Clear form

Application for Special Assessment of Open Space Land

As provided by ORS 308A.300 to 308A.330

ASSESSOR'S USE ONLY			
Date Received	Date Received		
Granting Authority ☐ County ☐ City of _____	Approved ☐ In full ☐ In part	Denied	J.V. No.

Instructions

1. Filing deadline is during the calendar year preceding the first assessment year that you requested open space designation.
2. File this document with your county assessor and provide copies to the governing body planning commission and the granting authority.
3. Keep a copy for your records.

Filed with the _____ County Assessor for the assessment beginning July 1, 20_____.

Applicant's name	Telephone Number
	( )

Address	City	State	ZIP Code

I apply for special assessment of the property described below as "Open Space Land" as provided by ORS 308A.300 to 308A.330. My interest in the property is by: ☐ Fee simple ownership ☐ Contract purchase ☐ Other fee interest (explain) _____

PROPERTY DESCRIPTION

Assessor's account number(s) (as shown on your tax notices) (if more space is needed, attach additional sheets)

☐ Deed ☐ Contract	Date recorded	Recorded in volume and page or instrument no.
Lot	Block	Addition

Subsection	Section	Township	Range	Acres

The physical characteristics (size, topography, access, etc.) of the land and its relationship to surrounding properties for which classification is requested are as follows:	
The current open space use(s) of the land are: (Whenever any use does not relate to all the property described, indicate the portion of the property to which the particular use applies.)	Use No. 1
	Use No. 2
	Use No. 3
	Use No. 4
	Use No. 5

USE NUMBER				
1	2	3	4	5

I hereby designate [by checking the appropriate box(es)] the paragraph(s) listed in which each such use fall:

☐☐☐☐☐ 1) Land area designated as open space land by an official comprehensive land use plan adopted by any city or county.

2) Land area the preservation of which in its present use would:

☐☐☐☐☐ a) Conserve or enhance natural or scenic resources;

☐☐☐☐☐ b) Protect air or streams or water supply;

☐☐☐☐☐ c) Promote conservation of soils, wetlands, beaches, or tidal marshes;

☐☐☐☐☐ d) Conserve landscaped areas, i.e., public or private golf courses, which reduce air pollution and enhance the value of abutting or neighboring property;

☐☐☐☐☐ e) Enhance the value to the public or abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;

☐☐☐☐☐ f) Enhance recreation opportunities;

☐☐☐☐☐ g) Preserve historic sites;

☐☐☐☐☐ h) Promote orderly urban or suburban development; or

☐☐☐☐☐ i) Retain in their natural state tracts of land, on such conditions as reasonably required by the legislative body granting the open space classification.

DECLARATION

I declare under the penalties for false swearing as contained in ORS 305.990(4) that I have examined this document and to the best of my knowledge it is true, correct, and complete.

X _____ _____

Signature Date

Oregon Law Relating to the Special Assessment of Open Space Land

308A.300 Definitions for ORS 308A.300 to 308A.330. As used in ORS 308A.300 to 308A.330, unless a different meaning is required by the context:

(1) "Open space land" means:

(a) Any land area so designated by an official comprehensive land use plan adopted by any city or county; or

(b) Any land area, the preservation of which in its present use would:

(A) Conserve and enhance natural or scenic resources;

(B) Protect air or streams or water supply;

(C) Promote conservation of soils, wetlands, beaches or tidal marshes;

(D) Conserve landscaped areas, such as public or private golf courses, which reduce air pollution and enhance the value of abutting or neighboring property;

(E) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;

(F) Enhance recreation opportunities;

(G) Preserve historic sites;

(H) Promote orderly urban or suburban development; or

(I) Retain in their natural state tracts of land, on such conditions as may be reasonably required by the legislative body granting the open space classification.

(2) "Current" or "currently" means as of next January 1, on which the property is to be listed and valued by the county assessor under ORS chapter 308.

(3) "Owner" means the party or parties having the fee interest in land, except that where land is subject to a real estate sales contract, "owner" shall mean the contract vendee. [Formerly 308.740]

308A.303 Policy. The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands and the vegetation thereon to assure continued public health by counteracting pollutants 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. The legislature further declares that it is in the public interest to prevent the forced conversion of open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such open space land, and that assessment practices must be so designed as to permit the continued availability of open space lands for these purposes, and it is the intent of ORS 308A.300 to 308A.330 to so provide. [Formerly 308.745]

308A.306 Application for open space use assessment; contents of application; filing; reapplication. An owner of land desiring current open space use assessment under ORS 308A.300 to 308A.330 shall make application to the county assessor upon forms prepared by the Department of Revenue and supplied by the county assessor. The owner shall describe the land for which classification is requested, the current open space use or uses of the land, and shall designate the paragraph of ORS 308A.300 (1) under which each such use falls. The application shall include such other information as is reasonably necessary to properly classify an area of land under ORS 308A.300 to 308A.330 with a verification of the truth thereof. Applications shall be made to the county assessor during the calendar year preceding the first assessment year for which such classification is requested. If the ownership of all property included in the application remains unchanged, a new application is not required after the first year for which application was made and approved. [Formerly 308.750]

308A.309 Submission of application for approval of local granting authority; grounds for denial; approval; application withdrawal. (1) Within 10 days of filing in the office of the assessor, the assessor shall refer each application for classification to the planning commission, if any, of the governing body and to the granting authority, which shall be the county governing body, if the land is in an unincorporated area, or the city legislative body, if it is in an incorporated area. An application shall be acted upon in a city or county with a comprehensive plan in the same manner in which an amendment to the comprehensive plan is processed. In determining whether an application made for classification under ORS 308A.300 (1)(b) should be approved or disapproved, the granting authority shall weigh:

(a) The projected costs and other consequences of extending urban services to the affected lot or parcel;

(b) The value of preserving the lot or parcel as open space;

(c) The projected costs and other consequences of extending urban services beyond the affected lot or parcel; and

(d) The projected costs and other consequences, including the projected costs of extending urban services, of expanding the urban growth boundary in other areas if necessary to compensate for any reduction in available buildable lands.

(2) The granting authority shall not deny the application solely because of the potential loss in revenue that may result from granting the application if the granting authority determines that preservation of the current use of the land will:

(a) Conserve or enhance natural or scenic resources;

(b) Protect air or streams or water supplies;

(c) Promote conservation of soils, wetlands, beaches or tidal marshes;

(d) Conserve landscaped areas, such as public or private golf courses, which enhance the value of abutting or neighboring property;

(e) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces;

(f) Enhance recreation opportunities;

(g) Preserve historic sites;

(h) Promote orderly urban or suburban development; or

(i) Affect any other factors relevant to the general welfare of preserving the current use of the property.

(3) The granting authority may approve the application with respect to only part of the land which is the subject of the application; but if any part of the application is denied, the applicant may withdraw the entire application. [Formerly 308.755]

308A.312 Notice to assessor of approval or denial; recording approval; assessor to record potential additional taxes on tax roll; appeal from denial. (1) The granting authority shall immediately notify the county assessor and the applicant of its approval or disapproval which shall in no event be later than April 1 of the year following the year of receipt of said application. An application not denied by April 1 shall be deemed approved, and shall be considered to be land which qualifies under ORS 308A.300 to 308A.330.

(2) When the granting authority determines that land qualifies under ORS 308A.300 to 308A.330, it shall enter on record its order of approval and file a copy of the order with the county assessor within 10 days. The order shall state the open space use upon which approval was based. The county assessor shall, as to any such land, assess on the basis provided in ORS 308A.315, and each year the land is classified shall also enter on the assessment roll, as a notation, the assessed value of such land were it not so classified.

(3) Each year the assessor shall include in the certificate made under ORS 311.105 a notation of the amount of additional taxes which would be due if the land were not so classified.

(4) The additional taxes noted under subsection (3) of this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(5) On approval of an application filed under ORS 308A.306, for each year of classification the assessor shall indicate on the tax roll that the property is being specially assessed as open space land and is subject to potential additional taxes as provided by ORS 308A.318, by adding the notation "open space land (potential add'l tax)."

(6) Any owner whose application for classification has been denied may appeal to the circuit court in the county where the land is located, or if located in more than one county, in that county in which the major portion is located. [Formerly 308.760]

308A.315 Determination of maximum assessed value and assessed value of open space lands; rules. (1) The maximum assessed value and assessed value of land classified as open space land under ORS 308A.300 to 308A.330 shall be determined as provided in this section.

(2) Land classified as open space land shall have an assessed value for the tax year equal to the lesser of the land's maximum assessed value or the land's open space value determined under subsection (5) of this section.

(3) The land's maximum assessed value shall equal 103 percent of the land's assessed value for the previous tax year or 100 percent of the land's maximum assessed value for the previous tax year, whichever is greater.

(4)(a) For the first tax year for which the land is classified as open space land, the land shall have a maximum assessed value equal to the land's open space value determined under subsection (5) of this section multiplied by the ratio of the total maximum assessed value of all open space land within the county over the total open space value of all open space land in the county.

(b) If there is an insufficient amount of land classified as open space land in a county to permit a statistically reliable ratio to be determined under paragraph (a) of this subsection, the statewide totals of maximum assessed value of open space land and open space value shall be used in determining the ratio.

(c) The Department of Revenue shall prescribe rules setting forth the minimum amount of open space land in a county needed to establish a statistically reliable ratio.

(5) The open space value of land classified as such under ORS 308A.300 to 308A.330 shall be the land's real market value under ORS 308.205:

(a) Assuming the highest and best use of the land to be the current open space use, such as park, sanctuary or golf course. The assessor shall not consider alternative uses to which the land might be put.

(b) Valuing the improvements on the land, if any, as required by ORS 308.205. [Formerly 308.765; 2003 c.169 §3]

308A.318 Change in use of open space land; notice to assessor; withdrawal from classification; collection of additional taxes; exception. (1) When land has once been classified under ORS 308A.300 to 308A.330, it shall remain under such classification and it shall not be applied to any other use than as open space unless withdrawn from classification as provided in subsection (2) of this section, except that if the use as open space land changes from one open space use to another open space use, such as a change from park purposes to golf course land, the owner shall notify the assessor of such change prior to the next January 1 assessment date.

(2) During any year after classification, notice of request for withdrawal may be given by the owner to the county assessor or assessors of the county or counties in which such land is situated. The county assessor or assessors, as the case may be, shall withdraw such land from such classification, and immediately shall give written notice of the withdrawal to the granting authority that classified the land; and additional real property taxes shall be collected on such land in an amount equal to the total amount of potential additional taxes computed under ORS 308A.312 (3) during each year in which the land was classified, together with interest at the rate of two-thirds of one percent a month, or fraction of a month, from the dates on which such additional taxes would have been payable had the land not been so classified, limited to a total amount not in excess of the dollar difference in the value of the land as open space land for the last year of classification and the real market value under ORS 308.205 for the year of withdrawal.

(3) If the owner fails to give the notice required under subsection (1) of this section during the period of classification, upon withdrawal under subsection (2) of this section, the assessor shall add to the tax extended against the land previously classified, an amount, if any, equal to the additional taxes that would have been collected had the assessor valued the classified land on the basis of the changed open space use, together with interest at the rate of two-thirds of one percent a month, or fraction of a month, from the dates on which such additional taxes would have been payable.

(4) Notwithstanding subsection (2) of this section, open space lands that qualify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 or conservation easement special assessment under ORS 308A.450 to 308A.465 may be disqualified from open space special assessment and qualified for wildlife habitat special assessment or conservation easement special assessment without payment of any additional tax under this section.

(a) The additional tax as determined under subsection (2) of this section shall remain a potential liability notated on the assessment and tax roll, separate from and in addition to the wildlife habitat potential additional tax described in ORS 308A.427 or the conservation easement potential additional tax described in ORS 308A.459.

(b) The interest as described in subsection (2) of this section shall be frozen for as long as the land remains in wildlife habitat special assessment or conservation easement special assessment.

(c) If the land is disqualified from wildlife habitat special assessment or conservation easement special assessment and again becomes qualified for open space special assessment, the open space potential tax calculation shall resume as of the date of the renewed open space use special assessment qualification. [Formerly 308.770; 2003 c.539 §15; 2007 c.809 §9]

308A.321 Withdrawal by assessor when use changed; notice; imposition of additional taxes; interest; penalty; exception. (1) When land which has been classified and assessed under ORS 308A.300 to 308A.330 as open space land is applied to some use other than as open space land, except through compliance with ORS 308A.318 (2), or except as a result of the exercise of the power of eminent domain, the owner shall within 60 days thereof notify the county assessor of such change in use. The assessor or assessors shall withdraw the land from classification and immediately shall give written notice of the withdrawal to the granting authority that classified the land; and additional real property taxes shall be imposed upon such land in an amount equal to the amount that would have been due under ORS 308A.318 if notice had been given by the owner as of the date of withdrawal, plus a penalty equal to 20 percent of the amount so determined.

(2) If no notice is given as required by subsection (1) of this section, the assessor, upon discovery of the change in use, shall compute the amount of taxes, penalty and interest described in subsection (1) of this section, as though notice had been given, and shall add thereto an additional penalty equal to 20 percent of the total amount so computed, for failure to give such notice.

(3) The limitation described in ORS 308A.318 (2) applies only to the computation of taxes and interest, and not to the penalties described in subsections (1) and (2) of this section.

(4) The provisions of subsections (1) and (2) of this section shall not apply in the event that the change in use results from the sale of a least 50 percent of such land classified under ORS 308A.300 to 308A.330 within two years after the death of the owner. [Formerly 308.775]

308A.324 Prepayment of additional taxes; extending taxes on tax roll; collection; distribution. (1) The amount determined to be due under ORS 308A.318 or 308A.321 may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(2) The amounts under ORS 308A.318 or 308A.321 shall be added to the tax extended against the land on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property taxes. [Formerly 308.780]

308A.327 Reports on land use from owners; effect of failure to make report upon demand. The assessor shall at all times be authorized to demand in writing, by first class mail, and to receive reports from owners of land classified under ORS 308A.300 to 308A.330 as to the use of the land. If the owner fails to comply within 90 days after receipt of the demand, the assessor may immediately withdraw the land from classification. Upon withdrawal of the land from classification, the assessor shall give written notice to the granting authority of the withdrawal and apply the penalties provided in ORS 308A.318 and 308A.321. [Formerly 308.785; 2011 c.204 §6]