

## Okanogan County

Ordinance 2002 - 6

### **AN ORDINANCE OF THE OKANOGAN BOARD OF COUNTY COMMISSIONERS AMENDING ORDINANCE NO. 36-92, THE TIMBER LAND TAX PROGRAM AND QUALIFICATION SYSTEM;**

#### **SECTION 1 FINDINGS AND RECITALS**

**WHEREAS**, the legislature has declared 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; and

**WHEREAS**, Okanogan County has adopted, by Ordinance No. 36-92, the Timber Land Tax Program and Qualification System pursuant to RCW 84.34.020(3), to promote and preserve timber lands which are devoted primarily to the growth and harvest of timber for commercial purposes; and

**WHEREAS**, the Okanogan Board of County Commissioners ("Board") found that in weighing the benefits to the general welfare of preserving the current use of property which is the subject of an application, the present Timber Land Tax Program and Qualification System may not adequately take into account the resulting revenue loss or tax shift; and

**WHEREAS**, the present Timber Land Tax Program and Qualification System was adopted by ordinance and not codified; and

**WHEREAS**, the Board desires to amend the present program and adopt by ordinance a separate Open Space Timber Program and codify as such, replacing the present Timber Land Tax Program and Qualification System; and

**WHEREAS**, the Okanogan County Regional Planning Commission held a series of three (3) meetings and workshops to review changes to Ordinance No. 36-92; and

**WHEREAS**, the Okanogan County Regional Planning Commission recommended approval of the proposed changes at a public hearing on October 28, 2002, at which time public input was offered and considered; and

**WHEREAS**, notice of the public hearing before the Board, was properly published in the Omak-Okanogan Chronicle on October 30, 2002; and

**WHEREAS**, the Board held a public hearing on November 12, 2002, at which time public comment was taken and considered in its decision;

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE OKANOGAN BOARD OF COUNTY COMMISSIONERS, THE TIMBER LAND TAX PROGRAM AND QUALIFICATION SYSTEM, ORDINANCE NO. 36-92, BE AMENDED AND CODIFIED TO READ AS FOLLOWS:**

#### **OPEN SPACE TIMBER PROGRAM, OKANOGAN COUNTY CODE, CHAPTER 14.09**

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#### **14.09.010 - Short Title**

This Chapter shall be known and cited as the "Open Space Timber Program."

#### **14.09.020 - Purpose**

The purpose of this Chapter is to encourage the maintenance, preservation, conservation, and otherwise continue in existence adequate open space timber lands devoted primarily to the growth and harvest of timber for commercial purposes, and to assure the use and enjoyment of natural resource and scenic beauty for the economic and social well-being of the citizens of Okanogan County.

#### **14.09.030 - Administration**

The Planning Director of the Okanogan County Office of Planning and Development ("Department"), or designee, is vested with the duty of administering, implementing, and interpreting the provisions of this Chapter. The Planning Director or designee may prepare and/or require the use of such forms and information as deemed necessary to administer the provisions of this Chapter.

#### **14.09.040 - Compliance with Regulations**

Lands proposed for acceptance into the Open Space Timber Program shall be in full compliance with all applicable Okanogan County Codes.

#### **14.09.050 - Scope**

This Chapter shall apply to all public and private lands situated within the unincorporated portions of Okanogan County over which Okanogan County has jurisdiction under the constitutions and laws of the State of Washington and of the United States and shall set forth minimum standards in addition to such other standards that may be applicable.

#### **14.09.060 - Definitions**

Those definitions set forth in RCW 84.34.020, RCW 76.09, WAC 458.30.200, and WAC 222 as adopted and hereafter amended, are hereby incorporated by reference and shall govern and control the application and interpretation of this Chapter. In the case of reference to a specific Okanogan County Code regulation, the definitions within the referenced regulation (for example the Shoreline Master Program) shall prevail. The following definitions also apply:

A. **Assessor** - The Okanogan County Assessor.

- B. **Board** - The Okanogan Board of County Commissioners.
- C. **Commercial Tree Species** - Any species which is capable of producing a merchantable stand of timber on a particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation (WAC 222-16).
- D. **Commission** - The Okanogan County Regional Planning Commission.
- E. **Contiguous** - Land adjoining and touching other property held by the same ownership. Land divided by a public or private road, creek, or stream shall be considered contiguous.
- F. **Department** - The Okanogan County Office of Planning and Development.
- G. **Merchantable Stand of Timber** - A stand of trees that will yield logs and/or fiber suitable in size and quality for the production of lumber, plywood, pulp or other forest products and of sufficient value at least to cover all costs of harvest and transportation to available markets (WAC 222-16).
- H. **Planning Director** - The Planning Director of the Okanogan County Office of Planning and Development.
- I. **Program** - The Open Space Timber Program.

#### 14.09.070 - Eligible Lands

All lands within the county are eligible to be reviewed for enrollment in the Program, provided that, any parcel of land of five (5) or more acres, or multiple parcels of land that are contiguous and total five (5) or more acres, but less than twenty (20) acres, which is/are devoted primarily to the growth and harvest of a commercial tree species for commercial purposes. Eligible lands shall mean only those portions of a parcel(s) devoted to commercial timber purposes.

#### 14.09.080 - Ineligible Lands

The following lands, or portions thereof, are not eligible for enrollment under this Chapter:

- A. Any parcel or multiple parcels which does/do not contain a minimum of five (5) acres;
- B. Any parcel, or multiple parcels which are not devoted primarily to the growth and harvest of a commercial tree species for commercial purposes;
- C. Any parcel, or multiple parcels which cannot support the growth and harvest of a commercial tree species for commercial purposes;
- D. Those portions of land not covered under the Forest Management Plan;
- E. Any parcel which is not in compliance with all Okanogan County Land Use Codes.

#### 14.09.090 - Application and Contents

Applications for enrollment under this Chapter, together with the specified fee, shall be filed with the Department. The accuracy and completeness of the application shall be the responsibility of the applicant. The application shall, at a minimum, contain the following:

- A. Application fee as adopted by the Okanogan County Fee Schedule;
- B. Completed and signed Okanogan County Land Use Application Form;
- C. Completed and signed Washington State Department of Revenue application, if required;
- D. The name, address, and phone number of the landowner/taxpayer, or authorized representative (proof of authorization may be required);
- E. The signature of the landowner/taxpayer, or authorized representative (proof of authorization may be required);
- F. Site plan consistent with the requirements of OCC 14.12.160, unless specifically waived by the Planning Director;
- G. Vicinity map with north arrow denoting the general area of the lands showing the location of the property involved, with directions to the property;
- H. The total number of acres considered for enrollment;
- I. A copy of a recorded deed describing the property and identifying the owner;
- J. A list of all adjacent property owners within 300 feet of the outer boundaries of the property to be considered for enrollment. The list shall include the land owners' names and addresses;
- K. A Forest Management Plan consistent with the requirements of Chapter 14.09.150 and Chapter 14.09.160;

- L. A certification of payment of property taxes will be required from the County Treasurer prior to recording of the Open Space Agreement. The certification must indicate that all taxes, assessments, fees, fines, penalties, and/or judgments, outstanding against a parcel of land have been satisfied.

#### **14.09.100 - Multiple Parcels**

Multiple adjacent parcels shall be evaluated as a single parcel for purposes of the Program, unless the landowner requests that each parcel be evaluated separately, provided the requirements of Chapter 14.09.070 are met. Multiple parcels which are considered a single parcel under this program must be in the same ownership.

#### **14.09.110 - Application Review Process**

The following time line shall be used for the processing of all applications for enrollment:

- A. Applications for enrollment under this Chapter may be made anytime during the current year with the assessment of the land in its enrolled status becoming effective in year two (2) for taxes payable in year three (3). (For example: An owner submits an application for enrollment on April 1, 2002. If approved for enrollment, the qualifying land would be assessed the new rating for year 2003, taxes payable in 2004).
- B. An application shall be effective for six (6) months. The continuance of an application beyond six (6) months shall constitute a new application and new application fees apply. The Planning Director may waive the application fee or extend the application six (6) months, if the Planning Director determines that administrative review is responsible for the application delay or circumstances arise which necessitate an extension.
- C. Within fourteen (14) days of submitting a complete and vested application, the Department shall:
  1. Set the date and time for a public hearing before the Commission;
  2. Circulate notice of the application and public hearing to all property owners within three-hundred (300) feet of the exterior boundaries of the property considered for enrollment;
  3. Circulate notice of the application and public hearing to county, state, and federal agencies with expertise or interest, for a thirty (30) day comment and review period;
- D. At least ten (10) days prior to the public hearing, the Department shall transmit a written report, findings of fact, and recommendation to the Commission;
- E. The Commission shall at a public hearing:
  1. Recommend approval or denial of the application; or,
  2. Table and continue at a later date; or,
  3. Request additional information.
- F. Within thirty (30) days following the receipt of the Commission's recommendation, the Board shall at a public meeting:
  1. Approve or deny the application; or,
  2. Table and continue at a later date; or,
  3. Request additional information.

#### **14.09.120 - Land Purchased or Transferred While Application is Pending**

In the event a parcel is conveyed while approval of a timely application is pending, the purchaser or transferee shall, upon written request to the Department, be given the same consideration as the original applicant. The purchaser or transferee shall assume the original applicant's rights and responsibilities in the application process. The purchaser or transferee shall be required to satisfy all requirements that otherwise would have been required.

#### **14.09.130 - State Environmental Policy Act (SEPA)**

Applications for enrollment into the Open Space Program (RCW 84.34) are categorically exempt from review under the State Environmental Policy Act (WAC 197-11-800(6)(c)).

#### **14.09.140 - Forest Management Practices**

Forest management practices and reforestation methods shall be consistent with the provisions of RCW 76.09 Forest Practices Act, and WAC 222, Forest Practices Board, as adopted or hereafter amended. Any violation of RCW 76.09 and/or WAC 222, may be cause for removal of the property from the Program, subject to the provisions of Chapter 14.09.250.

#### **14.09.150 - Forest Management Plan - Required**

- A. An application for enrollment in the Program must be accompanied by a Forest Management Plan. The Plan may be prepared by:
1. A professional forester who possesses a degree in forestry or related field, or has adequate working experience and/or qualifications in forestry management, or;
  2. The landowner of the property proposed for enrollment who has adequate knowledge of forestry management and has made an effort to become a competent steward of the land, provided that all requirements of Chapter 14.09.160 have been met, A narrative statement summarizing past experience and activity of the landowner in growing and harvesting timber and current and continuing forestry activities shall be included in the application for enrollment.

#### **14.09.160 - Forest Management Plan Guidelines**

A Forest Management Plan is required for all applications for enrollment in the Program. The Planning Director shall determine whether the Plan adequately addresses all of the following requirements prior to vesting the application. Any Plan which does not adequately address the following requirements shall be returned to the applicant for additions or revisions.

- A. Goals and Objectives Statement
1. The foundation of the Plan is the establishment and documentation of the goals and objectives of the landowner, and the intentions for the property. The goals and objectives of the land must be consistent with the commercial production and harvest of the timber stand.
- B. Forest Mapping and Inventory
1. The date or dates of acquisition of the property;
  2. A vicinity map identifying the general location of the property;
  3. An aerial photograph;
  4. Site plan consistent with the requirements of OCC 14.12.160, unless waived by the Planning Director;
  5. A photo overlay or detailed map delineating forest types according to management needs, including species type and age, diversity, density, and amount of existing timber resources found on the property;
  6. Soil type, erosion, slope, aspect, and productivity information, which shall include the ability of each soil type to support specific types of timber stands;
  7. Identification of all riparian, wetland, and floodplain areas;
  8. Whether the land has been used for grazing;
  9. Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of RCW 76, or other applicable rules;
  10. Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;
  11. Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber.
- C. Narrative History of the Site
- D. Site Specific Management Problems
1. Noxious weed control, past and present
  2. Fire protection
  3. Flooding control
  4. Erosion control
  5. Storm water management
  6. Animal and insect damage control



7. Disease control
- E. Timber Management Recommendations by Timber Stand
  1. Timber type, quantity, diversity, and quality
  2. Site preparation
  3. Fertilization
  4. Precipitation and shading requirements of each proposed timber type
  5. Brush abatement
  6. Pruning and thinning schedule, both pre-commercial and commercial
  7. Reforestation and restocking methods
- F. Implementation Plan
  1. Schedule of each proposed management practice (a commitment to specific harvest dates is not required)
  2. Provisions for periodic updating of the Plan

#### **14.09.170 - Improvements**

When determining eligibility of a parcel for enrollment under this Chapter that includes structural improvements, a one acre minimum improvement area or homesite will be excluded and not enrolled under this chapter. This improved area or potentially improved area will be assessed at market value as determined by the Assessor.

#### **14.09.180 - Open Space Agreement**

Upon approval by the Board, an Open Space Agreement between the County and landowner shall be signed and recorded with the Auditor and may contain the conditions of continued enrollment under this Chapter. The agreement to tax land according to its current use is not a contract between the owners and the County. This agreement can be abrogated, annulled, or cancelled at any time by the state legislature in which event no additional tax, interest, and/or penalty shall be imposed, as specified by WAC 458.30.355.

- A. Within five (5) calendar days after the approval of the application for enrollment under this Chapter, the Department shall deliver by certified mail, return receipt requested, the agreement to the owner for signature.
- B. The owner may accept or reject the agreement.
- C. If accepted, the agreement shall be signed and returned to the Department within thirty (30) days after receipt. If the agreement is not returned to the Department within thirty (30) days after receipt, the County shall presume the agreement has been rejected.

#### **14.09.190 - Minimum Participation Period**

When land has been enrolled in the Program, it shall remain under such classification and shall not be applied to another use except as provided by RCW 84.34.070(2), for at least ten (10) years from the date of the recording of the Open Space Agreement and shall continue under such classification until and unless withdrawn from the classification after notice of request for withdrawal shall be made by the owner. During any year after eight (8) years of the initial ten (10) year classification period have elapsed, notice of request for withdrawal of all or a portion of the land may be given by the owner to the Assessor. In the event that a portion of a parcel is removed from classification, the remaining portion must meet the same requirements as did the entire parcel when such land was originally granted classification pursuant to this Program. The Assessor shall, when two (2) assessment years have elapsed following the date of receipt of such notice, withdraw such land from such classification and the land shall be subject to the additional tax and applicable interest due under RCW 84.34.108.

#### **14.09.200 - Change in Use**

When land which has been classified under this Chapter is applied to some other use, such landowner shall notify the Assessor within sixty (60) days of such change and shall be subject to the provisions of RCW 84.34.080. If the Assessor determines that such changes to the timber production or the Forest Management Plan are significant, the Assessor may refer such changes to the Commission for review and recommendation to the Board. A new Open Space Agreement may be required.

#### 14.09.210 - Notice of Decision

The Department shall notify the Assessor and the landowner of the approval of an application for enrollment under this Chapter. All denials of an application shall be in writing to the landowner and shall include the reasons for denial.

#### 14.09.220 - Request for Information

The Assessor and/or Department may require an owner of land enrolled under this Chapter to submit data relevant to the use of the land or other information pertinent to the continued classification of the land, as specified by WAC 458.30.270.

#### 14.09.230 - Continuing Enrollment Upon Sale or Transfer of Ownership

Property enrolled under this Chapter may be sold or transferred to new owners subject to the provisions of WAC 458.30.275.

#### 14.09.240 - Appeals

If an application for classification or reclassification of land under this Chapter is denied by the Board in whole or in part, the applicant may appeal to Okanogan County Superior Court as specified by WAC 458.30.250(4)(b).

#### 14.09.250 - Enforcement

Property which has been approved under the Chapter, but which is found to be in violation of any terms of the Open Space Agreement or condition of enrollment, may be removed from the Program and all applicable fees, penalties, and interest shall become due pursuant to RCW 84.34.

#### 14.09.260 - Severability


If any provision of this Chapter is for any reason held to be invalid, the remainder of this Chapter shall remain in effect. If any provision of this Chapter is adjudged invalid as applied to a particular person or circumstance, that provision of this Chapter shall not be affected as to other persons or circumstances.

DATED at Okanogan, Washington this 12TH day of November \_\_\_\_\_, 2002.

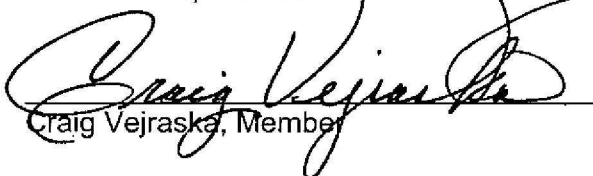
#### BOARD OF COUNTY COMMISSIONERS OKANOGAN, WASHINGTON

ATTEST

  
Brenda White  
Clerk of the Board  


  
Robert Hirst, Chairman

  
Dave Schulz, Member

  
Craig Vejraska, Member

APPROVED AS TO FORM:

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Don L. Anderson  
Chief Civil Deputy P.A.