

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners (BoCC)

FROM: Josh D. Peters, AICP, Director, Department of Community Development (DCD)
Greg Ballard, Code Administrator DCD
David Wayne Johnson, Associate Lead Planner DCD

DATE: August 5, 2024

SUBJECT: Open Space Tax Program – Resolution Amendment

STATEMENT OF ISSUE:

DCD is requesting the BoCC Amend Resolution No. 82-91 to remove the requirement for a Hearing Examiner Public Hearing on Open Space Tax Applications per Regulatory Reform Resolution No. 17-19.

ANALYSIS:

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 provides a property tax reduction as an incentive to preserve certain types of lands in their current use, when such preservation will provide a public and environmental benefit.

Chapter 84.34 RCW empowers the Jefferson County Board of Commissioners to adopt an open space program and public benefit rating system to evaluate lands proposed for open space current use assessment. Resolution No. 82-91 was passed by the BoCC August 12, 1991 and has served to guide citizens and the County in processing applications for participation in the Open Space Tax Program.

Applications for “Current Use Assessment” are made through the DCD, but is not a Land Use application. DCD evaluates the property per the public benefit ratings system, while the Assessor determines the potential property tax reduction based on ratings points. Together, DCD and the Assessor make a recommendation for approval, or inclusion in the program and how much of a benefit and tax reduction the property owner should receive. The BoCC then considers the recommendation and signs an Open Space Tax Agreement with the property owner.

Of the 3 categories of the Open Space Taxation Act, Community Development administers the open space category while the Assessor administers the farm category. The timber category has been managed by Community Development for parcels under 20 acres, but due to statutory changes, timberlands can now be administered by the Assessor under 84.33 RCW Forestlands for all acreage sizes. Many counties have transferred their legacy 84.34 timber accounts to 84.33, which we may also do in the future.

The Open Space Tax Program specifies that the Jefferson County Hearings Examiner shall hold a public hearing and make a recommendation to the BoCC based on a staff report and testimony that the application

complies with the program. This is not an appealable decision. The decision to approve or deny an open space tax application and sign a tax agreement lies exclusively with the BoCC as a legislative action after a duly noticed public hearing. Staff has concluded over the years of processing these requests, that this “extra step” of a Hearing Examiner hearing and recommendation is unnecessary, expensive and time consuming, with no appreciable benefit, and should be eliminated.

Resolution No. 17-19, also known as “Regulatory Reform” was adopted by the BoCC and the Jefferson County Board of Health on March 25, 2019. “It is in the best interest of the County's residents, its businesses, and governmental efficiency to commit to regulatory reform to clarify and streamline County regulations and create efficient development practices and permitting paths, in order to facilitate economic development, jobs and an increase in the supply of affordable housing, while protecting the environment and public health.”

Jefferson County has an opportunity to revise the Open Space Tax Program to eliminate an unnecessary step in the permit review procedures for current use assessment applications per the guidance in Resolution No. 17-19, and thereby incrementally implement Regulatory Reform. The revision simply requires the review and signing of a new Resolution that Amends the adopting Resolution No. 82-91 to remove the requirement for the Hearing Examiner to hold a public hearing and make a recommendation to the BoCC for either approval or denial.

Further work on the Open Space Tax Program is slated to take place in the future as part of the County’s Strategic Plan, to include a revision and expansion of the Public Benefits Rating System, and to codify the process under the Unified Development Code, which will be adopted by ordinance rather than resolution. However, DCD is initiating this first step in the program’s revision as a relatively easy and cost-effective solution to processing the four pending Current Use Assessments that need to be processed before the end of 2024.

FISCAL IMPACT:

There are no requirements for funding this request, and no fiscal impacts beyond the staff time to draft and present the attached resolution.

RECOMMENDATION:

Staff requests the Board review the power point presentation on the subject, ask questions and sign the attached clean copy of the Resolution to Amend the Open Space Tax Program, which has been reviewed by the Prosecuting Attorneys Office.

REVIEWED BY:


Mark McCauley, County Administrator


Date

**STATE OF WASHINGTON
COUNTY OF JEFFERSON**

**IN THE MATTER OF AMENDING
SECTIONS I, III & IV OF RESOLUTION
NO. 82-91 JEFFERSON COUNTY OPEN
SPACE TAX PROGRAM TO REMOVE
THE REQUIREMENT FOR A HEARING
EXAMINER RECOMMENDATION**

RESOLUTION NO. _____

WHEREAS, Chapter 84.34 RCW empowers the Jefferson County Board of Commissioners to set open space priorities and adopt an open space plan and public benefit rating system to evaluate lands proposed for open space current use assessment, which provides a property tax reduction as an incentive for the preservation of certain types of lands in their current use, when such preservation will provide a public benefit; and,

WHEREAS, Jefferson County Resolution No. 82-91 (the “Jefferson County Open Space Tax Program”) was passed as County policy on August 12, 1991 by the Board of County Commissions, and has served to guide citizens and the County in processing applications for participation in the open space tax program; and,

WHEREAS, Resolution No. 75-95 amended Resolution No. 82-91 to include undeveloped shorelines as having value for consideration in the Open Space Tax Program; and,

WHEREAS, Resolution No. 82-91 requires a recommendation by the Jefferson County Hearings Examiner to the Board of County Commissions, that the application complies with the open space tax program and Chapter 84.34 RCW does not; and,

WHEREAS, a decision to approve or deny an open space tax application lies with the Board of County Commissioners as a final legislative action after a public hearing per Chapter 84.34 RCW; and,

WHEREAS, the Hearing Examiner recommendation is not an appealable decision, but a recommendation and is based upon a staff report and testimony by the Assessor and the Department of Community Development; and,

WHEREAS, Jefferson County Code 2.30.080 Examiner – Powers and duties, adopted in 2019, and replacing Ordinance No. 01-0318-91 referenced in the Open Space Tax Program, allows the examiner to receive and examine available relevant evidence, conduct hearings, cause preparation of the official record, prepare and enter findings of fact and conclusions of law, and issue final decisions for any other land use hearings not prohibited by law assigned by the board of county commissioners through an ordinance, by ordinance only; and, (staff emphasis added),

WHEREAS, the Board of County Commissioners adopted Resolution No. 17-19, a joint resolution of the Board of County Commissioners and the Jefferson County Board of Health establishing a regulatory reform program for Jefferson County; and,

WHEREAS, Regulatory Reform Resolution No. 17-19 highlights streamlining of permit review procedures as a goal; and,

WHEREAS, Removal of the requirement for a Hearing Examiner recommendation is consistent with Regulatory Reform as outlined in Resolution No. [17-19](#), will reduce the time to process the application, and provide significant savings to the applicant by eliminating the Hearing Examiner fee (currently \$1,363.36); and,

WHEREAS, Regulatory Reform Resolution No. [17-19](#) highlights streamlining of permit review procedures as a goal; and,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, STATE OF WASHINGTON:

Section 1. The Jefferson County Board of Commissioners hereby adopts the above “Whereas” clauses as Findings of Fact.

Section 2. Part I, Section I. General Requirements D. Applications Form, Maps of the Jefferson County Open Space Tax Program is amended to read:

Applications for open space or timberland classification shall be submitted to the Planning Department. After all filing requirements are met, the Planning Department shall assign a date for a public hearing, and provide notice in accordance with RCW [84.34.037](#). ~~Pursuant to the Jefferson County Hearing Examiner Ordinance, No. 1-0318-91, the Hearing Examiner, Upon the recommendation of the County Assessor and the director of Planning Department of Community Development, shall hold~~ a public hearing ~~shall be held~~ to determine whether the application conforms with the requirements of this program, and RCW 84.34; whereupon, the ~~Examiner shall issue his/her recommendation to the~~ Jefferson County Board of Commissioners ~~for shall take~~ final legislative ~~approvalaction to approve or deny the application.~~

Section 3. Part III, Section II. Application of the Jefferson County Open Space Tax Program is amended to read:

Applications for timberland classification shall be submitted to the Jefferson County Planning Department. After’ all filing requirements are met, the Planning Department shall set a date for a public hearing, and provide notice in accordance with RCW 84.34.037. Pursuant to the Jefferson County Hearing Examiner Ordinance, No. 1-0318-91, the Hearing Examiner, Upon the recommendation of the County Assessor and Planningthe director of the Department of Community Development, shall hold a public hearing ~~shall be held~~ to determine whether the application conforms with the requirements of this program, and Chapter [84.34](#) RCW; whereupon, the ~~Examiner shall issue his/her recommendation to the~~ Jefferson County Board of Commissioners ~~for shall take~~ final legislative ~~approvalaction to approve or deny the application.~~

Section 4. Part IV, Section II. Application of the Jefferson County Open Space Tax Program is amended to read:

Applications for open space classification shall be submitted to the Planning Department. After all filing requirements are met, the Planning Department shall assign a date for a public hearing, and provide notice in accordance with RCW 84.34.037. Pursuant to the Jefferson County Hearing Examiner Ordinance, No. 4-0318-91, the Hearing Examiner, Upon the recommendation of the County Assessor and the director of the Jefferson County Planning Department of Community Development, shall hold a public hearing shall be held to determine whether the application conforms with the requirements of this program, and Chapter 84.34 RCW RCW 84.34; whereupon, the Examiner shall issue his/her recommendation to the Jefferson County Board of Commissioners for shall take final legislative approval action to approve or deny the application.

Section 5. Part IV Section VII. Classification Procedure of the Jefferson County Open Space Tax Program is amended to read:

RCW 84.34.037 stipulates that applications for classification of land as open space be acted upon after a public hearing and after notice of the hearing has been given by publication in a newspaper of general circulation. The Jefferson County Board of Commissioners, as the legislative authority for the unincorporated area of Jefferson County, acts as the granting authority. The Jefferson County Board of Commissioners acts upon the recommendation of the Jefferson County Hearing Examiner Assessor and the director of the Jefferson County Planning Department of Community Development.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or section of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or its application to other persons or circumstances shall be fully valid and shall not be affected.

Section 7. Effective Date. The Ordinance becomes effective upon _____, 2023 adoption.

Section 8. SEPA Categorical Exemption. This ordinance is categorically exempt from the State Environmental Policy Act under WAC 197-11-800 (19).

(SIGNATURES FOLLOW ON THE NEXT PAGE)

APPROVED and ADOPTED this _____ day of _____, 2024.

JEFFERSON COUNTY BOARD OF
COMMISSIONERS

Kate Dean, Chair

SEAL:

Greg Brotherton, Member

Heidi Eisenhour, Member

ATTEST:

Carolyn Gallaway Date
Clerk of the Board

Approved as to form only:

Philip C. Hunsucker Date
Civil Deputy Prosecuting Attorney

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Greg Brotherton, Member

Heidi Eisenhour, Member

ATTEST:

Carolyn Gallaway, CMC Date
Clerk of the Board

Approved as to form only:

Philip C. Hunsucker Date
Civil Deputy Prosecuting Attorney