

Whatcom County
Open Space Policy and Criteria
and
Public Benefit Rating System, 1995

SUMMARY OF WHATCOM COUNTY OPEN SPACE POLICIES

- I. **Public Benefit Rating System:** All applications for open space-open space and open space- farm and agriculture conservation will be rated according to the Whatcom County Public Benefit Rating System described in the following pages. A Public Benefit Rating of at least 45 must be attained in order to be recommended for approval. In addition, the amount of tax reduction to be granted to open space applications will be based on the Public Benefit Rating. The greater the public benefit provided by keeping the property in open space use, the greater the tax reduction.
- II. **Public access:** As a condition of approval, owners of open space parcels must agree to provide a certain degree of public access according to the Whatcom County Public Access Policy listed on Page 12. All applications shall be accompanied by the owner's proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined in the Whatcom County Public Access Policy. Note: On parcels where there is a documented occurrence of a State or Federal Endangered or Threatened species; Federal Proposed Endangered or Threatened Species; and State Sensitive or Monitor Species; or where there is a known or potentially significant archaeological site; or when the purpose of the open space is for wetland conservation, the public access requirement may be waived by the Council.
- III. **Open Space Sign:** As a condition of approval, owners of open space parcels must agree to post a sign in a location visible to passing motorists, in accordance with the Whatcom County Open Space Sign Policy on Page 13 indicating the parcel's open space status and the availability of public access. As with the public access requirement, the requirement for posting of a sign may be waived in some instances.
- IV. **Hold Harmless Agreement:** All open space property owners must sign a hold harmless agreement, freeing Whatcom County of any liability which may arise as a result of open space approval. A copy of the hold harmless agreement is included on Page 14.

**WHATCOM COUNTY OPEN SPACE POLICY AND CRITERIA
AND PUBLIC BENEFIT RATING SYSTEM**

I. APPROVAL CRITERIA: OPEN SPACE/OPEN SPACE AND OPEN SPACE/FARM & AGRICULTURE CONSERVATION

Washington State law specifies that:

In determining whether an application made for open space current use taxation status should be approved or disapproved, pursuant to RCW 84.34.020, subsection (1)(b) (Open Space/Open Space) or subsection (c) (Open Space/Farm & Agriculture Conservation), the Whatcom County Planning Commission will consider in its recommendations to the County Council whether or not preservation of the current use of the land, when balanced against the resulting revenue loss or tax shift from granting the application will:

1. Conserve or enhance natural, cultural or scenic resources, or
2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers, or
3. Protect soil resources and unique or critical wildlife and native plant habitat, or
4. Promote conservation principles by example or by offering educational opportunities, or
5. Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, or
6. Enhance recreation opportunities, or
7. Preserve historic and archaeological sites, or
8. Affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property.

II. PUBLIC BENEFIT RATING SYSTEM

- A. Based on the first seven (7) approval criteria listed above in conjunction with number eight (8) above, the Planning Department staff will assign each application for Open Space/ Open Space and Open Space/Farm & Agriculture Conservation a **PUBLIC BENEFIT RATING** using the method described below.
- B. A parcel must receive a **PUBLIC BENEFIT RATING** of at least forty five (45) to be recommended for approval.
- C. The **PUBLIC BENEFIT RATING** will be used by the County Assessor's office in determining the amount of tax reduction for Open Space/Open Space and Open Space/Farm & Agriculture Conservation parcels.

III. PUBLIC BENEFIT RATING CALCULATION

A. BASIC VALUE

The Planning and Development Services Department will review each **Open Space/Open Space** and **Open Space/Farm & Agriculture Conservation** application and will assign to each a **BASIC VALUE** that represents the degree of conformance with the **BASIC VALUE CRITERIA** listed in Section IV below.

B. PUBLIC BENEFIT VALUE

The **BASIC VALUE** will be increased (or decreased) by a percentage (**PUBLIC BENEFIT VALUE**) representing the benefit to the general welfare of preserving the current use of the property, based on conformance with the factors listed in section V below.

C. PUBLIC BENEFIT RATING FORMULA

The **PUBLIC BENEFIT RATING** will be calculated using the following formula:

$$PBR = BV + (BV \times PBV), \text{ where:}$$

PBR = PUBLIC BENEFIT RATING

BV = BASIC VALUE

PBV = PUBLIC BENEFIT VALUE

IV. BASIC VALUE CRITERIA:

A. Open Space/Open Space

A maximum of ten points for **open space/open space** applications may be assigned for each of the 7 items based upon conformance with the criteria listed below.

1. Conserve or enhance natural, cultural or scenic resources.

Criteria for approval:

- a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
- b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;

- c. lands which can serve to prevent the spread of high density residential development into less developed areas;
- d. lands located adjacent to airports.

2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.

Criteria for approval:

- a. lands within a 100-year floodplain;
- b. lands within or adjacent to areas of domestic water supply;
- c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
- d. lands which provide for preservation of bogs or swamps;
- e. lands adjacent to bodies of water, both marine and fresh;
- f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

3. Protect soil resources and unique or critical wildlife and native plant habitat.

Criteria for approval:

- a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
- b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
- c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On parcels where there this documentation, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

4. Promote conservation principles by example or by offering educational opportunities.

Criteria for approval:

- a. lands which are an example of application of conservation principles;
- b. lands which offer opportunities for conservation education such as

interpretive centers or trails.

5. **Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;**
Criteria for approval:

- a. land that the local County Park Board has identified for possible future park acquisition;
- b. land designated in County Parks, Recreation and Open Space Study and other documents as significant park land, open space or conservation areas;
- c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
- d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

6. **Enhance recreation opportunities.**

criteria for approval:

- a. lands possessing private recreational facilities which are available to the public without charge;
- b. lands which provide opportunities for passive recreational activities such as, but not limited to, hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

7. **Preserve historic and archaeological sites.**

Criteria for approval:

- a. areas or sites which have been identified as significant on local, state or national Historic Registers;
- b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

B. Open Space/Farm & Agriculture Conservation

Only parcels consistent with RCW 84.34.020(8)(a)(b) may be considered for Open Space/Farm & Agriculture Conservation.

A maximum of fifteen (15) points for Open Space/ Farm & Agriculture Conservation applications may be assigned for each of the first two (2) items listed below, and a maximum of five (5) points may be assigned for the remaining eight (8) items listed below based upon conformance with the criteria listed.

1. Traditional or potential farmland.

Criteria for approval: lands which have historically been used for agriculture; and/or lands that have not been devoted to a use inconsistent with agricultural uses.

2. Soil Value

Criteria for approval:

- a. lands which contain prime farmland as defined by the U.S. Department of Agriculture; or
- b. lands which contain capability classification I-IV according to the US Department of Agriculture Land Capability Classification system.

3. Comprehensive Plan Designation

Criteria for approval: Lands which are designated Agriculture or Incentive Agriculture in the Whatcom County Comprehensive Plan.

4. Conserve or enhance natural, cultural or scenic resources.

Criteria for approval:

- a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
- b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
- c. lands which can serve to prevent the spread of high density residential development into less developed areas;
- d. lands located adjacent to airports.

5. **Protect streams, stream corridors, wetlands, natural shorelines and aquifers.**

Criteria for approval:

- a. lands within a 100-year floodplain;
- b. lands within or adjacent to areas of domestic water supply;
- c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
- d. lands which provide for preservation of bogs or swamps;
- e. lands adjacent to bodies of water, both marine and fresh;
- f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

6. **Protect soil resources and unique or critical wildlife and native plant habitat.**

Criteria for approval:

- a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
- b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
- c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On these parcels the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

7. **Promote conservation principles by example or by offering educational opportunities.**

Criteria for approval:

- a. lands which are an example of application of conservation principles;
- b. lands which offer opportunities for conservation education

such as interpretive centers or trails.

8. **Enhance the value to the public of abutting or neighboring parks, forests, agricultural lands, wildlife preserves, nature reservations or sanctuaries or other open spaces.**

Criteria for approval:

- a. land that the local County Park Board has identified for possible future park acquisition;
- b. land designated in County Parks, Recreation and Open Space Studies and other documents as significant park land, open space or conservation areas;
- c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
- d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

9. **Enhance recreation opportunities.**

criteria for approval:

- a. lands possessing private recreational facilities which are available to the public without charge;
- b. lands which provide opportunities for passive recreational activities such as but not limited to hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

10. **Preserve historic and archaeological sites.**

Criteria for approval:

- a. areas or sites which have been identified as significant on local, state or national Historic Registers;
- b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

V. PUBLIC BENEFIT VALUE CRITERIA

The following list of open space characteristics have been determined to have a high priority in providing (or detracting from) benefit to the general welfare will be used to determine the **PUBLIC BENEFIT VALUE** for each **Open Space/Open Space** and **Open Space/Farm & Agriculture Conservation** application. The total **PUBLIC BENEFIT VALUE** will increase (or decrease) the **BASIC VALUE** by a certain percentage. It is possible to attain a **PUBLIC BENEFIT VALUE** of up to 140%, resulting in a maximum possible increase of 140%.

A. PUBLIC ACCESS (Maximum 40% increase)

1. Shoreline access
2. Recreation access
3. Public road frontage
4. Availability of off-street parking
5. Quality of access in terms of accessibility and owner's Proposed rules of conduct and access management

B. WATER RESOURCE PROTECTION (Maximum 20% increase)

1. Watershed of domestic water supply
2. Aquifer recharge area
3. Preservation of hydrologic processes:
 - streams and natural drainage courses
 - wetlands, swamps, bogs
 - lakes

C. WILDLIFE HABITAT (Maximum 20% increase)

1. State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species.
2. Abundance and diversity of wildlife (associated with "edge" type habitat and areas of vegetative and topographic diversity).

D. PARCEL SIZE

1. Twenty (20) acres or larger (Maximum 10% increase)
2. Smaller than five (5) nominal acres (Maximum 10% decrease for OS Open Space applications; Required 40% decrease for OS Farm and Agriculture Conservation applications)

E. LINKAGE WITH OTHER OPEN SPACES (Maximum 5%

increase)

Adjacent to other Open Space, parks, or open areas associated with Planned Unit Developments, Cluster Subdivisions, or Binding Site Plans.

- F. NATURAL AREAS** (Maximum 5% increase)
Based on how much of parcel is in natural cover and not developed with homesite, outbuildings, and clearings.
- G. FINANCIAL ADVANTAGE** (Maximum 40% decrease)
The use to which the land is put derives a financial advantage for its owners.
- H. DISCRETIONARY VALUE** (Maximum 40% increase)
(Minimum 40% decrease)
Discretionary value may be added or subtracted where land provides or detracts from public benefits other than those specifically listed above. If discretionary value is added or subtracted, the provision of or deduction from public benefits shall be set forth in detail on the supplemental application form and on the scoring sheet

PUBLIC ACCESS

All applications for Open Space/Open Space and Open Space Farm & Agriculture Conservation shall be accompanied by the owners' proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined below.

The term "Public Access" is limited and defined as the right of any individual to request permission to enter and visit the premises on foot for legitimate recreational purposes such as bird watching, scenic observation, scientific investigation, picnicking during daylight hours, and strolling and general relaxation on the premises. This right is subject to the execution by the visitor of:

1. An agreement to abide by any reasonable rules of personal conduct required by the owners while on the premises, and
2. A general release of the owner from liability for any injury suffered by the visitor while on the premises. Permission will be granted without discrimination, **EXCEPT** in the case of a person in disorderly or apparently intoxicated condition in which case permission will be denied. Any permission previously granted shall become automatically revoked, and the visitor deemed to be a trespasser upon the premises.

Owners retain and reserve the power to officially post and enforce rules not inconsistent with the foregoing provisions and conditions for public entry upon the premises.

DATED this _____ day of _____, 2000

SIGNED:

owner

owner

OPEN SPACE SIGN POLICY

As a condition of approval of your open space application, you must post a two foot (2' x 2') sign on your property to indicate open space status, public access, and the Open Space Agreement number within one month of executing the Open Space Agreement.

The sign must be located on the property's road frontage in as conspicuous a location as possible.

Construction of the sign will be the responsibility of the applicant and will be in accordance with the specifications on file with the Planning and Development Services Department. It is the property owner's responsibility to assure that the sign remains in place during the period of the open space agreement.

This policy affects all Open Space/Open Space and Open Space/Farm and Agricultural Conservation applications.

Whatcom County Council

**AFFIDAVIT OF POSTING OF
OPEN SPACE SIGN
PURSUANT TO WHATCOM COUNTY
OPEN SPACE SIGN POLICY AND SPECIFICATION**

_____, being first duly sworn upon
oath, deposes and says:

That I have posted a two foot by two foot Open Space Sign in accordance with the Whatcom County Open Space Sign Policy and the Whatcom County Open Space Sign Specification, in a conspicuous location, visible to passing motorists, indicating the Open Space status of the following Open Space parcel(s):

Assessor's Parcel Number(s): _____

I understand that it is the property owner's responsibility to assure that the sign(s) remains in place during the period of the Open Space Agreement; that posting of the Open Space sign is subject to verification by County personnel; and that failure to maintain the sign is a violation of the Open Space Agreement and may result in withdrawal of Open Space status with attendant taxes and penalties payable pursuant to RCW 84.34.

Signature of Property Owner or other person posting property

I certify that I know or have satisfactory evidence that _____
signed this instrument and acknowledged it to be his/her free and voluntary act for the uses
and purposes mentioned in this instrument.

Dated _____
Signature of _____
Notary Public _____

Title _____
My Appointment _____
Expires _____

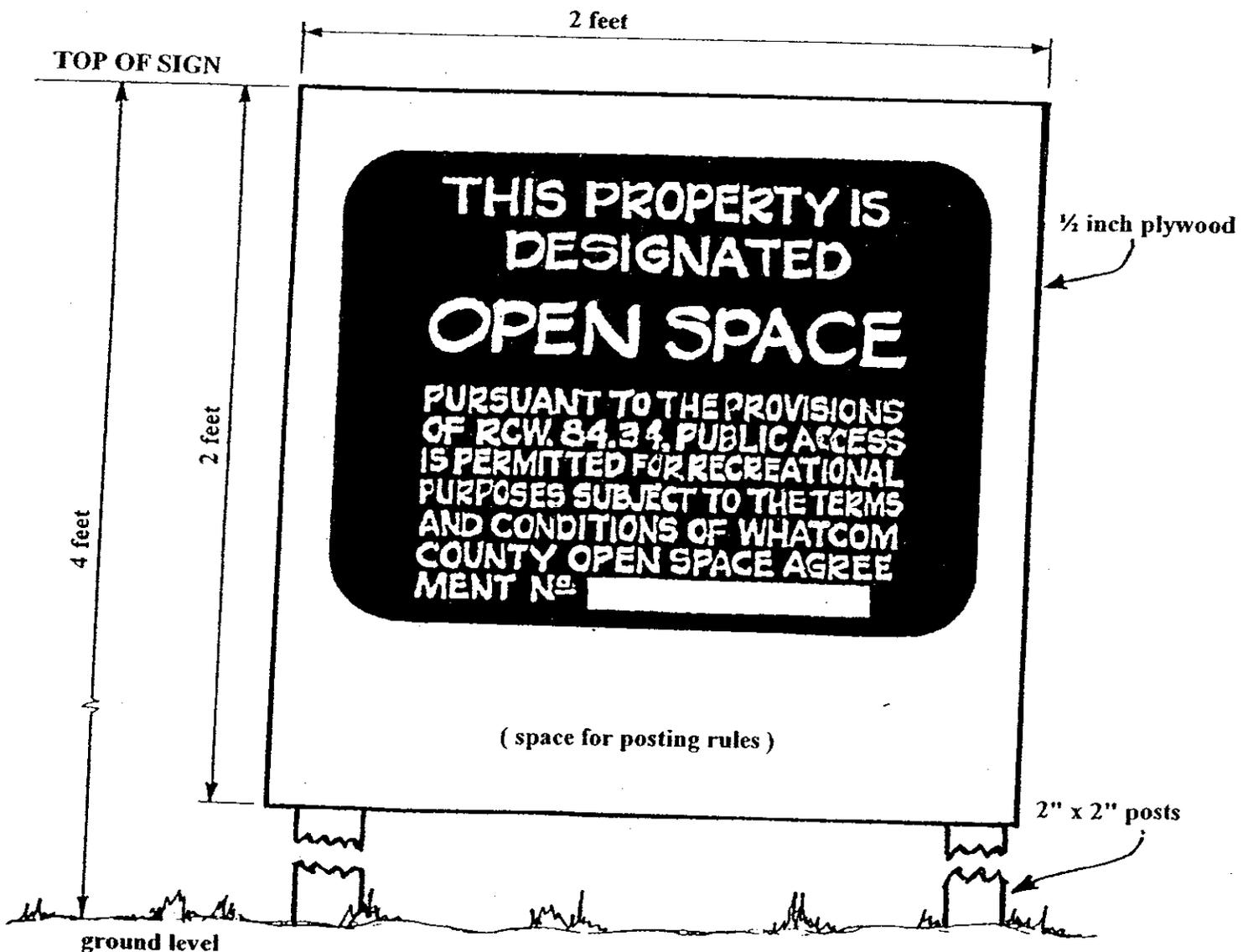
Seal

WHATCOM COUNTY OPEN SPACE SIGN SPECIFICATION

As a condition of approval of your Open Space application, you must post at least one Open Space sign on the property's road frontage in a conspicuous location, visible to passing motorists. It shall be the property owner's responsibility to assure that the sign remains in place during the period of the Open Space Agreement.

A typical sign and mounting are illustrated below. The sign shall be purchased from the Whatcom County Planning and Development Department for \$5.00 plus tax of .39 cents. The sign shall be permanently attached to a weather-resistant solid backing at least two feet by two feet in size. You may also post reasonable rules of personal conduct while on the premises, pursuant to Whatcom County Public Access Policy. Such rules shall be approved by the Planning Department prior to posting.

TYPICAL SIGN AND MOUNTING



HOLD HARMLESS AGREEMENT

Owner Name

Owner Name

In consideration for Whatcom County's approval of the attached Open Space Application, with any conditions that may be imposed, hereby agree to defend, indemnify and hold harmless Whatcom County, its officers and employees from any claim that may arise against Whatcom County as a result of the approval of the attached application with conditions.

This agreement shall become binding only after the Whatcom County Council has approved the attached application.

Parcel number(s):

DATED: This _____ day of _____, 2008

SIGNED:

Owner Name

Owner Name