife preserve, sanctuary, or conservation easement protecting lands over 20 acres and that reduce development rights.

(9) Public Use. Applications shall be accompanied by the landowner’s proposed rules of conduct and a description of how public access is to be managed and may be reviewed during the application process of the open space program. The County Assessor’s Office shall provide applicants with terms of the Clallam County Public Access Policy as part of the application packet. Access to the subject property may not involve trespass on or over neighboring properties. Open space signs are required to be posted on the subject property’s road frontage or nearest public road. Signs shall conform to Clallam County land use codes and the following criteria. At minimum, signs shall identify access points, allowed uses, and landowner contact information. All proposed uses shall be compliant with allowed zoning uses. The sign shall be maintained at the owner’s expense in good condition for as long as the landowner is receiving public benefit points. Failure to maintain or replace removed or missing signs by the property owner may jeopardize the open space benefit points based on granting public access to the subject property pursuant to this chapter.

**Section 27.08.070, Open space land public benefit rating system, is created to read as follows:**

The categories provided by CCC 27.08.060, Open Space land public benefit qualifications , are presented in the following table, which shall be used for determining reduction in tax valuation for open space land applications classified under this chapter. Parcels which meet a given criterion shall receive the reduction in the highest category qualified; public benefit resources are non-cumulative.

**Public Benefit Rating Table**

OPEN SPACE PUBLIC BENEFIT RESOURCE	CODE REFERANCE	PERCENT REDUCTION IN TAX VALUATION	MAXIMUM REDUCTION IN TAX VALUATION ALLOWED
Conservation Easement-diminished development right(s)	27.08.060(1)	90%	90%
Lot Combination-diminished development right(s)	27.08.060(2)	80%	80%
Public Use	27.08.060(9)	75%	75%

Farm and Agriculture Conservation Land	27.08.060(5)	60%	60%
Conservation Easement- No diminished development right	27.08.060(3)	25%	40%
Development Pressure	27.08.060(4)		
Restoration or Enhancement of Sensitive Ecological Resources	27.08.060(6)		
Rare and Unique Plant Communities	27.08.060(7)		
Parkland Buffers	27.08.060(8)		

**Section 27.08.080, Signage, is created to read as follows:**

Open space signs are required only when public access is granted under the provisions of this chapter. Signs shall conform to the following criteria.

(1) Be posted as follows: At least one open space sign no larger than six square feet and less than five feet in height shall be posted on the subject property's road frontage or access, or nearest public road as applicable, in a conspicuous location, visible to passing motorists.

(2) At a minimum, signs shall identify the property is designated for public access, location of access points, allowed uses designated per zoning code and property owner approval, and landowner contact information. The sign shall be a brown or green background with white letters no smaller than 2-inches in size.

(3) Be purchased and maintained by the property owner at the owner's expense. The sign shall be maintained in good condition for as long as the landowner is receiving public benefit points based on allowing public access to the subject property and its open space feature(s). Failure to maintain or replace removed or missing signs by the property owner may jeopardize the open space benefit points based on granting public access to the subject property pursuant to this chapter.

**Section 27.08.090, Procedure, is created to read as follows:**

An audit of the existing parcels enrolled in the program at the time of adoption of this ordinance will be conducted to determine eligibility under the new qualifications. Properties which qualify to remain in the program will continue to be enrolled. Upon written determination issued from the Planning Department that the property no longer qualifies for Open Space, removals from the exemption will not be imposed additional taxes, interest, and/or penalties if the taxpayer requests to withdraw from the program following the guidelines mailed to them by the Assessor's Office.

New applications for open space land current use assessments shall be evaluated in accordance with the provisions of Chapter 84.34 RCW and this chapter. Applications pending at the time of the adoption of the ordinance codified in this chapter shall be considered pursuant to the terms and conditions of the ordinance codified in this chapter.

(1) The processing schedule that follows intends to provide that applications will be approved or denied within six months following the application submittal period and allow sufficient time for County staff to evaluate the applications. Reductions in assessed value resulting from approval will begin the following year.

<b>Application Submittal Period</b>	<b>Application Review Period</b>	<b>Current Use Taxation Begins:</b>
January 1 – June 30	By December 31 of the same year	January 1 of the taxing year
July 1 – December 31	By July 1 of the next year	January 1 of the taxing year

(a) Applicants whose submittal is deemed incomplete or ineligible shall be notified as soon as reasonably possible in order to identify additional information required to make the application complete, or to give the applicant an opportunity to withdraw the application before review by the Planning Commission.

(2) The Planning Commission shall act upon applications after a public hearing and forward a recommendation on the applicants to the Board of Commissioners. Notice of the public hearing shall be given by publishing a summary of the open space applications in a newspaper of general circulation in the area at least 15 days prior to the open record hearing before the Planning Commission. Notification of the public hearing shall also be forwarded to each applicant.

(3) The Planning Commission's recommendation on each application shall be forwarded to the Board of Commissioners following a 14-day appeal period which begins the day after the Planning Commission recommendation. This recommendation shall be forwarded to the applicants as soon as possible.

(4) Upon receipt of the Planning Commission recommendation, the Board of Commissioners shall schedule a date for decision on the applications. The date of decision shall be within thirty (30) calendar days from the date of receipt of the Planning Commission recommendation. The Board of Commissioners shall approve or deny the applications after reviewing the recommendation from the Planning Commission.

(5) If the Board of Commissioners approves the application, an Open Space agreement between the County and the landowner(s) shall be signed. Said agreement may contain conditions of approval necessary to assure that the classification of Open Space land furthers the purposes of Chapter 84.34

RCW and this chapter. If the Board of Commissioners denies the application, in whole or in part, the applicant has the right to appeal only to the Clallam County Superior Court, as specified by WAC 458-30-250(4)(b).

**Section 27.08.100, Severability, is created to read as follows:**

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portion of this chapter; it being hereby expressly declared that this chapter and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted irrespective of the fact that any one or more other sections, subsections, paragraphs, sentences, clauses or phrases be declared invalid or unconstitutional.

ADOPTED this 26 day of August 2025

BOARD OF CLALLAM COUNTY COMMISSIONERS

[Signature]  
Mike French, Chair

[Signature]  
Randy Johnson

ATTEST:

[Signature]  
Loni Gores, MMC, Clerk of the Board

[Signature]  
Mark Ozias

